

Introduced by the County Services and Finance Committees of the:

**INGHAM COUNTY BOARD OF COMMISSIONERS**

**RESOLUTION AUTHORIZING THE INGHAM COUNTY  
PROJECT LABOR AGREEMENT POLICY**

**RESOLUTION #09-194**

WHEREAS, the Ingham County Board of Commissioners (the "Board") is vested with statutory authority to establish rules and regulations in reference to the management of the interest and business concerns of the County as the Board considers necessary and proper, pursuant to MCL 46.11; and

WHEREAS, the Board is committed to ensuring that County construction projects are completed (1) at the lowest reasonable cost, and (2) with the highest degree of quality and without the disruption of labor disputes such as strikes, lockouts or slowdowns; and

WHEREAS, the goals stated above represent a compelling interest of State and local government; and

WHEREAS, applicable law authorizes local units to utilize Project Labor Agreements, which are legally enforceable guarantees that projects will be carried out in an orderly and timely manner without strikes, lockouts or slowdowns, while also providing for peaceful, orderly and mutually binding procedures for resolving labor issues; and

WHEREAS, the Board is desirous of considering, on a project-by-project basis, a requirement for the negotiation and execution of Project Labor Agreements for certain suitable future county construction projects, and of requiring same as part of the specifications in public bidding to the extent permitted by law; and

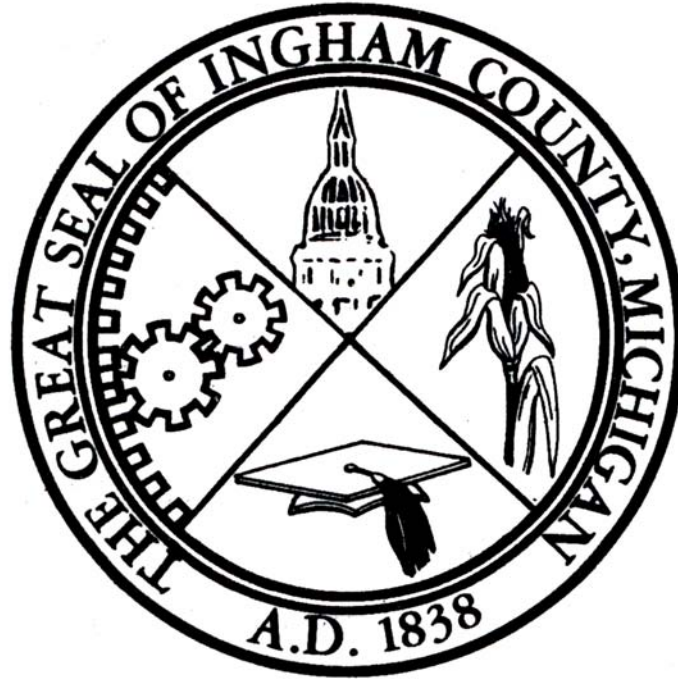
WHEREAS, the Board is also desirous of adopting a procedure to facilitate such consideration by the Board as an official policy of the County of Ingham.

THEREFORE BE IT RESOLVED, by the Board of Commissioners of the County of Ingham approves the attached Ingham County Project Labor Agreement Policy be adopted.

BE IT IS FURTHER RESOLVED, that within 12 months, Staff shall review and report to the Board the County's experience with project labor agreements as to the impact, if any, on the County's Local Preference Policy and the relative utilization of qualified local contractors.

**COUNTY SERVICES:** Yeas: Celentino, Koenig, Copedge, Grebner  
Nays: Holman, Vickers Absent: None **Approved 6/16/09**

**FINANCE:** Yeas: Grebner, Nolan, Bahar-Cook, Tennis, Davis  
Nays: None Absent: Dougan **Approved 6/17/09**



## **PROJECT LABOR AGREEMENT POLICY**

Adopted June 23, 2009

## INGHAM COUNTY PROJECT LABOR AGREEMENT POLICY

### **Section 1: DEFINITIONS**

- (a) "Major County Construction Projects", as used in this Policy, means a County construction project for a new building or buildings, or other real property improvement or renovation project, where the projected direct labor costs to the County (exclusive of equipment, materials, overhead, professional services, profit, insurance, bonding, etc.) exceeds \$100,000.00.
- (b) "Labor Organization", as used in this Policy, means a labor organization as defined in 29 U.S.C. 152(5).
- (c) "Project Labor Agreement", as used in this Policy, means a pre-hire collective bargaining agreement with one or more Labor Organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. 158(f).
- (d) "Emergency Construction", as used in this Policy, means a construction, maintenance, and/or demolition project resulting from an emergency situation, such as, but not limited to, damage or destruction resulting from fire, flood, or explosion, which compels immediate action involving construction, so that waiting to negotiate a Project Labor Agreement would jeopardize, for example, the safety, security or viability of a building or increase the later cost of construction, maintenance, demolition, restoration or replacement.
- (e) "Board", as used in this Policy, means the Ingham County Board of Commissioners.
- (f) "Staff", as used in this Policy, shall mean the Ingham County Controller or his/her designee.

### **Section 2: PROCEDURE FOR CONSIDERATION BY THE BOARD OF REQUIRING UTILIZATION OF PROJECT LABOR AGREEMENTS ON MAJOR COUNTY CONSTRUCTION PROJECTS**

- (a) Required Staff Report To The Board On Major County Construction Projects:  
Whenever Staff concludes, in the judgment of Staff, that a proposed construction project will meet the definition of a Major County Construction Project and which does not constitute Emergency Construction, Staff will be required to issue – at least 120 days prior to the projected mailing date of the bid packages – a written report to the Board, based on the factors set forth in Section 2(c) herein, providing a recommendation as to whether or not a Project Labor Agreement for a specific project would or would not advance the interests of efficiency, quality and timeliness of a Major County Construction Project or a portion of a Major County Construction Project.

This report shall be referred to the appropriate Board Committee or Committee(s) to provide an expedited recommendation to the Board as to whether, or not, a Project Labor Agreement should be utilized, subject to the conditions of this Policy, on a particular Major County Construction Project or portion of a Major County Construction Project. Such recommendation should be based on the factors set forth in Section 2(c) herein.

- (b) Board Action:  
In it's discretion, and upon proper motion, the full Board may consider a expedited recommendation made pursuant to Section 2(a) to require utilization of a Project Labor Agreement on a particular Major

County Construction Project or portion of a Major County Construction Project. A decision by the Board - by affirmative vote of the majority of the Board elected and serving - to require a Project Labor Agreement on a particular Major County Construction Project or portion of a Major County Construction Project will be based on factors set forth in Section 2(c) herein. Unless otherwise provided by the Board, in its sole discretion, a decision to require a Project Labor Agreement on a particular Major County Construction Project or portion of a Major County Construction Project shall be conditioned upon the full and timely satisfaction of the pre-requisites set forth in Section 3.

Nothing in this Policy shall be interpreted to limit, in any way, the discretion of the Board, including, but not limited to, any consideration or decision of the Board to utilize a Project Labor Agreement on construction projects, or portions of construction projects, which do not meet the definition of a Major County Construction Project or on projects which may be for Emergency Construction. To like effect, the Board may, in its sole discretion, waive any provision of this Policy as to any construction project or portion of a construction project.

- (c) A decision to utilize a Project Labor Agreement shall be based upon one or more of the following factors:
  - (i) Cost savings (for example, from reduced costs for extra shifts or shifts starting at atypical hours for offices that must be kept open during the day);
  - (ii) Reduced risk of delay in completion of a time-sensitive project;
  - (iii) Enhanced access to skilled trades whose work is needed to complete a project (taking into consideration other major construction projects in the area);
  - (iv) Improved efficiency in project management on large, complex, multi-year projects;
  - (v) Enhanced productivity and quality workmanship utilizing skilled construction craft personnel and apprentices trained in apprenticeship programs sanctioned by the U.S. Department of Labor, thereby yielding a high quality, cost-efficient constructed project, while also reducing maintenance and repair costs over the life of the project; and/or
  - (vi) The ability to integrate work schedules and standardize work rules for the project, to provide a well-coordinated, efficiently functioning construction worksite that will minimize delays, promote quality and maintain project safety.
- (d) Where a Project Labor Agreement is required by this Policy, or by action of the Board, any bidder refusing to agree to abide by the conditions of the Project Labor Agreement or refusing to negotiate a Project Labor Agreement shall not be regarded as a responsible bidder. However, the Board may, in its sole discretion, waive this requirement on a specific project or portion(s) of a project, as to one or more contractors or subcontractors where the Board concludes that requiring a contractor or subcontractor to execute the Project Labor Agreement would be contrary to the interests of efficiency, quality and timeliness of the specific construction project.
- (e) In the event the Board affirmatively determines that a Project Labor Agreement will meet the requirements of and serve the objectives set forth in Section 2(c), the County may either (1) directly

negotiate in good faith a Project Labor Agreement with one or more Labor Organizations, or (2) condition the award of a contract to a construction manager/general contractor upon a requirement that the construction manager/general contractor negotiate in good faith a Project Labor Agreement with one or more Labor Organizations.

**Section 3: PRE-REQUISITES TO REQUIRING A PROJECT LABOR AGREEMENT—TERMS AND TIMING OF THE AGREEMENT**

Unless this requirement is waived by the Board, a Project Labor Agreement will only be required where – at least thirty (30) days prior to the projected mailing date of the bid packages – the County or general contractor/construction manager and all Labor Organizations designated by the County as having jurisdiction over all or part of the project enter into, and ratify, an acceptable Project Labor Agreement. Each Project Labor Agreement shall, at a minimum, provide for the following:

- (a) The Project Labor Agreement shall bind all or designated contractors and subcontractors on the construction project through the inclusion of appropriate specifications in all relevant solicitation provisions and contract documents;
- (b) The Project Labor Agreement shall allow all contractors and subcontractors to compete for contracts and subcontracts without regard to whether they are otherwise parties to collective bargaining agreements;
- (c) The Project Labor Agreement shall provide for the wages for work performed on the project at rates which comply with the requirements of the Ingham County Prevailing Wage Policy. In addition, the Project Labor Agreement shall require that apprentices be registered in an approved Bureau of Apprenticeship & Training Program sanctioned by the U.S. Department of Labor;
- (d) The Project Labor Agreement shall specifically provide that signatory unions shall comply with the requirements of federal law with respect to membership and dues payable by employees of non-union contractors/subcontractors who are not already members of the applicable union. In addition, the Project Labor Agreement shall provide that the Labor Organization shall waive initiation fees paid by employees of non-union contractors/subcontractors who are required to join the Labor Organization as a result of the contractors’/subcontractors’ agreement shall be bound by the Project Labor Agreement for the duration of the project;
- (e) The Project Labor Agreement shall provide that any contractor/subcontractor who is not currently a party to collective bargaining agreement with a Labor Organization having jurisdiction over the project may elect not to make payment to any Union trust fund or health, pension, welfare or benefit fund where the contractor/subcontractor makes similar benefits directly available to its employees. Any such contractor/subcontractor who makes benefits directly available to its employees and whose cost of providing such benefits is greater than 15% less than the cost of the corresponding fringe benefit contribution otherwise payable to the union trust fund providing similar benefits, shall be required to pay the difference directly to the employee as part of his paycheck for wages earned on the project. Alternatively, if a separate trust fund or voluntary employee benefit association (VEBA) fund under Section 501(c)(9) of the Internal Revenue Code has been established by a signatory union or unions for the purpose of providing qualified benefits to the employees of such contractors/subcontractors, on whose behalf such contributions are made, such contractors/subcontractors may elect to participate in

and pay the difference into such fund. Contractors/subcontractors electing to pay the difference in benefit costs as wages or into a VEBA fund as specified above shall be required to submit to the County a copy of their plans, summary plan descriptions, and premium structure for employees covered under the contractors'/subcontractors' bona fide, non-discretionary plans. Such contractors/subcontractors may also be required to submit certified payroll reports to the County in order to confirm compliance with these provisions. The decision of the County as to whether a contractor provides similar benefits, the relative costs of such benefits, or whether a contractor/subcontractor has complied with this provision is wholly within the discretion and judgment of the County, and shall not be subject to any grievance, arbitration, administrative or legal proceeding;

- (f) The Project Labor Agreement shall provide that where a contractor is not a party to a current collective bargaining agreement with the Labor Organization having jurisdiction over the project/affected work that the contractor may utilize its own workforce to perform work on the project. Only if the contractor does not have sufficient qualified employees shall the contractor be required to utilize the Labor Organization referral system;
- (g) The Project Labor Agreement shall contain guarantees against strikes, lockouts, and similar job disruptions;
- (h) The Project Labor Agreement shall include a management rights provision including hiring, promotion, transfer, discipline or discharge of employees and a right to reject any job applicant referred to by the Labor Organization;
- (i) The Project Labor Agreement shall set forth effective, prompt, and mutually binding procedures for resolving labor and jurisdictional disputes arising during the project labor agreement;
- (j) The Project Labor Agreement shall provide other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health; and
- (k) The Project Labor Agreement shall fully conform to all statutes, regulations, County policies and Executive Orders.

**Section 5: CAVEATS**

- (a) This Policy does not require the County to use a project labor agreement on any construction project, nor does it preclude the use of a project labor agreement in circumstances not covered by this Policy, including projects receiving Federal financial assistance. This Policy is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the County, its elected officials, officers, employees, or agents, or any other person.
- (b) If any provision of this Policy, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this Policy and the application of the provisions of such to any person or circumstance shall not be affected thereby.
- (c) This Policy shall be implemented consistent with applicable law and subject to the availability of appropriations.