



June 8, 2011

The Honorable Andrew P. Harris, M.D.  
United States House of Representatives  
506 Cannon House Office Building  
Washington, DC 20515

Dear Dr. Harris:

I am responding to your April 26, 2011, letter in which you raise two concerns regarding the use of a Project Labor Agreement (PLA) on Phase 2 of the Dulles Corridor Metrorail Project (Project): the PLA will result in substantially higher construction costs, and the PLA will prevent qualified, non-union contractors, who might provide lower-cost bids, from working on Phase 2 of the Project.

On April 6, 2011, the Metropolitan Washington Airports Authority's (Airports Authority) Board of Directors (Board) adopted a resolution acknowledging the benefits that a PLA has produced during Phase 1 of the Project and determining that Phase 2 contracts should include such an agreement to assure timely, efficient, and cost-effective construction. The Board instructed Airports Authority staff to include a requirement for a PLA in construction solicitations for Phase 2, based as much as practicable, on the agreement used during Phase 1. The Board further instructed staff to report to its Dulles Corridor and Business Administration Committees on the manner in which the resolution would be actually implemented.

Your concern that a PLA will cause a substantial increase in Phase 2 costs appears to be based on the view that wages paid by Phase 2 contractors operating under a PLA will be significantly higher than the wages contractors would pay absent a PLA, and that these higher wages will cause a significant increase in Phase 2 labor costs. I want to respond to these concerns.

A PLA on Phase 2 will likely provide for wages to be based upon either the prevailing wage rates established by the U.S. Department of Labor pursuant to Public Law 107-217 (Davis-Bacon) or, like the Phase 1 PLA, comparable wage rates established pursuant to local Collective Bargaining Agreements (CBA). However, Davis-Bacon prevailing wage rates will be applied to Phase 2 even without a PLA. As you know, federal law requires that construction projects receiving federal financial assistance must apply Davis-Bacon wage rates. Along with our funding partners, the Airports Authority has been actively pursuing federal assistance for Phase 2. In particular, we are working to obtain federal credit assistance under the Transportation Infrastructure Finance and Innovation Act (TIFIA). The receipt of a TIFIA loan, or any other federal assistance on Phase 2, would require utilization of Davis-Bacon wage rates. It is the Airports Authority's intent to require the use of such rates by Phase 2 contractors, irrespective of a PLA.

As a result, the use of a PLA in Phase 2 is not expected to have any significant impact on wage rates, labor costs or overall Phase 2 costs. It is possible that a Phase 2 PLA, were it to utilize local CBA rates (as does the Phase 1 PLA), might add a slight premium to comparable Davis-Bacon wage rates. If

so, that premium would not cause an appreciable increase in overall Phase 2 costs. Moreover, the benefits associated with a PLA—i.e., by ensuring the ability to attract and retain a skilled workforce, access to well-established training programs, and providing a mechanism for resolving all workplace disputes and eliminating workplace disruptions and work stoppages that may occur—are, viewed as outweighing any such marginal increase in labor costs.

With respect to your concern regarding the impact of Phase 2 on non-union contractors, I believe two observations are important.

First, any PLA for Phase 2, like the Phase 1 PLA, will provide that the selection of contractors and subcontractors for Phase 2 work will be based solely on qualifications, and may not be premised on union affiliation. Also, any Phase 2 PLA will fully comply with Virginia law, which prohibits employers from requiring union membership of any employee as a condition of employment.

Second, the Project's experience to date in Phase 1 with Dulles Transit Partners, LLC, (DTP), the firm under contract with the Airports Authority to design and construct Phase 1, has demonstrated that, notwithstanding the existence of a PLA, non-union local contractors have achieved a high level of participation in Phase 1 contracts. For example, of the first-tier contracts executed to date by DTP—contracts with a value of \$460 million—58 percent of the contracts' value, or \$266 million, has been awarded to non-union contractors, while 42 percent of the value, or \$194 million, has been awarded to union contractors. Further, of the first-tier contracts executed to date by DTP with contractors and suppliers of equipment and materials, including contracts in the area of utility relocations—contracts with a value of \$880 million—60 percent of the contracts' value, or \$528 million, has been awarded to contractors and businesses based in the Commonwealth of Virginia, the District of Columbia, and the State of Maryland (VA/DC/MD), with the remaining 40 percent of the contracts' value, or \$352 million, awarded to contractors and businesses based outside of VA/DC/MD. This Phase 1 experience shows that the Phase 1 PLA has not had any significant negative effect on the ability of non-union local contractors to successfully bid on and obtain Phase 1 work.

The Airports Authority very much appreciates your April 26 letter and your interest in the Project. If I can provide any further information regarding the Project or the use of the PLA in either phase of the Project, please feel free to contact me at (703) 417-8610.

Sincerely,



Lynn Hampton  
President and Chief Executive Officer

LH:mjc

ANDY HARRIS, M.D.  
FIRST DISTRICT, MARYLAND

COMMITTEE ON TRANSPORTATION AND  
INFRASTRUCTURE  
SUBCOMMITTEES  
COAST GUARD AND  
MARITIME TRANSPORTATION  
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Congress of the United States  
House of Representatives  
Washington, DC 20515

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AND INSULAR AFFAIRS

April 26, 2011

E. Lynn Hampton  
President and Chief Executive Officer  
Metropolitan Washington Airports Authority  
1 Aviation Circle  
Washington, D.C. 20001

Dear Ms. Hampton,

I am writing in reference to the Metropolitan Washington Airports Authority's (MWAA) resolution mandating that the bid competition on Phase 2 of the Dulles Corridor Metrorail Project—estimated at \$3.5 billion—be subject to a Project Labor Agreement (PLA). I have serious concerns about this decision, specifically because the use of PLAs often results in cost overruns and higher construction costs for taxpayers, while qualified non-union contractors who wish to make lower-cost bids are essentially locked out of the project. In order to provide efficient transportation service to the fastest growing corridor in the Washington metropolitan area, I believe MWAA must allow fair bidding to secure the most cost-effective contract for Phase 2 of the Dulles Corridor Metrorail Project.

Because PLAs set standard labor costs and work rules, non-union contractors cannot win bids based on lower costs. As I am sure you will agree, this is not the way to **reduce** costs and **increase** opportunities during tough economic times. With a ballooning federal deficit and high rates of unemployment in the construction industry, MWAA should be actively striving for more efficient, cost-effective projects, not locking in higher than necessary costs.

The use of a PLA on Phase 2 of the Dulles Corridor Metrorail Project will cost Virginia taxpayers an estimated 12 to 18% more. Not only that, but a PLA will discourage competition from local construction firms and discriminate against the 96% of the construction workforce that chooses not to belong to a union.

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Thank you for your consideration of my concerns. I hope you will agree that prudent judgment should always be employed whenever the hard-earned dollars of taxpayers are at stake. We must do all we can to ensure that small businesses and competitive bids are fairly considered without picking winners and losers and providing special preference to particular special interests.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andy Harris, M.D.", with a stylized flourish at the end.

Andy Harris, M.D.  
Member of Congress

APH:lls

cc: Bob Zinsmeister, Association of Builders and Contractors