



U.S. Department
of Transportation
**Federal Highway
Administration**

Oregon Division

April 3, 2023

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In Reply Refer To:
HDA-OR

Jon Henrichsen, PE
Transportation Director
1403 SE Water Avenue
Portland, OR 97214

Dear Mr. Henrichsen:

The Multnomah County's request to use a Project Labor Agreement (PLA) on the Earthquake Ready Burnside Bridge project was received December 21, 2022. We received your supplemental documentation with project specifications on February 16, 2023. Federal Highway Administration (FHWA) has reviewed the PLA and received concurrence from our Office of Chief Counsel. FHWA received a justification ("Written Statement") from Multnomah County explaining the basis for the request PLA usage on the project.

The Earthquake Ready Burnside Bridge project will create a seismically resilient movable bridge across the Willamette River in downtown Portland, Oregon. The updated bridge is being designed to withstand a catastrophic earthquake and is expected to be the only immediately usable bridge in downtown Portland over the Willamette River following such an earthquake. The project will also build a more modern, multi-modal transportation facility for people with disabilities, pedestrians, bicyclists, transit users, and drivers.

Environmental review for the project is anticipated to be completed in November 2023. Advertisement for architectural and engineering (A/E) services and for construction manager/general contractor (CM/GC) services has already occurred, with a notice of award for the A/E services expected in Spring 2023 and a notice of award for the CM/GC procurement expected in July 2023. A notice to proceed for A/E and CM/GC is planned for July 2023 and September 2023, respectively. Construction is anticipated to occur between 2025 and 2030. The project has an estimated budget of \$1.022 billion.

FHWA's PLA guidance provides that a PLA may be used on a Federal-aid highway project if the State reasonably demonstrates that the use of the PLA will advance the government's interest and the PLA is consistent with law, including the competition requirements in 23 U.S.C. 112. The factors demonstrating that a PLA advances a government interest include, among others: the risk of labor unrest on the project and the circumstances that are present that may lead to a heightened risk of labor disruption; the impacts of a labor disruption to the users, the operation of the facility, and the region; and the costs of a delay should a labor disruption occur. The agency requesting use of a PLA must provide reasonable documentation demonstrating the factual

underpinnings for this determination. The Written Statement for the project addresses applicable factors, focusing on the risks of labor unrest or disruptions, how the project's size and complexity necessitates project continuity, and the need to complete the project and the costs of project delays.

The PLA binds all contractors and subcontractors on the construction project through the inclusion of appropriate specifications in all relevant solicitation provisions and contract documents. See Section 1.2. In addition, the PLA allows all contractors and subcontractors to compete for contracts and subcontracts without regard to whether they are otherwise parties to collective bargaining agreements. See Section 1.2. Additionally, consistent with FHWA guidance, Article 8 of the PLA incorporates "no strike" language to ensure that work is continued without interruption. The PLA also sets forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the PLA at Articles 6 and 7. Article 4 provides other mechanisms for labor-management cooperation on matters of mutual concern, including the use of pre-job conferences and project advisory committees.

A PLA must also comply with DOT's disadvantaged business enterprise (DBE) program at 49 CFR Part 26 and FHWA's Equal Employment Opportunity Requirements under 23 CFR Part 230. The PLA for the project is consistent with both. The PLA also addresses non-discrimination at Section 2.8.

Additionally, Section 10.5 of the PLA for the project references a local hiring preference. This provision is authorized under Section 25019 of the Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act (Pub. L. 117-58, November 15, 2021). BIL Section 25019(a)(1) allows States and other recipients and subrecipients to utilize local or other geographic and economic hiring preferences on their Federal-aid highway projects. The provision is also consistent with the [FHWA guidance](#) on this topic. Specifically, the project's contract specifications provide a hiring preference for workers from certain specified zip codes.

Our review indicates that the PLA submitted by Multnomah County for the project is consistent with FHWA policy and State law. The PLA may also serve to mitigate potential disruption to the project associated with work stoppages. Thus, such use would facilitate timely completion of the project and yield potential cost savings. Based on the above discussion, Multnomah County has met the threshold established by FHWA to approve the use of a PLA on this project. Additional detail is provided in the attached Written Statement from Multnomah County.

Should you have any questions, please contact Ms. Shaneka Owens at 503-316-2553.

Sincerely,

Keith Lynch
Division Administrator

cc:

Multnomah County (Megan Neil)

Multnomah County (Beth Britell)

ODOT (Sam Hunaidi)

ODOT (Rob Wattman)