

RESOLUTION

Establishing a Project Labor Program for capital construction projects, effective April 1, 2005.

WHEREAS, a Project Labor Agreement is authorized by law as a result of Judicial decisions from the United States Supreme Court, the United States Court of Appeals for the Sixth Circuit and the Ohio Supreme Court.

WHEREAS, the Cuyahoga County Board of Commissioners (“BOCC”) has determined and concluded that it is necessary from time to time to construct major capital projects that will include several collective bargaining agreements between local construction trade unions with contract expiration periods outside the duration of the construction project and that work stoppages may ensue if negotiations for successor collective bargaining agreements are not timely and amicably completed.

WHEREAS, in acting in its proprietary capacity as the purchaser of construction services with respect to major capital projects, the BOCC has deemed it prudent to: 1) attempt to ensure the timely and efficient completion of such work without any delay due to labor disputes or work stoppages by establishing mechanisms for dispute resolution and by obtaining the contractual commitment of the local construction trades and crafts not to engage in any work stoppages of any nature; (2) establish uniform working conditions for all construction trades and crafts that may be employed to work on major capital projects; (3) ensure an adequate supply of trained and skilled labor; and (4) to encourage vigorous competitive bidding by qualified contractors.

WHEREAS, any contractor and subcontractor shall be eligible to compete for work on a major capital project regardless of the labor practices and affiliations of such contractor and subcontractor, provided they abide by, as a condition of their engagement, the requirements of a project labor agreement.

WHEREAS, the BOCC recognizes the need for safe, efficient and speedy construction in order to reduce unnecessary delays and ensure the timely completion of public projects caused by strikes, lockouts or similar actions.

WHEREAS, the use of a Project Labor Agreement shall ensure a reliable source of skilled and experienced labor and further public policy objectives as to improve employment opportunities for minorities and women in the construction industry to the extent permitted by state and federal law.

WHEREAS, the BOCC believes that the benefits of requiring successful bidders to adhere to conditions in this resolution are most appropriate where the cost estimate exceeds two hundred fifty thousand dollars (\$250,000.00).

WHEREAS, all successful bidders on county public major capital projects, whether the cost estimate of the project exceeds two hundred fifty thousand dollars (\$250,000.00) or not, will still be required to abide by the County’s procurement policies as well as state and federal prevailing wage rates laws.

WHEREAS, this Resolution is not intended to replace, interfere with, abrogate, diminish or modify existing local or national collective bargaining agreements in effect during the duration of the project, insofar as a legally binding agreement exists between the contractor(s) and the affected union (s), except to the extent the provisions of this Resolution are inconsistent with said collective bargaining agreements, in which event, the provisions of the former shall prevail.

WHEREAS, the contracts for the projects will be awarded in accordance with applicable provisions of the Ohio Revised Code and the County's procurement policy and procedures.

WHEREAS, a Project Labor Agreement shall only apply to the appropriate trade contractor (s); provided, however, that testing laboratories, other organizations and/or trades and their employees, material men and suppliers, which are not customarily organized as union contractors, shall not be covered by said Agreement and that the scope of the work is limited to the construction labor of the covered major capital project, and other work of Cuyahoga County except as may be specifically agreed in writing by an officer of Cuyahoga County.

NOW, Therefore, BE IT RESOLVED by the Board Of Commissioners of Cuyahoga County, Ohio as follows:

- 1. The County Administrator or his/her designee, in connection with the public bidding and contract-awarding process for proposed major capital building projects exceeding \$250,000.00, shall, prior to the issuance of a request for proposal or bids for contracts for any specific project, meet with representatives of the appropriate union(s) to evaluate whether to negotiate a Project Labor Agreement which will establish uniform employment standards to be met by all qualified bidders, which standards are intended to avoid costly and disruptive delays in the prompt and efficient completion of the County's major capital projects. Said Agreement is neither designed nor intended to preclude or disadvantage any prospective bidder in any way.**
- 2. If the County Administrator or his/her designee determines that a Project Labor Agreement will accomplish these purposes, the County Administrator is authorized to negotiate and execute a Project Labor Agreement with the Cleveland Building and Construction Trade Council and appropriate trade union (s). Once the County Administrator executes a Project Labor Agreement, it must be included in the appropriate bidding documents for the affected project.**

3. If the County Administrator or his/her designee determines that a Project Labor Agreement will not advance the County's procurement interest in cost, efficiency, quality, diversity and in promoting labor-management stability, the County Administrator must present a written report to the BOCC articulating the specific reasons for his/her recommendation not to proceed with a Project Labor Agreement. Unless a majority of the BOCC votes to approve the County Administrator's recommendation not to proceed, the County Administrator will be directed to negotiate and execute a Project Labor Agreement.
4. Any Project Labor Agreement negotiated by the County Administrator must neither be designed nor intended to preclude or disadvantage any prospective bidder in any way.
5. Nothing in this resolution shall be construed to contravene any state or federal law or to jeopardize the County's entitlement to state or federal funding.

BE IT FURTHER RESOLVED that the Clerk of the Board be, and she is, hereby instructed to transmit a copy of this resolution to Dennis Madden, County Administrator; Jay Ross, Director, Department of Central Services; Adrian Maldonado, Director, Office of Procurement & Diversity; Michael Kochan, Purchasing Manager, Office of Procurement & Diversity; the Cleveland Building and Construction Trade Council and each of the appropriate unions.

On Motion of Commissioner Jones, seconded by Commissioner Dimora, the foregoing resolution was duly adopted.

Ayes: Jones, Dimora, Hagan.

Nays: None.

Resolution Adopted.

**Penelope M. Hughes,
Clerk of the Board**

**Journal 285
February 3, 2005
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