



AGENDA REPORT


TO: Jestin D. Johnson
City Administrator

FROM: Emylene Aspilla
Director, Department of
Workplace and Employment
Standards (DWES)

SUBJECT: SUPPLEMENTAL – Potential Labor
Standards Expansion For New
Construction Measure U
Affordable Housing Funding

DATE: June 6, 2024

City Administrator Approval


Jestin Johnson (Jun 7, 2024 08:12 PDT)

Date:

Jun 7, 2024

RECOMMENDATION

Receive A Report And Recommendation On Potential Labor Standards Expansion For New Construction Measure U Affordable Housing Funding As Follows: (A) Receive Presentation On The Stakeholder Engagement Related To A Potential Expanded Labor Standards Policy; (B) Provide Recommendation To Staff On Specific Components Of A Potential Expanded Labor Standards Policy By Conducting A Study Session

REASON FOR SUPPLEMENTAL

DWES received additional stakeholder comments, an HCD memo, and letters about research after the submission of the May 30, 2024 Agenda Report.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Receive A Report And Recommendation On Potential Labor Standards Expansion For New Construction Measure U Affordable Housing Funding As Follows: (A) Receive Presentation On The Stakeholder Engagement Related To A Potential Expanded Labor Standards Policy; (B) Provide Recommendation To Staff On Specific Components Of A Potential Expanded Labor Standards Policy By Conducting A Study Session.

For questions regarding this supplemental report, please contact Emylene Aspilla, Director, Department of Workplace & Employment Standards, at easpilla@oaklandca.gov.

Respectfully submitted,



Emylene Aspilla
Director, Department of Workplace and
Employment Standards

Attachments:

- A: Stakeholder Comments
- B. HCD Memo to DWES
- C. Letters about Research

Attachment A: Stakeholder Comments

Expanding the range of opportunities for all by developing, managing, and promoting quality affordable housing and diverse communities.



May 31, 2024

Mr. Jestin Johnson
City Administrator
1 Frank H. Ogawa Plaza
Oakland, CA 94612

RE: Affordable Housing Organizations Concerns with Additional Labor Standards

Dear Mr. Johnson:

On behalf of EAH Housing, I thank you for the opportunity to provide our feedback regarding the possible expansion of labor standards applicable to Oakland's Measure U affordable housing funds. EAH Housing is a nonprofit organization guided by our mission to serve the most vulnerable households and has more than 55 years of experience developing, managing, and advocating for affordable housing. Since our inception, we have developed more than 105 properties in 55 communities throughout California and Hawaii, comprising over 8,400 apartments providing healthy and affordable housing to more than 25,000 residents. Within Oakland, we currently provide 187 homes affordable to low-income families with another 53 units in development.

I attended the labor standards stakeholder convening on May 23, and would like to reiterate in writing some of our suggestions regarding changes to the labor standards to decrease barriers and increase competition:

1. **Ensuring competition for all labor:** Any additional labor standards must not make it more difficult to comply with existing Oakland programs such as Small and Local Business Enterprises (SLBE). Such barriers stifle competition.
2. **Removing the local office requirement:** The requirement for a SLBE to have an office in Oakland should be removed. High rent in Oakland is a barrier for small businesses and another metric to measure local impact should be identified.
3. **City technical assistance and approvals:** The City should ensure it has adequate staffing to provide both technical assistance and timely approvals, for both developers and contractors/sub-contractors, with regards to compliance and the draw process. There should also be some flexibility allowed to change requirements as market conditions evolve. Labor decisions are being made now in 2024 considering the current construction environment but construction projects will most likely start in 2027 when future conditions may make standards set today difficult to achieve.
4. **Development of a workforce development program:** In order to have success with labor standard compliance, the City of Oakland needs to develop a workforce development program to grow the

future local workforce. In addition to workforce development, technical assistance should be provided to SLBEs on how to complete and comply with prevailing wage, certified payroll, bonding capacity, and other requirements that have been barriers for these enterprises to successfully compete.

5. **Holding the contractor accountable and enforcement:** While the developer, particularly nonprofit, may have a contract with the general contractor it is sometimes hard to get the contractor to comply with all labor requirements. The City should have the authority to hold and enforce the contractor to comply with labor standards, and not just hold the developer accountable.

Thank you for considering our comments. We look forward to being involved as the policy proposal for Measure U moves to City Council in the summer.

Sincerely,

A handwritten signature in blue ink that reads "Welton Jordan". The signature is fluid and cursive, with the first name "Welton" being more prominent than the last name "Jordan".

Welton Jordan
Chief Real Estate Development Officer



May 31, 2023

Mr. Jestin Johnson
City Administrator
1 Frank H. Ogawa Plaza
Oakland, CA 94612

Dear Mr. Johnson:

Thank you for the invitation to participate in the Developer & General Contractor convening last week on May 23. We appreciate the time you took to listen to the concerns of affordable housing developers, advocates, and local business enterprises regarding the potential addition of new labor standards for Measure U funded projects.

MidPen Housing is one of the nation's leading nonprofit developers, owners and managers of high-quality affordable housing and onsite resident services. Since MidPen was founded in 1970, we have developed over 130 communities and 9,400 homes for low-income families, seniors, including homeless families and individuals and those with supportive housing needs throughout the greater Bay Area. We have 85 units in our Oakland pipeline and 465 units across 4 properties in our portfolio.

We would like to share our concerns that additional labor requirements, most particularly a potential project labor agreement (PLA), would significantly increase the cost of construction. Furthermore, it is our position that additional labor standards run counter to our General Contractor's ability to comply with the S/LBE contracting program; would supersede City, State agency, and our own voluntary supplier diversity goals; all while adding regulatory complexity and the almost certain regulatory conflict.

Anything that increases the total development cost will disadvantage projects in the current competitive environment for obtaining State funding

It is the opinion of MidPen's General Contractors that a PLA would significantly increase hard costs due to limiting the available subcontractor pool.

Presently, State funding is scarce, incredibly competitive and the existing programs emphasize cost efficiency in their scoring systems. These State systems recognize that there are regional differences in cost that are largely driven by distinct hard cost—labor & materials—dynamics in the construction markets. For instance, the California Tax Credit Allocation Committee (TCAC) basis limits reflect variation of 120% between the highest and lowest cost areas of the state. Other data recognizes the actual difference in construction markets is closer to 200%, which puts the Bay Area, as the highest cost area in the State, at a disadvantage relative to other regions where it is less costly to build. The impact of this is twofold: not only do communities like Oakland receive fewer tax credits relative to the total development costs in lower cost areas, but they also are then disadvantaged in the scoring system itself.

California's 5 main housing finance delivery agencies—TCAC, the California Debt Limit Allocation Committee, the California Department of Housing and Community Development, and the California Housing Finance Agency, and the Strategic Growth Council, all contain complicated scoring systems. Funding programs are so oversubscribed that at times only 1 project of every 7 submitted will get an award. It is the norm for many perfect scoring projects to then further compete by a tiebreaker on which cost efficiency is a heavy weight and is therefore determinative of an award. Many of these scoring systems have some adjustments which attempt to provide parity between the different cost regions of the state. However, the adjustments are far from adequate. The result is that projects from the Bay Area have lower tiebreakers than those from lower cost areas of the state. Any additional cost center would exacerbate the disadvantage projects in high cost areas face generally, and more specifically disadvantage Oakland's pipeline.



Brooklyn Basin Data, Equity

MidPen worked with Nibbi Construction, the General Contractor for the 4 phases of Brooklyn Basin, to evaluate subcontractor data. We looked at contract value and the average union participation was 95%, with the range being between 89% and 99%. This is high union saturation on the contract value of work awarded.

The existing union saturation also makes it difficult to meet other community goals, such as contracting with S/LBEs, local black-owned businesses or hiring a local, black workforce. We are concerned that additional labor requirements would come with additional costs but bring only an *incremental* increase in union participation. Meanwhile, the effect of adopting increased labor requirements would have an *abrupt* impact on the City's equity goals, with the path for local, black contractors being all but eliminated.

Anticipation of State Supplier Diversity requirements

MidPen is tracking the implementation of AB 2873, a new State law that will require projects in receipt of low income housing tax credits to report on supplier diversity. In early 2025, developers like MidPen will be required to share data on supplier demographics, incentivizes for inclusive procurement practices, and funding for supplier support services. The information collected will then be used to set State diversity and inclusion goals. We ask that the City consider and minimize the potential for future conflicts between these requirements and Oakland's requirements.

Regulatory complexity and conflict

The backdrop for the City's Measure U stakeholder conversation on labor standards is complex. Most deed-restricted affordable housing will have other labor standards to comply with in addition to the City's. State legislation is dynamic and in recent years there have been new labor standards attached to land use streamlining bills (AB 2011, SB 6, SB 35/423); there are also State bills under consideration in this session that could impose additional standards via TCAC or the Bay Area Housing Finance Authority. We ask that the City consider and minimize the potential for future conflicts between these requirements and Oakland's requirements.

Thank you for engaging with us and for tackling the careful work of prioritizing the City's many public policy priorities. We look forward to participating as this moves forward. Please feel free to contact me at (650) 477-6195 or nmerriman@midpen-housing.org with any questions.

Sincerely,

DocuSigned by:
Nevada Merriman
778619AD943E476...

Nevada V. Merriman
Vice President of Policy & Advocacy

CC:

Matthew O. Franklin, President and CEO
Polo Muñoz, Director of Housing Development



May 29, 2024

Mr. Jestin Johnson
City Administrator
1 Frank H. Ogawa Plaza #1st
Oakland, CA 94612

Dear Mr. Johnson,

I am writing on behalf of Eden Housing to provide our feedback regarding the possible expansion of labor standards applicable to Oakland's Measure U affordable housing new construction funds. Eden Housing is a nonprofit affordable housing developer whose mission is to create and sustain high-quality affordable housing communities that advance equity and opportunity for all. In Oakland, we own and operate 174 homes for low-income seniors in the Dimond District (the Altheim). We also have over 275 units in Oakland's new construction pipeline across two proposed projects in partnership with Black Cultural Zone CDC and one with Williams Chapel Baptist Church.

I attended the labor standards stakeholder convening for affordable developers and prime contractors on Thursday, May 23, and would like to provide additional feedback in writing. Eden shares the City's goals of promoting equitable contracting and creating high-quality construction jobs for Oakland residents, but we do not see additional labor standards that would ultimately promote union contracting as the means to accomplish this. We echo the sentiments of the Black developers and contractors who spoke at the convening and would prefer to see Oakland explore standards that would promote BIPOC-owned contractors and subcontractors, including those who have been displaced from the city but still maintain a substantial presence in the community.

The Measure U funds prioritize housing projects that are spearheaded by local community organizations, whether it us a church that has been deeply rooted in its community for over a century or a community development organization focused on meeting the needs of its constituents one zone at a time. These groups look to experienced, mission-oriented developers like Eden to help them navigate the complex funding and construction environments that make affordable housing so difficult to built. In turn, we look to our community partners to tell us how affordable housing can best address the needs of their communities.

Through our partnership with the Black Cultural Zone, we have learned that efforts to support local businesses, including local subcontractors and contractors, do not intersect with efforts to support BIPOC-owned businesses. Due to the severe displacement of Black

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families in Oakland due to redlining, the 2008 financial crisis, and gentrification, Black-owned businesses with a substantial presence in Oakland no longer have headquarters or home addresses in Oakland. At our projects co-developed with the Black Cultural Zone, Eden and its general contractor would prefer to have the latitude to recruit and hire BIPOC-owned subcontractors who have been displaced from Oakland to help these subs gain the resources needed to rejoin the community as it prospers from our work. Additional labor standards would crowd out any flexibility we have to pursue these owner-held goals.

At minimum, the existing Measure U standards should remain the same because they preserve a pathway for owner-held goals. If the City polled existing projects constructed with Measure U funds, I think they would see that Measure U funds are already supporting a range of owner-held labor goals, including local/BIPOC hiring or union labor. Additional standards that would force developers to hire union labor would ultimately impede the City's stated equity goals and efforts to empower the Black community. If the City does adopt new labor standards for Measure U funds, it should implement an alternative that would allow developers to demonstrate BIPOC hiring in lieu of a union requirement.

Thank you for your ongoing support of affordable housing in Oakland. We look forward to further discussion on this important matter.

Sincerely yours,

Ellen Morris
Director of Real Estate Development
Eden Housing





NON-PROFIT HOUSING ASSOCIATION
OF NORTHERN CALIFORNIA
The Voice of Affordable Housing

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May 31, 2024

Mr. Jestin Johnson
City Administrator
1 Frank H. Ogawa Plaza # 1st
Oakland, CA 94612

Re: Affordable Housing Organizations Concerns with Additional Labor Standards

Dear Mr. Johnson,

Thank you for leading the May 23, 2024 affordable housing developer input session regarding potential labor standards for developments using Measure U funds. In that meeting, city staff asked that those in attendance submit comments in writing. As an organization that represents nonprofit and mission-driven affordable housing developers in Oakland, NPH greatly appreciates the opportunity to provide written comment here.

Founded in 1979, NPH is the leading voice of the affordable housing movement of the Bay Area. As a membership organization of more than 750 affordable housing builders, advocates, and community leaders, the collective NPH community has created tens of thousands of affordable homes and supported hundreds of thousands of Bay Area residents and community members.

Overall, our membership is not in favor of adding any new requirements for additional labor standards for the construction of new affordable housing units with Measure U funds, at this time. Oakland already has many important local requirements, including robust labor standards, which are not common among the many cities in the Bay Area. There are existing requirements for Small and Local Business Enterprises (SLBE) and other local hire requirements – and these are goals that our members earnestly share. We are part of the Oakland community and want to see the resources that build our developments have a multiplied impact on strengthening this community with good jobs. We pay prevailing wages on construction projects, and we do proactive work on equitable contracting of our own volition, because this aligns with our existing organizational missions.

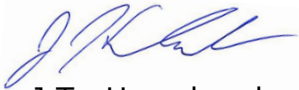
We do have concerns about new labor standards and would like to share four main points about our concerns:

1. We strongly support the City's equity goals and believe that any consideration of additional labor standards should not make it more difficult to comply with existing programs such as SLBE, local hire, etc.
2. NPH members excel at meeting the current expectations of local standards while still winning competitive funding.
 - Projects routinely employ union workers in excess of 85% of their total workforce. Many non-union workers and contractors on these projects are helping satisfy other Oakland priorities, like the aforementioned SLBE and local hire programs.
 - One of the great strengths of Measure U dollars is the advantage that local funding confers to local developments applying to leverage this funding with state and federal sources – sources like the Strategic Growth Council, the California Department of Housing and Community Development, California Tax Credit Allocation Committee (TCAC) and California Debt Limit Allocation Committee (CDLAC).
 - Many of these sources are competitive and in the scoring for their application processes, a premium is placed on cost control, specifically on a metric of cost per unit. The higher a project's cost per unit, the less competitive it is.
3. Adding additional labor standards would disrupt a delicate balance, with a potential for Oakland to sacrifice state and federal affordable housing funding, which is awarded on a competitive basis.
 - As was discussed in detail in our input session with many prime contractors, more local requirements add complexity and increase the cost of compliance, leading to fewer SLBE bidders being eligible to bid. The fewer bidders that are available to our member's developments means less competition – and inevitably higher bids from remaining firms. We can see significant jumps in costs when number of bidders is reduced – having an outsized impact on a project's financing, long-term viability, or number and sizes of units.
 - One of the consequences of this distorted bidding process is, because per unit costs are a competitive factor, a project runs the risk of losing out on funding. The discussion of additional labor standards becomes a moot point if outside funding is not coming in to augment Measure U funding and create jobs.
4. Additional Measure U requirements would add to an already complex environment of local, regional, and state-level regulations and requirements. Affordable housing finance is incredibly convoluted. Project development, especially infill development, is quite costly. Measure U funding will need to be combined with other funding sources that come with their own set of requirements. Oakland has many existing requirements that many other local governments do not and adding more makes housing development even more difficult than it already is. Examples of other requirements that may overlap or conflict with Oakland requirements include:

- In the event that BAHFA's regional bond effort is successful, any potential BAHFA labor standards would be applied to any project receiving those funds.
- In order to streamline the local approval of affordable housing, our members make regular use of state laws that come with their own regulations – AB 2011, SB 4, and SB 35/SB423 all require paying prevailing wage, paying additional healthcare costs, and hiring of union apprentices. Virtually all of NPH's member's projects make use of one of these bill's streamlining provisions.
- AB 2873 (2022) established reporting requirements for contracting with diverse suppliers when using TCAC and CDLAC funding. In the law's phased implementation, these requirements will eventually become contracting targets that may conflict with new Oakland requirements.

Thank you again for leading this public input process, per the Oakland City Council's direction. We appreciate this leadership from the City Administrator's office and the commitment to making sure that this process is both public and inclusive to the many parties involved in making sure that Measure U best supports the residents of Oakland.

Best,



J.T. Harechmak
Senior Policy Manager
Non-Profit Housing Association of Northern California



May 31, 2024

Mr. Jestin Johnson
City Administrator
1 Frank H. Ogawa Plaza # 1st
Oakland, CA 94612

RE: Affordable Housing Organizations Concerns with Additional Labor Standards

Dear Mr. Johnson,

Thank you for leading the May 23, 2024 affordable housing developer input session regarding potential labor standards for developments using Measure U funds. In that meeting, city staff asked that those in attendance submit comments in writing. We are pleased to provide our written comment here.

The Unity Council is a community-based development corporation which operates holistic programs and services that reach more than 8,000 individuals and families annually in five languages. Our programs aim to provide the community with the tools, knowledge, and resources to transform their lives and ultimately achieve their long-term educational, career, and financial goals. Program areas include early childhood education, youth mentorship and leadership development, employment services, career readiness training, housing and financial stability, senior citizen services, and arts and cultural events.

The Unity Council has been active in real estate for the better part of our 60-year history. We work on new construction projects, adaptive reuse, preservation, and commercial and community benefits projects. To date, we have built or preserved over 600 apartments with another 550 units in the pipeline.

Overall, we are not in favor of adding any requirements for additional labor standards for the construction of new affordable housing units with Measure U funds. Oakland already has many important local standards, including robust labor standards, which are not common among the many cities in the Bay Area. There are existing requirements for Local Business Enterprises (LBE), Small and Local Business Enterprises (SLBE), and other local hire requirements, and these are goals we earnestly share. We are part of the Oakland community and want to see the resources that build our developments have a multiplied impact on strengthening this community with good jobs. We pay prevailing wages on construction projects, and we do proactive work on equitable contracting of our own volition, because this aligns with our existing organizational missions.

We do have concerns about new labor standards and would like to share four main points about our concerns:

1. We strongly support the City's equity goals and believe that any consideration of additional labor standards should not make it more difficult to comply with existing programs such as S/LBE, local hire, etc.
2. We excel at meeting the current expectations of local standards while still winning competitive funding.
 - Our general contractors report that, on average, TUC's projects employ roughly 85% union workers. Workers on these sites that are not union are satisfying other Oakland priorities, like the aforementioned SLBE and local hire programs.
 - One of the great strengths of Measure U dollars is the advantage that local funding confers to local developments applying to leverage this funding with state and federal sources – sources like the Strategic Growth Council, the California Department of Housing and Community Development, California Tax Credit Allocation Committee (TCAC) and California Debt Limit Allocation Committee (CDLAC).
 - Many of these sources are competitive and in the scoring for their application processes, a premium is placed on cost control; specifically on a metric of cost per unit. The higher a project's cost per unit, the less competitive it is.
3. Adding additional labor standards would disrupt a delicate balance, with a potential for Oakland to sacrifice state and federal funding. The Oakland City Council will ultimately need to do a very delicate cost-benefit analysis that goes beyond a basic premise of “more money for wages means less money for units.”
 - While this is most certainly true, as demonstrated by the work that Oakland HCD has already done, the relationship is not fully linear; more requirements begin to have outsized effects on our members' effectiveness in delivering units to address our urgent housing needs.
 - More local requirements add complexity and increase the cost of compliance, leading to fewer SLBE or LBE bidders being eligible to bid. The fewer bidders that are available to our member's developments means less competition and inevitably higher bids from firms that can meet higher local requirements. We see significant jumps in costs when bidding is limited to only union bidders – having an outsized impact on a project's financing, long-term viability, or number and sizes of units.
 - Our general contractors cited a 1-3% increase in costs, based on existing bids for completed projects, if the projects were converted to all union. However, they all noted that the presence of non-union subcontractors in the bid process kept the union subcontractors' bids competitive. Without that competition they estimated that the increase in costs to be significantly higher.
 - One of the consequences of this distorted bidding process is that per unit costs are a competitive factor, a project runs the risk of losing out on funding


altogether. The discussion of additional labor standards becomes a moot point if outside funds are not awarded to augment Measure U funding and create jobs.

4. Additional Measure U requirements would add to an already complex environment of state and regional regulations. Affordable housing finance is incredibly convoluted and development, especially infill development, is quite costly. Measure U funding will need to be combined with other funding sources to support a development – funding sources that come with their own set of requirements. Oakland has many existing requirements that many other local governments do not and adding more makes housing development even more difficult than it already is. Other layers that will combine with Oakland requirements include:
 - If BAHFA’s regional bond effort is successful, any potential BAHFA labor standards would be applied to any project receiving those funds.
 - AB 2873 (2022) established reporting requirements for contracting with diverse suppliers when using TCAC and CDLAC funding. In the law’s phased implementation, these requirements will eventually become contracting targets that may conflict with new Oakland requirements

If the City does elect to pursue additional labor standards, despite the concerns above, we strongly urge that those requirements are paired with additional resources allocated to both increasing the pool of SLBE / LBE union and non-union subcontractors and to providing technical assistance and administrative support to subcontractors. Our general contractors repeatedly point to the administrative burden of program compliance as a hinderance to SLBE subcontractor participation and the management of these subcontractors’ involvement as a significant cost to them, and thus the project.

Thank you again for leading this public input process, per the Oakland City Council’s direction. We appreciate this leadership from the City Administrator’s office and the commitment to making sure that this process is both public and inclusive to the many parties involved in making sure that Measure U best supports the residents of Oakland.

Best,



Aubra Levine
Vice President of Real Estate Development



May 31, 2024

Mr. Jestin Johnson
City Administrator
1 Frank H. Ogawa Plaza
Oakland, CA 94612

Re: Feedback on Expanding Measure U Labor Standards

Dear Mr. Johnson,

Thank you for recently convening Oakland stakeholders to discuss labor standards for future funding opportunities utilizing the proceeds from the Measure U Bonds. East Bay Asian Local Development Corporation (EBALDC) appreciates the opportunity to provide feedback in writing.

EBALDC is a BIPOC-led, non-profit community development organization based in Oakland, with nearly 50 years of experience in building healthy, vibrant and safe neighborhoods in the East Bay. Our Oakland portfolio consists of over 2000 units of affordable housing and over 300,000 square feet of community-serving commercial space serving more than 95 local small businesses and nonprofit organizations. We have 1,000 additional Oakland units in construction or predevelopment now.

EBALDC supports equitable contracting and creating high-quality construction jobs for local residents. We have routine practices of selecting contractors and subcontractors with local equity goals in mind, including paying prevailing wages; hiring Oakland Certified Local Business Enterprise (LBE) and Small Local Business Enterprise (SLBE) contractors; meeting local hire and apprenticeship targets; and achieving consistently high union participation exceeding 85% on our new construction projects. For these reasons, we believe that expanded labor standards for Measure U are unnecessary.

As you know, our new developments rely on a complex web of regulatory and financing requirements from a wide range of sources. We must remain viable in the broader competitive environment in order to deliver the high number of units possible and expected by the strong majority of voters that passed Measure U at the ballot in 2022. We are proud of our track record delivering high quality affordable housing and providing good jobs for Oakland residents within the existing standards. With these outcomes in mind, we urge you to continue the current standards.

Sincerely,

Capri Juliet Roth
Executive Vice President, Real Estate Development



May 31, 2024

Mr. Jestin Johnson
City Administrator
1 Frank H. Ogawa Plaza
Oakland, CA 94612

Re: Feedback on Expanding Measure U Labor Standards

Dear Mr. Johnson:

I am writing on behalf of East Bay Housing Organizations to provide feedback regarding possible expansion of labor standards applicable to projects funded with Oakland's Measure U affordable housing bond proceeds. We attended the May 23 stakeholder convening for affordable housing developers and prime contractors and would like to provide additional feedback in writing.

EBHO is a nonprofit, membership-based organization working to produce, preserve and protect affordable housing opportunities for low-income communities throughout the East Bay. First founded in 1984, EBHO has grown to 400+ individual and organizational members fighting for an economically and racially just world where everyone has a safe, stable, and affordable home.

EBHO's membership includes nonprofit developers operating in the East Bay with extensive experience dealing with multiple labor, contracting and other requirements that come with the complex financing and regulatory framework for affordable housing development. This includes many years of experience with the requirements that were applied to Alameda County's 2016 Measure A1 affordable housing bond, which posed particular challenges.

EBHO's members are not in favor of adopting additional standards at this time. We are concerned that additional standards will upset our ability to balance various requirements and policy goals: meeting the City's equity goals for contracting and employment, ensuring that construction workers receive fair pay and working conditions, and containing project development costs so that projects remain eligible and competitive for leveraged State funds – without which the City's affordable housing goals cannot be met.

1. Affordable housing developers are successfully implementing Oakland's many existing labor and contracting standards. We support Oakland's equity goals to increase local contracting and employment opportunities, particularly for historically excluded and under-represented groups. This includes meeting or exceeding the targets for the 50% Local/Small Local Business Enterprise Program, the 50% Local

Employment Program, and the 15% Oakland Apprenticeship Program. Our members make sustained efforts to ensure that our projects regularly exceed the minimum goals of these programs.

2. Oakland's affordable housing development projects are already paying prevailing wages, as well as complying with Oakland's Living Wage and Equal Benefits Ordinances. Prevailing wages are monitored through the mandatory electronic submission of certified payroll reports and checked against prevailing wage determinations. We take seriously any allegations of violations and stand ready to work collaboratively with the City and worker representatives to enhance our monitoring and enforcement efforts if that will help ensure complete compliance.

3. Affordable housing developments have exceeded 85% - 90% union labor utilization rates. This has occurred in the absence of any requirements for Project Labor Agreements or Community Workforce Agreements and represents the strong partnership between our members and labor, on affordable housing projects in Oakland and around the region.

4. We do not support labor standards that could restrict the pool of eligible local and small local contractors, particularly local minority-owned businesses (MBEs). In our experience, one of the difficulties with a strict Project Labor Agreement requirement is that it makes non-union subcontractors less likely to bid. This excludes many MBEs that our members and their prime contractors utilize on non-PLA projects, potentially driving up costs and limiting diversity in the contracting pool.

5. Affordable housing developers are already balancing multiple and often conflicting requirements. City funding accounts for no more than 40% of total funding for affordable housing developments, and often far less than that. The multiple funding sources that make up the majority of affordable housing financing have their own specific requirements and reporting obligations. When these requirements are not in alignment, developers must engage in difficult negotiations to secure consistency or compatibility. This is different from direct city contracts for infrastructure projects, for example, where City funds account for 100% of the financing and the application of City contracting and employment standards is far simpler.

6. Cost increases due to new labor standards could vary based on many factors; but even if they were small, that could still make certain projects infeasible. *Total development cost* is a critical scoring factor for many of the funding sources that Oakland tries to leverage. There is a real risk that even small increases in costs won't just reduce the number of units we can produce with our limited resources, it will make it impossible to successfully compete for those other funds, and thus we will actually end up producing much less housing.

Mr. Jestin Johnson

May 31, 2024

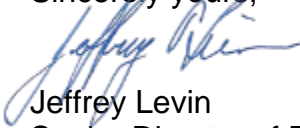
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7. If programmatic changes prevent us from leveraging funds, then none of our goals can be accomplished. We won't build housing, we won't increase participation of local firms and workers, and we won't create good jobs for Oakland residents.

The City of Oakland has a long and successful history of funding affordable housing development in ways that maximize leveraging of outside resources to fund housing for our lowest income residents, including formerly unhoused people. We do not want to jeopardize this history, and we urge the City to exercise caution and restraint. The City can only add so many programmatic ornaments before the entire tree falls over.

Thank you for the opportunity to comment on these critical issues. As always, EBHO looks forward to continuing to work with the City to address our shared goals and priorities.

Sincerely yours,



Jeffrey Levin
Senior Director of Policy

cc: Emylene Aspill
Emily Weinstein



Creating & Preserving Affordable Housing

May 29, 2024

Mr. Jestin Johnson
City Administrator
1 Frank H. Ogawa Plaza
Oakland, CA 94612

Re: Feedback on Expanding Measure U Labor Standards

Dear Mr. Johnson:

I am writing on behalf of Resources for Community Development (RCD) to provide our feedback regarding the possible expansion of labor standards applicable to Oakland's Measure U affordable housing funds. RCD is a nonprofit organization dedicated to creating and preserving affordable homes for people with the fewest options. Within Oakland, we currently provide around 700 homes affordable to low-income families, with another 77-unit development scheduled to open in 2026.

I attended the labor standards stakeholder convening on Thursday, May 23, and would like to provide additional feedback in writing. RCD shares the city's goals of promoting equitable contracting and creating high-quality construction jobs for local residents. Our Oakland projects routinely have both a high percentage of local hires and high union saturation. At our most recent Oakland development, Coliseum Place, around half of all construction hours were worked by Alameda County residents and 85% of all workers on the project were union members.

We are concerned that the adoption of additional labor standards, if not carefully designed, could result in rising costs and growing inefficiencies. We urge the city to consider the following three principles in the creation of additional standards:

1. **Any additional labor standards must maintain Oakland's competitiveness for state affordable housing resources.** Competitive state funding sources place great significance on total development cost per unit. The city's current labor standards strike a delicate balance of promoting local equity priorities while maintaining sufficient bid competition to contain overall per-unit costs. For example, the Coliseum Place development referenced above successfully leveraged each City dollar for \$15 of other funds from County, state, and federal sources. Adding additional labor standards risks driving up costs by decreasing competition for bids, which in turn risks Oakland developments being out-competed due to cost. If Oakland affordable housing projects cannot win state funding, then all stakeholders lose because no developments will be constructed.
2. **Any additional labor standards must align with Oakland's existing equity goals and associated requirements.** We strongly support the City's equity goals. RCD believes that uplifting diversity and equity in our supplier procurement processes can help us more fully achieve our mission of building stronger communities and enriching lives. We strive to actualize these values regardless of whether a development is in a jurisdiction with strong equity standards, like Oakland, or in one of the numerous Bay Area jurisdictions that don't have such requirements. To that end, we have undertaken internal initiatives to improve tracking the demographics of our vendors and increase our networking with diverse

professional services firms to help us meet our own robust goals for diverse business participation. Any consideration of additional labor standards must not make it more difficult to comply with existing Oakland programs such as S/LBE and local hire, or our own internal initiatives to increase participation from diverse business enterprises.

3. **Any additional labor standards must align with existing state and regional regulations.**

Measure U is one of many funding sources and programs, each with its own requirements, that affordable housing developers use to fund or facilitate development. The city must consider that other labor standards in addition to the city's standards will be imposed on many affordable housing developments via these other programs. Most importantly, SB 35/SB 423 streamlining requires the payment of prevailing wages, healthcare costs, and hiring of union apprentices. RCD has used this streamlining legislation on 70% of new construction developments we have entitled since its passage, making alignment with SB 35/SB 423 standards a critical necessity for any future Oakland program. The city must also consider the labor and contracting standards currently proposed at BAHFA and CTCAC to reduce the potential for future conflicts between these requirements and Oakland's requirements.

Thank you for considering our input. I appreciate the opportunity to participate in this stakeholder process, and I look forward to continuing to be involved in these conversations as the proposed policies move onward to City Council later this summer.

Sincerely,

A handwritten signature in black ink that reads "Courtney Pal". The signature is written in a cursive, flowing style.

Courtney Pal
Policy Manager
Resources for Community Development



May 29, 2024

Mr. Jestin Johnson
City Administrator
1 Frank H. Ogawa Plaza # 1st
Oakland, CA 94612

Re: Affordable Housing Organizations Concerns with Additional Labor Standards

Dear Mr. Johnson,

Thank you for listening to the concerns of affordable housing organizations and local business enterprises regarding the potential addition of new labor standards for Measure U funded projects. Mercy Housing owns two affordable housing properties in Oakland, the 93-unit Hamilton Apartments (510 – 21st St) and Santana Apartments (2220 – 10th Ave) and is seeking Measure U funds to break ground on a new 97-unit affordable senior housing development at 2125 Telegraph Ave in 2025.

Mercy is currently entering a contract for over \$3 million of renovations at the Hamilton Apartments with funding from Oakland HCD. The contractor estimates that the job will be nearly 100% union and will meet 50% SLEB goals. The same contractor is also slated for the construction of our new property at 2125 Telegraph. For the new construction, although no subcontractor awards have been made yet, the contractor estimates that they will meet the SLEB requirements and achieve about 90% union participation under the current HCD workforce requirements. These achievements will correspond to this contractor's prior experience in Oakland with other non-profit developers, like SAHA.

Our contractor estimates that the imposition of a PLA to our contract would increase hard costs by approximately 2%-3%. This would translate to about \$1 – 2 million in increased hard costs for this development. These additional costs would lower the project's competitiveness to leverage state funds and would decrease the total units of affordable housing financed by limited Measure U funds.

Mercy is concerned that additional requirements, especially a potential project labor agreement, would significantly increase construction costs for a very incremental increase in union participation and make it increasingly difficult to meet other community goals, such as contracting with local black-owned businesses or hiring a local, black workforce.

Regards,

Tim Dunn

Tim Dunn
Associate Director



Comments Received from Online Form or Email

5/24/24 (online form) National Association of Minority Contractors

1. Release the disparity study asap.
2. Adopt findings of disparity study to begin implementation of remedies for Oakland residents affected by the impact of long-standing racism.
3. No PLA - It would be detrimental to nonunion minority firms that are already on life support.
4. Require the Building Trades to establish and fund a small business plan that is designed to help firms interface with a smoother transition from nonunion to union.
5. Require the Building Trades to establish a strategic outreach plan that captures minorities that are underutilized in Oakland. Retention is key.

5/24/24 (online form) Eden Housing

Thank you for holding the convening for affordable housing developers and prime contractors. I was in attendance but I wanted to share written comments as well.

A little about our pipeline –

- 119 units at Liberation Park in partnership with BCZ (has applied for Measure U previously)
- 67 units in East Oakland in partnership with Williams Chapel Baptist Church (has applied for Measure U)
- 90 units at 77th and Bancroft in partnership with BCZ
- 174 units at an existing property, The Altenheim, which could be eligible for rehab/preservation

Nearly every developer working on affordable housing in Oakland is either a community development organization that knows better than anyone else what the needs of their particular corner of Oakland are, or is a large regional developer working in partnership with the community organization to navigate this incredible maze of housing finance, contract compliance, etc. so that we can meet our partner's goals. The Measure U NOFA already prioritizes this.

In Eden's case, we are partnering with the Black Cultural Zone on The Residences at Liberation Park. BCZ has built an incredible movement in deep East Oakland to retain legacy Oakland residents and provide jobs and housing opportunities to former Oakland residents who have already been displaced.

At Liberation Park, we have specifically hired a BIPOC-owned general contractor who has committed to meet both Oakland's local hire requirements AND our own BIPOC-led subcontractor owner goals. The pool of BIPOC-owned contractors with proven expertise to work within Oakland's existing contract and labor requirements was literally TWO contractors. I can't speak for them, but I would guess that additional labor requirements might remove these two BIPOC-owned contractors from working in Oakland entirely and severely limit the additional pool of BIPOC-led subcontractors that we are requesting they work with. At the very least, new requirements would certainly raise costs on projects that are already incredibly expensive and likely hinder our ability to meet BCZ's hiring goals.

At the very least, the existing Measure U labor standards should remain the same because they preserve a pathway for owner-held goals, such as BIPOC or Oakland legacy hiring. Other developers have owner-held goals such as union hiring. A PLA would eliminate the ability for projects to pursue owner-held goals and force our hand in one direction.

If the policy changes, it should preserve an option for demonstrated BIPOC hiring as an alternative to a PLA (e.g. choose one).

6/3/2024 (online form) EBASE

EBASE recommends that the existing community jobs oversight commission (Oakland Army Base Jobs Oversight Commission) be chartered with overseeing the implementation/impact of labor standards attached to Measure U projects.

5/21/2024 (email) Nor Cal Carpenters Union

It was great to meet you in person last week. Here are the labor standards for AB 2011. While I know it seems very simple, that is the point. Please call or email if you have any questions.

AB 2011	
	100% Affordable Housing Development in Commercial Zones & Mixed-Income Housing Along Commercial Corridors
Labor Requirements	<ul style="list-style-type: none">• Prevailing wage required (all projects). If the project is not a public work under Labor Code 1720 or subject to a PLA contractors must verify payroll records in compliance with Labor Code Section 1776.• A project with more than 50 units (rental or for sale) must also require contractors who employ construction craft employees or let subcontracts for at least 1,000 hours to participate in an apprenticeship program or commit to seeking dispatches for apprentices.<ul style="list-style-type: none">○ Contractors without construction craft employees must show a contractual obligation to so comply.• On 50+ unit projects, contractors must also make specified health care contributions.<ul style="list-style-type: none">○ Equivalent to least the hourly pro-rata cost of a Covered California Platinum level plan for two 40-year-old adults and two dependents 0 to 14 years of age for the Covered California rating area in which the development is located.• Contractors signatory to a valid collective bargaining agreement requiring registered apprentices and expenditures on health care deemed in compliance.• Includes right of enforcement by a joint labor-management cooperation committee.

5/22/2024 (email) Satellite Affordable Housing Associates

Thank you for the invitation to participate in the Developer & General Contractor convening scheduled for 5/23 at 10:00. Unfortunately I have a conflicting commitment and won't be able to join the meeting. I do appreciate the option to provide the following comments via email:

SAHA is a non-profit housing provider that has developed, owns and/or manages 27 affordable apartment communities in the City of Oakland, encompassing over 1500 units. We have two projects currently in construction which will add 150 units for families and people with special needs as well as two projects in predevelopment (3135 San Pabo Ave in partnership with Saint Mary's Center as well as the East 12th Street Parcel 2 remainder parcel). Our housing serves extremely low income and very low income families, seniors, and people with special needs including people who have experienced homelessness.

The majority of housing that SAHA has constructed in Oakland over the past 15 years has been funded in part with financial assistance from the City. All of these projects have paid State prevailing wage rates and have successfully complied with the City's S/LBE contracting program. Our recent developments are also characterized by high union penetration rates of 90% or higher and we have set voluntary Owner goals to increase the number of local black-owned businesses that are hired on to our jobs. Our projects also typically implement federal Section 3 goals to hire local disadvantaged workers onto our job sites.

The current funding environment for affordable housing in California is very competitive and unfortunately projects located in the City of Oakland are frequently at a disadvantage when competing for State funds. The reasons for this are a complex combination of State prioritization for housing located in “high resource” census tracts (as defined by the State) and the State’s priority to fund the lowest cost projects. Very few developable areas in Oakland are classified as high resource. In addition, project costs in total and on a per unit basis tend to be much higher in Oakland as compared to projects in suburban and exurban locations. This is due to the high density infill nature of Oakland projects including costs of complying with Alameda County Environmental Health regulations and the rapidly increasing course-of-construction insurance costs that we are seeing to be double or triple for projects located in Oakland as compared to other nearby municipalities. Given the complexity and cost of developing affordable housing in Oakland as well as the existing robust contracting programs already in place, we feel that additional labor standards would be a detriment to the City’s housing pipeline as it could further limit the available subcontractor pool, impede our ability to comply with the S/LBE contracting program, and prohibit the inclusion of voluntary owner goals specifically aimed at addressing racial disparities. We are fortunate to have Measure U resources to deploy for the voter-approved purpose of creating more affordable housing; as an Oakland resident myself of nearly 20 years, I hope we will be able to achieve swift and impactful progress toward addressing our community’s housing needs.

Thank you again for the opportunity to provide feedback and for all the work that you do!

5/28/2024 (email) James E. Roberts-Obayashi Corp.

Thank you for hosting this event. I was impressed with the way your team handled being shouted at and quite honestly, disrespected by some attending parties. Please know that I 100% hear the concerns of the individuals who wanted to make this meeting and discussion about race, but that was not the intent/topic of the meeting. Therefore, I did not get out of it what I was hoping when I attended and felt that the discussion of the expansion of the current standards was a bit lacking. As such, I thought I would send a brief email with a few points of my own opinions and experience.

I do not have much feedback relating to Business Inclusion, but I can speak to the Labor Standards relating to Job Access and Participation. I have been in my position for 15 years, overseeing compliance for a general contractor and have worked with the City of Oakland on many many projects with the current LEP. 50% hours worked by Oakland residents on a project is a tough requirement to meet. *What IS working however*, is the City offering waivers and exemptions to the requirement, when there is not a local hire to be made. I really have always appreciated that if a subcontractor follows the process of notifying the city and the union of the need to hire, and there are no local residents available, that the city will offer a waiver for a limited number of hours to the subcontractor. This enables the subcontractor to remain penalty free, while also giving the City the opportunity to refer a local resident. I strongly recommend this option remain a part of the program.

What is NOT working however, is the number of steps one must take to get said waivers, and the lack of response and communication of the city. I would guess that the team handling this is extremely understaffed. My subcontractors sometimes go weeks without responses to referrals, waivers, apprentice approvals, etc. It is not fair for a city to make such strong requirements and hold subs to monetary penalties, if they cannot keep up their end of the process. Changes must be made here so that the process can flow smoothly for all parties. It needs to be streamlined so that getting a waiver for example is not a back and forth string of 3-4 emails, that go unanswered for days.

Regarding the expansion of the current program, I do not think that adding and expanding the current requirements is needed. The business and workforce goals are hard enough to meet as is. If the target is getting small local businesses to be awarded contracts, then the contract needs to look enticing to them. Already we have small subs whom will not take on projects with the LEP because they do not have the staffing to handle prevailing wage requirements, all of the

compliance paperwork, the hiring and waiver process, etc. Its just too much as it is, and to expand it would only hurt the goals the city is trying to achieve.

To circle back to the topic of race and underrepresented groups...the current LEP is about Oakland residents. It is not about race. Which races make up the construction pool within the city of Oakland certainly is something for the city to look at and tackle separately, and before, any consideration to place specific race requirements on contractors by expanding the program in that manner.

Thank you again for your time.

5/30/2024 (email) Nibbi

Thanks for inviting us to the input session last week, I was able to speak briefly at the open session about some of this information, but below are some additional details about my experience having worked on several affordable housing projects with City of Oakland. Feel free to ask for any clarification or other info if needed. Thanks!

What is Working?

There are exemptions for companies working less than 140 hours on the project, and for sporadic work. We have a handful of companies that utilize these exemptions, so we don't want to see them eliminated since there is not a lot of opportunity for hiring if contractors have such a small scope of work, or they only come out for a few days at a time.

The waiver process, while burdensome, is the only way for some companies to avoid financial penalties, so while the process could be improved we would not want to eliminate this off-ramp for subs who can't meet the goals due to not being able to find a qualified Oakland resident to hire.

Prevailing wage requirements are fine, LCP Tracker (the online payroll reporting system the City of Oakland uses) is useful and helpful in streamlining the payroll collection process.

What is not working with existing Labor Standards

Getting to 50% Oakland hours per contractor per trade is difficult. 50% overall would be easier, there are always going to be smaller or specialty work that is not feasible to get to 50%. The process if a contractor doesn't currently have enough Oakland residents is already cumbersome. Right now the process is that the contractor reaches out to their union first, asking for an Oakland resident, wait for a response and if the union isn't able to refer an Oakland resident the contractor reaches out to Oakland Housing Authority, waits 72 hours for a response, OHA is supposed to use their list of referrals and reach out to Community Based Organizations for any candidates to place. Then if no referrals are provided, the contractor then emails City of Oakland who provides a candidate or if no one is available the contractor completes the Form C, and then the company is issued waivers which need to be kept on file to provide proof at the end of a project that efforts were made in hiring and to avoid a penalty for not meeting the 50% requirement. This process rarely results in an Oakland resident being referred, the position requires experience or classifications that are not available.

The 15% apprenticeship requirement is easier to meet, but the feedback from subcontractors is that the process is confusing and takes a lot of administrative time.

How might the City expand the Labor Standards

The city should use data from the past and current programs to find what percentages of local residents are attainable.

Look into flexible goals to capture more Laborer and Carpenter hours where there may be more referrals available, and create exemptions or off-ramps for more specialized trades/scopes (i.e. crane operators, pile drivers, etc)

Streamlined goals or a reduction of paperwork for priority subcontractors (small businesses, legacy Oakland businesses)

Other funding sources (examples: Skilled and Trained Workforce, Section 3 from Federal funding, AB 2873, County of Alameda Measure A1 funding, PLAs, etc) require additional tracking and paperwork, so when Oakland projects have those funding sources, there should be consideration for streamlining the goals so as not to create disparate tracking requirements and duplicate paperwork. For example, in San Francisco, if Federal funding triggers Section 3 tracking and hiring goals, then the City of San Francisco implements a good faith effort policy while also monitoring Section 3 numbers on a project. When there is no Federal funding they have a stricter mandatory hiring policy, similar to the Oakland LEP.

In the new policy, be clear about the responsibilities of the city vs the responsibilities of the owner/developer, Prime Contractor, and Subcontractors. The city needs to help track compliance, the current standard is for the GC to track everything, including the payment of prevailing wage. There was a recent change implemented in LCP Tracker where the GC is required to accept the payrolls and approve the apprentices the subcontractors enter before it is visible to the city. The city does not hold check ins or review any local hire reports until the project closeout phase. This leaves no time for corrective action on the part of the subcontractors, and does not help provide hiring opportunities.

Another attendee at the meeting mentioned staffing and response times and I would also like to provide feedback that I and my subcontractors often need to send multiple emails and follow up to get responses to emails sent to the city, so adequate staffing is very important as well as a clear understanding of who in the department handles what types of emails, and the contacts for supervisors in case emails need to be escalated or we are not getting timely responses.



INTER-OFFICE MEMORANDUM

TO: Emylene Aspillia
Workplace and Employment
Standards Director

FROM: Emily Weinstein
Housing and Community
Development Director

SUBJECT: Project Labor Agreements and
Affordable Housing

DATE: June 5, 2024

Executive Summary

A Project Labor Agreement (PLA) is a comprehensive, legally binding document negotiated between a public agency or developer, general contractor, and labor unions. Most PLAs in the East Bay attempt to leverage their economic purchasing power by including local or targeted goals to incentivize contractors to hire locally. Very little focused research has taken place regarding the impacts of PLAs on affordable housing. Many cities such as San Francisco, San Jose, and Sacramento exempt affordable housing from their PLA requirements. A study on one of the few cities that does include affordable housing in PLA language, Los Angeles, found that **the PLA increased costs by an average of \$43,000 per unit and resulted in a missed opportunity to create 800 additional units.** These impacts are due to the larger per-unit cost and the financial pressure on developers to forego potential units to remain under the 65-unit PLA trigger. Other research found the Los Angeles affordable housing PLA **reduced bidding competition by 20-50% and created new compliance costs.** Additionally, there is no clear evidence that PLAs or Community Workforce Agreements (CWAs) support greater equity by decreasing racial disparities in construction hiring. Research from previous City of Oakland reports state the need for a comprehensive redesign of PLA structures if they are to meet their intended goals. Lastly, in 2022 the City of Oakland conducted multiple community stakeholder and task force sessions to discuss the inclusion of PLAs in City of Oakland funded developments. Recommendations from these sessions included excluding PLA/CWA language from affordable housing project requirements to reduce additional cost and time impediments. Using the findings from RAND and Los Angeles studies, Oakland HCD modeled the potential local impact on unit production if a PLA were implemented for new affordable housing. With Oakland-specific construction costs, **HCD estimates that a PLA requirement for affordable housing would result in approximately 40% fewer units of newly developed affordable housing.**

Introduction

PLAs are a pre-construction collective bargaining agreement between one or more building trades union and the entity developing a project. PLAs include a set of terms that will govern the given project, ranging from working conditions to schedules, safety rules, communication between stakeholders, etc. They can also contain hiring goals targeting local or disadvantaged workers.¹ As described below in the “Advantages” section of this report, PLAs are intended to ensure fair compensation for workers, minimize labor disruptions, simplify project administration, ensure quality work, and promote a pipeline for training new construction workers.² PLAs have historically been used in a variety of construction projects nationwide since the 1930s, including the construction of Hoover Dam, the Manhattan Project, and many school facilities in California.

The Difference Between PLAs and Prevailing Wage Standards

Before a detailed consideration of PLAs, it is essential to differentiate between PLAs and Prevailing Wage Standards. Prevailing wage is generally required on any City of Oakland-funded or State-funded construction project, though the Oakland City Council retains the authority to waive such standards on city contracts when it is impossible to find a contractor who pays prevailing wage. As a result of this legal requirement, all 100% affordable housing projects in Oakland that receive City or State funding are required to pay prevailing wage. As it is essentially impossible to finance the construction of 100% affordable housing without some form of public subsidy, prevailing wage standards are universally used by developers building 100% affordable housing in Oakland.

The key features of PLAs and prevailing wage standards are summarized in the table below:

Category	Prevailing Wage	Project Labor Agreement
Wages	Workers must be paid at least the “prevailing wage” for their trade in an area. For example, a carpenter in Oakland must generally be paid at least \$57.10/hour in 2023. ³	Depends on the outcome of negotiations--sometimes in line with prevailing wage but may be higher.
Benefits	Employers can either provide benefits or pay an additional hourly amount	Employer-sponsored benefits are a typical feature of PLAs
Use of union labor	Not required	Requirements differ with each PLA. In one example, the PLA that applies to City of Los Angeles public works

¹ Estolano Advisors. [Improving the Effectiveness of Project Labor Agreements](#). 2021.

² <https://www.dol.gov/general/good-jobs/project-labor-agreement-resource-guide>

³ <https://www.dir.ca.gov/OPRL/2023-1/PWD/Determinations/Northern/NC-023-31-1.pdf>

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June 2024

		contracts, employers are allowed to have five non-union workers but must then hire from union referrals in most circumstances. ⁴
Training requirements	None are contained in prevailing wage standards- any training participation requirements would require a separate mandate	PLAs typically involve provisions for the use of union apprentices as part of the construction worker training pipeline

History and Context

Over the past several years, the Oakland City Council has considered the use of PLAs in several contexts. PLAs have been used on a variety of local projects in Oakland and Alameda County, but they have seldom been required for affordable housing.

Legislative History

On August 17, 2018, the City Council adopted Resolution No. 87293 C.M.S. seeking an equity impact analysis and public process to advise the creation of a general PLA for the City of Oakland. Such a blanket PLA is generally referred to as a Community Workforce Agreement. Efforts to implement this resolution were initially delayed by challenges in accessing data on the diversity and residency of union membership. The City Council received a report with some initial analysis of how to incorporate equity into a potential CWA on October 5, 2021. Negotiations over a possible CWA have been continuing since then but there has not yet been an agreement on possible terms.

Local Examples of PLAs

There are several local examples of PLAs. Some of these examples include:

- The **Brooklyn Basin** project, a master planned development of 3,100 housing units, agreed to a PLA⁵
- The **Oakland Unified School District** has implemented a PLA since 2004 for most capital projects⁶
- The **Port of Oakland** has implemented a PLA since 2016 for most capital projects⁷

⁴ <https://bca.lacity.org/Uploads/hiring/PLA%20Frequently%20Asked%20Questions%20%28FAQ%29.pdf> The details are complex and would generally require at least some union referrals.

⁵ <http://www.bcalameda.org/brooklyn-basin-waterfront-development-in-oakland-receives-investor-funds/>

⁶ <https://www.ousd.org/Page/21439>

⁷ <https://www.portofoakland.com/press-releases/port-of-oakland-board-extends-project-labor-agreement-5-years/>

- The **Oak Knoll** project, a master planned development of 935 housing units, agreed to a PLA⁸

PLAs and Affordable Housing in California

PLAs are not typically required for affordable housing in California. On a statewide level, the Health & Safety Code § 50675.4 generally requires prevailing wages for State-funded projects. However, State law does not require PLAs in affordable housing. Below are select geographies (cities and counties) and their PLA requirements as it relates to affordable housing:

- **San Francisco** has a citywide PLA that *does not* cover affordable housing.
- **San Diego** is currently in the process of developing a citywide PLA with an *unknown final scope*.
- **Sacramento** and **San Jose** do not reference requiring PLAs in their affordable housing underwriting policies, and staff are awaiting confirmation that no other policy triggers a PLA requirement for affordable housing in those communities.
- **Alameda County** instituted a requirement that Measure A1-funded *projects over 80 units* are subject to a PLA, but projects funded by non-A1 sources are outside the scope of the PLA.
- The most prominent example of a city applying a PLA mandate to affordable housing was the **City of Los Angeles'** with certain Measure HHH-funded projects. These requirements typically kicked in for Measure HHH-funded *projects of 65 units* or more. Projects funded by Los Angeles' recently passed Measure ULA will also require PLAs.

Policy Analysis and Alternatives

Due to the prevailing lack of PLA requirements for affordable housing, **very little affordable-housing focused research has taken place regarding the impacts of PLAs**. However, research into PLAs for other categories of public infrastructure can provide useful insights regarding potential impacts on housing.

Potential Advantages of PLAs

Proponents of PLAs generally cite two types of potential benefits to PLAs: benefits to the workforce, and benefits to the projects themselves. Some of the most frequently claimed benefits include:

Quality Wages and Benefits for Workers

Proponents of PLAs state that PLAs can play an important role in guaranteeing the best possible wages and benefits for local construction workers. Under PLAs, workers must be paid construction rates and provided with union-negotiated health insurance and other benefits. Unless a higher wage is collectively bargained, wages on PLA projects should be identical to the

⁸ <https://www.prnewswire.com/news-releases/suncal-signs-project-labor-agreement-with-laborers-local-304-for-oak-knoll-development-in-oakland-300475078.html>

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prevailing wages already required on non-PLA projects. If a higher wage is negotiated, that would pose an additional cost for PLA projects. While prevailing wage calculation is complicated, the average annual income of workers for all multifamily new construction firms in Alameda County in Q4 2022 was \$124,956.⁹

Workforce Training

Proponents of PLAs state that PLAs can serve as a vital tool for developing a pipeline of future construction workers. As PLAs typically feature an apprenticeship inclusion requirement (such that the project include a certain number of apprentices), this would provide a way for new people to enter the understaffed construction industry. PLA proponents also state that this workforce pipeline helps union contractors retain staff and therefore protects them from the broader construction worker shortage.

Workforce training requirements are a common feature across all PLAs staff reviewed and seem to be a consistent advantage for PLA projects over non-PLA projects. The larger impact on the availability of construction workers is unclear as many complex factors are responsible for the challenges of construction worker availability in California. The workforce training benefits of PLAs are nonetheless the most compelling component of PLAs, as supported by data.¹⁰ There is also some industry-level evidence that union contractors have better worker retention than non-union contractors, but it is unclear if this continues to be true when both union and non-union contractors are required to pay prevailing wage for a given project.¹¹

It is worth noting that there are several jurisdictions, including the City and County of San Francisco¹² and the City of Oakland¹³ that have requirements for hiring local residents and utilizing apprentices across all construction trades and crafts. These policies achieve the similar outcomes to workforce training provisions found in PLAs. To ensure Oakland residents are provided with clear pathways to quality jobs on City projects, the City of Oakland requires that 50% of all work hours are performed by Oakland residents, and that 15% of all work hours are performed by apprentices.

⁹ Quarterly Census of Employment and Wages, Bureau of Labor Statistics, Q4 2022. Accessible at: https://data.bls.gov/cew/apps/table_maker/v4/table_maker.htm#type=2&st=06&year=2022&qtr=4&own=5&ind=236116&supp=0

¹⁰ <https://laborcenter.berkeley.edu/project-labor-agreements-and-bidding-outcomes/>

¹¹ <https://illinoisepi.files.wordpress.com/2022/02/ilepi-pmcr-construction-labor-shortage-agc-report-final.pdf>

¹² Local Hiring Policy for Construction: https://codelibrary.amlegal.com/codes/san_francisco/latest/sf_admin/0-0-0-20466

¹³ Local and Small Local Business Enterprise Program, Part IV: Local Employment Program: https://cao-94612.s3.amazonaws.com/documents/LSLBE-Program-Guidelines_Revised.5.4.21.pdf and Oakland Apprenticeship Workforce: <https://cao-94612.s3.amazonaws.com/documents/OAKLAND-APPRENTICESHIP-WORKFORCE-DEVELOPMENT-PARTNERSHIP-SYSTEM.pdf>

“No Strike Clause”

Advocates of PLAs argue that PLAs can help save projects time and money by avoiding the costs and delays associated with work stoppages. PLAs typically include a “no strike” clause that prohibits the participating unions from striking during the duration of the agreement. Furthermore, PLAs often include provisions to harmonize rules across different unions to maximize efficiency. However, only 15.2% of construction workers in California are unionized, so a limited subset of contractors are vulnerable to strikes.¹⁴ Furthermore, only a tiny number of major construction projects in California have been interrupted by strikes between 2009-2019. For these projects with 1000 or more workers, only eight strikes could be found in the data.¹⁵

Disadvantages of PLAs

Opponents of PLAs generally cite three areas of concern: cost impacts from PLAs, impacts on contracting firms’ ability to participate in PLAs, and worker equity issues. This section will focus on cost and contracting concerns while worker-focused equity concerns will be addressed in the next section.

Cost Impacts of PLAs

The best research on the impacts of PLAs on the cost of affordable housing is a 2021 RAND study that looked at how PLAs were implemented on some affordable housing projects in Los Angeles.¹⁶ Large projects funded by the Proposition HHH bond were subject to PLAs, but smaller projects funded by the bond and large projects without Proposition HHH funding were exempt from the PLA requirement. This created a unique opportunity to study the impacts of a PLA on affordable housing because many similar PLA and non-PLA affordable housing projects in the same jurisdiction could be compared.

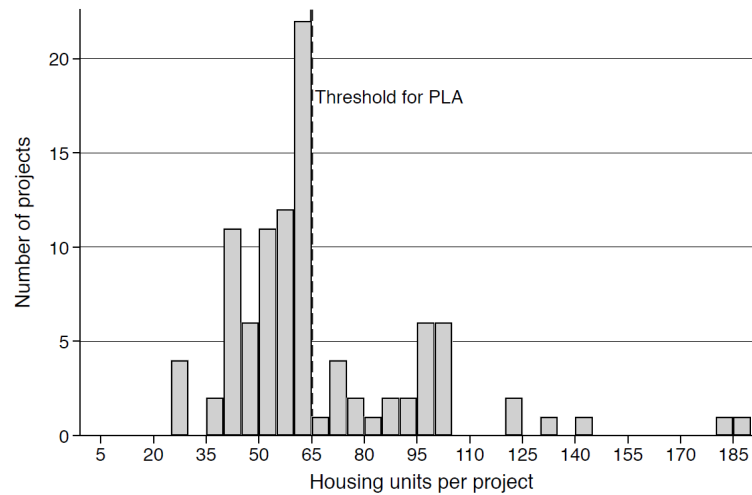
The RAND study found that the **Los Angeles PLA requirements added approximately 15 percent to the cost of construction above and beyond normal prevailing wages for affordable projects.** The study also found that developers responded to the 65-unit trigger for the PLA requirement by proposing smaller projects that would narrowly miss the requirement. This is shown in Figure 1.

¹⁴ Current Population Survey, 2022, data compiled by unionstats.com

¹⁵ Bureau of Labor Statistics, Work Stoppages Dataset, 2019. Some of the eight strikes were reported for smaller projects of less than 1000 workers, but strikes on smaller projects were not required to report so it seems probable there were some other strikes on smaller projects that were not reported.

¹⁶ https://www.rand.org/pubs/research_reports/RRA1362-1.html

Figure 1: Unit count frequency for Proposition HHH affordable housing projects



Source: “The Effects of Project Labor Agreements on the Production of Affordable Housing”, by Jason Ward, 2021

The author of the Los Angeles RAND study ultimately concluded that **the PLA increased costs by an average of \$43,000 per unit and resulted in a missed opportunity to create 800 additional units of affordable housing** due to 1) the larger per unit cost and 2) developers forgoing potential units in order to remain under the 65-unit PLA trigger. The study used strong statistical analysis methods and has transferrable lessons for Oakland due to similarities in project cost and structure between Oakland and Los Angeles. An analysis of the impacts of adopting a PLA on Oakland project costs and Measure U unit output is included as **Appendix A**.

In 2024, the UC Berkeley Labor Center published a white paper¹⁷ that attempted to re-run the Los Angeles RAND study with information on the post-completion costs of Los Angeles affordable housing projects. The authors report that they did not find a statistically significant relationship between project cost and PLA participation. **Unfortunately, we are unable to apply these findings to the Oakland context.** The UC Berkeley Labor Center study limited their examination to the Los Angeles affordable projects that had successfully completed the funding process, finished construction, and were placed in service. The State of California’s competitive funding process for affordable housing heavily weighs cost of construction in deciding which projects to fund, thus the sample that did move forward into construction and end up in the UC Berkeley sample is potentially skewed towards cheaper projects. This could mask the effect of PLAs on project costs and viability for the broader set of Los Angeles affordable housing projects.

¹⁷ <https://laborcenter.berkeley.edu/plas-and-cost-of-affordable-housing-projects/>

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When Los Angeles County staff explored a possible PLA requirement for Los Angeles County-funded affordable housing, they conducted extensive stakeholder meetings to better understand the impacts of the City of Los Angeles' Proposition HHH PLA requirement for 65+ unit projects. Los Angeles County staff found that that the Proposition HHH PLA requirement contributed to the cost of construction in several ways, such as A) increased compliance costs, including a need for developers to hire an additional full-time position to handle labor standard coordination/compliance, B) causing pre-construction delays to organize labor compliance, and C) challenges proceeding with overtime/weekend work needed to hit funding deadlines due to issues with the union approval process. Los Angeles County staff's recommendation to their Board of Supervisors was against adopting a PLA requirement for County-funded affordable housing. In addition to the cost issues raised in the stakeholder discussions and by the RAND study cited above, Los Angeles County staff noted that unionized multifamily construction workers are a small percentage of the construction workforce and that requiring PLAs for all affordable housing projects could create a workforce availability bottleneck.

Beyond the Los Angeles research cited above, the wider literature about PLA impacts on costs is sparse. Research from other types of infrastructure is mixed - one study on community college projects in California did not identify significant differences in cost or the number of bidders between PLA and non-PLA projects¹⁸, but other research suggests that PLAs increased school construction costs in Ohio by about 13 percent.¹⁹

Contractor Availability Impacts of PLAs

Opponents state that PLAs can limit the ability for non-union contractors to participate in PLA projects and therefore reduce the number of responses received in competitive bidding processes. In the Bay Area, opponents also state that use of union contractors is an industry standard, but flexibility to use non-union labor is important in cases where there are only one or two union bidders. These cases can result in significant price inflation and/or delays. PLA opponents are also concerned that non-union contractors excluded by PLA agreements may be disproportionately minority-led businesses.

Following the adoption of the City of Los Angeles' PLA requirement for Proposition HHH projects of at least 65 units, the Southern California Association of Nonprofit Housing (SCANPH) asked its members to survey their general contractors about the availability of union and non-union bids for subcontracted work on PLA-covered projects. **SCANPH's analysis found that the number of bidders for PLA-covered projects was 20-50% lower than for non-PLA covered projects.** More research is needed to understand why bid response rates were lower, but one general contractor reported that non-union contractors bid at half the rate of union contractors across the 45 trade specialties and 1,847 bid invitations in their project. This suggests that **even**

¹⁸ <https://laborcenter.berkeley.edu/project-labor-agreements-and-bidding-outcomes/>

¹⁹ <https://www.beaconhill.org/BHIStudies/PLA2017/OHIO-PLA-FINAL2017-0524.pdf>

if PLAs for affordable housing do not explicitly exclude non-union contractors, they may significantly deter participation. Reduced bid competition for affordable housing projects can increase the prices of winning bids and therefore contribute to the higher costs for PLA projects found in the RAND study.

Race and Equity

There is no clear evidence that PLAs or CWAs create greater racial equity in construction hiring. “Though Black workers comprise about 12% of the entire nationwide workforce... the number of Black workers in construction” has stayed “roughly at a flat 6% for more than 25 years” since 1995, even with the creation of PLAs across the country.²⁰ This disparity exists not only at the time of hire for construction projects, but much earlier in the workforce development pipeline. Many East Bay apprenticeship and pre-apprenticeship programs, for example, struggle to attract, maintain, and graduate Black workers; these programs are deeply underfunded.²¹ Even when comprehensive PLAs are in place, municipalities struggle to enforce their terms and spend time and resources addressing challenges rather than improving impact.²² Additionally, organizations such as the National Black Chamber of Commerce, Inc.,²³ and Bay Area Black Builders have taken firm positions against the use of PLAs.²⁴ Their specific ties to union jobs, the organizations assert, decreases access for the BIPOC and women workforce.

Per the Department of Race and Equity’s analysis, several equity gaps exist that limit a PLAs effectiveness, including:

- Poor/inconsistent gathering and reporting of race and gender membership in the building trades
- Vastly different, opaque, and sometimes subjective entry processes for each trade
- Lack of public accountability for equity outcomes of PLA provisions
- Small/ local contractors functionally shut out of City contracting under PLAs
- Ineffective/inconsistent monitoring and enforcement of contractor obligations
- Inconsistent/low funding levels for pre-apprenticeship programs
- Poor/inconsistent data collected for pre-apprenticeship programs
- Disparities in representation and success rates in apprenticeship programs, particularly for Black and female participants

²⁰ Bureau of Labor Statistics

²¹ Junious Williams Consulting, Inc. [Report from Community Engagement Sessions for a Possible Community Workforce Agreement Ordinance for the City of Oakland.](#)

²² Estolano Advisors. Improving the Effectiveness of Project Labor Agreements. 2021.

²³ National Black Chamber of Commerce. [Position Paper: Union – Only Project Labor Agreements.](#) August 1998.

²⁴ Debro, Joseph. [Bay Area Black Builders, Uniting Workers and Contractors, Will Stop at Nothing Until our Community is Working Again!](#) San Francisco BayView National Black Newspaper.

- Unwelcoming worksite culture for under-represented groups, lack of mentorship support for underrepresented groups

According to Oakland’s Department of Race and Equity (DRE), the city will need to reframe its “building trade agreements,” including PLAs, “to address the historical exclusion of Black, Indigenous, and People of Color (BIPOC) and women from building trade union membership and employment” as these tools have historically not served these populations. Further, the development of a PLA in Oakland would “require a completely redesigned approach that” begins “to reverse over one hundred years of exclusionary history.”²⁵

Community Engagement & Priorities

Despite attempts to address racial disparities, no meaningful improvement in the representation of Black workers in the building trades has been achieved to date. As the PLA process and structure in Oakland would require a significant redesign to be effective in its racial equity goals, DRE named the need for a public design process “to explore provisions for an equitable PLA for the City of Oakland.”²⁶

Between June and September 2019, the City of Oakland’s Contract and Compliance Division and the Department of Race and Equity partnered in planning and conducting a town hall meeting and a series of three regional community engagement meetings around the effectiveness of PLAs in Oakland. Following this work, the Oakland City Administrator’s Office retained Davillier-Sloan, Inc., to initiate a task force on CWAs regarding approaches to maximize local employment opportunities. The consultants held an additional seven (7) meetings from April through June 2022.

Of note, the community sessions raised the following feedback and recommendations:

- **Include CWA language that excludes affordable housing projects from coverage;**²⁷
- 75% of task force respondents either strongly agreed or agreed that construction projects with a value less than \$5 million should be exempt from PLA requirements as to allow more and smaller contractors to participate;
- Community members believe PLAs would have a negative impact on small contractors and/or emerging developers which are more likely to be women and BIPOC-owned. Their ability to participate in City contracts when PLAs are required would be diminished;
- Community members do not believe PLAs/CWAs would be effective in addressing the issue of local hire, especially for Black workers.

²⁵ City of Oakland. [Inter-Agency Report on Project Labor Agreements and Racial Equity Analysis](#). September 2021.

²⁶ Ibid.

²⁷ [City of Oakland CWA Task Force Report](#). Davillier-Sloan, Inc. 75% of respondents strongly agreed or agreed.

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Conclusion

When thoughtfully crafted, regularly monitored, and supported by a robust workforce development ecosystem, PLAs have the potential to drive better outcomes for a diverse set of workers. Unfortunately, there is little research that supports the effectiveness of PLAs and CWAs as they are currently used. Existing research completed on the nexus of PLAs and affordable housing demonstrates a significant increase in per-unit costs that would result in fewer units built and longer construction timelines. HCD staff project that adopting a PLA would reduce the number of affordable units produced by Measure U by 40%- or 771 units. Finally, Oakland stakeholders recognize the need to remove unnecessary barriers to affordable housing development, and improve access for smaller, emerging, and BIPOC contractors.

Appendix A: Impact of PLAs on the Production of Affordable Housing in Oakland

Based on City of Oakland research, and in particular the findings of the RAND Corporation’s study of PLAs in Los Angeles, calculations indicate that adopting a PLA in Oakland would result in ***approximately 40% fewer units of newly developed affordable housing.***

Assumptions

Data Point	Estimates	Source of Data
Average Per Unit Construction Cost	\$650,000	2022-23 NOFA proposals, rounded up
PLA Premium	15%	RAND Study
PLA Premium Applied to Construction Cost	\$97,500	15% of \$650k
Current Per Unit City Contribution to Affordable Housing	\$150,000	
Increased Per Unit City Contribution	\$250,000	\$150k + \$97.5k, rounded up

Calculations – Based on Strategic Action Plan Updated with Adopted Two-Year Budget Funding Level

Measure U and Local Funding Allocated to Affordable Housing Development Projects (over a four-year period)	\$288,941,452
Number of Newly Developed Affordable Housing Units Projected Without PLAs	1,926 units
Number of Newly Developed Affordable Housing Units Projected with PLA Premium Added to City Contribution	1,156 units
Reduction in Number of Units (1,926 – 1,156 units)	771 units
Percent Reduction in Number of Units	40%

Attachment C: Letters about Research



JASON M. WARD, PH.D.
ECONOMIST
CODIRECTOR - RAND CENTER ON
HOUSING AND HOMELESSNESS

1776 MAIN STREET
P.O. BOX 2138
SANTA MONICA, CA
90407-2138

TEL 310.393.0411 X7774
FAX 310.393.4818
jward@rand.org

June 5, 2024

Jestin D. Johnson
City Administrator, City of Oakland, CA

Dear Mr. Johnson,

This memo is in response to an invitation by the Oakland DWES to provide information and context regarding existing and recent research on the cost effects of PLAs on affordable housing production—specifically important context concerning a May 2024 study by Enrique Lopezlira and Aida Farmand of the UC Berkeley Labor Center, “[Evaluating the Impact of Project Labor Agreements on the Cost of Affordable Housing Projects: Proposition HHH in Los Angeles](#)” (hereafter “LF (2024)”) that revisits research I released in the peer-reviewed RAND Research Report entitled “[The Effects of Project Labor Agreements on the Production of Affordable Housing Evidence from Proposition HHH](#)” (hereafter “Ward (2021)”). LF (2024) generated estimates of the cost effect of the LA’s Proposition HHH PLA by combining the statistical model from Ward (2021), which used estimated construction costs data (since few of these projects were completed in 2021), with recent data on actual total development costs (TDC) from the Los Angeles Housing Department (LAHD) for a subset of projects used in the Ward (2021) study.¹

LF (2024) presented results that lacked statistical significance at the 95 percent confidence level, a common but arbitrary metric used to categorize results as quantitatively meaningful or not. This lack of statistical significance led the authors to conclude that the use of “updated total development costs for completed projects shows no evidence that the HHH PLA caused an increase in per-unit costs for affordable housing projects developed under Proposition HHH.”

However, the LAHD data source used for the LF (2024) analysis contained a large number of incorrect TDC amounts due to listing the HHH funding award amount as the TDC amount (the award amounts are equivalent to around 25 to 30 percent of the project’s actual TDC). Four such projects (out of a sample of 75) were included in the LF (2024) analysis sample and the inclusion of these four incorrect data points, which were far smaller than all the other accurate TDC values in the analysis sample is the sole cause of these estimates failing to reach statistical significance. These incorrect data points also reduced the magnitude of the estimated effect sizes.²

¹ The release of the Ward (2021) report included the public dissemination of the full data set and analysis code to allow interested researchers to further scrutinize or build on the study’s findings.

² The relevant projects are the McCadden Campus Senior Housing (TDC \$57.8M), The Wilcox (TDC \$39.87M), The Quincy (TDC \$33.16M), and SagePointe (TDC \$33.58M).



Correcting this error in the LF (2024) analysis by either removing these projects or using their actual TDC amount (which I acquired via email inquiries to each relevant developer) results in highly statistically precise estimates. Results from either approach imply that *the cost effect of the HHH PLA is more than three times the magnitude of my original estimates*. I notified the authors of LF (2024) of this error in on May 31, 2024. I have not had further communication with them since.

In the table below, I first reproduce the estimates presented in the LF (2024) report (panel A). Then I present two subsequent panels that correct for the incorrect analysis by omitting the four incorrect data points from the analysis (panel B), and, separately, by substituting the correct TDC amounts for these four incorrect data points obtained from the relevant developers (panel C). These estimates reflect the additional cost of producing HHH-funded housing units under the PLA, over and above the payment of prevailing wages required on all HHH-funded projects. To provide additional context, I include a calculation expressing these dollar amounts as a percent of the average TDC per unit of HHH-funded projects with between 50 and 64 housing units (the largest projects not subject to the PLA) of \$576,905.

The statistically imprecise results in the LF (2024) report (reproduced in panel A) indicated a PLA cost effect ranging between 18.9 percent and 29.9 percent (the meaning of these estimates was not discussed at all in the LF (2024) report). Excluding the four incorrect data points results in highly statistically significant estimates (panel B) ranging between 26.3 and 37.5 percent of the average cost of non-PLA HHH-funded projects. *The results in panel C using corrected data on the four projects in question leads to highly statistically significant results of roughly 25 percent.*

In Ward (2021) results using estimated data indicated that construction costs increased by 15 percent. Given that these costs typically made up around 60 percent of TDC, this implies a TDC effect of 9 percent. The highly statistically significant results in panel C indicate an effect nearly three times this size.

RAND will release an updated, peer-reviewed research report that I will author on this topic within 6 weeks using corrected, actual TDC data, while addressing a number of important issues with the statistical model that arise from the use of TDC instead of construction costs. LF (2024) simply used my original statistical model with a different outcome, but there are important modifications warranted by the use of actual TDC to reduce potential bias (upward in magnitude) in these estimates.

In light of policy decision under consideration by the City of Oakland, it is important to promptly correct the public record about this report as it has sown unwarranted confusion about the tradeoffs involved in using mandatory PLAs for publicly subsidized affordable housing production. For the time being, I believe that the estimates in Ward (2021) provide a sound, and likely conservative, estimate of the potential fiscal implications of mandatory PLAs in the California setting.



Table 1. Reproduction of Results from Lopezlira and Farmand (2024) and Results Using Estimated TDC data from Ward (2021) for same sample of projects

	(1) Full Sample	(2) Exclude largest and smallest outlier projects
<i>Panel A: Results from Lopezlira and Farmand (2024) using incorrect data</i>		
	TDC per unit (\$1,000s)	TDC per unit (\$1,000s)
HHH x	172.3	109.0
PLA	(113.1)	(100.2)
Effect size as percent of avg cost of 50 to 64 unit HHH projects	29.9%	18.9%
<i>N</i>	75	67
<i>Panel B: Results omitting the four incorrect data points</i>		
	TDC per unit (\$1,000s)	TDC per unit (\$1,000s)
HHH x	216.2**	151.7*
PLA	(95.2)	(59.1)
Effect size as percent of avg cost of 50 to 64 unit HHH projects	37.5%	26.3%
<i>N</i>	71	63
<i>Panel C: Results with corrected values for the four incorrect data points</i>		
	TDC per unit (\$1,000s)	TDC per unit (\$1,000s)
HHH x	148.7**	143.4*
PLA	(50.6)	(56.4)
Effect size as percent of avg cost of 50 to 64 unit HHH projects	25.8%	24.9%
<i>N</i>	75	67

Estimated standard errors in parentheses. Results with a single asterisk are statistically significant at the 95 percent confidence level and results with a double asterisk are statistically significant at the 99 percent confidence level. The percentage size of the cost effect is based on the average cost of HHH-funded projects of between 50 and 64 units included in the analysis: \$576,905.

Below, I briefly summarize the key points of this memo in a short series of bullets to further facilitate easy recall and discussion. I hope that this memo and the exposition above provide some clarity to aid in the City of Oakland’s decision-making on this topic. Thank you for considering this important matter.

Sincerely,

Jason Ward, PhD | Economist
 Co-Director, RAND Center on Housing and Homelessness
 Professor, Pardee RAND Graduate School
 1776 Main Street | M5E | Santa Monica, CA 90407
 T (310) 393-0411 x7774, jward@rand.org



Summary of key points:

- In May 2024 Lopezlira and Farmand released a non-peer reviewed research note (hereafter, LF (2024)) updating results from a peer-reviewed RAND report that used estimated cost data to find that the PLA associated with Los Angeles' Proposition HHH funding program added around 15 percent to construction costs (or around 9 percent to total costs) of affected projects.
- LF (2024) used actual data on total development costs (TDC) and estimated large cost estimates that were statistically imprecise, leading the authors to conclude that the use of "updated total development costs for completed projects shows no evidence that the HHH PLA caused an increase in per-unit costs for affordable housing projects developed under Proposition HHH."
- The LF (2024) analysis used data from the LA Housing Department (LAHD) that had major data errors for many projects, understating the TDC of affected projects by 70 to 75 percent. Four such incorrect data points were included in the LF (2024) analysis.
- Re-estimating the model either excluding these four data points or using the correct TDC amounts for these four projects results in larger estimates than those reported in LF (2024) and are highly statistically significant.
- The published results from LF (2024) are not valid given the use of this incorrect data and should not be considered a reliable source of evidence on the cost effects of PLAs used in the production of affordable housing.
- At the present time, the original RAND Report findings of a roughly 9 percent cost effect of the HHH PLA on per unit TDC represent credible, likely conservative, estimates of the cost effect of a mandatory PLA on the production of affordable housing.



Memo

TO: Jestin D. Johnson, City Administrator
City of Oakland

FROM: Dr. Enrique Lopezlira, Director, Low-Wage Work Program
UC Berkeley Labor Center

DATE: June 6, 2024

SUBJECT: Response to comments regarding the UC Berkeley Labor Center's research note
from May 2024

On June 5, 2024, Director Aspilla informed me of some comments she received from community groups, regarding our May 2024 research note "Evaluating the Impact of Project Labor Agreements on the Cost of Affordable Housing Projects: Proposition HHH in Los Angeles." Director Aspilla asked if we would provide the City Administrator with a response to those comments. Through this memo, we are providing that response.

Comment 1: There are some issues with our data

Last week, we received an email from a researcher who is advising the community groups who contacted Director Aspilla. The researcher mentioned that he believed the actual total development costs of four projects in our data set seemed too low. He also mentioned that he had contacted the developers directly and three of the four developers provided total costs that were much higher than the entries in our data set. He suggested we either drop those four observations or include the higher costs he provided. He said that either one of those adjustments would reverse the results of our analysis.

We thanked the researcher for bringing the data question to us and informed him that we would do our due diligence and get back to him once we completed that process. We are currently in the middle of this due diligence.

Our data comes directly from the Los Angeles Housing Authority. We have double checked that the data we used are free from data entry errors on our part, and we have also double checked that the data we used are still the most current data that are available publicly from the Los Angeles

Housing Authority. So far, we have not encountered any information that contradicts the veracity of the data set we used in our analysis.

Variance between projected and actual costs is common in construction. Without a further review of the data that not only includes but goes beyond those four projects, it would be premature to remove the identified projects, or to substitute anecdotal evidence for the data reported to the City of Los Angeles.

Comment 2: Our conclusion that there is no evidence of Project Labor Agreements (PLAs) causing higher development costs is too strong a claim

Our research note focused on one question only: is there evidence that PLAs caused higher actual total development costs for completed projects under proposition HHH. Our analysis found no statistically significant evidence. What does this mean? It means that the evidence from our analysis isn't strong enough to claim that PLAs caused higher actual total development costs for completed projects.¹ That is precisely what we say in our note: "Our analysis using updated total development costs for completed projects shows **no evidence that the HHHPLA caused an increase in per-unit costs for affordable housing projects developed under Proposition HHH.**

What our results also mean is that any relationship between PLAs and actual total development costs for completed projects under Proposition HHH may be due to random chance or other factors we did not measure in our analysis.² Therefore, adding any comment or note to the City of Oakland's report that claims our analysis shows a relationship between PLAs and development costs would not be accurate.

The previous research finding evidence of PLAs causing higher development costs in Los Angeles relied on projected, rather than actual costs. Given well established prior research findings that projects built under PLAs are more likely to come in on time and on budget, an analysis of the difference in projected costs between PLA and non-PLA projects should not be taken as evidence of causality related to the actual costs of development.

¹ Asteriou, Dimitrios, Hall, Stephen G., *Applied Econometrics*. 3rd ed. London: Palgrave, 2016, p. 30.

² *Ibid.*