



File #: 2016-1008, Version: 1

### EXECUTIVE MANAGEMENT COMMITTEE JANUARY 19, 2017

**SUBJECT: PROJECT LABOR AGREEMENT, CONSTRUCTION CAREERS POLICY RENEWAL AND INCLUSION OF JOINT DEVELOPMENT**

**ACTION: APPROVE RENEWAL OF PROJECT LABOR AGREEMENT AND CONSTRUCTION CAREERS POLICY; APPROVE INCLUSION OF JOINT DEVELOPMENT IN THE POLICY AND RELATED POLICY UPDATES.**

#### **RECOMMENDATION**

**APPROVE:**

- A. the renewal of the Project Labor Agreement (PLA), and Construction Careers Policy (CCP), as amended;
- B. the updated PLA (Attachment A) which covers certain Metro Construction and Joint Development (JD) projects,
- C. the updated CCP (Attachment B) which covers certain Metro Construction and Joint Development projects; and
- D. the updated Metro JD Policy (Attachment C) to incorporate Metro's PLA and CCP and separate the JD Policy from the JD Procedures.

#### **ISSUE**

The passage of Measure M will bring an unparalleled volume of transit infrastructure construction work to this region. Measure M will also provide Metro with an opportunity to provide unparalleled employment and training opportunities through its PLA and CCP to mitigate the harms caused by geographically concentrated poverty and unemployment to disadvantaged areas throughout the United States. Metro staff is seeking to renew the Project Labor Agreement and Construction Careers Policy at this time to clarify project applicability now that Measure M has passed. Metro's initial PLA and CCP agreements were adopted by the Board in January 2012 which included language referencing Measure R. This Board report includes revisions to the PLA and CCP to add Measure M projects to these programs, address updates to remain current with laws and regulations, incorporate lessons learned from contractors and community stakeholders, and expand the agreement to include certain Joint Development (JD) projects. The actions in this Board report will implement amendments to the PLA and CCP policies and update the JD Policy to apply the negotiated terms to cover JD projects, as defined in the policies and in the report below. In addition, the JD Policy is being updated to separate the "policy" from "procedures" to allow for a more efficient

implementation of the JD Program. If approved, these changes would go into effect January 27, 2017 and supersede the existing agreement.

## **DISCUSSION**

### *Background*

The PLA and CCP were adopted by the Metro Board in January 2012 to encourage construction employment and training opportunities to those who reside in economically disadvantaged areas. Currently, the PLA and CCP apply to certain locally-funded (non-federal) and federally-funded construction projects with a construction value greater than \$2.5 million. Metro's Diversity and Economic Opportunity Department (DEOD) oversees implementation and compliance with the PLA and CCP. The term of the current PLA and CCP is for five years and expires April 2017. To date, the PLA and CCP have not applied to JD projects.

### *Impact of PLA and CCP*

The Project Labor Agreement facilitates careers in the construction industry to promote employment opportunities on Metro transit construction projects. The PLA sets the terms of employment and includes targeted hiring requirements of 40%, apprentice hiring requirements of 20%, and disadvantaged worker hiring requirements of 10%.

The purpose of the Construction Careers Policy is to encourage construction employment and training opportunities that will result in sustained construction careers. The CCP serves as a policy for contractors to comply with hiring requirements and includes the terms that are in the PLA.

Metro has implemented the PLA and CCP with great success and is currently exceeding all hiring goals program wide. Out of 21 projects valued at over \$5 billion (9 completed construction projects, and 12 currently active projects) Metro's PLA and CCP has achieved the following attainments program wide:

- |                                      |                         |
|--------------------------------------|-------------------------|
| • Targeted Worker Goal 40%           | Attainment 58.89%       |
| • Apprentice Worker Goal 20%         | Attainment 20.16%       |
| • Disadvantaged Worker Goal 10%      | Attainment 12.64%       |
| • PLA Worker hours performed to date | Over 3.5 million hours  |
| • Economically Disadvantaged hours   | Over 2 million hours    |
| • Apprentice Worker hours to date    | Over 525 thousand hours |
| • Disadvantaged Worker hours to date | Over 440 thousand hours |

The success of the PLA and CCP programs have also provided opportunities for training and employment programs like Metro's Women Build Metro Los Angeles, and contractor sponsored boot camps to recruit targeted individuals residing in underserved communities. As expansive and complex as Metro's construction infrastructure program is, it is critical to create a pipeline of apprentice and future construction workers to support this program and future construction projects. Staff has worked closely with contractors, community based organizations and job coordinators and are incorporating lessons learned to increase the effectiveness of the PLA and CCP. To this end, staff coordinated and facilitated a PLA/CCP symposium that brought together over 100 individuals representing a diverse set of stakeholders, including public agency PLA administrators, contractors, union representatives and community based organizations. Additionally, staff has requested, and will

make available, a listing of all apprenticeship training programs, and the fees required for them so participants of boot camps are fully aware of the costs associated with applying for apprenticeships. This will eliminate participants of boot camps not being aware of the fees required to enter into an apprenticeship training program after completing a boot camp. Staff will also work with the trades on the feasibility of having payment plans available for applicants, and work with contractors to assist with apprenticeship entrance fees. The LA/OCBCTC has agreed to participate in a Joint Labor Management Subcommittee twice a year to support recruitment of apprentices into Metro's PLA/CCP program.

### *Inclusion of Joint Development in PLA and CCP*

Staff is currently proposing to expand the PLA and CCP program to include Joint Development projects in efforts to create more opportunities for training and employment. Metro's JD team worked closely with DEOD and the Los Angeles/Orange Counties Building & Construction Trades Council (LA/OCBCTC) to develop an approach to applying the PLA and CCP that balances Metro's goals of improving access to quality construction jobs while ensuring the competitiveness and financial feasibility of JD projects as well as meeting other community development goals. Metro's JD team also held a roundtable and interviews with both for-profit and non-profit affordable housing developers to solicit feedback. Based on feedback from developers and review of other PLA policies applicable to commercial real estate projects, Metro and the LA/OCBCTC developed threshold criteria for application of the PLA and CCP to JD projects.

The recommendations in this report will apply the PLA and CCP to JD projects that result from either a solicited or an unsolicited proposal received after Metro Board adoption of this item, and that meet the following threshold criteria:

- A mixed-use project containing both a residential and a commercial component, where there are more than sixty (60) residential units being built;
- A residential-only project that exceeds sixty (60) residential units; or
- A commercial-only project (retail, office or hotel) that exceeds forty thousand (40,000) square feet of space.

The policies will not apply to JD sites that are already in negotiations or for which a solicitation has already been released.

### *Other PLA and CCP Amendments*

- The revised PLA includes amendments to update the LA/OCBCTC's Drug and Alcohol Testing Policy. Updated regulations require the current PLA's Memorandum of Understanding Testing Policy for Drug Abuse to be replaced by the new LA/OCBCTC's Approved Drug and Alcohol Testing Policy.
- The current PLA covers Measure R and other contracts with a construction value greater than \$2.5 million. This Board report specifically appends Measure M projects to Metro's current PLA and CCP programs.
- The revised PLA includes updated language to ensure that construction contractors, with or without union affiliation, may be awarded construction contracts by Metro provided that the contractors abide by the terms of the PLA and CCP, in accordance with regulatory

requirements.

- The revised PLA adds a section to address any jurisdictional disputes involving the Southwest Regional Council of Carpenters (Carpenters). Although the Carpenters were not signatory to Metro's original PLA, this amendment will ensure that any disputes will be resolved without any occurrence of strikes, work stoppages or slow-downs and will follow the adopted dispute process. This will facilitate the Carpenters becoming signatory to Metro's PLA.
- The revised PLA increases the number of arbitrators listed as resources to conduct arbitrations to decrease the amount of time required to resolve disputes. The current list of arbitrators is limited and their workloads may prevent timely resolution of disputes.
- The revised PLA will include updates to the list of signatory trades.
- The revised PLA agreement requests a 10-year extension, to be in-line with Metro's 10-year project management plan approach.
- The Joint Development amendments recommended to the PLA and CCP are limited to making JD projects part of the policies' definition of "covered projects" and set forth the threshold described above. Any future amendments and updates to these policies would include the updated JD provisions included herein.
- This agreement with the LA/OCBCTC will include an understanding that when Boot Camps to support Metro construction projects are convened between Metro and the LA/OCBCTC, graduates of the Boot Camp will have priority hiring to construction jobs.
- This agreement with the LA/OCBCTC will make available a list of fees required for apprenticeship entry. Metro staff will make the information available on its website, at outreach and recruitment events, and at boot camps and job fairs.

### *Joint Development Policy Update*

The updated JD Policy has two objectives:

1. Inclusion of the PLA and CCP as applicable policies for projects that meet the threshold criteria; and
2. A separation of the "JD Policy" from the "JD Procedures." Best practices with organizational policies are to have clear policy provisions adopted by a Board or governing body, with a companion "procedures" document that can be administratively updated as needed. Prior versions of the JD Policy kept these sections together as one document, making it less efficient for staff to amend procedures when needed that are in keeping with the adopted policy.

### **DETERMINATION OF SAFETY IMPACT**

Approval of the PLA, CCP and JD policies will have no impact on safety. Any future development resulting from the JD Program will be carefully reviewed by Metro Operations and Safety.

## **FINANCIAL IMPACT**

The funding required to implement a PLA and CCP will be included in the budget in each capital construction project and/or the Developer's construction budget for each JD project. The requirements to include the PLA and CCP, hire a jobs coordinator and monitor compliance will be included in the competitive Requests for Proposal (RFP) for the contractors working on the covered construction projects and the Developers seeking JD projects. Metro's responsibilities for monitoring compliance with the program will be included in the Metro budget as each new project is approved by the Board, and/or the annual Metro budget process.

## **ALTERNATIVES CONSIDERED**

The Board may choose not to adopt the renewal of the PLA and CCP, nor update the PLA and CCP to include JD policies. This is not recommended, as the success of the PLA/CCP program has had significantly positive impacts in the region and application of these policies is in keeping with Metro's commitment to ensure that construction jobs resulting from the investment in transit capital projects benefit disadvantaged communities. In addition, the recommended policy updates resulted from a proactive negotiation with the LA/OCBCTC and have been carefully vetted to ensure these are in keeping with the JD Program's commitment to promoting transit oriented communities.

## **NEXT STEPS**

Include the adopted and amended PLA/CCP in upcoming construction procurements with a construction value greater than \$2.5 million, and advertised after January 26, 2017, and additionally, apply to JD projects that meet the criteria described in the policy. Metro staff will post the updated policies on the relevant Metro web pages, provide notice to stakeholders through an e-blast, and include the policies in future JD solicitations.

## **ATTACHMENTS**

Attachment A: Updated Project Labor Agreement

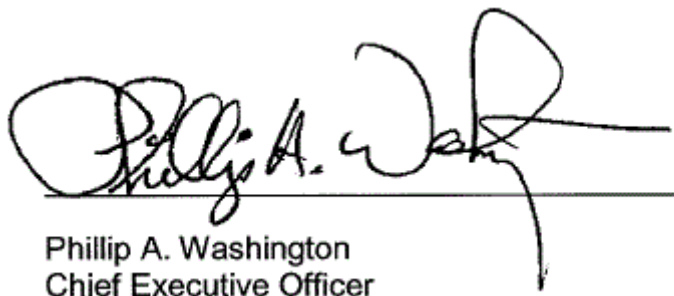
Attachment B: Updated Construction Careers Policy

Attachment C: Updated Joint Development Policy

Attachment D: Letter of Support

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