



COMMUNITY & ECONOMIC DEVELOPMENT OFFICE

ROOM 32 • CITY HALL • BURLINGTON, VERMONT 05401
(802) 865-7144 • (802) 865-7142 (TTY) • (802) 865-7024 (FAX)

www.cedoburlington.org

Date: November 8, 2010

To: Community Development and Neighborhood Revitalization Committee:
Councilors Berezniak, Mulvaney-Stanak, Adrian

From: Larry Kupferman, Director, CEDO

Cc: Mayor Kiss
Parks, Arts and Culture Committee
Kirsten Merriman Shapiro, Special Projects, CEDO
Richard Haesler, Assistant City Attorney
David G. White, White + Burke Real Estate Investment Advisors, Inc.

RE: Project Labor Agreement Due Diligence Impact Study - Moran

On December 14, 2009, City Council unanimously passed a resolution directing the Administration and CEDO to consider a variety of responsible contracting practices in relation to the redevelopment of the Moran Plant. The Burlington City Council endorsed the following principles:

- The Moran Plant Project involves public money and should be expended in responsible ways that maximize the positive impact on our local economy and workforce.
- Our nation is in the midst of the worst economic downturn in recent memory, calling for a renewed emphasis on local employers affiliated with apprenticeships that create safe, rewarding careers.
- The regional economy is sparked by using contractors who employ a representative, predominately local workforce.

The Council strongly encouraged the Mayor to do everything within his power to ensure the City develops the Moran Plant property in a manner that is sustainable for our environment, our economy and our local workforce. They recommended that the Mayor and the Community and Economic Development Office hire contractors and subcontractors for the Moran Plant project who pay appropriate lawful prevailing wages, properly classify employees, obey labor laws, participate in an accredited apprenticeship training program, and provide health and retirement benefits.

The Burlington City Council also unanimously encouraged the use of Project Labor Agreements as appropriate with contractors used in the Moran redevelopment project. The Moran Blue Ribbon committee also considered use of a PLA and included the following recommendation in their report to City Council.

Recommendation #15) In order to determine if a Moran Project Labor Agreement (PLA) is financially feasible and in the public's interest, conduct a feasibility study based on the use of local labor and other minimum working conditions, such as contractors who work with affiliated apprenticeship training programs. (Page 14)

The first step to determine if a Project Labor Agreement is appropriate to use on the Moran redevelopment project is to conduct a "feasibility" or Due Diligence Impact Study. CEDO proceeded to request proposals for a Due Diligence Impact Study and contracted with Arace and Company Consulting LLC to conduct the study analyzing the merits of using a Project Labor Agreement specifically for the Moran project. Arace and Company is an economic development consulting firm with over 40 years of public and private sector experience. It is a qualified supplier of Due Diligence Impact Studies (DDIS) for Project Labor Agreements which quantify and evaluate the potential impacts of PLAs, beneficial or adverse, on the cost of the project and its delivery date. Arace and Company provided the PLA DDIS for the Lake Champlain Bridge Project. This analysis took into account any advantages and/or disadvantages to the use of a PLA for the Moran Center Project, as well as relevant market conditions, and an evaluation as to whether a PLA would facilitate economical project delivery and serve the best interests of the government owner and taxpayers.

The final report is now completed and will be discussed at the City Council Community Development and Neighborhood Revitalization Committee meeting on November 16, 2010. The report is enclosed with this communication. The report concluded that mandating a PLA is not feasible for the Moran Project; it would result in no financial savings to the public owner and the taxpayers of Burlington based on the criteria the consulting firm uses in its analysis:

- Avoidance of work stoppage
- No premium wage rate for second shift or premium pay for Saturdays
- Use of apprentice workers
- Standardized work week
- Working foreman in lieu of non-working foreman
- Uniform work rules and holiday schedules
- Access to labor supply
- Increased labor productivity
- More competitive bidding

In light of this analysis, we do not intend to mandate that a PLA be utilized for the Moran Project. This does not mean that the eventual Moran contractor is prohibited from utilizing a PLA or that the City should not consider proposals that involve a PLA. Moreover, it may be an appropriate time for the City to review its responsible contracting and procurement policies and ordinances to see if they need to be updated, added to or changed.

Separate from the PLA analysis, due to the use of federal funds and City ordinances the Moran project will require the following responsible contracting tools be used for construction:

- Davis Bacon Act, 40 U.S.C. 276a - Pay lawful prevailing wages (Davis-Bacon) and properly classify employees
- Burlington's Livable Wage Ordinance – City Code of Ordinances 21-80 et seq. requires payment of an annually adjusted “livable wage” to employees working on the funded project
- Pre-Qualification Ordinance City Code 21-67 et seq. requires information to determine whether contractors are responsible contractors including but not limited to payment of D-B wages.
- MBE/WBE - Generally, E.O. 11625, 12432 and 12138 - opportunity for participation by women and minorities in procurement of goods and services, take affirmative steps to ensure inclusion of MBE's and WBE's in the solicitation process and to make competition feasible.
- Contract Work Hours and Safety Standards Act, 40 U.S.C. 327-330 - Requires overtime payment. Preempts the overtime requirements of the Fair Labor Standards Act, which apply generally.
- WACTO (Women in Construction Trades Ordinance), City of Burlington Code 21-50 et seq. - Requires specified workforce participation rates for women.
- Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u - permits and encourages local preferences to low- and very low-income persons and, where dollar limits are triggered, sets specified workforce and contracting participation rates.

As always, if you have any questions don't hesitate to be in touch.