

Good morning, Chairman Metcalfe, Chairman Bradford and members of the House State Government Committee. My name is Mark Eckman, and I am President of J.D. Eckman, Inc., a family-owned road and bridge construction company started in 1945 by my grandfather. Based out of Atglen, Pennsylvania, J.D. Eckman performs tens of millions of dollars' worth of road and bridge work for the Pennsylvania Department of Transportation (PennDOT) annually. In fact Eckman has completed nearly a billion and a half dollars of work for PennDOT in its history. We are also members of the Associated Builders & Contractors (ABC), a national construction trade association with more than 20,000 members across the United States and nearly 2,000 in Pennsylvania alone. ABC is dedicated to promoting, protecting, and defending free enterprise and open and fair competition in the construction industry and has preserved the rights of thousands of merit shop companies like J.D. Eckman.

On behalf of J.D. Eckman, Inc. and the Associated Builders & Contractors, I would like to offer our support for House Bill 1849, or the Public Works Contracting Act. This legislation would not only ensure that all of Pennsylvania's contractors have an equal opportunity to bid and perform public work, but it would also protect taxpayer funds by ensuring that the most efficient process is utilized for selecting public works contractors. Simply put, HB 1849 would prohibit the use of pre-hire collective bargaining agreements, known as Project Labor Agreements, that are negotiated by a project owner and labor unions to exclude non-union contractors from the bidding process.

My comments this morning primarily concern Project Labor Agreements in regards to PennDOT work as that is the area I am most familiar with. As I am sure you are aware, PennDOT has advertised a project in Montgomery County for Phase 2 of Markley Street Reconstruction that requires a union only Project Labor Agreement, or PLA as they are commonly referred to.

PLA's are discriminatory as they restrict non-union companies from fairly participating in the procurement of public works contracts. These agreements, included in bid documents for projects, mandate that prospective bidders must utilize a labor force from pre-determined labor halls, rather than

using their own employees. PennDOT has taken the position that Eckman and other non-union companies can bid projects with PLA's. Respectfully, we cannot do so. We could not use any of our own workforces but would have to bid and complete the project with the union supplied workforce. I would say that is akin to you being asked to write legislation but be restricted from using your own staff, and required to use staff supplied by the opposing party. I think you can determine for yourself what quality of people you would get and how interested they would be in helping you complete the project. It would be impossible for non-union contractors to fairly and competitively bid projects requiring PLA's. PLA's restrict competition and ultimately cost the Pennsylvania taxpayer money. As I mentioned earlier PennDOT has advertised a project in Montgomery County for phase 2 of the Markley Street Reconstruction that requires a PLA. One needs look no further than phase 1 of the Markley Street project to see the higher cost of requiring union only contractors. JD Eckman was the low bidder on the project with a bid of \$20,825,701. The second bidder was Road-Con with a bid of \$21,351,343. Road-Con is signatory to the United Steel Workers of America Union. The USWA were not part of the original PLA advertised for the second phase of the Markley Street Project. However, the recent rebid of the project allows USWA bidders to use their own workforce, but does not allow non-union contractors to do so. The third bidder on the Markley Street project was Highway Materials which is a contractor signatory to the unions in the PLA, with a bid of \$22,344,214. The difference between Eckman's non-union low bid and Highway's trades union bid is over \$1.5 million. This is a million and a half dollars the Commonwealth would have spent on just one project had it insisted on a PLA union contractor. Multiply that by dozens of projects and you can see how costly this will become.

Another example of PLA's costing taxpayers money is the recently started Scudder Falls bridge, which traverses the Delaware River from Bucks County, PA to New Jersey. This project is administered by the Delaware River Joint Toll Bridge Commission (DRJTBC), a federal compact that incorporates input from both Pennsylvania and New Jersey. This is a project that Eckman considered bidding. With a budget of \$325 million, the project involves the intricate reconstruction of a 6-lane concrete span, incorporating

numerous technical and environmental concerns. When the project was bid last year, the Commission insisted on using a PLA, for many of the reasons that Secretary Richards highlighted in her testimony last year. As a result of the PLA, the Commission received a single bid – Trumbull Construction based out of Pittsburgh. The bid was for \$396 million, more than \$70 million over budget. Ultimately, the Commission accepted the grossly inflated bid and had to restructure financing to ensure the project's payment.

In addition, I would argue that PLA's are unnecessary for PennDOT as they already have a prequalification system. A contractor must be prequalified with PennDOT to bid on their contracts. Prequalification includes proving you have successfully completed the type of work before and that you have the financial capacity to do the work. As part of the prequalification system, Eckman has provided PennDOT financial statements, evidence of credit lines, lists of equipment owned, and history of projects completed. PennDOT has prequalified Eckman for virtually every type of work and has deemed Eckman to have unlimited financial capacity when it comes to the amount of contracts it can execute with PennDOT. This prequalification system ensures PennDOT contracts with capable, experienced, financially sound contractors and makes the need for PLA's unnecessary.

Transportation Secretary Richards has put forth the argument that PLA's are valuable in that they provide an adequate supply of skilled labor, prevent work stoppages, and can assist in having projects completed on time and under budget. This is a prime example of finding problems to fit their solution. None of these reasons provide sufficient evidence of the need for a PLA. PennDOT's prequalification system ensures it contracts with companies that have adequately skilled labor. Eckman has nearly 500 skilled, trained and experienced workers. Adequate supply of labor is not an issue. To my knowledge there has never been a work stoppage on a PennDOT project due to labor issues. I am certain there never has been one on an Eckman project. Lastly, I see no legitimate correlation between costs or time overruns in regards to union versus non-union contractors. Secretary Richards has put forth a spreadsheet that purports to show that union contractors finish projects more on time and on budget than non-union

contractors. This list was hand chosen by the department to justify an already made decision to implement PLA's. Any conclusion drawn from this small sample size of projects would be unfounded. As Secretary Richards accompanying letter indicates, the time and cost overruns listed are done so, and I quote, "without regard for cause". Three of the ten listed non-union contracts on this sheet are Eckman projects. I could bore you with the details of the causes for time delays and cost overruns, and have included specifics in my written submission, but will not read them to you this morning. In summary, though, all delays on these projects were at the request of the department or due to changes in scope of work the department requested. All additional costs were for additional work requested by the department, not for contractor issues. Extra work included the rehabilitation of two bridges not originally included in the scope of work and the addition of 2.25 miles of paving. No PLA or union contractor would have prevented these department approved changes in time and money.

Bucks County, SR 132 Resurfacing- This project was bid July 17, 2014 with a completion date of July 3, 2015. Our bid was 8.3% less than the second bid (Union). Essentially a mill and pave project on Street Road but it contained a Design/Build element for 106 curb cut ramps which required time for design by our chosen consultant engineer, review by PennDOT, and ultimately construction by our subcontractor. The schedule was discussed at the pre-construction meeting and the lead manager for PennDOT, Lou Calvanese (since retired) told us not to even submit any designs that fall as the Department had let multiple projects with both the same types of work and schedules and that the Department would not even look at any submissions until winter. Additional work doing extensive extra milling and paving was added to the contract by PennDOT, changes were made to the scope of electrical/signal work, and Warrington Township installed a sanitary sewer line through the construction area which prompted Eckman to request, and the Department to grant, a time extension of 167 calendar days. Final PennDOT approval of curb cut ramp designs occurred May 26, 2015. Once that approval had been granted traffic signal plans needed to be updated to include the new design information for the intersections. A time extension of 307 days was requested by Eckman, granted by the Department, and

work progressed based on the new designs. PennDOT added 2.25 miles of additional milling and paving work, to include more curb ramps and their subsequent design. Eckman requested an additional 188 days to perform this extra work which was granted by PennDOT. To sum it up, the Department put several projects out to bid late in the 2014 year with the intention of having the milling and paving work done before winter. They knew the curb ramps could not be designed, reviewed, and constructed within the dates set forth in the contracts. In addition no adequate engineering was performed for these projects beyond scoping the physical limits of the work. Due to this fact any unidentified work was left to Eckman's and the Department's field people to deal with in regards both time and money. Final contract was approximately 15% beyond the bid amount due to extensive extra pavement repairs directed to be performed by the Department. The overruns and delays were attributable only to the actions of PennDOT, not Eckman.

Chester County, SR 1035 Group H- This project was bid March 26, 2015 and was to be completed by November 30, 2015. Our bid was 9.5% less than the second bid (Union). This project required the rehabilitation of two bridges, one over the Schuylkill River in Chester County and another over Chester Creek in Delaware County. In addition it included approximately \$700,000 for "on demand" bridge repairs to be directed by the Department when and where most needed. Work on the largest bridge, over the Schuylkill River, was completed on time. The second smaller site required the unforeseen water line replacement by the local Water Company pushing the completion date back by 144 calendar days. Two additional structures were added to the contract via the "on demand" items of work, Burnt Mill Road and Gravel Pike. This prompted a time extension of 174 days to perform this additional work based on a pre-construction evaluation. Upon receipt of final design parameters another 60 day time extension for Burnt Mill Road was approved. Final costs for this contract reflected work directed by the department in excess of that amount originally set forth for the "on demand" repair work resulting in approximately \$1,000,000 more than originally scheduled for added bridge work.

Delaware County, SR 0 Chester Creek Trail- This project was done for Delaware County, managed by the Department, and turned a section of Septa rail bed into a pedestrian/bike trail. It was bid January 8, 2015 with a schedule completion date of November 10, 2016. Our bid was 11% less than the second bid (Union). A time extension of 53 days was requested by Eckman, and granted by the Department, due to a delay in issuing the notice to proceed. This project was built with minimal changes, plus and minus, and will ultimately end up within 1% of the original contract amount.

One project not listed is the aforementioned Markley Street Phase 1 project. Eckman completed this project one year ahead of schedule. Let me repeat that, this project which is perhaps the best project to use in comparison to the advertised Markley Street Phase 2 project, was completed a year ahead of schedule by a non-union contractor without a PLA. Secretary Richards herself came to the ribbon cutting and lauded the early completion of this project.

Clearly there is no correlation between project overruns in cost and time and a company's union status. Almost all cost overruns and delays are the result of unforeseen conditions in the plans or additional work requested by the owner. Had these delays or extra work items been the fault of Eckman, we would not have received the time extensions and payments for extra work that we did. It is misleading and fraudulent for PennDOT to purport this document is evidence of the necessity for PLA's.

In conclusion, I know that PennDOT has tried to portray this PLA project as a pilot, a one off to test its results. I question what viable information can come from this one project? What are they going to compare it to – Markley Street Phase 1 which didn't have any of the issues they say PLA's could eliminate? If we are totally honest, everyone in this room knows that the true reasons for implementing PLA's has nothing to do with the stated reasons that I already debunked. The true reasons are to strengthen and further the political support for this administration from the trades unions. To Eckman employees this strikes at the very heart of their livelihoods. Eckman and its employees were signatory to the USWA until 2004, when they voluntarily and through their own choice decided to abandon the union

and pursue the free enterprise system. Now PennDOT takes the position they are no longer qualified to work on these projects because they don't subscribe to being represented by Philadelphia union bosses?

I urge you to vote in favor of House Bill 1849 not because it will change the construction bidding process in Pennsylvania, but because it will preserve the current construction bidding process in place. A process that favors open competition, best pricing for the commonwealth, and the interests of all Pennsylvania workers. Thank you.

Summary of Construction Completion Times and Contract Costs in PennDOT District 6 over Past 5 Years with Physical Work Complete (Projects over \$5 Million)

Contractor	ECMS#	County	SR	Sec	Description	Union (U)/ non- Union (NU)	Project Time: Percent of Actual Time vs. Original Calendar Days	Project Cost: Percent of Overrun or Underrun (-)
1 Allan Myers, LP	102805	Chester	0000	CD3	Act 89 Maintenance CD3- Design Activities Limited to: ADA Ramps	N	100%	-4.16%
2 Allan Myers, LP	94827	Chester	0000	81	Group 6-12-ST81 Design activities limited to: ADA Ramps	N	278%	40.21%
3 Allan Myers, LP	94785	Montgomery	0000	83	Group 6-12-ST83 Design activities limited to: ADA Ramps	N	271%	15.62%
4 Allan Myers, LP	79863	Montgomery	9102	MGP	Lafayette St (Ford-Cons(2) Design Activities limited to: Noise Walls	N	112%	22.48%
5 Allan Myers, LP	16400	Montgomery	7046	135	Arcola Road over Perkiomen Creek	N	100%	1.63%
6 Allan Myers, LP	14515	Chester	100	02L	PA100 Shoen Rd to Gordon Dr. Widening- Design limited to MPT, Weight St. Soundwall, ADA Ramps	N	112%	-1.15%
7 HRI, Inc.	90197	Bucks	2020	AMT	Tyburn Road o/Amtrak	N	158%	-8.62%
8 J.D. Eckman, Inc.	102374	Bucks	132	BC2	SR132 Resurfacing Bucks Cc: Design activities related to ADA Ramps	N	255%	18.71%
9 J.D. Eckman, Inc.	89701	Chester	1035	HBH	Group H	N	290%	15.68%
10 J.D. Eckman, Inc.	47986	Delaware	0		Chester Creek Ped Trail - design ‐build activates limited to ADA Ramps	N	104%	1.17%
Total Non-Union							178%	10.16%
1 Armour & Sons Electric, Inc.	57897	Philadelphia	3018	0	Haverford Ave: 40th St. to US 1 (Phila. Bid#3770ECMS) Design Activities limited to ADA Ramps	U	123%	-10.14%
2 Buckley & Company, Inc.	79833	Philadelphia	0	SC4	N. Delaware Riverfront Greenway/Heritage Trail: Section 4 - Baxter (M) (City Bid Number 4047ECMS)	U	100%	21.36%
3 Buckley & Company, Inc.	13762	Bucks	213	NCB	W. Maple Avenue O/Neshaminy Creek. Design Build activities limited to stairs and catwalk to USGS	U	106%	7.86%
4 Carusone Construction, Inc.	57894	Philadelphia	4002	STE	Stenton & Godfrey Ave Signals (Phila Bid No. #3747ECMS); Design Activities limited to: ADA Ramps	U	126%	0.10%
5 Driscoll Construction Co., Inc.	90096	Philadelphia	3014	I76	Spring GardenO/Schuylkill	U	130%	12.55%
6 ECMS 94787: Highway Materials, Inc.	94787	Delaware	0000	4	Group 6-12-ST04 Design Activities limited to : ADA ramps	U	315%	16.99%
7 IEW Construction Group, Inc.	86070	Philadelphia	95	MB3	I-95 Bridge Repairs #3. Design activities limited to Traffic Control Plan	U	100%	0.06%
8 James D. Morrissey, Inc.	94784	Bucks	0000	087	Group 6-12-ST87 Design Activities limited to: ADA ramps	U	219%	1.29%
9 James J. Anderson Construction Company, Inc.	94828	Philadelphia	0000	091	Group 6-12-ST91 Design Activities limited to: ADA ramps	U	122%	4.81%
10 James J. Anderson Construction Company, Inc.	91837	Philadelphia	0000	VAR	CW Resurfacing 103B- (Phila Bid#3780ECMS)- Design Activities limited to ADA Ramps	U	110%	-6.85%
11 James J. Anderson Construction Company, Inc.	107054	Philadelphia	0000	09	Group 06-16-ST09	U	100%	-1.71%
12 James J. Anderson Construction Company, Inc.	98413	Philadelphia	0000	07	Group 6-14-ST 07 - Design activities limited to ADA Curb ramps	U	100%	19.82%
13 Kuharchik Construction, Inc.	95450	Philadelphia	0000	WAS	Woodland Ave. Signals TIGER (Phila bid#3762 ECMS), Design activities limited to ADA Ramps	U	118%	-1.82%
14 Loftus Construction, Inc.	56768	Philadelphia	7301	606	41st Street over Amtrak (City of Phila Bid No.3788 ECMS) Design Activities limited to ADA Ramps	U	103%	-7.06%
15 Road-Con, Inc.	15345	Delaware	252	RTT	PA252: Providence Road	U	183%	4.43%
16 Seravalli, Inc.	95451	Philadelphia	1009	BAN	Bustleton Avenue North TIGER (Phila Bid#3760 ECMS), Design Activities limited to: ADA Ramps	U	117%	-1.71%
17 Seravalli, Inc.	70014	Philadelphia	0		Ctr City NE Quad - (Phila. Bid#3771 ECMS) Design Activities Limited to: ADA Ramps	U	136%	24.16%
18 Tony DePaul and Son	87937	Philadelphia	611	AA1	Avenue of the Arts. N. Broad (Phila Bid#3765 ECMS)- Design Activities Limited to: ADA Ramps	U	172%	-0.05%
19 Tony DePaul and Son	102388	Philadelphia	1	PC1	Roosevelt Blvd. Resurfacing	U	190%	-2.64%
20 Wampole-Miller Inc. d/b/a Miller Bros	95452	Philadelphia	1009	BAS	Bustleton Avenue North TIGER (Phila Bid#3761 ECMS), Design Activities limited to: ADA Ramps	U	100%	-4.36%
Total Union							132%	3.67%
							139%	3.85%



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
HARRISBURG, PENNSYLVANIA 17101-1900

OFFICE OF
SECRETARY OF TRANSPORTATION

May 24, 2017

Michael J. Mitchell
The Graham Building
One Penn Square West
Philadelphia, PA 19102

Dear Mr. Mitchell:

Your letter of February 17 to Governor Wolf expressing concern with PennDOT's decision to bid the State Route 202, Section 510 (Markley Street) project in Montgomery County with use of a project labor agreement (PLA) has been referred to me for response. PennDOT values its relationship with all highway contractors, non-union-oriented and union-oriented alike; and appreciates your sharing your perspective regarding PLAs.

The Wolf administration believes PLAs can be a valuable tool on a project-by-project basis to assist in having projects completed on time and under budget. PLAs can benefit a project by providing an adequate supply of skilled labor and uniform communication and grievance procedures to minimize interruption and delays. The administration is piloting PLAs on this project to measure the benefits and determine any increased efficiencies. This pilot is particularly important after the many issues experienced with the State Correctional Institution Phoenix project.

PennDOT does not currently have other highway projects planned to involve the use of a PLA. In granting approval to proceed with the Markley Street project with a PLA, the Federal Highway Administration is requiring PennDOT to do a formal assessment of how the PLA worked. Overall, the goal is to ensure the project is delivered timely and in a cost effective manner. The after-action assessment will gauge whether these goals were met and will inform any future actions.

We appreciate the data you have supplied, but bid amounts are not the entire story; cost overruns and project delays must also be considered. Recent history of construction projects with bid costs above \$5 million in PennDOT's District 6 region indicate, without regard to cause, that cost overruns for non-union contractors averaged 10.16 percent of the original contract amount versus 3.86 percent for union contractors. Additionally, for these same projects, the completion time for non-union contractors averaged 178 percent of the original allotted calendar day versus 139 percent for union contractors. A summary of the project data is enclosed. We are hoping data from the Markley Street pilot project will better inform our approach going forward.

Michael J. Mitchell
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We hope interested parties will take the above circumstances into consideration when deciding how to react to the use of a PLA for the Markley Street project on a pilot basis.

Sincerely,

A handwritten signature in black ink, appearing to read "Leslie S. Richards". The signature is written in a cursive style with a large, stylized initial "L".

Leslie S. Richards
Secretary of Transportation

Enclosure

The Times Herald (<http://www.timesherald.com>)

Two-way traffic on Markley Street in Norristown returns

Markey Street: Two-way traffic returns as project ends a year early

By Carl Rotenberg, The Times Herald

Friday, September 4, 2015



NORRISTOWN >> Fifteen minutes after a press conference announcing the completion of a \$20.8 million, 2 1/2-year road reconstruction project on Markley Street ended on Friday morning, the northbound traffic resumed on the one-mile section from Elm Street to Johnson Highway.

“We are delighted to complete this major transportation improvement project well ahead of schedule and to reopen Markley Street to two-way traffic for travelers who depend

upon this key north-south artery for access through Norristown,” said state Transportation Secretary Leslie Richards.

More than 60 local and state officials and residents gathered at the Brown Street intersection with Markley for a ribbon-cutting ceremony to reopen the highway to two-way traffic. During construction, northbound traffic through Norristown was detoured onto DeKalb Street.

“It was completed a year ahead of schedule,” Richards said. “We realize that a major reconstruction project is not easy. We want to thank the Markley Street residents. We thank you for your patience and cooperation.”

Norristown Council President Linda Christian called the completion of the road project “absolutely excellent.”

“The benefit is riding on a smooth surface without potholes and dips,” she said.

Christian said she had purchased many tires and one wheel rim in the past “because I don’t see all the potholes.” She thanked the construction workers as well.

“The residents appreciated your professional attitude,” she said, “when they were complaining.”

Norristown Municipal Administrator Crandall Jones said the resumption of two-way traffic “opens up all sorts of opportunities for new business and development.”

East Norriton Township Manager Don Delamater said he was hopeful that state and federal funding for reconstruction of the next section of Route 202, from Johnson Highway to Township Line Road, would be forthcoming.

“We have always supported Norristown and the completion of this road project will relieve traffic congestion,” Delamater said.

Susan Zeager, a Markley Street resident for 40 years, brought a sign to the ribbon cutting that said, “Make DeKalb Street 2-way.”

“The Markley Street project has been dusty but it has been worth it,” Zeager said. “I realize that two-way traffic on DeKalb Street is a multiyear project.”

The road project that began in February 2013 included a widened and rebuilt roadway with parking bays on each side, new sidewalks, curbs, street lighting, landscaping and new traffic signals. A center turn lane was included to speed through traffic. The Main Street barrel-arch bridge over Stony Creek was rebuilt as part of the project, which had 80 percent federal and 20 percent state funding.

Before construction began, Markley Street had an average traffic volume of 23,000 vehicles each day.

State Sen. Daylin Leach, D- Dist. 17, joked about being able to travel more quickly to his favorite restaurant and said, “It’s really a great day. This will be a major improvement in your life.”

State Rep. Matt Bradford, D- Dist. 70, has a district office in the Norristown Centre on Markley Street.

“This is a great project,” Bradford said. “It means so much to get something completed early. Happy motoring.”

Norristown Councilman Marlon Millner praised the “impeccable paving” and the “fabulous completion of the project.”

The two-way traffic pattern will continue until Phase II of the road project, from Elm Street to Main Street, begins in early 2017. At that time, traffic from Elm Street to Main Street will be one-way southbound, and two-way traffic will be allowed from Elm Street to Johnson Highway. The \$24 million project will start in early 2017 and finish in 2019.

For information about the road project, go to www.us202-markleystreet.com.

“The new Markley Street will improve travel in Norristown with the addition of a center turn lane and new traffic signals,” Richards said. “The new sidewalks, curbs, utilities, landscaping and ornamental street lights further enhance the street for the citizens who live and work along it.”

Contact Carl Rotenberg at 267-907-6137 (c) and 484-679-8476.

URL: <http://www.timesherald.com/general-news/20150904/two-way-traffic-on-markley-street-in-norristown-returns>

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