PROJECT LABOR AGREEMENTS

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PLA Primer

(Full PLA Briefing Book Available at www.ua403.org)

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PLA Primer

I. Introduction

Project Labor Agreements (PLAs) provide one of the most effective project planning tools available for large capital facility construction projects. As evidenced by a growing national trend involving over $160 billion of PLA-construction, project owners in both the public and private sector are increasingly utilizing this tool to protect capital investments and ensure successful project delivery.

By providing facility owners with a unique and exceptionally reliable source of skilled, trained manpower in all applicable trades, PLAs promote safe, timely, cost-effective construction delivered to the highest quality standards. Moreover, due to looming skill shortages in the construction industry, PLAs help address long-term needs of project owners by providing a highly effective strategy for recruiting and training the next generation of skilled construction workers, thus assisting the industry's critical need for future workforce planning and development.

But economic and business advantages for project owners are not the only thing PLAs do. In addition, PLAs permit public and private owners to leverage capital facility investments in a way that generates substantial benefits for local communities. Because PLAs rely on local building trade union referral systems, workers recruited for and deployed on projects are generally local residents who receive good wages and health care and pensions and the very best skill training and education the industry has to offer the construction trades.

This paper provides an overview of these various benefits and, together with the attached Briefing Book, highlights the growing trend of PLA-construction. Given the effectiveness of this tool to improve construction project planning and execution, this is a trend that is likely to continue in the future as more project owners throughout the industry recognize its utility.

II. PLA Basics: Key Component of Effective Capital Facility Planning

Project Labor Agreements are single-site collective bargaining agreements between building trade unions and site contractors that govern terms and conditions of employment for all craft labor on the designated construction project. When used on large capital projects, PLAs are included in project specifications at the direction of the project owner for the purpose of promoting core project goals: quality, safety, timely delivery and cost-efficiency.

More specifically, from a project owner's perspective, PLAs are used to provide: (1) access to reliable local supply sources for highly trained, highly skilled construction craft labor; (2) no-strike/alternative dispute resolution provisions to prevent labor disputes and related project delays; (3) significant cost reductions through minimized risks of disruption and delay, a higher-quality work product, and uniform rules that translate into lower administrative costs.[1]

PLAs have been used in the private and public sectors for nearly a century and three-quarters of a century, respectively. It is not by accident that PLAs have been used for so long. The advantages PLAs provide in time, quality, safety, and cost-efficiency are the driving reasons behind the long history of these agreements.

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[1] *See* Jeff Caldwell, *Project Labor Agreements – Toyota's Way* (Toyota North America's construction costs roughly one-third less than other major automobile manufacturers who do not use PLAs) (document available from authors); Press Release, Office of Governor George E. Pataki, *Governor: DOT to Use Project Labor Agreement I-287 Project* (Oct. 30, 1999) (PLA for reconstruction of Cross Westchester Expressway yields more than $8 million in savings to taxpayers), *available at* http://worldcat.org/arcviewer/1/AO%23/2007/01/12/0000057321/viewer/file2583.html; *see also* Dale Belman, Russell Ormiston, William Schriver, and Richard Kelso, *The Effect of Project Labor Agreements on School Construction in New England*, Michigan State University SLIR Working Paper Series (2005) (dispelling the myth propagated by the Beacon Hill Institute and allies that PLAs increase construction costs).

These are the same reasons for their consistent expansion over time, to the point where it was recently documented that project owners in various industries and market sectors have used PLA-construction to deliver over $160 billion of capital facilities construction projects throughout the U.S.[2] Successful tools prove themselves.

Significantly, use of PLAs in the private sector, driven primarily by cost-efficiencies, has long outpaced the public sector. But public sector use has also markedly increased in recent years, as successes of private corporations in this area have come to light, including those of leading Fortune 100 and 500 companies, including Toyota, General Motors, Wal-Mart, Bank of America, CVS, Target, Sunoco and Disney. Thus, government officials and agencies increasingly use PLAs because they produce timely, cost-effective project delivery that protects capital investments[3]

Consistent with these developments, President Obama issued Executive Order 13502 to promote PLA-construction in the federal sector.[4] As a result of this initiative, the federal government has greater access to the same proven project management tool used by numerous corporations and state and local governments. This is an important and necessary step toward further realizing a federal procurement system that secures for taxpayers the best value in major government acquisitions.

III. Economic Benefits for Project Owners: Safe, Timely, Cost-Effective Delivery

Construction is a highly specialized, highly skilled, and highly-labor intensive industry that requires numerous contractors, both union and non-union, and crafts to work collaboratively and efficiently to achieve common project goals. Accordingly, the degree of coordination and the skills, quality and reliability of the craft labor workforce used on a given project will each have a direct and substantial impact on successful project delivery. The absence of either can make or break a project.

By securing access to the best-trained, most highly skilled local workforce available, PLAs promote safe, timely, cost-effective execution of capital projects, resulting in innumerable economic benefits for project owners and other public or private parties responsible for or dependent upon such projects. Such benefits have been documented in several major studies aimed at evaluating the efficacy and economic benefits of PLA-construction.[5] These studies demonstrate that PLAs help to maximize efficiency, minimize risks, reduce costs and ensure timely project delivery.[6]

The benefits of PLAs, particularly access to reliable sources of highly-skilled craft labor, are also increasingly important as an aging workforce and acute skill shortages subject projects to greater levels

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[2] *See* Gerard M. Waites and Scott M. Seedorf, *Project Labor Agreements: Briefing Book* (2010) (document attached).

[3] *See e.g.*, Peter Cockshaw, *Private PLAs Become Widespread*, Cockshaw's Construction Labor News & Opinion 345(8)(2005); Press Release, Office of Mayor Michael R. Bloomberg, Mayor Michael R. Bloomberg, Schools Chancellor Joel I. Klein, and BCTC President Edward Malloy Announce Landmark Agreements Between Department of Education and Building and Construction Trades Council (6/6/05) (school construction PLA to produce $500 million in savings over 5 years), *available at* http://prtl-prd-web.nyc.gov/html/om/html/2005a/pr012-05.html.

[4] Exec. Order No. 13,502, 74 Fed. Reg. 6,985 (Feb. 6, 2009).

[5] *See* Dale Belman & Matthew Bodah, Economic Policy Institute, *Building Better: A Look at Best Practices for the Design of Project Labor Agreements* (2010); Fred B. Kotler, Cornell University School of Industrial and Labor Relations, *Project Labor Agreements in New York State: In the Public Interest* (2009); Dale Belman, Matthew M. Bodah, and Peter Phillips, ELECTRI International, *Project Labor* Agreements (2007); Ralph Scharnau & Michael F. Sheehan, The Iowa Policy Project, *Project Labor Agreements in Iowa: An Important Tool for Managing Complex Public Construction Projects* (2004); Contra Costa County General Services Department, *Project Labor Report (May 2002-November 2003)* (2004); John T. Dunlop, Harvard University Joint Center for Housing Studies, *Project Labor Agreements* (2002); Daniel Rounds, UCLA Institute for Labor and Employment, *Project Labor Agreements: An Exploratory Study* (2001); Kimberly Johnston-Dodds, California Research Bureau, *Constructing California: A Review of Project Labor Agreements* (2001).

[6] *See id.*

of risk. These trends, which will obviously also impact project cost and quality, require project owners to take serious and more pro-active measures to ensure reliable project staffing for capital facilities programs.[7] PLAs can assist these efforts and play a useful, even decisive role in future workforce development.

IV. Workforce Development: Building a Skilled Workforce for the Future

As noted, the construction industry nationwide is facing severe skill shortages. This problem threatens to reach a crisis point in the near future, could undermine capital facilities planning and adversely impact projects relating to critical infrastructure, economic development and other major public works programs. PLAs help combat this problem by encouraging needed investment in high skills training programs both in the short-term and in the long-term.

In the short-term, PLAs guarantee project owners an adequate supply of highly skilled craft workers through union hiring halls or referral systems. While local referral systems are usually adequate, these systems can also call upon workers from surrounding regions and across the county if needed to meet local demands. In addition, PLAs can help expand the long-term supply of craft workers needed for the future. When PLAs are used, local union referral systems are forced to expand their capacity and recruit and train more workers to meet manpower demand. This, in turn, facilitates long-term workforce planning and development, which is critically needed by the industry.

Moreover, construction is a highly specialized industry that requires the deployment of multiple, diverse crafts. As studies have shown, however, the open shop sector provides training in some trades but maintains little or no presence in others. The open shop has also been unable to develop or maintain an effective system of craft training that ensures open shop workers uniformly meet requisite, minimum skill standards. For these and other reasons, it fails to adequately invest in skill training or produce sufficient numbers of properly trained workers. This, in fact, is one of the primary causes of the industry's current skill shortages.[8]

In contrast, union construction apprenticeship programs regularly invest over $600 million in state-of-the-art training programs every single year, provide a quality of training that is far superior and maintain programs that cover the wide range of all essential crafts needed for large capital facility projects. Thus, the use of PLA-construction, which provides work opportunities to union referral systems that have a greater capacity to recruit, train and deploy the next generation of skilled construction craft personnel, serve the long-term workforce development interests of project owners.

V. Local Community Benefits: Local Jobs, Good Wages & Excellent Training

In addition to providing high value to project owners, PLAs offer many important benefits to local communities affected by capital projects, including local employment opportunities, good wages and the best skill training opportunities available in the industry.

A. Local Hiring: PLAs are structured to require that all project contractors hire their craft labor through local union hiring halls or referral systems. Local hiring is of particular value to public project owners because of the multiplier effect it has on taxpayer investments. They understand that local workers purchase good and services at local businesses, which, in turn, provide jobs, healthcare and other benefits to other local workers.

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[7] *See* Construction Users Roundtable (CURT), *Confronting the Skilled Workforce Shortage* (June 2004); *The Perfect Storm: Factors Come Together Creating a Storm in the Construction Workforce*, The Construction Executive (June 2004), pp. 21-25; *See also* Construction Labor Research Council, *Craft Labor Supply Outlook: 2005-2015* (2005).

[8] Cihan Bilginsoy, University of Utah, *Apprenticeship Training in the U.S. Construction Industry* (1998), at 9.

B. Good Wages: By establishing good, livable wages for all site workers, PLAs ensure that local workers will receive a decent income, which, in turn, supports the local economy. Good wages also help attract the best qualified workers to the project and protect local residents from the unscrupulous practices of companies that hire transient workers at substandard wages.

C. Cutting-Edge Skills Training: Skill training programs operated by local Building Trades Unions provide the best training available in today's construction industry.[9] In fact, a number of recent studies conducted across the country demonstrate that union apprenticeship programs attract and graduate far more apprentices, including more minority and female apprentices, and can be counted on to train for all essential construction trades.[10] These programs include more advanced training for more experienced workers and provide meaningful, life-long career opportunities to participants.[11]

D. Health Care & Pension Benefits: Since PLAs incorporate local union collective bargaining agreements, they also ensure that workers on the project receive adequate health care and pension coverage. These benefits promote a better quality of life for local workers and protect local jurisdictions from having to subsidize such benefits for workers who do not receive them from their employers.

V. Keeping the "PLA Debate" Honest – Sorting Fact From Fiction

Notwithstanding the substantial and compelling case for and evidence in support of PLAs, certain groups, namely non-union contractor organizations, oppose these agreements. Unfortunately, these opponents have little interest in having an honest debate on the issue or in developing effective workforce policies for federal construction.

Instead, opponents condemn PLAs outright and propagate blatant untruths and distorted facts in support of their position. They have, for example, used cost-increases in the notorious Boston *Big Dig* project to attack PLAs, when the labor agreement had nothing to do with cost-overruns on the job caused by design problems and unforeseen site conditions.

Likewise, opponents falsely maintain that the use of PLAs on federal projects will serve to exclude a majority of the nation's merit shop contractors and non-union workers. The fact is, however,

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[9] *See e.g.*, Sarah S. Etherton, Stephen L. Cook, and Robert V. Massey, Jr., West Virginia University Institute for Labor Studies and Research, *Building Trades Apprentice Training in West Virginia: A Comparison of Union and Non-Union Building Trades Programs in the 1990s* (2002).

[10] *See* Anneta Argyres & Susan Moir, Labor Resource Center, University of Massachusetts Boston, *Building Trades Apprentice Training in Massachusetts: An Analysis of Union and Non-Union Programs*, 1997-2007 (2008); Erin Johansson & Fred Feinstein, *Apprenticeship Training Programs in Maryland: A Case Study of the Construction Industry, 1990-2003* (2005); Jeff Vincent, Indiana University Institute for the Study of Labor in Society, *Analysis of Construction Industry Apprenticeship Programs in Indiana* (2004); Randy Loomans & Mitch Seaman, Washington State Construction and Building Trades Council, AFL-CIO, *Apprenticeship Utilization in Washington State Programs in the Building and Construction Trades* (2003); Donald H. Bradley & Stephen A. Herzenberg, Keystone Research Center, *Construction and Apprenticeship Training In Pennsylvania* (2002); Sarah S. Etherton et. al., West Virginia University Extension Service, Institute for Labor Studies and Research, Building *Trades Apprentice Training in West Virginia: A Comparison of Union and Non-Union Building Trades Programs in the 1990s* (2002); Cihan Bilginsoy, University of Utah, *Apprenticeship Training in the U.S. Construction Industry* (1998); William J. Londrigan and Joseph B. Wise, Kentucky AFL-CIO, *Apprenticeship Training In Kentucky: A Comparison of Union and Non-Union Programs in the Building Trades* (1997).

[11] *See* www.BCTD.org. Collectively, the Building Trades Unions invest over $600 million per year in top quality apprenticeship and journeyperson training programs and maintain a nation-wide network of some 20,000 state-of-the-art training facilities throughout the U.S. and Canada. In addition, at least 75% of all apprentices participating in registered training programs are in Building Trades programs. As such, these programs account for the vast majority of bona fide training efforts in the industry.

PLAs are fully open to bidding to ALL contractors, union and non-union alike. What's more, most public PLAs are undertaken in urban metropolitan areas, where prevailing wage surveys show that union workers comprise a majority of the affected workforce. Plus, non-union workers are permitted to seek work on PLA projects by applying through local union job referral systems and fully protected under federal labor law in doing so.

Because of these facts, and the considerable advantages PLAs offer, federal and state courts have widely upheld their use on public works projects.[12] Further, it's significant that the seminal court rulings in this area, including the leading case of *Boston Harbor,* decided 9 to 0 by a highly conservative Court, have stressed that the key focus for this issue must essentially rest on what is best for the *contracting agency* – regardless of the impact on the union sector or the merit shop.

Thus, the courts have said what is crucial is not what is good for contractors or unions or even workers – but what is best for the government body procuring the construction. Ultimately the focus must be on what is best for the taxpayers.[13] Because they provide substantial benefits to the project delivery process, PLAs are routinely justified under this standard and widely used in various public building programs for tens of billions of dollars worth of construction each year. There is even greater use in the private sector, where corporate owners make similar decisions based on maximum value.

The fact that PLAs also provide benefits to workers and local communities is an added advantage, but a vital one to a country that is sorely in need of new good middle class jobs. Moreover, if PLA-construction makes sense from a straight economics and business standpoint, as the growing body of evidence shows, it would be a disservice to taxpayers and local communities *not* to leverage such large capital investments to create good local jobs.

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[12] *See* Building and Construction Trades Council v. Associated Builders and Contractors ("Boston Harbor"), 507 U.S. 218 (1993); Johnson v. Rancho Santiago Community College Dist., ___ F.3d ___, 2010, WL 3928994 (9th Cir. 2010); Associated Builders & Contractors, Inc. v. Lavin, 431 F.3d 1004 (7th Cir. 2005); Associated Gen. Contractors of Am. v. Metro. Water Auth., 159 F.3d 1178 (9th Cir. 1998); Phoenix Eng'g v. MK-Ferguson of Oak Ridge Co., 966 F.2d 1513 (6th Cir. 1992); Sheet Metal Workers Local 27 v. E.P. Donnelly, Inc., 673 F.Supp.2d 313 (D.N.J. 2009); Albany Specialties, Inc. v. Bd. of Educ. of So. Glens Falls Sch. Dist., No. 99-CV-1462 (N.D.N.Y. Oct. 1, 1999) (unreported); Util. & Transp. Contractors Ass'n v. Essex County Improvement Auth., No. 98-4408 (D.N.J. Oct. 15, 1998) (unreported); JNS Heating v. Suffolk Co., No. CV-95-5227 (E.D.N.Y. Oct. 4, 1996) (unreported); McGraw's Custom Constr., Inc. v. City of Juneau, No. J96-0003 (D. Alaska Mar. 28, 1996) (unreported); Lott Constructors, Inc. v. Camden Co. Bd. of Chosen Freeholders, 1994 WL 263851 (D.N.J. 1994) (unreported); Enertech Elec., Inc. v. Mahoning County Comm'rs, 1994 WL 902493 (N.D. Ohio 1994), aff'd, 85 F.3d 257 (6th Cir. 1996); Associated Gen. Contractors of Am. v. County of St. Louis, 825 F.Supp. 238 (D. Minn. 1993); Laborers Local No. 942 v. Lampkin, 956 P.2d 422 (Alaska 1998); Elec. Contractors, Inc. v. Department of Education, 2009 WL 5945554 (Conn. Super. Ct. Aug. 7, 2009) (unreported); Associated Builders & Contractors, Inc. v. S.F. Airports Comm'n, 981 P.2d 499 (Cal. 1999); Conn. Associated Builders & Contractors, Inc. v. Anson, No. CV-98-0579841-S (Conn. Super. Ct. Oct. 26, 1998), aff'd, 740 A.2d 804 (1999); Master Builders of Iowa, Inc. v. Polk County, 653 N.W.2d 382 (Iowa 2002); John T. Callahan & Sons, Inc. v. City of Malden, 713 N.E.2d 955 (Mass. 1999); Util. Contractors Ass'n of New England, Inc. v. Mass. Dep't of Pub. Works, 5 Mass. L. Rptr. 17, 1996 WL 106983 (Mass. Super. Ct., 1996); City of Lansing v. Carl Schlegel, Inc., 669 N.W.2d 315 (Mich. Ct. App. 2003); Associated Builders & Contractors, Inc. v. Minnetonka Indep. Sch. Dist. No. 276, 1999 WL 1261743 (Minn. Ct. App. Dec. 28, 1999) (unreported); Queen City Constr. Inc. v. Rochester, 604 N.W.2d 368 (Minn. Ct. App. Dec. 28, 1999); Associated Builders & Contractors, Inc. v. So. Nev. Water Auth., 979 P.2d 224 (Nev. 1999) (unreported); N.Y. State Chapter, Inc. v. N.Y. State Thruway Auth., 666 N.E.2d 185 (N.Y. 1996); E.W. Tompkins Co., Inc. v. Bd. of Trs. of Clifton Park-Halfmoon Pub. Library, 813 N.Y.S.2d 789 (N.Y. App. Div. 2006); Associated Builders & Contractors, Inc. v. Bd. Educ. of Buffalo, 703 N.Y.S.2d 418 (N.Y. App. Div. 2000); Albany Specialties, Inc. v. County of Orange, 662 N.Y.S.2d 773 (N.Y. App. Div. 1997); Associated Builders & Contractors, Inc. v. Onondaga County, 160 L.R.R.M. 2905 (N.Y. Sup. Ct., Onondaga Co. Mar. 16, 1999); Flex Elec. Contractors, Inc. v. County of Orange, No. 4256-97 (N.Y. Sup. Ct., Sept. 30, 1997) (unreported); Rondout Elec. v. County of Orange, 151 L.R.R.M 2254 (N.Y. Sup. Ct. 1995); Ohio Bldg. & Constr. Trades v. Cuyahoga Co. Bd., 781 N.E.2d 951 (Ohio 2002); Associated Builders & Contractors, Inc. v. Jefferson County Bd. of Comm'rs, 665 N.E.2d 723 (Ohio Ct. App. 1995); Hawbaker v. Department of General Services, No. 111 MAP 2009, slip op. at 17, 30 (Pa. Commw. Ct. Dec. 1, 2009) (unreported), appeal as of right pending, 405 M.D. 2009 (Pa. 2009); Sossong v. Shaler Area Sch. Dist., 945 A.2d 788, 794 (Pa. Commw. Ct. 2008), appeal denied, 967 A.2d 962 (Pa. 2009); A. Pickett Construction Inc. v. Luzerene County Associated Builders and Contractors Inc., 738 A.2d 20 (Pa. Commw. Ct. 1999); North State Mechanical, Inc. v. Department of General Services, No. 122 M.D. 2001 (Pa. Commw. Ct. Jun. 21, 2001) (unreported).

[13] *See e.g.,* Building and Construction Trades Council v. Associated Builders and Contractors, 507 U.S. 218, 231-232 (1993).

VI. Conclusion

As a tool for planning and executing large capital facility projects, PLAs have long been used by project owners in both the private and public sector to ensure successful project delivery of over $160 billion of construction in virtually all industries and market sectors. The benefits these agreements provide to projects owners, local communities and the construction at large are considerable and as evidence of such benefits continues to grow, reliance on this tool will continue to expand. Good tools prove themselves.

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