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November 16, 2020

Dear Mayor and Tracy City Council,

Thank you for the opportunity to weigh in on the following agenda item for your November 17, 2020 Council meeting.

3.C. RECEIVE UPDATE ON NEGOTIATIONS REGARDING A PROJECT LABOR AGREEMENT WITH THE SAN JOAQUIN BUILDING TRADES COUNCIL THAT WOULD APPLY TO CERTAIN PUBLIC CONSTRUCTION CONTRACTS AWARDED BY THE CITY AND PROVIDE DIRECTION TO STAFF

The City of Stockton approved a Community Workforce Training Agreement (PLA) in 2016 for a 3-year term and reapproved it in August 2019 for a 5-year term. Our agreement is for projects that are estimated to be \$1,000,000 or greater, and allows for any contractor to apply for the project. One of the key elements for the City of Stockton was the local hire component of the agreement. As of last year, we had **NINE** qualifying projects that have met the \$1,000,000 threshold and those projects were completed 1- on time, 2 – on budget, and 3 – done correctly the first time. As for the local hire, 86.7% of the work completed was done by Stockton or San Joaquin County residents at all levels, with 45.7% of those living specifically in Stockton.

As elected officials, we have a fiduciary obligation to be good stewards of public money. Our CWTA has done that. In addition to responsibly using taxpayer money for city project, we noticed another benefit. Because the labor being used on the project was local, parents were home earlier and able to help their kids with schoolwork, attend sporting events and recitals, and have more quality time with their families.

Thank you for your consideration of a Project Labor Agreement for the City of Tracy and for taking the time to understand my support of such agreements. I hope that you will consider lowering your project amounts so you, too, can see the many benefits of the agreement.

Sincerely,

Councilwoman Christina Fugazi

**AGENDA ITEM 3.C
BUILDING TRADES COUNCIL RESPONSE TO STAFF REPORT**

The purpose of this response is to address the matters raised in the November 17, 2020 staff report on Agenda Item 3.C - Receive Update on Negotiations Regarding a Project Labor Agreement with the San Joaquin Building Trades Council.

As stated in the staff report, a project labor agreement is a collective bargaining agreement between one or more labor organizations and the owner of one or more construction projects. It establishes key terms and conditions of employment.

Project labor agreements are not new in San Joaquin County. The San Joaquin Building Trades Council (“BTC”) has entered into project labor agreements with the City of Stockton, Delta Community College District, Stockton Unified School District, San Joaquin County, and numerous private developers. Project labor agreements are also exceedingly common in neighboring Contra Costa and Sacramento Counties, where cities smaller than Tracy have longstanding city-wide agreements.

On September 3, 2019, the City instructed its staff to negotiate with the BTC regarding the terms of a Community Workforce and Training Agreement (“CWTA”) for the City. Staff and the BTC have met many times in good faith, and, as indicated in the staff report, have agreed on numerous substantive issues encompassing the bulk of a prospective agreement. However, the parties have unfortunately not been able to reach final agreement on all terms.

The staff report indicates that during the negotiation process, staff received “public input from various parties regarding the prospect of entering into a PLA, including meeting with various local contractors and representative [sic] from construction industry groups.” Unfortunately, such interests are predominantly anti-worker and anti-labor. They are interested in *avoiding* and *discouraging* a strong labor agreement. Engaging with them is therefore counter-productive because they are not party to the agreement and their function is to discourage the City from supporting local workers through a CWTA.

The BTC is confident the City Council wants a strong CWTA that will help workers in Tracy. The BTC therefore asks the City Council to move expeditiously toward approving the BTC’s proposed agreement, so the parties may advance their shared goal of putting local residents to work on City projects.

1. Threshold for PLA Coverage

The BTC initially proposed a threshold of \$250,000 based on the size of known City projects and the City’s desire to exclude projects subject to the California Uniform Construction Cost Accounting Act. During negotiations, the BTC increased its proposal to \$1M in a good faith effort to reach agreement on the threshold without further delay.

A \$1M threshold is consistent with City Council’s direction at its September 3, 2019 meeting to use other area agreements as a model. **In particular, the City Council pointed to the City of Stockton and City of**

Sacramento agreements, which were included in the agenda packet. Both of these agreements have a \$1M threshold.

Furthermore, during negotiations, the BTC agreed to a three-year term, as requested by City staff.¹ Given this short term, a threshold much higher than \$1M would severely limit the number of projects subject to the CWTA, and would not give the opportunity to adequately assess the agreement's impact on project efficiency and crucial workforce development programs.

Notwithstanding the above, for purposes of its final proposal, the BTC has increased the threshold to \$1.5M. This is a higher number than other area agreements, and is the highest number the BTC has authorization from its affiliates to propose.

Finally, in reviewing the video and minutes from the September 3, 2019 meeting, there was no instruction from City Council to limit the CWTA to Capital Improvement Projects. Rather, the discussion contemplated an agreement covering all City projects over an agreed-upon threshold. This is reflected in the BTC's proposal.

The BTC would welcome a formal review 18 months following the application of the CWTA to evaluate the efficacy of the agreement.

2. Cost Control

Firstly, the CWTA will attract high-quality contractors who bid on a level playing field, classify employees correctly, do not abuse change orders, and deliver projects on time and under budget. There is no evidence the CWTA will decrease the pool of bidders or increase costs; any claims otherwise are simply anecdotal.

Moreover, the CWTA will not "drive up costs by discouraging bids from non-union contractors." This is unsubstantiated rhetoric from anti-labor interests. **Both union-signatory and non-union-signatory contractors work on projects covered under project labor agreements.** This is common. If a contractor chooses not to work under a project labor agreement, it may be because they do not want to be accountable to their workers and/or do not want the oversight that comes with a CWTA.

This section of the staff report also references a requested "carve-out," however, staff has already agreed not to include such a "carve out." As this was already tentatively agreed, the BTC is unsure why staff is raising it again.

3. Terms of Non-Union Contractor Participation/Core Workers

It is standard practice for non-union-signatory contractors to request workers from the local union hiring halls under a project labor agreement. Doing so is easy and straightforward, and allows the local hire and community workforce goals in the agreement to be achieved because the Unions are able to refer workers consistent with those goals.

¹ The BTC initially proposed a five-year term.

The only exception to this is where contractors are permitted to use “core employees.” However, ***the core employee exception should not undermine local interests.***² The BTC has therefore proposed allowing core workers where either the contractor is local or the worker is local. Contrary to the staff report, this is consistent with the other agreements in the County. For example, the City of Stockton PLA requires *both* the contractor and the worker to be local. Here, the BTC is proposing either/or.

Also contrary to the staff report, the minimum qualifications for a core employee are very much consistent with industry practice, i.e., 4000 hours is the requirement for graduation from most apprenticeship programs.

4. Local Hiring

The BTC proposed a comprehensive workforce development program with robust commitments on the part of the affiliate Unions to local outreach and programming. The program builds on what has already been successfully implemented by the BTC in other jurisdictions. It is a partnership that will lift up local residents, create sustainable middle-class jobs, and improve on the local pipeline to the Unions’ stellar apprenticeship programs, which equal a four-year degree and provide the best construction training available in California. The City can and should be proud of the program developed by the CWTA.³

Regarding local hiring, the BTC has proposed a 30% goal with a tiered system, with first priority to City residents, then County residents, then residents of adjacent counties, to maximize the use of local workers and discourage contractors from bringing their workforce from elsewhere. This is consistent with the policy directives of Councilmembers at the September 3, 2019 meeting, and with other area agreements, and will translate into real benefits for City of Tracy residents.

These programs in conjunction with Section 8.7 of the agreement, which allows for targeted referrals by the Unions, and Section 8.8 of the agreement, which requires contractors to submit written workforce projections and present a plan for meeting local hiring and workforce development goals, will dramatically increase the employment of local workers on City projects and the capacity of local apprenticeship readiness programs.

If the City wishes to reduce the local hiring goal to 25%, that is agreeable to the BTC. Typically, such percentage goals are project-wide because the City is not in direct contract with subcontractors.

Regarding any separate City local hiring policy, the BTC would not be party to such a policy. The BTC would only note that any such policy should not attempt to regulate the Unions’ hiring halls, nor conflict with or undermine implementation of the terms of the CWTA. It is worth noting that, unlike the CWTA, a local hiring policy with liquidated damages and withholding in the event of a violation (as in the staff report) may deter contractors from bidding on City projects or increase the costs of bids received.

² For reasons already explained, the following statement is a fallacy: “The more restrictions there are for who can be a core worker, the harder it is for a non-union contractor to participate on [CWTA] projects, and the less likely they are to bid.” The BTC encourages the City not to accept such representations.

³ Among many other things, the Council and Unions have committed to contact and mentor individuals and provide access to programs currently serving City residents, including pre-apprenticeship pathways.

5. Modular Construction

The language proposed by the BTC is standard for every project labor agreement in Northern California.

6. Technical Provisions

- **Warranty** – The BTC is concerned with abuse of the warranty work exclusion by contractors who prefer not to use local labor. Hence, the BTC requested a demonstration that the work cannot be done by local craft workers. Under the language as proposed by the BTC, if a system warranty requires work to be performed by factory-certified experts – as in the example posed by the staff report – the work may be excluded if local craft workers don't have the requisite certification.
- **Dispute Resolution** – The City has the opportunity to participate in all disputes where it is not a party during the Step 2 meeting. This is standard for agreements in the County and for agreements in the greater bay area and beyond. Furthermore, if the City is a party to a grievance, the BTC has already agreed to the City's requested arbitration process.
- **Indemnification** – This was a new term proposed by staff at the eleventh hour, and the BTC is not aware of any project labor agreement or similar agreement with an indemnification clause. Given the parties mutual interest in entering into a project labor agreement and given that this was a late proposal, which is non-standard, the BTC cannot agree to it.

7. Conclusion

The BTC is also attaching previous correspondence to the City's bargaining team of January 13, 2020 and March 6, 2020, which further inform this response.

The BTC's proposal is consistent with other area agreements and reflects the parties' shared desire to establish minimum labor standards, create and sustain middle class jobs, put local construction workers to work on City projects, and lift up the local community where many of our members live. The BTC looks forward to partnering with the City to achieve these noble goals.

The BTC urges the City Council to consider passage of the BTC's proposal as soon as possible. Thank you.

January 13, 2020

VIA EMAIL - leticia.ramirez@cityoftracy.org

Ms. Leticia Ramirez
City Attorney
CITY OF TRACY
333 Civic Center Plaza
Tracy, CA 95376

Re: Negotiation of a Community Workforce and Training Agreement

Dear Ms. Ramirez:

Thank you for your correspondence of January 8, 2020 regarding the status of our joint efforts to negotiate a Community Workforce and Training Agreement ("CWTA") for the City of Tracy. On behalf of the San Joaquin County Building and Construction Trades Council ("BTC") we sincerely appreciate your efforts and those of your team to negotiate an agreement that will benefit the City of Tracy and its citizens.

As you know, a CWTA is a collective bargaining agreement between a public entity and local labor unions. It establishes minimum labor standards for public construction projects and increases project efficiency by requiring workers to be represented by a union and referred by a union hiring hall. In turn, the unions agree to adopt dispute resolution protocols, refrain from work stoppages, and in many cases facilitate the employment of local residents, thereby lifting up the local community and discouraging out-of-area contractors from using out-of-area labor on local projects. Such agreements are sanctioned by the National Labor Relations Act and have been upheld by the U.S. Supreme Court, California Supreme Court, and other courts of jurisdiction.

Negotiations on a CWTA for the City of Tracy commenced pursuant to the direction of City Council on September 3, 2019. During that meeting, City Council considered the CWTAs already implemented in Stockton and Sacramento, which were included in the agenda packet, as well as public comment. After a thorough discussion, City Council directed staff to engage with the BTC to negotiate a CWTA similar to the other area agreements, in order to establish minimum labor standards, create and sustain middle class jobs, and put local construction workers to work on City projects. The BTC enthusiastically shares these goals, and looks forward to partnering with the City to achieve them.

Unfortunately, as negotiations have proceeded, the BTC has received proposals from the City's negotiating team that deviate far from the area standard agreements considered by City Council at the September 3, 2019 meeting as well as other agreements entered into by the BTC. For example, the City has proposed excluding significant scopes of work from CWTA coverage, nullifying the CWTA at the option of the City, undermining or not requiring union apprenticeship, and wresting the worker referral process from the

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• Admitted in Hawaii
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▼ Also admitted in Illinois
▶ Also admitted in New York and Alaska
* Also admitted in Florida
◆ Also admitted in Minnesota

unions. These proposals are not, in our view, consistent with the stated priorities of City Council, nor do they demonstrate a willingness to work with the BTC in a meaningful way. Certain specifics are as follows.

Project Threshold and Coverage:

The City's most recent proposal contains a \$5 million project threshold and limits the CWTA's application to "Capital Improvement Projects." However, the minutes from the September 3, 2019 meeting read as follows:

Council Members Arriola and Mayor Pro Tem Young supported a \$3 million dollar bid threshold. Council Member Vargas and Mayor Rickman supported a \$1 million dollar bid threshold. Council Member Ransom did not confirm a bid threshold. It was Council consensus to target local hiring.

The City's project threshold proposal appears inconsistent with the will of City Council.¹

The City has also proposed several exclusions from CWTA coverage. If the City wishes to partner with the BTC to build its projects, it is counterproductive to exclude significant portions of work because such exclusions would undermine the BTC's ability to execute covered projects successfully. Additionally, it is not in the City's interest to exclude work from CWTA coverage because doing so would jettison labor peace and the other project efficiencies that come with a CWTA.

Core Workers:

Core workers are regular employees of non-union contractors who may be dispatched by the unions to work on covered projects, subject to minimum experience standards and an alternating referral process. The BTC has proposed core worker language similar to the language in the City of Stockton, City of Sacramento, and San Joaquin Delta Community College District CWTAs, as well as other agreements in northern California that include core worker provisions.² Unfortunately, thus far, the City's response has deviated significantly from the BTC's proposal and from area-standard provisions for core workers. The City's proposal considerably weakens core worker qualification standards, effectively not even requiring they be "core" to the contractor's workforce, and, rather surprisingly, rejects the requirement that core workers must be residents of the local area. The BTC remains willing to agree to reasonable core worker language similar to the language in neighboring agreements.³

Apprenticeship:

With regard to apprenticeship, the BTC champions its joint labor-management apprenticeship programs, which are multi-year, intensive training programs funded by private capital. Non-union programs, which are run unilaterally by management, are generally not craft-specific and do not provide the same level of intensive training. They often do not matriculate program graduates, meaning that workers remain in lower-paid apprentice classifications indefinitely. The BTC therefore necessitates, as part of entering into a CWTA with a public agency, that all apprentices on

¹ In reviewing the video from the September 3, 2019 meeting, there was no instruction from City Council to limit the CWTA to Capital Improvement Projects, which proposal was only made by the City's negotiating team in its latest draft. The proposal is therefore regressive as well.

² Not all CWTAs contain provisions allowing for core workers.

³ These agreements have been provided to City Council members and the City's negotiating team.

covered projects be enrolled in a high-quality joint labor-management program that is the equivalent of a four year degree. Unfortunately, the proposals from the City's negotiating team have rejected such language.

In addition, the BTC has proposed a robust Workforce Development Program that creates an apprenticeship pipeline for City residents, contains a minimum number of project hours for such apprentices, and commits the BTC to working with community-based organizations (more than they already do). The BTC has also committed to community outreach efforts and to meeting with the City on a regular basis to discuss and further improve these programs in a meaningful way. This proposal expanded upon the programming already in place and working successfully under the City of Stockton CWTA.

The Workforce Development Program will, without doubt, facilitate entry into high-quality, career-building apprenticeship programs, increase the availability of middle-class construction jobs in the City of Tracy, and serve as a building block for increased investment in apprenticeship readiness programs. We sincerely hope the City will consider these proposals.

Local Hiring:

With regard to local hiring, the BTC has proposed language that would facilitate local hiring to the maximum extent consistent with the unions' referral systems, using a tiered system that targets City of Tracy residents. This is consistent with the policy directives of Councilmembers at the September 3, 2019 meeting, and with the BTC's other agreements in San Joaquin County. Unfortunately, the BTC's proposals have been largely rejected.

The City's negotiating team has provided the BTC with a draft local hiring policy that appears intended as separate legislation. In general, a local hiring policy is something the BTC would enthusiastically support. However, there are serious problems with the local hiring policy as drafted, the most significant one being its attempt to regulate labor unions and the union referral process, which is within the exclusive purview of the National Labor Relations Act. The policy also attempts to regulate private collective bargaining agreements between unions and signatory contractors. We respectfully ask that the City revisit the legality of such provisions, as in our view they are plainly preempted by federal law.

In addition, the CWTA, if passed, would not be a regulation; it would be a proprietary contract entered into by the City as a participant in the market for goods and services. Yet, the local hiring policy incorporates the CWTA in ways that undermine its nature as a proprietary action. Again, we respectfully ask that the City revisit the legality of such provisions.⁴

We have other concerns with the policy's legality under the Privileges & Immunities Clause. In particular the liquidated damages language is concerning. We ask that you revisit this as well.

Notwithstanding the foregoing legal issues, the local hiring policy also undermines the primacy of union apprenticeship programs and the union referral process, effectively watering down the CWTA and making it difficult for the BTC and its affiliated unions to achieve the goals stated by City Council.

⁴ The policy also assumes that all City projects will be subject to the CWTA, which is not the case.

For these reasons, the BTC respectfully requests that the City revisit the BTC's most recent proposal of December 3, 2019, and put forward changes that will allow the parties to work in good faith to reach a strong, meaningful, and effective agreement similar to what is working successfully in neighboring areas. The BTC has already agreed to limit the CWTA to a three (3) year term. We view this as a trial period to show the City what a strong union agreement can achieve.

Thank you for your consideration of this correspondence.

Sincerely,



Jolene Kramer

JEK:mda
opeiu 29 afl-cio(1)

cc **Via Email:**



148341\1063535

March 6, 2020

VIA EMAIL - leticia.ramirez@cityoftracy.org

Ms. Leticia Ramirez
City Attorney
CITY OF TRACY
333 Civic Center Plaza
Tracy, CA 95376

Re: City of Tracy CWTA – Response to Package Proposal

Dear Ms. Ramirez:

This letter responds to the “Package Proposal” regarding the City of Tracy Community Workforce and Training Agreement (“CWTA”) made by the City to the San Joaquin Building and Construction Trades Council (“BTC”) on January 6, 2020.

First and foremost, the BTC appreciates the City’s efforts to advance proposals that address the more challenging issues that remain outstanding. This letter responds to those proposals, in an effort to move the parties expeditiously toward final agreement.

I. Term of Years

As we discussed at the last negotiation session, the BTC has already agreed to a three-year term and is confident the City will opt to extend the agreement once the initial term is near expiration because of the benefits it will provide. That said, this was a concession on the part of the BTC, as well as a commitment to prove the CWTA’s effectiveness.

II. Minimum Project Threshold

The definition of “Covered Project” in Section 1.8 designates which City projects will be covered by the CWTA. The BTC initially proposed a project value threshold of \$250,000. The City responded with a threshold of \$6,000,000. Following extensive discussions, the BTC proposed a threshold of \$1,000,000, which is commensurate with other area agreements, including those considered by City Council when it directed staff to negotiate a CWTA. As indicated, this offer was rather firm.

The City’s Package Proposal offers a \$5,000,000 threshold. Because the BTC has already agreed to a three-year term, and because of the need to maintain parity with other area agreements, the BTC is holding at a \$1,000,000 threshold.

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Alaska
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◆ Also admitted in Minnesota

III. PCC 2500 Requirements

As discussed during our negotiation meeting, the BTC is agreeable to referencing Public Contract Code 2500 in the body of the CWTA. This satisfies state law requirements. We do not expect this to be a significant point of contention.

IV. Core Workers

Following discussions at our negotiation meeting, the BTC is proposing the following revisions to the core employee language, to account for the City's concerns regarding inclusivity, and further facilitate the employment of local residents. Changes from our prior proposal are in red:

8.3 Core Workers. A Contractor/Employer that is not signatory to a collective bargaining agreement may employ Core Workers in performance of Project Work as described in this Section 8.3.

- i. Definition Core Workers of Local Contractors. ~~The Contractor/Employer-A Contractor/Employer with its primary place of business within seven (7) miles of City Hall~~ may request by name, and the Union will honor, referral of Core Workers who have applied to the Union for work on a Covered Project and demonstrated to the Union the following qualifications:
 1. Has worked a total of at least four thousand (4,000) hours in the craft;
 2. Has been on the Contractor/Employer's active payroll for at least ninety (90) out of the one hundred and twenty (120) calendar days prior to the demonstration;
 3. Possesses all required licenses to perform the work; ~~and~~
 4. Has the ability to perform safely the basic functions of the applicable craft. ~~;~~ ~~and~~
 5. ~~Is a resident of the City of Tracy, demonstrated by proof of address that is not a post office box.~~
- ii. Core Workers of Non-Local Contractors. All other Contractors/Employers may request by name, and the Union will honor, referral of Core Workers who have applied to the Union for work on a Covered Project and demonstrated to the Union the following qualifications:
 1. Has worked a total of at least four thousand (4,000) hours in the craft;
 2. Has been on the Contractor/Employer's active payroll for at least ninety (90) out of the one hundred and twenty (120) calendar days prior to the demonstration;

3. Possesses all required licenses to perform the work;
4. Has the ability to perform safely the basic functions of the applicable craft; and
5. Is a resident of the City of Tracy, demonstrated by proof of address that is not a post office box.

The remainder of Section 8.3 would remain unchanged. Hopefully this moves the parties closer to agreement on the core employee issue.

V. Local Hire

As explained in our letter of January 13, 2020, the purpose of a CWTA is to partner with local building trades Unions to build public projects safely and efficiently by using workers referred from Union hiring halls. This process, in and of itself, allows for local residents to be employed on Covered Projects because workers are dispatched from the local Union hiring hall.

In addition, the BTC has proposed language further facilitating local hire by requiring contractors to employ local residents first and foremost, and requiring the Unions to refer local residents on a priority basis from the City, then the County, then bordering counties, with a stated local hire goal of thirty percent (30%). These commitments go beyond other area agreements, and will translate into real benefits for City residents.

The BTC and its affiliated Unions enthusiastically share the City Council's local hiring goals and look forward to implementing the CWTA in order to improve opportunities for local residents.

VI. Apprenticeship

The City's Package Proposal seeks to remove language requiring apprentices on Covered Projects to be enrolled in Union-sponsored joint labor-management apprenticeship programs. As explained in our letter of January 13, 2020, the BTC champions Union-sponsored programs and requires, as part of entering into a CWTA, that all apprentices on Covered Projects be enrolled in a Union-sponsored program that is the equivalent of a four-year degree.

In our last proposal, the BTC put forth a robust Workforce Development Program that increases entry into Union-sponsored programs for local residents and serves as a building block to increase local investment in apprenticeship readiness programs. In particular, the Program includes a goal of thirty percent (30%) local apprentices on Covered Projects, allows for incoming apprentices from community-based organizations, and obligates the Unions to conduct a community career fair, host community-based organizations at training centers, and meet annually with the City to review the Program's effectiveness and further facilitate entry into apprenticeship programs for local residents.

In response to the City's Package Proposal, and in furtherance of the parties' shared goals, the BTC now proposes the following additions to the Workforce Development Program language as new Sections 8.2(vii) and (viii):

- vii. The Unions will work with and provide information to the respective Joint Apprenticeship Training Programs regarding upcoming Covered Projects and corresponding staffing needs, to increase apprentice enrollment as needed to meet or exceed the thirty percent (30%) local apprentice goal stated above.
- viii. In furtherance of its partnership with the Council, the City may provide a list of individuals to the Council on a quarterly basis who are interested in a career path in the trades. The Council and the Unions will contact and mentor each individual and provide access to all the programs currently serving City residents, including any and all pre-apprenticeship pathways.

The above language in conjunction with Section 8.7, which allows for name call, rehire, or similar protocols, and Section 8.8, which requires contractors to submit written workforce projections and present a plan for meeting the Local Hire and Workforce Development Program goals, will dramatically increase the employment of local apprentices on Covered Projects and the capacity of local apprenticeship readiness programs.

VII. Dispute Resolution Procedure

With respect to the resolution of disputes under the CWTA, the City has proposed using American Arbitration Association (“AAA”) procedures rather than naming designated arbitrators and setting forth a streamlined dispute resolution process. The BTC does believe it is crucial to name designated arbitrators to ensure any arbitrator hearing a dispute is aware of the sensitivities of CWTA projects, however, the BTC is open to including the AAA as a back-stop if none of the named arbitrators is available within an efficient time frame.

VIII. Conclusion

We look forward to meeting on Monday and hearing the City’s thoughts regarding the above. We suggest that, in response to this correspondence, the City provide a comprehensive counter-proposal to the BTC’s last proposal of December 3, 2019, accounting for the above changes, so we can best understand where the parties remain apart.

Thanks for your cooperation during this process. We look forward to reaching agreement.

Sincerely,



Jolene Kramer

JEK:mda
opeiu 29 afl-cio(1

cc Via Email:



Hi Guys,

Here are my Qs for tonight's meeting:

1. What is the process to establish a Fine of \$500 for folks who have been throwing garbage on our streets, parks, and other places? we should have this littering fine approved ASAP.
2. as everyone knows, that our Parks are not safe after dark... drugs, sex and even murders have happened... What City Council is going to do to make sure our Parks are safe after Dark? we must install solar lights and cctv cameras in all the parks.

Thanks, Manpreet Shahi

Items from the Audience

Honorable Mayor and City Council:

My name is Ruben Aguilar. I reside at [REDACTED]. Our neighborhood has experienced an increasing amount of high speed traffic, especially at the intersection of Isabel Virginia and Hillcrest Drive. I have made a significant number of calls to the Tracy Police Department for assistance, but the problem still continues. It has become a dangerous situation for pedestrian traffic, many of who have come close to being hit by vehicles that fail to stop at this intersection. I respectfully urge you to consider our request to either place speed bumps on Hillcrest Drive approaching Isabel Virginia Drive and also install a flashing red light on the stop sign as depicted in the attached photo.

Thank you in advance and I look forward to your reply.

Ruben Aguilar
[REDACTED]

From: JAMAL NAGI [REDACTED] >
Sent: Monday, November 16, 2020 4:00 PM
To: Tracy City Council <tracycitycouncil@cityoftracy.org>
Subject: Concerning local tobacco legislation.

Name	JAMAL NAGI
Email	[REDACTED]
Phone	[REDACTED]
Message	<p>Dear Tracy Council Member:</p> <p>I am writing to urge you to oppose the ordinance (regulations) that would ban the sale of all flavored tobacco products. Instead, I ask you to consider removing the proposed ban on traditional flavored tobacco products including menthol cigarettes, mint and wintergreen smokeless tobacco, flavored cigars and pipe tobacco.</p> <p>The main focus of the ordinance appears to be responding to the increase in underage use of electronic cigarettes and nicotine vapor products. While we take the responsibility of selling tobacco products to legal age adults very seriously, we also share your concern that underage persons should not use any tobacco product, including electronic cigarettes and nicotine vapor products.</p> <p>However, the council should not overreach and ban the sale of all traditional flavored tobacco products because both youth and adult use of menthol cigarettes, mint and wintergreen smokeless tobacco, flavored cigars and pipe tobacco is at historic lows and decreasing further. This means that prohibiting the sale of all flavored tobacco products is government overreach because the current proposal simply goes too far. In fact, banning all traditional flavored tobacco products would remove hundreds of product brands from our store.</p> <p>We ask that you remove traditional flavored tobacco products, like menthol cigarettes and flavored smokeless tobacco, flavored cigars and pipe tobacco from the proposal because a ban on these other products would only create other problems.</p> <p>If retailers are forced to stop selling flavored tobacco products, then customers would simply drive to another store in a neighboring city or purchase their preferred tobacco products over the Internet. Even worse, they could turn to illicit market sellers who will readily supply smuggled flavored tobacco</p>

products to anyone of any age and are not concerned with checking IDs to comply with the law.

In these challenging times due to the Coronavirus pandemic, retail sales have already dropped considerably. A further reduction in sales of flavored tobacco products could force retailers to lay off employees or close their businesses because stores will not only lose tobacco sales, but sales of gasoline, snacks and beverages as well when customers patronize stores in other cities. Tobacco sales are an important part of a retailer's business model, and banning hundreds of flavored tobacco products will only lead to the closing of stores. So far, retailers have survived the pandemic, but will not survive a ban on the sale of all flavored tobacco products.

If the council's main concern is flavored nicotine vapor products, then the ordinance should be amended to remove traditional flavored tobacco products from the proposed sales ban.

Thank you for considering my concerns.

JAMAL NAGI

[REDACTED]
[REDACTED]
[REDACTED]

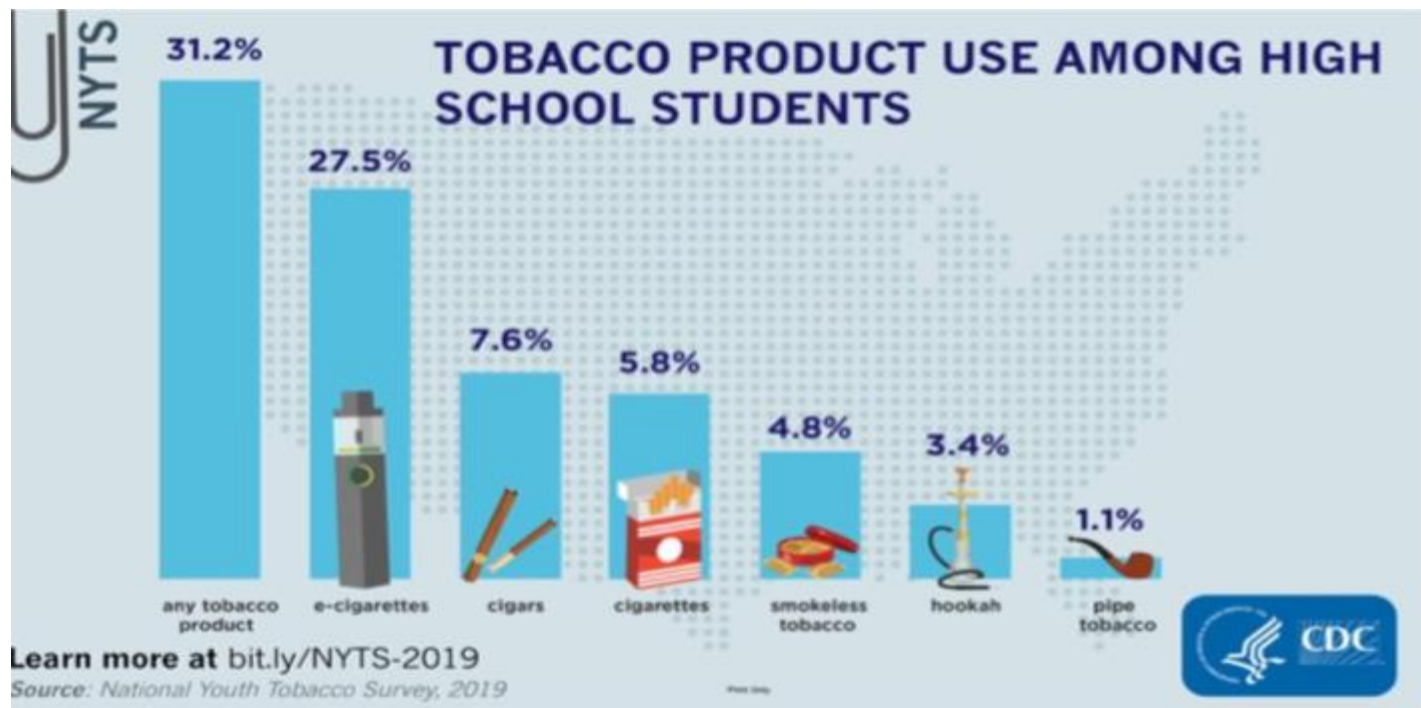
From: Rima Khoury [REDACTED]
Sent: Monday, November 16, 2020 2:10 PM
To: Robert Rickman <Robert.Rickman@cityoftracy.org>; Nancy Young <Nancy.Young@cityoftracy.org>; Dan Arriola <Dan.Arriola@cityoftracy.org>; Rhodesia Ransom <rhodesia.ransom@cityoftracy.org>; Veronica Vargas <veronica.vargas@cityoftracy.org>; Tracy City Council <tracycitycouncil@cityoftracy.org>
Subject: Tracy City Flavored Tobacco Ban

Dear Mayor and Councilmembers,

Before you inadvertently vote to ban the thousand year cultural tradition of hookah in the City of Tracy please understand the facts.

Please click the following link for presentation.
<https://docs.google.com/presentation/d/1DHGZL3Y3nHCYM84-mfoL7nIWNMuR5Et26w7Ug11X084/present?usp=sharing>

There is no teen hookah epidemic. The FDA and CDC reports have made it clear that hookah is not the problem with youth. There are no facts that support a ban on hookah.



All hookah is flavored yet is used far less by high schoolers than cigarettes, smokeless tobacco, cigars and e-cigarettes, at 3.4 %.

Hookahs are not being confiscated in schools. Hookahs are 3 feet tall and cannot be easily concealed in your pocket or backpack like vape. Hookahs take 25 – 30 minutes to set up and need hot coals,

therefore it cannot be smoked during recess in the bathroom at school. Hookah's cost over \$200 for all the parts and accessories, making it out of reach for most kids.

California Gov. Gavin Newsom stated in his executive order address on September 16, 2019 that "hookah is not the problem in classrooms".

Furthermore, FDA recently stated in their Guidance for the Industry dated January 2020 that although data shows that flavored tobacco entice youth, that such data does NOT appear to raise comparably urgent public health concerns with youth usage of hookah products because the lower prevalence of youth use of these products suggests that they do NOT appear to be as appealing to youth at this time. Emphasis added.

Hookah is not the problem.

Yet hookah is becoming collateral damage in the war against vape. Hookah is not vape. Hookah has been practiced for over a thousand years by Arabs, Persians, Armenians, Turks and Indians, many of which have immigrated to America and still practice their cultural traditions. Hookah is the center piece of social gatherings and is often offered to guests as a sign of hospitality and respect.

Many immigrant small business owners have built their business doing what they know from their home country. Often times they work 20 hour days, seven days a week to support multiple generations of their family. Rather than banning hookah and crippling these immigrant small business owners who are already struggling due to COVID-19, consider passing reasonable regulations that address youth usage and access. Many of these business owners that have been operating legally for years would be happy to work with law makers to address youth access issues. These hookah lounge and retailer owners often have several years remaining on their leases and have personally guaranteed their leases. They will not only lose their business, but their homes and no longer be able to support their family and extended family.

A tobacco flavor ban is a ban on hookah because it only comes in flavors. Even hundreds of years ago hookah was made with molasses and honey.

The federal government has recently passed a 21 and over minimum for tobacco products across all fifty states. In addition, the FDA has passed an e-cigg ban on flavored cartridges. September 9, 2020 is the FDA deadline for all vape and hookah products to be accepted for FDA review, after which any products without FDA authorization will be unlawfully on the market and their products seized and injunctions restricting sales will be issued along with fines and penalties. The federal government is addressing the youth access issue and also providing legislation across the board, eliminating the patchwork of laws from city to city and closing loop holes for bad actors to skirt the law.

Hookah has been exempted from the California State flavored tobacco ban, SB793, because of its cultural significance and that it is fundamentally different from vape. Please see attached video of Senator Hill, author of the bill, explaining why hookah was exempted from SB793 at the Senate Appropriations hearing on June 25th, 2020.

Senator Hill learned the difference between vape and hookah and understood that hookah was not the problem and took steps to exempt it due to its cultural significance. We ask that the City of Tracy do the same.

SB793, which, as amended and revised, prohibits the sale of all flavored tobacco products and flavored tobacco product enhancers, exempting hookah tobacco, cigars with a wholesale price of \$12.00 or more, loose leaf pipe tobacco was signed by Governor Gavin Newsom on August 28, 2020.

Please exempt hookah and preserve our cultural tradition. Thank you.

<https://www.youtube.com/watch?v=9qlUH3hmvUc>

The Culture of Hookah | An Exploration of History and Tradition



RIMA KHOURY, ESQ.

GENERAL COUNSEL

██████████ ██████████
FUMARI INC.

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November 16, 2020

Mayor Robert Rickman
Tracy City Councilmembers
Tracy City Hall
333 Civic Center Plaza
Tracy CA 95376

RE: Proposed Flavored Tobacco Products Ban

Dear Mayor Rickman and Councilmembers:

As the Executive Director of the National Association of Tobacco Outlets (NATO), a national retail trade association that represents more than 60,000 retail stores throughout the country including several Tracy retail store members, I am writing to submit our comments and concerns regarding the proposed location restrictions for tobacco retailers on your November 17, 2020, agenda. These changes would prohibit locating tobacco retailers within 600 feet of certain sensitive locations in the City, citing concerns about youth tobacco product use, a concern that is shared by NATO and its Tracy retail store members.

Federal and State Actions on Tobacco Make Proposed Ordinance Unnecessary: Congress and the State have responded to increased use of electronic cigarettes by underage persons. These actions should be allowed to work to reduce tobacco product usage before local ordinances are adopted and include:

- The FDA published a Guidance in February 2020 banning the sale of flavored electronic cigarettes with a removable cartridge or pod in response to increased use of such products by underage individuals.
- In 2016, California became the second state to raise the legal age to purchase tobacco products from 18 to 21. This law addressed access to and use of tobacco products by 18- to 20-year-olds.
- The Legislature passed and the Governor signed SB793, which, effective January 1, 2021, prohibits the sale of all flavored tobacco products, excepting shisha, premium cigars and loose-leaf pipe tobacco, items that are not used by youth to any significant degree.
- The Vapor PACT bill in Congress would restrict online sales of electronic cigarettes to prevent underage individuals from obtaining these products over the Internet.
- Manufacturers were required to file Pre-Market Tobacco Applications with the FDA by September 9, 2020, or their products can no longer be sold, removing many products from retailers' shelves.

Pandemic Impact and Economic Crisis Will Be Magnified by a Flavored Tobacco Product Ban:

During the current Coronavirus emergency is not the time for the City to consider restricting the location of retailers who sell legal products. Our convenience store members have experienced losses of 45% in gasoline sales and 20% or more in grocery, snack, beverage, and tobacco product sales, significant numbers because convenience stores usually rely on tobacco product sales, including the three products exempted by the State, for approximately 36% of in-store sales.

The Ban Does Not Consider All the Facts: We ask that the City Council consider these facts:

- Based on the California Healthy Kids Survey of 11th Graders in the Tracy Joint Unified School District, use of tobacco products are at historic lows:
 - 93% had never smoked a cigarette and only 2% said they had smoked any cigarettes or smoked regularly in the past 30 days
 - 96% had never used smokeless tobacco, only 2% reported having used any smokeless tobacco in the previous 30 days
 - Cigar and pipe tobacco are not even surveyed, suggesting their usage is even less
 - By contrast, in the previous 30 days, 18% had used alcohol, 9% engaged in binge drinking, and 17 used marijuana. Tobacco products are not the main issue facing Tracy youth
- Tracy retailers have a 94% compliance check passing rate in retail tobacco compliance checks conducted from 2012 to 2019 according to the Food and Drug Administration (see accompanying FDA retail compliance check report).

NATO and its Tracy retail members share everyone's interest in keeping tobacco products out of the hands of persons under 21 years old, but there is no reason to restrict where tobacco products are sold when these products are almost entirely used by adults 21 and over.

We urge the Tracy City Council not to move forward with any attempt to restrict the locations of tobacco retailers and to certainly not even consider making any such changes under the existing state of emergency in which we find ourselves.

Sincerely,

Thomas A. Briant

NATO Executive Director

ITEM 3.C

Dear Tracy City Councilmembers,

We have been debating the issue of Project Labor Agreements for quite some time now. As your staff is now witnessing these are simply political documents that big labor special interests have no desire to “negotiate.”

They have refused to move on any of these items:

1. term of agreement of three years because they want it longer.
2. requirement that both union and non-union contractors pay compensation as required by collective bargaining agreements because they want to force union-free workers to pay into union plans they’ll never vest in.
3. ratio between Core Workers and hiring hall workers for non-union contractors, because they want to force non-union employers to lay off their own local employees and be forced to hire union workers.

None of these things has anything to do with building and everything to do with discriminating against people.

Please reject this PLA nonsense now.

Eric Christen
Executive Director
Coalition for Fair Employment in Construction

Dear Mayor Rickman and City Council Members,

My name is Tim Robertson and I am Executive Director of the North Valley Labor Federation, representing over 80,000 working people and their families throughout the region. I would like to encourage you to give staff final parameters to complete a Community Workforce Training Agreement (CWTA) with the San Joaquin Building Trades, including a project value threshold of \$1.5 million. While this is a higher threshold than agreements in surrounding areas (e.g. Stockton and Sacramento), it is a sound compromise that will carefully allow for the effects of the CWTA to be fully analyzed during its initial three-year period.

While arranging the final details, I urge you not to lose sight of the proven benefits of CWTAs. CWTAs ensure that local building projects are leveraged to invest in our communities. Through this CWTA, the city of Tracy will be creating and sustaining good middle class jobs, putting local construction workers to work right here, and investing in training pathways to the middle class through apprenticeship programs.

We can provide aspiring workers more quality job training opportunities. We can help cut down on commute times to allow workers more time with their families. We can employ the best-trained local workers to build high-quality projects on time and on budget, all while growing the local economy.

We can do all this and more by investing in the City of Tracy and its working families by passing this CWTA. Thank you for your time.

In Unity,

Tim Robertson, Executive Director
North Valley Labor Federation

