

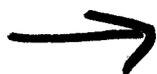
Set public hearing for November 18, 2009, to consider unmet transit needs in Lodi.

F. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Robin Rushing spoke in regard to his concerns about a medical marijuana patient and neighbor being treated questionably by the police officers who responded to a domestic call.



Samir Kharufeh spoke in regard to the benefits of a project labor agreement for the power plant at the White Slough Water Pollution Control Facility.

G. Comments by the City Council Members on Non-Agenda Items

Council Member Johnson commended the Streets Division for its response to the storm and the Electric Utility for keeping the power on and responding to outages. Mr. Johnson also discussed the costs associated with a new County jail and related survey, greater momentum for commuter rail coming through the City of Lodi, status of high-speed rail efforts, public pension related articles and referral of the issue to the Budget and Finance Committee for consideration.

Mayor Hansen commented on the recent article regarding his voting on a project labor agreement as the Chair of the Northern California Power Agency (NCPA) and specifically discussed labor costs with or without a project labor agreement, the requirement of prevailing wages, term requiring employees reside within a 50-mile radius of the City, the costs associated with abandoning the agreement, and the environmental benefits of building the plant.

H. Comments by the City Manager on Non-Agenda Items

City Manager King spoke in regard to the city of Stockton's ground breaking of the water treatment plant to be located near Mettler Road and Lower Sacramento Road on approximately 20 acres of land at a cost of near \$30 million.

I. Public Hearings

I-1 Public Hearing to Consider Resolution Modifying Transit Budget and Authorizing the City Manager to Implement Changes (PW)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider resolution modifying transit budget and authorizing the City Manager to implement changes.

City Manager King provided a brief introduction to the subject matter of the transit service modifications.

Public Works Director Wally Sandelin provided a PowerPoint presentation regarding the proposed transit service modifications. Specific topics of discussion included the issue, ridership statistics, current service, financial statistics, Alternative A at a cost of \$438,400, Alternative B at

Received from  
Public Speaker

# **Project Labor Agreements**

**On Time...On Budget**

## **Table of Contents**

<b><u>Section</u></b>	<b><u>Page(s)</u></b>
Management's Perspective on Project Labor Agreements	1
What is A Project Labor Agreement	2
Usual Provisions of Project Labor Agreements	3
History of Project Labor Agreements	4
The Legal Status of Project Labor Agreements	5
Appendix A	
Benefits of a Project Labor Agreement: <i>On Time &amp; On Budget</i>	6-8
Myths and Realities of Project Labor Agreements	9-10

## **PROJECT LABOR AGREEMENTS: MANAGEMENT'S PERSPECTIVE**

“The PLA creates competition—it doesn’t restrict. In fact, had I known that we would’ve had the success that we’ve had today, I would have had the project labor agreement much earlier.”

*--John Palacio, President, Santa Ana School District*

“The proof is in the pudding—a project that is virtually on budget with absolutely no labor problems. You can talk to contractors in Southern California, union and non-union, in their private moments they’ll tell you this was one of the smoothest public works projects they’ve ever worked on.”

*--Larry Gallagher, Former Director of Risk Management, Metropolitan Water District of Southern California*

“The Project Labor Agreement has been a winner all around from the Port’s perspective. It **has** helped keep us on time, within budget and benefiting not just the port, but the entire surrounding community.”

*--Tay Yoshitani, Deputy Director, Port of Oakland*

“As you really understand the agreement you find out that the insurance that we’re going to have for workman’s comp and other things is really superior—going to save us money. The safety program is also really superior.”

*--Mark Watten, Board Member, San Diego Water District*

“I’d like to see the PLA’s happen in other school districts because I believe it’s a good thing. And I know it’s going to make a difference for all of our students.”

*--Charles Ramsey, Board member  
West Contra Costa Unified School District*

“Pacific Bell Park is referred to **as** the miracle on 3<sup>rd</sup> St. We delivered a fantastic ballpark—ON TIME AND ON BUDGET.”

*--John Yee, Chief Financial Officer, San Francisco Giants*

## **WHAT IS A PROJECT LABOR AGREEMENT?**

A Project Labor Agreement (PLA) is an agreement between a construction project's owners and managers and its workers. Also known as Project Stabilization Agreements, PLA's are "pre-hire" agreements because they are negotiated before the construction project begins and before the workers are hired. They are usually negotiated between the project owners or prime contractor and the local Building and Construction Trades Council.

PLA's have been used extensively in both private and public construction projects. They tend to be used in larger, more complex projects involving multiple subcontractors and a number of different construction crafts. There is no "one size fits all" PLA. The PLA is designed and negotiated for the needs of a specific project and exists only for the duration of that project. **As** such, the PLA is tailored specifically to each project.

## **USUAL PROVISIONS OF PROJECT LABOR AGREEMENTS**

Although each PLA is tailored to a specific project, many PLAs have provisions in common. These provisions include:

- Definitions of the covered work, usually all work at a specific location or locations, or performed under a specific contract;
- A requirement that all subcontractors abide by the PLA;
- A prohibition on strikes and lockouts;
- A dispute resolution process, usually a system of expedited arbitration;
- Establishment of uniform work rules;
- A job referral program using the union hiring hall to ensure skilled journey level workers;
- A declaration of management rights;
- Wages and benefits based on government established prevailing wages;
- Allowing the use of core employees by the general and sub contractors; and,
- Establishment of labor/management committees.

Less pervasive, but still fairly common are provisions:

- Establishing substance abuse programs; **and,**
- Establishing carve out programs for workers compensation coverage designed to increase safety and reduce costs while ensuring injured workers are taken care of.

## **HISTORY OF PROJECT LABOR AGREEMENTS**

Project labor agreements were initially used in the public sector. For instance, construction of the Grand Coulee Dam in 1938 was done under a project labor agreement. In 1940, the first public sector project labor agreement occurred in California with the construction of the Shasta Dam project. Major project labor agreements have included NASA projects at Cape Canaveral, the Trans-Alaska Pipeline, San Francisco Bay Area Rapid Transit and the Lawrence Livermore Laboratory.

The first private sector project labor agreement in California was the Prudhoe Bay Oil Pool Module Project initiated in 1979. Now there are probably more private sector project labor agreements than there are in the public sector. Currently some of the major public sector project labor agreements include:

Oakland Unified School District,  
Peralta Community College District, Vista College,  
San Francisco Airport,  
San Mateo Community College District,  
The Port of Oakland,  
Eastside Union High School District,  
City of San Jose,  
Golden Gate Bridge Seismic Retrofit,  
San Diego Water Authority Emergency Storage Project,  
Los Angeles Unified School District's New School and Rehabilitation Program,  
West Contra Costa Unified School District,  
Oakland Unified School District,  
Santa Ana Unified School District, and  
Los Angeles International Airport.

In 2001, the California State Library's California Research Bureau conducted a study, "Constructing California: A Review of Project Labor Agreements". Attachment A of that study was a list of California public sector PLA's from 1984 through its writing. We have included that list with this presentation.

Local jurisdictions throughout California have a strong record of successfully using Project Labor Agreements.

**A BRIEF HISTORY OF THE PAST OF CTA  
AGREEMENTS**

Despite repeated attempts by the Associated Builders and Contractors to get the California or Federal courts to find project labor agreements unconstitutional, the courts have consistently found the agreements to be constitutional and legal under Federal and State statutes.

The major Federal case affirming the legal status of PLAs is Building and Construction Trades Council v. Associated Builders and Contractors of Massachusetts/Rhode Island, 507 US 218 (1993). Commonly known as “Boston Harbor”, the United States Supreme Court unanimously ruled that where state or local governments have a proprietary interest in a specific construction project, they can use a project labor agreement. The California Supreme Court also upheld the use of PLAs in Associated Builders and Contractors v. San Francisco Airport Commission, S. Ct. No: SO66747(August 16, 1999). The State Supreme Ct. went even further in the SF Airport Commission ruling and, after reviewing both the law and the facts, specifically rejected ABC’s arguments that PLA’s violate competitive bidding requirements, unlawfully diminish the rights of non-union workers or exclude non-union contractors from public works projects.

## Appendix A

California Public Sector Project Labor Agreements, (1984-2001)					
Project	Owner	Date	Completion	Cost (Unadjusted To Current Real Dollars)	Federal Funds
Metro Rail	Los Angeles MTA	1984	1990 Blue Line	\$877 million	Complete
Los Angeles Convention Center	City of Los Angeles	1990	1993	\$390 million	Complete
San Joaquin Hills Corridor	CalTrans and San Joaquin Hills Transportation Comdor	1993	1996	\$795 million	Complete
Eastside Reservoir Project (Domenigoni)	Metropolitan Water District of Southern California	1994	1999	\$2.0 billion	Complete
S.F. Housing Authority Modernization	S.F. Housing Authority	1994	1998		Yes
Merrithew Memorial Hospital	Contra Costa County	1995	1998	\$82 million	Complete
Concord Police Facility	City of Concord	1995	1996	\$12 million	No
Los Vaqueros Dam	Contra Costa Water District	1995	1997	\$450 million*	No
Conveyance Facilities (LV)	Contra Costa Water District	1995	1997	*	No
Vasco Road (LV)	Contra Costa Water District	1994	1997	*	No
Bollman Water Treatment	Contra Costa Water District	1995	1999	\$35 million	No
San Francisco International Airport	City/County of San Francisco	1996	2006	\$2.4 billion	Yes, on projects related to runways
Inland Feeder	MWD	1996	2004	\$1.2 billion	No
National Ignition Facility	Lawrence Livermore Labs, Dept. of Defense	1997		\$1.2 billion	Yes
Emergency Storage Project	San Diego Water Authority	1999	2008	\$700 million	No
Golden Gate Bridge Seismic Retrofit	GG Bridge, Highway & Transportation District	1999	2004	\$120 million	Yes

\* Table A-1 contained in this Appendix A relies on interviews with California public agency officials, information contained in official agency websites, and the project labor agreements governing the construction projects.

<b>Table A-1</b>					
<b>to</b>					
Project	Owner	Date	Completion	Cost (Unadjusted To Current Real Dollars)	Federal Funds
L.A. Unified School District New School & Rehabilitation	Los Angeles Unified School District	<b>1999</b>		<b>\$2.4 billion</b> <b>(85 schools)</b>	No
Los Angeles International Airport	Los Angeles World Airports, City of L.A.	<b>1999</b>	<b>2010</b>	<b>\$120 million</b>	Currently, no on 2 projects
Orange County Construction Stabilization Project	<b>Orange County</b>	2000	<b>2005</b>	General contracts of <b>\$225,000</b> ; \$15,000 specialty contracts	
<del>santa Ana</del> unified School District Construction Projects	Santa Ana U.S.D.	<b>2000</b>	<b>2005</b>	General contracts of \$225,000; \$15,000 specialty contracts; \$5,000 single craft contracts	
<b>Multi-purpose Pipeline Project</b>	Contra costa Water District	<b>2000</b>	<b>2003</b>	<b>\$115 million</b>	No
Maritime and Aviation Project	Port of Oakland	<b>2000</b>	2004	<b>1.4 billion</b>	Yes, approx. <b>5%</b>
East-Central Interceptor Sewer Project	City of Los Angeles	<b>2000</b>		<b>\$425 million</b>	No, but unclear re: <b>\$75M from State revolving funds</b>
Concord Ave. Parking Garage	City of Concord	<b>2001</b>		<b>\$7.5 million</b>	No

## **BENEFITS OF A PROJECT LABOR AGREEMENT: ON TIME AND ON BUDGET**

The goal of any public sector construction project is to get a quality product with the most efficient use of taxpayer money. That is exactly what the project labor agreement is designed to do: GET A PROJECT DONE ON TIME **AND** ON BUDGET.

The twin PLA goals of “on time” and “on budget” are met in project after project for three main reasons. First, because of the no strike/no lockout provisions, there are no labor interruptions on the site and consequently no work stoppages to resolve differences between labor and management. Disputes are usually resolved using some type of expedited arbitration process defined in the agreement. **When** disputes arise, they are resolved and the work goes on.

Second, standardized work rules and working conditions make for smooth flow at the workplace. The workers know they will be working in a positive environment and can concentrate solely on getting the work done. Both management and labor understand exactly what to expect of each other.

Finally, the **high** quality apprenticeship programs and hiring halls associated with the PLAs assure that the workforce on the job is **trained** and ready for the tasks before them. Consequently, there is no need to go back and fix mistakes caused by shoddy work earlier in the project; rather, the work is done right the first time. Essentially, a project labor agreement ensures a skilled workforce on task all the time.

The result.. ..ON TIME AND ON BUDGET.

The results speak for themselves. California’s recent energy crisis caused 23 power plants to be built. In virtually every case, the project management was being pushed hard by owners because the state had established strong financial incentives to get the projects on line not just on time, but early. Not surprising, 22 of the 23 projects were built with project labor agreements in place. Plant after plant was brought on line days to weeks early. The one plant built without a PLA finished late and thus did not earn the financial incentive.

A good example of “on time” construction using a PLA was Edison Mission Energy’s Sunrise Power Plant. Construction on the plant, managed by **ARB** Construction, was initiated on December 9, 2000 with a PLA. It involved building a 320 megawatt cogeneration plant powered by two gas combustion turbine generators. Five contractors or subs, 22 unions and over 200 workers at peak were involved in completing construction on June 27, 2001, 5 ½ weeks early.

Moving more local, the San Francisco Giants were under tremendous pressure to get SBC Park (then PacBell) built by the start of the baseball season. With a project labor agreement in place, they not only got it done on time and on budget, but Giants Chief Financial Officer John **Yee** refers to SBC Park as “the miracle on 3<sup>rd</sup> Street”.

School Districts have had the same positive experience with PLAs. For instance, the West Contra Costa Unified School District, though initially hesitant to use a PLA now unanimously supports the use of PLAs on their school construction projects **as** a result of a positive first experience. Referring to a middle school project, Superintendent Gloria Johnson wrote, “We were very pleased with how smoothly the middle school project progressed. The project was on time and on budget with no labor problems...The subcontractors performed at a very high level, and the general contractor was outstanding.”

In fact, **as** of May 4<sup>th</sup>, data from the West Contra Costa Unified School District indicates that 7 of the 12 current projects are actually under budget by between 6.66% and **44.49%**.

### **Additional Benefits of Project Labor Agreements**

Often additional benefits of PLAs are determined by the community and therefore are put into the specific project labor agreement on an individual basis. For instance, since training was important to the owners of the San Diego County Water Authority’s Emergency Storage Project, the PLA was written to provide training to disadvantaged young people. It not only helped get the project built, but it also developed the *careers* of those young people.

Ensuring employment for their graduates was important to the Los Angeles Unified School District. Consequently, provisions relatively unique to that PLA provided for increased recruitment and training aimed at school district graduates.

PLAs also benefit “Historically Underutilized Business Enterprises” (HUBEs), generally small businesses with women or minority ownership, by involving them in the union hiring hall and thus ensuring trained, journey level workers.

Much of the area around the Port of Oakland is economically depressed. As a result the Port’s project labor agreement with the Alameda Building and Construction Trades Council has provisions that emphasize hiring local workers and business enterprises.

The Port’s PLA has clearly been successful in this attempt. In its most recent report, dated March 23 of this year the Port reports that, “actual work performed by local residents remains steady at 58%, which is above the goal of 50% for the utilization of LIA/LBA (Local Impact Area/Local Business Area) residents”. The Port goes on to say, “The very positive news during the same six month period is that the apprentice utilization climbed by 50%. During the period from July through December, apprentices performed 21% of all craft hours – exceeding the goal. So not only were the local residents getting the jobs, they were also getting trained **as** well.

The Port’s PLA is even better for local contractors. Specifically, the report indicates that an astounding 91% of the construction contracts have been awarded to firms in the Local Business Area, defined **as** Alameda and Contra Costa Counties.

Project labor agreements also benefit local taxpayers by ensuring that adequate health insurance is provided to the workers, thereby reducing their need to rely on the local public health system.

Project labor agreements also stimulate competition for the awarded contracts because all the contractors can operate on a level playing field. Usually there is no way to measure this because bidding situations are so dissimilar. However the experience of the Southern Nevada Water Authority provides a good test case. Its improvement project was done in two phases, a 1997 phase without the PLA and a 1999 phase with a PLA. The 2<sup>nd</sup> phase with the PLA received 32% more bids per bidding package, than did phase one without a PLA.

On Time...On Budget...and additional benefits the community values; Project Labor Agreements deliver the results.

## **MYTHS AND REALITIES ABOUT PLA'S**

**Myth 1:** Non-union contractors will not be able to bid for the work, so PLA's exclude bidders.

**Reality:** PLA's never restrict bidding to union contractors. Let's look at some examples. The Boston Harbor Project awarded 27.5% of its contracts to non-union builders, while 37.5% of the contracts went to non-union builders in the Southern Nevada Water Project and over 2/3rds of the bids on the East Side Reservoir Project in California were awarded to non-union contractors. A PLA is available to any contractor who will accept its terms. It's the contractor's decision whether or not to bid.

**Myth 2:** PLA's make projects more costly, wasting taxpayer money.

**Reality:** Nothing could be further from the truth. PLAs actually level the playing field so that contracts are awarded to contractors who can do the job on time and on budget. In PLA after PLA, experience demonstrates the truth. **Look** at West Contra Costa's Murphy Elementary's temporary classrooms or Tara Hills Elementary's modernization and new construction. These projects were **19%** and 10% under budget respectively when the construction budget was compared to the cost at bid under a project labor agreement. SBC Park provides another example. In the public sector, at school districts and other public jurisdictions throughout the state, PLAs have brought projects in on or under budget.

**Myth 3:** PLA's unfairly disadvantage non-union contractors who have to make double benefit payments for their employees.

**Reality:** Many of the non-union contractors actually provide no or substandard benefits arguing that the worker would rather receive cash. Of those employers providing retirement benefits, many more simply provide **401(k)** plans with no employer contribution. Moving to the health side, there are some non-union firms providing health coverage, but union plans are generally far more comprehensive in nature. The California Supreme **court** said it best in the SF Airport Case, "ABC fails to explain persuasively how the wage and benefit requirements in the PSA place ABC or it's members at a competitive disadvantage...ABC fails entirely to establish however, that union contractors will thereby enjoy an advantage over ABC in attracting these or any other available workers, or in the bidding process generally... Hence, the PSA is not anticompetitively because certain bidders would see some of its features as less attractive.

**Myth 4:** Only union members can work on the project.

**Reality:** Public sector PLAs do not and cannot exclude non-union labor. PLAs permit “core” employees of the primary and sub contractors to work alongside union employees under the PLA. As stated by the Court in *BC v S.F. Airport Commission*, “Federal law...requires union hiring halls to refer both union members and nonmembers to available jobs.” As a matter of both law and practice both union and nonunion labor work on public sector PLAs.

**Myth 5:** A PLA will prevent local residents, minorities and women from having access to the jobs.

**Reality:** Rather than preventing local residents, minorities and women from getting jobs, local PLAs often have specific provisions that encourage them to get the jobs. Recent examples in California include the LA **Unified** PLA and the San Diego Water District PLA with the most comprehensive example in the East Bay with the Port of Oakland PLA. These PLAs, along with numerous others, have specific provisions with measurable results that encourage inclusion in the workforce and/or access by local, minority and women contractors.