TO: Sonoma County Supervisor David Rabbitt and Supervisor Efren Carrillo, Members of the Ad Hoc Committee on Project Labor Agreements  
(cc: Veronica Ferguson and Christine Williams)

FROM: The Coalition Against Sonoma County Project Labor Agreements

SUBJECT: RESPONSE TO AD HOC COMMITTEE’S DRAFT PLA POLICY AND TEMPLATE

On behalf of local contractors, the North Coast Builders Exchange, the Associated Builders & Contractors of Northern California, the Coalition for Fair Employment in Construction, the Western Electrical Contractors Association, and other local and state merit shop construction trade associations representing over thousands of contractor members and workers in Sonoma County, we thank you for including us in your process of developing a potential Project Labor Agreement Policy and Template for Sonoma County to bring to your fellow Supervisors.

As organizations that support fair and open competition and are committed to increasing opportunities for all workers regardless of their affiliation, we believe Project Labor Agreements eliminate open, fair and competitive bidding on public work projects. PLAs discourage the vast majority of local contractors and small business owners from bidding on this work. Numerous studies indicate that projects cost 10-20% more when built under a Project Labor Agreement. For these reasons, we remain strongly opposed to the concept of placing a Project Labor Agreement on any County public works project paid for with taxpayers’ money.

With that said, below is our response to the Ad Hoc Committee’s proposed Sonoma County PLA Policy and Template with recommendations that we believe, if included, would increase competition and likely reduce costs for taxpayers. We also believe that our recommendations below would provide a more inviting environment for small businesses in the area – including minority and women-owned businesses – to bid on County projects.

After carefully reviewing the Ad Hoc Committee’s draft PLA Policy dated November 26th, 2013 we found that we can support all of the recommendations that were included, specifically:

- The construction cost is budgeted at over $25 million for federally funded projects or over $10 million for state or locally funded projects.
- All key terms are agreed to as set forth in the Attachment “A” PLA Template.
  - Use of Core Workers
  - No double payment of benefits where contractors provide existing equivalent benefit plans
  - Requirement for pre-apprentice and career technical workforce training programs, above and beyond California Labor Code requirements regarding the use of apprentices
- All trades and unions are signatory to the PLA; there will be only one agreement per project.
- Use of the PLA provides the lowest bid, or an enhanced value or community benefit with a dollar value less than or equal to 2% of the lowest bid to be determined on each applicable project, using a bid alternate approach.
Regarding the Ad Hoc Committee’s draft PLA Template dated November 26th, 2013, we have a number of recommendations that would greatly improve the Template not only for the County of Sonoma and its taxpayers, but for the local merit shop contractors and their employees who make up 86% of the building industry workforce in Sonoma County.

The issues of concern to us and our recommendations for improvements are listed below.

<table>
<thead>
<tr>
<th>Position</th>
<th>Issue</th>
<th>Concern</th>
<th>Corrective Measure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clarify Section 2.2</td>
<td>“Covered Work”</td>
<td>Covered Work is not defined. Covered Work should be limited to the work on the project site so that offsite work is excluded; i.e. material fabrication and hauling.</td>
<td>Define Covered Work as being work performed solely on and at the Project site.</td>
</tr>
<tr>
<td>Clarify Section 6.1</td>
<td>“Project Manager” and “Contractor Representatives”</td>
<td>Project Manager is not defined. Unions should not select two contractor representatives in addition to the two union representatives.</td>
<td>Define Project Manager as an individual employed by the county from the Risk Management Department. Delete the word unions in the first sentence.</td>
</tr>
<tr>
<td>Support Article 12</td>
<td>Use of any State-approved apprenticeship program.</td>
<td>While the PLA template does allow for the use of apprentices from any State-approved program, it could be inferred that an apprentice from a non-union program would have to comply with section 8.2 regarding dues and representation; that will not work since the apprentice is not in a union program.</td>
<td>Amend 8.2 to exclude apprentices from non-union programs.</td>
</tr>
<tr>
<td>Amend Article 8</td>
<td>Union Recognition</td>
<td>Non-union workers and apprentices will not receive any representation from the payment of dues.</td>
<td>As previously reviewed by the County, amend 8.1 to read: For purposes and duration of this Agreement only, Contractors recognize the Union(s) as the sole bargaining representative of all craft employees, <strong>excluding contractors’ core workers and apprentices from non-</strong></td>
</tr>
<tr>
<td>Support Article 13</td>
<td>No double payment of health benefits.</td>
<td>Regarding health insurance the contractor is not going to know if</td>
<td>Take subjectivity out of the equation. Prior to the job going out for bid,</td>
</tr>
</tbody>
</table>

union programs, working on this Project unless County and Contractor are provided with certified results indicating that another duly recognized bargaining unit has assumed all rights and responsibilities of a current recognized bargaining unit.

Amend 8.2 to read: Employees who are employed by Contractors to work on the Project are not required to join any Union nor become a Union member as a condition of being employed, or remain employed on the Project. However, any employee who is a member of a Signatory Union must maintain that membership in good standing while employed on the Project. All other employees, excluding contractors’ core workers and apprentices from non-union programs, shall be required to comply with applicable union security provisions while performing on-site work on the Project and must tender any maintenance dues or fees required by the Council or Signatory Union or otherwise required by law, for the period of time the employee performs work on the Project.
<table>
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<tr>
<th>Support Article</th>
<th>Section</th>
<th>Description</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Support Article 13</td>
<td>No double payment of pension benefits.</td>
<td>Same as above. In past template drafts this had been addressed by defining acceptable pension plans. That effort has been lost in the current draft.</td>
<td>Add language as previously reviewed by the County (see below**).</td>
</tr>
<tr>
<td>Support Article 14</td>
<td>Compliance &amp; Reporting</td>
<td>14.1 states the County agrees to provide the Trades Council with certified payroll records and any other information requested. CA Labor code is very specific with what information can be and can’t be provided by the County. Protection of employee information should be a concern.</td>
<td>Add language such as: “Copies of records made available shall be in accordance with CA Labor Code 1776.”</td>
</tr>
<tr>
<td>Support Article 12</td>
<td>Training</td>
<td>12.2 only supports joint apprenticeship programs. Contractors and the County should want to support all apprenticeship programs.</td>
<td>Strike “joint.” Define “sponsoring” as requirements will be identified in bid specifications for each project.</td>
</tr>
<tr>
<td>Support Article 10</td>
<td>Core Workforce</td>
<td>In the 10/17/13 template draft, Article 10.1 allowed contractors to utilize up to five core workers and hire up to ten core workers.</td>
<td>Please replace with Article 10 language with Article 10 language from 10/17/13 Sonoma County PLA Template.</td>
</tr>
<tr>
<td>Add Article 10.8</td>
<td>Local Hire</td>
<td>To achieve your</td>
<td>Sonoma County residents</td>
</tr>
<tr>
<td>Amend Section 3.2</td>
<td>Every Contractor shall notify the Trades Council in writing within five business days after it has subcontracted work, and shall at the same time provide to the Council a copy of the executed Agreement to be Bound.</td>
<td>It is not a requirement of the California labor code for contractors to notify the Trades Council or provide a copy of the agreement to be bound. This information can be provided by the owner.</td>
<td>Delete last sentence.</td>
</tr>
<tr>
<td>Amend Section 3.3</td>
<td>Signatory vs. Bound.</td>
<td>Contractors are not becoming permanently signatory to unions as a result of the Project Labor Agreement.</td>
<td>Change the word signatory to bound in the second sentence.</td>
</tr>
<tr>
<td>Amend Section 4.1 (a)</td>
<td>Work stoppages, strikes, sympathy strikes and lockouts.</td>
<td>There must be a specified remedy if a work stoppage, strike, sympathy strike or lockout occurs.</td>
<td>Add the following language from Section 4.3 of the Solano County PLA for the Claybank Adult Detention Facility Expansion Project: In the event a work stoppage or slowdown because of a labor dispute affects work covered by this Agreement and said stoppage or slowdown is caused by a Union or contractor signatory to this Agreement, an affected signatory party may seek redress under the grievance procedure of this Agreement which</td>
</tr>
</tbody>
</table>
shall include, but not be limited to, liquidated damages of $10,000 per day and any other remedies available under applicable law.

| Amend Section 4.1 (d) | In addition, if the new Master Agreement provides for benefit increases, than any Employer shall pay to its employees who performed Covered Work at the Project during the hiatus between the effective dates of such Master Agreements, an amount equal to any such benefit increase established by the new Master Agreement for such work performed. | Contractors must comply with the prevailing wage determinations pursuant to California Labor Code part 7, chapter 1, article 2, sections 1770, 1773, and 1773.1 | Delete last sentence. |

| Support Article 17 | In an effort for all contractors to support the hiring of veterans, language needs to be included to allow for non-union contractors to also hire veterans. | Add the following language in bold to 17.1: The Contractors and Unions who are signatory agree to utilize the services of the Center for Military Recruitment,… |

| Add Article 18.2 | Accountability Measures | Add the following three accountability measures to ensure taxpayers are receiving the most qualified bids for the best price. | When you have three bidders or less on a project, rebid the project without a PLA. If the project comes in over the engineer’s estimate, rebid the project without a PLA. |

Support Article 17 Helmets to Hardhats

In an effort for all contractors to support the hiring of veterans, language needs to be included to allow for non-union contractors to also hire veterans.

Add the following language in bold to 17.1: The Contractors and Unions who are signatory agree to utilize the services of the Center for Military Recruitment,…

Add the following language in bold to 17.2: The unions and Contractors who are signatory agree to coordinate with the Center to create…..

Add 17.3: (see below***).
Language for no double payment of pension benefits:

** In lieu of pension benefits being paid to the Union pension plan/trust funds a Contractor, that is not a signatory to an existing collective bargaining agreement with any Union having jurisdiction over the Project and that has established and/or is making employer contributions to a retirement plan for its employees, may continue to make employer contributions to such plan on behalf of each of its core workers employed under this Agreement, provided the following conditions are met:

(i) such Contractor’s plan is a bona fide plan and in effect at the time that the Contractor commences work on the Project;

(ii) the Contractor contribution amount represents the actual cost of the benefit (expressed as an hourly contribution) to the Contractor, and that is consistent with applicable laws related to wages and employee benefits;

(iii) the employee on whose behalf the Contractor contribution is made is an active participant in the Contractor plan at the time of his initial employment on the project, or was an active participant in the plan at the time of his last employment with the Contractor.

(iv) In the event the Contractor’s contribution to a bona fide pension plan is lower than the pension contribution called for in the applicable Schedule “A,” the difference shall be paid to the employee in the employee’s regular weekly paycheck.

(v) For purposes of this Section, a bona fide retirement plan shall be a tax-qualified plan, subject to ERISA, and have a current SPD available for review.

Language for Veterans Employment opportunities for contractors:

*** [NAME OF CONTRACTOR] agrees to make a good faith effort to hire qualified individuals who are veterans, particularly recent veterans of military service in Afghanistan and Iraq.

The following conditions will be established for veterans:

• Veterans will be exempt from payments to participate in apprenticeship programs. Such exempt payments would include application and enrollment fees, union dues and union initiation fees, curriculum material and tool fees, and other fees and charges normally assessed to enrolled apprentices.

• Veterans will be allowed to test into apprenticeship training programs and enter at a level commensurate with their knowledge and experience. Upon completion they will be free to work for either an open or union shop.
• Veterans will be given preference over other applicants in entering an apprenticeship program to compensate them for time lost while serving in the military.
• New jobs related to the project will be placed on a “Veterans Hold” through the Employment Development Department for a specified number of days prior to advertising them to the public.

A bidder or contractor shall be deemed to have made a “good faith effort” to hire sufficient numbers of veterans if, prior to execution of the contract at least two of the following veteran employee recruitment activities have been undertaken and documented:

1. Written and oral communication indicating an interest in hiring veterans for the project with a Veterans Representative at the closest Workforce Services Office of the California Employment Development Department.

2. Written and oral communication indicating an interest in hiring veterans for the project with the Contra Costa County agency responsible for job placement of veterans.

3. Written and oral communication indicating an interest in hiring veterans for the project with a veterans employment service, administered by a legitimate veterans advocacy organization placing veterans in employment in Sonoma County.

4. Written and oral communication indicating an interest in hiring veterans for the project with a private non-profit organization dedicated to finding employment for veterans in Sonoma County.

We hope these comments are useful when you present your draft PLA Policy and Template to the full Board. Our comments should also shed a clearer light on why the associations and individuals who have provided input into this response are so vehemently opposed to the discriminatory and costly PLA format proposed by the trades unions.

If you have any questions or comments, or would like clarification on the points made above, please contact one of our Coalition members, Keith Woods, at 542-9502 or keith@ncbeonline.com

Thank you for your consideration.