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September 24, 2019

BOARD AGENDA MEMORANDUM

Information

SUBJECT Project Labor Agreements
DEPARTMENT Legal
PRESENTER President Erik J. Ortega
 Frank A. Oswalt, III, general counsel

Background

IID-funded public construction projects can involve numerous contractors and employees in different trades, have critical timelines for completion and require a skilled and properly trained workforce to successfully complete the work in a proper and timely manner. Construction delays caused by labor disputes can result in increased construction costs and delayed project completion. Project labor agreements are a vehicle for preventing such labor disputes.

President Ortega has requested that the Legal Department develop a legal opinion on whether Imperial Irrigation District may implement a policy requiring IID construction contractors to implement a project labor agreement as a condition of award in connection with IID's solicitation of public construction services. The Legal Department has examined the issue and concludes the board may adopt such a policy, per United States Supreme Court decisional law. See Building and Construction Trades Council v Associated Builders and Contractors of Mass. (1993) 113 S. Ct. 1190, (holding a public entity may require a project labor agreement for a public construction project without violating the provisions of the National Labor Relations Act where the public entity has a proprietary interest in the project.)

If IID adopts a policy requiring the implementation of a project labor agreement in connection with certain of its public construction projects, Section 2500 of the Public Contract Code requires any resultant project labor agreement contain the following mandatory components:

- (1) The agreement prohibits discrimination based on race, national origin, religion, sex, sexual orientation, political affiliation, or membership in a labor organization in hiring and dispatching workers for the project.
- (2) The agreement permits all qualified contractors and subcontractors to bid for and be awarded work on the project without regard to whether they are otherwise parties to collective bargaining agreements.
- (3) The agreement contains an agreed-upon protocol concerning drug testing for workers who will be employed on the project.

(4) The agreement contains guarantees against work stoppages, strikes, lockouts, and similar disruptions of the project.

(5) The agreement provides that disputes arising from the agreement shall be resolved by a neutral arbitrator.

Financial Impact

Unknown.

Recommendation

Staff seeks direction from the board in connection with this matter.