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## MEMORANDUM

TO: BOARD OF SCHOOL DIRECTORS OF THE WEST JEFFERSON HILLS SCHOOL DISTRICT

CC: DR. MICHAEL PANZA, SUPERINTENDENT

FROM: IRA WEISS, ESQUIRE 

DATE: MAY 20, 2015

RE: PROJECT LABOR AGREEMENT (PLA)

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I am attaching a series of documents previously supplied to the Board on the issue of PLAs. These include:

1. Project Labor Agreement
2. Summary of agreement dated March 5, 2015
3. Memorandum dated September 12, 2014
4. Memorandum dated March 5, 2015

I would be glad to respond to any questions you may have regarding this matter.



**WEST JEFFERSON HILLS SCHOOL DISTRICT  
ALLEGHENY COUNTY, PENNSYLVANIA**

**PROJECT LABOR AGREEMENT**

**ARTICLE I  
INTENT AND DURATION**

Section 1. This Project Labor Agreement (the “Agreement”) is entered into between the West Jefferson Hills School District (the “Owner”), the Owner’s Project Representative, Turner Construction Company (the “Owner’s Representative”) and the Pittsburgh Regional Building and Construction Trades Council (the “Unions”) for the construction of the new Thomas Jefferson High School project, located in Allegheny County, Pennsylvania (the “Project”) and applies exclusively to the construction work within the scope of this Agreement to be performed and related to the Project. The purpose of this Agreement is to promote efficiency in the construction of the project by utilizing the best trained and most effective construction workers, to provide for the peaceful settlement of any and all labor disputes and grievances without strikes or lockouts, and to create uniformity in work rules, thereby promoting the public interest in assuring the timely and economical completion of the Project. This Agreement shall expire and be of no further force or effect upon the completion of the Project.

Upon execution of this Agreement by all parties, all construction work covered by this Agreement on the Project shall be contracted exclusively to contractors that agree to execute and become bound by this Agreement. The Owner, either through its administration or through its project representatives shall monitor compliance with this Agreement by all contractors and subcontractor through their execution of this Agreement or a letter of Assent hereto. For the purposes of this agreement, the term “contractor” includes all construction contractors and subcontractors of whatever tier engaged in on-site construction work on the Project.

The Owner, the Owner's Representative, and the Unions and all signatory contractors agree to abide by the terms and conditions contained in the Agreement. The Agreement represents the complete understanding of all parties, and no Contractor is or will be required to sign any other agreement with a signatory union as a condition of performing work coming within the scope of this Agreement. No practice, understanding or agreement between a contractor and a union which is not specifically set forth in this Agreement will be binding on any other party unless endorsed in writing by The Owner and/or the Owner's Representative.

Section 2. The Owner, the Owner's Representative, and the Unions agree that this Agreement will be made available to, and will fully apply to, any successful bidder for work on the Project, without regard to whether that successful bidder performs work at other sites on either a union or non-union basis, and without regard to whether employees of such bidder are or are not members of any union. The Unions further agree that this Agreement only applies to this Project, and that by signing this Agreement or a Letter of Assent hereto, a contractor, not previously in a signed agreement with the Unions does not recognize the Unions as the bargaining representative of any of its employees at any other projects, sites or locations.

## **ARTICLE II** **PURPOSE**

Section 1. The parties to this Agreement understand and acknowledge the fact that the timely construction of the Project is critical to the efficient and proper operation of the Project. The parties signatory to this Agreement accordingly pledge their complete good faith and trust to work towards an absolutely on-time completion of the Project.

Section 2. The parties to the Agreement understand that time is of the essence for this Project. The parties understand and agree that timely construction of the Project will require a substantial numbers of employees from construction and supporting crafts possessing skills and

qualifications that are essential to its completion. The Unions pledge that they have members who are competent, skilled and qualified to perform the required construction work. It is, therefore, essential that construction work on the Project be done in an efficient, economical manner with optimum productivity and no delays. In recognition of the needs of the Project, Unions signatory hereto and their members agree not to initiate, authorize, sanction, participate in or condone, or permit their members to engage in, any strike, sympathy strike, jurisdictional strike, recognitional strike, slowdown, sabotage, "work to rule", sickout, sit-down, picketing or any type (including information picketing), hand billing, boycott, interruption of work or any disruptive activity that interferes with or interrupts in any way work on the Project. Contractors agree not to engage in any lockout.

**ARTICLE III**  
**BENEFITS OF THE AGREEMENT**

Section 1. This Agreement is intended to foster the achievement of a timely and on-budget completion of the Project by, among other things:

- (a) avoiding the costly delays of potential strikes, sympathy strikes, jurisdictional strikes, slowdowns, walkouts, picketing, hand billing, and any other disruptions or interferences with work, and promoting labor harmony and peace for the duration of the project;
- (b) standardizing terms and conditions governing the employment of labor on the Project;
- (c) permitting wide flexibility in work scheduling and shift hours and times;
- (d) achieving negotiated adjustments as to work rules and staffing requirements from those which otherwise might obtain;
- (e) providing comprehensive and standardized mechanisms for the settlement of work disputes;
- (f) ensuring a reliable source of skilled, apprenticeship trained, and experienced labor; and

- (g) furthering public policy objectives, to the extent lawful, as to improved employment opportunities for minorities, women and the economically disadvantaged in the construction industry.

**ARTICLE IV**  
**SCOPE OF THE AGREEMENT**

Section 1. This Agreement is specifically defined and limited to onsite construction work bid and contracted for by, or otherwise under the direction and control of The Owner and the Owner's Representative for this Project.

Section 2. Items specifically excluded from the scope of this Agreement, even if performed in connection with the Project, include the following:

- (a) work of non-manual employees, including, but not limited to, superintendents, supervisors, staff engineers, inspectors, quality control and quality assurance personnel, timekeepers, mail carriers, clerks, office workers, including messengers, guards, safety personnel, emergency medical and first aid technicians, and other professional, engineering, administrative, supervisory and management employees;
- (b) equipment and machinery owned or controlled and operated by the Owner that would not ordinarily be part of the construction project;
- (c) all off-site (as defined by Davis Bacon Act) manufacture, fabrication or handling of materials, equipment or machinery (except at dedicated lay-down or storage areas), and all deliveries (except for onsite construction trucking) of any time to and from the Project site;
- (d) all employees of The Owner and the Owner's Representative's design professional or any other consultant including field surveying and field testing personnel when such employees do not perform manual labor coming within the scope of this Agreement;
- (e) work by employees of a manufacturer or vendor necessary to maintain such manufacturer's or vendor's warranty of guarantee, unless such work has historically and customarily been performed by members of a signatory union, or work performed by supervisors or technicians employed by the manufacturer or vendor to oversee the testing of equipment once installed to insure that the equipment is fully operational;
- (f) laboratory work for specialty testing or inspections not ordinarily done by the signatory Unions;

- (g) all non-construction work done by employees of The Owner or of any state or federal agency, authority or entity or employees of any municipality or other public employer;
- (h) all employees and entities engaged in ancillary project work performed by electric utilities, gas utilities and telephone companies.

The Unions agree that there shall be no interference with or disruption of work, of those contractors, employers, and employees exempted from coverage of this Agreement by subparagraph (a) through (h) above.

### Section 3.

- (a) The Owner, the Owner's Representative and/or their contractors, as appropriate, have the absolute right to award contracts or subcontracts on the Project notwithstanding the existence or nonexistence of any agreements between such contractor and any Union signatory to this Agreement provided only that such contractor is willing, ready, and able to execute and comply with this Agreement or a Letter of Assent hereto, should such contractor be awarded work covered by this Agreement.
- (b) All subcontractors of a contractor, of whatever tier, that have been awarded contracts of work covered by this Agreement on or after the effective date of this Agreement shall also be required to accept and to be bound by the terms and conditions of this Agreement, and shall evidence their acceptance by the execution of this Agreement, or a Letter of Assent hereto, prior to commencement of work. A copy of this Agreement or Letter of Assent executed by each contractor shall be available for review by the Union.

Section 4. This Agreement is a stand-alone Agreement. While this Agreement expressly does not incorporate any local area collective bargaining agreements, such local area collective bargaining agreements may be referenced for the limited purposes as hereinafter set forth in this Agreement. If, however, any provision of this Agreement conflicts with any provision of a local area collective bargaining agreement, the provisions of this Agreement control.

Section 5. This Agreement shall recognize the traditional craft jurisdictions of the signatory Unions. Any and all jurisdictional disputes shall be settled in accordance with Article VIII below. While this Agreement is a stand-alone Agreement and expressly does not incorporate any local area collective bargaining agreements, the Agreement will utilize the local area collective bargaining agreements of signatory Unions as a reference to define the signatory Unions' craft jurisdiction.

Section 6. The Owner's Representative and any general contractor, subcontractor, or any contractor of any tier agree that neither it nor any of its contractors or subcontractors will subcontract any work covered by this Agreement to be done in the Project except to a person, firm or corporation that is or agrees to become party to this Agreement. Any contractor or subcontractor working on the Project shall, as a condition to working on the Project, become signatory to and perform all work pursuant to the terms of this Agreement. Contractors that signatory to local collective bargaining agreements shall be bound by the terms of their respective local collective bargaining agreements on subcontracting to the extent such terms are consistent with Article IV, Section 2 of this Agreement. Disputes concerning compliance with such local subcontracting provisions for this Project shall be subject to all of the dispute resolution provisions of this Agreement.

Section 7. It is understood that the liability of the contractor and the liability of the separate Unions under this Agreement shall be several and not joint. The Unions agree that this Agreement does not have the effect of creating any joint employer status between or among The Owner and the Owner's Representative and/or any contractor, and **The Owner and the Owner's Representative shall not assume any liabilities of any contractors.**



Section 8. As areas of covered work on the Project are accepted by The Owner and the Owner's Representative, this Agreement shall have no further force or effect on such areas except where the contractor is directed by The Owner and the Construction Manager to engage in correction of work or punch list modifications.

**ARTICLE V**  
**LABOR MANAGEMENT COOPERATION**  
**JOINT ADMINISTRATIVE COMMITTEE**

Section 1. The parties to this Agreement will establish a Project Joint Administrative Committee ("Committee"). This Committee will be a three person committee comprised of one member designated by the Owner, one member designated by the Owner's Representative, and one member from the signatory Unions, with an alternate signatory Union member available to replace the regular volunteer when a problem or grievance concerns the regular member's Union. Each member of the Committee shall designate an alternate that shall serve in the absence of the member for any purpose contemplated by this Agreement. .

Section 2. The committee shall meet monthly, or more often if special circumstances warrant, to discuss the administration of the Agreement, the progress of the Project, labor/management problems that may arise, and any other relevant matters. Any need for interpretation that might arise from the application of the terms and conditions of the Agreement shall be referred directly to the committee for resolution.

**ARTICLE VI**  
**UNION RECOGNITION AND EMPLOYMENT**

Section 1. Each contractor recognizes the Unions as sole and exclusive bargaining representatives of all craft employees within their respective jurisdictions working on the Project under the Agreement.

Section 2. Each contractor shall have the right to determine the competency of all employees and the number of employees required. Each contractor shall have the sole responsibility for selecting employees to be laid off.

Section 3. For Local Unions having a referral system, each contractor agrees to comply with such system, and the referral system shall be used exclusively by such contractor. Such job referral system will be operated in a non-discriminatory manner and in full compliance with federal, state, and local laws and regulation requiring equal employment opportunities and non-discrimination, and referral shall not be affected in any way by the rules, regulations, by-laws, constitutional provisions or any other aspects or obligations of union membership, policies, or requirements. The Unions shall indemnify and hold each contractor and The Owner and the Owner's Representative harmless with respect to any claim arising out of how that Union operates and administers its referral system. All hiring procedures, including related practices affecting apprenticeship and training, will be operated so as to facilitate the ability of the contractors to meet any and all equal employment opportunity/affirmative action obligations. The contractor may reject any referral for any just reason and request another, different referral.

Section 4. In the event that a signatory Local Union does not have a job-referral system as set forth in Section 3 above, the contractor shall give the Union forty-eight (48) hours to refer applicants. The Contractor shall notify, in writing, the Union of employees hired from any source other than referral by the Union.

Section 5. In the event that Local Unions are unable to fill any requisitions for qualified employees within forty-eight (48) hours after such requisition is made by the contractor, the contractor may employ applicants from any other available source. The

contractor shall inform the Union of the name and social security number on any applicants hired from other sources.

Section 6. The Local Unions shall not knowingly refer an employee currently employed by any contractor working under this Agreement to any other contractor, nor shall any Union engage in any activity that encourages workforce turnover or absenteeism.

Section 7. The Local Unions will exert their utmost efforts to recruit sufficient numbers of skilled craft workers to fulfill the manpower requirements of each contractor, including calls to local unions in other geographic areas when its referral lists have been exhausted. The parties to this Agreement support the development of increased numbers of skilled construction workers from the residents of Allegheny County. Toward that end, the Unions agree to encourage the referral and utilization, to the extent permitted by law and the hiring hall procedures, or qualified residents as journeymen, apprentices and trainees on the Project.

Section 8. All employees covered by this agreement who are members of the union for the craft in which they are working on the effective date of this agreement shall, as a condition of employment, maintain their membership in the union during the term of this agreement and all employees who are not members of the union for which the craft they are working shall, as a condition of employment, join the union and maintain their membership in the union during the term of this agreement from and after the eighth day following their employment or the effective date of this agreement, whichever is later. If any of the employees now or hereafter employed by the Contractor are found to be in non-compliance with any of the provisions of this Article, the Union shall immediately notify the employer in writing and the

employee so found in non-compliance shall be dismissed from the employ of the contractor by the end of the shift of the day of notification.

Section 9. Core Employees. To provide opportunities to participate on the Project to minority and women owned business enterprises as well as other enterprises which do not have a relationship with the Unions signatory to this Agreement and to ensure that such enterprises will have an opportunity to employ their "core" employees on this Project, the parties agree that any such enterprise has the right to select core employees whom it will employ on site, in accordance with the formula below and who:

- (a) possess any license required by the county, state, or federal law for the Project work to be performed;
- (b) have worked a total of at least 1,200 hours per year in the construction craft during each of the prior 3 years, including having participated in an apprenticeship program that has been certified by the state;
- (c) were on the contractor's active payroll for at least 60 out of the 180 calendar days prior to the contract award; and
- (d) have the ability to perform safely the basic functions of the applicable trade.

Only the first and third employee, or up to 10 percent of all employees, whichever is greater, hired by each contractor may be core employees. With the exception of the core employees, all the employees shall be hiring hall referrals by the appropriate signatory unions in accordance with the provisions of the applicable local collective bargaining agreements.

Section 10. The selection of craft foremen and/or general foremen and the number of foremen required shall be the exclusive right and responsibility of each contractor.

**ARTICLE VII**  
**GRIEVANCE AND ARBITRATION PROCEDURE**

Section 1. Any claim, dispute, question or other matter that the Unions may have against the Owner or the Owner's Representative under this Agreement, is subject to the following procedure for its resolution.

- (a) Any claim, dispute, question or other matter, which the union may have against The Owner and the Owner's Representative under this Agreement will be considered by the Owner's Representative or his designee if the Union files a written claim with the Owner's Representative within six months after the date on which the claim occurred. No claim may be filed later than six (6) months after it occurs.
- (b) If the controversy is not resolved by mutual agreement, the Owner's Representative will issue a decision in writing. The decision will:
  - (i) State the reasons for the action taken; and
  - (ii) Inform the Union of its right to administrative and judicial review;
  - (iii) A copy of the decision will be delivered to the Union by registered mail;
  - (iv) The decision issued by the project manager is final and conclusive unless the Union files a claim with the project manager within thirty days of its receipt of the decision;
  - (v) If the Owner's Representative does not issue a written decision within 10 days after the claim is filed, the Union may proceed as if an adverse decision had been received. The 10-day period may be extended with the written consent of The Owner and the Owner's Representative and the Union;
  - (vi) The Union shall continue to comply with the terms of the Agreement during the claims process, if any, unless otherwise agreed by it and The Owner and the Owner's Representative approves of it in writing.
  - (vii) If the Union is not satisfied with the decision, the union may proceed to arbitration as stated within Step 2 below.

Section 2. It is specifically agreed that in the event any disputes arise out of the interpretation or application of this Agreement between the unions and contractors, the same shall be settled by means of the procedure set out herein. No such grievance shall be recognized unless called in writing to the attention of the parties to the Agreement (or to the attention of the union by the contractor) within five (5) business days of the alleged violation was committed.

Section 3. All grievances under Section 2 shall be settled according to the following procedures.

Step 1: The dispute shall be set forth in writing and shall be referred to the Business Representative of the Local Union, and the contractor representative involved (or his designated representative), and The Owner and the Owner's Representative.

Step 2: If the dispute is not resolved within ten (10) days, then within ten (10) calendar days, the representatives shall refer the dispute to arbitration. ***The arbitrator shall be Ronald Talarico. In the event that he is unable or unwilling to serve the Owner and the Unions will mutually select and alternate.*** The decision of the Arbitrator shall be binding on all parties. The Arbitrator shall have no authority to change, amend, add to, or detract from any of the provisions of this Agreement. The expense of the impartial Arbitrator shall be borne equally by the union and the contractor.

Section 4. A decision must be given to all parties within five (5) days after the completion of the hearing unless such time is extended by mutual agreement.

Section 5. A written opinion may be requested by either party from the presiding Arbitrator.

Section 6. The time limits specified in any step of the Grievance Procedure may be extended by mutual agreement of the parties initiated by one party to the other, at the appropriate step of the Grievance Procedure. The failure to process a grievance, or failure to respond in

writing within the time limits provided above, without an agreed request for an extension of time, shall be deemed a waiver of such position regarding the grievance without prejudice, or without precedent to the processing of and/or resolution of like or similar grievances or disputes.

Section 7. In order to encourage the resolution of disputes and grievances at Step 1 of this Grievance Procedure, the parties agree that settlements shall not be precedent setting.

Section 8. Nothing in this article of this Agreement shall preclude any signatory contractor, The Owner and/or the Owner's Representative from obtaining administrative or injunctive relief to halt any strike, picketing, or work stoppage pending resolution of a dispute pursuant to this Article.

### **ARTICLE VIII** **JURISDICTIONAL DISPUTES**

Section 1. The assignment of work will be solely the responsibility of the Contractor performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

Section 2. All jurisdictional disputes on this Project, between or among Building and Construction Trades Unions and employers, parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Contractors and Unions parties to this Agreement.

Section 3. All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractor's assignment shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

Section 4. Each Contractor will conduct a pre-job conference with the appropriate Building and Construction Trades Council prior to commencing work. The Project Contractor and the Owner will be advised in advance of all such conferences and may participate if they wish.

#### **ARTICLE IX** **SUBCONTRACTING**

The Project Contractor agrees that neither it nor any of its contractors or subcontractors will subcontract any work to be done on the Project except to a person, firm or corporation who is or agrees to become party to this Agreement. Any contractor or subcontractor working on the Project shall, as a condition to working on said Project, become signatory to and perform all work under the terms of this Agreement.

#### **ARTICLE X** **HELMETS TO HARDHATS**

Section 1. The Employers and the Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Employers and Unions agree to utilize the services of the Center of Military Recruitment, Assessment and Veterans Employment (hereinafter "Center") and the Center's "Helmets to hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls,



counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

Section 2. The Union and Employers agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on this Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

## **ARTICLE XI** **MANAGEMENT RIGHTS**

Section 1. The Owner, the Owner's Representative, and the contractors retain the full and exclusive authority for the management of their operations and workforces. The Owner, the Owner's Representative, and the contractors, as the case may be, retain the right to plan, direct, and control the work force, including the hiring, promotion, demotion, transfer, layoff, suspension, discipline or discharge for just cause of employees; the determination of crew make-up, crew size and manning levels; the selection of foremen; the assignment and scheduling of work; the promulgation of work rules, customs or practices which limit or restrict productivity, efficiency or the individual and/or joint working efforts of employees shall be permitted or observed. The Owner, the Owner's Representative, and/or and the contractors have the right to choose the methods or techniques of construction and operation.

Section 2. There shall be no limitation or restriction by a signatory Union upon a contractor's choice of material or design, regardless of source or location, upon the full use and utilization of equipment, machinery, and packaging. The on-site installation or application of all items shall be performed by the craft having jurisdiction of such work; provided, however, that

installation of specialty items may be performed by employees employed under this Agreement who may be directed by other personnel in a supervisory role, in circumstances requiring special knowledge of the particular items.

Section 3. It is recognized by the contractors, the Unions and their members that the performance of certain work on the Project shall consist of the installation of certain material, equipment, or supplies manufactured outside this local vicinity which must, for warranty purposes, be installed by the manufacturer and/or its designated specialty contractors and that such installation work is not customarily performed by the members of such unions. The Unions and their members agree that they shall make no claims for such work; provided, however, that The Owner and the Owner's Representative and/or the Joint Administrative Committee shall provide them with necessary information establishing the nature of such specialty work.

Section 4. The use of new technology, equipment, machinery, tools and/or labor saving devices and methods of performing work may be initiated by any contractor from time to time during the Project. The Union agrees that it will not in any way restrict the implementation of such new devices of work methods.

Section 5. If there is any disagreement between any contractor and the Union concerning the manner of implementation of such device or method of work, the implementation shall proceed as directed by the contractor, and the Union shall have the right to grieve and/or arbitrate the dispute as set forth in Article VII of this Agreement.

**ARTICLE XII**  
**WORK STOPPAGES**

Section 1. There shall be no strike, sympathy strike, jurisdictional strike, recognitional strike, slowdown, sabotage, “work to rule”, sickout, sit-down, picketing or any type (including informational picketing), hand billing, boycott, interruption of work or any disruptive activity that interferes with or interrupts in any way work on the Project. The Unions signatory hereto, and each of their members, agree not to initiate, authorize, sanction, participate in, condone, or permit their members to engage in any such activity. Failure by any Union or employee covered by this Agreement to cross any picket line established by any Union, signatory or non-signatory to this Agreement, or by any other organization or individual at or in proximity to the Project construction site, is a violation of this Article. The signatory Union’s members shall be subject to discipline up to and including discharge for violation of the provisions of this Article.

Section 2. The Union shall not sanction, aid or abet, encourage or condone any conduct or activity in violation of this Article, and shall undertake all means to prevent or to terminate any such conduct immediately. No employee shall engage in activities that violate this Article, and the Union shall pursue all disciplinary action permitted by its Constitution and by-Laws against any employee who engages in any activity that violates this Article.

Section 3. If any contractor contends that any Union or its member(s) has violated this Article, it will notify in writing the Pittsburgh Regional Building Trades Council, advising it of the fact, which copies of such notice to the Local Union(s) involved. The President of the Pittsburgh Regional Building Trades Council will immediately instruct, order and use the best

efforts of his office, to cause the Local Union(s) or its members to cease any violation of this Article.

Section 4. Should The Owner and the Owner's Representative believe that there has been any violation of this Article, it may institute any action at law or in equity of any other contractual procedure available to it. Any action commenced by The Owner and the Owner's Representative is separate from any action brought by any contractor.

### **ARTICLE XIII** **WAGES AND BENEFITS**

Section 1. All employees covered by this Agreement shall be classified in accordance with work performed and paid the prevailing union wage and benefit rates for these classifications. The Owner and the Owner's Representative, upon request, shall provide the Unions with substantiation that prevailing wages and benefits are being paid by contractors on the Project.

Section 2. Each contractor will also pay all required contributions in the amounts required by Section 1 of this Article to the established employee benefit funds that accrue to the direct benefit of the employees (such as pension and annuity, health and welfare, vacation, apprenticeship, training funds). With respect to contributions required in this Section to Employee-Union jointly trusted funds, the contractor adopts and agrees to be bound by the written terms of the legally established trust agreement specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds. The contractor authorizes the parties to such Trust Funds to appoint Trustees and successor Trustees to administer the Trust Funds and hereby ratifies and accepts the Trustees so appointed as if made

by Contractor. This section does not apply to core employees unless any core employee voluntarily elects to join and become a member of any local union signatory to this Agreement, in which event this Section shall immediately apply with respect to any such core employee.

**ARTICLE XIV**  
**LOCAL UNION NEGOTIATIONS DURING**  
**THE PENDENCY OF THE AGREEMENT**

Section 1. All parties to this Agreement understand and acknowledge that some crafts that will be working on the Project are covered by local collective bargaining agreements that will expire prior to the projected completion of the Project. All contracting parties understand and agree that irrespective of whether such local collective bargaining agreement negotiations are successful or unsuccessful, there shall be not strike, sympathy strike, jurisdictional strike, recognition strike, slowdown, sabotage, "work to rule," sickout, sit-down, picketing of any type (including informational picketing), hand billing, boycott, interruption of work or any disruptive activity that interferes with or interrupts in any way work on the Project by any Union involved in such local negotiations, or by any of its members, nor shall there be any lockout on the Project affecting such union or its members during the course of such negotiations. Irrespective of the status of any such local collective bargaining agreement negotiations, the affected Union and all of its members will observe and fully comply with the provisions of this Agreement.

Section 2. Should a craft covered by this Agreement negotiate an increase in wages or an increase in benefits with any contractor to become effective during the term of the Project for the area of the Project, those wage and/or benefit increases shall be paid, as of the effective

date of those increases, to those employees in that craft performing work covered by this Agreement.

**ARTICLE XV**  
**HOURS OF WORK, OVERTIME SHIFTS AND HOLIDAYS**

Section 1. Except as provided in Section 4, the first shift shall consist of eight (8) or ten (10) hours per day between the hours of 6:00 a.m. and 5:30 p.m., plus one-half (½) hour unpaid for lunch, approximately mid-way through the shift. Forty (40) hours per week shall constitute a regular week's work, whether consisting of five (5) eight (8) hour days, or four(4) ten (10) hour days. The work week will start on Monday and conclude on Sunday. A uniform starting time will be established for all crafts on each segment of the work. Nothing herein shall be construed as guaranteeing any employee eight (8) to ten (10) hours per day or forty (40) hours per week. The Union(s) shall be informed of the work starting time set by the contractor at the pre-job conference that may be changed thereafter upon three (3) days' notice to the Union(s) and the employees. A second shift, if used, shall consist of eight hours between 3:00 p.m., and 1:00 a.m.; a third shift, if used, shall begin between 10:00 p.m., and 1:00 a.m. For the purposes of Section 3, the third shift shall be considered as part of the prior day's work.

Section 2. Employees shall be at their place of work at the starting time and shall remain at their place of work (as designated by the contractor) performing their assigned functions until quitting time, which is defined as the scheduled end of the shift. The parties reaffirm their policy of a fair day's work for a fair day's wage. There shall be no pay for time not worked unless the employee is otherwise engaged at the direction of the contractor.

Section 3. Overtime shall be defined as all hours worked in excess of forty (40) hours in a work week; such work and work performed on Saturdays shall be paid at one and one half times the straight time rate of pay. However, in scheduled five day/eight hour shift work weeks, Saturday may be scheduled as a “make-up” day at straight time to make up for a day lost (Monday through Friday) due to inclement weather; in scheduled four (4) day/ten (10) hour shift work weeks, Friday and/or Saturday may be scheduled as a “make-up” day at straight time to make up for a day lost (Monday through Thursday) due to inclement weather. In addition, if a make-up day is scheduled, all employees directed to work on such day will be guaranteed a minimum of four (4) hours work or pay. In any week in which employees on the Project are scheduled on four (4) day/ten (10) hours shifts, an employee whose first day of work on the Project begins on Wednesday, or a later day of the schedule, shall be paid, during the first week of his employment only, time and one-half (½) for all hours worked in excess of eight (8) in a day for each day he works during the said week. Work on Sundays and holidays shall be at double time. There will be no restriction on a contractor’s scheduling of overtime or non-discriminatory designation of employees who will work. The contractor may schedule work so as to minimize overtime. There shall be no pyramiding of overtime pay under any circumstances.

Section 4. Shift work may be performed as follows:

- (a) Shift work may be performed as the option of the contractor(s) upon three(3) days’ prior notice to the Union and shall continue for a period of not less than five (5) working days. Saturdays and Sunday, if worked, may be used for establishing the five (5) day minimum work shift. If two (2) shifts are worked, each shall consist of eight (8) hours of continuous work exclusive of a one half (½) hour non-paid lunch period. Any third

shift shall consist of seven (7) hours of continuous work exclusive of one-half (½) hour non-paid lunch period for eight (8) hours' pay.

- (b) The contractor may establish a work week of four (4) consecutive ten (10) hour work days (exclusive of one half (½) hour unpaid lunch, approximately midway through the shift) between Monday and Friday.

Section 5. Recognized holidays on the Project shall be New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day. Work performed on holidays shall be paid at double the straight time rate of pay. A holiday falling on Sunday shall be observed the following Monday. A holiday falling on Saturday shall be observed on the preceding Friday.

Section 6. The contractor will schedule a meal period of not more than one-half (½) hour duration at the work location at approximately the mid-point of the scheduled work shift four (4) hours in a five-day work week, five (5) hours in a four (4)-day work week, consistent with Section 1; provided, however, that the contractor may, for efficiency of the operation, establish a schedule which coordinated the meal periods of two (2) or more crafts. If an employee is required to work through his meal period, he shall be compensated for the time worked at the applicable overtime rate and the employee shall, when work permits, eat his lunch "on the fly".

Section 7. There will be no organized breaks or other non-working time established during working hours. Individual nonalcoholic beverage containers will be permitted at the employee's workstation with the exception of employees performing finish work.



**ARTICLE XVI**  
**APPRENTICES**

Section 1. The parties recognize the need to maintain continuing support of programs designed to develop adequate members of competent workers in the construction industry. The contractor(s) will accordingly employ apprentices in their respective crafts to perform work on the Project within the apprentices' capabilities.

Section 2. The Union agrees to cooperate with the contractor in furnishing qualified apprentices as requested. There shall be no restrictions on the utilization of apprentices in performing the work on their craft provided they are properly supervised.

**ARTICLE XVII**  
**DRUG, ALCOHOL AND FIREARMS POLICY**

All parties understand and agree that a drug and alcohol policy, attached as Appendix 1 hereto, will be in force for all work performed under the Agreement. The drug and alcohol policy will prohibit the use, sale, transfer, purchase and/or possession of a controlled substance or alcohol while on the Project's premises and will require testing of employees. The drug and alcohol policy will be incorporated into and made part of this Agreement and implemented for all contractors and employees working on the Project. The firearms policy prohibits firearms on the Project's premises. The contractors and the unions will comply with all other laws and regulations pertaining to work performed on the premises of schools within the Commonwealth of Pennsylvania.

**ARTICLE XVIII**  
**NON-DISCRIMINATION**

It is the continuing policy of The Owner and the Owner's Representative, the contractors, and the Unions that the provisions of this agreement shall be applied without discrimination because of age, race, sex, color, religion, creed, disability status, or national origin. There shall be no discrimination against any employee because of his or her membership in, or activities on behalf of Unions.

**ARTICLE XIX**  
**SOLE AND COMPLETE AGREEMENT**

The parties agree that this Agreement constitutes the sole and complete agreement between them governing the rates of pay and working conditions of the construction employees working on the Project, that it settles all demands and issues on the matters subjected to collective bargaining, and that it shall not be modified or supplemented in any way except by written agreement by both parties.

**ARTICLE XX**  
**SEPARABILITY AND SAVINGS CLAUSE**

If any article or section of this Agreement shall be held invalid by law or by a tribunal of competent jurisdiction, or if compliance with or enforcement of any article should be restrained pending a final determination as to its validity, the remainder of this Agreement shall not be affected and shall remain in full force and effect.

**ARTICLE XXI**  
**EMPLOYEE DRUG TESTING POLICY**

All parties recognize that this is a school project, and this provision is of great importance to the Owner. Further, the Owner and the Owner's Representative is committed to providing a

safe workplace for the workers assigned to the Project, promoting high standards of employee health, and fostering productivity that satisfies its quality expectations. Consistent with the intent and spirit of this commitment, The Owner and the Owner's Representative has established a substance abuse testing specification for the Project with the goal of maintaining a work environment that is free from the effects of the use of illegal drugs and alcohol. The Owner and the Owner's Representative will implement the terms of this policy.

This specification is not intended as a substitute for the Contractors' complete written substance abuse policy. Normally, such policies include other important features, including, but not limited to, an employee education and awareness program, a supervisor training program and an employee assistance program.

This policy requires that anyone entering the project site will comply with the substance abuse testing requirements as outlined in this section. The Owner and the Owner's Representative reserves the right to amend this specification upon written notice to the Pittsburgh Regional Building Trades Council.

### **CONTRACTUAL REQUIREMENTS**

All ***Contractors*** must have and enforce a written Substance Abuse Program incorporating the testing requirements, terms, and conditions set forth in this specification. This specification is applicable to all employees, current and prospective, in order to be eligible to perform work at the Project site. The ***Contractors*** must comply with the specification. Suppliers, vendors, and visitors are subject to confirmation of their abstinence from the possession or use of substances indicated in this specification. A copy of ***each Contractor's*** substance abuse program must be

submitted to The Owner and the Owner's Representative for approval prior to commencement of work on the Project site.

The substance abuse program must apply to all of the employees of the contractor and/or subcontractors of any tier working on the Project site. This includes workers, new hires, replacement workers, and supervisory personnel. No employee or prospective employee of a Contractor shall be permitted to work on the Project site unless such employee has submitted to testing as required by this specification and unless the results of such testing are negative as hereinafter defined. The **Contractor** must provide the Owner with a Monthly Summary Report of the Substance Abuse Program compliance.

All Contractors must train their respective employees in methods that will allow them to recognize substance abusers.

The costs of implementing the Substance Abuse Program shall be borne by each respective **Contractor** affected by this specification.

Suppliers, vendors, and visitors must **become signatory** to the terms of this specification and their abstinence from substance abuse, and their continued avoidance of violations of this specification at the Project site. Furthermore, in the event of an incident and/or accident occurrences involving suppliers, vendors, and/or visitors, the same agrees to submit to substance abuse testing, at the Owner's and/or the Owner's Representative's request. Refusal to submit to the substance abuse testing when requested would be grounds for the Owner and/or the Owner's Representative to have the supplier, vendor, or visitor permanently barred from the Project site.

## TESTING REQUIREMENTS

The Owner and the Construction Manager require:

- (a) Pre-engagement drug and alcohol testing.
- (b) Drug testing for reasonable suspicion of illegal drug use.
- (c) Post accident and post incident drug and alcohol testing.
- (d) Drug testing following discovery of illegal or unauthorized drugs or paraphernalia.

## SUBSTANCES

Threshold Limits	5 PANEL TEST PLUS ALCOHOL	
	Initial Limit	GC/MS Confirmation Limit
Alcohol	0.04%	0.04%
Amphetamines	1,000 ng/ml	500 ng/ml
Cocaine Metabolites	300 ng/ml	150 ng/ml
Marijuana Metabolites	50 ng/ml	15 NG/ml
Opiate Metabolites	2,000 NG/ml	2,000 NG/ml
Phencyclidine	25 NG/ml	25 NG/ml

## DEFINITIONS

Positive Tests - Test results that indicate the presence of legal or illegal substances at or above the threshold limit as set forth in this specification.

Negative Tests - Test results indicating that legal or illegal substance are at levels below the threshold limits as set forth in this specification.

Pre-engagement Testing - Testing for all substances other than alcohol as set forth in this specification conducted by *contractor* or its subcontractors at any tier for their employees or prospective employees within one hundred and twenty (120) days prior to their appearance on the Project site.

For Cause Testing - Testing for all substances set forth in this specification conducted by the respective *Contractor* for their employees whose behavior on the Project site causes either the *Contractor* personnel or the respective *Contractor* supervisory personnel to reasonably conclude that such behavior may result from substance abuse.

The Project - The project is defined as the total construction of which the work performed under the Contract Documents may be the whole or a part and which may include construction by the *Construction Manager*.

Post-Accident/Incident Testing - Testing for all substances set forth in this specification conducted by the respective *Contractors* for their employees involved in an injury producing accident or a “near miss” in which injury is avoided or in events resulting in damage to property as determined by the Construction Manager personnel or the respective Contractor supervisory personnel.

### **TESTING REQUIREMENTS**

All Contractors must perform pre-engagement, for cause, and post-accident / incident testing as follows:

- (a) All drug testing must be conducted by a National Institute of Drug Abuse (NIDA) certified laboratory with test results interpreted by a licensed medical review officer (M.O.).

- (b) The initial screen tests for alcohol shall be performed by using either a salvia test or a Breathalyzer test comparable to the type used by state or local law enforcement officials. Furthermore, alcohol confirmatory tests shall be performed by using either a blood alcohol test or a Breathalyzer test comparable to the type used by state of local law enforcement officials.
- (c) Evidence of the negative test results of individual employees required by this specification shall be furnished to the Construction Manager prior to the commencement of work by the individual employee and promptly after performance of any subsequent testing required by this specification. Acceptable negative test result format:
- (d) A certificate signed by the testing laboratory, setting forth the nature and results of tests performed; or
- (e) An identification card signed by the respective Contractor and issued to the individual employee, setting forth the employee's name, and the date, nature and results of testing as reported on a certificate issued by the testing laboratory. The name of the testing laboratory shall also appear on the identification card; provided the affected employee authorizes the issuance of such identification card.

### **COMPLIANCE PROCEDURE**

The Owner and the Owner's Representative reserve the right to audit any substance abuse program required by this specification to verify compliance results within twenty-four (24) hours of notification of intent to audit. The Owner and the Owner's Representative shall have free right to access to all relevant records of their subcontractors and suppliers for this purpose, provided such record disclosures are within the scope of the Commonwealth of Pennsylvania's Department of Health and Human Services guidelines pertaining to confidentiality of employee records.

The Contractor's pre-engagement employees who receive a positive test result shall immediately leave the Project site. Transportation of employees receiving a positive test result is

the direct responsibility of the employing Contractors. Furthermore, pre-engagement employees receiving a positive test result shall not be permitted to return to the Project site earlier than ninety (90) days from the date of the positive test. At that time the employee may begin the process outlined by this specification again.

ACCEPTED BY

**WEST JEFFERSON HILLS  
SCHOOL DISTRICT**

**PITTSBURGH REGIONAL  
BUILDING TRADES COUNCIL**

\_\_\_\_\_  
OWNER

\_\_\_\_\_  
Richard Stanizzo, Business Manager

\_\_\_\_\_  
Owner's Representative

\_\_\_\_\_  
William Brooks, President

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Tom McIntyre, Secretary-Treasurer



## **PROJECT LABOR AGREEMENTS**

A PLA is a contractually binding agreement negotiated between a construction project owner, developer, and the Building and Trades labor unions. It is a form of pre-hire agreement, negotiated before any employees are hired, and becomes part of the bid specification that all winning contractors must follow. Once negotiated, the PLA remains effective for the duration of the project.

While the language of every PLA is different, PLA's typically guarantee uniform wages, work rules, and benefits across the multiple crafts employed on a project. In addition, PLA's provide grievance procedures for settling disputes, include no-strike and no-lockout provisions, and usually require that workers be hired through local union halls.

### **PROS AND CONS OF USING A PROJECT LABOR AGREEMENT ON A PUBLIC PROJECT**

#### **PROS**

1. A PLA provides uniform wages, benefits, overtime pay, hours, working conditions, and work rules.
2. It provides contractors with a reliable and uninterrupted supply of qualified workers at predictable costs.
3. It ensures that a project will be completed on time and on budget due to the supply of qualified labor and relative ease of project management.
4. It ensures no labor strife by prohibiting strikes and lockouts and including binding procedures to resolve labor disputes including jurisdictional disputes.
5. It makes large projects easier to manage by placing unions under one contract, rather than dealing with several unions that may have different wage and benefit structures, start times, etc.
6. It may include provisions to recruit and train workers by requiring contractors to participate in recruitment, apprenticeship, and training programs for under-represented groups (i.e. women, minorities, veterans).

7. It may improve worker safety by requiring contractors and workers to comply with project safety rules.

**CONS**

1. A PLA may increase costs by mandating union wages and work rules thereby inhibiting competition.

2. It may create barriers to small contractors and their workers.

3. It may hinder the use of contractor training programs other than those sponsored by the various building trades



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**MEMORANDUM**

TO: DR. MICHAEL PANZA, SUPERINTENDENT  
FROM: IRA WEISS, ESQUIRE *Ira Weiss*  
DATE: SEPTEMBER 12, 2014  
RE: HIGH SCHOOL PROJECT / PROJECT LABOR AGREEMENT

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The purpose of this memo is to introduce the subject the consideration of a Project Labor Agreement for the anticipated high school project. A Project Labor Agreement is a vehicle through which an owner and the Building Trades Council achieve an agreement on the standards for bidding large public projects. The agreement provides the standardized work practices and other conditions of the job site, jurisdiction of dispute resolution procedures, mandatory drug testing and can lead to a more efficient execution and completion of the project. As a condition for being awarded a contract pursuant to a bid, the successful bidder is obligated to sign the Project Labor Agreement in the format which is included in the bid package.

This is not a "union only" concept. The agreement precludes work stoppages of any sort during the duration of the project and all contractors, both union and non-union, must sign and be bound by the agreement. Non-union contractors may bid on the project and be awarded bids but the benefits and terms of the agreement apply to all successfully bidders who are awarded contracts. There is no discrimination in hiring hall referrals or employment of workers based upon union membership.

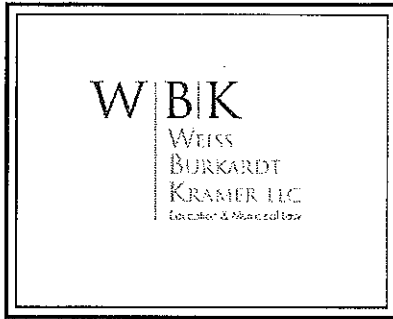
By creating a uniform standard for bidders, it can generally be said that a higher level of bidder or prospective contractor will be attracted to the project and such agreements tend to screen out "outlier contractors."

These agreements have been challenged in the past as violations of the Public Bidding Rules. The lead case is A. Pickett Construction, Inc. v. Luzerne County Convention Center Authority, 738 A.2d 20. That case involved the construction of a hockey arena in Luzerne County. Some of the issues that are considered in assessing the validity of these agreements are the size, complexity of the project, the importance of timely completion and the elimination of work stoppages, which impact the completion schedule. In the Pickett case, the Commonwealth Court upheld the validity of the Project Labor Agreement as a reasonable way of addressing the concerns of the project. There has not been a considerable amount of litigation following the case.

In Sossong v. Shaler Area School District, 945 A.2d 788 (2008), the Commonwealth Court upheld the action of the Shaler Area School District in entering into such an agreement for a construction project in that district. The lower court upheld the validity of the agreement under the Pickett case. While the case was decided on largely procedural grounds, the validity of the agreement was upheld.

I have also reviewed an extensive article in the University of Pennsylvania Journal of Labor and Employment Law titled "Project Labor Agreements and the Competitive Bidding Statute" (2001). As the article notes, the chief objection to these agreements is the perception that they represents efforts to make a project union only. Court have recognized that such is not the case. As the article notes, public authorities favor PLA because they serve to promote efficiency thus lowering costs by eliminating jurisdictional work stoppages. It also guarantees, on a general basis, a higher level of competence in the work force.

This is a decision the Board ultimately must make. It is my understanding that the Baldwin-Whitehall School District had such an agreement during its high school project. There is no reported litigation on that project. I would be glad to respond to any questions you or the Board may have regarding this matter.



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**MEMORANDUM**

TO: DR. MICHAEL PANZA, SUPERINTENDENT  
FROM: IRA WEISS, ESQUIRE *Ira Weiss*  
DATE: MARCH 5, 2015  
RE: PROJECT LABOR AGREEMENT

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Pursuant the Board's request, I am attaching the "Pros and Cons" analysis prepared by Janet Burkardt. I am also attaching the proposed Project Labor Agreement for the high school project. This agreement is quite lengthy and I will provide a summary focusing on the relevant sections for the Board's attention.

**Article I**

The agreement is between the West Jefferson Hills School District (as Owner), Turner Construction Company (as Owner's Representative) and the Pittsburgh Regional building and Construction Trades Council (as Union).

The agreement provides generally that all construction work covered by the agreement shall be contracted exclusively to contractors who agree and sign the PLA and the District has the obligation through the administration and Turner to monitor compliance.

The term "contractor" used in the agreement means contractors and subcontractors.

Section 2 provides that the District, Turner and Union agree that the agreement will be made available to and will apply to any successful bidder on the work either on a union or non-union basis.

The agreement only applies to the high school project.

### **Article III**

This section sets forth the benefits of the agreement. I will not reiterate those. I believe that they are self-explanatory.

### **Article IV**

This section relates to the scope of the agreement.

Section 2 contains the exclusions from the agreement which include non-project personnel, District equipment, off-site work, any professionals doing survey or field testing, warranty inspections, laboratory work, non-construction work done by District employees and utility work performed by electric, gas and telephone utilities.

Section 3 specifically sets forth that the project is available to non-union contractors.

Section 4 provides that this agreement will not interfere with existing collective bargaining agreements.

Section 7 explicitly states that the District and Turner are not liable for any conduct of the contractors with respect to the agreement.

### **Article V**

This section sets forth the Joint Administrative Committee which consists of a representative of the District, a representative of Turner and a Union representative.

### **Article VI**

This section sets forth the issues regarding Union recognition of employment. It also provides an opportunity in Section 9 to have smaller businesses participate in the project and defines the term "core employees" to facilitate that participation.

**Article VII**

This section is the grievance and arbitration procedure which eliminates the possibility of work stoppages. There is a designated Arbitrator in the agreement. Ronald Talarico is an appropriate selection, as he is an experienced Arbitrator.

**Article VIII**

This section addresses jurisdictional disputes and specifically provides that there are no work stoppages.

**Article IX**

This section obligates subcontractors to be signatories to the agreement.

**Article XI**

This section is the management rights provisions.

**Article XII**

This section is the comprehensive discussion of work stoppages and the fact that they are prohibited.

**Article XIII**

This section addresses wages and benefits and sets forth the compensation and benefit levels to be covered by the agreement.

**Article XIV**

This section addresses the situation where trade contracts may expire during the agreement. That process will not affect the project.

**Article XV**

This section deals with hours of work, overtime shifts and holidays. This provides for a uniform schedule which creates efficiencies on the project. There are also designated holidays at Section 5. This guarantees a uniform application by all contractors and subcontractors.

**Article XVI**

This is the drug, alcohol and firearms policy which is beneficial to the District.

I will not reiterate the pros and cons of the agreement as they are being presented to the Board with this agreement. I will be glad to discuss these matters in more detail at the Board's next meeting.