



Southern California Association of Non Profit Housing

May 24, 2017

The Honorable Maqueece Harris-Dawson
The Honorable Jose Huizar
Homelessness and Poverty Committee

Re: Council File 17-0090-S1, Proposition HHH/ PLA

Dear Chairman Harris-Dawson and Vice Chairman Huizar:

We are aware that the Homelessness and Poverty Committee is scheduled to consider a motion to instruct the City Attorney, with the assistance of the Bureau of Contract Administration, to prepare and present a draft ordinance that would implement a citywide Project Labor Agreement (PLA) for projects funded with Proposition HHH bond proceeds.

This letter is intended to provide SCANPH's point of view on the proposal and to suggest some refinements to the motion to ensure that the affordable housing development community is represented in the development of any draft policy and any resulting PLA. As described below, we would hope to help shape the policy and PLA to ensure a good fit with the specifics of affordable housing development, and to avoid unintended impacts on project costs and feasibility.

Our comments outlined in detail in this letter are guided by three main principles:

1. SCANPH and its members believe that affordable housing and good jobs are fundamental to a thriving community. That's why we worked with labor and other constituencies to pass Measure HHH that promised voters that we would use HHH funds to build 10,000 homes for the most vulnerable in Los Angeles;
2. City policy should balance both housing and jobs goals which were resoundingly supported by voters;
3. The new policy should be applied reasonably by exempting developments that are not big enough to accommodate the a PLA's requirements (we suggest the CRA-PLA threshold of 75 units) and the PLA should only apply to developments that have not yet been approved for City funding via HCID's Project Expenditure Plan or the Managed Pipeline.

Background

SCANPH was an active member in the effort to pass Measure HHH, to address the unacceptable number of Los Angeles residents experiencing homelessness. The Measure passed overwhelmingly at a time when public funds for affordable homes have been cut dramatically. Since 2008 state and federal funds supporting the development of affordable housing have been cut 64%. The current federal budget proposal zeros out HOME dollars altogether and the tax reform proposals have caused uncertainty in the affordable housing tax credit market. These developments already threaten to reduce the number of units HHH dollars can produce.

We are committed as an industry to meeting our mission of developing homes that are affordable to low income residents of our community while ensuring that those doing the construction are paid a decent wage. All SCANPH member developments currently pay prevailing wage.

The financing of developments is tight, and ensuring that a development remains in good physical condition and affordable to low income residents over the long term is a challenging proposition. Even small increases in construction costs can reduce the number of units a project can provide, and in some cases will determine whether a development is viable overall.

The concept of a Project Labor Agreement imposed on the development of HHH-funded projects represents a significant change in the way permanent supportive housing is developed in the City, and we want to make sure there is as little disruption as possible in the production of permanent homes for people facing homelessness.

It is in this context that we offer the following recommendations about the consideration of Project Labor Agreements on HHH-funded developments.

SCANPH Proposals for PLA on Measure HHH Developments

SCANPH members understand that our mission is complementary to that of the building trades, and we hope that a PLA based on the CRA/LA Construction Careers Policy & PLA will lead to a productive relationship that is beneficial to the City of LA.

We are very concerned, however, that there is no provision for the affordable development community to have meaningful input into the policy governing a potential PLA. This is especially important (1) since most affordable developers in Los Angeles have never had a project that was subject to a PLA and thus have very little experience implementing one and (2) that while there have been PLAs on some residential projects in the past, most PLAs that the trades provide the labor and contractors for are large, non-residential projects – and the residential projects that are done with union labor are generally much bigger than affordable developments, and benefit from market-driven margins.

Our primary proposal is to include the perspective of the affordable housing development community by participating 1) in the development of the policy and 2) in the negotiations of the PLA, ideally by having at least two representatives participate in the negotiations. Since the development community will have to perform the agreement, they should be part of determining its terms. Besides making sure the affordable development community voice is present, negotiations can provide an opportunity for the development, union, and the City communities to better understand each other and develop the relationships that will make implementation of the PLA as smooth as possible.

In addition, we would ask that the following be put into the PLA policy language:

1. Incorporate the terms of the CRA Construction Careers Policy & PLA, particularly:
 - a. The exemption for projects of fewer than 75 units of housing (see explanation below)
2. Include provisions that allow current contractors to retain Core Workers.
3. Provide a “safety valve” by requiring trades to use their best efforts to ensure that there are at least three subcontractors bidding for each subcontract on a project. In some residential PLAs, if the developer or contractor can’t get three bids in a particular craft, they can go to the union for help and the union has 1-2 weeks to find subcontractors to submit serious bids. If there aren’t at least three bidders after this process, then the subcontract can be awarded without PLA coverage. Some

version of this requirement would provide crucial cost-control assurance by ensuring competitiveness in the bidding process.

Explanation

The biggest concern of the development community is that costs will rise because fewer contractors and subcontractors will bid to work on our projects due to the PLA requirement. Even though HHH projects will be covered by prevailing wage requirements, PLA requirements may discourage bidding by some contractors, especially general contractors and smaller trade subcontractors, that regularly help build affordable housing projects. In addition, we are concerned that the trades may not have sufficient subs and contractors interested in our work because they are focused on large commercial construction rather than small to midsized multifamily housing. This concern is particularly strong in the current hot development market. If construction costs rise, it means that there will be fewer, much-needed affordable developments built, and HHH dollars will not go as far.

4. Provide that Public Works will convene regular meetings of the trades and development community to monitor implementation of the PLA and work together to solve challenges that arise.
5. Make the term of the initial negotiated PLA one to two years to allow for an evaluation to see if any of the terms should be adjusted given the particulars of affordable development projects.

Explanation for the 75- Unit Threshold

We believe there should be a 75-unit threshold because:

1. When building a 75-unit project, a developer can attract a more sophisticated contractor who will be more likely to have the administrative and other capacities required for compliance with a PLA. Also, we believe that it will be easier to find union contractors and subs in all the different crafts who are interested in projects of that size than it will for smaller projects.
2. A larger project allows for more economies of scale, so that any extra costs of compliance are better spread over a project with more units.

For reference, we have attached a list of additional substantive concerns for the committee to consider as it deliberates the motion. We hope that they provide some indication of the level of complexity and potential for unintended consequences related to applying a PLA in this new context. Our goal is to develop the housing promised under Measure HHH. We believe that it can be done while providing good jobs for construction trades and local residents. We urge however a serious and considered approach to the policy that ensures the achievement of these goals.

Please feel free to contact me with any comments, questions or concerns.

Sincerely,



Alan Greenlee
Executive Director

ATTACHMENT #1

Substantive Considerations of Project Labor Agreements on Permanent Supportive Housing Developments

- PLA should be developed in by a thoughtful deliberation of this proposed policy by the Homelessness Committee, the City Attorney, the Department of Public Works, the building trades and the affordable housing industry. A PLA will have very significant impacts on the cost and the process for creating more affordable homes for individuals and families presently living without shelter. The Committee should seek out more input from the affordable housing development stakeholders who will be responsible for implementing this policy so that, to the extent feasible, its concerns can be considered.
- The PLA should be developed with consideration of its impact on the current contractor community that works with affordable housing developers. There is a significant pool of very strong, reputable general contractors with a great depth of experience building affordable housing who are not union contractors. It would be very unfortunate for our community to lose these resources, especially in this time of intense shortage of construction labor and sub-contractors and at the time when HHH provides resources for an increase in supportive housing development.
- Due to the increased costs that would result from a PLA, the Committee's motion should specifically direct HCID to raise its per unit loan limits to an amount that considers this additional financial burden.
- Request a 5% increase in per unit and loan limits AND request to be able to hire a non-union sub or GC, if the difference between a reasonable and comparable non-union bid and the lowest union-bid is more than 5%.
- Review the Jobs Coordinator requirement that CRA/LA had.
- Consider accommodations for subcontractor contract amounts. It is extremely difficult to find subcontractors with very small contracts (ex: concrete cutting, tot lot, window treatments, etc.) that are able to sign up with PLA's. We suggest an exemption for subcontractors with contracts less than \$50,000.
- Consider a residential square foot floor area threshold for "Covered Projects" as an additional way to determine which developments are subject to PLA.
- Improve the Core Workforce ratio.
- Include a more lenient definition of a Core Employee. We propose that employees on active on payroll for thirty {30} of the sixty (60) days to be qualified as a Core Employee.
- Ensure a fair/unbiased GRIEVANCE ARBITRATION PROCEDURE.