

BOARD of SUPERVISORS



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MEMORANDUM

TO: Mohammed Nuru, Director, Public Works
Todd Rufo, Director, Office of Economic and Workforce Development
Harlan Kelly, Jr., General Manager, Public Utilities Commission
Elaine Forbes, Executive Director, Port of San Francisco
Naomi Kelly, City Administrator, Office of the City Administrator
Ed Reiskin, Executive Director, Municipal Transportation Agency

FROM: Linda Wong, Assistant Clerk, Budget and Finance Committee

DATE: March 15, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Budget and Finance Committee has received the following proposed legislation:

File No. 170205

Ordinance amending the Administrative Code to require a citywide project labor agreement applicable to certain public work or improvement projects with projected costs over \$1,000,000 or where delay in completing the project may interrupt or delay services or use of facilities that are important to the City's essential operations or infrastructure.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Jennifer Blot, Public Works
John Thomas, Public Works
Ken Rich, Office of Economic and Workforce Development
Lisa Pagan, Office of Economic and Workforce Development
Juliet Ellis, Public Utilities Commission
Daley Dunham, Port of San Francisco
Janet Martinsen, Municipal Transportation Agency
Kate Breen, Municipal Transportation Agency
Dillon Auyoung, Municipal Transportation Agency

1 [Administrative Code - Citywide Project Labor Agreement for Public Work or Improvement
2 Projects]

3 **Ordinance amending the Administrative Code to require a citywide project labor**
4 **agreement applicable to certain public work or improvement projects with projected**
5 **costs over \$1,000,000 or where delay in completing the project may interrupt or delay**
6 **services or use of facilities that are important to the City's essential operations or**
7 **infrastructure.**

8
9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. The Administrative Code is hereby amended by adding Section 6.27, to
18 read as follows:

19 **SEC. 6.27 CITYWIDE PROJECT LABOR AGREEMENT ORDINANCE.**

20 (a) Short Title. This Section 6.27 shall be known and may be cited as the Citywide Project
21 Labor Agreement Ordinance.

22 (b) Findings and Purpose.

23 (1) Certain public work and improvement projects can involve numerous contractors
24 and employees in different trades, have critical timelines for completion, and require a skilled and
25 properly-trained workforce to successfully complete the work in a proper and timely manner. To avoid
costly delays and additional expense to the City, it is essential that construction on such projects
proceed without the labor disruptions that can occur on long-term projects, both from external labor

1 relations problems and from the frictions that often arise when a large number of contractors and their
2 employees and subcontractors work in proximity to one another on a job site.

3 (2) Additionally, in a complex and highly developed urban environment such as San
4 Francisco, many smaller projects can be of substantial importance to City residents, whether through
5 provision of basic services or through the establishment or maintenance of conditions for economic,
6 physical, or emotional well-being, such that it is highly desirable and even essential to avoid the delay
7 in their completion that might result from labor disruptions.

8 (3) In the private sector, project labor agreements have been used for many years on
9 numerous construction projects to achieve satisfactory performance and the economic benefits that
10 result from having a guaranteed source of skilled workers and from avoiding work disruptions.

11 (4) In San Francisco, project labor agreements have been and are being used
12 successfully by public entities including the San Francisco Public Utilities Commission, the San
13 Francisco Community College District, the San Francisco Unified School District, the Transbay Joint
14 Powers Authority, and the United States General Services Administration, as well as by many private
15 entities, for construction in both large and small scale projects, including hospitals, reservoirs, water
16 treatment and transmission facilities, schools, offices, and residences, and for the retrofit and remodel
17 of existing buildings and facilities. Such agreements have been a major factor in producing quality
18 construction work and projects completed on time, within budget, without labor strife or disruptions.

19 (5) Beyond San Francisco, throughout the Bay Area and Northern California, project
20 labor agreements have been used successfully on numerous public and private construction projects,
21 and public entities such as the County of Contra Costa, the Bay Area Rapid Transit District, the
22 Oakland Unified School District, the City of Berkeley, and others, maintain Project Labor Agreement
23 Ordinances and Policies requiring the use of project labor agreements on their publicly funded
24 construction projects. The same is true of the San Francisco International Airport, a City entity
25 located in the County of San Mateo.

1 (6) The cyclical nature of our economy has led and will lead to high levels of
2 unemployment and underemployment of San Francisco residents, particularly in certain neighborhoods
3 and communities. Statistics also indicate that high levels of unemployment or underemployment
4 correlate to a higher number of families living at or near the poverty line and to a higher crime rate. As
5 a result, it is the policy of the City to increase and improve the employment of persons living in San
6 Francisco in an attempt to counteract the grave economic and social ills associated with the
7 unemployment and underemployment levels that have existed and will exist within San Francisco.

8 (7) There is a need to provide San Francisco residents with more opportunities to
9 participate in workforce development and pre-apprenticeship programs that include life skills training
10 and job readiness training, and to this end the City has funded the CityBuild Academy established by
11 the Office of Economic and Workforce Development. Such pre-apprenticeship programs increase the
12 capacity of San Francisco residents to succeed later in formal apprenticeship programs and hence
13 reduce unemployment and underemployment and accompanying poverty and crime conditions.

14 (8) The construction crafts that work on City-funded projects require a supply of new
15 apprentices to perpetuate the crafts into the future. Through their apprenticeships, these crafts provide
16 genuine opportunities for long-term, well-paid careers in the construction industry. Entry into and
17 employment through these apprenticeships can be facilitated by formal understandings between the
18 City and the labor organizations affiliated with the San Francisco Building and Construction Trades
19 Council.

20 (9) In addition, large numbers of returning veterans will be seeking employment on
21 City-funded construction projects and training opportunities for entrance into the construction
22 industry. Such training opportunities are available through a program known as "Helmets to
23 Hardhats," a program that current City project labor agreements require contractors and
24 subcontractors to use.

1 (10) The use of project labor agreements has proven to be a valuable vehicle for
2 accomplishing all of the goals set out above.

3 (c) Definitions. For purposes of this Section 6.27, the following definitions shall apply:

4 "Covered Project" means a project involving Public Work or Improvement as defined in
5 Administrative Code Section 6.1, if either: (1) the Department Head projects the cost of the project to
6 exceed \$1,000,000, or (2) the Department Head has determined that delay in completing the project
7 may lead to interruption or delay of services or use of facilities that are important to the essential
8 operations or infrastructure of the City. Notwithstanding the foregoing sentence, "Covered Project"
9 does not include any Public Work or Improvement projects undertaken by the San Francisco
10 International Airport. Nor does it include any Public Work or Improvement projects undertaken by the
11 San Francisco Public Utilities Commission or the Port of San Francisco under their exclusive
12 jurisdiction. "Covered Project" also does not include any Public Work or Improvement project where
13 application of the citywide PLA would violate the conditions of a state, federal, or other public funding
14 source.

15 "Project Labor Agreement" or "PLA" means a multi-craft collective bargaining agreement
16 between the City and the relevant trade councils and craft and labor unions that will refer workers to
17 Covered Projects, and which governs the construction services on the Covered Project.

18 "Subcontractor" means any person, firm, partnership, owner-operator, limited liability
19 company, corporation, joint venture, proprietorship, trust, association, or other entity providing
20 services to a Contractor or other Subcontractor in fulfillment of the Contractor's or other
21 Subcontractor's obligations arising from a contract with the City for construction work on a Covered
22 Project.

23 "Unions" means the relevant trade councils, craft and labor unions that become signatories to
24 the citywide Project Labor Agreement.

1 (d) Project Labor Agreement Requirement. Not later than September 1, 2017, the City
2 Administrator shall negotiate with the Unions and sign on behalf of the City, a citywide Project Labor
3 Agreement that shall apply to all Covered Projects. Consistent with Charter Section 8A.101(d), this
4 requirement shall also apply to Covered Projects of the San Francisco Municipal Transportation
5 Agency, except that in its discretion, the Municipal Transportation Agency may separately negotiate
6 and enter into a Project Labor Agreement that shall apply to Covered Projects falling under its
7 jurisdiction. For all Covered Projects advertised after September 1, 2017, each Department Head,
8 shall set as a precondition to the award of the contract that the Contractor and its Subcontractors sign
9 an agreement to be bound by the Project Labor Agreement. The Contractor shall execute the Project
10 Labor Agreement on file with the City Administrator. Nothing in this provision shall impact or
11 otherwise impair the terms of any existing Project Labor Agreement.

12 (e) Required Terms for citywide Project Labor Agreement. The citywide Project Labor
13 Agreement, and any separate Project Labor Agreement negotiated by the San Francisco Municipal
14 Transportation Agency, shall include the following terms:

15 (1) The Project Labor Agreement is binding on all Contractors and Subcontractors
16 at all tiers of a Covered Project;

17 (2) Unions, Contractors, and Subcontractors are bound by the requirements of
18 Administrative Code Chapters 6, 14B, and 83, as they may be amended from time to time, including but
19 not limited to the provisions addressing Local Hire and Local Business Enterprise;

20 (3) Contractors will condition the engagement of each Subcontractor on the
21 Subcontractor agreeing to be bound by and comply with all the terms of the Project Labor Agreement;

22 (4) Contractors and Subcontractors to whom construction services are awarded for
23 a Covered Project will use the hiring halls operated by signatory Unions for all labor on the Covered
24 Project except for the services provided by non-craft managerial, executive, and clerical employees,
25 and supervisory employees above the level of general foreman;

1 (5) Contractors and Subcontractors will hire apprentices indentured in the State-
2 approved joint apprenticeship program for the applicable craft or trade for work on the Covered
3 Project in accordance with the apprentice ratios contained in California Labor Code Section 1777.5,
4 as it may be amended from time to time;

5 (6) Unions will use the "Helmets to Hardhats" Program to assist returning veterans
6 in obtaining employment and training opportunities on the project;

7 (7) a mechanism for the expedited resolution of jurisdictional disputes between
8 Unions;

9 (8) an agreement by all Unions to refrain from strikes, picketing, and other labor
10 disruptions related to the Covered Project, and that Union members will continue work on a Covered
11 Project despite the expiration of any applicable collective bargaining agreement;

12 (9) the PLA's coverage does not extend to the Contractors' or Subcontractors'
13 parent companies, subsidiaries, or affiliates;

14 (10) the PLA does not apply to any work performed on or near or leading to or into
15 the Covered Project site by federal, state, local, or other governmental entities or their contractors or
16 subcontractors, or by utilities or their contractors or subcontractors, or by the City or its contractors
17 or subcontractors if that work that is not part of the Covered Project; and

18 (11) a prohibition against discrimination on any and all bases that City, state or
19 federal law prohibits.

20 (f) Severability. If any subsection, sentence, clause, phrase, or word of this Section 6.27, or
21 any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
22 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining
23 portions or applications of the Section. The Board of Supervisors hereby declares that it would have
24 passed this Section and each and every subsection, sentence, clause, phrase, and word not declared
25

1 invalid or unconstitutional without regard to whether any other portion of this Section or application
2 thereof would be subsequently declared invalid or unconstitutional.

3 (g) No Conflict with Federal or State Law. Nothing in this Section 6.27 shall be interpreted
4 or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

5 Section 3. Effective Date. This ordinance shall become effective 30 days after
6 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
7 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
8 of Supervisors overrides the Mayor's veto of the ordinance.

9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: 
13 JENNIFER STOUGHTON
14 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Citywide Project Labor Agreement for Public Work or Improvement Projects]

Ordinance amending the Administrative Code to require a citywide project labor agreement applicable to certain public work or improvement projects with projected costs over \$1,000,000 or where delay in completing the project may interrupt or delay services or use of facilities that are important to the City's essential operations or infrastructure.

Existing Law

There is no existing legal requirement for the City to use a Project Labor Agreement ("PLA") on its public work and improvement projects. Currently, City departments negotiate PLAs for certain large public work projects on a case-by-case basis, when the department determines that a PLA will protect the City's proprietary and fiscal interests.

Amendments to Current Law

The proposed Ordinance would amend the Administrative Code to add Section 6.27 to require the City to negotiate a master PLA to apply to all City public work and improvement projects with estimated project costs over \$1,000,000. The proposed Ordinance would exempt projects under the jurisdiction of the San Francisco Airport, the San Francisco Public Utilities Commission and the Port of San Francisco from the PLA. And the PLA would not apply to a particular project if its application would violate the conditions of a local, state, or federal funding source for that project.

The proposed Ordinance would require that no later than September 1, 2017, the City Administrator negotiate with the relevant trade councils, craft and labor unions, and sign on behalf of the City, a PLA that shall: (1) apply to all contractors and subcontractors on a project and be a bidding prerequisite; (2) incorporate San Francisco Administrative Code Chapters 6, 14B and 83; (3) require the use of hiring halls, joint apprenticeship programs, and the Helmets to Hardhats program; (4) prohibit work stoppages; and (5) establish a method to resolve jurisdictional disputes between trade unions that are parties to the PLA. The proposed Ordinance also specifies that, consistent with Charter section 8A.101(d), the San Francisco Municipal Transit Agency, may separately negotiate and enter into a PLA that applies to covered projects within its jurisdiction. Finally, City Department heads could apply the PLA to projects under \$1,000,000 in their discretion.

Background Information

FILE NO. 170205

The purpose of the citywide PLA under the proposed Ordinance is to avoid costly delays and additional expenses associated with public works and improvement projects that involve numerous contractors and employees in different trades, have critical timelines for completion, and require a skilled and properly-trained workforce to successfully complete the work in a timely manner. Similar PLAs have been used in both the public and private sector to achieve the economic benefit that results from long-term projects proceeding without labor disruptions.

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