From:	Glaser, Heather
To:	Zelaya, Dillon
Subject:	FW: The Facts on Project Labor Agreements (PLAs): Discrimination and Waste Masked As "Local Hire"
Date:	Thursday, June 22, 2023 6:08:38 PM
Attachments:	PLA Cost to Workers.pdf Minority revised.pdf 2003-09-29 San Jose USD Contractor PLA Survey - Final Results.pdf EBMUD PLA Contractor Survey.doc San Luis Obispo City Council Vote June 1 to Approve Funding to Expand PLA Policy.pdf

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From: [redacted]
Sent: Thursday, June 22, 2023 8:36 AM
To: Matichak, Lisa <Lisa.Matichak@mountainview.gov>; Abe-Koga, Margaret <Margaret.abe-koga@mountainview.gov>; Hicks, Alison <Alison.Hicks@mountainview.gov>; Kamei, Ellen <Ellen.Kamei@mountainview.gov>; Ramirez, Lucas <Lucas.Ramirez@mountainview.gov>; Ramos, Emily Ann <Emily.Ramos@mountainview.gov>; Showalter, Pat <Pat.Showalter@mountainview.gov>
Cc: [redacted], City Manager <city.mgr@mountainview.gov>; Community Development <Community.Development@mountainview.gov>; , Public Works <Public.Works@mountainview.gov>; [redacted]
Subject: The Facts on Project Labor Agreements (PLAs): Discrimination and Waste Masked As "Local Hire"
Importance: High

Mountain View City Councilmembers:

My name is Eric Christen and I am the Executive Director of the Coalition for Fair Employment in Construction (CFEC). Formed 23 years ago to oppose discriminatory and wasteful Project Labor Agreements (PLAs) CFEC seeks to educate those considering their use. We see you are holding a “study session” on them Tuesday and while we will try to attend we will be forwarding you information regardless in the coming days and weeks that seeks to show you how they are a solution in search of a problem.

Project Labor Agreements (PLAs) are banned in 24 states and 11 entities have done the same in California Why? Because they implicitly and explicitly discriminate against the 85% of the workforce who are union-free.

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 and force union-free workers to pay into union pension plans they will never vest in. This is wage theft. (see attached)

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. With the construction market so busy right now, with record inflation in the industry and with more work than workers, why would you do anything that makes is less likely you'll attract bidders? If you want to see what this means in real life here is what happened to the City of Selma. Their new police station had 10 pre-qualified bidders but only 1 ended up bidding the project. Why? As you can see **from the attached document**, staff lays the fault squarely at the feet of the PLA.

The City of San Luis Obispo, one of the few California cities to mandate PLAs on all city work, had to pay $50,000 just to create their PLA (see attached). Do you have $50,000 just laying around to create unneeded levels of bureaucracy?

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.

Consider the following instead:

1. Continue to bid your work with fair and open competition. What problems exist that this solution in the form of a PLA is to remedy?
2. Survey contractors who do work for you and ask them about PLAs. When the San Jose Unified School District and East Bay Municipal Utility District did this they found they would receive 50% FEWER bidders and as a result they chose not to employ a PLA. (see attached)
3. Do your research. You will find in just a cursory study online that these "agreements" are controversial to say the least. Is that what's needed in times of record industry inflation like we have now?

The bigotry, exclusion and higher costs that are the fruits of PLA have no place in our state in

2023. Please give this issue the thorough review it requires.

We stand ready to answer any questions you may have.

Best regards,

Eric Christen
Executive Director
Coalition for Fair Employment in Construction
[redacted]
[redacted]
www.opencompca.com

PLAs are typically touted as being in the "best interests of the workers." But here is the painful truth for construction workers who are forced to participate in a PLA. It could cost a worker – in this example a journeyperson electrician – as much as $70,233 to work under a PLA.

The "total package" of wages and benefits are set by the state in what is called a "prevailing wage determination" which is almost always based upon the union's collective bargaining agreement. In Orange County for the job of inside wireman – the total package is $58.57 an hour but let's look what happens to that.

The package is composed of an hourly wage, and amounts for health insurance, pension, training, and an amount for "other purposes" (really - a union slush fund).

So long as the total of payments add up to the total package – the amounts for some of these items can vary – but the wage can never drop below $39.50. But watch what happens and the impact these variances have on non-union workers who are forced to contribute under the PLA.

The PW amount for health and welfare is set at $10.20 an hour – and that is the amount the contractor must send to the union for medical coverage for the covered employee. That is $1,632 a month for medical. WECA collects $720 a month for a full coverage plan for a typical covered worker and family and another example – under the ACA – you can purchase a gold plan policy for a family of three for $856 a month. So, at a minimum, the electrician forced into the unions' "one size fits all plan" costs him or her at least $800 a month! And if the worker doesn't need any medical coverage – say they are covered on their spouse's plan or parent's – they lose the entire $1,632 for coverage they don't need (remember – the total package must add up to $58.57 – so an employer who pays less than $10.20 an hour – pays more into one of the other categories – usually pension.

So let's look at the pension. That is set at $7.45 an hour. The vesting can vary from union to union but according to the IBEW/NECA website – it is five years for locals in Southern California. So, unless the non-union worker gets five years of work in the IBEW – they lose the **entire** $7.45 because they never qualify for retirement from the union. To qualify for being part of the total package, a non-union contractor must make an **irrevocable** contribution to the benefit of the worker – usually the contributions are made into a 401K.

The package includes an amount called "other payments" which we in the merit shop call the unions' slush fund. In the OC it's $.44 an hour – not much – but it still is an involuntary "deduction" from the total package that in the merit shop is typically paid into pension.

Finally – these workers now are obligated to pay union dues for a union they did not voluntarily join. I am sure some in the audience will complain that no one can be forced to join a union or pay dues – but I've seen PLAs that mandate union membership beginning on the 7th day of work – so I argue the dues are required – and in SLO it is $31.70 a month or $.20.

So when you add up the higher costs for medical, the loss of pension contributions, the payment of dues and "other" fees, a PLA at Centralia SD will cost a non-union electrician at least **$13.14 an hour** – for a union the worker never agreed to join!

PLAs Cost Workers

These scenarios assume a two-year construction project with 48 weeks of full-time, paid employment.[1]

	JP electrician, 2 dependents. PLA in place	JP electrician, 2 dependents. No PLA in place	JP electrician, no dependents, health covered under ACA
Total package	$58.57	$58.57	$58.57
Health & Welfare	$10.20[2]	$5.35[3]	$0
Training[4]	$0.78	$0.78	$0.78
Union Dues[5]	$0.20	-	-
"Other"[6]	$0.44	-	-
"Lost" Pension[7]	$7.45	-	-
Available Take home pay	$39.50	$52.44	$57.79
		$13.14[8]	$18.49[9]
"Savings" to worker free from PLA[10]		$50,457.60	$71,001.60

[1] These scenarios do not calculate any tax consequences that could result from an employers decision to pay additional wages to reach the total package or make pension contributions that could shield some payments from federal and/or state taxation

[2] Paid to union trust – assumes full coverage for employee and dependents

[3] For illustration, this is an estimate from Covered California for a Blue Shield Gold 80 PPO policy for this family in SLO County. http://www.coveredca.com/shopandcompare/2015/#healthplans

[4] Required payment of training contribution to State CAC or apprenticeship program

[5] https://www.unionfacts.com/lu/25310/IBEW/639/#membership-tab

[6] From DIR PW calculations. *INCLUDES AN AMOUNT FOR THE NATIONAL LABOR-MANAGEMENT COOPERATION FUND AND THE ADMINISTRATIVE MAINTENANCE FUND*.

[7] According to IBEW/NECA pension vests in five years, contributions made if worker doesn't vest are "lost." https://www.scibew-neca.org/html/pspd0080.htm

[8] This is the difference between the required basic hourly rate of $39.30 and the total package of $58.37. The employer MAY pay this on the wage – which results in additional costs to employee and employer or more typically, may make an irrevocable contribution to a retirement account like a 401K.

[9] Ibid

[10] As previously noted, this amount could be in the form of wages or a contribution to a pension program.

What Women and Minority Groups Say About PLAs

"PLAs are de facto segregation... African-American workers are significantly underrepresented in all crafts of construction union shops...PLAs are non-competitive and, most of all, discriminatory."

National Black Chamber of Commerce

"We believe PLAs make it more difficult for minority-owned contractors to compete...they effectively work against the goals of increasing the number of projects awarded to minority-owned businesses by placing roadblocks in the way."

Latin Builders Association

"Bay Area Black Contractors Association has been a strong advocate for merit shop construction firms in the Bay Area and we are opposed to PLAs."

Bay Area Black Contractors Association

"WCOE opposes government mandated PLAs...PLAs will disproportionately impact small business, particularly those owned by women and minorities."

Women Construction Owners and Executives

"The ultimate effect of the San Francisco Airport PLA is clear…once the PLA was implemented minority business prime contract participation dropped 91.9%. This PLA has been a disaster for minority-owned businesses."

Asian American Contractors Association

At Some Point it Becomes Obvious What PLAs are REALLY All About

SAN JOSE UNIFIED
SCHOOL DISTRICT

All Students Can Learn... All Students Can Succeed!

School Construction
Ty Williams, Director

[redacted]

OCT 0 6 2003

RECEIVED

September 29, 2003

To: Contractors Bidding Work in San Jose Unified School District

Dear Contractors,

The San Jose Unified School District Board of Education has instructed staff to study the issues involved in possibly entering into a Project Labor Agreement (PLA) with the Building Trades Council for the upcoming work funded by the Measure F bond proceeds. The Board believes this may be a controversial step and has instructed staff to determine whether common ground exists between the various parties on which a PLA beneficial to the District could be established. Staff has met on several occasions with the Building Trades Council representatives and has solicited and received feedback on the proposed form of the PLA from the Associated Builders and Contractors and the California Fair Employment Commission. We have heard the comments and concerns of individual contractors and construction industry representatives and have distilled the major issues down to those involving apprenticeship programs, prevailing wage compliance, payments into health and retirement programs, and the hiring of one's own employees through the Union halls.

As contractors who have bid on construction projects within the San Jose Unified School District in the recent past, your input is invaluable to us in this effort. The District's intent is to enter into an agreement only if it does not discourage contractors from bidding our work, regardless of their affiliation to the Trades Unions. We recognize the important role the contracting community has had in the successes of our Modernization Program to date, and would like your input on how a PLA might affect your company's willingness to bid on District projects.

With this in mind we wish to survey the contracting community to understand where the owners of these companies stand in regard to the potential of the District entering into a PLA. We request that you please take the time to answer the following survey questions, attach any additional comments you care to, and return the survey by mail or by fax to the SJUSD School Construction Department at the following address:

San Jose Unified School District, 855 Lenzen Avenue, Room 211, San Jose, CA 95126
Attn: Debbie Doty FAX: (408) 535-2322

Thank you very much for your attention to this important matter.

Ty Williams
~~Director~~, School Construction

SURVEY RESULTS FROM BIDDERS

If the SJUSD enters into a Project Labor Agreement with the Building Trades Council containing the following clauses, how would this affect your willingness to continue bidding projects in our District:

1. If all of your employees, other than your 'core' employees (those meeting a criteria defined within the PLA as a 'core' employee), would have to be hired through the appropriate Union hall.

Would this make you (Less Likely 34) (The Same 29) (More Likely 52) to bid on the work?

2. If you had to pay benefits for all employees into the defined benefit and retirement programs administered by the appropriate trade's labor management trust fund for the hours worked on the project(s) under the PLA.

Would this make you (Less Likely 33) (The Same 32) (More Likely 50) to bid on the work?

3. Non-Union employees choosing not to join a Union upon completion of work under the PLA would forfeit their contributions to the retirement programs administered by the appropriate trade's labor management trust fund, unless the employee is vested in the plan (typically a 5 year period).

Would this make you (Less Likely 38) (The Same 31) (More Likely 44) to bid on the work?

4. If all employees had to pay either agency fees or initiation fees to the applicable trade union.

Would this make you (Less Likely 40) (The Same 28) (More Likely 46) to bid on the work?

5. If those funds in the appropriate trade's labor management trust fund programs were portable and the employees were able to take the contributions with them and reinvest them in a personal retirement plan. Roth IRA, 401k etc.

Would this make you (Less Likely 28) (The Same 56) (More Likely 28) to bid on the work?

6. If you were required to hire apprentices through the appropriate trade's labor management trust fund apprenticeship programs.

Would this make you (Less Likely 30) (The Same 41) (More Likely 45) to bid on the work?

7. If you could hire apprentices from any State-approved apprenticeship program.

Would this make you (Less Likely 32) (The Same 54) (More Likely 28) to bid on the work?

8. Would the District's entering into a PLA make you stop bidding our work regardless of the content of the PLA? (Yes 29) (No 86)

Please explain your response:

9. Do you believe that the District entering into a PLA would attract more Union contractors?
(Yes 74) (No 38)

Please explain your response:

10. Do you believe that the District entering into a PLA would discourage non-Union contractors?
(Yes 83) (No 26)

Please explain your response:

11. Does your company currently provide health benefits and a retirement package(s) for all employees?

If yes, please state how it is administered and who is eligible. Please provide information the District can use to confirm levels of participation.

yes - 106 no - 4

12. If you have any comments you would like to add, feel free to use the space provided below.

Please add additional sheets if you would like to add more information for any questions.

PLA Survey of Selected Contractors who have Bid on District Projects

Contractor	Union Signatory?	PLA Disincentive to Bid?	PLA Increases Cost?	Comments
	Yes	Yes	Yes	PLA not good public policy for agencies to be "married to unions" and require hiring of union workers. 90% of our staff are long-time employees who are also members of union but we will not bid SFPUC projects because of PLA and generally stay away from PLA jobs. Prevailing wage enforcement is a level playing field for all contractors and is sufficient. Hiring staff should be prerogative of the contractor – better contractors develop their own trained personnel, have lower turnover and better safety records. Employees lose benefits if they shift from one trade union to another. We are signatory to laborers union because we reached agreement with them on training and ability to pay benefits directly to employee rather than to union trust fund.
	No	Yes	Yes	Prefer not to bid PLA jobs but it depends on the PLA. SFPUC's PLA is contractor friendly and has no problem working with it. Allows contractor some freedom to negotiate terms and conditions. Jurisdictional disputes between unions are a bigger problem than the PLA itself. Despite the fact contractors have their own benefits plans, PLAs require open shop contractors to pay their workers' health and retirement benefits to union benefit and pension funds. Thus, companies have to pay benefits twice: once to the union and once to the company plan. Nonunion employees never see any of the benefits from contributions sent to union plans unless they decide to join a union and remain with the union until vested.(So now the open shop contractor is at a disadvantage with wage rates) We have had employees to previous PLA's let their pension funds go. In order to stay vested for the pension funds, the employee had to continue paying union dues or bring union dues up to date in order to obtain their pension monies.

PLA Survey of Selected Contractors who have Bid on District Projects

Contractor	Union Signatory?	PLA Disincentive to Bid?	PLA Increases Cost?	Comments
	Yes	No	Yes	Do not care for PLA but deal with it. No purpose except to complicate and confuse issues. Forces work with teamsters and electricians union. Work rules of some unions increase costs – e.g. pipe fitters union not competitive. Bids are higher for SFPUC work because of PLA. Requiring non-union contractors to pay into union trust fund under a PLA helps level the playing field for union contractors. Union contractors are hampered by union jurisdictional issues and lack flexibility of non-union contractors to have workers perform multiple tasks and pay the appropriate prevailing wage for the different tasks.
	Yes	Yes	Yes	PLAs do not make much sense for modest sized projects (<$100M). The main benefit provided by PLAs, if properly negotiated, is the assurance of labor peace, no pickets or work stoppages and a 4-10 staggered work week. Prevailing wage enforcement is a sufficient step to assure the level playing field between union and non-union contractors. On larger projects, bonding and pre-qualification requirements are a better method to assure a qualified construction team. PLAs are expensive to negotiate/implement and limit competition from both union and non-union contractors. Costs/bids increase largely due to the reduced control over craft labor and it becomes more difficult to ensure safety. We are very selective in deciding to bid projects for Contra Costa County and SFPUC when the bid documents include a PLA.
	Yes	No	Yes	Generally not a fan of PLA but will bid those jobs. Not a big fan of unions either but being a union contractor helps to avoid pickets on prevailing wage jobs. Prevailing wage enforcement provides a level playing field. Biggest problem with PLA is jurisdictional disputes between unions particularly with plumbers and what work do plumbers have to do vs. laborers or boiler workers. PLA increases bid amount due to limiting competition.

PLA Survey of Selected Contractors who have Bid on District Projects

Contractor	Union Signatory?	PLA Disincentive to Bid?	PLA Increases Cost?	Comments
	Yes	No	Yes	PLA can work well. Have not had a negative experience. Danger is when agency and union negotiate PLA without contractor input – sometimes local area practices are not included. Increases costs for some trades where we are not signatory because non-union subs will not bid PLA jobs and competition is limited. Bigger problem is jurisdictional disputes between unions (e.g. pipe fitters vs. millwrights). PLA could help by clarifying who does what work. PLA does not help with quality/safety and in fact may hinder it. Quality/safety is driven by company not the unions. Like the "core worker" and trust fund payment provision in PLA because it increases costs for non-union contractors who have to pay into union trust fund.
	Yes	No	Yes	Generally have no problems with PLA and it works for us. However pre-qualification is a better route to go than PLA. As a union contractor, we can only hire union sub-contractors. However, some disciplines have no union contractors (e.g. slurry sealing) and this causes problems. PLA can help with jurisdictional disputes between unions (e.g. plumbers vs. boiler workers re: welding of large diameter pipe). Plumbers want to do it but are generally not qualified. PLA requirements regarding payment into union trust funds do not affect us but it impacts non-union contractors. Non-union workers never see the benefits paid into the trust fund on their behalf.
	No	Yes	Yes	Do not like PLA and avoid at almost all cost. Limits freedom with staffing and ability to move people around. Prevailing wage provides level playing field. Was a sub on SFPUC job with PLA – did not receive good service from union because (as a non-union signatory) we were low on totem pole. PLA did allow our staff to join union, and then hired them for the job. But benefit costs increased because we had to pay benefits to union in addition to company benefits in order to ensure staff retention after the PLA job was over. Extra cost was about $12/hour per worker.

PLA Survey of Selected Contractors who have Bid on District Projects

Contractor	Union Signatory?	PLA Disincentive to Bid?	PLA Increases Cost?	Comments
	No	Yes	Yes	85% of the construction work force in California is non-union. Non-union contractors have accepted prevailing wages as the level playing field. There are penalties for violating prevailing wage laws and EBMUD does a good job monitoring prevailing wages. Unions do not want non-union contractors on PLA jobs and it is a blatant move to eliminate the open shop. We did seven jobs for the Port of Oakland prior to the PLA but now can't bid Port jobs anymore. Absolutely increases contract costs due to limiting competition. Also increases agency costs for administering the contract and PLA. Workers should not be forced to join union to work on PLA job. There should be no requirement for companies to pay into the union trust fund for workers who are not union members, thereby paying double benefits. We would want a minimum of two core workers before being required to go to the union hiring hall. Unions deliberately send the "bottom of the barrel" to non-union contractors on PLA jobs because trust fund payments are for one project only. District should set a high threshold of $35m contract amount for PLA projects.
	Yes	Yes	Yes	Do not like PLAs. If they have to be used, the threshold for contract amount should be $20m. Problems occur with some disciplines where union subcontractors are not available and the non-union subs stay away from PLA jobs. It is impossible for us to build jobs without the ability to use our core workers. We are forced to carry "excess baggage" in order to meet the requirements of a PLA. Jurisdictional issues are a problem with plumbers who are unable to meet the needs for mechanical piping on water and wastewater jobs but claim the work is theirs. Prevailing wage provides a level playing field. On PLA, non-union subcontractors have to pay double benefits to union trust fund if workers are not union members. On one SFPUC job this amounted to $46/hour per worker. PLA limits competition by effectively removing non-union subcontractors from the bidding pool.

PLA Survey of Selected Contractors who have Bid on District Projects

Contractor	Union Signatory?	PLA Disincentive to Bid?	PLA Increases Cost?	Comments
	Yes	Yes	Yes	A PLA not only limits the number of general contractors looking at a project, but also limits the number of subcontractors exponentially reducing competition and increasing costs. Even "union contractors" are impacted by a PLA because many contractors are only signatory to a few trades, but under a PLA the contractor is now bound to the collective bargaining agreements of all trades and those work rules, another factor that increases costs. The double payment of benefits or waiting period for union benefits discourages contractors from bidding PLA projects, and most likely increases costs for those that do bid. Each contractor whether non signatory, or signatory with only a few unions had made that business decision and obviously felt that decision and their means and methods made them competitive. A PLA changes those means and methods which in turn can change the contractor's costs and bid. Core worker provisions, while a novel concept and offered in some PLAs by proponents to hide the discriminatory nature of a PLA, do little to address the issues created by a PLA. While a core worker provision does allow contractors not signatory with a particular trade to bring in some of its workers for that trade it still disrupts the crew already established by the contractor (union and non-union).

Survey initially conducted 5/15/12 – 5/29/12
Updated 7/15/15

PUBLIC HEARING ITEMS AND BUSINESS ITEMS

10. 2021-23 FINANCIAL PLAN – STRATEGIC BUDGET DIRECTION AND MAJOR CITY GOAL WORK PROGRAM REVIEW

Finance Director Brigitte Elke and Principal Budget Analyst Natalie Harnett provided an in-depth staff report and responded to Council questions.

Public Comments
Amman Asfaw
Marshall James
Kelly Fisher
Jim Dantona
Elle
Tim Jouet
Rylee Terry
Alejandro
Bettina Swigger
David Baldwin
Joshua Medrano
Chelsie Patterson
Rita Cassaverde
Brandon
Montzerrat Morales

---End of Public Comment---

RECESS

Council recessed at 8:35 p.m. and reconvened at 8:50 p.m., with all Council Members present.

By Consensus, the Council provided the following direction and requested that staff come back on June 1, 2021 with the adjustments to the work plan needed to make the changes:

Economic Recovery
Add $50,000 in support for creating Community Workforce Agreements using the WRRF as a case study.

Diversity Equity Inclusion (DEI)
Crisis Intervention Training – remove from DEI work program description Increase amount for feasibility study to $40,000 for Multi-Cultural Center.
The police department will implement new federal and state laws and mandates for police reform and update its strategic plan to integrate new requirements and return to Council for a discussion on further integration of the principles of 21st policing and other actions as determined by the City Council.

Climate Action, Open Space, and Sustainable Transportation
Look into Climate Coalition request
Remove Implementation of Open Space Winter Hours of Use from Climate Action MCG, into operating with the understanding that work will continue to be directed by Natural Resources staff.

By Consensus, the Council reviewed the remaining portions of the Strategic Budget Direction document (Ongoing Community Services, Local Revenue Measure, SOBC's, CIP and Enterprise Funds) and had no changes.