



**BOARD OF DIRECTORS  
EAST BAY MUNICIPAL UTILITY DISTRICT**

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375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

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**Notice of Time Change**

**LEGISLATIVE/HUMAN RESOURCES  
COMMITTEE MEETING**

**10:30 a.m.**

**Tuesday, October 13, 2015**

Notice is hereby given that on Tuesday, October 13, 2015 the Legislative/Human Resources Committee Meeting of the Board of Directors has been rescheduled from 10:15 a.m. to 10:30 a.m. The meeting will be held in the Training Resource Center of the Administration Building, 375 - 11th Street, Oakland, California.

Dated: October 8, 2015

A handwritten signature in cursive script, reading 'Lynelle M. Lewis', is written over a horizontal line.

Lynelle M. Lewis  
Secretary of the District

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## **AGENDA**

**Legislative/Human Resources Committee  
Tuesday, October 13, 2015  
10:30 a.m.  
Training Resource Center**

**(Committee Members: Directors Coleman {Chair}, McIntosh and Patterson)**

### **ROLL CALL:**

**PUBLIC COMMENT:** The Board of Directors is limited by State law to providing a brief response, asking questions for clarification, or referring a matter to staff when responding to items that are not listed on the agenda.

### **DETERMINATION AND DISCUSSION:**

1. Chabot Dam Seismic Improvement Project – Pilot Project Labor Agreement Update (X. Irias)
2. Legislative Report: (Dumaine)
  - Update on Legislative Issues of Interest to EBMUD

### **ADJOURNMENT:**

#### **Disability Notice**

*If you require a disability-related modification or accommodation to participate in an EBMUD public meeting please call the Office of the Secretary (510) 287-0404. We will make reasonable arrangements to ensure accessibility. Some special equipment arrangements may require 48 hours advance notice.*

#### **Document Availability**

*Materials related to an item on this Agenda that have been submitted to the EBMUD Board of Directors within 72 hours prior to this meeting are available for public inspection in EBMUD's Office of the Secretary at 375 11th Street, Oakland, California, during normal business hours.*



## EAST BAY MUNICIPAL UTILITY DISTRICT

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DATE: October 8, 2015

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *ARC*

FROM: Xavier J. Irias, Director of Engineering and Construction *XJI*

SUBJECT: Chabot Dam Seismic Improvement Project – Pilot Project Labor Agreement Update

### INTRODUCTION

On May 5, 2015, staff transmitted a draft Project Labor Agreement (PLA) for the Chabot Dam Seismic Improvement Project to the Alameda County Building Trades Council (ACBTC). The draft PLA was consistent with the principles for negotiation adopted by the Board on December 9, 2014. Staff met with the ACBTC for negotiation sessions on May 27, 2015; June 4, 2015; and August 17, 2015. At the September 8, 2015 Legislative/Human Resources Committee meeting, staff provided an update indicating that negotiations appeared to be at a stalemate and highlighted three of the major negotiation issues: 1) targeted/local hiring, 2) equitable participation for all contractors, and 3) efficient and effective performance of the work. The Committee directed staff to continue negotiations, provide additional information on the stalemated issues and provide a listing of PLA agreements of other Northern California water districts and water agencies.

### SUMMARY

At the October 13, 2015 Legislative/Human Resources Committee meeting, staff will provide a verbal update on the progress of negotiations. Staff met with the ACBTC on September 24, 2015; October 1, 2015; and October 6, 2015; has scheduled another meeting for October 9, 2015, and is scheduling several additional sessions in the coming weeks. As of the writing of this memo it is uncertain whether negotiations will be successfully completed in time to incorporate a PLA into the Chabot Dam Seismic Improvement Project. The ACBTC is still working on a written counter-proposal to the District's draft PLA. However, the ACBTC did share its areas of disagreement with the draft PLA including the three major areas previously disclosed and the parties are discussing these areas of disagreement.

The only Northern California water agency or district that has implemented a PLA on a construction project is the Contra Costa Water District (CCWD). CCWD has implemented a PLA on five separate projects, each over \$25 million between 1994 and 2014.

## DISCUSSION

### Status of Negotiations

At the September 24, 2015 negotiation session, staff reminded the ACBTC of the District's information request based on the Committee's September 8, 2015 request for additional information on the stalemated issues: 1) information regarding the operation of union benefit trust funds and 2) a redline response to the District's May 5, 2015 draft PLA. The ACBTC indicated that it did not want to discuss operation of the union benefit trust fund and that no redline would be provided. However, the ACBTC did share its points of disagreement with the draft PLA. These areas of disagreement have and continue to be discussed at the negotiation sessions, but no final agreement has been reached in any of the areas. The table below summarizes the areas of disagreement. Finally, at the October 6, 2015 negotiation session, the ACBTC indicated that it was working on a written counter-proposal to the draft PLA.

Issue	Comments
Dual benefits/union benefit trust fund contributions by non-union contractors	Issue is whether all contractors (union and non-union) pay into the union benefits trust funds and programs. ACBTC proposal conflicts with Principle #8 on equitable participation.
Core Workers	Issue is how many of a non-union contractors' current crew will be allowed to work on the project, as opposed to workers from the union hiring hall lists. ACBTC proposals may conflict with Principle #8 on equitable participation and Principle #9 on efficient and effective performance of the work.
What work is covered by the PLA?	Issue is whether PLA applies only to the identified construction contract, as opposed to also covering some tasks that may be contracted separately (including surveying work and soil testing) as professional services for construction management and quality assurance.
What warranty work is covered by the PLA?	Issue is scope of accommodation for manufacturers' requirements regarding performance of work in order to protect warranty.
Carve out for District's CEP program	Issue is establishing workable limit for carve out from PLA on craft by craft basis. ACBTC position presents possible conflict with Principle #5 to not impede the CEP program.
Union initiation and monthly fees by non-union workers	Issue is amount of dues and fees that non-union workers pay to the union in order to work on the project. ACBTC position presents possible conflict with Principle #8 on equitable participation.
Selection of arbitrators	Issue is whether arbitrators need to have background with PLAs or just construction disputes.

Issue	Comments
Allowing prime contractor to hire non-union subcontractors	Some Master Labor Agreements (MLAs) require their union contractors to only hire union subcontractors. State law requires that contractors have option to hire non-union subcontractors under a PLA. ACBTC position also conflicts with Principle #8 on equitable participation.

#### Survey of Northern California Water Districts/Agencies

Staff surveyed 12 major water districts and water agencies in Northern California for PLA agreements. Charter cities such as San Francisco, Sacramento, and San Jose that provide water service through a department of the city government were not included in the survey. The CCWD is the only water district or water agency of the 12 surveyed that has implemented a PLA.

CCWD has implemented PLAs on a case-by-case basis for large (over \$25 million), multi-year projects with critical delivery schedules where labor stability is required for timely completion. The decision to implement a PLA is based on a labor stability analysis. CCWD is not signatory to the PLA. A coordinator is hired to negotiate, execute and administer the agreement with the Contra Costa County Building Trades Council. Contractors must use union labor and employees are required to join the union as a condition of employment. However, contractors have the unqualified right to hire supervisors above general foreman without union referral, and the right to reject any union referral (at some cost if the referral has already reported to the job site). If the referral process is unable to fill a position within 48 hours, the contractor is free to obtain temporary employees from any source until qualified referrals are available. There is no formal local hiring program/policy but the stated intent is to utilize resources available in the local area.

The other agencies surveyed are listed below:

Alameda County Water District  
Dublin San Ramon Services District  
Marin Municipal Water District  
Monterey Peninsula Water Management Agency  
North Marin Water District  
Sacramento Suburban Water District  
Santa Clara Valley Water District  
Solano County Water Agency  
Sonoma County Water Agency  
Stockton East Water District  
Zone 7 Water Agency

### Schedule

The schedule required for successfully completing PLA negotiations consistent with the schedule for contract advertisement and award is shown below.

Negotiation of PLA and Periodic Board Updates	May – October 2015
PLA successfully negotiated and drafted	October 30, 2015
Board Consideration of PLA for Approval	November 10, 2015
Construction Contract Advertise for Bids	December 8, 2015
Construction Contract Award	February 9, 2016

### **ALTERNATIVES**

There are two possible alternatives if negotiations are not successfully completed in time for advertisement and bidding of the Chabot Dam Seismic Upgrade project.

1. Continue negotiations and staff would identify a future project on which to pilot the PLA. This would allow more time to resolve the areas of disagreement.
2. Re-visit the idea of establishing a \$25 million threshold for implementing PLAs on District projects, similar to the approach taken by CCWD. The higher threshold would reduce and may eliminate the areas of disagreement.

ARC:XJI:th