AGENDA ITEM REQUEST FORM

Meeting Date: 1/27/2015

Final Decision Date Deadline: 1/27/2015

SUBJECT:
Project Labor Agreement – Pinole Hercules Joint Waster Water Facility

INDICATE APPROPRIATE BODY
☐ City Council ☐ Successor Agency to the Redevelopment Agency
☐ Public Financing Authority ☐ Finance Commission
☐ Planning Commission ☐ Community/ Library Services Commission
☐ Other

ITEM
☐ Presentation/Introduction ☐ Study Session ☐ Grant Application/Acceptance
☐ Public Hearing ☐ Resolution ☐ Video/PowerPoint
☐ Consent Calendar ☐ Ordinance ☐ Contract/Agreement
☐ Discussion/Action

RECOMMENDED ACTION:

Review information and discuss Project Labor agreement – Pinole Hercules Joint Water Facility

☐ Copy of executed Resolution/Ordinance/Contract/Application required immediately upon approval.

REVIEWED AND APPROVED FOR AGENDA:

City Attorney (if Contract, Ordinance or Resolution)

[Signature] [Date] 1.22.15

Finance Department for Fiscal Impact

[Signature] [Date] 1.22.15

City Manager

[Signature] [Date] 1/22/2015

AGENDA ITEM NO:

XII.3
STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of January 27, 2015

TO: Members of the City Council

SUBMITTED BY: David Biggs, City Manager
               Mike Roberts, Public Works Director

SUBJECT: Project Labor Agreement – Pinole Hercules Joint Waste Water Facility

RECOMMENDED ACTION:

Review information and discuss Project Labor Agreement – Pinole Hercules Joint Waste Water Facility.

FISCAL IMPACT OF RECOMMENDATION:

The proposed expansion of the Pinole Hercules Joint Waste Water facility will be funded through a loan from the State Water Resources Control Board to be repaid by system users through their rates. To the extent that proceeding with the planned project under the terms of a Project Labor Agreement (PLA) impact overall project cost, this will be a factor in the repayments.

DISCUSSION:

On December 16, 2014, the City Council conducted an informational session on Project Labor Agreements (PLA). The staff report and attachments from that meeting are attached (Attachment 1). At that session, the City Council asked staff to address a number of additional questions which were not able to be responded to at the meeting:

- The number of people expected to be employed on the project
  See attached memorandum from Public Works Director Mike Roberts (Attachment 2)
- What is the mandated apprentice to journeyman ratio;
  See attached memorandum from Public Works Director Mike Roberts (Attachment 2)
- Provide union hiring hall lists for each trade with place of residence included
  See information provided by the Trades Council (Attachment 3)
- Provide information on the WCCUSD PLA local hire results
  See attached memorandum from Public Works Director Mike Roberts (Attachment 2)
• Provide information on the non-union apprentice program
  See attached information from the Association of Building Contractors (ABC)
  (Attachment 4)

• More detailed information on which waste water or water related projects have been
  constructed in recent history with and without PLAs
  See attached memorandum from Public Works Director Mike Roberts
  (Attachment 2)

In addition, interested parties have also provided additional information. These submittals include:

• Information provided by the ABC (Attachment 5)
• Information provided by the Trades Council (Attachment 6)
• Information provided by Western Water (Attachment 7)

In a related matter, on January 13, 2015, the City Council approved a form of Fiscal Agreement
with the City of Pinole which addresses a number of issues associated with the proposed plant
expansion. On January 20, 2015, the Pinole City Council reviewed the draft Fiscal Agreement and
made language changes without approving the document. These changes will have to be considered
by the Hercules City Council.

It is recommended that the City Council discuss and provide direction on the Pinole Hercules Waste
Water Plant expansion proceeding under the terms of a Project Labor Agreement to be negotiated.

ATTACHMENTS:

1. Project Labor Agreement Staff Report – 12/16/2014
2. Memorandum from Public Works Director
3. Trades Council Response to Questions
4. ABC Response to Questions
5. Additional Information Provided by ABC
6. Additional Information Provided by Trades Council
7. Information from Western Water
In follow-up to the December 16, 2014 City Council Meeting, the following information has been compiled related to Project Labor Agreements:

**Job Generation**

The Waste Water Treatment Plant Expansion Project will employ approximately 100-125 people, including support and offsite personnel, for the duration of the project which is expected to last 2.5 years.

**Apprentice to Journeyman Ratio**

The ratio of work performed by apprentices to journeymen shall not be less than 1 hour of apprenticeship work for every 5 hours of journeyman work per California Labor Code 1777.5(g).

**West Contra Costa Unified School District’s (WCCUSD) PLA & Local Hiring**

West Contra Costa Unified School District’s Project Labor Agreement does not include local hire provisions. Instead they have a separate Local Capacity Building Program which has a good faith effort local hire goal of 24%. The local hire has 3 Tiers: Tier 1 includes West Contra Costa County, Tier 2 includes all of Contra Costa County, and Tier 3 includes Northern Alameda and Southern Solano Counties. The most recent compilation of local hire percentages starting from the program’s inception in 2003 are 14%, 19%, and 25% for each tier respectively for an overall rate of 58%.

**Water & Wastewater Related Projects Constructed in Recent History**

According to the Dayton Public Policy Institute (laborissuessolutions.com), public agencies implemented four Project Labor Agreements on water and wastewater related projects/programs during the period of 2009-2013 as follows:
Data is not readily available on the total number of public water and wastewater related projects that have been completed; however, 48 waste water treatment plant projects over $10M were funded with Clean Water State Revolving Funds over this time period. I’m currently soliciting information on projects funded in 2013 (i.e. most recent) to see if PLA’s were considered and can provide an update at the January 27 Council Meeting.
AGENDA ITEM REQUEST FORM

Department: City Manager's Office
Department Director: David Biggs
Phone: 799-8216

Meeting Date: December 16, 2014
Final Decision Date Deadline: 12/16/2014

SUBJECT:
Informational Item on Project Labor Agreements

INDICATE APPROPRIATE BODY

- [ ] City Council
- [ ] Successor Agency to the Redevelopment Agency
- [ ] Public Financing Authority
- [ ] Finance Sub-Committee
- [ ] Planning Commission
- [ ] Community/Library Services Commission
- [ ] Other _______________________

ITEM

- [ ] Presentation/Introduction
- [ ] Study Session
- [ ] Grant Application/Acceptance
- [ ] Public Hearing
- [ ] Resolution
- [ ] Video/PowerPoint
- [ ] Consent Calendar
- [ ] Ordinance
- [ ] Discussion/Action Item
- [ ] Contract/Agreement

RECOMMENDED ACTION:
Receive information on Project Labor Agreements

☐ Copy of executed Resolution/Ordinance/Contract/Application required immediately upon approval.

REVIEWED AND APPROVED FOR AGENDA:

City Attorney (if Contract, Ordinance or Resolution)

[Signature / Date] 12-11-14

Finance Department for Fiscal Impact

[Signature / Date] 12/11/14

City Manager

[Signature / Date] 12/11/14

AGENDA ITEM NO: IX.3
DATE: Adjourned Regular Meeting of December 16, 2014

TO: The Mayor and Members of the City Council

SUBMITTED BY: David Biggs, City Manager

SUBJECT: Informational Item on Project Labor Agreements

RECOMMENDED ACTION:

Review information on Project Labor Agreements.

DISCUSSION:

On November 18, 2014, the Pinole City Council directed their City Manager to negotiate a possible Project Labor Agreement (PLA) for the rebuild and expansion project for the joint Pinole-Hercules Wastewater Plant. On November 25, 2014, the Hercules City Council reviewed the status of the planned rebuild and expansion and discussed the Pinole City Council action of November 18th. As was discussed by the Hercules City Council on November 25th, decisions regarding a major rebuild and expansion of the plant facilities cannot be made unilaterally, and can only proceed based upon mutual agreement of the parties, so that any decision regarding a possible PLA should have been referred to the Joint Wastewater Committee and then to both City Councils for consideration.

At your meeting of December 9, 2014, you requested that a discussion of Project Labor Agreements be added as an informational item to this agenda. Such a discussion is intended for the purpose of informational gathering only. The project cannot proceed until there is a Fiscal Agreement in place between the two cities regarding the expansion financing, and the concept of proceeding under a PLA can and should be addressed in the proposed Fiscal Agreement. The proposed Fiscal Agreement is close to being in final form with the Joint Waste Water Committee to review the latest draft at their meeting scheduled for Thursday, December 18th.

In addition, at the November 20, 2014, Joint Wastewater Committee meeting, it was suggested that if the City of Hercules is ultimately agreeable in concept to proceeding with the project under a PLA, an ad hoc committee of two Council Members, one from each City (other than the current Joint Committee Members) could be appointed to work with staff on the drafting of a possible PLA. In addition, the City of Pinole was interested in soliciting input into the terms of a possible PLA from the Hercules City Council as a whole.
By way of background, Project Labor Agreements are utilized as a matter of policy in many communities. In preparation for the consideration of a possible PLA by the Pinole City Council, the Pinole staff had done a significant amount of research. The staff reports for October 28, 2014, and November 18, 2014, are attached and provide additional background on PLA’s. The October 28th Pinole City Council meeting also featured presentations by the two sides in the PLA debate with the labor and non-union contractors being represented. Hercules staff is in the process of undertaking additional review of information on PLA’s and that will be provided as it becomes available.

The decision to proceed with any projects under a PLA is a policy decision for the City Council to make based on what will best serve the community and, in this case, the specific circumstances of the planned Waste Water project. Information being gathered to facilitate the City Council’s discussion and review of PLA’s will ultimately assist the City Council in making a determination in this matter.

Attachments

1. Pinole PLA Staff Report October 28, 2014
2. Pinole PLA Staff Report November 18, 2014
BACKGROUND

The City of Pinole is currently undertaking an upgrade of the Pinole-Hercules Wastewater Plant. That upgrade which is estimated to cost $42 million is now in the final engineering phase. Once engineering is completed (estimated to be in late Fall), Staff will begin the process of preparing bids and specifications in order to advertise the project for bid at the first of the new year (2015).

Some members of the City Council recently requested information about Project Labor Agreements and whether or not the City should be considering one for this project. In response, the City Attorney prepared a presentation on September 30, 2014 in order to provide the City Council with an overview of what a Project Labor Agreement is and what are the elements of such an agreement as well as any pros and cons of the issue (see Attachment A).

As a result of that discussion, Staff was provided a number of questions to research and report back to the City Council in order to continue the discussion. Staff provided the answers to those questions at the October 7, 2014 City Council meeting. There were still some outstanding questions that remained to be answered and some that needed clarification (see Attachment B).

Staff is not making a recommendation on this topic as this is strictly a City Council policy decision. While no vote is being requested of the City Council at the October 28 meeting, one will be scheduled for the November 4 meeting unless otherwise directed by the City Council. Staff will conduct the remaining process in accordance with the direction provided by the City Council on November 4.

REVIEW AND ANALYSIS

Staff met and interviewed representatives from the Contra Costa County Building and Construction Trades as well as the Associated Builders and Contractors to determine their point of view on the subject questions. In addition, Staff interviewed various agencies (both in person and by telephone) who have experience with Project Labor Agreements for actual project(s).
There are four main issues that are central to the discussion regarding Project Labor Agreements. Included are:

- Does a Project Labor Agreement increase the cost of the project and if so, how?
- Does a Non Union Contractor Pay Twice for Retirement and Health Benefits?
- What is Local Hiring under a Project Labor Agreement?
- Will the City receive an adequate number of bidders to assure a competitive price with a Project Labor Agreement?

**DOES A PROJECT LABOR AGREEMENT INCREASE THE COST OF THE PROJECT AND IF SO, HOW?**

Staff did not have enough time or the resources to fully investigate this question. However, as a side note for information only, Staff has included a copy of the “Labor Stability Analysis for the Los Vaqueros Reservoir Expansion Project” which was completed in 2010 (see Attachment C). The Contra Costa Water District commissioned this study to determine whether Project Labor agreements had increased cost or discouraged bidders on bidding a project under a Project Labor Agreement. The District utilizes Project Labor agreements for large complex projects. This analysis determined that utilizing a Project Labor Agreement did not limit bidding competition or increase project costs.

We have identified a couple of areas where a Project Labor Agreement might increase the cost of a project. Included are:

- **Contracted Labor Negotiator**

  If the City Council directs that a Project Labor Agreement is required for the Wastewater Treatment Plant Project, a contracted labor negotiator will be required. Current staff and the City Attorney’s office do not have experience in this area of expertise.

- **Development and Legal Review of the Project Labor Agreement**

  There are numerous Project Labor Agreements throughout the county and from other entities that can be used as “template” for the agreement. However, each Project Labor Agreement has unique characteristics specific to the project that have to be negotiated and reviewed by the City Attorney. There may be other points that are desired to be placed in the Project Labor Agreement.

- **Administration and Monitoring of the Project Labor Agreement**
Once a Project Labor Agreement is in place, it does require someone who can administer and monitor the deal points included in the agreement. Some of these include:

- Monitoring contractor compliance with terms of the Project Labor Agreement;
- Monitoring and enforcing Local Hiring requirements including resolving all claims of non compliance;
- Ensuring that non-union contractors deduct union initiation fees and union dues from all non union employees;
- Monitoring and assuring that the contractor is hiring under the union hall rules and the ratio of core workers to non-core workers is appropriate;
- Negotiating any amendments to the Project Labor Agreement;
- Tracking and recording all required reports and notices; and
- Monitoring and resolve disputes, grievances, and disagreements

At the current time, we have contracted with Carollo Engineers to perform construction management activities for the wastewater upgrade project. Carollo could also conduct the administration and monitoring of a Project Labor Agreement if the City Council directs that we enter into one for this project.

Some of these activities are included in the current contract with Carollo Engineers, however it is estimated that it would cost an additional $20,000-$50,000 over the life of the two year project for Carollo to conduct the services that is not in the current contract.

- **Use of the “Core Worker” Concept**

  The Project Labor Agreement can specify that a contractor/subcontractor is allowed to have a certain number of core employees. This does not include management or employees such as Superintendents, Foremen and those with expertise specific to the contractor’s means and methods and outside of the construction trades. If at certain times, the project requires more than the number of allowable core employees, the contractor may be required to follow a specific agreed upon procedure to fill the remaining positions from the local Union Hall. This procedure is negotiated through the Project Labor Agreement.
• **Does a Non Union Contractor Pay Twice for Retirement and Health Benefits?**

Several questions have arisen over whether or not a Non Union Contractor pays twice for benefits under a Project Labor Agreement. This depends on several factors and is determined during the negotiation process of the Project Labor Agreement.

Prevailing Wage does not require making payments into fringe benefits plans. The Employer may pay the fringe benefits directly to the employee through his payroll check. Workers need only be paid the total prevailing wage.

However, in the case of a Project Labor Agreement, when a Non-Union Contractor already provides for and contributes to a retirement and health program, there may be additional costs to the contractor that could be included in the bid response. Outlined below are two scenarios under which a Non Union Contractor under the Prevailing Wage requirements addresses retirement and health benefits.

- **If a Non Union Contractor does not provide these benefits**

  Under a Project Labor Agreement, the Non-Union Contractor who does not pay these benefits still has to pay the cash value of retirement under Prevailing Wage. In this case, the Non-Union Contractor under a Project Labor Agreement pays this portion of Prevailing Wage into the Union Trust Fund on behalf of the non-union employee or can he/she can pay it to the employee in cash. These terms have to be negotiated.

- **If a Non Union Contractor already provides these benefits**

  Under a Project Labor Agreement, a Non-Union Contractor who already provides retirement benefits for his/her employees still has to pay an amount equivalent to the prevailing wage schedule. Using the classification of Carpenter, which requires $9.20/hour/employee for retirement, a Non Union Contractor must pay this amount into the Union Trust Fund on behalf of the employee or can pay it directly to the employee. These terms have to be negotiated.

  The Non-Union Contractor must now decide whether or not to continue paying for his/her employee on their own retirement plan and if he/she decides to do so may result in the employee receiving less of a retirement benefit. The employee would only receive the retirement benefit from the Union Trust Fund if he is "vested" in the system.

It has been alleged that this could result in a reduction in the number of bidders who do not want to bid a Project Labor Agreement project under these conditions and/or
a higher cost in the bid responses to accommodate paying twice for the same benefit.

- **WHAT IS LOCAL HIRING UNDER A PROJECT LABOR AGREEMENT?**

A Project Labor Agreement is a mechanism that can increase local hiring efforts. The Project Labor Agreement will specify how a contractor assembles their workforce. The Project Labor Agreement can also include establishing “bands of local areas” whereby specific regions are established as priority areas from which local workers are hired. Another words, the City Council might want to negotiate for union hall workers from West Contra Costa County first and then Contra Costa County and so on.

As mentioned above, under a Project Labor Agreement it can be negotiated to allow the Non-union Contractor to have a certain number of core employees on the project below the Superintendent and Foreman levels. Most contractors, Union and Non-union carry a certain number of key or core employees. If at certain times, the project requires more than the number of allowable core employees, the contractor may be required to follow a specific agreed upon procedure to fill the remaining positions from the local Union Hall. This procedure is negotiated through the Project Labor Agreement.

This is subject to negotiation in the Project Labor Agreement process. Generally, the local hiring process could include an agreed upon formula or ratio of core workers and union hall workers.

- **WILL THE CITY RECEIVE AN ADEQUATE NUMBER OF BIDDERS TO ASSURE A COMPETITIVE PRICE?**

There are two sides to this issue. Just as many people interviewed responded yes and no. For a project this size, a substantial contractor will be required. One who can meet all of the pre-qualification requirements and provide the insurance and bonding that are required for the project.

This is also a specialty project in that we will be requiring a contractor with water/wastewater experience. Carollo is confident that we should receive no less than 7 bidders. These bidders will most likely come from more than just our region given the size of the project.

Contractors of this size most likely will have experience working under a Project Labor Agreement. However, the sub-contractors may have less or no experience working under a Project Labor Agreement. We will not know until we bid the project. If the City Council determines that we have not received an “adequate” number of bidders, and thus not a competitive enough price, we can rebid the project.
## ATTACHMENTS

<table>
<thead>
<tr>
<th>Attachment A</th>
<th>City Attorney Power Point Presentation-September 30, 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attachment B</td>
<td>Questions Regarding Project Labor Agreements (Revised)</td>
</tr>
<tr>
<td>Attachment C</td>
<td>Contra Costa Water District “Labor Stability Analysis for the Los Vaqueros Dam Project</td>
</tr>
</tbody>
</table>
CITY COUNCIL WORKSHOP
PROJECT LABOR AGREEMENTS
AN OVERVIEW

CITY OF PINOLE
SEPTEMBER 10, 2014

PROJECT LABOR AGREEMENTS
1. **What is a Project Labor Agreement ("PLA")?**

- Pre-hire, pre-bid labor agreement between public agency and trade unions for a particular project.
- Also known as "Project Stabilization Agreement" or "Community Workforce Agreement."

2. **How Does a PLA Work?**

- City enters into a PLA with the trade unions prior to the project being advertised
- PLA is incorporated into the project specifications
- Contractors who bid on the project agree to be bound by the PLA and will become signatory to the PLA if awarded the project
3. **What Types of Projects Are Suitable for a PLA?**

- Large publicly funded projects, such as Pinole-Hercules Water Pollution Control Plant Upgrade Project
- Other examples: Hoover Dam, California Aqueduct, Oakland Army Base, SFO, BART, 49rs Levi’s Stadium

4. **What Are Some Typical Bargaining Points?**

- Public Agency obtains assurance of labor peace; no strikes or lock-outs during project.
- Parties agree to contract mechanism to block strikes and resolve labor disputes.
- Participating unions may obtain additional benefits and enhanced wages above prevailing wages.
- Unions may obtain unified holiday schedule.
4. **What are typical bargaining points?**

- PLA applies to both union and non-union contractors
- City may expand federally mandated requires to hire DBEs, Minority and Women Contractors, and good faith efforts program for local hiring policies
- Unions may bargain for additional apprentices on job
- City may bargain to keep prevailing wage scale, even if union wages are different

5. **Legal Issues**

A. **Legality**

B. **Limitations**
5. (A) LEGALITY OF PLAS

- Legality of PLAs in California is well-established.

- California Supreme Court held that a public agency may use a PLA. "It is consistent with competitive bidding laws and in the furtherance of preventing delays, and assuring that contractors access skilled craft workers." Associated Builders & Contractors v. San Francisco Airport Commission (1999) 21 Cal. 4th 352

- PLAs override conflicting terms of collective bargaining agreements.

5 (B). LIMITATIONS OF PLAS

- Per Statute, the PLA must include:
  - (1) Clause that prohibits discrimination based on race, national origin, religion, sex, sexual orientation, political affiliation or membership in a labor organization in hiring and dispatching work.
  - (2) Clause that permits all qualified contractors & subcontractors to bid for and be awarded the work, regardless of whether they union members.
  - (3) Drug and substance abuse testing protocol for all workers on a project.
5 (B). LIMITATIONS OF PLAS

- Agreement must include:
  - (4) Clause that **guarantees** against work **stoppages, strikes, lockouts** or similar disruptions of the project
  - (5) Clause that refers unresolved disputes to a neutral arbitrator for resolution


---

HISTORY AND DEBATE

- History
- Pros and Cons
6. **History of PLA**

- Rich history of use since the 1930's
  - Hoover Dam, Shasta Dam, BART, SFO, Oakland Army Base, High Speed Rail, AC Transit Bus RTP,
- Federal Government has taken different approaches to PLAs
- State of California favors PLAs on large State infrastructure projects
- Mixed result for Cities, Districts throughout the State

---

**SOME PROS**

<table>
<thead>
<tr>
<th>Project Stability</th>
<th>No Strikes, No Lockouts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labor Peace</td>
<td>Mandatory drug tests and screening</td>
</tr>
<tr>
<td>Enhanced wages for unions</td>
<td>Enhanced wages for all workers</td>
</tr>
<tr>
<td>Enhanced benefits for unions</td>
<td>Enhanced benefits for all workers</td>
</tr>
<tr>
<td>Enhanced training for apprentices</td>
<td>Job opportunities for Disadvantaged workers</td>
</tr>
<tr>
<td>Enhanced opportunities for local businesses</td>
<td>Promotes use of Skilled labor</td>
</tr>
</tbody>
</table>
### SOME CONS

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Additional costs to project</td>
<td>Adds time to project timeline</td>
</tr>
<tr>
<td>Additional management burden</td>
<td>No guarantee of supply of skilled labor</td>
</tr>
<tr>
<td>No real base wage advantage</td>
<td>No guarantee against project delay</td>
</tr>
<tr>
<td>Disincentive to General Contractors</td>
<td>Discrimination against non-union workers</td>
</tr>
<tr>
<td>Additional Consultant Costs</td>
<td>Less competition</td>
</tr>
<tr>
<td>Additional Attorneys Fees</td>
<td>Benefits not provided to workers</td>
</tr>
</tbody>
</table>

### VIDEO LINKS

**PRO** AMERICA BUILDING TRADES UNION

**CON**: ASSOCIATED BUILDERS & CONTRACTORS
QUESTIONS?

COUNCIL DIRECTION
Questions Regarding Project Labor Agreements
October 7, 2014 City Council Meeting
October 28, 2014 Special meeting

Q 1: What will the attorney’s fees cost?

Response:

At this time, if Staff were directed to use a Project Labor Agreement that would necessitate hiring outside counsel and an outside labor negotiator. It is estimated that based on the size of the project, attorney’s fees could be in the range of $15,000 to $20,000. We are currently researching the cost of labor negotiator.

It is important to note, that neither the City Staff nor the City Attorney have experience in negotiating Project Labor Agreements.

Q 2: Does a Project Labor Agreement add to the cost of a project?

Response:

At this time, we have no validation that a Project Labor Agreement increases the project costs. It is correct that both non-union and union contractors have to pay prevailing wage on the project.

It is important to note that “prevailing wage” is determined by the State Department of Industrial relations for various classifications in the trades and includes base salary plus fringe benefits such as retirement, health insurance, vacation, holiday pay and training. If a non-union contractor provides these programs on behalf of their employee(s), then there may be an additional expense to him/her if he/she decides to pay the difference in the cost between what he/she provides and on the Prevailing Wage Schedule.

Q 3: How would extra costs, if any be funded; through the General Fund or the Wastewater Fund?

Response:

Any costs related to the project are a part of the project costs and as such would be funded from the Wastewater Fund.
Q 4: Would the City of Hercules as our partners in the project pay their share of these costs?

Response:

All costs associated with the project will be shared on a 50/50 basis.

Q 5: Is it true that cost overruns and change orders are a result of Project Labor agreements?

Response:

There is no evidence that this is true. Any project whether union or non-union, under a Project Labor Agreement or not, can have cost over runs and change orders. It is anticipated that our project will have change orders due to the fact that we will be operating the plant at the same time we will be rebuilding a new one, the limited footprint of the space on which to do so, and all of the unknowns underneath the plant once construction begins.

Q 6: Can you have a Prequalification Process with a Project Labor Agreement?

Response:

You can have a Pre Qualification process with or without a Project Labor Agreement. They are independent agreements. The City Staff is planning on a Prequalification process for the general contractors that will be bidding on the project. That process includes criteria, but not necessarily limited to the following categories:

1. Financial Solvency
2. History of Claims and Litigation
3. Prevailing Wages
4. Project Experience
5. Safety Record

Q 7: Does a Prequalification Process increase the cost of a project?

Response:

No it does not increase the cost of the project but might increase the cost of staff time to perform the pre-qualification process which has been our process on most major complex projects.

Q 8: Can you have a Project Labor Agreement that pays less than or more than prevailing wages?
Response:

Project Labor Agreements require the payment of no less than prevailing wages.

Workers on most federal, state and local government projects, including ours must pay prevailing wages at a minimum. The Wastewater Treatment Plant Upgrade Project will be required to be at prevailing wage. Carollo and Associates will be responsible for monitoring this process and doing their best to assure that the General Contractor and all subcontractors are paying all trade classifications under the appropriate prevailing wage schedule. They will be monitoring all payroll records prior to them being submitted to the State.

Because the City is planning on using State Revolving Loan Funds to finance the project, it will also be a requirement of the loan that the City follows Davis-Bacon (which established prevailing wage). In fact, there may be an additional audit that the State will perform as they have their own Davis-Bacon representative.

Q 9: If Project Labor Agreements increase costs, where do increased project costs come from?

Response:

We have found that Project Labor Agreements may increase project costs related to three areas: Labor Negotiator, Legal Review and Project Labor Agreement Administration and Monitoring under certain circumstances. Specifically, increased costs are related to hiring a contract labor negotiator and for legal review of the agreement. The City will bear the costs of the additional attorney’s fees for development and the contracted labor negotiator (development and review of the Project Labor Agreement) should the City Council approve entering into one.

In addition to the above, the only other area is related to whether or not the non-union contractor provides retirement and health benefits. If a non-union contractor decides to continue paying these programs on behalf of their employee(s), then there is an additional expense to him/her. If there is a difference between what the Prevailing Wage Schedule requires and what the contractor provides, the contractor has to pay the difference either into the Union Trust Fund or directly to the employee. This has to be negotiated.

Q 10: How many labor unions would be included on the project and a signatory to a Project Labor Agreement?

Response:

At the present time, we believe there will be at least twelve labor unions. However, there will only be one Project Labor Agreement which would be negotiated with the Contra
Costa County Building and Construction Trades as they represent all of the trades. Included would be:

<table>
<thead>
<tr>
<th>Plumbers/Pipefitters</th>
<th>Operating Engineers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricians</td>
<td>Sheet Metal Workers</td>
</tr>
<tr>
<td>Carpenters</td>
<td>Laborers</td>
</tr>
<tr>
<td>Ironworkers</td>
<td>Cement Masons</td>
</tr>
<tr>
<td>Painters</td>
<td>Surveyors</td>
</tr>
<tr>
<td>Teamsters/Truck Driver</td>
<td>Pile Driver (possibly attached to operating engineers)</td>
</tr>
</tbody>
</table>

**Q 11: Will there be individual Project Labor Agreements for each of the trades on the job or one Project Labor Agreement that encompassed terms and conditions for all of the represented labor on the project?**

**Response:**

No, there will be one Project Labor Agreement however all of the trade unions are signatory to that document through the Contra Costa County Building and Construction Trades.

**Q 12: Was there a Project Labor Agreement when Pinole City Hall was built?**

**Response:**

In 1996, the City Council adopted a Project Labor Agreement for the City Hall project. A general contractor, West Coast Contractors, filed a petition for writ of mandate challenging the Project Labor Agreement on the grounds that the Council lacked the authority to require one. The Court considered the case and held that the Project Labor Agreement was illegal under existing law (1996).

In summary, West Coast won. At that time, there was apparently no California case law on point, and the trial court looked to federal law. A writ was issued, ordering the City to nullify the Project Labor Agreement requirement.

In 1997, the law changed. The trade council (labor union group) petitioned for reconsideration based on Associated Builders & Contractors, Inc. v. San Francisco Airports Com., 59 Cal. App. 4th 25 (1997), but the trial court denied the petition. Courts are not inclined to grant retroactive review of decisions that were already made in the past, especially where the project was already under construction. In short, the City lost the case and had to pay attorney’s fees to West Coast contractors.

The City filed an appeal on the attorneys’ fees award, West Coast Contractors, Inc. v. City of Pinole Redevelopment Agency, A082935, in the first appellate district. The Court of Appeal cut the attorneys’ fees in half. But it did not (and could not) reconsider
the issue of the project labor agreement. The City was represented by former City Attorney David Levy, among others.

If this case were decided today, the decision would be in favor of a Project Labor Agreement due to the changes in the law since 1997, including the adoption of the Public Contract Code Section 2500, which I presented to you last Tuesday.

**Q 13: Were there Project Labor Agreements on any public projects in Contra Costa County and if so, what was the overall satisfaction with it (on time, within budget, number of change orders)?**

**Response:**

Yes there are quite a few Project Labor Agreements throughout Contra Costa County and in several areas of our region. It appears that Project Labor Agreements have been used numerous times by the Contra Costa County Board of Supervisors, West Contra Costa Unified School District, Contra Costa Community College District, and Contra Costa Water District among others. Please see below the results of a short survey that was taken by Staff.

**Sanitation/Water/ Wastewater Districts**

- Central Sanitation District No
- Central Marin Sanitation District No
- Contra Costa Water District Yes
- Diablo Water District (Treats City of Oakley) No
- Ironhouse Sanitation District (Treats City of Oakley) TBD
- West County Wastewater District No
- Stege Sanitation District (Treats El Cerrito) No
- Crockett Community Services District No

**School/College Districts**

- Contra Costa County Yes
- Contra Costa Community College District Yes
- West Contra Costa County Unified School District Yes

**Municipalities**

- City of Brentwood Yes
- City of Concord Yes
- City of El Cerrito No
- City of Hercules Yes
- City of Martinez Working On It
- City of Oakley No
- City of Richmond Yes
- City of San Pablo Working On It
- City of Walnut Creek No
NEW QUESTIONS AS OF OCTOBER 8, 2014

Q 14: Do non-union workers become union members when there is a Project Labor Agreement? Do they have to pay union dues?

Response:

No, they do not automatically become a union worker nor do they have to become one because they are working on the project. Forcing someone to become a union member is against the law. If they are non-union members, they do have to pay dues because they will be dispatched from the union hall.

Q 15: If there is an increase in negotiated wages after the Project Labor Agreement is signed and the contract awarded, who pays for this?

Response:

The Contractor has to absorb the cost and cannot increase contract price. This is the same as the Contractor having to absorb unanticipated costs for materials, supplies and gasoline, etc.

Q 16: Is it true that Non-union Contractors on a project covered by a Project Labor Agreement have to pay into the Union Retirement Fund?

Response:

No. The Contractor has to pay these benefits on the employee’s behalf into the Union Trust Fund. Under a Project Labor Agreement union and non-union workers are dispatched through the local Union Hall. These benefits are required under the Prevailing Wage Schedule. Both union and non-union employees are all covered by the same vesting rules governing eligibility to receive all employer paid benefits.

Q 17: If a Non-union Contractor provides their own health and retirement program and pays into it, don’t they have to pay twice for these benefits under a Project Labor Agreement?

Response:

No. Under a Project Labor Agreement the Non-union Contractor can continue with his/her own coverage plans for his/her employees at their discretion but the contributions required in the various Master Labor Agreements must be sent directly to the Union Trust Fund.
Q 18: Without a Project Labor Agreement, are Non-union Contractors required to provide their own health and retirement programs to their employees? If not, how would these employees get health and retirement coverage?

Response:

No. Without a Project Labor Agreement, Non-union Contractors who do not offer retirement and health programs can pay their employees the total prevailing wage in cash which includes amounts for employee benefits such as retirement and health. In this case, non-union employees have the choice of purchasing their own retirement and health care benefits.
AGENDA DOCKET FORM

SUBJECT: LOS VAQUEROS DAM EXPANSION PROJECT - LABOR STABILITY ANALYSIS AND AGREEMENT TO NEGOTIATE AND ADMINISTER A PROJECT LABOR AGREEMENT

SUMMARY: On May 19, 2010, the Board authorized an agreement with Scarth-Lyons & Associates to perform a labor stability study for the Los Vaqueros Dam Expansion Project (Project). The resultant study recommends proceeding with the development of a Project Labor Agreement (PLA) for construction of the Project (attached).

PLAs are only considered by the District on large, multi-year projects with critical delivery schedules where labor stability is required for timely completion. The District’s past experience on large, complex projects utilizing PLAs (such as the original Los Vaqueros Project, Bollman SWQ Project, the Multi-Purpose Pipeline Project, the CCWD/City of Brentwood Water Treatment Plant, and the current Middle River Intake Project) has been favorable as all of the construction was completed without labor disruption or delays. The District has also found that utilizing PLAs on the aforementioned projects did not limit bidding competition or increase project costs. This Project is a large, complex project involving many skilled construction trades. In addition, construction of the dam expansion requires the reservoir be out of service, and it is essential this critical District facility be returned into full service as quickly as possible.

Labor harmony and availability with a timely project completion are District goals that will ensure high quality construction, standardized work rules, and provide a dispute resolution process that prohibits labor strikes or lock-outs. A PLA on this Project assures these goals are met.

(Continued on Page 2)

FISCAL IMPACT: The total requested authorization is $100,000 for the negotiation and administration of a Project Labor Agreement over the duration of the Los Vaqueros Dam Expansion Project. The adopted FY11 and FY12 budget include a combined $113,000 for these services.

RECOMMENDED ACTIONS:

a) Adopt Resolution No. 10-16 authorizing implementation of a labor stabilization program for the Los Vaqueros Dam Expansion Project by requiring the construction contractor and subcontractors to sign the Project Labor Agreement for the Project; and

b) Authorize execution of an agreement to negotiate and administer Project Labor Agreements for the Los Vaqueros Dam Expansion Project, in an amount not to exceed $100,000.

DO/RH:mer
Attachments: 1) Labor Stability Study and 2) Resolution No. 10-16
AGENDA DOCKET FORM

SUMMARY: (Continued from Page 1):

Key findings identified in the Project’s labor stability analysis that will be included in the PLA include jurisdictional dispute resolution procedures, protection from work stoppages due to expiration of the collective bargaining agreements during project construction, and the general promotion of harmonious labor relations between contractors and the labor unions. A PLA will include a commitment of the unions to no strikes or other disruptions; in turn, the signatory contractor and subcontractors commit to the use of union labor. Consistent with past PLAs, the District is not a signatory to this agreement and will utilize the services of a construction management firm to negotiate, execute, and administer the agreement with the building trades.

Authority to negotiate and administer an agreement with a construction management firm is being requested as the Project award is expected in late 2010 with construction commencing in early 2011. Procurement of these services will follow normal District procedures and needs to begin so as to not delay completion of the PLA. Finalizing the PLA at this time avoids a potential delay to completion of the construction bid documents.

For the District to implement the labor stabilization approach recommended for the Project, the District must determine that it will require that the construction contractor and subcontractors become signatories to the PLA. If the Board makes this determination, by adopting the recommended resolution, a provision expressing this requirement will be included in the bidding documents.
Contra Costa Water District

Labor Stability Analysis for the
Los Vaqueros Reservoir Expansion Project-Dam Enlargement

Prepared by: Michael J. Vlaming
Scarth-Lyons & Associates
LABOR STABILITY ANALYSIS
Contra Costa Water District—Los Vaqueros Reservoir Expansion Project-Dam Enlargement

Executive Summary

The Los Vaqueros Reservoir Expansion Project-Dam Enlargement ("LVE") is a long term, complex, multi-craft construction project. The construction schedule has a critical, time sensitive milestone as well as an imperative for timely completion by mid-2012. To accomplish these objectives, numerous construction craft workers will be needed to work a multiple shift construction schedule.

The District commissioned this Labor Stability Analysis to evaluate its options regarding the use of a Project Labor Agreement within the context of the projected construction labor market during the period of Project construction. The research presented in this Labor Stability Analysis supports the conclusion that the construction labor market in Contra Costa County and San Francisco Bay region is beginning to recover from the high levels of construction craft worker unemployment experienced during the current recession. Non-residential construction activity is projected to increase in 2011 and 2012 resulting in higher levels of employment and a decrease in the supply of skilled craft workers. The challenges presented by continued escalating expenses for health care and pension funding requirements will place pressure on collective bargaining agreement negotiations for contracts expiring over the next several years. The funding of these benefits in a recovering construction market increases the potential for labor unrest and work stoppages.

The District has successfully used Project Labor Agreements on several large, complex, multi-craft construction projects, including the original Los Vaqueros Project, Bolinas Safety and Water Quality Project, Multi-Purpose Pipeline Project, CCWD-City of Brentwood Water Treatment Plant Project and Middletown River Intake Project. In each case, the PLA has contributed to labor harmony and assisted the District in achieving its project goals. It is our recommendation that the District utilize a Project Labor Agreement on the Los Vaqueros Reservoir Expansion Project-Dam Enlargement. A Project Labor Agreement will minimize the risk of construction delay due to labor disruption by providing access to a sufficient supply of skilled construction craft workers and protecting the Project from strikes and lockouts. Several key provisions are suggested for inclusion in the PLA to accomplish the District’s objectives. Constructing the LVE under a Project Labor Agreement will increase the likelihood of timely completion and, therefore, serve the best interests of the District’s customers.
I. Project

To increase water supply reliability and develop water supplies for environmental water management, the Contra Costa Water District ("District") will construct the Los Vaqueros Reservoir Expansion Project-Dam Enlargement. The LVE will expand the Los Vaqueros reservoir from its current capacity of 100 thousand acre-feet ("TAF") of water to 160 TAF.

To accomplish this expansion, the existing dam will be enlarged and raised an additional 85 feet in height. The current spillway will be lengthened and the monitoring/control building will be removed and re-constructed in a new location. The approximately one million cubic yards of material needed for the enlarged dam will be supplied from off site and on-site sources, including two borrow areas—one adjacent to the current dam and one approximately two miles away on District property. Construction work is anticipated to begin in the first calendar quarter of 2011 and be completed by mid-2012. The critical construction intermediate milestone for the Project is the completion of the work necessary to raise the height of the dam to the minimum required elevation to allow the reservoir to begin re-filling by September 2011. To achieve this milestone, the planned construction schedule calls for crews working multiple shifts each day. Uninterrupted construction is essential to achieving this critical intermediate milestone and completion of the LVE by fall 2012.

II. Labor Stability Analysis Purpose

The purpose of this Labor Stability Analysis ("LSA") is to assist the Board in its evaluation of alternative construction methods for the Project within the context of the LVE requirements and projected construction labor market and to then recommend the alternative that best accomplishes the goal of minimizing the risk of construction delay due to labor interruption. This LSA will: (1) analyze the regional construction labor market; (2) review the alternative methods of constructing the Project relative to construction craft labor; (3) analyze the District’s experience on its recent large, complex, multi-craft construction projects; and (4) recommend the alternative that best accomplishes the District’s goals.

III. Regional Construction Labor Market

A. Current/Projected Construction Employment

The construction industry has been one of the hardest hit segments of the economy during the current recession. According to the latest American Institute of Architect’s semi-annual consensus construction forecast, non-residential construction spending nationally is projected to decline by an additional 13.8% in 2010 and then finally rebound in 2011 with an increase of 1.8%.¹ In California, the recovery in construction spending and employment will likely lag the national recovery. The most recent California Economic Report published by the California Department of Finance shows non-residential construction permit values in California declined by 7.2% from April 2009 to April 2010.² Projections by the Eberhardt Business Forecasting Center at the University of the Pacific indicate that job losses in the California construction industry will continue in 2010 and 2011, but then reverse with employment expanding by more than 10% in 2012-2013 as the California economy rebounds and construction activity increases.³
B. Current and Projected Significant Regional Construction Projects

The current recession has had a significant adverse impact on construction activity in Contra Costa County and the San Francisco Bay Area. While interest rates have remained low, residential construction continues to suffer as the supply of existing homes greatly exceeds demand. The only significant residential construction project underway is a 1,100 unit single family phased development in Danville.

Publicly funded construction projects in the areas of transportation, infrastructure, hospitals and education facilities remain strong. In addition to the repair, maintenance and expansion of the interstate and state highways in the region, there will be substantial work on the continuation of the Bay Bridge replacement project and the seismic retrofit work on the Dumbarton and Antioch bridges. Construction has started on the Fourth Bore Project at the Caldecott Tunnel. The Bay Area Rapid Transit District continues its preparation work on the East Contra Costa County Extension Project (eBART) which will extend the line from the Pittsburg station all the way to Brentwood. In addition, BART will begin constructing the Oakland Airport Connector Project which will link the Coliseum Station and Oakland Airport.

In water supply infrastructure work, the Hetch Hetchy water system renovation continues with substantial pipeline and pump station construction work as well as the continued work on the Folsom Dam upgrade project.

New hospital construction as well as expansion of existing facilities continues to increase. Significant projects currently in progress include the Kaiser Oakland facility, John Muir (Walnut Creek) Washington Hospital (Fremont). New projects will be starting at Alta Bates (Oakland), Highland Hospital (Oakland) and Queen of the Valley (Napa).

Bond funded school construction and renovation projects continue at the elementary, secondary and post-secondary level in Contra Costa and Alameda counties with an additional $800 million in two bond measures for Mt. Diablo and West Contra Costa School Districts passed in the recent election. Substantial work continues at the community colleges and also at the UC Berkeley campus with the stadium, lab/classroom and administration building projects.

In addition, construction has started on several government buildings including the City of Brentwood's Civic Center and parking structure projects and the Hercules and San Ramon city center projects.

In the private sector, construction activity has been slow. However, several significant projects in power generation, industrial and commercial are either underway or scheduled to start in the next twelve months. Two new co-generation plants are getting underway in Contra Costa County—the 624mw Oakley Generating Station and the 600mw Marsh Landing Generating Station. A project for a total of 83 additional windmills is beginning at Bird’s Landing in Solano County. Plant expansion projects at the Valero refinery continues and seasonal maintenance at all of the local refineries will require additional craft workers. Plant expansion projects are planned at the Chevron Richmond facility, Shell Martinez facility and Dow Chemical. Commercial projects for mixed-use facilities are planned in a number of cities including Oakland,
and Hercules and a major destination resort/casino project is in the final planning stages in Richmond.

C. Projected Supply of Construction Labor 2011-2012

The projected volume of construction activity in the geographical region surrounding the Project will gradually increase the demand for skilled craft workers from current levels. To assess the supply of skilled construction craft workers, we contacted representatives from the Building Trades Council and local craft unions responsible for the geographic area covering the LVE. The information provided by the representatives reflects relatively high numbers of workers on the out of work lists, however, most of the representatives stated the number of unemployed workers will decrease later this year and into 2011. (See Appendix-1). While the number of skilled construction craft workers on the out of work lists is anticipated to decrease as more construction projects get under way, the local unions have the ability to supply the numbers of workers necessary to meet anticipated demand through their local, regional and national referral systems and expansion of their apprentice programs.

D. Expiring Local Collective Bargaining Agreements

Each building trades union has a collective bargaining agreement covering their members working in the local area. The potential for labor disruption due to a strike or lockout increases at the expiration of the term of a craft collective bargaining agreement. The table in Appendix 1 shows the expiration year of the current collective bargaining agreements in the geographic area covering the Project.

During the anticipated construction period for the LVE, there are several craft collective bargaining agreements scheduled to expire. As such, the potential for labor interruption relative to these trades increases. The construction economy, the increase in health care expenses and pension funding requirements continue to present challenges to employers and building trades unions negotiating collective bargaining agreements. Tensions caused by these challenges increase the likelihood of economic action being taken by a party to the negotiation in an effort to press their position at the bargaining table. The risk of labor interruption on large, multi-craft construction projects during collective bargaining agreement negotiations is higher because the visibility of such an action and the likelihood that other craft workers on the project would honor a sanctioned picket.

IV. Alternative Construction Methods

Historically, the District has considered using PLAs only on its large, complex, long term multi-craft construction projects. The alternatives for the District on this Project are: (1) Use an open bidding procedure without a PLA; or (2) Use a PLA on the Project under which all contractors performing on-site construction work will be required to comply with its provisions.
A. Open Bidding

Under the open bidding alternative (no Project Labor Agreement), the construction contract is awarded to the lowest responsible bidder. The potential advantages of this alternative are: attracting bids from contractors who choose not to bid projects covered by PLAs; relative construction flexibility since there are no standardized work rules; and, if all of the contractor(s) are non-union, no strikes or picketing by their construction craft workers.

The potential disadvantages of this alternative vary depending on the status of the contractor(s). If the contractors are non-union, the potential disadvantages are: the lack of access to established referral systems for skilled crafts people should they need to secure additional construction craft workers in a timely manner; labor instability arising from union organizing efforts (hiring away of key workers); and picketing of the project. If the contractors are union, the potential disadvantages are: no project wide no-strike/no lock-out provisions with expedited arbitration procedures; lack of standardized work rules; lack of standardized dispute resolution procedure; no jurisdictional dispute resolution procedure; and no coordinated project wide active labor-management program.

B. Project Labor Agreement

Under the Project Labor Agreement alternative, the fully negotiated Project Labor Agreement is included in the Request for Proposal with the condition that the lowest responsible bidder (and all listed subcontractors) would be required to execute the Project Labor Agreement prior to being awarded the contract. The Project Labor Agreement would contain provisions including, but not limited to: a prohibition of strikes by workers and lockouts by employers on the Project with expedited dispute resolution procedures; standardized working conditions for all construction craft workers; required Pre-Job and periodic Labor/Management meetings; and established workforce referral procedures utilizing the union hiring halls.

The potential advantages are: decreased possibility of a labor disruption due to a strike or no-lockout with an established expedited arbitration procedure to immediately resolve the underlying dispute; labor stability provided by access to sufficient supplies of skilled workers through the established craft worker referral systems; active labor-management to promote communication, efficiency, productivity and resolution of issues between contractors and workers through regular meetings.

The potential disadvantages of utilizing a PLA are: increased administrative costs arising from the negotiation and administration of the PLA and the possibility of decreased competitive bids should an interested contractor choose not to bid on the Project because of the PLA.

V. The Experience on District Construction Projects

The District has used Project Labor Agreements ("PLAs") on its large, complex, long term, multi-craft construction projects as a tool to manage the risk of construction delay due to
an interruption in the supply of skilled labor. The District’s PLAs have included provisions that have standardized the work rules for the projects, provided protection against strikes by unions and lockouts by employers, established procedures for resolving jurisdictional disputes and labor/management meetings to actively manage the labor relations between the contractors and building trades unions working on the projects.

Beginning with The Bollman Water Treatment Plant Safety and Water Quality Project in 1995, the District has used PLAs on a total of five (5) large, complex, long term, multi-craft construction projects. While each project shared similar general characteristics, each presented unique factors in terms of construction processes and craft workforce skill requirements. The Middle River Intake Project is currently under construction with substantial completion anticipated at the end of June of this year. Collectively, these projects represent construction contracts with cumulative bid value in excess of $325.5 million dollars. Table 1 summarizes the relevant data on these projects.

<table>
<thead>
<tr>
<th>Project</th>
<th>Construction Period</th>
<th>Project Bid Values (millions)</th>
<th>Number of Bidders*</th>
<th>Low Bid as % of Engineer’s Estimate</th>
<th>Delay Caused by Labor Interruption (days)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bollman Water Treatment Plant</td>
<td>1995 -1998</td>
<td>$24.8</td>
<td>7</td>
<td>87.9%</td>
<td>0</td>
</tr>
<tr>
<td>Los Vaqueros Dam</td>
<td>1994 -1998</td>
<td>$142.8</td>
<td>(1) 6</td>
<td>86.8%</td>
<td>0</td>
</tr>
<tr>
<td>Multi-Purpose Pipeline</td>
<td>2000 -2003</td>
<td>$55.8</td>
<td>(1) 5</td>
<td>82.1%</td>
<td>0</td>
</tr>
<tr>
<td>WTP for the City of Brentwood</td>
<td>2006-2008</td>
<td>$40.3</td>
<td>(2) 3</td>
<td>105.5%</td>
<td>0</td>
</tr>
<tr>
<td>Middle River Intake Project</td>
<td>2008-2010</td>
<td>$61.8</td>
<td>(1) 17</td>
<td>78.4%</td>
<td>0</td>
</tr>
</tbody>
</table>

* Where the project was bid in multiple separate bid packages, the number of bid packages and number of bidders for each is given.

Each of the projects constructed with a PLA attracted multiple competitive bids. With the exception of the Water Treatment Plant for the City of Brentwood Project, the contract (or multiple contracts on the projects segmented into multiple bid packages) was awarded to a contractor whose bid was below the engineer’s estimate. Significantly, on each project where PLA was used, there were no construction delays caused by labor interruption.
VII. Recommendation

The utilization of a Project Labor Agreement for the Los Vaqueros Reservoir Expansion Project-Dam Expansion is the alternative that would best achieve the District’s goal of timely completion without delay caused by a labor interruption.

Our recommendation is based on the following factors: (1) the District’s favorable past experience of using PLAs on its large, long term, complex, multi-craft construction projects; (2) the long term, complex nature of this Project which will require multiple construction crafts working multiple daily shifts to complete the work on a timely basis; and (3) the projected demand for skilled construction craft workers in the trades required for this Project.

To increase its effectiveness, the PLA negotiated with the building trades should include provisions that would:

- Prohibit strikes and lock-outs including an expedited procedure to resolve such disputes;
- Enhance labor harmony through Pre-Job and Labor/Management Meetings; and
- Standardize work rules to achieve efficiency among the construction craft workers on the LVE.

A PLA with these provisions will increase the likelihood of timely completion by minimizing the risk of construction delay due to labor interruption. Based on the District’s past experience, utilization of a PLA should not adversely affect the number of bidders on the Project and the District should receive multiple competitive bids on the LVE. Accordingly, selecting this alternative would best serve the interests of the District and its customers.

Prepared By:
Scarth-Lyons & Associates

Michael J. Vlaming, President
Appendix-1

Contra Costa County Construction Craft Union Survey

<table>
<thead>
<tr>
<th>Craft Union</th>
<th>Active Members</th>
<th>Apprentices</th>
<th>Out of Work List (% of Active Members)</th>
<th>Collective Bargaining Agreement Expiration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boilermakers (#549)</td>
<td>450</td>
<td>90</td>
<td>30%</td>
<td>2011</td>
</tr>
<tr>
<td>Bricklayers (#5)</td>
<td>2800</td>
<td>300</td>
<td>5%</td>
<td>2013</td>
</tr>
<tr>
<td>Carpenters (#152)</td>
<td>4,500</td>
<td>350</td>
<td>7%</td>
<td>2012</td>
</tr>
<tr>
<td>Cement Masons (#300)</td>
<td>2,000</td>
<td>60</td>
<td>30%</td>
<td>2013</td>
</tr>
<tr>
<td>Electricians (#302)</td>
<td>1,450</td>
<td>140</td>
<td>22%</td>
<td>2011</td>
</tr>
<tr>
<td>Ironworkers (#378)</td>
<td>1,750</td>
<td>400</td>
<td>11%</td>
<td>2011</td>
</tr>
<tr>
<td>Laborers (#324)</td>
<td>2,450</td>
<td>95</td>
<td>14%</td>
<td>2010</td>
</tr>
<tr>
<td>Operating Engineers (#3)</td>
<td>4,400</td>
<td>400</td>
<td>7%</td>
<td>2010</td>
</tr>
<tr>
<td>Plumbers (#159)</td>
<td>414</td>
<td>51</td>
<td>35%</td>
<td>2013</td>
</tr>
<tr>
<td>Sheet Metal Workers (#104)</td>
<td>6,850</td>
<td>850</td>
<td>34%</td>
<td>2013</td>
</tr>
</tbody>
</table>

Endnotes


4 Data obtained through interviews with representatives from the applicable Building Trades union.
RESOLUTION NO. 10-16

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CONTRA COSTA WATER DISTRICT AUTHORIZING IMPLEMENTATION OF A LABOR STABILIZATION PROGRAM FOR THE LOS VAQUEROS DAM EXPANSION PROJECT BY REQUIRING THE CONSTRUCTION CONTRACTOR AND SUBCONTRACTORS TO SIGN THE PROJECT LABOR AGREEMENT FOR THE PROJECT

WHEREAS, the Contra Costa Water District’s Los Vaqueros Dam Expansion Project (Project) will involve substantial new construction at the Los Vaqueros Reservoir; and

WHEREAS, the Los Vaqueros Reservoir provides critical water supply and quality reliability to District customers and the timely construction of the Project, which is particularly vulnerable to delays or other problems caused by labor unrest, disruption or similar actions by workers, or by lockouts or similar conduct by contractors and subcontractors during construction; and

WHEREAS, the Project schedule is critical because the Los Vaqueros Reservoir will be drawn down during the construction of the Project, and timely completion of the Project will ensure the District meets critical milestone construction targets to allow filling of the reservoir in a timely manner and assure District customers maintain quality water deliveries within District goals and objectives; and

WHEREAS, Scarth-Lyons & Associates, the firm selected by the District on May 19, 2010, conducted an analysis to evaluate the options available to the District to achieve labor stability for the District’s Los Vaqueros Dam Expansion Project and has completed its analysis and has recommended to the District that a Project Labor Agreement be negotiated and implemented for the Project pursuant to the applicable provisions of the National Labor Relations Act and the unanimous 1993 decision of the United States Supreme Court in Massachusetts Water Resources Authority v. Associated Builders and Contractors of Massachusetts 507 U.S. 218, 122 L.Ed.2d 565,113 S.Ct. 1190; and
Resolution 10-16
PLA for Los Vaqueros Dam Expansion Project
Page 2 of 3

WHEREAS, simultaneous with the adoption of this resolution, the Board is authorizing and directing the Interim General Manager to execute an agreement, in a form approved by General Counsel, with a private firm primarily engaged in the building and construction industry under which that firm will negotiate, execute, and administer one or more Project Labor Agreement with the Contra Building and Construction Trades Council and affiliated local unions for the construction of the Los Vaqueros Dam Expansion Project; and

WHEREAS, said Project Labor Agreement will provide that the unions and their members will be committed to no strikes, slowdowns, or other labor disruption related to work on the Los Vaqueros Dam Expansion Project as long as the contractor to which the District awards the construction contract(s) and its subcontractors agree to only use union labor for the construction work; and

WHEREAS, in order to implement the contemplated Project Labor Agreement between a private firm primarily engaged in the building and construction industry and the Contra Costa Building and Construction Trades Council and affiliated unions, the District must insert appropriate language into its documents by which bids for construction will be solicited, providing that the contractor to whom the contract(s) for the construction of the Los Vaqueros Dam Expansion Project is awarded by the District, and its subcontractors, shall sign the Project Labor Agreement and thereby agree to use of union hiring halls for labor to be employed on the job; and

WHEREAS, the Board of Directors of Contra Costa Water District hereby finds and determines that it is in the best interests of the District that a Project Labor Agreement be implemented so that the threats of delay due to labor unrest or disruption and lockouts or similar conduct are eliminated during construction of the Los Vaqueros Dam Expansion Project.
NOW THEREFORE BE IT RESOLVED that the Board of Directors of Contra Costa Water District hereby authorizes and directs the Interim General Manager or his designee to take the necessary steps to include appropriate language in the documents by which bids for the construction contract(s) for the Contra Costa Water District's Los Vaqueros Dam Expansion Project will be solicited, requiring the contractor to whom said construction contract is awarded, and its subcontractors, to sign the Project Labor Agreement for this Project to be executed by the Contra Costa Building and Construction Trades Council and affiliated unions and by the private firm primarily engaged in the administration of Project Labor Agreements in the building and construction industry that the Interim General Manager is simultaneously being authorized to retain for this purpose.

************

The foregoing Resolution was duly and regularly adopted at a regular meeting held on the 21st day of July 2010, by the Board of Directors of the Contra Costa Water District by the following vote of the Board.

Ayes:

Noes:

Abstain:

Absent:

Joseph L. Campbell, President

ATTEST:

Sharon L. Burris
District Secretary
DATE: NOVEMBER 18, 2014

TO: MAYOR AND COUNCIL

FROM: BELINDA B. ESPINOSA, CITY MANAGER

SUBJECT: PROVIDE DIRECTION TO THE CITY MANAGER ON USE OF A PROJECT LABOR AGREEMENT FOR THE PINOLE-HERCULES WASTEWATER TREATMENT PLANT UPGRADE PROJECT

RECOMMENDATION

It is recommended that the City Council provide direction to the City Manager to either:

1. Approve a Resolution in Support of Using a Project Labor Agreement

Consider a resolution directing the City Manager and the City Attorney to develop and implement a Project Labor Agreement for the Pinole-Hercules Wastewater Treatment Plant Upgrade Project consistent with Public Contract Code Section 2500, et. Seq. in a form approved by the City Attorney, or

2. Approve a Resolution In Opposition of Using of a Project Labor Agreement

Consider a resolution directing the City Manager not to develop and implement a Project Labor Agreement for the Pinole-Hercules Wastewater Treatment Plant Upgrade Project.

Should the City Council approve the resolution in support of establishing a Project Labor Agreement for the project, it is recommended that the City Council consider appointing a City Council Subcommittee to work with the City Manager and City Attorney on identifying and establishing the deal points for the Project Labor Agreement.

BACKGROUND

The City of Pinole is currently undertaking an upgrade of the Pinole-Hercules Wastewater Plant. That upgrade which is estimated to cost $42 million is now in the final engineering design phase. Once engineering design is completed (estimated to be in late Fall), Staff will begin the process of preparing bid documents and technical
specifications in order to solicit prequalified general contractors and to advertise the project for bid at the first of the new year (2015).

The City Council has received information about Project Labor Agreements and has been considering whether or not the City should enter into a Project Labor Agreement for this project. The City Council has discussed this subject at our September 30 and October 7 City Council meetings and held a Special Meeting on October 28, 2014.

At this special meeting, the Council heard public testimony and presentations from representatives of the Contra Costa County Building and Construction Trades, the Associated Builders and Contractors as well as general contractors. Staff is not making a recommendation on this topic as this is strictly a City Council policy decision.

**REVIEW AND ANALYSIS**

There are three main issues that are central to the discussion regarding Project Labor Agreements. Included are:

- Does a Project Labor Agreement increase the cost of the project and if so how?
- What is Local Hiring under a Project Labor Agreement?
- Will the City receive an adequate number of bidders to assure a competitive price with a Project Labor Agreement?

**DOES A PROJECT LABOR AGREEMENT INCREASE THE COST OF THE PROJECT AND IF SO, HOW?**

We have identified a couple of areas where a Project Labor Agreement might increase the cost of a project. Included are:

- **Contracted Labor Negotiator**

  If the City Council directs that a Project Labor Agreement is required for the Wastewater Treatment Plant Project, a contracted labor negotiator will be required. Current staff and the City Attorney’s office do not have the requisite experience in this area of expertise.

- **Development and Legal Review of the Project Labor Agreement**

  There are numerous Project Labor Agreements throughout the county and from other entities that can be used as “template” for the agreement. However, each
Project Labor Agreement has unique characteristics specific to the project that have to be negotiated and reviewed by the City Attorney. There may be other points that are desired to be placed in the Project Labor Agreement.

Furthermore, the City Attorney will have to be involved in the preparation of the Project Labor Agreement to ensure that it complies with the new legal requirements for Project Labor Agreements set forth in Public Contract Code Section 2500, which were adopted in 2012, including:

- Prohibiting discrimination based on race, national origin, religion, sex, sexual orientation, political affiliation, or membership in a labor organization in hiring and dispatching workers for the project. In other words, a PLA cannot discriminate against any employees of a non-union contractor.

- Permitting all qualified contractors and subcontractors to bid for and be awarded work on the project without regard to whether they are otherwise parties to collective bargaining agreements.

- Containing an agreed-upon protocol concerning drug testing for workers who will be employed on the project.

- Guaranteeing against work stoppages, strikes, lockouts, and similar disruptions of the project.

- Providing that disputes arising from the agreement shall be resolved by a neutral arbitrator.

**Administration and Monitoring of the Project Labor Agreement**

Once a Project Labor Agreement is in place, the City will benefit from hiring a professional consultant who can provide services to administer and monitor the deal points included in the agreement. Some of these include:

- Monitoring contractor compliance with terms of the Project Labor Agreement;

- Monitoring and enforcing Local Hiring requirements including resolving all claims of non compliance;

- Ensuring that non-union contractors deduct union initiation fees and union dues from all non union employees;

- Monitoring and assuring that the contractor is hiring under the union hall rules and the ratio of core workers to non- core workers is appropriate;
- Negotiating any amendments to the Project Labor Agreement;
- Tracking and recording all required reports and notices; and
- Monitoring and resolve disputes, grievances, and disagreements

**WHAT IS LOCAL HIRING UNDER A PROJECT LABOR AGREEMENT?**

A Project Labor Agreement is a mechanism that may increase local hiring efforts. The Project Labor Agreement will specify how a contractor assembles their workforce. The City Council has expressed a desire for assuring “local hire” however there are two models that can be utilized.

The first is hiring strictly from the Union hall. That is to say, that the contractor may only bring to the job his/her Superintendents, Foremen and those with expertise specific to the contractor’s means and methods and outside of the construction trades. All hiring after that must come directly from the union hall. In addition to the above, the Union Hall hiring practice will have to be reviewed in light of the new legal requirement to ensure that a Project Labor Agreement does not discriminate against workers who are not union members.

The second model is the use of the “Core Worker” concept. This procedure is negotiated through the Project Labor Agreement. The Project Labor Agreement could specify that a contractor/subcontractor is allowed to have a certain number of core employees below the Journeyman level. If at certain times, the project requires more than the number of allowable core employees, the contractor may be required to follow a specific agreed upon procedure to fill the remaining positions from the local Union Hall.

Finally, the Project Labor Agreement can also include establishing “bands of local areas” whereby specific regions are established as priority areas from which local workers are hired. In other words, the City Council might want to negotiate for union hall workers from West Contra Costa County first and then Contra Costa County and so on.

The City will also maintain its existing policy to require any bidder for this project to use good faith efforts to outreach to local contractors and subcontractors prior to submitting a competitive bid for this Project. Any contractor who does not perform the requisite outreach to local subcontractors will be deemed “non-responsive” and their bid will be rejected accordingly.

**WILL THE CITY RECEIVE AN ADEQUATE NUMBER OF BIDDERS TO ASSURE A COMPETITIVE PRICE?**
There are two sides to this issue. Just as many people interviewed responded yes and no. For a project this size, a substantial contractor will be required. One who can meet all of the pre-qualification requirements and provide the insurance and bonding that are required for the project. This is also a specialty project in that we will be requiring a contractor with water/wastewater experience. Carollo is confident that we should receive no less than 7 bidders. These bidders will most likely be union and non-union contractors and come from more than just our region given the size of the project.

Contractors of this size most likely will have experience working under a Project Labor Agreement. However, the sub-contractors may have less or no experience working under a Project Labor Agreement. We will not know until we bid the project. If the City Council determines that we have not received an “adequate” number of bidders, and thus not a competitive enough price, we can rebid the project.

**FISCAL IMPACT**

If the City Council directs that the City should pursue a Project Labor Agreement there will be additional estimated costs as follows:

- **Labor Negotiator**  $75,000 to $120,000

  Use of a contracted negotiator is necessary for the Project Labor Agreement. While Staff has experience with labor negotiations, Staff has had no experience with this concept of the construction profession and would require outside expertise. There are a variety of firms within the region that do this type of work.

- **Legal Fees for the City Attorney’s Office**  $20,000

  As previously mentioned, there are a number of templates that can be used if the City Council directs that Staff pursue use a Project Labor Agreement. However, each agency and project is unique and has nuances. The City Council may ask for new deal points or to delete other deal points from these templates. Legal review by the City Attorney’s office is necessary to ensure that the City’s Project Labor Agreement complies with the Council’s direction and with existing law.

  Further, it is anticipated that we would contract with an outside law firm who specializes in these agreements to develop the Project Labor Agreement.

- **Project Labor Agreement Administration and Monitoring**  $20,000 to $50,000

  At the current time, we have contracted with Carollo Engineers to perform construction management activities for the wastewater upgrade project. Carollo
could also conduct the administration and monitoring of a Project Labor Agreement if the City Council directs that we enter into one for this project.

Some of these activities are included in the current contract with Carollo Engineers, however it is estimated that it would cost an additional $20,000-$50,000 over the life of the two year project for Carollo to conduct the services that is not in the current contract.

**ATTACHMENTS**

Attachment A  Resolution in Support of Using a Project Labor Agreement for the Pinole-Hercules Wastewater Treatment Plant Upgrade Project

Attachment B  Resolution in Opposition for Using of Project Labor Agreement for the Pinole-Hercules Wastewater Treatment Plant Upgrade Project

Attachment C  October 28, 2014 Special City Council Meeting Staff Report
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PINOLE, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, DIRECTING THE CITY MANAGER AND THE CITY ATTORNEY TO ENTER INTO A PROJECT LABOR AGREEMENT FOR THE PINOLE-HERCULES WATER POLLUTION CONTROL PLANT UPGRADE PROJECT

WHEREAS, the City of Pinole is currently undertaking an upgrade project to the Pinole-Hercules Water Pollution Control Plant ("Project"); and

WHEREAS, the Project, estimated to cost $42 million, is now in the final design engineering phase, which is estimated to be completed in late Fall 2014; and

WHEREAS, Staff is concurrently preparing the prequalification questionnaires, the invitation to bids, and all project specifications in order to advertise the Project for bid in the First Quarter of 2015; and

WHEREAS, the City Council has conducted two study sessions on October 7, and 28, 2014 to consider undertaking a Project Labor Agreement for this Project and took public testimony from proponents of both sides of the issue including representatives from the Contra Costa County Building and Construction Trades, the Associated Builders and Contractors Association and contractors, as well as members of the public; and

WHEREAS, the City Council also entertained additional public testimony on November 18, 2014 and deliberated the merits of a Project Labor Agreement; and

WHEREAS, based on the testimony received, as well as the information provided by the Staff, the City Council desires to ensure that the Project incorporates the benefits of hiring local contractors and employing apprentices for the Project, among other things; and

WHEREAS, a Project Labor Agreement for the Project is the mechanism to assure these goals and to ensure that there are no labor disruptions, strikes or lock-outs during Project construction; and

WHEREAS, the Council believes that it is in the best interest of the City of Pinole to enter into a Project Labor Agreement for the Project;

NOW THEREFORE, BE IT RESOLVED, as follows:

1. That the above recitals are true and correct and are incorporated by this reference.
2. That the City Manager and the City Attorney are directed to retain the services of a professional firm that has the qualifications, skills, experience and expertise to negotiate and prepare a Project Labor Agreement for the Pinole-Hercules Water Pollution Control Plant Upgrade Project in a form that complies with Public Contract Code Section 2500, and is approved by the City Attorney.

3. That the City Manager is authorized to appropriate and expend additional funds not to exceed $200,000 from the Sewer Enterprise Fund to prepare the Project Labor Agreement.

4. The City Manager, or her designated representatives, are hereby authorized and directed, on behalf of the City of Pinole, to execute all documents prepared by the City Attorney related to the Project Labor Agreement, and to make all approvals, award all agreements, and take all actions necessary or appropriate to carry out and implement the terms of this Resolution.

PASSED AND ADOPTED at a regular meeting of the Pinole City Council held on the 18th day of November, 2014 by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

____________________________
Patricia Athenour, MMC
City Clerk
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PINOLE, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, DIRECTING THE CITY MANAGER AND CITY ATTORNEY NOT TO PURSUE A PROJECT LABOR AGREEMENT FOR THE PINOLE-HERCULES WATER POLLUTION CONTROL PLANT UPGRADE PROJECT

WHEREAS, the City of Pinole is currently undertaking an upgrade project to the Pinole-Hercules Water Pollution Control Plant (“Project”); and

WHEREAS, the Project, estimated to cost $42 million, is now in the final design engineering phase, which is estimated to be completed in late Fall 2014; and

WHEREAS, Staff is concurrently preparing the prequalification questionnaires, the invitation to bids, and all project specifications in order to advertise the Project for bid in the First Quarter of 2015; and

WHEREAS, the City Council has conducted two study sessions on October 7, and 28, 2014 to consider undertaking a Project Labor Agreement for this Project and took public testimony from proponents of both sides of the issue including representatives from the Contra Costa County Building and Construction Trades, the Associated Builders and Contractors Association and contractors, as well as members of the public; and

WHEREAS, the City Council also entertained additional public testimony on November 18, 2014 and deliberated the merits of a Project Labor Agreement; and

WHEREAS, the City Council has determined that the cost to implement a Project Labor Agreement is not financially feasible or desired at this time; and

WHEREAS, the City Council has determined that it is not in the best interest of the City of Pinole to enter into a Project Labor Agreement for this Project.
NOW THEREFORE, BE IT RESOLVED that the Pinole City Council does hereby resolve that use of a Project Labor Agreement will not be undertaken for the Pinole-Hercules Wastewater Treatment Plant Upgrade Project and as such is directing the City Manager and the City Attorney not to pursue the development of a Project Labor Agreement for this project.

PASSED AND ADOPTED at a regular meeting of the Pinole City Council held on the 18th day of November, 2014 by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

____________________________
Patricia Athenour, MMC
City Clerk

2355747.2
Q 1:  What will the attorney’s fees cost?

Response:

At this time, if Staff were directed to use a Project Labor Agreement that would necessitate hiring outside counsel and an outside labor negotiator. It is estimated that based on the size of the project, attorney’s fees could be in the range of $15,000 to $20,000. We are currently researching the cost of labor negotiator.

It is important to note, that neither the City Staff nor the City Attorney have experience in negotiating Project Labor Agreements.

Q 2:  Does a Project Labor Agreement add to the cost of a project?

Response:

At this time, we have no validation that a Project Labor Agreement increases the project costs. It is correct that both non-union and union contractors have to pay prevailing wage on the project.

It is important to note that “prevailing wage” is determined by the State Department of Industrial relations for various classifications in the trades and includes base salary plus fringe benefits such as retirement, health insurance, vacation, holiday pay and training. If a non-union contractor provides these programs on behalf of their employee(s), then there may be an additional expense to him/her if he/she decides to pay the difference in the cost between what he/she provides and on the Prevailing Wage Schedule.

Q 3:  How would extra costs, if any be funded; through the General Fund or the Wastewater Fund?

Response:

Any costs related to the project are a part of the project costs and as such would be funded from the Wastewater Fund.
Q 4: Would the City of Hercules as our partners in the project pay their share of these costs?

Response:

All costs associated with the project will be shared on a 50/50 basis.

Q 5: Is it true that cost overruns and change orders are a result of Project Labor agreements?

Response:

There is no evidence that this is true. Any project whether union or non-union, under a Project Labor Agreement or not, can have cost over runs and change orders. It is anticipated that our project will have change orders due to the fact that we will be operating the plant at the same time we will be rebuilding a new one, the limited footprint of the space on which to do so, and all of the unknowns underneath the plant once construction begins.

Q 6: Can you have a Prequalification Process with a Project Labor Agreement?

Response:

You can have a Pre Qualification process with or without a Project Labor Agreement. They are independent agreements. The City Staff is planning on a Prequalification process for the general contractors that will be bidding on the project. That process includes criteria, but not necessarily limited to the following categories:

1. Financial Solvency
2. History of Claims and Litigation
3. Prevailing Wages
4. Project Experience
5. Safety Record

Q 7: Does a Prequalification Process increase the cost of a project?

Response:

No it does not increase the cost of the project but might increase the cost of staff time to perform the pre-qualification process which has been our process on most major complex projects.

Q 8: Can you have a Project Labor Agreement that pays less than or more than prevailing wages?
Response:

Project Labor Agreements require the payment of no less than prevailing wages.

Workers on most federal, state and local government projects, including ours must pay prevailing wages at a minimum. The Wastewater Treatment Plant Upgrade Project will be required to be at prevailing wage. Carollo and Associates will be responsible for monitoring this process and doing their best to assure that the General Contractor and all subcontractors are paying all trade classifications under the appropriate prevailing wage schedule. They will be monitoring all payroll records prior to them being submitted to the State.

Because the City is planning on using State Revolving Loan Funds to finance the project, it will also be a requirement of the loan that the City follows Davis-Bacon (which established prevailing wage). In fact, there may be an additional audit that the State will perform as they have their own Davis-Bacon representative.

Q 9: If Project Labor Agreements increase costs, where do increased project costs come from?

Response:

We have found that Project Labor Agreements may increase project costs related to three areas: Labor Negotiator, Legal Review and Project Labor Agreement Administration and Monitoring under certain circumstances. Specifically, increased costs are related to hiring a contract labor negotiator and for legal review of the agreement. The City will bear the costs of the additional attorney's fees for development and the contracted labor negotiator (development and review of the Project Labor Agreement) should the City Council approve entering into one.

In addition to the above, the only other area is related to whether or not the non-union contractor provides retirement and health benefits. If a non-union contractor decides to continue paying these programs on behalf of their employee(s), then there is an additional expense to him/her. If there is a difference between what the Prevailing Wage Schedule requires and what the contractor provides, the contractor has to pay the difference either into the Union Trust Fund or directly to the employee. This has to be negotiated.

Q 10: How many labor unions would be included on the project and a signatory to a Project Labor Agreement?

Response:
At the present time, we believe there will be at least twelve labor unions. However, there will only be one Project Labor Agreement which would be negotiated with the Contra Costa County Building and Construction Trades as they represent all of the trades. Included would be:

<table>
<thead>
<tr>
<th>Plumbers/Pipefitters</th>
<th>Operating Engineers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricians</td>
<td>Sheet Metal Workers</td>
</tr>
<tr>
<td>Carpenters</td>
<td>Laborers</td>
</tr>
<tr>
<td>Ironworkers</td>
<td>Cement Masons</td>
</tr>
<tr>
<td>Painters</td>
<td>Surveyors</td>
</tr>
<tr>
<td>Teamsters/Truck Driver</td>
<td>Pile Driver (possibly attached to operating engineers)</td>
</tr>
</tbody>
</table>

**Q 11: Will there be individual Project Labor Agreements for each of the trades on the job or one Project Labor Agreement that encompassed terms and conditions for all of the represented labor on the project?**

**Response:**

No, there will be one Project Labor Agreement however all of the trade unions are signatory to that document through the Contra Costa County Building and Construction Trades.

**Q 12: Was there a Project Labor Agreement when Pinole City Hall was built?**

**Response:**

In 1996, the City Council adopted a Project Labor Agreement for the City Hall project. A general contractor, West Coast Contractors, filed a petition for writ of mandate challenging the Project Labor Agreement on the grounds that the Council lacked the authority to require one. The Court considered the case and held that the Project Labor Agreement was illegal under existing law (1996).

In summary, West Coast won. At that time, there was apparently no California case law on point, and the trial court looked to federal law. A writ was issued, ordering the City to nullify the Project Labor Agreement requirement.

In 1997, the law changed. The trade council (labor union group) petitioned for reconsideration based on *Associated Builders & Contractors, Inc. v. San Francisco Airports Com.*, 59 Cal. App. 4th 25 (1997), but the trial court denied the petition. Courts are not inclined to grant retroactive review of decisions that were already made in the past, especially where the project was already under construction. In short, the City lost the case and had to pay attorney’s fees to West Coast contractors.
The City filed an appeal on the attorneys’ fees award, *West Coast Contractors, Inc. v. City of Pinole Redevelopment Agency*, A082935, in the first appellate district. The Court of Appeal cut the attorneys’ fees in half. But it did not (and could not) reconsider the issue of the project labor agreement. The City was represented by former City Attorney David Levy, among others.

If this case were decided today, the decision would be in favor of a Project Labor Agreement due to the changes in the law since 1997, including the adoption of the Public Contract Code Section 2500, which I presented to you last Tuesday.

**Q 13: Were there Project Labor Agreements on any public projects in Contra Costa County and if so, what was the overall satisfaction with it (on time, within budget, number of change orders)?**

**Response:**

Yes there are quite a few Project Labor Agreements throughout Contra Costa County and in several areas of our region. It appears that Project Labor Agreements have been used numerous times by the Contra Costa County Board of Supervisors, West Contra Costa Unified School District, Contra Costa Community College District, and Contra Costa Water District among others. Please see below the results of a short survey that was taken by Staff.

**Sanitation/Water/ Wastewater Districts**

- Central Sanitation District: No
- Central Marin Sanitation District: No
- Contra Costa Water District: Yes
- Diablo Water District (Treats City of Oakley): No
- Ironhouse Sanitation District (Treats City of Oakley): No
- West County Wastewater District: No
- Stege Sanitation District (Treats El Cerrito): No
- Crockett Community Services District: No

**School/College Districts**

- Contra Costa County: Yes
- Contra Costa Community College District: Yes
- West Contra Costa County Unified School District: Yes

**Municipalities**

- City of Brentwood: Yes
- City of Concord: Yes
- City of El Cerrito: No
- City of Hercules: Yes
- City of Martinez: Working On It
Q 14: Do non-union workers become union members when there is a Project Labor Agreement? Do they have to pay union dues?

Response:

No, they do not automatically become a union worker nor do they have to become one because they are working on the project. Forcing someone to become a union member is against the law. If they are non union members, they do have to pay dues because they will be dispatched from the union hall.

Q 15: If there is an increase in negotiated wages after the Project Labor Agreement is signed and the contract awarded, who pays for this?

Response:

The Contractor has to absorb the cost and cannot increase contract price. This is the same as the Contractor having to absorb unanticipated costs for materials, supplies and gasoline, etc.

Q 16: Is it true that Non-union Contractors on a project covered by a Project Labor Agreement have to pay into the Union Retirement Fund?

Response:

No. The Contractor has to pay these benefits on the employee’s behalf into the Union Trust Fund. Under a Project Labor Agreement union and non-union workers are dispatched through the local Union Hall. These benefits are required under the Prevailing Wage Schedule. Both union and non-union employees are all covered by the same vesting rules governing eligibility to receive all employer paid benefits.

Q 17: If a Non-union Contractor provides their own health and retirement program and pays into it, don’t they have to pay twice for these benefits under a Project Labor Agreement?

Response:

No. Under a Project Labor Agreement the Non-union Contractor can continue with his/her own coverage plans for his/her employees at their discretion but the contributions required in the various Master Labor Agreements must be sent directly to the Union Trust Fund.
Q 18: *Without a Project Labor Agreement, are Non-union Contractors required to provide their own health and retirement programs to their employees? If not, how would these employees get health and retirement coverage?*

**Response:**

No. Without a Project Labor Agreement, Non-union Contractors who do not offer retirement and health programs can pay their employees the total prevailing wage in cash which includes amounts for employee benefits such as retirement and health. In this case, non-union employees have the choice of purchasing their own retirement and health care benefits.
January 21, 2015

Mayor Sherry McCoy
City of Hercules
111 Civic Drive
Hercules, CA 94542

RE: Request for Information

Dear Mayor McCoy:

At the December 16, 2014 Special Council meeting, the building trades were requested to provide information. This will respond to those requests.

1. **How many unemployed construction workers are registered and available for work thru the Contra Costa Building Trades Union Hiring Halls?**

   - There are currently 1515 unemployed workers available for work in Contra Costa County

I would hope you are requesting similar data from the Associated Building Contractors in regard to their resident Contra Costa County Journeymen and Apprentices that are currently unemployed and available for this type of construction.

2. **How many wastewater treatment plants have been built under project labor agreement in Contra Costa County?**

   - There have been no wastewater treatment plants built in Contra Costa County under PLA. However, water treatment plants involve the same construction trades and are similar in cost, construction challenges and magnitude. The following water treatment plants were built under PLA in Contra Costa County for the Contra Costa Water District.
Boillman Water Treatment Plant
Water Treatment Plant for Brentwood

CCWD also adopted PLA’s for the Los Vaqueros Dam projects and for the Multi-purpose Pipeline project. In 2010, CCWD commissioned a Labor Stability Analysis to evaluate the use of a PLA for the Los Vaqueros Expansion-Dam enlargement project. The Analysis concluded that utilization of a PLA for the project was the best option to achieve the District’s goal of timely completion of the project without delay by a labor interruption.

3. LOCAL HIRE PROGRAMS

- Attached is the West Contra Costa Unified School District’s Local Capacity Program (LCP) which addresses Local Hire and Local procurement goals and policies.

We appreciate the City’s interest in utilizing a Project Labor Agreement for the joint Pinole/Hercules Wastewater Treatment Plant.

Sincerely,

[Signature]

Greg Feere
CEO
Contra Costa Building and Construction Trades Council

Enclosure

cc: Dave Biggs
    Mike Roberts
    Vice Mayor Dan Romero
    Council Member Bill Kelly
    Council Member Myrna de Vera
    Council Member John Delgado
    Council Member Chris Kelley
SECTION 00 90 00

LOCAL HIRING AND LOCAL BUSINESS UTILIZATION PROGRAM

1. Summary

The District is committed to ensuring equal opportunity and equitable treatment in awarding and managing its public contracts. The District recognizes that widespread unemployment and economic problems among District residents have created obstacles in the District’s pursuit of its educational mission. Accordingly, the District has committed to establish a Local Capacity Building Program (LCBP) to encourage and facilitate full and equal opportunities for local and small business owners and West Contra Costa County residents who are interested in doing business and working on the

2. Definitions

**Local Business \ Local Business Enterprise:** Company business or enterprise located within the priority areas as defined below.

**Subcontract:** For the purpose of this program, the term “subcontract” denotes an agreement between the prime contractor and an individual, firm or corporation for the performance of a particular portion(s) of the work, for which the prime contractor has obligated itself.

**Subcontractor:** An individual, firm, or corporation having a direct contract with the contractor for the performance of a part of the work which is proposed to be constructed or done under the contract or permit, including the furnishing of all labor, materials, or equipment.

**Vendor and/or Supplier:** A firm that owns operates and maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are brought, kept in stock, and regularly sold to the public in the usual course of business. The firm must engage in, as its principal business, and its own name, the purchase and sale of the products in question. A vendor and/or supplier of bulk items such as steel, cement, stone and petroleum products need not keep such products in stock, if it owns or operates distribution equipment.

**Manufacturer:** A firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor.

**Broker:** A firm that charges for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel facilities, equipment, insurance or bonds, materials or supplies required for performance of the contract. The fee or commission is to be reasonable and not excessive as compared with fees customarily allowed for similar services.

**Local Capacity Building Program Consultant:** Davillier Sloan, Inc.

**Local Business Participation Recognition:** This applies to recognition as a local business.

   a. Work performed by a prime contractor will be considered for credit in computing any desired levels of local participation established by the District for this project. The prime contractor will be required to make a good faith effort to obtain certified local business through subcontracting or purchase order to reach anticipated participation levels.
b. A listed local business must perform a commercially useful function, i.e., must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.

c. Recognition for materials and/or supplies is limited to 60 percent of the amount to be paid to the vendor for such materials/supplies in computing the levels of local business participation, unless the vendor manufactures or substantially alters the materials/supplies.

d. Local business credit for brokers required for performance of the contract is limited to the reasonable fee or commission charges, as not considered excessive, as compared with fees customarily allowed for similar services.

3. Geographic Location Requirements

The residents and businesses must be located at a fixed established address located in priority areas listed below and not a temporary or moveable office, a post office box, or a telephone answering service. If residents and/or business are not available, capable or willing to do the work, then the goal will default to priority area two and failing that to priority area three. The contractor is required to submit the good faith documentation if the goal is not obtained for each of the priority areas (One, Two or Three).

The local qualifying areas are defined as:

Priority Area One – West Contra Costa County: Crockett, El Cerrito, El Sobrante, Hercules, Hilltop Mall, Kensington, Montalvin, North Richmond, Pinole, Point Richmond, Richmond, Rodeo, San Pablo and Tara Hills.

Priority Area Two – Contra Costa County (including West Contra Costa County): Alamo, Antioch, Bay Point, Bethel Island, Blackhawk, Brentwood, Byron, Canyon, Clayton, Clyde, Concord, Danville, Diablo, Discovery Bay, Knightsen, Lafayette, Martinez, Moraga, Oakley, Orinda, Pacheco, Pittsburg, Pleasant Hill, Port Chicago, Port Costa, San Ramon, Walnut Creek & West Pittsburg.


4. Local Hiring Program

The District has established an annual overall Local Capacity Building Program (LCBP) goal for local hiring of at least.

(1) Twenty-four percent (24%) participation by local West Contra Costa County residents.
(2) Twenty percent (20%) participation by apprentices from state approved apprenticeship programs in all hours worked, on a craft-by-craft basis.
(3) The overall goal will be for all of the apprenticeship hours to be worked by residents of West Contra Costa County.

Contractors will be required to reach these goals or demonstrate a “Good Faith” effort to do so if the goals are not met by the end of the project.
5. Good Faith Efforts Submittals

The prime contractor must take, and require their subcontractors to take, the following good faith steps to demonstrate that they have made every effort to reach the local hiring goals of the District.

a. The contractor shall attend scheduled pre-job meetings held by the District pertaining to work they will perform. The contractor must submit written workforce projections and projected man-hours on a craft by craft basis.

b. Within one week of the Notice to Proceed, the prime contractor shall meet with the Local Capacity Building Consultant to present its plan for reaching the LCBP hiring goals, using the required compliance plan.

c. The contractor shall submit copies of hiring hall dispatch requests to the Local Capacity Building Consultant within 30-days of such request. The contractor shall maintain documentation of union hiring hall responses and make such documentation available to the Local Capacity Building Consultant within 30-days of request.

d. The contractor shall contact the Local Capacity Building Consultant, if a union hiring hall cannot, upon request of the contractor, dispatch local residents as defined herein.

e. The contractor shall use the “Name Call,” “Rehire” or other available hiring hall procedures to reach goals and shall provide documentation of such requests to the Consultant within 30-days of request.

f. The contractor shall use Youth Build and/or other Community Based Organizations specified in the contract specifications as a resource for local labor resources, if a union cannot provide local residents as requested, and in conformity with the collectively bargained union hiring hall agreement.

g. The contractor shall request dispatch of apprentices from the local joint apprenticeship training committee in which he/she participates by submitting a Division of Apprenticeship Standards (DAS) Form 140 to those local joint program-training apprentices in the area that the contractor will perform the work. Copies of the DAS Form 140 shall be provided to the Local Capacity Building Consultant within 10-days of written request by the Local Capacity Building Consultant.

h. The contractor shall sponsor local residents as defined herein for apprenticeship, when possible.

i. The contractor shall maintain a file for each local worker who was referred but not hired along with an explanation why the worker was not hired.

j. The contractor shall document participation in local employment training programs.

Contractors may also achieve compliance with these local hiring goals and timelines through the employment, on a craft by craft basis, utilizing priority area 1 local resident journeyman, existing apprentices and newly indentured apprentices for work done on non-District projects during the time period they are working a District project.

Evidence of employment of local residents shall be submitted to the Local Capacity Building Consultant.
6. Local Business Program

The District shall establish sliding-scale goals, for individual local businesses, which will be based on the known estimated capacity and availability, on a craft-by-craft basis.

Unless otherwise noted, the goal for all District projects is that local businesses will receive a minimum of 30% of the total dollar volume of work to be done in the following areas:

Division 1 thru ___

It is the policy of the District to provide all certified local businesses an equal opportunity to participate in the performance of all District contracts. Bidders must assist the District in implementing this policy by taking all reasonable steps to ensure that all qualified business enterprises, including local businesses, have an equal opportunity to compete for and participate in District contracts.

A bidder’s good faith efforts to reach out to local businesses will be determined from written documentation. Failure to meet expected participation levels will not by itself be the basis for disqualification or determination of noncompliance with this policy. However, failures to provide supporting documentation of a good faith effort, as indicated herein, and achieve a minimum of 75 out of 100 Good Faith Effort evaluation points may render the bid non-responsive and may result in its rejection. Adequacy of a bidder’s good faith effort will be determined by the District after consideration of the indicators of good faith as set forth below.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td>2</td>
<td>10</td>
</tr>
<tr>
<td>3</td>
<td>9</td>
</tr>
<tr>
<td>4</td>
<td>15</td>
</tr>
<tr>
<td>5</td>
<td>15</td>
</tr>
<tr>
<td>6</td>
<td>10</td>
</tr>
<tr>
<td>7</td>
<td>10</td>
</tr>
<tr>
<td>8</td>
<td>21</td>
</tr>
<tr>
<td>Total:</td>
<td>100</td>
</tr>
</tbody>
</table>

Each indicator is evaluated on a pass/fail basis, i.e. either full or zero points can be achieved for compliance with each item.
1. **SUFFICIENT OPPORTUNITIES FOR VENDORS AND SUPPLIERS**

   The bidder has identified and selected specific materials or services to be provided by vendors and suppliers in order to provide an opportunity for participation by local businesses. Upon making this determination, the bidder subdivided the total material and service contract work requirements into smaller portions or quantities to permit maximum active participation by local businesses.

   **Required Documentation:** Proof of this must be demonstrated in either Indicator 3 or 4.

2. **SUFFICIENT WORK IDENTIFIED FOR SUBCONTRACTORS**

   The bidder has identified and selected specific work items in the project to be performed by sub-bidders/subcontractors in order to provide an opportunity for participation by local businesses. Upon making this determination, the bidder subdivided the total contract work requirements into smaller portions or quantities to permit maximum active participation by local businesses.

   **Required Documentation:** Proof of this must be demonstrated in either Indicator 3 or 4.

3. **ADVERTISEMENT**

   Not less than ten (10) calendar days prior to the submittal of bids, the bidder advertised for sub-bids from interested local business enterprises in one or more daily or weekly newspapers, trade association publications, minority or trade oriented publications, trade journals, or other media specified by the District.

   **Required documentation:** A copy of the advertisement and a proof of publication statement or other verification, which confirms the date the advertisement was published.

   **Note:** The advertisement must be specific to the project. It should include the project name, name of bidder, areas of work available for subcontracting, and a contact person’s name and telephone number, information on the availability of plans and specifications and the bidder’s policy concerning assistance to subcontractors in obtaining bonds, lines of credit and/or insurance. Consideration will be given to the wording of the advertisement to ensure that it did not exclude or seriously limit the number of potential respondents.

4. **WRITTEN NOTICES TO SUBCONTRACTORS, TRUCKERS, VENDORS AND SUPPLIERS**

   The bidder has provided written notice of its interest in receiving sub-bids on the contract to those local business enterprises having an interest in participation in the selected work items. All notices of interest shall be provided not less than ten (10) calendar days prior to the date the bids are required to be submitted.

   **Required Documentation:** A copy of each letter sent to available local businesses for each item of work to be performed. If there is only one master notification, then a copy of the letter along with a listing of all recipients will suffice. Faxed copies must include the fax transmittal confirmation slip showing the date and time of transmission. Mailed letters must include copies of the metered envelopes or certified mail receipts. Letters must
contain areas of work to be subcontracted, project name, name of the bidder, and contract person's name, address, and telephone number.

* This written notice can be used to satisfy Indicators, 1, 2 and 6.

(Bidders should contact the District to obtain a current listing of Local Businesses or refer to the Bond Management Website http://www.wccusdbondprogram.com/).

5 FOLLOW-UP ON INITIAL SOLICITATION 15 Points

The bidder has documented efforts to follow-up initial solicitations made in Indicator #4 by contacting the local businesses to determine with certainty whether said enterprises were interested in performing specific portions of the project work, to answer any questions from them, to record any telephone quotes, and to confirm/record the local businesses interest in bidding on the project, not less than three (3) calendar days prior to the date the bids are required to be submitted.

Required Documentation: A copy of telephone logs or emails. These logs must include the name of the company, telephone number, contact person, the name of the person calling, time, date, and the result of the conversation. Bidder must follow-up with all subcontractors to whom they sent letters.

6 PLANS, SPECIFICATIONS AND REQUIREMENTS 10 Points

The bidder has provided interested sub-bid enterprises with information about the plans, specifications and requirements for the selected sub-bid/subcontracting work. The District or its agent will also make this information available for review at the District facilities office in Richmond (1300 Potrero, Richmond, CA).

Required Documentation: Include in Indicator 3 or 4, information detailing how, where and when the bidder will make the required information available to interested subcontractors.

7 CONTACTED RECRUITMENT/PLACEMENT ORGANIZATIONS 10 Points

The bidder has requested assistance from business organizations, District, or Local Capacity Building Consultant for the recruitment and placement of local businesses not less than ten (10) calendar days prior to the submission of bids. Any other organizations promoting local businesses contacted must also be listed in the required documentation.

Required Documentation: A copy of a letter sent to organizations, District or Consultant requesting assistance in recruiting local businesses. Faxled copies must include the fax transmittal confirmation slip showing the date and time of transmission. Mailed letters must include copies of the metered envelopes or certified mail receipts. Letters must contain areas of work to be subcontracted, project name, name of the bidder, and contact person’s name, address and telephone number.

8 NEGOTIATE IN GOOD FAITH 21 Points
The bidder has negotiated in good faith with interested local businesses and did not unjustifiably reject bids or proposals as unsatisfactory, as determined by the District.

**Required Documentation:** a) Copies of all bids or quotes received; and b) Summary sheet organized by work area, listing the bids received, the name of the company that submitted the bid, the dollar amount of the bid and the subcontractor selected for that work area. If the bidder elects to perform a listed work area with its own forces, they must include a bid that shows their own costs for the work.

**Required Documentation:** Include in Indicator 3 or 4, information about the bidder’s efforts to assist with bonds, lines of credit and insurance.

7. **Local Business Utilization**

   Good Faith Efforts Submittal: The apparent low bidder shall submit completed good faith effort documentation no later than three (3) working days following the close of business the day bids are received. The District in its review of the good faith effort documentation may request additional information to validate and/or clarify that the good faith effort submission was adequate. Such information shall be submitted promptly provided upon request by the District.

8. **Consequence for Non-Compliance:**

   Local Hiring Program: The District staff shall consider allegations of non-conformance with the goals. If the District determines that a contractor has not complied with the goals or demonstrated good faith efforts to do so, it may

   a. Impose a fine of up to $500.00 per day, or 1% of the contract, whichever is less, for each violation until the contractor has demonstrated good faith efforts to reach the goals;

   b. Require the contractor to increase the hiring of first priority residents in order to achieve the goals of the program

Contractors may appeal any determination of non-conformance by the District within 10-days notice to the contractor of the finding of non-compliance. The District shall render a decision within 30-days of the filing of an appeal.

Local Business Utilization: The District reserves the right to reject any and all bids. The award of a contract will be to the lowest responsive, responsible bidder whose proposal complies with all requirements prescribed herein. This includes compliance with the required Local Business Utilization reporting and achieving a minimum score of 75 points in the Good Faith Effort evaluation system noted above.

END OF SECTION
Happy New Year City Manager Biggs:
Below is information about our apprenticeship program that was requested at the December 16th Council Meeting. Please let me know if you need anything else. I will also be providing additional information about Project Labor Agreements in an additional email this afternoon.

1) Current number of apprentices in ABC NorCal Programs – 248
2) Current number of apprentices in Contra Costa County – 27
3) 11 applicants in Contra Costa County ready for dispatch

Good Morning –

Belinda Espinoza, the City Manager in Pinole, has provided me with your contact information as the main parties with whom she worked with as the City of Pinole explored Project Labor Agreements.

As you are aware, the City of Hercules is partnered with the City of Pinole in the construction of a new waste water facility. The Pinole City Council has expressed a desire to proceed with the project under the terms of a possible Project Labor Agreement to be negotiated. However, this decision requires the mutual agreement of Pinole and Hercules and the Hercules City Council has not yet discussed this option.

Yesterday evening, the Hercules City Council decided to add an informational item on Project Labor Agreements to their agenda for next week’s meeting – Tuesday, December 16th. I wanted to extend an invitation for you to participate in the meeting and to be prepared to perhaps share your perspectives with the City Council, perhaps 10 minutes or so, as the
Council has been following the discussions in Pinole. The meeting starts at 7 PM, however, it is a regular meeting and there are numerous other items on the agenda, but I will be placing this item on as early as possible. The City Council will not be taking any action on this matter next week and I anticipate they will take up the matter in January once we have finalized our fiscal agreement with Pinole.

Please contact me if you have any questions about next week’s meeting. I expect that the agenda and staff reports for the meeting will be available on our website by no later than Thursday evening this week sometime after 6 PM.

Regards,

David C. Biggs  
City Manager  
City of Hercules  
111 Civic Drive  
Hercules, CA 94519  
(510) 799-8216  
dbiggs@ci.hercules.ca.us
Throughout the month of September 2013, ABC NorCal visited all of the One-Stops located in Alameda and Contra Costa County, a total of 13. At each location, ABC NorCal met with job counselors or dropped off information in order to promote our various apprenticeship programs.

On October 26, 2013, ABC NorCal attended and hosted a table at a resource fair in Brentwood that was sponsored by the Disabled American Veterans and Delta Veterans Group. There were about 60 attendees at this event. Overall, the event stimulated interest in the ABC NorCal Apprenticeship Programs, both from veterans and from local organizations.

On October 30, 2013, ABC NorCal gave a presentation about the apprenticeship program to the pre-apprenticeship program FutureBuild located in Pittsburg, CA. There were about 20 students total in the classroom. Many seemed interested in the program. In the future, ABC NorCal will invite pre-apprenticeship programs and other construction classes to allow them to see our training facility rather than visiting the class simply to speak about the program.

On November 12, 2013 ABC NorCal met with a youth advisor and job developer for the Transition Partnership Program (TPP) at the Antioch Unified School District. The Transition Partnership Program (TPP) is a statewide vocational education and work placement program. TPP provides secondary and post-secondary students with disabilities the tools and support necessary to effectively transition from school to competitive employment. TPP contacts are located throughout the state of California in local high schools and community colleges; however, not all school districts or community colleges have a TPP. The TPP provides enhanced vocational rehabilitation services for at least one year prior to the student leaving high school. Services include training and school classes or programs to enable students to obtain employment. This may include community-based instruction, vocational and work-site training, job placement, work incentive wages, and follow-up services. ABC NorCal looks forward to working with Antioch Unified School District’s TPP to provide graduates of the program an opportunity to enter the apprenticeship program.

On December 5, 2013, ABC NorCal gave a presentation to a senior class at Antioch High School. ABC NorCal has been partnering with the Transitional Pathways Program funded by Antioch Unified School District and the Department of Rehabilitation. The Transition Partnership Program (TPP) is a statewide vocational education and work placement program. TPP provides secondary and post-secondary students with disabilities the tools and support necessary to effectively transition from school to competitive employment. ABC NorCal looks forward to giving more presentations to future classes.

On December 12, 2013 ABC NorCal also met with Antioch Unified School District to discuss working together to provide supplemental education for the academy. At AHS, staff and administrators are reconfiguring the learning environment to an academy structured system that is composed of 4 academies offered to the students. These academies are Edge-Academy of Engineering, Eco Cats-Environmental Science Academy, Media Tech and LAPS-Leadership and Public Service Academy. Though the school consist of 4 separate academies, the mission is all the same; to provide an integrated and structured hands on learning environment for the students that focus on fundamental skills that pertain to their individualized academy. This is pertinent as students complete their A-G high school requirements, gain exposure and experience in their potential career paths, but also build a foundation for their lives after high school in whether students pursue a college degree or enter the workforce with some sort of skills and knowledge. ABC NorCal is hoping to work as a partner with Antioch High School’s EDGE — Academy of Engineering to offer opportunities to youths after graduation.

Cindy Rash
Apprenticeship Services Coordinator
ABC NorCal
4577 Las Positas Road, Unit C, Livermore, CA 94551
Founded on the merit shop philosophy, ABC helps members develop people, win work and deliver that work safely, ethically, profitably and for the betterment of the communities in which ABC and its members work.
From: John Loudon [mailto:jloudon@caccg.org]
Sent: Monday, January 05, 2015 1:07 PM
To: Nicole Goehring
Subject: Re: New West County Health Center Final Report for public consumption

Nicole,

I am attaching the December 2013 report on the New West County Health Center audit that I provided to my board which was not meant for public distribution. If you want to pass it along to the Hercules leaders I think you can do that, but please know that we have been banned by an act of the Legislature from doing audits starting January, 2014 so I have not updated this.

Since the date of the report, we have received three additional responses to our complaints from the Department of Industrial Relations citing contractors sanctioned in some manner for significant labor code violations. This is directly contrary to the verbatim testimony given by Mr. Aram Hodess that “You do not have violations that go undetected under PLAs.”

Please note that the council members and mayor were clear that they did not want more information of one side disparaging the other, and I respect that. However, where Mr. Hodess consistently paints a picture of merit shops as unscrupulous wanton cheaters and union contractors as perfectly well-behaved and scrutinized by the union halls, this report shows that union shops have their share of problems. Unions cannot be relied upon to adequately police them, and PLAs do not deliver on local hiring or veteran hiring promises.

Finally, please note that the act barring us from helping workers recover unpaid wages in the future was sponsored by Mr. Hodess’ umbrella organization, the State Building and Construction Trades Council. If they are interested in making sure workers receive just compensation, eliminating firms doing these audits is an odd way to show it.

Respectfully,

John
• Just three (0.6%) of the workers on the project were female. The national participation goal is 6.9%.

• 40.9% of the workers were minority, but when Hispanic surnames are removed** just 3.8% of the total hours worked were performed by non-Hispanic minorities.

• No evidence was provided regarding any veteran preference hiring on this project and we saw no evidence of hiring outside of union hiring halls.

• The PLA for this project specified that priority was to be given to workers based on residence pursuant to a tier system. Just 9% of the total hours worked were from West Contra Costa County taxpayers and and 28% from the remainder of the county. Contra Costa taxpaying workers received a total of 37% of the hours worked.

• Nine (9) contractors listed operations inside Contra Costa County and 26 were located outside of the County.

• 31 of 35 contractors failed to provide proof of filing under the law, of their DAS-140 and DAS-142 statements. Several provided one but not the other. 22 provided neither form.

Workers at Risk/Further Investigation Warranted:

In addition to worker pay and safety violations, worker privacy was compromised due to the absence of any compliance monitoring under this PLA project. Anyone in the field knows to redact the workers' personal identification data. However, the certified payroll records provided to CCCG by Contra Costa County included the full names, addresses, and even social security numbers of all of the workers.

The Division of Labor Standards Enforcement requests at least 90 days to review complaints so they can bring charges in the form of civil wage penalty assessments. Initially, the Department did their job and fined Guarantee Glass $104,008.43 as noted previously. However, of the other 13 complaints, one was closed as the contractor was allowed to adjust their paperwork, five were closed without explanation and nine assigned cases have no resolution at all at the date of this memo, fully 344 days past the day we mailed the complaints to the DLSE.

With so little help from the DLSE we mailed letters directly to all 244 workers listed on the payroll records notifying them that we had filed complaints on their behalf complete with the DLSE contact information and case assignment numbers. Surprisingly, from the reports this office received, the State employees apparently rebuked every worker who called saying they knew nothing about the complaints.

We then notified all 51 Assembly members and Senators corresponding to the addresses listed by the workers. We asked them whether they cared to get involved. We heard back from just two of them with varying interest in getting involved.

One worker reported that his mechanical contractor has a policy of not paying travel
pay according to the union contract. He named a co-worker who was taken off the job by the contractor for merely inquiring about travel pay. He said the union foreman and even the union responds by protecting the contractor even taking workers who complaint off the job. Is denial of travel pay in the union contractor business model with collusion by the union hiring halls?

We were also told by one worker that his contractor requires an 8 ½ hour shift for which eight hours of pay is provided. The workers are required to eat during two 15 minute breaks. No time is allowed for lunch. Is this common practice for union contractors?

Conclusion:

What was perhaps most surprising about this project was that there was a total absence of any labor law compliance-monitoring program on the project at all. The workers had no advocate monitoring their pay and their privacy was compromised. The County requested additional time to provide documents that should have been readily available in a central repository. Email traffic indicates that the County would request the documents from the Construction Manager at Risk which would in turn request the documents from the individual prime craft contractors and their subcontractors. As a consequence to the total dearth of monitoring, many workers were shorted. One denied over $13,000 in actual wages, which was almost a 50% reduction in wages earned. Both the contractor and even the surety bond company declared bankruptcy while no one was looking.

One would expect that under a PLA, compliance monitoring would be robust, if not by a contracted CMU, by the unions looking out for their workers. The evidence indicates the opposite; craft unions colluding to deny full benefits to workers.

Our records also show clear, prima facie violations of failures to file DAS 140 and DAS 142 statements, but the DLSE has ignored all of those to date. It has also apparently failed to bring any action on any of the apprentice violations. It should not take 344 days to determine that a contractor failed to file a form and is liable for $25 per worker per day. Sadly, this law is apparently selectively enforced.

We also have no response from the DLSE regarding the apprentice law violations including 45 days in which apprentices were totally unsupervised. While the statute of limitations for wage and hour violations is 180 days from notice of project completion, apprentice violations and failures to file DAS forms have a three-year limit. As SB 776 restricts CCCG from monitoring and enforcing the prevailing wage after 2013, the job of making these workers whole and holding these contractors accountable will fall on someone else.

* All data, except where noted, is derived from the records provided to our auditors. Exculpatory evidence provided subsequent to this report could impact some of the figures.

** Ethnic backgrounds and were analyzed by reviewing names and not self-reported data.
City Manager Biggs:

Below and attached is a variety of information about PLAs for inclusion in your staff report. Please let me know if you have any questions or need additional information.

In California, only 16.5% 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. Attached are documents concerning the two examples of projects in California bid without a Project Labor Agreement and then with a Project Labor Agreement. The Burchkaler 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/BHIStrudies/PLApolicystudy12903.pdf

Here is a link to the Connecticut study: http://www.beaconhill.org/BHIStrudies/PLA2004/PLAinCT23Nov2004.pdf
Here is a link to the New York study:

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 classic economic theory (and common sense) that more competition results in lower costs. See attached DIR slides.


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. 10 months later, no subs have stepped foot on the jobsite.

8. 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

9. $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.

10. 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.

11. Fairfield Train Station Bid results. See Attached. Not one non-union general contractor. Only one subcontractor from Solano County.
Project Labor Agreements

ABC believes Project Labor Agreements discourage fair, open and competitive bidding on public works projects and discriminate against merit-shop workers, a majority of the workers in construction. We believe in increasing opportunities for all workers regardless of their labor affiliation.

Background:
PLAs are a tool used by local school, city, county, state and federal officials to exclude non-union workers. On construction projects, PLAs virtually guarantee that only contractors who agree to big labor’s demands can compete.

- Workers must pay costly union dues, even if the employee is not a union member.
- All workers must be hired through a union hiring hall. This discriminates against non-union workers. Companies are often forced to lay off proven, productive workers to hire strangers picked by the union bosses.
- All employees must contribute to union health, welfare and pension plans, regardless of whether or not the workers already have their own plans. Union plans also require long vesting periods making it unlikely that the non-union worker will see the benefit of their contributions.
- All apprentices must come from state approved union programs, discriminating against thousands of apprentices in state approved merit shop programs.

PLAs limit competition, meaning fewer jobs and higher costs for taxpayers. PLAs discriminate against the 84% of California construction workers who choose not to join a union.

PLAs drive up costs for construction projects as much as 13-15%.

Taxpayers prefer an open and competitive bidding process. When Project Labor Agreements are taken out of the hands of elected officials and put before voters, Fair and Open Competition prevails every time.

Examples:

The City of Milpitas, located in the Bay Area recently approved a Project Labor Agreement for the construction of the $39M Milpitas City Library. The California Department of Industrial Relations officially notified eight contractors that they violated state labor laws during construction of the $39 million Milpitas City Library Project.

Measuring the Costs of Project Labor Agreements on School Construction in California, a 2011 study by National University’s Institute for Policy Research and the most comprehensive study conducted to date regarding the costs of Project Labor Agreements, concluded that California school construction costs taxpayers 13-15% percent more when built under Project Labor Agreements. This means that, in inflation-adjusted dollars, a Project Labor Agreement is associated with costs that are as much as $32.49 per square foot higher than those built without PLAs.

The San Diego Unified School District placed a PLA on its $2.1B construction bond in July 2009. The first project to go out to bid under the PLA had 66% less bids than a similar project in
the area without a PLA kickback scheme attached to it. Worse yet, the bid was 35% over budget and was awarded to a bidder from Los Angeles.

Two projects in California bid both with Project Labor Agreements and without Project Labor Agreements. For a power plant in Pasadena, the low bid was more than 15 percent higher with a Project Labor Agreement, and the number of bidders dropped 20%. For an elementary school at the Oakland Unified School District, the lowest bid was 24 percent higher with a project labor agreement, and the number of bidders dropped 50%.

Two local governments in Northern California tried Project Labor Agreements in so-called “pilot projects.” At the Mount Diablo Unified School District, there was only two bids on a two-piece project covered by a Project Labor Agreement. One bid exceeded the estimate by 300%, the other exceeded the estimate by 93%. On a second try, the district only managed to get two bidders.

At the Solano County Community College District, only two contractors bid on a simple $3 million pilot project covered by a Project Labor Agreement. Dozens of other contractors would have been eligible to bid on the project had the PLA not been in place.

On the recent Contra Costa Community College District Student Services Remodel bid, there were 17 prequalified bidders before the Project Stabilization Agreement was put in place. The result of the PSA? 5 contractors bid the project. The engineer’s estimated construction cost for the LMC Student Services Center Remodel project was $14.87M and the final bid price was $16.47M. The cost differential is about $1.6M, which represents an amount of about 10.7%.

For more information about Project Labor Agreements, visit www.thetruthaboutPLAs.com
Power plant costs to soar
Labor clause adds millions
By Gary Scott
Staff Writer

Friday, March 21, 2003 -

PASADENA -- The city will pay an additional $2.3 million for using union labor on the Glenarm Power Plant project, according to an official from the company likely to get the contract.

Nathan Howard, vice president of Sermatech Power Solutions, says this is how much more his company will charge the city to install two gas-turbine generators under a contract provision that requires the use of union workers.

The City Council will be asked Monday to approve the contract.

"The city got a $2.3 million lesson in how to pay off union bosses," said Eric Christen, president of the Coalition for Fair Employment in Construction, a group that supports nonunion companies' rights. "I've never seen a City Council that has so brazenly done the bidding of union bosses."

Sacramento-based Sermatech originally turned in the lowest bid on the project, saying it could do the work with its own nonunion workers for $14.8 million. In February, the council voted to reject all bids after it received several letters from union groups threatening strikes or other work stoppages on the project.

The second-lowest bidder, The Industrial Company, also filed a letter complaining that Sermatech's bid was incomplete.

The council decided to amend the contract, changing several provisions contested by Industrial and adding a Project Labor Agreement.

The PLA requires that the company getting the contract use union labor exclusively and honor local labor agreements.

In a second round of bidding Sermatech again turned in the lowest bid, offering to install the generators for $17.2 million. Howard said the additional cost is "100 percent due to the PLA, and that the city actually removed several work items from the contract.

The City Council's Municipal Services Committee recommended Wednesday that the council approve the contract with Sermatech.

"All we did was buy off on the PLA for $2.3 million," said Councilman Steve Haderlein, who serves on the committee with council members Sid Tyler and Joyce Streator. Streator was absent. Haderlein and Tyler voted against rejecting the first round of bids.

"As lukewarm as I can make a motion, we have to move this forward," Haderlein added. He expressed frustration after being told that the project was on a tight deadline.

"We would have performed the project at our previous price," said Howard in an Interview Thursday. "We would have been happier to do that."

The generators must be operational by the end of the year so that two smaller gas turbines at the Glenarm plant can be retrofitted to meet South Coast Air Quality Management District regulations, said Joe Awad, Pasadena Water and Power project manager.

"The delay caused by the whole PLA is causing us to have to move faster," said Haderlein.

Phyllis Currie, PWP's general manager, said even more expensive delays could have resulted from a strike or a lawsuit.
"What we bought in this regard was a better-defined project and, to some extent, we have bought a greater likelihood of labor stability," Tyler said. He had been the chief critic of the council's decision to reject the bids.

Councilman Victor Gordo, speaking Tuesday, defended his vote to rebid the project, saying staff determined Sematech's original bid was "not responsible."

Currie said Wednesday that she would have recommended the contract had the city not received objections from the union representatives.

Gordo also disagreed with Christen's characterization that the council majority was acting on labor's behalf, saying the decision was about ensuring "quality workmanship" in building the turbines.

"It is a union issue only to the extent that the staff and the council want to ensure that whoever works on this project are the most qualified and responsible workers that we can possibly get," Gordo said. "If they are union workers, then so be it."

If the City Council approves the contract Monday, the generators could become operational in early October, Awad said. The city had planned for the units to be running before summer, when the demand for energy is at its highest.

The two gas-turbine generators will each produce 46-megawatts of power at peak production. They are more efficient and less polluting than the two steam-driven generators they will replace.

The city has decommissioned the steam generators after SCAQMD rejected plans to retrofit them. A third steam-powered generator, known as B-3, continues to produce power for the city.

– Gary Scott can be reached at (828) 576-6300, Ext. 4456, or by e-mail at gary.scott@sgvn.com.
January 30, 2007

Mr. Kevin D. Korenthal
Director of Government Affairs
Associated Builders & Contractors
Los Angeles/Ventura Chapter
15854 Strathern Street
Van Nuys, CA 91406

Re: Public Records Act Request - Pasadena Power Plant Project

Dear Mr. Korenthal:

Attached please find documents responsive to your January 29, 2007 Public Records Act request.

This office has been informed that approximately two months elapsed between rejection of the bid on January 27, 2003 and award of the contract on March 31, 2003.

Please do not hesitate to contact the undersigned should you have any questions on this response.

Thank you for your patience in this matter.

Very truly yours,

MICHELE BEAL BAGNERIS
City Attorney

[Signature]

Ann Sherwood Rider
Assistant City Attorney

ASR/jv

Enclosures
<table>
<thead>
<tr>
<th></th>
<th>Spec LD-02-6 Prior bids</th>
<th>Spec LD-03-2 New Bids</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sermatech</td>
<td>$ 14,947,520</td>
<td>$ 17,231,697</td>
</tr>
<tr>
<td>TIC</td>
<td>$ 15,377,000</td>
<td>did not bid</td>
</tr>
<tr>
<td>ARB</td>
<td>$ 19,258,898</td>
<td>$ 18,050,194</td>
</tr>
<tr>
<td>University Marelich</td>
<td>$ 30,000,000</td>
<td>did not bid</td>
</tr>
<tr>
<td>Kiewit- Pacific</td>
<td>did not bid</td>
<td>$ 18,118,200</td>
</tr>
</tbody>
</table>
DIR's mission is to improve working conditions for California's wage earners and to advance opportunities for profitable employment in California

John C. Duncan
Director

DIR divisions involved in public works

Angela Bradstreet, Labor Commissioner
Division of Labor Standards & Enforcement (DLSE)

Gregory Govan, Chief
Division of Labor Statistics & Research (DLISR)

Dave Reitan
Chief Deputy Director, DIR
Former Chief, Division of Apprenticeship Standards (DAS)

Director's role in public works

- Issue public works coverage determinations and decisions on administrative appeal
- Issue enforcement decisions arising out of Civil Wage and Penalty Assessment (CWAPA) hearings (LC 1742)
- Approve, monitor and revoke Labor Compliance Programs
- Set prevailing wage rates and decide rate disputes (LC 1773 et seq.)

Role of divisions in public works

<table>
<thead>
<tr>
<th>DLSE</th>
<th>DLISR</th>
<th>DAS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enforcement</td>
<td>Publishing</td>
<td>Apprenticeship</td>
</tr>
<tr>
<td>commercial, confidential &amp; apprentices' salaries, scope of work</td>
<td>enforcement, program approved, decertification</td>
<td></td>
</tr>
</tbody>
</table>

Coverage determination process

- Interested party files request to determine coverage of a specific project or type of work (CCR title 8, section 16001)
  - Submission by interested parties of documents, arguments, authorities
  - Continuing duty of parties to provide Director with relevant documents in their possession
Coverage, continued

- Administrative appeal to Director (CCR title 8, section 16002.5)
  - Deadline for filing appeal is 30 days from issuance of determination
- Appeal must state full factual and legal grounds
- Whether to hold hearing within sole discretion of Director
- Decision subject to judicial review (CCP 1085)

Skilled craftspeople are needed to complete bond work

- $43 billion in bond work approved in 2005
- Labor & Workforce Development Agency estimates need for 188,000 additional craftspeople
- Replace retiring construction trades workers who currently average 47 years of age

Fewer contractors = higher costs

Statistics show a big financial impact if there are too few bidders on construction projects

<table>
<thead>
<tr>
<th>NUMBER BIDDERS</th>
<th>COST IMPACT</th>
</tr>
</thead>
<tbody>
<tr>
<td>8+</td>
<td>10-30% less</td>
</tr>
<tr>
<td>5-7</td>
<td>0-10% less</td>
</tr>
<tr>
<td>4-5</td>
<td>0-10% more</td>
</tr>
<tr>
<td>2-3</td>
<td>10-25% more</td>
</tr>
<tr>
<td>1</td>
<td>25-100% more</td>
</tr>
</tbody>
</table>

Source: Leland Saylor & Associates

Low quality and schedule delays also result in higher project costs

Public works educational meeting

Spring 2008

Date and location of training seminars will be announced soon

Those attending today’s meeting will receive invitations

Division of Labor Standards Enforcement

Angela Bradstreet,
Chief/State Labor Commissioner

Mission of the Division of Labor Standards Enforcement

- To vigorously enforce minimum labor standards to ensure employees are not required or permitted to work in substandard, unlawful conditions
- To protect employers who comply with the law from those who attempt to gain competitive advantage at the expense of their workers by failing to comply with minimum labor standards
Public works mission

- Public Works Unit investigates and enforces payment of the appropriate prevailing wage rates for all workers engaged in the execution of public works construction projects.

What is the definition of public works?

- Public Works: Labor Code sections 1720
- "Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds..."

Who does the law protect?

All workers employed in the execution of any contract for public works projects (LC 1772)

What are the responsibilities of the awarding body?

- Recognize prevailing wage violations and report to Labor Commissioner (LC 1726)
- Withhold and retain all amounts required to satisfy a civil wage and penalty assessment issued by the Labor Commissioner (LC 1727)
- Specify in the call for bid and in the contract what the general prevailing wage is for each trade or classification and/or include a statement that copies of prevailing wage rates are on file and available at its principal office (LC 1773.2)

What must public works contractors do to comply with the law?

- Must maintain and furnish certified payroll records (LC 1776)
- Must pay prevailing wage rates (LC 1774 & 1613)
- Must comply with the apprenticeship requirements (LC 1777.5)
- For additional information, see www.dir.ca.gov/dlse

Common mistakes and violations

- Failure to list a worker's Information, correct work classification, or paycheck numbers on the certified payroll records
- Failure to pay the appropriate rates and premium rates for work on weekends and holidays
- Misclassification of workers
Common mistakes, continued

- Employment of non-indentured apprentices at apprentice rates
- Deducting and failing to report and pay fringe benefit contributions
- Failure to apply rate increases
- Failure to report and pay training trust contributions

Consequences of non-compliance

- Joint and several liability
- Penalty for nonpayment of prevailing wage rate (LC 1775)
  - $20-50 per calendar day, per worker, per violation
  - Amount of penalty determined by DLSE:
    - Whether failure to pay was good faith mistake
    - Promptly corrected
    - Whether contractor has prior record of non-compliance
    - Whether violation was willful

Consequences, continued

- Penalty for nonpayment of the premium rates/overtime rates and holiday rates (LC 1813)
  - $25 per calendar day, per worker, per violation
- Penalty for non-compliance with certified payroll records requirements (LC 1776)
  - $25 per calendar day, per worker

Debarment proceedings (LC 1777.1)

- Debarment is a penalty for "willful violation" of the prevailing wage laws and/or violation of the law with "intent to defraud"
- "A willful violation occurs when the contractor or subcontractor knew or reasonably should have known of his or her obligation under the public works laws and deliberately failed or refused to comply with its provisions."
- Debarred contractors are listed on www.dif.ca.gov/dlse/Debar/html

Significant civil wage and penalty assessment - example 1

- Total amount of CWAPA: $255,349.86
- Total wages: $164,223.62
- Total 1775 Penalties: $81,625
- Total 1813 Penalties: $1,625
- Issue: Failure to pay the correct prevailing wage rates
- Craft/classification: Residential framer and finisher; residential carpenter and laborer
- Number of affected workers: 11

Significant civil wage and penalty assessment - example 2

- Total amount of CWAPA: $1,876,536.30
- Total wages + training: $1,236,385.30
- Total 1775 penalties: $598,680
- Total 1813 penalties: $41,350
- Issue: Misclassification and nonregistered apprentices
- Craft/classification: Inside wireman, telecommunications technician and cable splicer
- Number of affected workers: 11
Challenges and opportunities for improvement

- Ensure consistent and predictable enforcement of prevailing wage requirements
- Maximize resources to ensure aggressive enforcement

Division of Labor Statistics and Research
Gregory Govan, Chief

Mission

The Division of Labor Statistics and Research is dedicated to serving the people of California by collecting, compiling, and presenting accurate and timely statistics and research relating to the condition of labor in the state

DLSR's contribution to the prevailing wage program

- Produce two types of prevailing wage determinations:
  1. General wage determinations: Issued twice a year and posted online at www.dir.ca.gov/DLSR
  2. Special wage determinations: Only issued to awarding bodies upon request for project-specific application

Contribution, continued

- Provide timely and accurate responses to explain the components of the wage determinations:
  - Overtime, travel & subsistence, shift pay, and scope of work
  - Our hotline is open from 8 a.m. to 5 p.m. and is backed up by senior staff
  - Respond to approximately 60,000 written and verbal requests per year

Methodology used to determine the prevailing rate

- By statute, the prevailing wage rate is set by the mode, or the single rate being paid to the greatest number of workers.
Methodology, continued

- By statute, the Director establishes the modal rate from the following sources of information in this order:
  1. Collective bargaining agreements
  2. Federal rates (Davis-Bacon)
  3. Other data such as wage surveys
  4. Rates paid in the nearest labor market area

Special wage determinations

- Involve crafts and classifications or market segments not found in the general wage determinations
- Issued approximately 4 weeks after a request from an awarding body
- Approximately 900 are issued annually (90% of them are for residential projects)

An opportunity for improvement

- To improve the timeliness and availability of residential determinations, the DLSR is planning to:
  1. Issue residential wage determinations on demand
  2. Make them area wide rather than project specific
  3. Make them available to public entities—contractors, developers, & unions

Division of Apprenticeship Standards

Dave Rowan, Former Chief

Apprenticeship

The Division of Apprenticeship Standards provides oversight to California’s state-approved apprenticeship programs.

Apprenticeship is a key strategy for meeting the need for skilled workers.

DAS key strategies to meet need for skilled craftspersons

Increased:
- Education about apprenticeship
- Enforcement of apprenticeship-related public works laws
- Effectiveness of existing programs through DAS staff support and oversight
- Teamwork amongst DIR’s divisions
Apprentices on public works jobs
- The employment of apprentices on public works jobs is required by the CA Labor Code
- California leads the nation in apprenticeship:
  - 150,000 construction apprentices nationwide
  - 48,500 are in California
  - CA is #1 with 65,000 total apprentices
  - NY is #2 with 20,000
  - Illinois is #3 with 18,500

Education about apprenticeship
- Recruit potential apprentices & employers
  - Exciting "I Built It" campaign to start in early 2008
- Educational meetings with contractors and others about public works requirements
- Focus on career technical education by the Governor, Labor & Workforce Development Agency and DIR
- Partnerships with other state agencies such as EDD, WIB's

Enforcement
- Aggressive, consistent enforcement with escalating penalties and debarment when appropriate
- Improved relationships with and performance of Labor Compliance Programs (LCP's)
- Changing regulations to facilitate compliance with the mandatory use of apprentices on public works projects

Opportunities to create more skilled craftspersons through apprenticeship
- Investigate expansion of apprenticeship programs in the residential marketplace
- Increase graduation rates
- Potential opportunities within existing programs:
  - Shorten apprenticeship terms in some trades
  - Reduce rates when appropriate
  - Training can support up to 1/3 (e.g. support for trades)

Public discussion
When it comes to public works, how can DIR communicate better and be more responsive?
TO: BOARD OF SUPERVISORS
FROM: BARTON J. GILBERT, DIRECTOR OF GENERAL SERVICES
DATE: APRIL 19, 2005

SUBJECT: ADOPT RESOLUTION OF ACCEPTANCE AND NOTICE OF COMPLETION AND LEVY LIQUIDATED DAMAGES FOR THE FIRST AND SECOND FLOOR REMODEL AND PARKING LOT EXPANSION AT 1650 CAVALLO ROAD, ANTIOCH FOR THE EMPLOYMENT AND HUMAN SERVICES DEPARTMENT (WH4578); District V.

SPECIFIC REQUESTED OR RECOMMENDATION(S) & BACKGROUND AND JUSTIFICATION

RECOMMENDATION

1. ADOPT the Resolution of Acceptance and Notice of Completion for the above project and DIRECT that the Clerk of the Board record it no later than April 20, 2005.

2. If the contractor has not completed the punchlist work by the deadlines set forth in the County’s April 7, 2005 letter, DIRECT that the General Services Director proceed to complete the punchlist work expeditiously and that the expense be deducted from the contract balance.

3. LEVY liquidated damages of $385,000 pursuant to the construction contract for the contractor’s 385-day delay in completing the project between March 30, 2004 and April 19, 2005, together with additional liquidated damages of $1,000 per day until the above project is ready for occupancy.

FINANCIAL IMPACT

Any costs necessary to finish the punchlist work will be covered by funds deducted from the contract balance. To the extent that the contract funds are not sufficient to cover all expenses, including liquidated damages, the County presumably will be able to recover the additional amount from the contractor and/or the contractor’s bonding company.

CONTINUED ON ATTACHMENT: X YES
SIGNATURE:

RECOMMENDATION OF COUNTY ADMINISTRATOR:
APPROVE
RECOMMENDATION OF BOARD COMMITTEE:
OTHER

SIGNATURES:
ACTION OF BOARD ON: April 19, 2005 APPROVED AS RECOMMENDED X CORDER

VOTE OF SUPERVISORS

UNANIMOUS (ABSENT __________)

MEDIA CONTACT: BARTON J. GILBERT (510-7100)

CAPITAL PROJECTS MANAGEMENT DIVISION
ACCOUNTING
C:
CC: GENERAL SERVICES DEPARTMENT
County Administrator’s Office
County Counsel
Auditor Controller
Employment and Human Resources Department (via CPM)

ATTESTED:______________________________
AND COUNTY ADMINISTRATOR

HEREBY CERTIFY THAT THIS IS A TRUE
AND CORRECT COPY OF AN ACTION TAKEN
AND ENTERED ON THE MINUTES OF THE BOARD
OF SUPERVISORS ON THE DATE SHOWN

BY: __________________________
DEPUTY
BACKGROUND

1. On May 13, 2003, the Board awarded the construction contract for the First and Second Floor Remodel and Parking Lot Expansion at 1650 Cavallo Road, Antioch, to Tinney Construction Corporation (TCC) of Redwood City, California. The contract required completion within 180 calendar days from the starting date. On July 14, 2003 a notice to proceed was issued with a starting date of July 16, 2003 and a contract completion date of January 12, 2004. Due to necessary additional work on the project, the completion date was revised by change order to March 30, 2004.

2. TCC has not performed in a timely manner but has completed the construction to a point where the project almost is ready for occupancy. Before occupancy can be obtained, certain punchlist items must be completed and a final building inspection and fire inspection must be completed.

3. The General Services Department repeatedly has notified TCC and its bonding company (Travelers) of the delays in completing the project and has demanded that TCC and Travelers take action to complete the project without further delay. Despite numerous promises to complete the punchlist work expeditiously, TCC has removed its project superintendent/foreman prematurely from the project in violation of the construction contract and has failed to complete the remaining punchlist work in a reasonable timeframe. As a result, the punchlist work, which should have taken a short time to complete, has languished with no imminent end in sight.

4. On April 7, 2005, pursuant to the construction contract, the General Services Department sent a ten-day notice to TCC (see attached copy). In that letter, the County demanded that TCC return the project superintendent/foreman to the project site and resume work on the punchlist items by April 18, 2005. If TCC meets the April 18 deadline, the letter further demanded that TCC correct all punchlist work no later than April 28, 2005.

5. Under the circumstances, the General Services Department recommends that the Board adopt the attached Resolution of Acceptance and Notice of Completion, thereby accepting the project as complete subject to the remaining punchlist items. If TCC has not completed the punchlist work by the deadlines set forth in the County’s April 7, 2005 letter, the Department further recommends that the Board direct the General Services Director to complete the punchlist work expeditiously and to deduct the expense from the contract balance.

6. Given TCC’s long delay in completing the project, despite numerous promises to complete the work expeditiously, the General Services Department recommends that the Board levy liquidated damages against TCC and Travelers. Pursuant to the construction contract, TCC and Travelers are responsible for $385,000 in liquidated damages (385 days x $1,000/day) for the delay in completing the project from March 30, 2004, when the project should have been completed, to April 19, 2005. If the project is not ready for occupancy by April 19, TCC and Travelers are responsible for additional liquidated damages of $1,000 per day until the project is ready for occupancy.

CONSEQUENCES OF NEGATIVE ACTION

The project would continue in its present state, with no assurances that the punchlist work would be completed in a proper and timely manner. It is likely that the project funding would be adversely affected by overlapping debt service and rent payments at existing leased facilities, and by extended project management, consultant, and legal costs.

Rt:th
Attachments
BOARD OF SUPERVISORS, CONTRA COSTA COUNTY, CALIFORNIA

In the Matter of Accepting and Giving Notice of Completion of Contract with Tinney Construction Corporation (Original Contractor) Budget Line Item No. 4423-4457 Authorization No. 0928-WH457B

RESOLUTION OF ACCEPTANCE and NOTICE OF COMPLETION (Civil Code §§ 3086, 3093)

RESOLUTION NO. 2005/

The Board of Supervisors RESOLVES THAT:

The County of Contra Costa, on May 13, 2003, contracted with Tinney Construction Corporation for the First and Second Floor Remodel and Parking Lot Expansion at 1650 Cavallo Road, Antioch for the Employment and Human Services Department, Budget Line Item No. 4423-4457, Authorization No. 0928-WH457B, with Travelers Casualty and Surety Company of America as surety, for work to be performed on the grounds of the County; and

The Director of General Services reports that said work has been inspected and complies with the approved plans and specifications, except for certain punchlist items that remain to be completed, and recommends its acceptance as complete as of April 19, 2005 and recommends the withholding of sufficient funds to cover the remaining punchlist work and liquidated damages;

Therefore, said work is accepted as recommended above, and the Clerk shall file with the County Recorder a copy of this Resolution and Notice as a Notice of Completion for said contract; and the Director of General Services is directed to withhold monies sufficient to cover the remaining punchlist work and liquidated damages.

PASSED BY THE BOARD on April 19, 2005, by the following vote:

AYES: GIOIA, PIEPHO, DESAULNIER, CLOVER AND UILKEMA
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE
CERTIFICATION AND VERIFICATION

I certify that the foregoing is a true and correct copy of a resolution and acceptance duly adopted and entered on the minutes of this Board’s meeting on the above date. I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 19, 2005
at Martinez, California.

John Sweeten, Clerk of the
Board of Supervisors and
County Administrator

By

Originator: General Services Department – Capital Projects Management Division

Cc: General Services Department
   Capital Projects Management Division
   Accounting
   CPM File: 305-0102/A.5
   County Administrator
   Auditor-Controller
   County Counsel
   Employment & Human Services Dept.
   Contractor (via CPM)
   Surety (via CPM)
   Consultant (via CPM)
CONTRA-COSTA COUNTY

General Services Department

CAPITAL PROJECTS MANAGEMENT
1220 Morella Avenue, Suite 100
Martinez, California 94553-4711
(825) 313-7280 Phone
(825) 313-7299 Fax

Barton J. Gilbert
Director
Mickey Davis
Deputy Director
Michael J. Lango
Deputy Director
Rob Lim, PE
Manager

VIA FAX AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED

April 7, 2005

Tinney Construction Corporation
Attn: Aidan Tinney
575 Price Avenue, Unit C
Redwood City, CA 94063

SUBJECT: FIRST & SECOND FLOOR REMODEL AND PARKING LOT EXPANSION AT 1650 CAVALLO ROAD, ANTIQUE FOR THE EMPLOYMENT AND HUMAN SERVICES DEPARTMENT (WH457B)

Mr. Tinney:

Despite written and oral notices from the County, and despite many promises from you, you have failed to complete the punchlist items within a reasonable time. In fact, you have not even completed the punchlist items necessary for occupancy (Substantial Completion) and have not completed the final County building inspection items. Moreover, more than a month ago, you removed your superintendent/foreman from the project site in violation of Section 11.C of the General Conditions. Also, the project is more than one year late (it should have been completed by March 30, 2004).

The present situation, in which little progress is being made to complete the punchlist items, is intolerable and requires your immediate attention. Pursuant to Section 11 of the Construction Agreement, the County notifies you that, within 10 days of the date of this letter (i.e., on or before April 18, 2005), you must return your superintendent/foreman to the jobsite and must resume work with sufficient materials and workers to complete the remaining punchlist work (see enclosure) without delay. If you fail to return your superintendent/foreman to the jobsite or fail to resume work with sufficient forces or materials by the April 18 deadline, the County will proceed, without further notice, to have the remaining work done and to deduct the cost from the contract balance.

Please note that, even if you meet the April 18 deadline, the remaining punchlist work must be completed without delay and in no event later than April 28. In other words, it is not satisfactory for you or a subcontractor to send a crew out to work for a day or two and then stop. To prevent this from happening again, you must submit a revised schedule before returning to the jobsite. Should work thereafter cease, should you otherwise deviate from the revised schedule, or should you fail to complete all punchlist work by April 28, the County will proceed, without further notice, to have the remaining work done and to deduct the cost from the contract balance.
Even though the project is not complete and is not yet ready for occupancy, the County is taking steps to accept the project as complete subject to the remaining punchlist work (see enclosure). The board of supervisors will consider the acceptance at its April 19 meeting. Normally, the County does not accept projects until all work is complete or until the contractor signs a withhold letter covering any remaining punchlist items. In this case, the project is not complete, and you have not signed the withhold letter proposed by the County. However, with the project more than a year late and the work virtually stopped for an extended period, the only sensible solution is for the County now to accept the project as complete with the above deadlines for you to resume work at the jobsite and complete the punchlist work.

Given the seriousness of the present situation, we are again notifying your bonding company (Travelers) of the above delays and breaches. Should you or your bonding company fail to take appropriate action by the above deadlines, the County's expenses, including liquidated damages, may exceed the unpaid contract funds. If so, the County reserves the right to recover all expenses and damages, including additional liquidated damages, owed to the County.

We urge you and your bonding company to take advantage of this last opportunity. Failure to do so will result in more damages to the County, and may result in legal action.

Sincerely,

[Signature]

Rob Lim, P.E.
Capital Projects Division Manager

RL: Enclosure

cc: Leonidou & Rosin
   Attn: Patricia Walsh (Fax and U.S. Mail)
   Sedgwick, Detert, Moran & Arnold LLP
   Attn: James P. Diwik (Fax and U.S. Mail)
   St. Paul Travelers
   Trish Gilfoyle (Fax and U.S. Mail)
   Silvano B. Marchesi, County Counsel
   Attn: David F. Schmidt, Deputy County Counsel
   John Cullen, Director, Employment & Human Services
   Attn: Mike Jameyson
   Attn: Larry Jones
   General Services
   Attn: Mike Lango
   Attn: Les Richardson
   Attn: Jess Adamc
   File: 305-0102/C.1.1
County Building Dept. - List of Correction Items For Tinney 3-16-2005

1.) Adjust exit doors for back check.  
   Tinney to adjust for ADA push and pull pressures.

2.) Grate for drain @ ramp landing - openings are greater than 1/2".  
   Tinney to replace grate per ADA approved grate opening size.

3.) Obtain Fire Dept. approvals.  
   Main entry doors need to be activated in order to initiate the Fire Dept.'s inspection.

4.) Automatic door opener @ storefront doesn't work.  
   Tinney needs storefront door subcontractor to correct.

5.) Women's and Men's Bathroom do not meet accessibility requirements - Center line of toilets to finish wall must be 18" exact. Maximum height of lavatory is 34". Maximum height of soap dispenser is 34".  
   Countertops and sinks were removed and reinstalled.

6.) Maximum height of Kitchen countertop must be 34".  
   Countertop and sink were removed and lowered to 34".

7.) Provide insulation on tail-piece & p-trap underneath kitchen sink.

8.) Label service & all sub panels throughout.  
   Tinney to complete. In progress.

9.) Pedestrian ramps must be a minimum width of 48".

10.) Men's and Women's Bathrooms on 1st. & 2nd. floor must meet accessibility requirements for persons of disabilities: 18" exact from centerline of toilet to finish wall. Rim of urinal maximum of 17" height & flush handle 44" height maximum. Soap dispenser's 40" maximum height. Install mirrors in all Bathroom's 40" maximum height.  
    All corrected, except urinal. Urinal correction in progress.

11.) Install insulation on all tail-piece & p-trap @ Coffee Rooms.

12.) Caulk around base of all toilets - 1st. & 2nd. flrs.

13.) Countertops at Coffee Rms. exceed 34".  
    Countertops and sinks have been lowered to comply.

14.) Permit approvals and certification required from the State regarding installation of new boiler.  
    Tinney to obtain State certification.

15.) Accessible parking stalls must be 8' x 18'.

16.) Fire caulk penetrations in walls & ceiling in Boiler Rm. with 624,000 BTU boiler.
March 30, 2005

Aiden Tinney
Tinney Construction Corp.
575 Price Avenue, Unit C
Redwood City, CA 94063

Subject: CCC - 1650 Cavallo Road, Office Remodel 2000-077.01
Updated Punchlist

Dear Mr. Tinney:

The site was visited on March 28, 2005. The following items reflect those that are in variance with the Contract Documents and/or remain to be done or completed:

General Comments

1. Closeout documents including as-built drawings and maintenance manuals have not been received.
2. Some of the electric strikes on doors have not been completed on three doors.
3. Lockset missing from one supervisor's office.

First Floor

4. Door 114: Missing electrical hinge, el-mech latch, connection to card reader, astragal, and coordinator.
5. Door 115: Recessed floor mat is missing.
6. Door 116: Recessed floor mat is missing.
7. Door 116: Gaps exist between door frame and finish. Apply exterior sealant and finish interior joint.
8. Door 119: Missing cylinder, electric strike, and connection to card reader.
9. Door 135: Strike plate missing from pocket door.
10. Rooms 114 and 115 – Toilets: Mirrors are missing.
11. Supervisor's Office, southwest corner: Remove excessive paint on window sill trim.
Aiden Tinney
March 30, 2005
Page 2

Second Floor

15. Rooms 216 and 217 – Toilets: Mirrors are missing.

Exterior

16. At stair guardrail, concrete slab is badly cracked at guardrail post.
17. Top of guardrail at exterior stair has paint peeling from scraping.

Electrical

18. Devices have thermoplastic cover plates. Thermoplastic cover plates were rejected in Submittal No. 20 on 10/29/05. Provide “Nylon” cover plates or provide credit to the County for the difference.
19. Office 202: Provide blank cover plate for open j-box behind furniture adjacent to door (access blocked by furniture).
20. Second floor electrical room: seal open cores through floor; this is a fire hazard.

Mechanical

22. Condensate drain pipes and P-traps at rooftop units are improperly installed.
   A minimum 2 inch differential must be maintained between the unit drain connection and the trap arm. (Some have been repaired, but others remain.)
23. Install ID label on temperature control panel.

Plumbing

24. Urinals do not flush and drain properly at men’s toilet room on first floor.
25. Urinals at second floor men’s toilet do not flush and drain properly. Adjust flush valve as required.

Landscape

Landscape items from the February 26, 2005 punchlist from Vallier Design still remain.

Sincerely,

Charles L. Beavers, AIA

cc: Jess Adame
REQUEST TO SPEAK FORM  
(THREE (3) MINUTE LIMIT)

Complete this form and place it in the box near the speakers' rostrum before addressing the Board.

Name: CATHERINE BASKOFF/Leonard & Rossin, PC  Phone: 415-775-2860

Address: 5 Thomas Muller Circle 9205  City: San Francisco
Please note that if you choose to provide your address and phone number, this information will become a public record of the Clerk of the Board in association with this meeting.

I am speaking for myself  or organization: Tinney Construction Company

CHECK ONE:

☐ I wish to speak on Agenda Item # C-68  Date: 4-19-05

☐ I wish to speak on the subject of: Notification to the Board of Tinney Constr. intent to file a claim, PCC, & Specifications - Subject to levy of liens/estatsmony

☐ I do not wish to speak but would like to leave these comments for the Board to consider:

_____________________________________

Please see reverse for instructions and important information.
Pricey school construction spending draws scrutiny in West Contra Costa bond measure

By Theresa Harrington Contra Costa Times (mailto:tharrington@bayarea.newsgroup.com?)

RICHMOND — West Contra Costa residents are some of the most generous in the area when it comes to their schools, approving six bond measures to rebuild and expand classrooms and build new ones since 1998.

The most spending district builds at will, proud of a $26.4 billion program that gives school communities everything they want — including large theaters, swimming pools and dental clinics — at cost that approaches far exceed the norm in other districts.

And on June 3, the district is going but in hand even more to district residents, some of the poorest in the county, seeking another $400 million for each major upgrades as removing asbestos and every other kind of mending, as well as for removing and replacing schools, including some that had been marked for possible closure due to declining enrollment.

But this year’s request comes as significant opposition to the district’s spending habits — which it revives them — in beginning to boil. This time around, the district is asking residents in Richmond, El Cerrito, Cerritos, Hercules, Richmond, Pinole and San Pablo for more, even though it has not yet spent $400 million from earlier bonds and it won’t provide details of how previous bond money has been spent.

Bill Pay, assistant superintendent for operations, says the district builds according to “scope” rather than trying to stick to budgets or schedules. When money runs out, he said, projects get “ứnched” until another bond measure is passed.

Advertisement:

HOW MUCH RISK IS IN YOUR PORTFOLIO?

Fly going.

District staff failed to provide much of the detailed financial records of costs associated with school contracts in response to numerous requests from this newspaper and the public. But a review of publicly available data appears to show that West Contra Costa — with more than 90 schools and about 30,000 students — spends far more than many other districts on school construction.

School construction cost expert Paul Abramson, who created an annual school construction report comparing costs nationwide and regionally, found the average new high school in the region that includes California cost about $129 million for about 4,000 students, approximately $32 a square foot, in 2013.

But in the West Contra Costa district, projected costs for 1,300-student Pinole Valley High, which is slated to be rebuilt over the next few years, have skyrocketed far beyond that. In January, Pay told the oversight committee the school would cost $280 million, more than four times the state average. By Wednesday, his estimate had increased to $470 million, including "soft costs" for architects and other services, or about 83 percent of the $570 million that voters are being asked to approve for Measure H.

"That’s beyond the parameters of anything I have seen," Abramson said, adding that some Los Angeles high schools cost as much as $425 million.

The same disparity exists with middle schools. According to the 15th Annual School Construction Report by Abramson in February, the median-priced middle school in the California-Arizona-Nevada-San Diego region in 2013 cost $75.5 million, or $295 per square foot.

By contrast, an analysis of West Contra Costa’s building costs shows that Pinole Middle School was estimated to cost $770 per square foot, with a budget of $350 million.

Some residents are pleased with the multimillion-dollar school facilities built or under construction for their children and support paying more.

"Students in every part of the district will benefit because Measure H will bring all of our elementary and middle schools up to the same high standard," five residents wrote on the ballot argument in support of the measure.

But a lack of information from the district about how that will be accomplished has prompted — for the first time ever — growing opposition from residents who believe the schools should be built within a budget and schedule.

District resident and former bond oversight committee member Linda Rags-Louie recently asked district officials for a list of schools that need asbestos, lead paint and other hazardous materials removed, as detailed in the Measure H ballot language. But she was told that the district wouldn’t provide that information until June 30 — Election Day.

She also questioned why the board recently agreed to triple the budget for a stadium at the already-impressively rebuilt El Cerrito High — boosting the cost from $7 million to $21 million — while the new bond measure states that students at other schools are using unsafe classrooms.

Similarly, district resident and former bond oversight committee member Anton Jungkans asked the district for back-up documentation explaining how it came up with its estimated tax rate of 35 cents per $100,000 in assessed valuation that residents would pay for the new bond measure. He was incredulous when the district said it had no such documents.

This year, property owners are projected to pay $482 annually per $100,000 in assessed value, or $504 for a home valued at $200,000, just to repay school bonds. If Measure H passes, that tax rate is projected to climb to $531 per $100,000, increasing taxes on a $200,000 home to $562 a year.

That is a steep price for district households where the U.S. Census reported the median household income in 2013 was $62,938.

Even some in the construction industry question why the district’s schools cost so much.

Steve Chainoff, a residential contractor who has supported district education programs, said the Making Waves charter school in Richmond was built at a cost of about $250 per square foot, compared with much higher costs for West County schools.

"It seems to me that there’s a very strong feeling on the part of the school board that the issue for the district is the quality of the buildings — and if they have great buildings, they’ll have great schools," he said. "So why then is the best performing high school in the district entirely housed in portables? Leadership Public High? You kind of look at it and you go, 'How does this work?'

Trustee Madeline Krosenberg, who along with school board President Charles Ramsey sits on the board’s two-person Facilities Construction Subcommittee, said she wanted to bring quality schools to the district after working as a teacher in another district where the floor was sheet-taped. The committee routinely approves budget increases for new items added to community school with little.
"I don't believe for a second that this is any kind of Cadillac-level of building," she said. "Our district is right in the middle in terms of cost. This is not the Taj Mahal or Cadillac-level schools. They are excellent and better than before."

Some large architectural and construction firms hired to work on the projects have also contributed significantly to election campaigns, leading some opponents to question whether contracts are being awarded to those who offer political and monetary support.

Superintendent Bruce Harter told the bond oversight committee that the district needs Measure H to provide equitable facilities so the quality of a student's school won't depend on where they live.

"We really think it's important that we have equity for all of our students," Harter said, "to have them all in facilities that have been provided by our bond program."

However, Payne said after the meeting that the district could complete all of its planned projects without Measure H, but it would have to delay them for several years.

Staff writer Robert Rogers contributed to this report. Theresa Harrington covers education. Reach her at 925-920-5765 or rharrington@bayarea.newsgroup.com

WEST CONTRA COSTA SCHOOL BOND MEASURES YEAR MEASURE AMOUNT AMOUNT

<table>
<thead>
<tr>
<th>YEAR</th>
<th>MEASURE</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>$40 million</td>
<td>$40 million</td>
</tr>
<tr>
<td>2001</td>
<td>$60 million</td>
<td>$60 million</td>
</tr>
<tr>
<td>2002</td>
<td>$80 million</td>
<td>$80 million</td>
</tr>
<tr>
<td>2003</td>
<td>$40 million</td>
<td>$40 million</td>
</tr>
<tr>
<td>2004</td>
<td>$60 million</td>
<td>$60 million</td>
</tr>
<tr>
<td>2005</td>
<td>$80 million</td>
<td>$80 million</td>
</tr>
<tr>
<td>2006</td>
<td>$80 million</td>
<td>$80 million</td>
</tr>
<tr>
<td>2007</td>
<td>$80 million</td>
<td>$80 million</td>
</tr>
</tbody>
</table>

TOTAL: $5 billion

SOURCE: Contra Costa County Elections Office, West Contra Costa school district

a sampling of bond construction projects

PREVIOUSLY COMPLETED:
El Cerrito High School
Dover Elementary
Dover Elementary
Ford Elementary
Del Valle High School

UNDER CONSTRUCTION:
Piper Middle School
Conrad Elementary
Chabot Middle School
Gompers Leadership
Fortuna Middle School

PLANNED:
Highland Elementary
Lake Elementary
Campano Elementary
Fairmont Elementary
Cinco Middle School

NEXT ARTICLE IN NEWS
Photos: Oakdale teen draws big crowd in Oakland's Diomand District


If you want to know how school bond money goes up in smoke, look no further than the planned fix-up of the World War II-era Burckhalter Elementary School in East Oakland.

For the past three years, with the classrooms in sore need of repair, Burckhalter's 127 students have been housed in eight portables that encircle the playground at the school off the Edwards Street exit of Interstate 580.

For a while, it looked like the school might just die.

State administrator Randy Ward, who was trying to cope with the Oakland Unified School District's troubled finances and shrinking enrollments, put Burckhalter on a hit list of 13 elementary schools to be considered for possible closure at the end of the school year.

But with support from parents and teachers, Burckhalter survived. Soon the district was green-lighting plans to bring the classrooms up to snuff, complete with new windows, floors, rest rooms, seismic upgrades and the like.

Money for the rehab would come from Measure A, a $300 million bond approved by Oakland voters in March 2000.

A call for bids went out, and a San Rafael firm that specializes in school construction — M.A. Davies Builders — came in with the low estimate of $1.8 million, beating out seven competitors.

But no sooner did M.A. Davies get a tentative nod than things took an unexpected turn.

Before a final deal was signed, the school district announced that — after years of on-again, off-again talks — it had signed a breakthrough labor pact with Alameda County's trade unions.

The pact is supposed to ensure labor peace in future school construction projects. It sets local hiring goals, encourages job apprenticeships and requires that a percentage of workers be hired out of the local union halls.

It was a pact that came with a lot of political juice — with folks like Oakland City Council President Ignacio De La Fuente, himself a union rep, exerting pressure to get the Port of Oakland, the schools
and others to sign on.

But as a result of the labor pact, the school district decided to rebid the Burckhalter contract — and that, it turns out, came with a hefty price tag.

This time, there were only three companies in the running, and the lowest bid, from Albay Construction of Contra Costa County, was just over $2.2 million.

That's $437,000 more than original bid submitted by M.A. Davies just weeks earlier. And ironically, $437,000 is about what Ward will save for each of the five elementary schools that Oakland will close next year.

Of course, $437,000 would also go a long way toward providing more paper, pencils and other materials — something Burckhalter teachers, aides and others told us were in chronic short supply, forcing them to cover many of the costs out of pocket.

School district officials admit they are disappointed by the sharp increase, and are frankly at a loss to explain it.

"I was hoping the price didn't appreciably go up," said Tim White, head of facilities management for the school district.

Likewise, De La Fuente said he had no reason to believe the labor agreement was going to drive up the price.

So what's behind the added cost? After all, M.A. Davies, while not a union business, was required under the original deal to pay the same prevailing wages as the new contract.

Executives at M.A. Davies wouldn't talk for the record, but one rep told us the labor pact required so much additional paperwork that the company would have needed a full-time manager just to stay on top of the Burckhalter contract had it chosen to rebid the job.

But a project manager for Albay, whose own bid went up nearly $167,000 the second time around, discounted the idea of additional paperwork — saying it's pretty routine for any public works project.

Instead, the manager cited the reduced number of bids the second time (because many contractors had already lined up summer work) and the increased costs of materials.

Who's coming out ahead in all this isn't quite clear. But it's probably not the kids.

Alien resident: San Francisco Board of Supervisors President Matt Gonzalez is reaching out to find Latinos to serve on city commissions — in fact, he's reached all the way out to Oakland.

What Is A PLA?

Project Labor Agreements (PLAs) are a special interest kickback scheme that ends open, fair and competitive bidding on public work projects discouraging the vast majority of local contractors and small business owners from bidding on work. PLAs impose discriminatory mandates on small business ensuring that projects are awarded to only vendors preferred by big labor unions.

PLAs: Bad for Workers. Bad for Taxpayers.

PLAs discourage nearly 84% of California’s construction workforce from competing for and winning construction project contracts. Construction contracts with PLAs are almost always awarded exclusively to unionized contractors and their all-union workforces. Less competition and inefficient union work rules increase the cost of construction projects with PLAs.

A Project Labor Agreement for the City of Hercules, for instance, means more taxpayer dollars will be spent on higher construction costs. Under this scenario, only 4 taxpayer funded projects will be built for the price of 5.

- Workers must pay costly union dues, even if the employee is not a union member. These dues can cost $1100!
- All workers must be hired through aunion hiring hall. This discriminates against non-union workers. Companies are often forced to lay off proven, productive workers to hire strangers picked by the union bosses.
- All employees must contribute to union health, welfare and pension plans, regardless of whether or not the workers already have their own plans. Union plans also require long vesting periods making it unlikely that the non-union worker will see the benefit of their contributions.
- All apprentices must come from state approved union programs, discriminating against thousands of apprentices in state approved merit shop programs.

Contractor Mandates

- Contractors are not allowed to negotiate the PLA. Only union representatives are allowed at the negotiating table with the owner.
- Proven, innovative, flexible and effective work rules are junked for a new set of mandates imposed by the PLA.
- PLAs use only union job classifications.
- PLAs force union arbitration and grievance procedures on all contractors.

Few contractors will alter their operations or impose union requirements on their employees in order to be awarded a bid. Many union contractors will not expose their employees to work rules and new jurisdictions they had no hand in negotiating. Because of these provisions, PLAs reduce competition and drive up costs for taxpayers and contractors.
PLA Facts

• 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.

  Americans overwhelmingly reject PLAs

• Hercules taxpayers want their projects built by the best contractors at the best price and want their elected officials to choose the construction firm that offers the best value. The record clearly shows PLAs harm all of these goals.

  Project Labor Agreements unnecessarily inflate the costs of taxpayer-funded construction and discourage the economic growth and job creation so desperately needed in California at this time. All governments in California could help ensure the best quality construction at the best price for taxpayers by prohibiting Project Labor Agreements on their taxpayer-funded construction.”  Jon Coupal, President, Howard Jarvis Taxpayers Association

  “From Boston’s Big Dig to the San Francisco airport, if it’s a project with egregious cost overruns, a project labor agreement is probably involved.”  Wall Street Journal – June 14, 2010

  “PLAs are a form of political bid-rigging that robs taxpayers even in good economic times. They deserve to be outlawed.”  Wall Street Journal – July 19, 2011

  “California school construction costs taxpayers 13-16% more when built under Project Labor Agreements.”  Measuring the Costs of Project Labor Agreements on School Construction in California – National University July, 2011

• Recently, there was a 30% reduction in bidders on the City of Brentwood Civic Center bid under a PLA and only one local contractor on the winning bid list. 25 general contractors went through the pre-qualification process. 20 prequalified. On the day of the actual bid, the total number of contractors bidding the work suddenly dropped almost 50% to 11! Less competition + less bids = higher costs to taxpayers.

• In the Oakland Unified School District a construction bond was passed for $300 million in order to rehab and modernized old schools. Bids went out for a rehab project which received EIGHT bids. The lowest responsible bidder came in at $1.8 million – which happened to be from a merit shop contractor. After the bids came in, the district decided to re-bid the contracts for the rehab project, as a PLA had been placed on all work. The result was another bid and this time there were only THREE bids with the lowest coming in at $2.2 million dollars. The project’s cost skyrocketed 24%, which is typical. IRONY - the district had to close down 13 schools due to budget cuts. The savings to the district for each closure was about $437,000 or the cost of ending competitive bidding.

• An audit conducted by Contractor and Compliance Monitoring Inc., found violations by 16 contractors working on a $150 million Los Angeles Unified School District high school under construction in San Fernando. The school was built under a PLA. The alleged violations include failure to pay prevailing wages and inadequate supervision. Several of the contractors had expired or suspended licenses.

• The San Diego Unified School District placed a PLA on its construction bond July 2009, and the first project to go out to bid under the PLA had 66% less bids than a similar project without a PLA attached to it. Worse yet, the bid was 35% over budget. The job was awarded to a bidder from Los Angeles despite big labor claims that a PLA would result in more “local hires.”

• Two contractors recently bid the 2010 Discovery Bay Asphalt Rubber Cape Seal job in Contra Costa County, one with a PLA and one without a PLA – PLA bid was from Southern California contractor and 17% over engineer’s estimate.
**BID SUMMARY**

Fairfield / Vacaville Train Station Project  
Bids opened: September 30, 2014 at 2:00 pm  
City of Fairfield Public Works Department

Engineer's Estimate (Base Bid): $35,980,730  
Engineer's Estimate (Additive Alternative 1): $2,471,128  
Engineer's Estimate (Base Bid): $38,451,858

<table>
<thead>
<tr>
<th>Bid Rank</th>
<th>Bidder Information</th>
<th>Base Bid*</th>
<th>Add Alt 1</th>
<th>Total Amount**</th>
</tr>
</thead>
</table>
| 1        | Teichert/Myers JV, Rancho Cordova  
3286 Fitzgerald Road, Rancho Cordova, CA 95745                                  | $34,792,559.50 | $3,398,405.50 | $38,190,965.00 |
| 2        | Ghilotti Bros., Inc./ RM Harris JV  
525 Jacoby St., San Rafael, CA 94901                                              | $38,876,999.05 | $3,055,362.50 | $39,932,361.55 |
| 3        | O.C. Jones & Sons/ RNR Construction, Inc.  
1520 Fourth Street, Berkeley, CA 94710                                            | $37,321,666.00 | $2,607,440.00 | $39,929,106.00 |
| 4        | Ghilotti Construction Company, Inc.  
248 Ghilotti Avenue, Santa Rosa, CA 95407                                           | $37,957,109.00 | $3,708,417.50 | $41,665,526.50 |
| 5        | De Silva Gates - MCM JV  
11555 Dublin Boulevard, Dublin, CA 94568                                            | $38,144,301.00 | $2,368,416.00 | $40,512,716.00 |
| 6        | RGW Construction, Inc.  
550 Greenville Road, Livermore, CA 94550                                           | $39,241,335.25 | $2,511,110.00 | $41,752,445.25 |
| 7        | Granite Rock Company  
120 Granite Rock Way, San Jose, CA                                                 | $39,336,769.00 | $3,514,477.50 | $42,851,246.50 |
| 8        | DMZ/ Bay Cities JV  
1717 Solano Way #19, Concord, CA 94520                                             | $42,448,494.05 | $2,970,198.70 | $45,418,692.75 |

*The basis for the award shall be based on the base bid.  
**Note: This bid summary is not a determination of award, responsiveness, or responsibility of bids received.
# List of Subcontractors

**Fairfield / Vacaville Train Station**  
Bldgs opened: September 30, 2014 at 2:00 p.m.  
Public Works Department

<table>
<thead>
<tr>
<th>Prime (apparent low- high)</th>
<th>Sub-Contractor</th>
<th>Location</th>
<th>License #</th>
<th>Work to be Performed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Teichert/Myers JV</td>
<td>Roebbeinen</td>
<td>Eldorado Hills, CA</td>
<td>734124</td>
<td>Structural steel, mechanical work</td>
</tr>
<tr>
<td>Aerco Pacific Inc.</td>
<td></td>
<td>Rancho Cordova, CA</td>
<td>166242</td>
<td>Landscape</td>
</tr>
<tr>
<td>Mike Brown Electrical Co.</td>
<td></td>
<td>Cotati, CA</td>
<td>95931</td>
<td>Electrical</td>
</tr>
<tr>
<td>James L. Harris Painting and Decorating Inc.</td>
<td>Auburn, CA</td>
<td>745726</td>
<td>Prep and paint abutement, platform, underpass, concrete barrier and related</td>
<td></td>
</tr>
<tr>
<td>Almamillo Rebar Inc.</td>
<td></td>
<td>Benicia, CA</td>
<td>890594</td>
<td>Rebar and related</td>
</tr>
<tr>
<td>FD Thomas</td>
<td></td>
<td>Sacramento, CA</td>
<td>610403</td>
<td>Water proofing and related</td>
</tr>
<tr>
<td>Borg Fence</td>
<td></td>
<td>Livermore, CA</td>
<td>771763</td>
<td>Fencing, gates and related</td>
</tr>
<tr>
<td>Midstate Barrier Inc</td>
<td></td>
<td>Stockton, CA</td>
<td>529261</td>
<td>Metal, chainlink railing, tubular hand railing, MBGR and related</td>
</tr>
<tr>
<td>Kle-Con Inc</td>
<td></td>
<td>Antioch, CA</td>
<td>953357</td>
<td>Precast girders and related</td>
</tr>
<tr>
<td>Ahiborn</td>
<td></td>
<td>Santa Rosa, CA</td>
<td>854244</td>
<td>Cable railing, hand railing and related</td>
</tr>
<tr>
<td>Pacific Coast Drilling</td>
<td></td>
<td>Santa Rosa, CA</td>
<td>539855</td>
<td>CIDH, Soldier pile wall and related</td>
</tr>
</tbody>
</table>
See the attached latest Project Labor Agreement Study from the commonwealth of Massachusetts Special Commission.

Project Labor Agreements are good for our communities, good for our local environment, and good for local workers!

Greg Feere
Contra Costa Building and
Construction Trades Council
2727 Alhambra Ave, Suite 5
Martinez, CA 94553
925-228-0900
925-372-7414 FAX

Please consider the environment before printing this email.
Commonwealth of Massachusetts Special Commission on the Use of Project Labor Agreements (PLAs) in Road, Bridge and Rail Projects Issues Report and Recommendations

"PLAs prevent cost-overruns, encourage the timely completion of projects, and avoid potential labor disputes."

BOSTON – The Commonwealth of Massachusetts Special Commission on the Use of Project Labor Agreements (PLAs) in Road, Bridge and Rail Projects issued its findings and recommendations.

Massachusetts Building Trades Council President Frank Callahan said, “After an exhaustive review of the facts, the commission’s findings confirm what the evidence has always shown. Project Labor Agreements are a time-tested business tool that has been used successfully in both the private and public sectors to deliver quality construction, on-time and on-budget.”

“The commission found PLAs to be particularly beneficial on public infrastructure projects that are large-scale, subject to strict time constraints, involve multiple interdependent phases, and/or may be used to revitalize job creation in the area. Consequently, by prohibiting work-stops and encouraging flexible work schedules, PLAs prevent cost-overruns, encourage the timely completion of projects, and avoid potential labor disputes. Furthermore, a provision guaranteeing flexible worker schedules is particularly useful for complex projects which require multiple phases. Additionally, an apprenticeship utilization requirement promotes both job training and creation, particularly for veterans, women, minorities, and low-income individuals.”

Accordingly, the commission recommends the use of a PLA for any public infrastructure project that involves one or more of the compelling criteria listed below. To encourage the use of PLAs and to provide clear and predictable standards for those PLAs, the commission has drafted model language which public entities should adopt and amend as needed for their respective road, bridge or rail projects. These recommended provisions will assist public entities with
employing the most beneficial aspects of a PLA and will provide predictable standards for future potential bidders.

Key Findings

- PLAs are appropriate both for large-scale projects and smaller projects that involve other compelling criteria
- When time constraints present an additional barrier to keeping a project on budget, a PLA, which encourages the timely completion of a project, can prevent the incurrence of ancillary costs.
- PLAs are appropriate on complex projects that require multiple, interdependent phases of work.
- PLAs help keep projects on time
- PLAs prevent scheduling premiums when a project presents scheduling constraints for workers.
- PLAs alleviate potential issues that may arise as a result of the particular geographical constraints of a project.
- PLAs are appropriate tools for preventing work stoppages and avoiding potential labor disruptions, particularly in areas, either geographical or industrial, with a history of labor unrest.
- PLAs can create jobs for both skilled and unskilled trade workers by including apprenticeship utilization and local residents hiring requirements.

The commission was established in August 2012 with the enactment of Chapter 242 of the Acts of 2012 - An Act Financing Improvements to the Commonwealth’s Transportation System to consider the circumstances under which project labor agreements (PLAs) should be utilized in the construction, repair and improvements to road, bridge and rail in the Commonwealth. The Commission was also tasked with the consideration of their appropriateness and function, the impact of the agreements on the cost of such road, bridge and rail projects for which they are utilized, and the size, complexity and duration of said projects for which they should be utilized.

The commission was comprised of five members appointed by the secretary of administration and finance; the secretary of transportation; the secretary of labor and workforce development; the attorney general; and the auditor of the commonwealth. Each of the appointees was a public official with expertise in public construction, public procurement bidding, and labor relations. The commission analyzed leading case law, instructive legislation, relevant federal executive orders, examples of past and current Massachusetts PLAs and solicited public input on the topic with the purpose of determining the usefulness of said agreements in containing overall project cost and addressing the complexity of schedule and geographical constraints on public works projects.
Dear Council Members,

Three minutes goes by very fast and I was not able to share last night the attached letter from ISD. Aram Hodess stated to you that Western Water cheated the Ironhouse Sanitary District, the attached letter of appreciation from ISD paints a very different picture about our performance and the project.

I should note too that this $55,000,000 waste water treatment plant was built on time and on budget in Contra Costa County without a PLA, with union and nonunion contractors and their employees working side by side. The truth is far more of these types of projects are built without a PLA than with.

Ken Kreischer  
CFO  
Western Water Constructors, Inc.  
707 Aviation Blvd  
Santa Rosa Ca 95403  
707-540-9640 (Tel) 707-540-9641 (Fax)

WESTERN WATER
CONSTRUCTORS, INC.
February 3, 2012

Mr. John McGarva
Western Water Constructors Inc.
707 Aviation Blvd.
Santa Rosa, CA 95403

SUBJECT: IRONHOUSE SANITARY DISTRICT
WASTEWATER TREATMENT PLANT EXPANSION PROJECT CONSTRUCTION

Dear John,

Ironhouse Sanitary District's (ISD) would like to express our appreciation for the exceptional work done by Western Water Constructors, Inc. on construction of our new $54.5 million wastewater treatment plant (WWTP). This is by far the largest project ISD has ever constructed and we could not be happier with the final product. The WWTP project involved innovative soil stabilization work to installing cutting edge process equipment all which came together smoothly due to WCC's cooperative and experienced staff and crews that were on-site.

ISD would like to additionally commend WWC on:
- exhibiting the highest level of safety culture, awareness, training, and practice throughout project resulting in no lost time accidents for the entire project,
- the quality craftsmanship which is exhibited throughout the project and commented on by many who have toured the facility,
- providing innovative in house value engineering as it related to the electrical design. The suggested change to primary power will result in an annual energy savings to the District of approximately $100,000 and
- how changes to the project were negotiated fairly and in a timely manner, resulting in low change orders and no claims on the project.

ISD enjoyed working with WWC and hope one day we can work together again. ISD would highly recommend WWC for any project. Do not hesitate to have prospective clients call us for a reference.

Sincerely

IRONHOUSE SANITARY DISTRICT

[Signature]

Jennifer Skrga
District Engineer
Dear Council Members:

As you seek information about Project Labor Agreements I’m sure an anti-ABC message will come up, there is a humorous anti-ABC video floating around that you’ll soon see if you have not already. I’m always surprised at the venomous attacks against the Associated Builders and Contractors by proponents of PLAs, for one as a long time member I understand the truth, second I think attacks are driven by an intent of misdirection regarding the facts as this is not about the unions vs. ABC; furthermore ABC is not alone in being opposed to PLAs.

The real issue is not are unions good or bad, or is the ABC good or bad; the issue is, are PLA’s good for a taxpayer funded public projects. Contractors are the ones who sign a PLA, work under a PLA and price the impact of PLAs on the projects. I bring up often the fact that unions don’t bid the project, the contractor does. The unions don’t represent the contractors either, they represent the union. ABC does represent contractors so their positions come from contractors.

Since I’m trying to show this is not just about ABC I wanted to share with you information over looked sometime because the unions try to make this into an anti-ABC agenda. The following groups are also opposed to public project PLAS: Western Electrical Contractors Association; Plumbing Heating Cooling Contractors Association; Air Conditioning Trade Association. The North Coast Builders Exchange one of the largest Builders Exchanges around covering Sonoma, Lake and Mendocino Counties is opposed to public project PLAs; as is the Marin Builders Association. Each of these groups represent contractors, are led by contractors and are opposed to PLAs even though they represent union and non-union contractors.

The one group you never hear the unions mention, let alone attack, is probably one of the largest contractor groups nationally, the Associated General Contractors of American (AGC). AGC is made up of many union firms, and is even the bargaining representative for many collective bargaining agreements between the unions and contractors, yet the AGC is opposed to government mandated PLAs for the same reasons I (and ABC) are expressing to you (i.e. reduced competition and cost increases) [see the attached letter, I know AGC sent the City of Pinole a similar letter].

So to the PLA proponents who say don’t pay attention to ABC, I would say fine, but what about all these other contractor groups?

Contractor Groups Who Oppose PLAs:

Air Conditioning and Trades Association

California Subcontractors Association

American Road Builders and Transportation Association

Asian American Contractors Association

Associated Builders and Contractors
Associated General Contractors (Opposed to GMPLAs)
Black Contractors Association
Bay Area Black Contractors Association
Californians for the Advancement of Apprenticeship and 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 Association
Independent Electrical Contractors Association
Western Electrical Contractors Association

Minority and Women Groups Who Oppose PLAs:
The Hispanic Contractors Association
Black Chamber of Commerce
Black Contractors Association
Women Construction Owners and Executives
Bay Area Black Contractors
Latin Builders Association
Asian American Contractors Association
The National Association of Women in Construction

Ken Kreischer
CFO
Western Water Constructors, Inc.
707 Aviation Blvd
Santa Rosa Ca 95403
707-540-9640 (Tel) 707-540-9641 (Fax)
November 19, 2012

Mr. Michael Schriefer  
N62473 Naval Facilities Engineering Command Southwest  
Coastal IPT/Code ROPMA Naval Station San Diego  
2730 McKean Street, Building 291  
San Diego, California  
Sent via e-mail to michael.schriefer@navy.mil

RE: Project Labor Agreement Inquiry; Y-P-151, Replace Fuel Pier at Naval Base Point Loma, San Diego, California; Solicitation Number N6247312X1420

Dear Mr. Schriefer,

On behalf of The Associated General Contractors of America (“AGC”), I thank the Naval Facilities Engineering Command Southwest (“NAVFAC”) for soliciting input from the construction community regarding the potential use of a project labor agreement (“PLA”) on an upcoming project for the replacement of the aging and seismically deficient Fuel Pier—Pier 180—at Naval Base Point Loma, San Diego, California (“Fuel Pier Replacement Project”). While AGC is not an interested source, as the largest trade association representing potential offerors on your projects, we are an interested party and wish to offer our input.

At the outset, let me explain that AGC neither supports nor opposes contractors’ voluntary use of PLAs for this project, or elsewhere, but strongly opposes any government mandate for contractors’ use of PLAs. AGC is committed to free and open competition for publicly funded work, and believes that the lawful labor relations policies and practices of private construction contractors should not be a factor in a government agency’s selection process. AGC believes that neither a public project owner nor its representative should compel any firm to change its lawful labor policies or practices to compete for or perform public work, as PLAs effectively do. AGC also believes that government mandates for PLAs can restrain competition, drive up costs, cause delays, lead to jobsite disputes, and disrupt local collective bargaining. If a PLA would benefit the construction of a particular project, the contractors otherwise qualified to perform the work would be the first to recognize that fact, and they would be the most qualified to negotiate such an agreement. Accordingly, AGC urges NAVFAC to refrain from imposing any PLA mandates on any of its contractors and to defer to the contractor’s judgment as to whether a PLA is appropriate for a given project.

Please see the enclosed Project Labor Agreement Inquiry Form for further comments. We appreciate the opportunity to share our insights with you and to help advance our common goals of fair competition and of economic and efficient performance of publicly funded construction projects. If you would like to discuss this matter with us further, please do not hesitate to contact me.

Sincerely,

/s/ Stephen E. Sandherr

Stephen E. Sandherr  
Chief Executive Officer  
The Associated General Contractors of America
Dear Council Members,

Here is some information I shared not too long ago with Staff and Council Members for the City of American Canyon when they were looking into PLAs. While some of the information is specific to American Canyon their experience and the facts presented ring true for all municipalities.

Ken Kreischer
CFO
Western Water Constructors, Inc.
707 Aviation Blvd
Santa Rosa, CA 95403
707-540-9640 (Tel) 707-540-9641 (Fax)

From: Ken Kreischer
Sent: Wednesday, April 17, 2013 10:10 AM
To: 'lgarcia@cityofamericanccanyon.org'; 'jbennett@cityofamericanccanyon.org'; 'bbennett@cityofamericanccanyon.org'; 'kleary@cityofamericanccanyon.org'; 'mjooseph@cityofamericanccanyon.org'
Cc: 'dshigley@cityofamericanccanyon.org'; 'mthorne@cityofamericanccanyon.org'

Subject: The Ideal Contractor

I had the opportunity last night to share a few points about PLAs from a contractor’s perspective and wanted to elaborate on that for you. The concept of the ideal contractor was mentioned last night, and I would submit to you that our Company is in fact your ideal contractor. I say that half tongue and cheek, but also with pride as well and not from arrogance, rather it is based on our performance. Our performance for and history with American Canyon exemplifies the ideal contractor and I hope earns creditability for my comments.

Over the years we have successfully completed many small and large projects including a handful of just thousand dollar work orders for the City which I’m sure staff can tell you were completed successfully, larger projects include:
2011 $80,000 motor replacement project at the Tower Road Pump Station.
2008 $1,400,000 electrical repair project at the Wastewater Treatment Plant.
2005 $36,000 electrical repair project at the Wastewater Treatment Plant.
2004 $6,200,000 expansion at the Water Treatment Plant.

Please read the attached letters about the Water Treatment Plant. This was a complex project, completed early and successfully for all without the need of a PLA. While much of the labor on that project was “merit shop” there were also some union contractors on the project, so not only is this an example that the two can and often work together but it is your own proof that it can and has been done on your projects in the past without the need of a PLA.

The Water Treatment Plant we built was a great project for the City but unfortunately I think it is safe to say the Waste Water Treatment Plant built by another contractor was a failure. Our $1.4M electrical repair contract with the City mentioned above was actually to replace the entire electrical system installed by another general contractor and electrical contractor at the WWTP. When Western Water was awarded this $1.4M contract by the City, Staff stated the following in their Council report:

“Numerous circuits in the system have failed due to collapse of the underground conduits. The settlement with CDM, Inc. required the City to correct known defects, and the electrical failures where known at the time, although the extent of the needed repairs was not known. Essentially the entire electrical distribution system needs to be replaced.

A significant amount of risk is associated with the electrical repair project because the Wastewater Treatment Plant must continue to operate during the repairs. Not only are there the normal risks associated with electrical safety, there is the added risk of incurring discharge violations if portions of the plant go out of service. It is analogous to replacing the electrical system of a car while the vehicle is in operation.”

As far as the repair work goes here you have another complex project undertaken and successfully completed by your ideal contractor. Furthermore the other bids received for the repair project that were higher than Western Water’s were all from union contractors. I think it is also relevant to point out that the troubled WWTP was constructed by a union general contractor and union electrical contractor. I must acknowledge though that there are good and bad union contractors, and good and bad merit shop contractors.

Representing the City you need assure that you have the opportunity to attract all the good contractors regardless of union affiliation. To that end I can tell you that a PLA would keep us, your ideal contractor, from bidding projects for the City.

The above is not hypothetical, nor examples from afar, it is your City’s really experience and that needs to be considered. My comments below on PLA’s as well are not rhetoric or based on propaganda as I referred to it last night; they are fact as I have experienced as a contractor.

You must understand that unions don’t establish the price of your bids, the contractor does. If the contractor thinks a PLA raises the cost of doing business then that will be reflected in your bids. I mentioned last night that the Central Marin Sanitation Agency surveyed the contractor’s interested in their $40M+ expansion project, I’d be happy to share that survey as we participated in that. The results of that survey indicated increased costs, the Agency did not use a PLA and that project was successfully completed by CMSA’s ideal contractor (see attached) using both union and non union subs. Contractors believe PLA’s impact costs, they are the ones that incur those costs so that is the group you should listen too on that subject.

I can also share that we have worked under a PLA, once, and not again. I’ve heard statements on the union side of PLA presentations and again last night that there is no documented case of a contractor paying dual benefits. To that I reply,
November 8, 2004

Mr. John Bly
Western Water Constructors, Inc.
3345 Industrial Drive, Suite 10
Santa Rosa, CA 95403

Subject: American Canyon Water Treatment Plant

Dear Mr. Bly,

HydroScience Engineers, Inc. (HSe) wishes to congratulate Western Water on the recent completion of the American Canyon Water Treatment Plant Expansion project. This project features the construction of a new 3.0 mgd membrane water treatment plant. This plant uses an ultrafiltration treatment system that is capable of exceeding all State and Federal drinking water standards, and can produce the highest quality of drinking water that is available to the public.

This plant was technically complex and challenging to construct. Your firm and its personnel have performed in an outstanding manner – the quality of workmanship in the final product is excellent, and the project has gone extremely well during the construction and startup phase.

As the design engineer, we were pleased with the level of cooperation and coordination that was present during the construction of this project, and we look forward to the next opportunity that we may have to complete another successful project with Western Water.

Very truly yours,
HydroScience Engineers, Inc.

[Signature]

Sim J. Blake, P.E.
Principal

Strategic Water Solutions
November 3, 2004

Western Water Constructors
3345 Industrial Drive #10
Santa Rosa, California 95403
Attn: John Bly

Re: American Canyon Water Treatment Facilities

Dear Mr. Bly,

As you are aware, Winzler & Kelly Consulting Engineers served as the Construction Manager for the owner, the City of American Canyon, on the referenced project. As is typical for a project of this size and complexity, several difficult issues arose during construction that could have negatively impacted the project. However, because of the cooperation and dedication of the Kirkwood-Bly (now Western Water Constructors) construction team led by Josh McGarva and George Lucero, these issues were resolved in timely and professional manner. The project has finished ahead of schedule and with a satisfied owner. The technical knowledge of your management staff combined with the quality workmanship has made this project a resounding success.

I look forward to working with your company on future water or wastewater projects.

Sincerely,

WINZLER & KELLY

[Signature]

Aramony B. Williams, P.E., RHA I
Senior Construction Manager
November 3, 2004

Western Water Constructors
3345 Industrial Drive #10
Santa Rosa, California 95403
Attn: John Bly

Re: City of American Canyon Water Treatment Facilities Project

Dear Mr. Bly,

The purpose of this letter is to recognize the efforts of Western Water Constructors (formerly Kirkwood-Bly Inc.) on the subject project. The new water plant upgrades represents a critical component of the City’s growing infrastructure. The quality of your work combined with the early completion has resulted in a very successful project for the City.

We look forward to future opportunities to work with Western Water.

Sincerely,

Steven Moore
Water System Manager
FOR IMMEDIATE RELEASE
June 30, 2010

Contact: Josh McGarva
josh.mcgarva@westernwater.com
707-540-9640

Western Water Constructors, Inc.
Completes $38 Million San Rafael Water Project
Taxpayers Get Critical Project On Time and On Budget

Santa Rosa, CA - Delivering the taxpayers another critical project on time and on budget, Western Water Constructors, Inc. has successfully completed a $38,000,000 project for the Central Marin Sanitation Agency (CMSA) in San Rafael California.

The wastewater treatment plant expansion project consisted of two primary clarifiers, two chlorine contact tanks, an enhanced primary treatment and a 155 million gallon per day pump station. Western Water’s employees placed 8,000 yards of structural concrete; installed all mechanical, piping and equipment including a challenging tie-in to an 84 inch marine outfall pipeline and provided over 14,500 hours to apprentices who are training for employment in the construction industry.

CMSA General Manager Jason Dow said “Western Water and their staff are well organized, professional and dedicated to quality construction and a safe working environment. I and the CMSA staff look forward to working with Western Water on future projects, and recommend that they be favorably considered for water and wastewater treatment plants, related improvement, expansion, and rehabilitation projects”.

In May 2007, CMSA considered placing a controversial anti-competitive Project Labor Agreement (PLA) on this project. A PLA would have ended competitive bidding by ensuring only union workers could be hired and would have denied over 80% of California’s construction workforce - including Western Water - the opportunity to work on the project. After surveying Contractors about the cost impacts, CMSA rejected the PLA and put the project out to competitive bid allowing Western Water and other companies to bid the project. Their decision took politics out of the decision-making process and gave taxpayers the best value and quality for their money.

Western Water believes successful projects are delivered SAFELY, on time, on budget, and done with open and fair competition. This successful project is another example of how taxpayers benefit from an open and fair competitive bidding process.

###

*Western Water Constructors, Inc.* is a Merit Shop Contractor and an equal opportunity employer specializing in the construction of water and wastewater treatment plants throughout California and is a member of *Associated Builders and Contractors* and the *North Coast Builders Exchange.*