

RESOLUTION NO. 2004-035

**RESOLUTION OF THE BOARD OF SUPERVISORS OF SOLANO COUNTY
SUPPORTING THE NEGOTIATION AND EXECUTION OF PROJECT LABOR
AGREEMENTS ON CERTAIN CAPITAL IMPROVEMENT PROJECTS**

WHEREAS, Solano County recognizes the need to maintain a steady workforce during construction of its public works projects; and

WHEREAS, it is in the public's interest that labor issues be resolved prior to commencement of construction; and

WHEREAS, the negotiation and execution of Project Labor Agreements for certain capital improvement projects would ensure a steady workforce, prohibit work stoppages due to labor issues, and provide for jobs of local trades.

NOW, THEREFORE, BE IT RESOLVED by the Solano County Board of Supervisors as follows:

1. The County shall negotiate and execute a Project Labor Agreement ("PLA") with the Napa-Solano County Building and Construction Trades Council covering all construction work for all construction projects in excess of Ten Million dollars (\$10,000,000) delivered through the Design-Build project method as set forth in Public Contract Code section 20133.

2. For any Capital Improvement Project involving new construction undertaken by the County with a total estimated construction cost of One Million dollars (\$1,000,000) or more, County staff shall, prior to the issuance of solicitation for bids, conduct an analysis as to whether it is in the best interest of the County to direct that a Project Labor Agreement ("PLA") be negotiated and executed for the construction project in question. In conducting its analysis, the County staff shall consider, among other factors, the Project's budget, schedule, scope and complexity of trades required, and shall consult with the Napa-Solano Building and Construction Trades Council for input on issues dealing with craft worker availability, local construction apprenticeship programs, local hire issues, and other issues related to labor relations on the Project.

Post-it [®] Fax Note	7671	Date	2/25/04	# of pages	2
To	Kevin Dean	From	Margie		
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FAX TRANSMITTAL

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DATE: 2/23/04
Number of pages including cover sheet 35

MICHAEL D. JOHNSON
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FROM: Sandy Hoffer

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REMARKS:

- Urgent
- For Your Information
- Reply ASAP
- Please Review/Comment

Item 23C

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AGENDA SUBMITTAL TO SOLANO COUNTY BOARD OF SUPERVISORS

SUBJECT		BOARD MEETING DATE	AGENDA NUMBER
Adoption of a Resolution Supporting the Negotiation and Execution of Project Labor Agreements For Capital Projects that Involve New Construction and Involve Construction Costs in Excess of \$1,000,000.		February 24, 2004	23c
Dept:	County Administrator	Supervisorial District Number	
Contact:	Darby Hayes		
Extension:	6107		
Noticed/Public Hearing Required?		Yes _____	No <u>X</u>

DEPARTMENTAL RECOMMENDATION:

Staff recommends that the Board adopt the attached "Resolution Supporting the Negotiation and Execution of Project Labor Agreements For Capital Projects that Involve New Construction and Involve Construction Costs in Excess of \$1,000,000".

SUMMARY:

In January 2004, the Board of Supervisors directed staff to return to the Board with a resolution requiring the negotiation of Project Labor Agreements (PLA) for County construction projects with a construction cost of \$1 million or more.

Since that meeting, staff has worked with the Napa Solano Building Trades Council to craft language that provides for the consideration of a PLA for all County construction projects with a projected construction cost of \$1 million or more. The attached resolution is the product of that collaboration.

FINANCING:

Adoption of this Resolution will have no direct cost impacts. The Resolution calls for the use of a PLA for construction projects over \$10 million that involve the use of design/build project delivery. In Solano County experience, these large projects have usually been fairly complex, have involved many different trade classifications and have involved fairly aggressive completion schedules. This

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type of situation lends itself to a PLA and may save money or at least result in a trade-off situation because of the stable labor relations, the use of skilled union laborers, the economic stimulus to the local economy from utilizing the local workforce and the use of apprenticeship programs.

Smaller projects (\$1 – 10 million) will have varying degrees of complexity and may not lend themselves to a PLA. This Resolution will require that County staff perform an analysis and confer with the Napa Solano Building Trades Council before recommending whether to utilize a PLA for smaller projects.

DISCUSSION:

As outlined above, in January 2004, the Board of Supervisors directed staff to return to the Board with a resolution requiring the negotiation of Project Labor Agreements (PLA) for County construction projects with a construction cost of \$1 million or more.

Since that meeting, staff has worked with the Napa Solano Building Trades Council to craft language that provides for the consideration of a PLA for all County construction projects with a projected construction cost of \$1 million or more. The attached resolution is the product of that collaboration.

The Resolution calls for the use of a PLA for construction projects over \$10 million that involve delivery under design/build. In Solano County experience, these large projects have usually been fairly complex, have involved many different trade classifications and have involved fairly aggressive completion schedules. This type of situation lends itself to a PLA and may save money or at least result in a trade-off situation, because of the stable labor relations (which help achieve a project delivered on schedule), the use of skilled union laborers, and the economic stimulus to the local economy from utilizing the local workforce and the use of apprenticeship programs.

Smaller projects (\$1 – 10 million) will have varying degrees of complexity and may not lend themselves to a PLA. This Resolution will require that County staff perform an analysis and confer with the Napa Solano Building Trades Council before recommending whether to utilize a PLA for smaller projects. Staff and the Trades Council have agreed that most County Road projects that involve only a limited number of trades, would not require a PLA.

Attached for the Board's information is a report prepared by the Worcester Municipal Research Bureau entitled Project Labor Agreements on Public Construction Projects: The Case for and Against dated May 21, 2001 (See Exhibit 1). The Research Bureau conducted an extensive analysis of the literature, legal opinions and Congressional testimony on the use of PLAS.

If your Board approves the Resolution, then staff will proceed with negotiating standard provisions with the Napa-Solano Building Trades Council that can be further customized to specific projects as

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required. This approach will help mitigate adverse schedule impacts resulting from negotiating PLAs on a project-by-project basis.

ALTERNATIVES:


The Board could choose not to adopt a resolution supporting PLA's or make the requirements for the utilization of PLA's either more or less restrictive.

OTHER AGENCY INVOLVEMENT:

Staff worked with the Napa Solano Building Trades Council, General Services and County Counsel to develop the recommended Resolution. The Building Trades Council, Association of General Contractors and the Association of Building Contractors received a draft version of the Board report for review and comment.

Staff conducted a State wide poll of County Architects and Engineers and General Services Directors to discuss what other counties have done throughout the State. The results are reflected in the attached spreadsheet (Exhibit 2). It is clear from the responses that Solano County is at the forefront of an emerging trend towards PLAs for large construction projects. Contra Costa is the closest neighboring county to have a requirement for PLAs on any project \$1 million and over.

DEPARTMENT HEAD SIGNATURE:



Michael D. Johnson
County Administrator

EXHIBIT B

SURVEY of COUNTY RESPONSES						
on						
PROJECT LABOR AGREEMENTS						
	County	Response	PLA		PLA Policy Requirement	
			Yes	No	Yes	No
1	Alameda					
2	Amador					
3	Bullo					
4	Contra Costa	✓	✓		✓	
5	El Dorado					
6	Fresno	✓		✓		✓
7	Humboldt					
8	Kern					
9	Los Angeles	✓				✓
10	Marin					
11	Mendocino	✓		✓		✓
12	Merced					
13	Monterey					
14	Nevada					
15	Orange	✓	✓			✓
16	Placer					
17	Sacramento	✓		✓		✓
18	San Bernardino	✓		✓		
19	San Diego					
20	San Francisco					
21	San Joaquin	✓		✓		✓
22	San Luis Obispo	✓		✓		✓
23	San Mateo					
24	Santa Barbara	✓		✓		✓
25	Santa Rosa					
26	Sonoma	✓		✓		✓
27	Santa Clara	✓		✓		✓
28	Santa Cruz	✓		✓		✓
29	Stanislaus					
30	Trinity					
31	Tulare	✓		✓		✓
32	Ventura					
33	Washoe					
34	Yuba					
35	Yolo	✓		✓		✓

1) Does any County have a policy (Board authorized or internal) that mandates a Project Labor Agreement for capital projects?

- LA County does not have a policy mandating a PLA for capital projects. In fact, our County Counsel has specifically advised against this type of policy.
- Mendocino County has no PLA's and to the best of my knowledge has not considered them.
- We do not have PLA's in Tulare County.
- Our department does not utilize PLA's. I am unaware if Public Works utilizes them. (Santa Barbara County)
- Fresno County also does not use PLAs; our Board does not want to be locked into these types of Labor Agreements.
- San Luis Obispo County does not and has not used PLAs.
- Sonoma County has not, and hopefully will not, implement Project Labor agreements on our projects. We were asked by our Board to evaluate them at the request of Bay Area labor groups, but have come to the conclusion there is very little benefit and potential additional cost.
- Contra Costa is required to use PLA's on any project \$1 million and over. We also previously used PLA's on bigger projects in the past, the West County Justice Center and the Regional Medical Center. The Board is very pro-labor and likes the agreement process. The staff and non-union contractors dislike the process which greatly slows the whole process down and adds work. Some claim that it adds to costs as most non-union contractors will not bid as the PLA requires them to hire out of the hall and pay union benefits in addition to their own. We would be happy to share the forms and how it works with you.
- I have included a copy of the PLA policy adopted by the Board of Supervisors in January 2002 as amended in August 2003, the 'standard form' Project Labor Agreement and excerpts from our Notice to Contractors.
- Orange County has a Project Labor Agreement in effect. Although there are some exception and variations, it applies to most public works projects over \$225K.
- We haven't utilized this in Santa Cruz, nor had I heard of it prior to your e-mail.
- Sacramento County has not used PLA's. Several years ago the unions were pushing PLA's. We spent lots of time researching and educating the Board and the County Executive. In fact a Powerpoint presentation was put together that was scheduled to go to the Board. It was pulled at the last minute. Apparently not enough Board support.

Our review concluded that local contractors are opposed to PLA's and it would provide little benefit to Sac County projects – we don't see the type of problems that PLA's are touted solving. I hope that helps. Seems like Sacramento is like virtually all of the other counties. (Sacramento County, Construction Management Division)

- Leslie Orta, our Counsel for Capital Projects, has maintained that Project Labor Agreements are not legal except for the circumstances cited in a recent case in San Francisco. Thus, we have not used them and are staying away from them. (Santa Clara County)
- In response to your e-mail; please know that the County of San Bernardino has not done any capital projects with a PLA agreement as part of the contract specifications.

2) Has any County implemented a PLA for a specific capital project in the past? If so, please forward your experience and copies of your policy to my attention.

- Los Angeles County has not done a PLA. Our Board has steered away from them. (LA County, Dept. Public Works)
- The Board of Supervisor, County of Orange has entered a Project labor Agreement with the building trades since January 2000. The Agreement is for five years duration with an evergreen clause. The thresholds for the capital projects are:
 - \$225,000 for project requires three or more trades.
 - \$15,000 for single trade
 Maintenance projects and Improvements through the Leases are exempt.

Any projects that have funds from Federal Government, these projects are exempt due to the President's Executive Order

I will forward you a copy of Orange County PLA Agreement and please call me regarding the experience with PLA. (Orange County)

- As far as I know, Contra Costa is the only county that has experience with PLA's. (Sonoma County).
- I don't have an electronic copy, but if you send me an address, I can send one to you. (Orange County, Director Internal Services, Resources and Development Mgmt. Dept.)
- After the policy was adopted, we bid three projects noticed with PLA requirements and subsequently awarded the contracts without provision for a PLA. The essential problem was disagreement by the Contra Costa Building and Construction Trades Council with the 'core workforce' provision of the policy. After that issue was resolved, we instituted a process whereby the Chief Executive Officer executes the PLA on behalf of the Trades Council. (Contra Costa County). The Board of Supervisors established a \$1 million threshold for projects requiring a PLA. We experienced a situation where the estimated project cost was less than \$1 million and the bid was advertised as a non-PLA project. All bids received were over \$1 million and the Board awarded the contract without requiring a PLA but amended the policy to clarify that a PLA is required on all contracts awarded of \$1 million or more regardless of the estimated project cost.

3) If your County has not implemented a PLA for capital projects (other than large infrastructure projects such as freeway and bridge construction), do you know of other public sector agencies (please provide contact information) that have implemented PLA's so I can follow-up with them directly?

- The best example of which I am aware was MWD's on the East Side Reservoir Project, and I don't have a contact. LA City did one for Staples Center but that was done through their Redevelopment Agency and it was quasi public-private as I understand it. (LA County, Dept. Public Works)
- Santa Ana Scholl District and Compton School District have PLA Agreements with the trades. Four years ago, I learned that San Francisco Air Port Authority had PLA Agreement with the trades. (Orange County)
- I do not know about other Counties, but the City of Los Angeles has been considering PLA's for some of their projects and I believe a PLA was implemented between the General Contractor and Union for construction of their new sports arena, the Staples Center. However, it seems that when PLA's have been implemented on Public Projects, it is usually between the General Contractor and the Union instead between the Owner and the Union. (Project Director, LAC+USC Medical Center Replacement Project)
- Although a PLA can and often does include an enormous amount of specifically negotiated (Many PLA's take months to negotiate) agreements between the Unions and the Owner or Contractor regarding hourly rates, annual increases, overtime, ratios of journey men to apprentices, etc., the primary emphasis for both parties ends up being:
 1. A no strike clause in the PLA for the benefit of the Owner/Contractor.

2. An all Union shop clause (construction companies & workers) for the benefit of the Union.
 3. Sometimes the Owner/Public Agency requests that language be included to encourage local hiring, but mandates and sanctions are not allowed, and a "best efforts" clause is weak and to arbitrary to enforce.
 4. Unlike many Private sector construction projects, construction projects conducted by Public agencies are required to pay workers the "prevailing wage rate", which is nearly identical to Union labor rates, and allows access to any company (non-union shops) that meet this criteria. Implementing a PLA almost guarantees only Union shops will be allowed or have fair access to compete for the work. If a non-union shop is allowed in because no union shop contractors are available, the non-union shop is usually required to pay union dues and fringe benefits for each of its employees. The County felt that implementing a PLA would reduce local community access to 1st, 2nd, 3rd, etc. sub-contracting opportunities by subcontractors that were qualified to compete but could not because they were not Union shops. In addition, we concluded that implementing a PLA between the County and the Union would likely increase the bid cost. (Project Director, LAC+USC Medical Center Replacement Project)
- There have been instances where other entities have used PLA's (SMUD, West Sac and the City of Sacramento). (Sacramento County, Construction Management Division)
 - The County of Orange, the City and County of San Francisco (airport expansion project), the Los Angeles MTA Light Rail Project, and the LAUSD have done projects with PLAs as part of the requirements. (County of San Bernardino)