



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

MAR 26 2013

Mr. Ben Brubeck
Director of Labor and Federal Procurement, Federal Affairs
Associated Builders and Contractors, Inc.
4250 North Fairfax Drive, 9th Floor
Arlington, VA 22203

Mr. Brubeck:

This letter is in response to your correspondence of January 18, 2013, regarding the California High-Speed Rail Authority's (CHSRA's) intent to require its Design/Build Contractor to comply with the terms of a Community Benefits Agreement (CBA). The Federal Railroad Administration (FRA) appreciates your interest in the California High-Speed Train (HST) Project and agrees that it is essential that CHSRA complies with applicable laws as the Project moves into the design and construction phase.

Under the terms of the FRA Cooperative Agreements, CHSRA must comply with the U.S. Department of Transportation's (USDOT) uniform administrative rules for Federal grants available in 49 C.F.R Part 18, also referred to as the "Common Grant Rule". Under these rules, where the grantee is a state, it must follow the "same policies and procedures it uses for procurements from its non-Federal funds" when using Federal funds for a procurement (49 C.F.R § 18.36(a).) Because the CHSRA was created by state statute and is part of California state government, FRA has determined that it must comply with California's procurement practices and policies in the expenditure of FRA grant funds. We have received CHSRA's analysis demonstrating that the proposed CBA is consistent with California's procurement practices and policies and is otherwise consistent with state law.

In addition, your letter also expresses some concerns with the concept underlying the CBA which you state is akin to a Project Labor Agreement (PLA). As you are likely aware, Presidential Executive Order 13502 supports the use of PLAs when they would reduce challenges that can occur in large-scale construction projects. Executive Order 13502, Use of Project Labor Agreements for Federal Construction Project (February 6, 2009). As described in the Executive Order, PLAs are often appropriate to provide "structure and stability to large-scale construction projects, thereby promoting the efficient and expeditious completion of Federal construction contracts." FRA understands the CHSRA is evaluating whether the HST project meets the criteria established in the Executive Order.

We will provide a copy of your letter to the CHSRA so they are aware of your concerns and considers all the issues prior to making a final decision on the CBA.

Thank you very much for your interest in this important investment.

Sincerely,

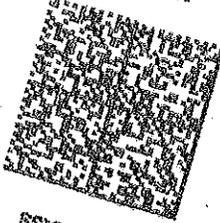
A handwritten signature in black ink, appearing to read "Joseph C. Szabo". The signature is written in a cursive style with a large initial "J" and "S".

Joseph C. Szabo
Administrator

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