

LARA WEISIGER

From: ericchristen <ericdchristen@gmail.com>
Sent: Sunday, October 16, 2016 9:20 AM
To: Trish Spencer; Frank Matarrese; Tony Daysog; Marilyn Ezzy Ashcraft; Jim Oddie
Cc: editor@alamedasun.com; City Manager; City Clerk
Subject: Why are you rushing through a union PLA?

Dear City Council,

Project Labor Agreements (PLAs) create barriers for local, minority and women-owned construction employers and their employees from participating in building their community because they contain provisions that do not allow for the full utilization of their own workforces.

Furthermore, studies show these types of agreements increase project costs – anywhere from 10-30% above prevailing wage because they restrict competition. Open competition is healthy and increases quality. It levels the playing field and local money is invested into the community.

And finally, PLAs exclude the men, women, and veterans who have chosen to enter into state approved, unilateral apprenticeship training programs in pursuit of a construction career from the opportunity to work and gain the invaluable on-the-job training experience that provides stability for them, their family and their community.

For these reasons, we strongly oppose Project Labor Agreements.

What is a Project Labor Agreement (PLA)?

- An exclusionary labor agreement that discourages the vast majority of local contractors and small business owners from competing on and winning construction projects
- Introduced as a tool to local school, city, county, state and federal officials by State and Local Building and Construction Trades Council Representatives

Almost Every Construction Trade Organization opposes PLAs

- | Opposed: | In Favor: |
|---|-----------------|
| • Air Conditioning and Trades Association | Building Trades |
| • American Subcontractors Association | |
| • California Subcontractors Association | |
| • American Road Builders and Transportation Association | |
| • Asian American Contractors Association | |
| • Associated Builders and Contractors | |
| • Associated General Contractors | |
| • Black Contractors Association | |
| • Bay Area Black Contractors Association | |
| • Californians for the Advancement of Apprenticeship & Training | |
| • Golden State Builder's Exchanges | |
| • Independent Roofing Contractors of California | |
| • Independent Electrical Contractors Association | |
| • Kern Minority Contractors Association | |
| • National Association of Minority Contractors | |
| • National Association of Women in Construction | |

- Painting Decorating Contractors Association
- Plumbing and Heating Contractors of California
- Western Electrical Contractors Association
- Independent Electrical Contractors Association

Concerns for non-union workers

- Union dues requirement for non-union workers on or after 8th day (less money on pay-check)
- Companies are forced to lay off productive non-union workers
- Requires payment into union pension programs in which workers may never vest
- Requires payment into union health & welfare program in addition to the mandated Affordable Care Act.
- Non-union apprentices cannot learn their trade and work on these jobs in their own communities

Concerns for the Anaheim Union High School District

- This issue was never discussed when your \$244 million bond was being sold to voters.
- PLAs are routinely used in bankrupt cities like Vallejo and fiscally mismanaged school districts like the West Contra Costa Unified School District and the Los Angeles Unified School District
- Federal regulations prohibit the “local hire” requirements contained in PLAs. Section 200.319 “Competition” of the Electronic Code of Federal Regulations states “The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference.”
- Negotiations can take up to two years adding delays and legal fee expenses up to \$200,000.
- It costs money to administer a PLA. The related professional services add to the expense.
 - Riverside Community College District: \$1,800,000 before they abandoned their PLA
 - City of Pinole: \$328,000 annually
 - San Diego City School District: \$1 million annually
- PLAs are exempt from DIR enforcement of prevailing wage requirements

As a result of SB 854, [as of July 1, 2014](#), the DIR launched a new Public Works Contractor Registration Program.

Contractors wishing to bid on public works will need to [register online](#) and submit a non-refundable \$300 annual fee. The public works contractor registration fee pays for all DIR administration and enforcement of prevailing wage requirements.

- **Exemptions:** As of April 1, 2015, and even after January 1, 2016, the following projects are exempt from the requirement to have contractors and subcontractors furnish certified payroll records (CPRs) to the Labor Commissioner:

Projects covered by qualifying project labor agreements

Concerns for the taxpayers

- Reduction of bidders and increased costs
- \$39M Pinole-Hercules Wastewater Treatment Plant Expansion
 - 10 bidders pre-qualified for the Project
 - 8 bidders present for mandatory job walk
 - 2 bids received and opened on 12/10/15
 - Bids came in at 8% and 22% above engineer’s estimate of \$39M

- Increased Costs
- \$68M SMUD Corporate Headquarters Remodel bid with a PLA was rejected because it came in nearly \$30M over the budget with just two bidders.
- [Alameda County Hall of Justice](#) project delayed and over budget
 - Local business participation under PLA. 60% goal, 2.58% achievement
 - \$111,966,000 contract is now \$122,384,711
 - Change in substantial completion date by 61 calendar days from 2/15/17 – 4/17/17
- [Cost of Golden 1 Center jumps by millions | The Sacramento Bee](#)

What do studies say?

- EBMUD conducted PLA survey of its union and non-union contractors
 - 100% said PLAs increase costs
 - 64% said PLAs were a disincentive to bid
- Increased costs of 13-15% on California School Construction (July 2011 study released by the National University System Institute for Policy Research)
- No studies exist that show PLAs save money

11 entities in California have banned the use of PLAs including the cities of Fresno, San Diego, Chula Vista, Oceanside and El Cajon (see attached)

City of Berkeley PLA One-Year Status Report

- 316 total workers employed on CWA-eligible projects
- 4 Berkeley residents
- 96 East Bay Green Corridor residents
- 35 Alameda County residents
- Reports of concerns about a “displaced core workforce” from small contractors at pre-bid meetings to comply with local hire requirements
- Increased engineer’s estimates in order to allow for the higher bid prices

Solutions

- Continue bidding without PLA and keep **FAIR** and **OPEN** competition
- **ALL** sides should be represented in any negotiations
- Allow for **ALL** state approved apprentices to work on the project
- Allow contractors to hire their entire **CORE** workforce
- Allow contractors to pay health and pension benefits into their employees’ **OWN** plans to care for them and their families
- Use an alternate bid approach
- Rebid the project **WITHOUT** a PLA if there are three bidders or less on project
- Set a **HIGH** Local Hire goal that benefits the workers in the community
- Establish metrics for **PROPER** PLA compliance, accountability, and transparency

Americans overwhelmingly reject PLAs

- In September 2009, nationally known pollster Frank Luntz surveyed Americans about taxpayer funded bidding procedures. 88.5% said they preferred a “fair, open, and competitive bidding process.” 12% felt that unions should have the exclusive right to the work.
- In California multiple entities have banned PLAs-including Orange County-and every time the issue has been brought to the voters they have overwhelmingly rejected PLAs. (see attached)

Summary

Your proposed Project Labor Agreement (PLA) creates barriers for local, minority and women-owned construction employers and their employees from participating in building their community because they contain provisions that do not allow for the full utilization of their own workforces.

Furthermore, studies show these types of agreements increase project costs – anywhere from 10-30% above prevailing wage because they restrict competition. Open competition is healthy and increases quality. It levels the playing field and local money is invested into the community.

And finally, Project Labor Agreements exclude the men, women, and veterans who have chosen to enter into state approved, unilateral apprenticeship training programs in pursuit of a construction career from the opportunity to work and gain the invaluable on-the-job training experience that provides stability for them, their family and their community.

For these reasons we strongly oppose the proposed Project Labor Agreement for your school construction bond.

Additional PLA Educational Material for your review

In California, only [18.1%](#) of the private construction workforce belongs to a union. [State Building and Construction Trades Council](#) representatives, AFL-CIO affiliates, introduce Project Labor Agreements as a tool to local school, city, county, state and federal officials to exclude non-union workers.

More information about PLAs can be found at www.thetruthaboutplas.com.

Link to recently produced video about [Project Labor Agreements; Not What We Need, Not What We Deserve](#)

Below are studies that show cost increases for public works projects on which contractors are required to sign Project Labor Agreements:

1. Here is the study released [in mid-July 2011](#) from National University’s Institute for Policy Research (based in San Diego), with significant review from other economists: <http://www.thecostofplas.com>. This study concludes that costs are 13 to 15 percent higher when California school districts build a school under a Project Labor Agreement. In inflation-adjusted dollars, a Project Labor Agreement is associated with costs that are \$28.90 to \$32.49 per square foot higher. (In my opinion, this is the most comprehensive study ever conducted on the costs of Project Labor Agreements.) The study is also attached.
2. Two examples of projects in California bid without a Project Labor Agreement and then with a Project Labor Agreement. [The Burckhalter Elementary School in Oakland Unified School District](#) went from eight bidders to three bidders and the low bid increased 24 percent; the City of Pasadena’s Glendale Power Plant had a net loss of one bidder and the low bid increased more than 15 percent. The winning contractor declared that the higher bid was “100 percent due to the PLA.”
3. The Beacon Hill Institute at Suffolk University in Massachusetts has published studies comparing school construction costs in the Boston area, in Connecticut, and in New York State with and without PLAs. The studies conclude that Project

Labor Agreements increased bid costs by 14 percent in the Boston area, by almost 18 percent in Connecticut, and by 20 percent in New York State.

Here is a link to the Boston study : www.beaconhill.org/BHISTudies/PLApolycystudy12903.pdf

Here is a link to the Connecticut study: <http://www.beaconhill.org/BHISTudies/PLA2004/PLAinCT23Nov2004.pdf>

Here is a link to the New York study: <http://www.beaconhill.org/BHISTudies/PLA2006/NYPLAReport0605.pdf>

4. A December 11, 2007 presentation by the California Department of Industrial Relations to the Director's Advisory Committee on Public Works included results from a study by [Leland Saylor Associates](#) (a California construction cost analysis and management firm) indicating that 8+ bidders reduces cost 10-20%, 6-7 bidders reduces cost 0-10%, 4-5 bidders increases cost 0-10%, 2-3 bidders increases costs 10-25%, and one bidder increases costs 25-100%. This would seem to conform with classical economic theory (and common sense) that more competition results in lower costs. See attached DIR slides.

5. **Government-Mandated Project Labor Agreements: The Public Record of Poor Performance (2014 Edition)**

Summary of PLA Research (2014 Edition) [The Impact of Government-Mandated Project Labor Agreements \(PLAs\): A Review of Key Reports and Studies \(2014 Edition\)](#) (pdf) highlights excerpts from studies pertaining to common points of contention during PLA debates. A record of PLA construction projects experiencing an unfortunate pattern of cost overruns, reduced competition, delays in construction, construction defects, safety problems and diversity issues. It is a key resource to find failed government-mandated PLA projects in your community, illustrating why anti-competitive and costly government-mandated PLAs are nothing more than a bad solution in search of a problem.

6. **Government Funded Study Finds PLAs Increase Costs and Offer Limited Value (June 2009)**

A June 2009 study conducted by property and construction consulting firm [Rider Levett Bucknall](#) prepared for the U.S. Department of Veterans Affairs (VA) Office of Construction and Facilities Management found that PLAs would likely increase construction costs by as much as 9 percent on three of the five construction markets (Denver, New Orleans and Orlando) in which the VA is planning to build hospitals.

[Project Labor Agreements – Impact Study for the Department of Veterans Affairs](#)

7. **Santa Cruz Metro Transit District Metrobase Project:** 6 of 8 unresponsive bidders. Project bid September 12, 2012. Project not awarded until December 2012.

- 1) The project has nearly 1M in change orders (the project award was 13M)
- 2) In one of the narratives there is mention of contractor errors
- 3) There appears to be over \$150,000 + in added architectural costs caused by delay in project completion
- 4) There is a spread sheet showing over \$900,000 in added costs for delays
- 5) They needed to hire a new construction manager to oversee the errors and delays at a cost of 1.5M
- 6) The Owner's budget has increased by over 4M
- 7) Completion will be one year past contracted completion date (original was Dec, 2014, new is Fall of 2015)

8. [Actual case studies](#) in the Monterey County market demonstrate that a PLA will result in fewer local jobs not more. Without Project Labor Agreements, 56% of the money spent stays in the local economy. With PLAs, only 10% does.

9. **Disastrous bid results under the Contra Costa Community College District PLA.**

- A. Contra Costa College New College Center
 - a. Bid results 10.2% over low engineer's estimate of \$45M
 - b. General Contractor from out of county

- c. Only 2 subcontractors from Contra Costa County
- d. 1 out of state contractor
- B. Los Medanos College Student Services Remodel
 - a. Bid results 9.8% over high engineer's estimate of \$15M
 - b. General Contractor from out of county
 - c. Only 2 subcontractors from Contra Costa County

10. \$26M is the cost of PLAs at West Contra Costa USD to fund three updated construction bids for projects at Kennedy High, El Cerrito High and Coronado Elementary. This **37% increase** over the \$44.8 Million allocated by Measures J, D & E is the cost of government-mandated Project Labor Agreements (PLAs). WCCCUSD has had a PLA in place since 2000. [Learn more](#). Also see attached CC Times Article: Pricey school construction spending at WCCCUSD.

11. Oxnard Union High School District new Rancho Campana High School bid coming in 20% over estimates. The cost of the project had been estimated to be \$49 million while the price tag now stands at \$58 million. [GC blames PLA](#). Latest projected cost is \$78.2M.

12. South San Francisco school starts amid construction project

When school started the fifth grade classrooms had not been completed due to construction delays. The district says part of the construction delays at Buri Buri Elementary School was due to roofing materials that didn't arrive on time. In fact, this is not the only school in the district that's behind in construction.

The district has used up all the funds from the \$162 million bond for school improvements and ran out. It moved \$10 million from its general fund to complete projects because of increased costs.

South SFO has been using Project Labor Agreements since 2011.

13. EBMUD conducted a survey of its union and non-union contractors who bid district projects about Project Labor Agreements.

- a. 100% said PLAs increase costs
- b. 64% said PLAs were a disincentive to bid

14. Southwestern Community College National City Higher Education Center project failed to garner the required 3 bidders for the following trades and rebid them PLA-free:

- BP 01 – Surveying (Prof licensed surveyor)
- BP 02 – Final Clean (B or D-63)
- BP 03 – Earthwork & Site Demo (A or C12 & C21)
- BP 04 – TI Demo (C-21)
- BP 06 – Masonry (C-29)
- BP 10 – Misc Metals & Stairs (C-51)
- BP 11 – Non-Lab Casework (C-6)
- BP 14 – Sheet Metal (C-43)
- BP 18 – Flooring (C-15)
- BP 24 – Elevator (B or C-11)
- BP 25 – Fire Protection (C-16)

See District Website for ALL project information



October 10, 2016

Trish Herrera Spencer, Mayor
City of Alameda
2263 Santa Clara Avenue
Alameda CA 94501

Re: 6-D Oppose: Recommendation to Authorize the City Manager to Enter into a Citywide Project Stabilization Agreement on Public Works or Improvement Contracts Valued at Over \$1,000,000 Awarded by the City of Alameda with the Building and Construction Trades Council of Alameda County. (Base Reuse 819099)

Dear Mayor Spencer:

Associated Builders and Contractors (ABC NorCal) Northern California Chapter is a construction trade association of nearly 500 members who perform commercial, industrial and public works construction. Many of our contractor members are located in Alameda County and have performed work for the City of Alameda. ABC NorCal also operates state and federally approved apprenticeship programs in several trades. We believe in increasing opportunities for all workers regardless of their affiliation.

Project Labor/Stabilization Agreements (PLAs/PSAs) create barriers for local, minority and women-owned construction employers and their employees from participating in building their community because they contain provisions that do not allow for the utilization of their own workforces.

Furthermore, studies show these types of agreements increase project costs – anywhere from 10-30% above prevailing wage because they restrict competition. Open competition is healthy and increases quality. It levels the playing field and local money is invested into the community.

- Example: [Alameda County Hall of Justice](#) project delayed and over budget
 - Local business participation under PLA. 60% goal, 2.58% achievement
 - \$111,966,000 contract is now \$122,384,711
 - Change in substantial completion date by 61 calendar days from 2/15/17 – 4/17/17

And finally, this agreement as currently written excludes the men, women, and veterans who have chosen to enter into state approved, unilateral apprenticeship training programs in pursuit of a construction career from the opportunity to work and gain the invaluable on-the-job training experience that provides stability for them, their family and their community.

We recommend the following amendments to the proposed PSA. We believe these changes will remove barriers and provide a more inviting environment for small businesses in the City of Alameda – including minority and women-owned businesses – to once again bid public work in your city.

Recommended changes to proposed PSA:

16.2 Apprentices: Remove the word “joint” in order to allow for apprentices from all state-approved apprenticeship programs to be eligible to work on City of Alameda projects.

1.1 Project: Increase the threshold to \$10M.

12.2 Union Recognition and Representation: Add: The Contractor/Employers agree to deduct union dues or representation fees from the pay of any employee who executes an authorization for such deductions.

13.1 Referral: Add: The Signatory Union(s) shall be the primary source of craft labor employed on the Project. However, in the event that a Contractor/Employer has his/her own core workforce, the Contractor/Employer may initially use up to six (6) core workers. When Contractor/Employer requires employees for covered work in addition to his/her initial six core workers, Contractor/Employer shall utilize the Signatory Union(s) referral system.

17.2 Wages and Benefits: Add: Any non-signatory Contractor/Employer employing a core worker shall compensate the core worker for benefits in excess of the basic hourly wage rate in accordance with the applicable prevailing wage determination established by the Department of Industrial Relations pursuant to the California Labor Code. Contractor/Employer may: (1) directly compensate the core worker, or (2) contribute to Contractor/Employer's benefit plans on behalf of the core worker, or (3) contribute to the Union's established employee benefit plans on behalf of the core worker.

Additional amendments:

- Add an alternate bid approach where the PLA provides the lowest bid, or an enhanced value or community benefit with a dollar value less than or equal to 2% of the lowest bid to be determined on the project.
- When you have three bidders or less on a project, rebid the project without a PLA.
- If the project comes in over the engineer's estimate, rebid the project without a PLA.
- Establish metrics for proper PLA compliance, accountability and transparency.

Unless amended to include the above provisions, we strongly and respectfully oppose the proposed Project Stabilization Agreement for the City of Alameda. Please include this correspondence in your October 10, 2016 meeting agenda packet.

Sincerely,



Nicole Goehring
Government Affairs Director

CC: Frank Matarrese, Vice Mayor
Jim Oddie, Councilmember
Marilyn Ezzy Ashcraft, Councilmember
Tony Daysog, Councilmember