



Sunnyvale

## Study Issue Form

The Study Issues process is designed to assist City Council with setting priorities for the coming calendar year. Board and commission members have two roles in this process:

1. To advise Council regarding the identification of policy issues to study, within their relevant area of authority;
2. To advise Council on those issues Council has decided to study.

The study issues process should focus on considering a new or revised ordinance, new or expanded service delivery program, changes to existing Council Policy, or amendments to the General Plan. The Study Issues Form is designed to focus board and commissioner members' ideas on potential policy study issues, and provide the opportunity for staff feedback and guidance in a transparent process. *Board members or commissioners may only fill out a form for study issue ideas within their purview.*

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**Date Submitted to Staff** 09/25/2019  
**Liaison:**

**Board/ Commission:** Housing and Human Services Commission

**Workplan Year:** 2020

**Submitted by:** Commissioner Grossman

**Study Issue Working** Local Hire Study Issue  
**Title:**

1. What are the key elements of the issue? What precipitated this study?

This study will provide analysis into the creation of an ordinance or policy which will improve the employment opportunities of local residents. This will be achieved through a requirement that construction projects which reach a specified size in Sunnyvale and which are undertaken on City owned land will require a certain number of local hires and/or enrollment in an apprenticeship program.

This will entail the creation of an ad-hoc commission to study or fund the study of Sunnyvale's construction industry labor market and propose policy options based on the study's results. This study issue is meant to generate an actual policy or ordinance requiring local hire as opposed to the previous study issue in 2014 which did not result in a ordinance but instead resulted in policy which "encourages" developers to hire locally (reference: RTC 15-0595).

2. Staff Summary of Scope and/or Comments: [Staff Use Only]

See attached.



Sunnyvale

## **Local Hire Proposed Study Issue [HHSC- Grossman]**

### **Staff Comments**

#### **Background**

In 2014, Study Issue 14-01 “Examine Ways to Increase Local Hiring in Major Developments” was prepared. This SI directed staff to review various programs and aspects to local hiring requirements and evaluate new approaches to requiring this. The SI was led by NOVA, Economic Development, and the Office of the City Attorney.

Staff returned to the City Council with RTC 15-0055. The report provided significant background on the outreach, analysis, and legal review completed through the SI process. In conclusion, staff recommended a formal City policy statement to encourage local developers and contractors on public and private projects, and to strengthen outreach efforts for local hiring, the use of prevailing wages, and using state certified local apprenticeships or job training programs.

The adopted policy can be found attached to this memo, Policy 5.1.5 *Utilization of Local Workforce in Construction Projects*. This policy allows the City to collect data on local workforce from Public Works. A Labor Compliance Officer was also hired through this SI and policy.

#### **What work is being done currently on this topic?**

Economic Development is currently undertaking the “Responsible Construction Study Issue”, this is slated to be complete at the end of 2020. A wage theft policy was added in 2018 (Policy 5.1.6).

#### **Legal Constraints**

The topic of mandating or creating an ordinance to require local hiring on developments is a very legally challenging topic. The City charter states that the lowest and most responsible bid shall be awarded, therefore a requirement to choose a local bid would require the City Charter to be modified, requiring a formal ballot measure in a general election. Cities have attempted Local Hire Ordinances in the past, only to be found unconstitutional (i.e. City of Fresno).

Other legal challenges include:

- Privileges and Immunities Clause
- Commerce Clause
- Void for Vagueness Concerns
- Violations of California Constitution

In addition, within the City of Sunnyvale, there are only forty-seven (47) construction related trades with three or more employees with a business license in Sunnyvale. The construction demand in Sunnyvale alone is far too large for just these Sunnyvale based trades.

In conclusion, requiring a Local Hire Ordinance is not recommended to be proposed as a study issue at this time to do the various legal challenges and potential violation of the California Constitution.

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### **Policy 5.1.5 Utilization of Local Workforce in Construction Projects**

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#### **POLICY PURPOSE:**

The City of Sunnyvale encourages local developers and contractors working on construction projects within the City to utilize local workforces to the extent possible, as a means of supporting economic opportunities for all members of the community. The intent of this policy is to memorialize the City Council's commitment to local workforce utilization.

#### **POLICY STATEMENT:**

The Sunnyvale City Council supports improving the economic well-being of the entire community by increasing employment opportunities for residents of Sunnyvale. The rapidly escalating cost of living in the Bay Area coupled with the declining availability of traditional "middle-class" jobs make it difficult for the local workforce to maintain their place in the community. Development and construction of large-scale projects within the City can be a driver of economic growth and job creation, and it is in the public interest that the jobs be available to the local workforce so that the economic benefits can be shared by the entire community. Accordingly, the City of Sunnyvale encourages developers and contractors performing work in Sunnyvale to:

- Employ as many local workers residing in Sunnyvale and surrounding communities as possible;
- Pay workers a fair wage, consistent with prevailing wages set forth by the State Department of Industrial Relations for public works projects; and
- Utilize State-certified apprentices to the extent possible.

Lead Department: Office of the City Manager

(Adopted: RTC #15-0055 (May 19, 2015))