

EXECUTIVE ORDER NO. 5-95
PUBLIC WORKS PROJECT LABOR AGREEMENTS

WHEREAS, the City of Philadelphia has a compelling interest in awarding public works contracts so as to yield the lowest reasonable costs and the highest standard of quality and efficiency; and

WHEREAS, Project Labor Agreements, when appropriate and feasible, can ensure that a public works project is completed at the lowest reasonable cost; by the highest quality and most professional work force; and in a timely manner without labor disruptions such as strikes, lockouts or slowdowns; and

WHEREAS, the benefits of any proposed Project Labor Agreement must be carefully weighed with the effect the Project Labor Agreement would have on competitive bidding, project costs and the City's policy to advance ssomen- and minority-owned businesses; and

WHEREAS, a Project Labor Agreement may be used on a particular project if such Agreement clearly benefits the interests of the City on the basis of cost, efficiency, quality, safety and/or timeliness;

NOW, THEREFORE, by the powers vested in me by the Philadelphia Home Rule Charter, it is hereby ORDERED:

1. Definitions.

(a) Appropriate Labor Organization. An organization representing, for purposes of collective bargaining, journeymen in one or more crafts or trades as with a Federal or state certified approved apprenticeship training program and which:

(i) has entered into a labor agreement with an employer in the building and construction industry;

(ii) has represented journeymen, mechanics and apprentices employed on projects similar to the project for which a Project Labor Agreement is being considered; and

(iii) possesses the present ability to refer, provide or represent qualified journeymen in the crafts or trades required by the project, in sufficient numbers to perform the contracted Work involved in the project.

(b) City agency. A City office, department, board, commission or other entity which procures goods and services through the City Procurement Department.

(c) Project Labor Agreement. A collective bargaining agreement between an employer and an Appropriate Labor Organization relating to work performed at the site of a particular construction project. Such an agreement sets forth the terms and conditions of employment for workers hired by the employer and sets forth certain work rules, no strike clauses, jurisdictional determinations and other provisions that the employer deems important for the completion of the project. For purposes of this Executive Order, the form and manner of the Project Labor Agreement shall be substantially in the form attached hereto as the "Uniform City of Philadelphia Public Projects Labor Agreement," subject to the review and approval of the City Solicitor.

2. Project Labor Agreement Pilot Program.

There is hereby created a pilot program to test the appropriateness and feasibility of the use of Project Labor Agreements in major City public Works projects. Such Project Labor Agreements may be used only in accordance with the terms of this Executive Order. Every Project Labor Agreement entered into pursuant to this Executive Order will be

monitored and evaluated by the Advisory Committee established pursuant to paragraph 3 hereof. The duration of this pilot program will depend upon the findings and recommendations of the Advisory Committee as it monitors and evaluates each Project Labor Agreement.

3. Project Labor Agreement Advisory Committee.

(a) Composition. There is hereby created a Project Labor Agreement Advisory Committee consisting of the following persons:

- (i) Procurement Commissioner or his/her designee;
- (ii) Commissioner of Public Property or his/her designee;
- (iii) Director, Minority Business Enterprise Council;
- (iv) Director of Aviation or his/her designee;
- (v) Deputy Mayor for Labor;
- (vi) Chair, Law Department's Corporate Group;
- (vii) Managing Director or his/her designee; and
- (viii) such other person or persons designated from time to time by the Mayor.

(b) Duties. The Advisory Committee shall:

- (i) Make recommendations to the Mayor as to whether a City agency's request to use a Project Labor Agreement on a particular public works project should be approved as part of the Project Labor Agreement Pilot Program;
- (ii) Monitor and evaluate every Project Labor Agreement entered into pursuant to this Executive Order;
- (iii) Make periodic reports to the Mayor as to the status of the Project Labor Agreement Pilot Program;
- (iv) Ensure compliance with the terms of this Executive Order;
- (v) Make recommendations to the Mayor as to the continued feasibility of Project Labor Agreements in City public works contracts, including recommendations as to Whether the Project Labor Agreement Pilot Program established under this Executive Order should be modified, ended, continued or made permanent; and
- (vi) Perform such other duties as the Mayor may from time to time assign.

4. Scope.

This Executive Order shall apply to major public works projects governed by Section 17-107 of The Philadelphia Code (relating to prevailing wages) and Which are for an amount in excess of \$250,000 or such greater or lesser amount as may from time to time be recommended by the Advisory Committee and approved by the Mayor.

5. When City Agencies May Use Project Labor Agreements.

(a) A City agency may use a Project Labor Agreement in a particular public works project if and only if the City agency makes a prior written determination that such an Agreement is appropriate and feasible with respect to the particular project, under the standards set forth in paragraph 5(b) hereof. The written determination must be sent to the Advisory Committee which shall review it and make a recommendation to the Mayor as to whether a Project Labor Agreement should be used for the specified public works project.

(b) A City agency's determination of the appropriateness and feasibility of using a Project Labor Agreement for a particular project shall set forth in detail the investigation, analysis and justification supporting the determination that the agreement will benefit and enhance the interests of the City on the basis of cost, efficiency, quality, safety and/or timeliness, and shall specifically address the following factors:

- (i) The need for safe, timely and efficient completion of the project;
- (ii) The need for predictable costs and enforcement of prevailing wage requirements;
- (iii) The need for effective mechanisms for resolution of disputes;
- (iv) The need for a ready and adequate supply of highly skilled and highly trained craft workers and the need to guarantee performance of the project in a workmanlike and professional manner; and
- (v) The opportunity to provide significant employment opportunities for qualified City residents and for small, women and minority-owned businesses, taking into consideration the market or pool of available moment and minority-owned businesses, and the effect a Project Labor Agreement would have on the City's policy to advance women- and minority-owned businesses.

(c) The written determination shall also make a finding as to the Appropriate Labor Organization, and shall specifically address whether there are labor organizations other than the Philadelphia, Pennsylvania Building and Trades Council that have the capacity to enter into a Project Labor Agreement within the project area.

(d) This Executive Order does not require the use of a Project Labor Agreement with respect to any particular project, nor does this Executive Order require the selection of any particular union, trade council or labor organization.

6. Required Provisions In Project Labor Agreements.

Any Project Labor Agreement entered into pursuant to this Executive Order shall:

- (a) Contain guarantees against strikes, lockouts, slowdowns and similar actions; and
- (b) Set forth effective, immediate and mutually binding procedures for resolving jurisdictional disputes arising before the completion of the work.

7. Bid Specifications and Procedures When Project Labor Agreements Are Used.

If a Project Labor Agreement is used pursuant to this Executive Order in any public works contracts, the following procedures shall be followed: (a) The form and manner of the Project Labor Agreement shall be substantially in the form attached hereto as the "Uniform City of Philadelphia Public Projects Labor Agreement," subject to the review and approval of the City Solicitor. Such form and manner of Uniform City of Philadelphia Public Projects Labor Agreement shall be subject to modification or revision from time to time on the recommendation of the City Solicitor or the

Advisory Committee.

(b) The Project Labor Agreement shall be negotiated and executed by the general contractor or project manager, subject to the review and approval of the City;

(c) The Instructions to Bidders shall provide that the City, the project manager and any contractor shall have the absolute right to select any qualified bidder for the award of project contracts without reference to whether the bidder was unionized, provided, however, that only a bidder willing to execute and comply with the Project Labor Agreement would be designated the successful bidder;

(d) The Instructions to Bidders shall provide that the Project Labor Agreement shall be made binding on all contractors and subcontractors on the project through inclusion of appropriate bid specifications in all relevant bid documents; and

(e) The public works project shall comply with all other provisions of law including, but not limited to, the provisions of Executive Order 1-93 ("Antidiscrimination Policy").

8. Effective Date.

This Executive Order shall take effect immediately and shall apply only to public works project contracts executed after that date.

Date: 8 November 1995

Signed: Edward G. Rendell, Mayor

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