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January 5, 2024

Councilmember Brianne Nadeau  
Chair, Committee on Public Works  
and Operations  
1350 Pennsylvania Avenue, NW  
Suite 108  
Washington, DC 20004

Dear Councilmember Nadeau:

I am writing on behalf of the over 500 members of the Associated Builders & Contractors of Metro Washington regarding Bill 25-469, the “Revised Project Labor Agreement Cost Threshold Amendment Act of 2023.” This bill would have severe ramifications on local construction firms, particularly Certified Business Enterprises (“CBEs”) and minority-owned firms. PLAs are sold to local officials – many of whom benefited from the political support of labor unions – as a solution to illusory problems of “labor peace,” assisting project deadlines and budgets, and benefiting local construction workers. Any fair-minded assessment of these claims would show them to be contrived justifications to obscure the true purpose of PLAs – to steer public contracts to favored unions.

Our members are extremely concerned that you are considering marking-up Bill 25-469 without holding a hearing. In our opinion, this would violate the spirit of the Council Rule 501 permitting a bill to bypass the hearing requirement if it had a hearing in the previous period. This Council rule was intended for situations where the Committee’s Chair was the same from one Council Period to the next.

Our organization and our members participated in the Council hearing on a similar bill in November 2022, chaired by Councilmember Robert White. We believe that the issues discussed at the hearing were, at least in significant part, the reason the bill did not move in 2022. Marking-up the bill over a year later, under a new Committee with a new Chair, without ever having listened to the District’s construction contracting community and workers, both of whom would be harmed by the expanded use of PLAs, could be perceived as an abrogation of the Committee’s duties and responsibilities.

## **PLA Wage Theft**

Under federal law, and unlike other states, District procurements are covered by the Davis-Bacon Act, which establishes the wage-scale for construction projects. This means that a PLA has no bearing whatsoever on the wages paid on these projects. But, under a PLA, up to 34% of a worker's take home pay – *fully 1/3 of every dollar earned on a PLA project* – is effectively stolen by union “benefit” funds.<sup>1</sup> This includes 19% of take-home pay directed to union pension plans (for which workers have no hope of vesting), 9% for union health insurance plans that they will not use (they already have health insurance through their employer), and 6% for dues to a union that they are not a member of. Unions do not return or refund this money to workers when their time on the project is over. This is wage theft.

## **Discrimination Against Local and Minority-Owned Businesses**

It's hard to conceive of a more self-defeating public policy than a PLA in the District, where the vast majority of the local construction workforce and local construction firms would be largely excluded from working on the projects their tax dollars support. For historical reasons, few – *if any* – minority-owned construction firms are signatory to union agreements. The National Black Chamber of Commerce has long been a fervent opponent of PLAs calling them, “a locking out of most black-owned firms” and “a license to discriminate against black workers.”<sup>2</sup>

By working on PLA projects, local firms face the potential of financial ruin in the form of uncapped withdrawal liability from notoriously underfunded and severely mismanaged union pension funds. There are numerous examples of small businesses that unwittingly signed a PLA to work on a large infrastructure project only to be crushed with massive “withdrawal liability” from mismanaged multi-employer pension funds.<sup>3</sup> By imposing a PLA on District-funded projects, you are asking local firms to put their businesses in harm's way simply to work on District funded infrastructure projects.

## **Under PLAs, Local Workers Come Last**

Nearly every PLA requires firms to “source” labor from union hiring halls. This means that local construction firms typically can't use existing employees if they perform work on the project. Because these hiring halls generally operate on seniority within the labor union, District residents usually find themselves behind workers from other states on a PLA projects. While PLA proponents claim otherwise – with no data or evidence – the District's First Source Law and the goal of hiring local workers on publicly funded projects are incompatible with PLAs. The two are diametrically opposed to each other. PLAs benefit existing union members first and only. But *by choice*, 86.4% of D.C. construction workers do not belong to a labor union.

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<sup>1</sup>McGowan, John Ph.D. “[Government-Mandated Project Labor Agreements Result in Lost and Stolen Wages for Employees and Excessive Costs and Liability Exposure for Employers.](#)” October 2021.

<sup>2</sup>Alford, Harry. “[EFCA will hurt black-owned business growth.](#)” Roll Call, April 17, 2009.

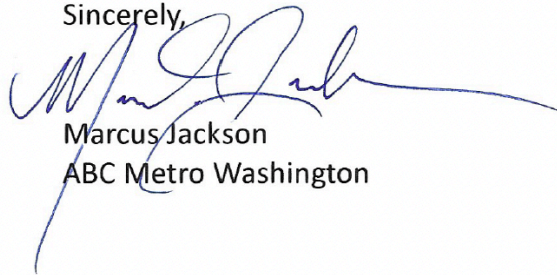
<sup>3</sup>Perry, Robert R., “[Third Circuit Joins Sister Circuits in ‘Employer’ Definition under Multiemployer Pension Plan Amendments Act.](#)” *National Law Review*, April 15, 2022.

## **PLAs Mean Less Affordable Housing**

The non-partisan, independent RAND Corporation studied the impact of the Los Angeles City Council's decision to place a PLA on the development of 10,000 units of affordable housing. RAND's *peer reviewed* study found that, on average, the PLA increased the cost by 14.5% and **resulted in 800 fewer affordable units**.<sup>4</sup> Given the projected tax revenue declines expected in the coming years, Bill 25-469 will mean fewer benefits for District residents, workers, and businesses.

For these and other reasons, we are asking you to hold a hearing on Bill 25-469 prior to taking any action on it. Thank you for your attention to this issue!

Sincerely,

A handwritten signature in blue ink, appearing to read 'Marcus Jackson', with a long horizontal flourish extending to the right.

Marcus Jackson  
ABC Metro Washington

cc: All Councilmembers

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<sup>4</sup> Ward, Jason M., "[The Effects of Project Labor Agreements on the Production of Affordable Housing: Evidence from Proposition HHH](#)." Santa Monica, CA: RAND Corp., 2021.