



## MEMORANDUM

TO: Whatcom County Council

FROM: Kaylee Galloway, Jon Scanlon, Barry Buchanan

RE: Community Benefits Agreements

DATE: February 25, 2025

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Too many Whatcom County residents have to drive long distances for work, especially in the construction industry. This impacts families, quality of life, and puts pressure on our local and regional roads. Our County has an opportunity to improve the lives of workers by ensuring that County-run construction projects support local workers so that they can find work close to home.

As Whatcom County embarks on several large capital projects over the next decade, it is an opportune time to consider how we ensure these publicly funded projects reflect the community's needs and values through a community engaged process and result in tangible community benefits such as supporting our local economy and workforce. There are a number of frameworks other cities and counties regionally and across the nation have employed on large-scale public projects. These include, but are not limited to, Project Labor Agreements (PLAs), Community Workforce Agreements (CWAs), bid and contract requirements, and Community Benefits Agreements (CBAs).

### **Policy Process, Timeline, and Next Steps**

First, we want to share insight on the process this policy has undergone so far and establish a timeline and potential next steps.

Discussions around these topics began last year as we conducted research to understand potential policy options and learn from neighboring jurisdictions. Throughout this policy process, many stakeholders have been engaged and there is still more outreach to do. A policy of this magnitude takes time and thorough policy process. While drafting the ordinance is still a work in progress, we wanted to introduce this topic to the full council, provide some background information, and solicit feedback now and throughout the rest of this process.

Early stakeholder discussions with labor (several trades represented), contractors (organized by Associated General Contractors), and other jurisdictions has informed a number of potential policy pathways for this discussion. An early draft ordinance was shared as a starting point (mostly inspired by Snohomish County's recent code amendment and tailored in ways to better fit Whatcom County); however, it is important to note that this version is not final and the second version (forthcoming) is meant to reflect much of the feedback we have received along the way including from this Council discussion.

Discussion today is meant to serve as a primer and an opportunity for councilmembers to learn about the potential policy pathways, associated benefits and challenges, and share their early thoughts. While we hope to act with some urgency as to not miss an opportunity or delay any projects currently underway, it is important to do this right and as such we hope to gather councilmember feedback as well as continue to engage stakeholders.

Over the next few months, we will schedule learning sessions in Council meetings, starting with the February 25 Council meeting. We will learn about steps that other local governments are taking to support local workers to be able to find work closer to home.

We hope to have an updated version by June for further council discussion and hope for final consideration and action by September. There may be a fiscal note associated with this policy depending upon which direction we take and if additional staff capacity, in house or contracted, is needed to stand this program up. We are open to Council's feedback on all of this.

### **Desired Goals and Outcomes - Community Needs, Values, and Benefits**

High level, we want to foster a community engaged process to ensure public investments in County public work reflect community needs and values and result in tangible community benefits such as supporting local economy, local work for local workers, and workforce development. Some specific goals, strategies, and outcomes considered include, but are not limited to:

- Enforcing prevailing wage; consider establishing a Labor Compliance Program
- Building upon the County's apprenticeship utilization requirements (WCC 3.72) to further enhance workforce development opportunities
- Establishing a Priority Hire Program that supports local jobs for local workers and promotes access and opportunity for women, minorities, and veterans in the construction trades.
- Promoting workplace safety and protecting workers from discrimination, harassment, and retaliation; consider models like an Ombudsmen Program (independent, 3<sup>rd</sup> party investigatory entity)
- Accommodating workers childcare needs; consider opportunities for County to coordinate with employers and workers to amplify current and future Healthy Children Fund investments
- Considering sustainable building techniques consistent with Whatcom County's Climate Action Plan and [Resolution 2005-028](#) (that commits the County to meeting LEED Silver in construction of new or renovated county buildings over 5,000 square feet)
- Mitigating project impacts as identified by community
- Modernizing administrative processes such as developing a prompt payment program to reduce administrative burdens and remove financial barriers particularly for small and women, minority, and veteran-owned companies and streamline paperwork and reporting
- Improving communication and coordination between County, contractors, labor, and community as it pertains to future county public work

There may be other community values and benefits we are missing, and look forward to Council's discussion as well as continued community and stakeholder engagement.

### **Policy Options**

The above desired goals and outcomes can be accomplished through one or more policy levers and frameworks. So far, we are considering:

- Community Benefits Agreements (CBAs)
- Project Labor Agreements (PLAs)
- Community Workforce Agreements (CWAs)
- Priority Hire
- Bid and contract requirements
- Applying state labor standards to County projects
- Budget conditions
- Labor Compliance Program

#### Community Benefits Agreements

For over two decades, CBAs have been a tool for creating good jobs, affordable homes, and vital services like childcare and job training programs. CBAs are legally-binding, negotiated agreements

that outline the obligations the County, project contractors, labor organizations, and/or other community stakeholders agree to undertake for a project to support community benefits and align workforce development with community-oriented goals and commitments. The list of community values is up for discussion by a wide range of stakeholders, but could include:

- Providing local and regional living wage job opportunities for the local workforce
- Providing training for the local workforce
- Contributing to economic development funds
- Requiring apprenticeship utilization
- Implementing green building techniques
- Incorporating equity plans
- Establishing policies for recruitment and retention of a diverse workforce, including women, minorities, and veterans
- Maintaining policies for a safe and respectful workplace free from harassment, discrimination, and retaliation
- Access to childcare for workers
- Robust community engagement
- Engagement with small and local businesses
- Utilizing local materials and resources to the extent possible

CBA provides a framework to foster partnerships designed to enhance communities while providing benefits to private sector developers, workers, and governments. They are intended to ensure that local communities, including project workers, benefit from major development projects. CBAs promote equity, collaboration, and accountability on development projects.

Examples include:

- [Seattle – Dearborn CBA](#) (2008)
- [City of Seattle – Arena MOU](#)
- [Pittsburg – Hill District CBA](#) (2008)
- [New Haven – Yale-New Haven Hospital CBA](#) (2006)
- [City of Los Angeles – LAX CBA](#) (2005)
- City of Los Angeles – Staples Center CBA (2001)

Additional Resources:

- [CBA Memo by former Council intern Rachel Holladay](#)
- [CBA Overview and other examples](#)
- More [info and examples](#)
- [CBA Case Studies, federal guidelines and best practices](#)

### Project Labor Agreements

PLAs are project-specific agreements between a contractor and labor that outline terms and conditions for a specific construction project. Contractors must include a PLA in their bid for the public construction project and sign the PLA to receive the contract. PLAs require contractors to comply with federal and state laws regarding prevailing wages and can include union recognition and employment requirements. PLAs can ensure equal pay and fair overall compensation for all workers. PLAs and CWAs are prevalent in King County, and on June 5, 2024, Snohomish County [voted unanimously](#) to pass their PLA and priority hire code [SCC 3.05](#).

Examples include:

- [Port of Seattle](#)
- [Sound Transit](#)

Through research and stakeholder engagement, we have learned that PLAs may not be the best approach for Whatcom County given feedback we have received from some who fear it may keep some contractors from participating in county public work and may raise costs and/or delay projects completion. While the specifics of these concerns may be debatable, rest assured, we do not want

to delay project implementation or increase costs. Furthermore, our priority is to explore policy frameworks that 1) promote and prioritize responsible contractors and 2) are inclusive to all contractors. The County should not show preference or favor either open shop/non-union or union contractors over another. We believe raising the bar on standards will result in greater community and workforce benefit. We will continue to look into our options and proceed with an approach tailored to Whatcom County's circumstances and needs.

### Community Workforce Agreements

"Community workforce agreement (CWA)" means a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. Sec. 158(f). To establish the terms and conditions for employment on a single construction project, the CWA must be a single agreement covering all labor organizations representing the building and construction employees involved in the project and covers all contractors and subcontractors working on the project. ([WAC 296-140-001](#)). Similar to PLAs, CWAs are intended to foster cooperation between workers and contractors, they prohibit strikes and lockouts, and can include priority hire goals, workforce development and training, streamlined worker dispatch, enhanced worker benefits, and more.

Examples include:

- [WSDOT SR 520 Bridge Replacement](#)
- [King County Master Community Workforce Agreement](#)
- City of Seattle – [Chapter 20.37.050](#) Community Workforce Agreement
  - Additional resources: [PLA 1-pager](#), [CWA & Priority Hire](#) presentation, [Priority Hire](#) website
  - Example CWA from [City of Seattle](#)

### Priority Hire

Priority hire program can be created to support local jobs for local workers and promote access and opportunity in the construction trades for women, minorities, veterans, and those economically distressed. Priority Hire program can operate through a CBA, PLA, or CWA. Jurisdictions can set their own goals for priority hire. Currently, for Whatcom County, we are considering setting the goal for a minimum of 50% labor hours to be performed by women, minorities, veterans, and local workers. County could establish these goals in code and within bid documents and require contractors to report. Program could operate similar to current Whatcom County [Contractor Apprenticeship Program](#).

Excerpt from City of Seattle 2023 [report](#) highlighting some benefits from their priority hire program: "The City of Seattle's Priority Hire program increases the hiring of residents of economically distressed neighborhoods in Seattle and King County, women and people of color on City construction projects over \$5 million.... Priority Hire ensures local residents receive a fair share of wealth-generating construction jobs and increases economic equity in our region. Priority Hire has increased equity outcomes dating back to the start of its pilot project in late 2013. Since then, construction workers living in economically distressed communities have earned \$100.9 million in wages on Priority Hire projects. Most of these workers identify as people of color, women and those just starting their careers. We estimate this is \$46.9 million more than they would have earned without Priority Hire."

Examples include:

- City of Seattle – [Chapter 20.37.040](#) priority hire
  - [Priority Hire](#) website
  - [Priority Hire 2023 Report](#)
  - [Priority Hire brochure](#)

### Bid and Contract Requirements

Discussions with stakeholders around these topics so far suggest alignment with the community benefits and values aspects, but are still formulating around preferred policy lever. However,

feedback received so far encourages us to research options around how current bid/contract processes may be adapted to meet desired goals and outcomes rather than establishing a new or different framework. Initial strategy might be to add desired goals/outcomes and labor standards as a requirement to or condition of a project bid. This would level the playing field and dictate what it means for a bidder to be responsible. This approach can be pursued in conjunction with CBAs. If pursued alone, it might limit the community engaged, negotiated process focusing on community and workforce benefits.

### State Labor Standards

Contract provisions on workforce standards are already standardized for projects that utilize state funding. Many local contractors already have experience working on prevailing wage projects, many of which are subject to state labor standards and reporting requirements, which may otherwise exceed or differ from county labor standards. More research is needed on this concept, but the idea is to better understand the state labor standards and what opportunities Whatcom County may have to incorporate similar language into county contracts for county funded public work. Whatcom County opting to require the same reporting measures as state may simplify the process for local contractors by making them consistent and standardized. Generally, state workforce standards include requirements that workers receive prevailing wages, overtime, and benefits including health care, pension, vacation/holidays, and apprenticeship training funds.

### Budget Conditions

Used in some existing Whatcom County projects, adding budget conditions to a contract proposal allows the county to evaluate the cost of additional wage or benefits requirements while being able to clearly identify the difference between the base project and the project with additional benefits added. Contractors submit a base bid for the project and add additional budget information reflecting the cost to provide the added benefit(s). The county is able to view base bids across contractors and determine whether the added benefit should be included based on the additional cost. Additionally, as Council considers project-based budgets for public work over a certain threshold, we could consider including some of these policy levers and the community needs, values, and benefits as conditions of the budget/appropriation.

### Labor Compliance Program- Enforcing Prevailing Wage and Preventing Wage Theft

While many local contractors have experience with, and may even seek out and prefer, prevailing wage projects, one challenge is around the enforcement of those prevailing wages. For example, open shop (non-union) contractors employ individuals who can perform multiple crafts. In prevailing wage jobs, each craft or trade has its own negotiated wage rate. So, for a worker performing multiple crafts, say general labor, carpentry, and operating, each of those tasks should be tracked, by craft, by time, and be billed at their respective wage rates to ensure the worker receives pay commensurate with their work performed. Other examples include working overtime or working through lunch or rest breaks. This can be difficult to track and therefore enforce, and in the absence of such enforcement increases risk of wage theft.

Multnomah County in Oregon has established a [Labor Compliance Program](#) (LCP) to verify that labor and wage compliance has been met on all county projects over \$50,000. The LCP is supervised by one county employee and utilizes trained (neutral) volunteers to interview workers, review certified payroll, review construction daily sign-in sheets, and ensure that all required documentation is being met.

### Additional Resources:

- [What is wage theft? Your guide to workers' rights in WA](#)
- [RCW 49.48 Wage Payment Act](#)
- [Labor & Industries - Worker Rights Complaints](#)
- [Seattle Office of Labor Standards](#)
- [Washington State Workers' Rights Manual](#)

**In conclusion:**

Promoting local workforce development and keeping living wage job opportunities in Whatcom County is critical to enhance county-wide economic growth and prosperity while supporting community resilience and the health and well-being of workers. This is an important time for these discussions with Whatcom County's government investing \$250-300 million in taxpayer dollars into several new county facilities – including the 23-hour crisis relief center, the Whatcom County Jail and behavioral health treatment center, and the Northwest Annex complex – in addition to several large-scale transportation and infrastructure projects such as replacing the Whatcom County Ferry and various roads, bridges, and culverts construction projects. We look forward to continued conversations and feedback.