



# EL MONTE UNION HIGH SCHOOL DISTRICT

BOARD OF TRUSTEES MEETING OF MARCH 7, 2012

MARCH 1, 2012

El Monte Union High School District  
3537 Johnson Avenue  
El Monte, CA 91731

The Honorable Members of the Board of Trustees and Superintendent

## **DISCUSSION REGARDING BASIC MECHANICS OF TYPICAL PROJECT LABOR AGREEMENT AND OVERVIEW OF UPCOMING DISTRICT PROJECTS AND CATALOGUE OF SIMILAR AGREEMENTS FROM NEARBY JURISDICTIONS**

Dear Members of the Board of Trustee:

### **IT IS RECOMMENDED THAT THE BOARD OF TRUSTEES:**

1. Receive and file staff report.
2. Create an ad hoc committee composed of at least one member of the Board of Trustees, the Superintendent and/or Chief Business Official and District's legal counsel to identify essential deal points from District's prospective and engage the Los Angeles/Orange Counties Building Trades Council in the furtherance of developing a more specific and concrete proposal to be put before the Board of Trustees for consideration and potential at a future date.

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The purpose of this report is to solicit direction and support from the Board of Trustees for the creation of an ad hoc committee to study and identify ideal deal points for the El Monte Union High School District as relates to the eventual approval of a Project Labor Agreement (PLA) with the Los Angeles/Orange Counties Building and Construction Building Trades (the "Building Trades"). The ad hoc committee will take on the more technical responsibility of identifying the appropriate parameters for any PLA and engaging the Building Trades with the aim of developing a mutually acceptable PLA proposal that can be brought back to the Board of Trustees at a future date for consideration and potential approval.

### **PLA Overview**

Approval and execution of a PLA would establish additional standing requirements for specified varieties construction projects that are let out to bid by the El Monte Union High School District (District). Chief among these requirements would be that construction contractors and their subcontractors primarily use union labor and pay union wages and fringe benefits for various categories of craft and trade work as specified in greater detail under the terms of various collective bargaining agreements (Schedule A Agreements) which each of the various unions that become signatories to the PLA are also parties to. For the most part, the workplace requirements and conditions set forth in the various Schedule A Agreements become the governing employment rules for construction project employment through their adoption by reference under the PLA.

Under the terms of the PLA, construction contractors hired by the District will also be required to adhere to employee grievance and disciplinary rules established under Schedule A Agreements. The PLA also routes disputes between the signatory unions and contractors or between the signatory unions and the District to a system of arbitration. Many PLA's include a list of arbitrators selected ahead of time by the Building Trades. The District may wish to entertain a selection process that safeguards neutrality.

In exchange for adherence to the rules and restrictions imposed on contractor's and the District under the PLA, the signatory unions agree, for the most part, to refrain from engaging in strikes, pickets or other forms of organized work stoppages or work slowdowns that might otherwise threaten the timely completion of a public works construction project. Under the PLA, Signatory Unions also agree to increase efforts to ensure that union employees assigned to work on District projects are residents of the communities served by the District and that such residents also be given increased exposure and preference for apprenticeship opportunities.

### **Recent Legislation Regarding PLA's**

In the fall of 2011, the California legislature enacted SB922 which reaffirmed the legal authority of public agencies to enter into PLA's but which also set forth basic criteria (referred to therein as "***taxpayer protection provisions***") for the structure of PLA's. Under SB992 a PLA must include the following standard provisions:

- **ANTI-DISCRIMINATION PROVISIONS:** Express prohibitions against discrimination on the basis of race, national origin, religion, sex, sexual orientation, political affiliation or membership in a labor organization in hiring and dispatching workers for a covered project;
- **OPPORTUNITIES FOR NON-UNION CONTRACTORS:** A requirement that ensures that all qualified contractors and subcontractors, including so-called "non-union" contractors be allowed to bid on public agency projects that are

subject to a PLA;

- DRUG TESTING POLICIES: Protocols concerning drug testing for workers who will be employed on the project;
- WORK STOPPAGE GUARANTEES: Guarantees against work stoppages, strikes, lockouts and similar disruptions;
- NEUTRAL ABITRATOR REQUIREMENT: Provisions that provide that disputes arising out of the enforcement of the agreement be resolved by a “neutral arbitrator”.

### **Recent Action by Local Sister Public Agencies**

The Building Trades have entered into PLA with various other public agencies in the greater Los Angeles Area, including:

- **Los Angeles Unified School District** – Applies to prime multi-trade construction contracts in excess of \$175,000 and prime specialty contracts in excess of \$20,000 where projects are funded by Prop BB, Measure K and Measure R revenues;
- **City of Baldwin Park** - Applies only to transit center parking lot project with City option to exempt project from PLA if desired;
- **San Gabriel Unified School District** - Applies only to projects at five specifically listed school sites to the extent work is funded in whole or in part with Measure A proceeds. Agreement subject to mid-term performance review to evaluate effectiveness of local hire and apprenticeship initiatives;
- **Centinella Valley Union High School District** – Applies to construction projects in excess of \$175,000 and prime specialty contracts in excess of \$20,000 to the extent funded with Prop CV funds and ERP program funds;
- **LA METRO** - Applies specifically listed projects and other capital improvement construction projects with a value of \$2.5M or more.
- **Upper San Gabriel Valley Municipal Water District** – Applies to general construction in excess of \$125,000 and special work in excess of \$25,000.

As can be seen from the sample of similar agreements, different agreements place different limits on the application of the PLA. A few limit it by funding source and dollar thresholds; others limit it to specific projects.

The Building Trades have preliminarily proposed that the PLA apply to Measure D funded construction in excess of \$125,000 and prime specialty work in excess of

\$25,000. That said, in order to evaluate the effectiveness and efficiency of a proposed PLA, the Board of Trustees might consider limiting the application of the PLA to a few specific projects. This will allow the Board and staff to draw comparisons and identify areas where future PLA's might be improved upon. Among the specific projects slated in the near future are the following:

- Mt. View HS – CTE – Estimated Cost of \$671,212
- South El Monte HS – CTE – Estimated Cost of \$724,331
- El Monte HS – Baseball Stadium – Estimated Cost of \$1.6M
- Rosemead HS – Auditorium Lighting – Estimated Cost \$450,000
- El Monte HS – Bleacher Stadium – Estimated Cost \$5.8M
- Fernando Ledesma HS – Field/Multi-Purpose – Estimated cost \$4.9
- Mt. View HS – Track and Field - \$1.5M
- South El Monte HS – Field House - \$4.5M.

Each of these projects could justify a much high threshold of say \$500,000 or more.

### **FISCAL IMPACT/FINANCING**

Entering into the PLA does not have an immediate impact on the District's finances. There are differing opinions as to whether or not PLA's result in increased project costs. Proponents contend that by drawing on skilled labor and by instituting streamlined dispute resolution procedures, PLA's result in reduced costs because work gets done quickly and more skillfully. Opponents contend that compliance with collective bargaining regimes imposed under PLA's discourages non-union contractors from bidding on projects thereby resulting in a more limited pool of low cost contractors.

### **IMPACT ON CURRENT PROJECTS**

Entering into the PLA does not have an immediate impact on existing District projects. The PLA would only apply to those construction projects agreed to by the District and the Building Trades. The agreement would apply prospectively.

### **CONCLUSION**

It is recommended that the Board of Trustees establish an *ad hoc* committee composed of at least one but no more than two members of the Board to work with District staff to develop a fine tuned set of essential deal terms and parameters and then engage the Building Trades with such deal terms and parameters with the objective of developing a mutually acceptable PLA draft that can eventually be presented to the Board of Trustees for approval.

*HONORABLE BOARD OF TRUSTEES/SUPERINTENDENT*

*MARCH 1, 2012*

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Respectfully submitted,

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Superintendent

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