

Local Hiring Preference SEP-14 Workplan

For Oakwood Viaduct over Metra and Canadian National Illinois Central Railroad

Special Experimental Project No. 14 (SEP-14) Workplan to Evaluate the Use of Local Labor Hiring Preferences

Chicago Department of Transportation, Illinois

Location: Oakwood Boulevard from Lake Park Avenue to Southbound Entrance and Exit ramp of Lake Shore Drive

Federal-aid Project Number: M-BRM-6000(428)

CDOT Project Number: E-5-454

A. Introduction

The Chicago Department of Transportation (CDOT) submits this work plan for the Federal Highway Administration (FHWA) review and approval as a publicly bid project incorporating a Local Labor Hiring Preference (LLHP) contract provision. This workplan is provided under the Notice: Contracting Initiative announced in the March 6, 2015 Federal Register.

Historically, FHWA prohibited its recipients from using LLHP provisions that do not directly relate to the bidder's performance of work. CDOT has successfully used Local Labor Hiring Preference (LLHP) contract provisions for many years on its city-funded contracts with a goal of 7.5%, and is requesting FHWA's approval for the use of the provisions outlined in **Attachment A - Contract Provision** on a Federal-aid project for the reconstruction of Oakwood Viaduct under the experimental authorities under 23 U.S.C. 502 and SEP-14.

Section 191 Certification Requirements:

The Section 191 Certification is contained in the May 18 transmittal letter from CDOT to the Illinois Department of Transportation (IDOT) and is attached to this workplan as **Attachment B**.

B. Purpose

The City of Chicago recognizes the importance of encouraging local hiring on its Capital Construction Contracts and has utilized this on many city-funded contracts. The success of this program has direct impacts on the community members by providing increased employment opportunities for city residents and in particular residents in the vicinity of the construction project. As such, this will be beneficial to the City's economy by creating jobs and generating revenue. It is anticipated that the outcome will benefit the

City as a whole by investing money in community hires who in turn will invest in their community.

This pilot project will enable the City of Chicago to evaluate the effectiveness and efficiency of the use of Federal-aid and local funds in achieving the desired objectives.

C. Scope

The reconstruction of Oakwood Viaduct, from Lake Park Avenue to Southbound Entrance and Exit Ramp of Lake Shore Drive, is an approximate \$17.3 million Bridge reconstruction project involving removal of the existing superstructure and substructure, furnishing and erecting structural steel, new approach slabs, drainage, paving, sidewalk, curb and gutter removal and replacement, ADA ramps, landscaped medians as well as utility relocation and roadway lighting work.

Approximately \$13.8 million of the total project amount will be funded by FHWA. This project is typical of other CDOT Bridge reconstruction projects completed over the past ten years and will provide a suitable project for comparison purposes.

In addition, CDOT proposes to use a contract provision “Local Labor Hiring Program” with a goal of at least 20% of all contract labor hours performed by residents of Chicago living within the area shown on the attached Community Area Map. The contractor will receive an incentive of \$20.00 per hour for each local labor hour used on the project that is above 7.5% with a not to exceed incentive amount of \$80,000.00. The contractor shall not displace any of its existing employees in order to satisfy such hiring preference. See **Attachment A** for additional details.

D. Schedule:

An estimated schedule for the project follows:

- Advertisement: June 20, 2017
- Letting: July 25, 2017
- Award: September 26, 2017
- Project completion: September 26, 2018

E. Evaluation Measures:

The City of Chicago will evaluate the following criteria (as referenced in USDOT Q&A # 21), to determine the effectiveness and efficiency of this pilot project:

- 1) Describe the project(s), including the amount of FHWA funding involved in the as well as the estimated total project cost.**

See the “Scope” section above.

2) Describe the proposed contracting requirement that may otherwise be found to be inconsistent with the general requirement for full and open competition.

CDOT has been utilizing a LLHP contract provision on its City-funded projects for many years. Previous discussions with State DOT and FHWA staff have indicated that the use of such provisions were limited by the competitive bidding requirements of Title 23 U.S.C.; however, the City is interested in evaluating this requirement on a Federal-aid project on a pilot project basis under SEP-14. This project will utilize LLHP with a goal of at least 20% of all contract labor hours to be performed by residents of the City of Chicago (see the attached contract provision for details). Contract labor hours performed by non-Chicago residents will not be restricted.

Additionally the contractor will receive an incentive of \$20.00 per hour for each local labor hour used on the project above 7.5% with a not to exceed incentive amount of \$80,000.

3) Describe how the applicant will evaluate the effects of relevant contracting requirements on competitive bidding. In doing so, the applicant should, at a minimum, provide comparisons of bids received for the projects utilizing the relevant contract requirements to other projects of similar size and scope and in the same geographic area not utilizing such requirements. If a reduction in the pool of bidders is evident, explain the potential offsetting benefits resulting from the use of the requirement.

As this project is similar in size and scope to other CDOT Bridge reconstruction projects, a comparison with similar size and scope projects (projects using the preference and projects not using the preference) will be provided based on the following evaluation criteria:

- The number of bidders - An explanation will be provided for the apparent increase or decrease in the average number of bidders. Specific competitive reasons (e.g. other bidding opportunities, apparent risk, etc.) will be provided for the increase / decrease in competition.
- A comparison of the impact of the LLHP requirement on the workforce will be made by comparing the percentage of total local labor hours on the pilot program with the percentage typically achieved on a similar project that did not use the LLHP provision. An explanation of any significant differences will be provided.

4) Describe and quantify how the proposed contracting requirement would lead to increases in the effectiveness and efficiency of Federal funding for the project(s).

An analysis of the effectiveness and efficiency of the LLHP requirement will be made through an analysis of the following information:

- A comparison of unit bid prices - An evaluation of the unit prices for five bid items with the highest total value on the pilot project will be compared to unit prices for projects with a similar size and scope.
- The prime contractor will be interviewed at the conclusion of the contract to obtain its opinion of the effectiveness and efficiency of the LLHP provision on its construction operations and to discuss any potential concerns or recommendations for the program. This will provide one measure of the relative efficiency of the contractor in meeting the contract requirements.
- CDOT will provide an evaluation of the potential increase in the pool of skilled labor available to all contractors.

5) Describe and quantify how the proposed experimental contracting technique would protect the integrity of the competitive bidding process either in connection with the particular contract or when considered over the long term for that agency's program.

This will be the first instance in which CDOT has used the Local Labor Hiring Preference on a Federal funded project. However, CDOT has used LLHP on a number of locally funded projects and has not encountered issues regarding the integrity of its competitive bidding process. CDOT in conjunction with the City of Chicago's Department of Procurement Services will work to ensure that the integrity of the competitive bidding process is maintained.

6) Describe whether or not the proposed contracting requirement has been the subject of litigation or whether litigation surrounding the use of the requirement has been threatened.

This will be the first use of a LLHP on a Federal-aid project. CDOT has successfully utilized LLHP contract provisions on its City-funded projects for many years and has not been subject to litigation.

F. Reporting

CDOT will prepare and submit initial and final evaluation reports for the project. The initial report will be prepared shortly after the award of contract. The initial report will include a description of any concerns raised by stakeholders following approval of the proposal and any identifiable effects on the bids received.

A final report will be submitted upon completion of the contract. The final report will contain an overall evaluation of the contracting technique along with any suggestions and recommendations for improving the process.

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Both reports will include

- Evaluations and analyses of issues discussed in Sections E3 and E4 above
- Discussion of other related issues arising during the contract and their resolution

Attachment A – Local Labor Hiring Program Specifications

GENERAL SPECIAL PROVISION

Local Labor Hiring Program

- 1. Description.** The primary objective of this Special Provision is to promote the use of local labor forces in the execution of this project. The Local Labor Hiring program applies only to workers covered by the prevailing wage requirement and whose work hours are documented in the Certified Payroll Reports.
- 2. Program Requirements.** Fulfill all of the requirements of the Local Labor Hiring Program including the maintenance of records, submittal of monthly reports and supporting data documenting the program performance. Employ Local Labor for at least 20% of the total labor used on the project. The labor force will be calculated based on the number of man-hours worked by Local Labor on the project compared to the total number of man-hours documented in the Certified Payroll Reports. At the start of construction, the Contractor shall submit a plan to meet these requirements and provide a weekly report on progress for weeks when work is performed. The report shall include all contractor employees and subcontract employees working on the project, their current residency, and whether the residency is within the geographic limits. Any discrepancy from certified payrolls must be clearly explained in the weekly report.
- 3. Contractor's Responsibilities.** These requirements must be satisfied by the Contractor.
 - a.** Contractors may receive credit toward the Local Labor Hire goal for work performed by his/her own forces and work subcontracted. The Contractor must make a good faith effort to meet the goal.
 - b.** A Contractor who cannot meet the contract goal of at least 20% Local Labor, in whole or in part, shall make adequate good faith efforts to obtain Local Labor participation. The following is a list of the types of action that may be considered as good faith efforts. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.
 - i.** Soliciting through all reasonable and available means (e.g. advertising, written notices and job fairs).
 - ii.** Communicating in good faith with interested Local Labor. Evidence of such communications includes the names, addresses, and telephone numbers of Local Labor that was considered; a description of the information provided regarding the employment; and evidence as to why and agreement could not be reached for Local Labor to be employed.
 - iii.** A Bidder using good business judgment would consider a number of factors negotiating with Local Labor, and would take the wage rate and capabilities as well as contract goals into consideration. However, the fact

Local Labor Hiring Program

that there may be some additional cost involved in finding and using Local Labor is not in itself sufficient reason for a bidders' failure to meet the Contract Local Labor Hire goal as long as such costs are reasonable. Also, the ability or desire of the Contractor to perform the work of the Contract with its own existing work force does not relieve the Bidder of the responsibility to make good faith effort. Contractors are not, however, required to provide higher wage rates to Local Labor if the wage rate difference is excessive or unreasonable.

iv. Consistent use of the services of available community organizations; minority/women Contractor's groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of Local Labor.

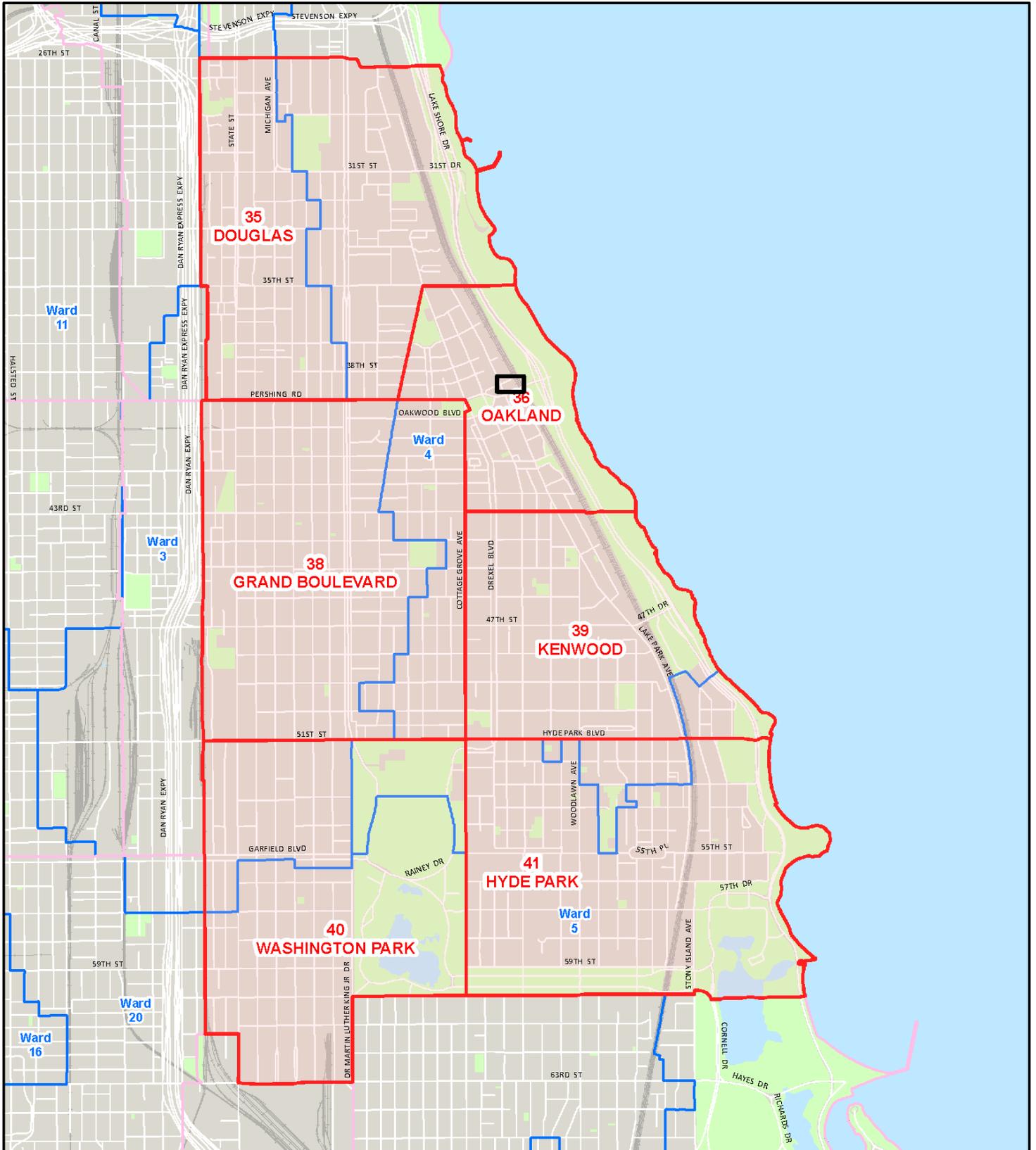
4. **Eligibility of Local Labor.** Local Labor is an individual that resides within the area as illustrated on the Local Area Map provided as an attachment to this Special Provision. Local Labor may be employed by the prime contractor or any tier subcontractor. Local Labor whose wage is paid in part or whole by another governmental program will not be eligible for reimbursement, but will be counted toward the percentage of total Local Labor used. Local Labor must provide a valid Illinois Driver's License or a comparable form of identification for address verification. In addition, a utility bill or a comparable form of proof of residency must be provided that proves the worker resides at the stated address. The Contractor must provide this documentation with the first utilization of each new Local Labor individual.
5. **Reimbursement.** The Contractor must provide an electronic spreadsheet monthly showing names, daily hours worked, rate of pay and total amount paid for each laborer on the project. The spreadsheet should also indicate which laborers are certified as Local Labor and which are not. The Contractor will be reimbursed \$20.00 per hour of Local Labor paid above the initial 7.5%. The total reimbursement shall not exceed \$80,000. Local Labor must be employed and work on this contract in order to be reimbursed. Reimbursement will be made once the project has reached 90% completion and/or the Commissioner determines that the established Program Requirements will be met. The incentive shall be paid to the firm(s) employing the Local Labor and shall be prorated across the contractor and subcontractor(s) as a portion of the total hours.
6. **Compliance.** The Contractor will have fulfilled the contractual responsibilities by having provided the required amount of Local Labor or by documenting good faith effort as described above. A determination of a lack of good faith effort could cause the contractor to be deemed non-responsive and preclude them from bidding future projects.

Community Areas Map

Oakwood over Metra and Canadian National Railroad Bridge Project

Legend

-  Project Areas
-  Selected Community Areas
-  Community Area Boundaries
-  Ward Boundaries



Attachment B – Section 191 Certification



CHICAGO DEPARTMENT OF TRANSPORTATION
CITY OF CHICAGO

May 18, 2017

Mr. Christopher Holt, P.E.
Deputy Director of Highways
Region One Engineer
Illinois Department of Transportation
201 West Center Court
Schaumburg, Illinois 60196 -1096

Attention: Mr. Zubair Haider, P.E.
Bureau Chief of Local Roads and Streets

Subject: Local Labor Hiring Preference SEP -14 Workplan for
Oakwood Viaduct over Metra and Canadian National Railroad

Dear Mr. Haider:

The Chicago Department of Transportation (CDOT) is submitting the Oakwood Viaduct over Metra and Canadian National Railroad for your concurrence of the Federal Highway Administration (FHWA) Local Labor Hiring Pilot Program. The project is located at Oakwood Boulevard over Metra and Canadian Railroad in Chicago, Illinois. This letter certifies that the SEP-14 Workplan for this project is in compliance with Section 191 of the FY 2017 Appropriations Act. This Act requires that all recipients requesting an SEP-14 work plan approval must provide a project-specific certification that conforms to Section 191 certification requirements in conjunction with their work plan.

In conformance with the Section 191 of the FY 2017 Appropriations Act, CDOT certifies that the following three conditions have been satisfied for the Oakwood Viaduct over Metra and Canadian National Railroad project:

- (1) that except with respect to apprentices or trainees, a pool of readily available but unemployed individuals possessing the knowledge, skill, and ability to perform the work that the contract requires resides in the jurisdiction;
- (2) that the grant recipient will include appropriate provisions in its bid document ensuring that the contractor does not displace any of its existing employees in order to satisfy such hiring preference; and

(3) that any increase in the cost of labor, training, or delays resulting from the use of such hiring preference does not delay or displace any transportation project in the applicable Statewide Transportation Improvement Program or Transportation Improvement Program.

The SEP-14 Workplan has been coordinated with FHWA staff and is included in the contract bid documents for the aforementioned project.

If you have any questions or need additional information, please contact Mr. Luis D. Benitez at (312) 744-5807.

Thank you for your cooperation.

Sincerely,

A stylized, handwritten signature in blue ink, consisting of a large capital letter 'S' with diagonal slashes on either side, representing Daniel Burke.

Daniel Burke, P.E., S.E.
Deputy Commissioner
Division of Engineering