

GETTING TO THE TABLE

A PROJECT LABOR AGREEMENT PRIMER



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BACKGROUND

PROJECT LABOR AGREEMENT INITIATIVE

This publication grew from the National Economic Development and Law Center's (NEDLC) continued involvement with community building efforts of West Oakland residents. Specifically, in the fall of 2001, the Port of Oakland planned to enter into a Project Labor Agreement (PLA) for the expansion of both their maritime and aviation facility. The expansion was estimated to take 10 years, at a cost of \$1.2 billion dollars. Community members expressed an interest in participating in this process. NEDLC focused on how community members could become active participants in the PLA negotiation and decision-making process. As a result, NEDLC began a research project exploring the most current information on the public benefits derived from PLAs. This research assisted the development of the Social Justice Provisions of the Port of Oakland's PLA, which provides for community involvement in the implementation of the PLA, employment hiring goals for residents of the City of Oakland and other impacted areas, and a potential funding stream to support social justice provisions.

This PLA primer answers common questions like: "What are PLAs" and "How can communities become involved?" and provides an in-depth analysis on the underlying forces affecting these agreements. It reviews what has been done in other states, defines PLA language and discusses special provisions. We hope the publication will help guide and inform other communities that are concerned about receiving benefits when public funds are used for major construction development in their neighborhoods and cities.

NATIONAL ECONOMIC DEVELOPMENT AND LAW CENTER

The National Economic Development and Law Center (NEDLC), established in 1969, is a non-profit public interest law and planning organization that specializes in community economic development. NEDLC works in collaboration with community organizations, private foundations, corporations and government agencies to build the human, social, and economic capacities of low-income communities and their residents. NEDLC helps to create both strong, sustainable community institutions that can act as "change agents," and an effective local infrastructure for their support.

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FOREWORD

Not content to sit idly by while large public works projects are built in the middle of their communities, residents of low-income neighborhoods all across the country are organizing, strategizing, and insisting that publicly funded projects include benefits for local residents, such as:

- **Living wage jobs,**
- **Increased opportunities** to those historically excluded from training programs and public works contracts, and
- **Investment dollars** for local business assistance and job training programs.

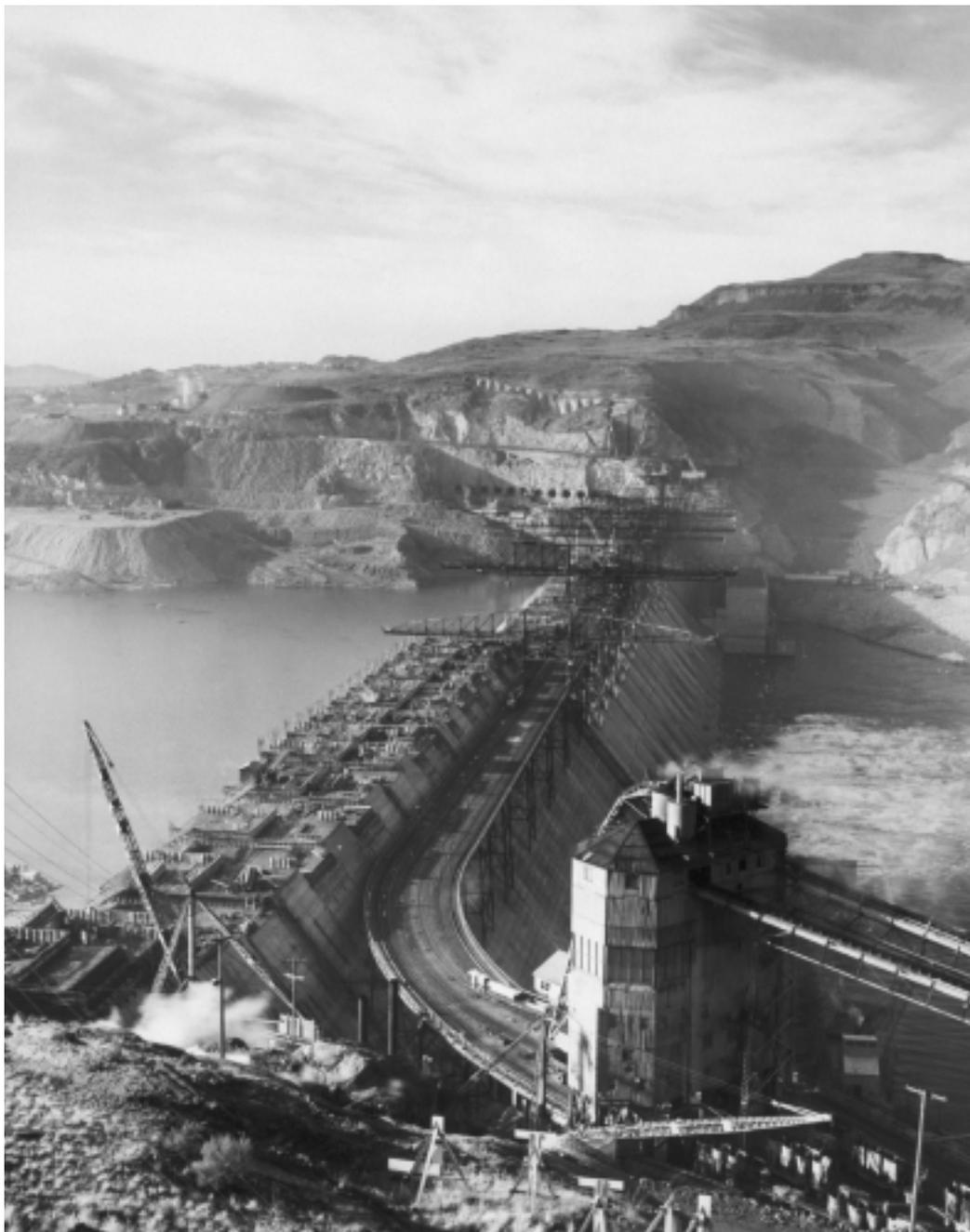
To assist residents and community groups in gaining tangible benefits from public works projects for *their* communities, this primer discusses the Project Labor Agreement (PLA). While fairly common on large private sector projects, PLAs until recently were rare in public-sector projects. In the 1990s, the number of public-sector projects covered by a PLA jumped. Capitalizing on the opportunity for a say in these public works projects, residents from Seattle to Buffalo, from Oakland to Boston, from Los Angeles to New York City joined in PLA negotiations and produced important community benefits. Their strong voices and informed positions resulted in improved community access to living-wage jobs and training for those jobs, as well as much-needed infusions of investment dollars for local business assistance and job training programs.

Note: *In February 2001, President Bush issued Executive Order 13202 prohibiting the use of Project Labor Agreements on all new federal and federally funded projects, representing a policy reversal from former President Clinton. In the summer of 2001, a lawsuit was brought by the National Building and Construction Trades Department, the City of Richmond and the Contra Costa County Building and Construction Trades Council challenging Executive Order 13202. The NEDLC joined the Sierra Club and others in submitting an amicus curiae brief on behalf of community benefits gained through PLAs. On November 7, 2001 Judge Emmet G. Sullivan, United States District Court for the District of Columbia, permanently enjoined the order. The impact of the ruling clears the way for the use of PLAs by public or private entities on large construction projects. This manual focuses on assisting communities in gaining pro-community language in PLAs on local, state and federal public works projects.*

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GRAND COULEE DAM, 1939



Completed in 1939, the Grand Coulee Dam was covered by the first Project Labor Agreement on a public project.

INTRODUCTION

In the last decade, more than fifty public works projects have been covered by PLAs. Since the billion-dollar cleanup of Boston Harbor in the late 1980s, the number of public sector Project Labor Agreements (PLAs) has jumped exponentially. Some county governments have gone even further, mandating that PLAs be considered for *all* public-works projects. Today, public-sector PLAs are in effect in Washington, Ohio, California, Indiana, Massachusetts, Nevada, and New York, among other states.

This primer is intended to empower community groups to:

- Get to the PLA negotiating table, and
- Negotiate effectively for community interests.

Designed as an easy-to-use manual, this publication deals exclusively with PLAs on *public sector* projects. It includes a step-by-step guide to making sure local communities have both a voice in the process and an informed choice about the benefits of public works projects. Based on interviews with dozens of PLA participants and an examination of most of the public sector agreements created to date, this primer describes the experiences and achievements of several community groups across the country that have been involved in public sector PLA negotiations.

The first section of the manual defines a PLA, describes the players involved, their primary interests, and the typical process by which PLAs are created. The next section answers the crucial question, *Why should communities care?* The following sections present the stories and lessons of several successful community groups, along with explicit strategies community groups can take to obtain benefits from public works projects for community residents. Finally, the publication compares social justice and pro-community language from several PLAs and distills the most forceful, effective, and positive language for which community groups should advocate.

A PLA PRIMER

This section provides basic information on PLAs. It defines the term, describes the context for when and in what circumstances PLAs are implemented, and sets the stage for community groups' involvement in the process.

Five key questions are addressed:

- What is a Project Labor Agreement (PLA)?
- Who are the key players in a PLA?
- What are the players' primary interests?
- What language is typically included in a PLA? and
- What happens when a PLA is in effect?

WHAT IS A PROJECT LABOR AGREEMENT?

A PLA is an agreement made between a project contractor (usually a general contractor managing a large construction project) and the local building and construction trades unions. All contractors who do project work must agree to be bound by the PLA. These agreements typically establish project workers' wages, how disputes will be resolved, common work hours for all project workers, use of local union hiring halls, and union security provisions. By far, the most important element in a PLA is a guarantee by the unions not to engage in any job action, including a strike, on the construction site.

In exchange for the unions' promise not to strike, contractors agree to use the local hiring hall and pay into union pension and health funds for all workers. The language governing the local hiring hall does not, on its face, guarantee that all labor on the project will be union labor, but it generally results in the use of mostly union labor on the project.

It should be stated at the outset that PLAs are highly controversial. They serve the interests of some parties at the sake of other parties. Who opposes them and who supports them in any given jurisdiction depends on several factors, which will be reviewed in the section, "Getting to the Table." Below is a summary of the main players involved in PLAs and their major interests.

WHO ARE THE KEY PLAYERS IN A PLA?

The most important players in PLA negotiations are the contractors, unions, public agencies and communities. The public agency—ultimately responsible to taxpayers—seeks to minimize costs and ensure on-time completion. Local unions seek to ensure jobs for their members, protect the rights of workers, and ensure safe working conditions. Contractors seek a fair and profitable structure for how contracts are awarded and executed. The community is an important player frequently missing from this straightforward analysis.

WHAT ARE THE PLAYERS' PRIMARY INTERESTS?

Contractors generally oppose PLAs, but different contractors oppose them for different reasons. Some contractors are called "merit shops," meaning they do not employ union workers. Others are called "union shops" because they have a collective bargaining agreement with local unions. Still, others—particularly large contractors—use both union and non-union labor.

Merit shops tend to believe PLAs place them at an inherent competitive disadvantage to union shops. PLAs typically require merit shops to utilize the hiring hall for workers. The Associated Builders and Contractors, which represents merit contractors, is a vocal and persistent opponent of PLAs; it frequently files suit against public agencies that authorize a PLA.

Although it might seem that union contractors would support PLAs, this is usually not the case. Union contractors have negotiated their key interests in pre-existing collective bargaining agreements with local unions; a PLA can override these agreements in ways that can disadvantage a union contractor. The Association for General Contractors, a large national association of mostly union shops, takes this position.

Women and minority contractors are a key sub-group of contractors. These contractors are usually not union and often object to PLAs for reasons similar to merit shops. But because these typically smaller contractors often find themselves at a disadvantage in competing for the large contracts, that are part of public works' projects, their position on a particular PLA depends on the potential benefits or risks it represents to them. To overcome their competitive disadvantage, local women and/or minority contractors sometimes unite in special contractor associations.

In opposing PLAs in court, the Association of General Contractors and the Associated Builders and Contractors make similar arguments against PLAs. These arguments, the associations argue, are anti-competitive, increase costs and delays, waste taxpayer dollars, and violate the law.

Unions strongly support PLAs. Yet, similar to contractors, this generalization disguises important distinctions. The local (often county-wide) Building and Construction Trades Council or the Building Trades Council usually represents a dozen or more local unions. Because a PLA typically results in more union workers employed on a project, the Building Trades Council sees it as a great achievement.

Typically, the Building Trades Council's executive secretary is the primary negotiator for unions' interests in a PLA. If the specific terms of a proposed PLA are not equal to or better than the existing collective bargaining agreements of the Council's member unions, those unions will be unlikely to approve it. In such cases, the executive secretary, who is elected by and accountable to all of the local unions, will face conflict from both contractors and the Council's member unions.

The **public agency** is another key player. Federal, state, and local agencies have all entered into PLAs. Quasi-independent governmental agencies, including airports and seaports, are also familiar with PLAs.

Before any bids are let for the project work, the board of the public agency must approve a PLA negotiation. Sometimes the agency must also approve the final agreement. Before authorizing negotiations, the board usually hires a consultant to examine and report on the costs and benefits of a PLA. A 1994 Supreme Court decision, *Boston Harbor*, found public sector PLAs legal, but left open the possibility of legal dispute if the public agency itself negotiated the agreement. To avoid legal disputes, public agencies now delegate to the project contractor the responsibility of negotiating the PLA.

Individual members of a government agency's board are either elected or appointed. As political figures, board members are sensitive to the needs and interests of taxpayers and other local stakeholders, such as labor unions and contractors associations. The meetings of these agencies are by law open to the public so local residents who want to can make their voices heard in board meetings and the board's decision to enter into a PLA.

The **community** has important interests in a PLA. Communities tend to care about the construction of public projects located near residential areas, because of concerns for public safety, public health, and/or neighborhood disturbance. Communities also have an interest in gaining increased access to jobs and job training, seeing the amount of funding increased for training programs, and having its viewpoints listened to during the PLA process. Because they provide excellent wages and benefits, job training, and meaningful careers, jobs in construction are especially significant for low-income communities.

Different types of community groups get involved in PLA discussions. One type, the neighborhood association, directly represents a low-income community. Another type, the community-based organization (CBO), provides various kinds of services to residents of low-income communities. Examples of CBOs are employment training agencies and legal aid. Whether directly or indirectly representing local residents, a community group or coalition of community groups is free to advocate for pro-community benefits in a PLA. In communities around the country, common interests in public works projects have spawned labor-community coalitions composed of unions, community organizations, low-income residents, and minority and women contractors.

Community groups of all stripes typically participate in PLA negotiations indirectly; they negotiate separately with labor and management on issues of concern. Under ideal conditions, however, the community is part of the negotiating team (as happened in the PLA negotiations for Seattle's Sound Transit project). Under either arrangement, the community-negotiated agreements can be incorporated into the larger PLA or the parties can enter into signed side-agreements. Although community groups and coalitions rarely sign PLAs, their active involvement in the PLA process can assure that community interests are included in the final agreement.

WHAT DOES A TYPICAL PLA LOOK LIKE?

PLAs typically include the following provisions:

Unions agree to:

- Not strike or engage in work disruptions,
- Abide by common work hours for all project workers,
- Follow an expedited dispute resolution process, and
- Provide an adequate supply of skilled labor.

Contractors agree to:

- Utilize the union hiring hall to hire all project workers, and
- Pay into the union's health, benefit, and pension plans.

Most PLAs include a preference for local workers, i.e., workers who live within the public agency's physical jurisdiction. Most also specify the proportion of journeyman and apprentices to be used by all firms working on the project. Many PLAs include an exemption for contractor's core employees, meaning that a contractor can bring a small group of his or her current employees to the project without going through the union hiring hall. Both standard and innovative PLA provisions are discussed in greater detail in the section "At the Table," on page 12.

WHAT HAPPENS WHEN A PLA IS IN EFFECT?

There is nothing visibly different on a PLA construction site than on any other construction site. The PLA exists for the length of the project, covers only the project site, and stops when the project ends. Anecdotal evidence suggests that PLA sites are less likely to have a labor disruption and may also have fewer and shorter on-the-ground disputes.

A key factor in the effectiveness of the pro-community provisions of a PLA is the enforcement mechanisms set up and used throughout the project; this topic will be discussed in the section "At the Table," on page 12.

COMMUNITY BENEFITS

PLAs offer communities an opportunity to gain tangible resources: access to jobs, access to training opportunities for local residents, and funding for local programs and businesses. Below are examples of how PLAs achieve these results.

ACCESS TO JOBS

PLAs almost always include a preference for local workers. At the minimum, PLAs require contractors to use local union hiring halls to recruit workers. Although use of these halls does not guarantee that local workers will be hired first, local hiring hall lists are comprised mostly of local labor. It is important to note that, by law, these hiring halls must be open to non-union laborers.

Additionally, PLAs often explicitly require that workers from the public agency's area be utilized. In California, the Port of Oakland's PLA requires that 50 percent of all project work hours be performed by residents of Oakland or three surrounding cities. Other PLAs set goals for hiring minority, women, and disadvantaged workers (those lacking previous construction experience). For the construction of a baseball stadium in Bridgeport, Connecticut, for example, a PLA required 35 percent local minority hiring. A PLA for the Northwest Academy in Buffalo, NY, mandated that women and minorities make up 35 percent of the project workforce. These percentages are expressed as goals (and not quotas) because of legal requirements.

ACCESS TO TRAINING OPPORTUNITIES

Almost all PLAs set a maximum or minimum percentage of work hours to be performed by apprentices. Apprenticeship is a workforce training system that prepares individuals for careers in the skilled trades and crafts. Ranging from three to five years, apprenticeship requires both on-the-job training and many hours of classroom instruction. Upon successful completion of an apprenticeship program, an apprentice becomes a journeyman or skilled craft worker. Most registered apprenticeship programs are union-sponsored.

The higher the percentage of apprentices on a construction project, the more training opportunities will be available for local residents. Several PLAs explicitly provide that residents of the project area should fill these apprenticeship positions. Some go further by requiring the use of residents who do not have the traditional skills, i.e., disadvantaged residents. Other PLAs establish percentage goals for utilizing residents and/or women and minorities as apprentices.

FUNDING FOR LOCAL PROGRAMS AND BUSINESSES

Placing local residents into jobs as apprentices typically requires pre-apprenticeship and job readiness programs. Local workforce development programs that provide these services are often woefully under-funded. Therefore, PLAs that have apprenticeship and local hiring requirements can include a separate fund for pre-apprenticeship and job readiness programs. Sound Transit in Seattle and the Port of Oakland each created a fund to increase the capacity of local programs to prepare nearby residents. Contractors contribute to the fund according to a formula based on hours worked on the project. For example, Sound Transit's PLA contributes approximately 5 cents for every hour worked by workers covered under the agreement. In an important step forward in pro-community PLAs, the Port of Oakland's PLA specifies a dollar amount that is dedicated to construction contracts for women-, minority-, and disadvantaged businesses, and is not obligated to meet any requirements of the PLA.

The next section presents information and advice on how community groups can obtain these important benefits for their constituents.

GETTING TO THE TABLE

Community involvement in PLA negotiations, as noted earlier, has resulted in increased access to training and jobs and additional funding for local programs and businesses. This section presents strategies for getting to the bargaining table to negotiate for community benefits on a public project. It discusses important lessons learned by groups across the country that were unrelenting in their efforts.

The first step in developing a strategy for getting to the PLA negotiating table involves “thinking strategically.” This step consists of two basic activities: 1) identifying the shared interests of the different players, and 2) understanding where the players’ interests diverge.

Before examining the interests of the other players, community advocates need to clearly understand what their own and their community’s interests are. Also important is an honest assessment of the community’s strengths and weaknesses. Start with the following questions:

- What is the community’s ability to organize?
- What is the recent history of labor-community relations?
- What is the capacity of local community-based organizations?

After an assessment has been made of the community’s own interests and capacity, advocates can turn their attention to the interests and capacities of other players—local unions, contractors, and the public agency. For this analysis, advocates should examine the following factors:

- How strong are the local unions?
- Have there been work stoppages on any local projects?
- Are there prior or existing PLAs on public projects?
- What is the relationship between unions and the community? Have they acted in concert before?
- What are the political leanings of the public agency’s board members?
- Are there local or state laws that favor or oppose PLAs?
- How large is the project?
- How many unions and jurisdictions are involved?
- Is the construction labor market tight?

THE FAST JOBS COALITION

Seattle's Push for Jobsite Monitoring

Fairness and Access to Sound Transit Jobs (FAST Jobs), a pro-community jobs coalition in Seattle, sprang from an alliance of community and labor interests. Protests over expected environmental and social impacts from a proposed large public transportation project led to a community forum in which transit and elected officials heard testimony from women and minority workers who had been excluded from union apprenticeship training programs.

In April 1999, the FAST Jobs Coalition was born. Representing residents, workers, and job seekers from Seattle's low-income communities, FAST Jobs targeted local officials and testified at Sound Transit board hearings. The coalition argued that a huge demand for skilled workers existed, that Sound Transit's project would increase this demand, and that the residents of low-income, high-unemployment communities in Seattle were ready to meet this demand. It pointed to the low percentage of workers and apprentices who were women or people of color; and asked the pointed question; Why should public dollars go to projects where no benefits flow to the community? FAST Jobs advocated for community participation, a focus on low-income communities, and procedures for getting inner city residents—particularly women and people of color—into jobs and apprenticeship.

The Sound Transit board voted to adopt a PLA and to include FAST Jobs in the negotiations between unions, employers, and Sound Transit. After nearly five months of negotiating, Fast Jobs achieved an increase in goals for apprentice utilization and diversity, and an unprecedented provision to designate "community representatives" or job monitors on this project. Journey-level workers serve as these community representatives and, in addition to their regular duties as employees of PLA contractors, monitor the hiring and successful retention of women and people of color.

Let us look now at these factors in more detail.

Community capacity: The ability to get residents to board meetings or protests is one measure of community strength. In Seattle, FAST Jobs organized community members to attend Sound Transit Board meetings and to go to government offices to advocate for a community voice in the PLA. In Oakland, community groups, in years past, had succeeded in stopping work on a large highway construction project through picketing and advocacy. The Port of Oakland, while undertaking a similarly large public project, likely considered this activist history when it accepted community involvement in PLA negotiations.

Union strength: Unions are the strongest proponents of PLAs because these agreements guarantee jobs to existing union members and typically create new union members who work as apprentices. It is no coincidence that the three states with the most PLAs (Washington, California, and New York) are all strong union states. Union strength, at both the grassroots and political levels, facilitates public-sector PLAs.

In most PLAs, unions guarantee a supply of skilled labor for the project. In tight labor markets, meeting this guarantee is difficult. Even unions that have the ability to provide skilled labor through their well-established training programs face difficulty. As a result, opportunities may exist to find common cause between organized labor and low-income communities. (See sidebar, “The FAST Jobs Coalition,” on how these two groups came together on a large public works project in Seattle.)

Recent history of labor disputes: Community advocates should look at the recent history of labor disputes in their region to better understand how powerful the unions are and what the public agency’s reactions might be to union demands. In Southern Nevada, PLA negotiations were helped immeasurably by a protracted strike in Las Vegas. The public agency involved wanted to avoid a related labor dispute. Because a PLA guarantees that no work stoppages will take place on the project site, a PLA seemed the pragmatic choice. In New York City, hundreds of union protestors had snarled traffic on the Tappan Zee Bridge because of a dispute with the public agency over the bridge’s renovation. A desire to avoid such traffic nightmares helped the Thruway Authority decide to adopt a PLA for bridge renovations.

Local political climate: Because PLAs are controversial, local and state politics is another critical factor affecting PLA negotiations. Even in a state where unions are strong, government representatives may oppose PLAs simply on principle; such opposition can be difficult to overcome. After a couple of PLAs were passed in Cleveland, the Ohio State Legislature banned the use of these agreements on public projects within the state.¹ On the other hand, county legislatures in upstate New York and southern California have made it policy to prefer PLAs on county projects.

Relationships between local unions and the community: Community advocates should examine the relationships that exist between community groups and labor unions. Relationships may have been built around living-wage campaigns or local hiring preference ordinances. In addition, communities with well-organized social service providers—particularly pre-apprenticeship or job readiness providers—are even more likely to get to the bargaining table. These organizations provide a vital link between contractors (who need workers) and unions (who want new members).

In Oakland, the push for community involvement sprang from a labor-community coalition called the East Bay Alliance for a Sustainable Economy, which had been created to address an earlier, non-PLA issue. The local Building Trades Council’s executive secretary identified the community as a potential ally and reached out, through the Alliance, for support in obtaining a PLA on a large public project. In Seattle, local community groups enjoyed a long-standing relationship with the unions, in large part through a prominent minority caucus within the union. As a result, labor and the community comfortably allied to get a PLA on a large public works project.

¹ Ohio’s Building and Trades Council won an early injunction to stop this law, but the matter is still pending. Wyoming and Utah both have state laws banning the use of PLAs on non-federal projects within the state.

Project size: The project's size is an important consideration to public agency managers. The bigger the public project, the more likely a PLA will be adopted. Most public projects covered by a PLA have budgets of at least \$10 million and are frequently over \$100 million. Why? First, courts are less likely to overturn PLAs on large projects. Second, the larger the project, the greater the risk of labor strife. Projects of \$10 million to \$100 million require a lot of construction work, which means several, if not dozens, of unions will be involved. The higher the number of unions, the larger the risk that a work stoppage by one will result in work interruptions by several. Because such events cause serious delays and cost overruns and draw unwanted media attention, public agencies might see a PLA as a way to minimize these risks.

Large public projects also require thousands of construction workers. Southern California's water district improvement required over 2,000 workers, and most PLAs cover projects with *several million work-hours*. A shortage of skilled labor can be a real obstacle. In many regions, skilled construction labor is in short supply. For example, in Seattle and Oakland, demand for construction workers is projected to outstrip supply within the next few years. Proponents of PLAs argue that unions are particularly qualified to guarantee a supply of qualified labor, for the following reasons. Unions already have a hiring hall, and in the event that the local labor supply is insufficient, the union can refer members from other jurisdictions. Unions also have state-certified apprenticeship programs that enable them to supply additional trained workers.

Negotiation Experience: The project contractor hired by the public agency may have been chosen because of his or her experience in negotiating a PLA on major construction contracts. The executive secretary of the Building Trades Council has probably negotiated PLAs in the private sector. If not, he or she may have access to resources from its National Building and Trades Department. In contrast, community groups may have little experience in business negotiations and even less experience with multi-million or billion dollar construction projects. The community's chief disadvantage is this lack of negotiating experience.

TIPS FOR DEVELOPING A STRATEGY

No detailed blueprint exists for getting to the negotiating table. It is hoped that the above discussion has made it clear that local conditions matter and should be the basis for a community's strategy.

Summarized below are ideal and difficult conditions for a PLA. Keep in mind that these conditions can play out differently in different communities and that the same condition, when viewed from another angle, can be either a weakness or strength. A particular community may never have had a PLA, for instance. Community advocates might see this as an indication of union powerlessness and, thus, consider it a weakness. But the lack of a PLA might also represent an opportunity. Local unions may be highly motivated to form a community-labor alliance to get the first PLA adopted.

Ideal PLA Conditions

- Large project
- Activist community
- Existing PLAs
- Regional labor shortage
- Local training programs
- Political support for PLAs

Difficult PLA Conditions

- Small project
- No existing PLAs
- Community-labor tension
- Anti-PLA political sentiment
- State court hostile to PLAs

Positive community involvement in PLA negotiations can begin in a variety of ways. Seattle's PLA grew out of a Martin Luther King, Jr. celebration. Oakland's PLA grew out of a preexisting labor-community relationship that was driven, in part, by

the executive secretary of the Building Trades Council. In Buffalo, New York, PLA negotiations began only after a prominent local leader approached union and city officials.

TAKE ACTION!

1. Find out if any public projects are being planned or constructed. Talk to the local Building Trades Council.
2. Assess the community's interests, strengths, and weaknesses.
3. Make a list or map of all the players involved in the project and identify their interests and potential for opposing or supporting pro-community provisions in a PLA.
4. Start a discussion with other community groups and/or leaders about common community goals for a PLA.
5. Develop relationships with local players from the perspective that real wins will come from a long-term relationship.
6. Advocate. Go to board hearings and the offices of local politicians. Ensure that the community's interests are represented—either by you, another community group, or a coalition.

THE OAKLAND COMMUNITY

The Port of Oakland's \$1.6 Billion Expansion

The Oakland community has long focused on the need for employment for its low-income residents. At least part of the community's recent success in PLA negotiations is a tribute to this history of activism.

Two local organizations spearheaded efforts to achieve a pro-community PLA on the Port of Oakland's \$1.6 billion expansion—the Bay Area Construction Sector Collaborative (BACSIC) and the East Bay Alliance for a Sustainable Economy (EBASE). Founded in 1997, BACSIC is a coalition of local workforce development organizations whose purpose is to prepare local residents for employment opportunities created by the construction explosion in the San Francisco Bay Area. BACSIC and other members of the Oakland community engaged the City of Oakland, local unions, and construction contractors for several years with the aim of establishing an apprentice hiring goal for Oakland residents on the City's public projects. During this effort, the community learned of the Port of Oakland's expansion plans.

EBASE is a labor-community coalition that was formed to do grassroots organizing and coalition building for the purpose of economic equity for workers and communities. EBASE, BACSIC, and other members of the Oakland community organized and coordinated their efforts to ensure that the Port of Oakland's PLA would include benefits for the community and not just the labor unions. Members of EBASE and BACSIC observed PLA negotiations that related to community concerns.

The Port of Oakland established a PLA Community Advisory Committee that eventually became the PLA Social Justice Committee. Members of the Advisory Committee consisted of community representatives including EBASE and BACSIC. Through this involvement, the community achieved hiring goals, business set-asides, and funds for implementation of the Social Justice provisions.

AT THE TABLE

The real work of obtaining tangible benefits for the community begins at the negotiation table. The negotiation process can be grueling and last many months. For certain, it will require patience.

This section describes the minimum, or standard, provisions that a pro-community PLA should include. This language is sometimes written into side-agreements with one or more of the parties. Several provisions that require important community decisions and advocacy are highlighted below.

STANDARD PLA LANGUAGE

Many pro-community PLA provisions are standard and deal with local hiring and utilization of women-, minority-, and disadvantaged businesses. It is recommended that these standard provisions be the community's starting point for negotiations.

Local Hiring: A local hiring preference is the foundation for pro-community provisions. This preference is typically written in one of two ways. Parties agree that a specific number of skilled workers will be hired from the project's local area, or that the project will provide significant employment opportunities for qualified residents of the project area. For examples of these local hiring preferences, see Appendix A, *Standard Language*.

Three provisions emerge from the local hiring provision to achieve pro-community results. The first one concerns existing affirmative action and equal opportunity requirements governing the project (by local ordinance, for example). It is important for the community to determine whether these existing provisions actually serve the community interest. If they do, they should be incorporated into the PLA. If they do not, they should be strengthened by negotiation.

Apprentice-Journeyman Ratio: This provision sets the proportion of apprentices on the project, i.e., as low as 10 percent apprentice, 90 percent journeyman; and as high as 30 percent apprentice, 70 percent journeyman. The higher the proportion of apprentices, the better for the community. More apprentices require the construction trades to pull in new local workers, providing job and training opportunities for community residents.

Disadvantaged Workers: This provision complements the local hire and apprentice provisions by requiring all parties to make good-faith efforts to hire residents who have not previously qualified to be employed on construction projects. This provision is intended to allow people who would traditionally be excluded from union apprenticeship—because of a felony conviction or lack of a driver's license or a high school diploma—to enter apprenticeship and paid training jobs on the project.

Women, Minority, and Disadvantaged Businesses: PLAs can carve out contract dollars for women-, minority-, and disadvantaged-businesses in one of two ways. The PLA can set a proportion of the contracts that should go to these businesses. This proportion can either be written into the PLA or can incorporate the agency's existing women, minority, and disadvantaged business program. Alternatively, a PLA can carve out a specific dollar amount for these local disadvantaged businesses. A \$15 million carve out in the Port of Oakland's PLA has exempted these businesses from PLA provisions.

Before entering into negotiations, community groups should review PLAs on public projects within their region to make sure that this standard language is included, and if so, consider using the most beneficial PLA language as a baseline for negotiations. A table on the next page lists standard provisions. Appendix A, *Standard Language*, contains more detail on these provisions and their language.

INNOVATIVE PLA LANGUAGE

Negotiating pro-community provisions beyond the above standard provisions will depend on the community's capacity for and experience in organizing and negotiating.

Job Goals for Women, Minority, and Disadvantaged Workers: Ideally, a pro-community PLA will include job goals for women, minority, and disadvantaged workers. These goals are written as percentages, e.g., the project shall employ minorities, women, or disadvantaged persons for 50 percent of the project's total work hours.

Apprenticeship Goals are also a key mechanism for achieving pro-community results. When supplemented with goals for women, minorities, and disadvantaged residents, this provision should result in low-income, women, and minority residents receiving training and jobs. For the actual language of PLA provisions, please refer to the Appendix B, *Innovative PLA Language*.

Any Available Hiring Source: When apprenticeship goals are not being met, PLAs usually give contractors the opportunity to use any available hiring source other than the union hiring hall. New York City's Tappan Zee Bridge was renovated under a PLA that contained a creative alternative. It developed a position equivalent to an apprentice for which participants did not have to meet traditional apprenticeship requirements. The PLA also stipulated that 60 percent of these equivalent positions would be filled by minorities and/or women and that the apprentice equivalents would count toward hiring goals.

MAKING SURE THE COMMUNITY BENEFITS FROM A PLA

Standard PLA Language

- Local hiring
- Affirmative action / equal employment opportunity
- Training and employment of previously unqualified workers
- Proportion of apprentices
- MBE, WBE, and DBE carve outs
- Emerging business enterprises core employee exception

Whether or not apprenticeship and job goals are met depends on turning a PLA's words into deeds. To do so, a PLA must explicitly address two concerns. First, goals are meaningless unless local residents step forward to fill these positions. To make sure this happens, outreach, referral, and support services are necessary. Second, the players in a PLA must be held accountable for its language. Effective monitoring and sanctions are the means for such accountability.

Getting Residents to Work: The best way to ensure that the targeted low-income residents identified in the PLA actually enter into appropriate job training and then get project jobs is to have effective outreach and referral. This refers to proven, proactive methods for getting the word out to interested jobseekers and helping them enroll in the right program. Several PLAs identify the use of a centralized system for conducting outreach and referral. In Buffalo, the system was called the RCPI Residential Screening Program and in Oakland, the system was nicknamed "the Pre Halls." A centralized system can be operated by one community-based organization (CBO) or by a coalition of many CBOs coordinating their efforts. Many communities and local organizations have started to move toward a centralized resource for these services, and a PLA can provide added impetus to complete this process. For communities not moving in this direction, a PLA can provide the incentives and structure for doing so.

Support Services: A necessary ingredient in a pro-community PLA's success is the availability of support services for residents coming into the job market for the first time or after a long hiatus. CBOs typically provide these services, which can range from childcare or transportation assistance to substance abuse treatment or domestic violence counseling. In Seattle, the Sound Transit PLA created a pre-apprenticeship structure to prepare and support unemployed and underemployed participants for entry into apprenticeship. Called the Regional Apprenticeship Integrated Delivery System (RAPID), this structure serves as a pipeline for several CBOs that provide social services, apprenticeship preparation, and the trade-specific apprenticeship to the targeted groups identified in the PLA.

Funding Mechanisms: Effective outreach and referral for a large construction project often requires funding beyond what was previously available. To date, at least two PLAs have created mechanisms to provide the needed funds. Sound Transit, the public agency, agreed to pay no less than five cents per hour worked by employees covered under the PLA into a fund that will compensate service providers involved with the RAPID program. Sound Transit administers the fund with guidance from a separate Fund Administration Committee that includes labor, community and Sound Transit representatives. The Port of Oakland's PLA created a similar fund and charged a Social Justice Committee with setting the agenda for how these funds are distributed.

PUTTING TEETH INTO A PLA

Monitoring: Monitoring contractors' compliance with the PLA provisions is another important issue for the community. Community representatives should decide on and advocate for a monitoring system that will deliver the community benefits agreed to in the PLA. The choice of a "project monitor" is a key one. Options include: the project contractor, the public agency's Equal Employment Office or Contract Compliance Office, a consultant with experience in implementing job goals, or community groups. Community advocates should learn which of these groups or individuals has the capacity for effective pro-community PLA monitoring. For example, if a public agency's Equal Employment or Contract Compliance Office has been successful in ensuring that job goals on prior projects are met, it might make sense to use this office as a PLA monitor.

In communities with job-training programs, a consultant for a CBO (or the CBO itself) might serve as an effective project monitor. In Seattle, a local consultant acting as project monitor achieved a workforce participation rate of 25 percent women and minority on several PLAs. The consultant attributed his success to being able to focus solely on monitoring. In Buffalo, CBO project monitors achieved a 28 percent participation rate for minorities and women on the Roswell Park Cancer Institute Project.

Different results would have occurred if these two communities lacked an adequate supply of skilled minority and women labor. In such a situation, the project monitor needs to be directly connected to the community's workforce preparation resources to ensure a steady supply of workers that will enable contractors to meet their workforce needs and the PLA's employment goals.

PLAs in Seattle and Oakland developed innovative monitoring mechanisms. Under Sound Transit's PLA, a local community group trains one construction worker on every jobsite to be the advocate for community interests. After training, these workers report to the community group on the jobsite's implementation of the PLA's social justice/community provisions. The Social Justice Committee formed under the Port of Oakland PLA implements, advises on, and resolves disputes generated by the social justice provisions of the PLA. Made up of representatives from community groups, training programs, labor, contractors, the project contractor, and the public agency, the committee reports to the Joint Management Labor Committee, which oversees and administers the PLA. Ultimately, decisions about the type of monitoring mechanism and the location of the project monitor must be made according to local circumstances.

Sanctions: No monitoring system can be effective without sanctions for failing to reach goals. If the public agency has effective sanctions in its existing non-compliance language, the PLA should incorporate this language. Otherwise, explicit language on the sanctions for failing to attain employment goals should be written into the PLA. In a PLA in Buffalo, failure to meet these goals resulted in contractors not receiving their “draw-down payments”—early payments given to a contractor before the jobsite is completed. Other examples of sanctions are monetary fines, withholding a percentage of a retainer or progress payment, and loss of contract.

However, most PLAs contain no language on non-compliance or sanctions for non-compliance. Without sanctions or other measures, the community cannot guarantee the effectiveness of pro-community provisions. Therefore, sanctions or other non-compliance measures should be a high-priority for communities.

Innovative PLA Language

Jobs and Apprenticeships

- Minority, Women, and Disadvantaged Goals
- Apprentice Equivalents

Outreach, referral and support services

- Centralized structure
- Additional funding

Monitoring

- Social justice committee or community group
- By a consultant, the agency’s existing compliance staff, a community group, or PLA workers

Sanctions

- Stop draw-down payments or withhold percentage of retainer or progress payment
- Fines or loss of contact

Incentives

- Monetary incentives, i.e. bonus
- Bonus bid points on future works projects

CONCLUSION

PLAs offer the community a meaningful opportunity to gain local jobs, advance training opportunities, and raise funds for local organizations and businesses. These results depend in large part on whether and how the community interest is represented during PLA negotiations. The community can either depend on the goodwill of management and labor, or community representatives can advocate their interests directly.

After just *minimal* community involvement, a PLA is likely to: 1) affirm equal employment and affirmative action goals for journey-level and apprentice positions; 2) require efforts to employ local residents as apprentices; 3) mandate efforts to train and hire those previously unqualified to be employed; and 4) include contract dollars for women-, minority-, and disadvantaged businesses.

After *vigorous* community involvement, even more can be achieved. As the many examples in this primer have shown, vigorous community efforts have led to: 1) hiring and apprenticeship goals for women, minority, and disadvantaged workers; 2) centralized systems for outreach and referral that include support services and additional funding; and 3) effective monitoring systems backed by explicit sanctions.

As governments at all levels turn to PLAs, it becomes urgent for communities to get to the negotiation table for Project Labor Agreements. Inclusion of pro-community language in a PLA provides not only tangible benefits for the community that negotiated it, but also important spillover effects for other communities. One community's PLA provisions often become the starting point for a nearby community's negotiations. By sharing information and strategy with one another, communities across the country will be able to achieve even greater benefits from PLAs than have been achieved to date.

APPENDIX A:

STANDARD PROVISIONS

Equal Employment Opportunity (EEO) Language: The job referral system will be operated in nondiscriminatory manner and in full compliance with federal, state, and local laws and regulations which require equal employment opportunities and nondiscrimination.

Federal Affirmative Action Language: Parties agree that affirmative action shall be taken to afford equal employment opportunity to all qualified persons without regard to age, race, creed, color, sex, or national origin. This commitment applies to hiring, training, promotion, transfer, or termination of employees, and parties agree to cooperate to the fullest extent to achieve the intent and purposes of Title VII of the Civil Rights Act of 1964, and Executive Order 11246.

Local Hire Alternative One: Parties agree to support the development of increased numbers of skilled construction workers from the residents of the project area to meet the needs of the project and the requirements of the industry generally. Toward that end, the unions agree to encourage the referral and utilization—to the the extent permitted by law and the hiring hall procedures—of qualified residents as journeymen, apprentices, and trainees on this project and their entrance into such apprenticeship and training programs as may be operated by the signatory local unions.

Local Hire Alternative Two: Given the size and scope of the project, the parties recognize that the number of craftspersons and others expected to be employed in order to complete the work in a timely fashion and the extended period of time during which construction will be underway should provide significant employment opportunities for qualified residents of the area served by the authority. Equally important, the parties recognize that persons currently lacking the basic skills and qualifications to enter skilled apprenticeship programs will have the opportunity—through such basic training programs as have been established by, or with the cooperation of, the Building Trades Unions—to obtain the requisite qualifications and be considered for employment on the project. The parties will endeavor to support such programs and employ program participants and graduates consistent with the hiring obligations of this agreement and the needs of the contractor for skilled and experienced craftspersons and apprentices.

Previously Unqualified Workers Language: It is recognized that special procedures may be established by joint agreement of the parties and governmental agencies for the hiring, training, promotion, transfer, or termination of persons who have not previously qualified to be employed on construction projects of the type covered by this agreement. Parties will make good faith efforts to assist in the proper implementation of such orders, regulations, or agreements for the general benefit of the residents of the project area.

MBE and WBE Carve Out Language: It is recognized that the public owner has certain policies and commitments for the utilization of emerging business enterprises and business enterprises owned and/or controlled by minorities or women. The parties shall jointly endeavor to assure that these commitments are fully met, consistent with commitments and all applicable federal and state laws and regulations relating to public contracting and employment and utilization of minorities and minority- and/or women-owned businesses (MBE, WBE). Any provisions of this agreement which may appear to interfere with any successful MBE or WBE bidder shall be carefully reviewed and adjustments made, as appropriate and agreed upon among the parties to assure full compliance with the spirit and letter of the owner's policies and commitments.

Emerging Business Enterprise's Core Employee Exception: Parties recognize the Public Agency's commitment to provide subcontracting opportunities on the project to emerging business enterprises and women, minority, and disadvantaged businesses, as well as other enterprises which may not have had a prior relationship with signatory unions. These businesses can bring on core employees.

APPENDIX B:

INNOVATIVE PLA LANGUAGE

Below are excerpts from several PLAs. The Port of Oakland PLA is excerpted for its Social Justice Committee provisions. The Sound Transit PLA is excerpted for its community monitoring system. The Tappan Zee Bridge PLA is excerpted for its creation of the apprentice equivalent. The Los Angeles School District's PLA is excerpted for its targeting of district graduates for jobs and training and its year-long trial to demonstrate cost savings.

Port of Oakland's PLA:

Community and Social Justice Committee

"Various provisions of this agreement have been agreed in order to achieve the inclusion of historically disadvantaged businesses and individuals in the contracting and employment opportunities created by the qualifying work. In order to implement these social justice provisions, the Port will form a Social Justice Committee to serve as the central forum for representatives of all interested or affected parties to exchange information and ideas and to advise the Port staff concerning the operation and results of the Port Social Justice Programs and the ongoing role of this PLA as an integral component of the Port's program.

"The Social Justice Committee will be comprised of representatives of all interested segments of the community who will be appointed by the Port, including but not limited to local, minority and female business organizations, CBOs, unions, Project Contractor, and contractors. The Port's representative on the Committee shall serve as chair. The Committee will meet monthly or at the call of the chair to discuss work progress and projections and other issues of concern to the Committee.

"Issues that are not resolved by the Committee may, if appropriate, be referred to the Social Justice Subcommittee of the Joint Administrative Committee. Reasonable costs of the program established by the Social Justice Committee shall be borne in partnership between the Port and industry (labor/mgmt) with the industry share being paid by the existing industry contract administration or similar trust funds referenced in Article XI, Section 3."

Joint Labor Management Committee

"Parties shall establish a standing Subcommittee on Social Justice to the Joint Administrative Committee which shall be comprised of representatives from the unions, Project Contractor, contractors, and CBOs located in the Local Impact Area and selected by the Port and mutually accepted by the Project Contractor and the unions. The purpose is to promote and support on an ongoing basis the utilization, to the maximum extent possible, of Oakland-based small and historically disadvantaged businesses and the training, placement, and retention of Local Impact Area residents, especially applicants from groups that have been historically disadvantaged in construction industry employment opportunities. The Subcommittee shall meet on a regularly scheduled monthly basis or at the call of Project Contractor to discuss business, training, job opportunities, and any issues concerning alleged non-compliance. The Project Contractor shall chair and be responsible for scheduling meetings and preparing agenda topics with input from other Subcommittee members. Contractors shall be prepared to report on monthly progress and to provide ongoing workforce projections for their work. Timely notice of the location and time of the meetings shall be given to all Subcommittee members."

Sound Transit's PLA:

Community Representation

"As diverse and low-income communities are underrepresented in the construction industry, the parties to this PLA support the direct involvement of FAST Jobs Coalition's Community Representatives and Agents, hereinafter referred to as FJC-

Rep and FJC-A's, to insure the securement and successful retention of people of color and women. They will be trained in jobsite monitoring and advocacy of community interests in the implementation of the social justice provisions contained in this agreement.

"FJC-Reps are employees of contractors. FJC-A's are rep's from FAST Jobs Coalition.

"FJC-Reps may be designated on projects valued at \$1 million or above.

"All FJC-Reps and A's will contact FAST Jobs if non-compliance or other irregularities are observed or reported. Activities include: monitoring of stated goals for participation of workers of color and women in construction trade force; support, mentoring and problem solving for all workers, including workers of color and women, to promote harmony and safety on the jobsite and to increase retention of workers of color and women in the industry; act as a liaison for workers of color and women and the FJC, between employers and their union representatives to enhance effective communication and expedite resolution of issues; participate as needed in the implementation of Sound Transit Project policy or mutually agreed upon contractor, union, or FAST Jobs directives; and serve as recruitment resource for employers, unions, and apprenticeship programs.

"FJC-reps and A's will submit a monthly report to FAST Jobs detailing their activities."

Tappan Zee Bridge's PLA:

Apprentices

"Recognizing the need to... provide craft entry opportunities for minorities, women, and economically disadvantaged non-minority males, contracts will employ apprentices... up to 25%.

"Unions agree to work in close cooperation with, and accept monitoring by, the New York State Department of Labor to ensure that minorities and women are afforded every opportunity to participate in apprenticeship programs which result in the placement of apprentices on this project. To further ensure that this contractor effort is attained, up to 50% of the apprentices placed on this project shall be first year, minority, women, or economically disadvantaged apprentices as shall be 60% of the apprentice equivalents, placed on the project, who do not necessarily meet all of the age or entrance requirements for the apprentice programs or have necessarily passed the entrance exam. Unions will cooperate with contractor requests for minority, women, or economically disadvantaged referrals to meet this contractor effort."

Los Angeles Unified School District's PLA

Scope of the Agreement

"This is on a trial basis for one year. District must demonstrate that cost savings have materialized at a level sufficient to justify continuing the agreement."

Local Hire Language

"Unions shall recruit school district graduates and local community residents from the District's attendance area to be employed on Project work. Unions agree, to the extent law permits and as long as they possess the requisite skills and qualifications, district graduates and local community residents from the District's attendance area shall be first referred, including apprenticeship and other subjourney person positions until at least 50% of the positions for a particular Contractor (including core employees) have been filled with graduates and attendance area residents. Others are only referred if 50% already filled or such individuals are not available. Unions and contractors shall submit individual reports identifying those individuals referred by the union and hired by the contractor. At minimum, reports will include address of employee and whether a district graduate. If union doesn't refer qualified women or minority applicants, and if they're necessary to meet affirmative action or equal employment opportunity goals pursuant to federal, state, local rule or law, then contractor can go to any source."

APPENDIX C:

PUBLIC SECTOR PLAS

STATE	PROJECT
California	Concord Police Facility, 1990
	EBMUD's Multi-Purpose Pipeline, 2000
	Contra Costa County Hospital, 1995
	Los Angeles Airport, over \$100 million, 1995
	Port of Oakland, \$1.6 billion, 2000
	Lawrence Livermore Lab, 1996
	Los Vaqueros Reservoir, \$450 million, 1995
	Los Angeles Unified, \$1.8 billion, 1999
	Orange County Construction Agreement, 2000
	Santa Ana Schools, \$145 million, 2000
	Sacramento's Light Rail Extension, \$222 million, 2000
	San Diego County Water Authority's Emergency Storage Project, 1999
	Metropolitan Water District of California's Inland Feeder, \$1.1 billion, 1996
	San Jose Airport, over \$1 billion, 2001
San Francisco Airport, \$2.4 billion, 1997	
West Contra Costa Unified School District, 2000	
Colorado	Denver International Airport, 1989
Connecticut	Harbor Yard Sports Complex, \$14 million, 1997
District of Columbia	Washington Convention Center, 1999
Idaho	Idaho Dept. of Energy Lab, 1984, revised 1991
Indiana	Indiana White River State Park Development Commission's NCAA National Headquarters, 1998
Massachusetts	Braintree Weymouth Relief Facilities, 1998
	Walnut Hill Water Treatment Plant, 1998
	MetroWest Water Supply, 1996
	Boston Harbor, \$3.9 billion, 1989
	Boston Central Artery / Tunnel Project (the "Big Dig"), over \$1 billion, 1989

Nevada	Colorado River Commission Power Project, 1997 Southern Nevada Water Authority Improvements, 1997
New York	Erie County Courts, 1999 Northwest Academy in Buffalo, 1998 Suffolk County Ballpark, \$18.5 million I-287/ Cross Westchester Expressway Corridor, 1999 Tappan Zee Bridge, \$130 million, 1994 Suffolk County Community College Health Technology Building, \$53.2 million Buffalo-Niagara Airport, \$85 million, 2000 Roswell Park Cancer Institute, \$150 million, 1994
Ohio	Cleveland Football Stadium, 1997 Klamath Falls, 1985
Oregon	Federal: Tennessee Valley Authority: Maintenance and Construction, 1991
Tennessee	Oak Ridge Department of Energy Lab (federal), 1997 Utah I-15 Construction (federal), 1996 Sound Transit, 1999
Washington	Port of Seattle Airport Modernization, 1999 Seahawks Stadium, 1998 Mariners Baseball Stadium, 1997 Port of Seattle Central Waterfront Project, 1994 Washington Aviation Field, 1987

APPENDIX D:

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