



SAN DIEGO UNIFIED PORT DISTRICT

General Services & Procurement

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DATE: February 20, 2024

TO: All Prospective Proposers

FROM: Michael Bautista
Procurement Analyst II, Procurement Services Department

SUBJECT: Spec. 2023-14 - PAVEMENT MAINTENANCE AT CHULA VISTA
BAYFRONT PARK'S PARKING LOT

Addendum No. 1

The Proposal Due Date has **NOT** been changed and is still scheduled for electronic submission on:

March 6, 2024 at 2:00 p.m.

Make all revisions to the RFB as stated herein. Insofar as original RFB and other documents are at variance with this Addendum, the Addendum shall govern.

RFB CHANGE:

1. Replace Project Labor Agreement found in attachment titled "Specification No. 2023-14" in Section 7.0 Appendices & Exhibits – Appendix C – San Diego Unified Port District Project Labor Agreement and replace with updated Project Labor Agreement (please see attached below).

All other provisions of the RFB will remain unchanged.

**SAN DIEGO UNIFIED PORT DISTRICT
PROJECT LABOR AGREEMENT**

Effective Date: February 9, 2024

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 RECITALS	- 1 -
ARTICLE 2 DEFINITIONS.....	- 2 -
ARTICLE 3 SCOPE OF THE AGREEMENT.....	- 4 -
ARTICLE 4 UNION RECOGNITION AND EMPLOYMENT.....	- 10 -
ARTICLE 5 UNION ACCESS AND STEWARDS	- 14 -
ARTICLE 6 WAGES AND BENEFITS	- 15 -
ARTICLE 7 WORK STOPPAGES AND LOCKOUTS.....	- 17 -
ARTICLE 8 WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES.....	- 22 -
ARTICLE 9 MANAGEMENT RIGHTS	- 23 -
ARTICLE 10 SETTLEMENT OF GRIEVANCES AND DISPUTES.....	- 25 -
ARTICLE 11 COMPLIANCE.....	- 28 -
ARTICLE 12 SAFETY AND PROTECTION OF PERSON AND PROPERTY	- 28 -
ARTICLE 13 TRAVEL, SUBSISTENCE AND PARKING.....	- 29 -
ARTICLE 14 APPRENTICES	- 29 -
ARTICLE 15 LEGAL ACTION	- 30 -
ARTICLE 16 PRE-JOB CONFERENCE.....	- 30 -
ARTICLE 17 LABOR/MANAGEMENT AND COOPERATION	- 31 -
ARTICLE 18 SAVINGS AND SEPARABILITY	- 32 -
ARTICLE 19 WAIVER.....	- 33 -
ARTICLE 20 AMENDMENTS	- 33 -
ARTICLE 21 DURATION OF THE PLA	- 33 -
ARTICLE 22 WORK OPPORTUNITIES PROGRAM.....	- 34 -
ARTICLE 23 HELMETS TO HARDHATS.....	- 36 -

TABLE OF CONTENTS
(Continued)

	<u>Page</u>
ATTACHMENT A – LETTER OF ASSENT	- 41 -
ATTACHMENT B-1 – WORKFORCE DISPATCH REQUEST FORM.....	- 42 -
ATTACHMENT B-2 – CONTRACTOR CORE WORKFORCE FORM.....	- 43 -
ATTACHMENT C – DRUG AND ALCOHOL TESTING POLICY	- 44 -

SAN DIEGO UNIFIED PORT DISTRICT
PROJECT LABOR AGREEMENT

This Project Labor Agreement (hereinafter the “PLA” or “Agreement”) is entered into this 9th day of February 2024 by and between the San Diego Building and Construction Trades Council (hereinafter the “Council”), and the signatory Craft Unions (hereinafter, together with the Council, collectively, the “Union” or “Unions”), and San Diego Unified Port District (“District”).

ARTICLE 1

RECITALS

WHEREAS, the District the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I (Port Act); and

WHEREAS, as more fully described in District Ordinance No. 3076 (February 14, 2023) and the staff report and Board meeting testimony approving that item, the District has a significant proprietary interest in District construction projects costing \$1 million or more; and

WHEREAS, it is essential that the District’s construction projects costing \$1 million or more, proceed in a timely manner and without interruption; and

WHEREAS, given the risk that labor disputes, including but not limited to work stoppages and economic interference, would cause to such construction projects, the District desires to reduce such by entering into this PLA; and

WHEREAS, District desires the completion of the Covered Projects in a professional, safe, efficient, and economical manner, without undue delay or work stoppages; and

WHEREAS, the successful completion of the Covered Projects is of the utmost importance to the District, the people of the State of California, and the local cities and stakeholders; and

WHEREAS, large numbers of workers of various skills will be required in the performance of the construction work on Covered Projects, including workers affiliated with and/or represented by the Unions; and

WHEREAS, it is recognized that on construction projects with multiple contractors and bargaining units on the job site at the same time over an extended period of time, the potential for work disruption is substantial without an overriding commitment to maintain continuity of work; and

WHEREAS, the Parties agree that by establishing and stabilizing wages, hours, and working conditions for the workers employed on Covered Projects, a satisfactory, continuous, and harmonious relationship will exist among labor and management that will lead to the efficient and economical completion of Covered Projects; and

WHEREAS, in recognition of the special needs of the Covered Projects and to maintain a spirit of harmony, cooperative labor-management relations, peace, and stability during the term of this PLA, the Parties agree to establish effective and binding methods for the settlement of all misunderstandings, disputes and grievances without any strikes, slowdowns, work interruptions, or disruption of Covered Projects, and the Contractors agree not to engage in any lockout; and

WHEREAS, District places high priority upon the development of comprehensive programs for the recruitment, training, and employment of local residents, and also recognize the ability of local Apprenticeship Programs to provide meaningful and sustainable careers in the building and construction industry. The Parties will encourage local residents to participate in Covered Projects through programs and procedures jointly developed to prepare and encourage such individuals for entrance into Apprenticeship Programs and formal employment on the Covered Projects through the referral programs sponsored and/or supported by the Parties to this PLA; and

WHEREAS, it is further understood that District shall actively administer and enforce the obligations of this PLA to ensure that the benefits of this PLA flow to all signatory Parties, craft persons working under it, and local residents.

NOW, THEREFORE, IT IS AGREED BETWEEN AND AMONG THE PARTIES AS FOLLOWS:

ARTICLE 2

DEFINITIONS

Capitalized terms utilized in this PLA which are not otherwise defined herein shall have the meanings ascribed to said terms below.

“Agreement” means this Project Labor Agreement (PLA).

“Applicable Prevailing Wage Determination” means the prevailing wage determinations applicable to a Covered Project issued by the Department of Industrial Relations pursuant to the California Labor Code.

“Apprentice” means an apprentice properly registered in an Apprenticeship Program for the time they are employed on a Covered Project.

“Apprenticeship Program” as used in this PLA shall be defined as an apprenticeship program approved by the California Division of Apprenticeship Standards (DAS).

“Contractor” means the Prime Contractor and any subcontractor of any tier awarded Covered Work. The term “Contractor” includes any individual, firm, partnership, corporation, owner operator, consultant or combination thereof, including joint ventures, performing Covered Work.

“Core Employees” are defined in Article 4, Section 4.6 (e).

“Council” means the San Diego County Building & Construction Trades Council.

“Covered Contract” means a prime contract or subcontract awarded for performance of Covered Work.

“Covered Project” means a construction project with a prime contract awarded by District with an anticipated construction contract value of One Million Dollars (\$1 million) or more (based on the District’s pre-bid estimates), however, not including emergency projects or those being funded, in whole or in part, by any government entity which prohibits the use of Project Labor Agreements as determined by the District. “Covered Project” also includes contracts or subcontracts for Surveyors and/or Building/Construction Inspectors and/or Field Soils and Material Testers (Inspectors) that are related to a Covered Project.

“Covered Work” means construction work in furtherance of a Covered Project, other than work excluded pursuant to specific exemptions set forth in this PLA.

“Joint Labor-Management Apprenticeship Program” means a Joint Labor-Management Apprenticeship Program approved by the State of California DAS as provided for in the Schedule A’s.

“Local Workers” means construction craft workers residing within San Diego County.

“Party” means District, Council, and each Union.

“Prime Contractor” means the contractor awarded a Covered Contract in privity directly with District.

“Project Labor Coordinator” means the designee of District either from its own staff and/or an independent entity acting on behalf of District to monitor compliance with this PLA and assist with developing, implementing and administering the requirements, policies and programs referenced herein.

“Schedule A’s” means the local master labor agreements of the Unions.

“Union” or “Unions” means any labor organization signatory to this Agreement acting on their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have, through their officers, executed this Agreement.

“Veteran” means a veteran or the eligible spouse of a veteran of the United States Armed Forces, under Section 2(a) of the Jobs for Veterans Act (38 U.S.C. 4215[a]).

“Workforce Dispatch Request Form” means the project-specific form by which Contractors request workers from the Union hiring halls on Covered Projects, an example of which is attached as Attachment B-1.

ARTICLE 3

SCOPE OF THE AGREEMENT

Section 3.1 Scope.

(a) This Agreement covers, without limitation, all on-site site preparation, surveying, construction, alteration, demolition, installation, improvement, landscaping, painting or repair of buildings, structures and other works, and related activities for the Covered Project that is within the craft jurisdiction of one of the Unions and which is directly part of the Covered Project, including, without limitation to the following examples, geotechnical and exploratory drilling, temporary HVAC, landscaping, temporary fencing, pipelines (including those in linear corridors built to serve the Project), pumps, and pump stations. On-site work includes work done solely for the Covered Project in temporary yards, dedicated sites, or other areas provided that they are adjacent to the Covered Project, and at any on-site or off-site batch plant constructed solely to supply materials to the Covered Project.

(b) This Agreement applies to any start-up, calibration, commissioning,

performance testing, repair, maintenance or operational revisions to systems and/or subsystems for the Project that are required as part of a Covered Contract, including warranty work performed after completion, unless such work is performed by District's employees. Covered Work includes all onsite physical craft work that is part of startup and commissioning, including, but not limited to, system flushes and testing, loop checks, rework and modifications, and functional and operational testing up to and including the final running test. It is understood that the District's personnel and/or its representatives, together with the manufacturer's and/or vendor's representatives, and/or plant operating personnel may supervise and direct the startup, commissioning, rework, and modification activity, and that the onsite physical craft work is typically performed as part of a joint effort with these representatives and personnel. A manufacturer or its representatives may perform industry standard startup and commissioning work to satisfy its guarantee or warranty on a piece of equipment, and such work will be exempt from the Project Labor Agreement to the extent the work is excluded by Section 3.2(b) and/or Section 3.2(d).

(c) This Agreement covers all on-site fabrication work over which Contractors possess the right of control (including work done for a Covered Project in any temporary yard or area established for the Covered Project). This Agreement also covers off-site fabrication to the extent that it is covered by existing Master Agreements in effect at the time of the execution of this PLA. All fabrication work over which a Contractor possesses the right of control, including without limitation, the fabrication of medical gas piping, air-handling systems and ducts, and HVAC sheet metal work, and which is traditionally claimed as on-site fabrication shall be performed on-site. Purchase of manufactured items from a genuine manufacturing facility for the supply of products is not considered fabrication and not subject to this PLA.

(d) On-site construction shall also include the site of any batch plant constructed solely to supply materials to the Project. Construction trucking work for the delivery of ready-mix, asphalt, aggregate, sand, or other fill or material which are directly incorporated into the construction process as well as the off-hauling of debris and excess fill, material and/or mud, shall be covered by the terms and conditions of this Agreement to the fullest extent allowed by law and by the prevailing wage determinations of the California Department of Industrial Relations.

Section 3.2 Exclusions. Items specifically excluded from the scope of this PLA include the following:

(a) Work of non-manual employees, including but not limited to, superintendents, supervisors, staff engineers, quality control and quality assurance personnel, timekeepers, mail carriers, clerks, office workers, messengers, guards, safety personnel, emergency medical and first aid technicians, and other professional, engineering, administrative, supervisory, and management employees; and

(b) All employees of District's Project Labor Coordinator, design teams (including, but not limited to, architects, engineers, and master planners), or any other consultants for District's (including, but not limited to, project managers and construction managers and their employees where not engaged in Covered Work) and their subconsultants, and other employees of professional service organizations, not performing manual labor within the scope of this PLA. Notwithstanding the foregoing, however, this exclusion shall not apply to surveying and inspection services on a Covered Project, within the State of California's general prevailing wage determination for Surveyors and/or Building/Construction Inspectors and/or Field Soils and Material Testers (Inspectors) unless they are District employees, when this work is performed under a Covered Contract or under a professional services agreement.. This inclusion applies to the scope of work defined in the State of California Wage Determination for Surveyors and/or Building/Construction Inspectors and/or Field Soils and Material Testers (Inspectors). This shall also specifically include such work where it is referred to by utilization of such terms as "quality control" or "quality assurance." Every Surveyor and Inspector performing under these classifications on Covered Work pursuant to a professional services agreement directly with a Contractor shall be bound to all applicable requirements of this Agreement regardless of the manner in which the work was awarded. Department of State Architects (DSA), Inspector of Record (IOR) per project will be excluded from the scope of this Agreement provided the DSA-IOR required duties, as outlined in the California Building Standards Administrative Code (Part 1 Title 24 C.C.R.) Article 6, are supervisory and do not conflict with the above-defined scope of work; and

(c) Any work performed by state, county, city, or other governmental bodies, or their contractors (other than work within the scope of this PLA undertaken by contractors to the District); or by private utilities, or their contractors; and

(d) Work performed by employees of a manufacturer or vendor necessary to install, commission and/or maintain such manufacturer's or vendor's warranty or guarantee and provided that the warranty agreement is the manufacturer's or vendor's usual and customary warranty agreement for such equipment and is

consistent with industry practice. Any work to be excluded pursuant to this subsection (e) shall be identified and discussed at the relevant pre-job conference. Upon request from the Council, District shall review with the vendor whether installation or application may be performed pursuant to terms of the PLA without affecting the status of the warranty; and

(e) Specialized or technical work requiring specialized training, unique skills, or a level of specific technical experience which employees represented by the Unions do not possess. At least ten (10) working days' notice shall be given to the Council before any work is performed pursuant to this exemption; and

(f) Laboratory testing work; and

(g) Non-construction support services contracted by District, Project Labor Coordinator, or Contractor in connection with a Covered Project; and

(h) If the District receives fewer than three (3) qualified bidders (two (2) for ready mix concrete) for a Covered Contract, the District reserves the right to reject all bids and readvertise the Contract not as a Covered Contract and not subject to this PLA; and

(i) Non-construction support services contracted by the District in connection with Covered Projects; and

(j) Emergency work by awarded by District pursuant to provisions of the Public Contracting Code Sections 22035 and 22050, Section 58 of the Port Act, and/or Board Resolution 2000-03, as such may be amended; and

(k) All off-site manufacturing, fabrication, maintenance, and handling of materials, equipment, or machinery; and

(l) All operation of equipment and machinery owned or controlled by the District.

Section 3.3 Awarding of Contracts.

(a) Each Union shall provide the Project Labor Coordinator a list of signatory Contractors whose principal place of business is within San Diego County and that routinely perform work within the scope of Covered Work in such area. Initial lists should be provided by Unions no later than five (5) days after execution of this Agreement. The Union may specify the type of work that such Contractor performs and may amend the list as necessary. District and any Prime Contractor that contracts Covered Work to another Contractor shall solicit bids

from at least two (2) Contractors on the applicable Union's list for the Covered Work, provided such Contractors meet any applicable District pre-qualification criteria. District may satisfy its solicitation obligations under this section by establishing and maintaining an electronic bidding system that notifies all contractors that elect to register and be notified of bidding opportunities within areas specified by each registered contractors. The solicitation of bids shall be based upon the same terms, conditions and scope of work requested of all potential bidders. Notwithstanding the preceding sentence, District has the absolute right to bid or award Covered Contracts regardless of delivery method to any Contractor notwithstanding the existence or non-existence of any agreements between such Contractor and any Union, provided only that such Contractor is willing, ready, and able to execute a Letter of Assent as set forth in Attachment A hereto, and comply with this PLA in performance of Covered Work.

(b) It is agreed that all Contractors who have been awarded a contract for Covered Work shall be required to accept and be bound by the terms and conditions of this PLA. Contractors shall evidence their acceptance of this Agreement by executing a Letter of Assent as set forth in Attachment A hereto. No Contractor shall commence Covered Work without first providing a copy of the signed Letter of Assent to the Project Labor Coordinator.

(c) District and all Contractors awarded Covered Work agree that to the extent permitted by law and consistent with the economy and efficiency of construction and operation, they will use best efforts to purchase materials, equipment, and supplies that will not create labor strife. Under all circumstances, however, District and Contractors shall retain the absolute right to select Contractors for the award of contracts and subcontracts on all Covered Projects.

Section 3.4 Schedule A's.

(a) The provisions of this PLA, including the Schedule A's (which are the local Master Labor Agreements of the signatory Unions having jurisdiction over Covered Work, as such may be changed from time to time consistent with Section 21.3, and which are incorporated herein by reference), shall apply to the work covered by this PLA, notwithstanding the provisions of any other local, area and/or national agreement that may conflict with or differ from the terms of this PLA. Where a subject covered by the provisions of this PLA is also covered by a Schedule A, the provisions of this PLA shall prevail. Where a subject is covered by a provision of a Schedule A and not covered by this PLA, the provisions of the Schedule A shall govern. Any dispute as to the applicable source between this

PLA and any Schedule A shall be resolved under the procedures established in Article 10.

(b) It is understood that this PLA, together with the referenced Schedule A's, constitutes a self-contained, stand-alone agreement and, by virtue of having become bound to this PLA, the Contractor will not be obligated to sign any other local, area, or national collective bargaining agreement as a condition of performing work within the scope of this PLA (provided, however, that the Contractor may be required to sign a uniformly applied non-discriminatory Participation or Subscription Agreement at the request of the trustees or administrator of a trust fund established pursuant to Section 302 of the Labor Management Relations Act, and to which such Contractor may be bound to make contributions under this PLA, provided that such Participation or Subscription Agreement does not purport to bind the Contractor beyond the terms and conditions of this PLA and/or expand its obligation to make contributions pursuant thereto). It shall be the responsibility of the Prime Contractor to have each of its Contractors of any tier sign the documents with the appropriate Union prior to the Contractor beginning work on Covered Projects.

Section 3.5 The Parties agree that this PLA will be made available to, and will fully apply to, any successful bidder for Covered Work, without regard to whether that successful bidder performs work at other sites on either a Union or non-Union basis. This PLA shall not apply to any work of any Contractor other than that on Covered Projects specifically covered by this PLA.

Section 3.6 Binding Signatories Only. This PLA and Letter of Assent shall only be binding on Contractors in the performance of Covered Work, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such Contractors.

Section 3.7 Other Work. Nothing contained herein shall be interpreted to prohibit, restrict, or interfere with the performance of any other operation, work, or function not covered by this PLA, which may be performed by District employees or contracted for by District for its own account, on its property, or in and around Covered Project sites.

Section 3.8 Separate Liability. It is understood that the liability of the Contractor(s) and the liability of the separate Unions under this PLA shall be several and not joint. The Unions agree that this PLA does not have the effect of creating any joint employment status between or among District or Project Labor Coordinator and/or any Contractor.

Section 3.9 Completed Covered Projects. As portions of Covered Projects are completed, this PLA shall have no further force or effect on such items or areas except where the Contractor is directed by District or its representatives to engage in repairs, modification and/or check-out functions required by its contract(s) with District.

Section 3.10 Except for all work performed under the NTL Articles of Agreement, the National Stack/Chimney Agreement, and the National Cooling Tower Agreement, all instrument calibrations work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, and the National Agreement of the International Union of Elevator Constructors, with the exception of Article 7 (Work Stoppages and Lockouts), Article 8 (Work Assignments and Jurisdictional Disputes) and Article 10 (Settlement of Grievances and Disputes) of this PLA, which shall apply to such work.

ARTICLE 4

UNION RECOGNITION AND EMPLOYMENT

Section 4.1 Recognition. The Contractors recognize the Unions as the exclusive bargaining representative for the employees engaged in Covered Work. Such recognition does not extend beyond the period when the employee is engaged in Covered Work.

Section 4.2 Contractor Selection of Employees. The Contractors shall have the right to determine the competency of all employees, the number of employees required, the duties of such employees within their craft jurisdiction, and shall have the sole responsibility for selecting employees to be laid off, consistent with this Article. The Contractors shall also have the right to reject any applicant referred by a Union for any reason, subject to any reporting time requirements of the applicable Schedule A; provided, however, that such right is exercised in good faith and not for the purpose of avoiding the Contractors' commitment to employ qualified workers through the procedures endorsed in this PLA.

Section 4.3 Referral Procedures.

(a) For signatory Unions to this Agreement having a job referral system contained in a Schedule A, the Contractor agrees to comply with such system and it shall be used exclusively by such Contractor, except as modified by this PLA. Such job referral system will be operated in a nondiscriminatory manner and in full compliance with federal, state, and local laws and regulations that require equal employment opportunities and non-discrimination.

(b) The local Unions will exert their best efforts to recruit and refer sufficient numbers of skilled craft workers to fulfill the labor requirements of the Contractor, including specific employment obligations to which the Contractor may be legally and/or contractually obligated; and to refer Apprentices as requested to develop a larger, skilled workforce. The Unions will work with the Project Labor Coordinator and others designated by the District to identify and refer competent craft persons as needed for Covered Work, and to identify individuals, particularly local residents, for entrance into Apprenticeship Programs, or participation in other identified programs and procedures to assist individuals in qualifying and becoming eligible for such Apprenticeship Programs, all maintained to increase the available supply of skilled craft personnel for Covered Projects.

(c) The Union shall not knowingly refer an employee currently employed by a Contractor on a Covered Project to any other Contractor.

Section 4.4 Non-Discrimination in Referral, Employment, and Contracting. The Unions and Contractors agree that they will not discriminate against any employee or applicant for employment on the basis of sex, race, ethnicity, color, ancestry, religious creed, national origin, sexual orientation, physical disability, mental disability, medical condition, age, marital status, denial of family care leave, genetic information, gender, gender identity, gender expression, military and veteran status, criminal records, past incarceration, previous status as a foster youth, political affiliation or membership in a labor organization in hiring and dispatching workers for the Covered Projects.. The Parties and Contractors will ensure that the evaluation and treatment of their employees, members, and applicants for employment or membership are free from such discrimination and harassment.

Section 4.5 Employment of Local Workers.

(a) In recognition of District public trust obligations to serve state-wide interests, the Unions and Contractors agree that, to the extent allowed by law, and as long as they possess the requisite skills and qualifications, the Unions shall first refer Local Workers for Covered Projects.

(b) To facilitate the dispatch of Local Workers, as well as all Contractor requests for referral and dispatch of workers from the applicable Union referral system, the Parties will develop and utilize a Workforce Dispatch Request Form for Covered Projects.

(c) It is the Parties' goal that at least 50% of the total craft hours to be performed on a Covered Project shall be performed by Local Workers.

Section 4.6 Core Employees. This Section only applies to Contractors who are not directly signatory to an applicable Schedule A.

(a) Contractors who are not otherwise signatory to a current Schedule A may employ, as needed, first, a referral from the appropriate Union hiring hall, then a Core Employee, then a second employee through the referral system, then a second Core Employee, and so on, until a maximum of three (3) Core Employees are employed per craft on the Project. Thereafter, all additional employees in the affected trade or craft shall be requested and referred from the appropriate Union hiring hall in accordance with this Article.

(b) Section 4.6 only applies to Contractors who are not directly signatory to a current Schedule A for the craft worker in its employ and is not intended to limit the transfer provisions of the Schedule A of any trade. As part of this process, and in order to facilitate the contract administration procedures, as well as appropriate fringe benefit fund coverage, all Contractors shall require their Core Employees and any other persons employed other than through the referral process, to register with the appropriate Union hiring hall, if any, prior to their first day of employment working under the Construction Contract at the Project site. The registration process shall be administered by the Contractors and Union reasonably, but without impacting the Project schedule.

(c) Prior to each Contractor performing any work a Covered Project, each Contractor shall provide a list of Core Employees to the Project Labor Coordinator and the Council. After submitting the Core Employee list prior to commencing work on that Covered Project, Contractors shall not make any changes or substitutions to the Core Employee list for the duration of that Covered Project without prior agreement by the Parties, unless one or more Core Employees retires, changes employer, resigns or is terminated.

(d) Upon request by any Party to this Agreement, the Contractor hiring any Core Employee shall provide satisfactory proof (i.e., payroll records, quarterly tax records, and such other documentation) evidencing the Core Employee's qualification as a Core Employee to the Project Labor Coordinator and the Council.

(e) Core Employees must meet the following eligibility requirements to qualify for employment on Covered Projects:

(1) A Core Employee must be a journeyperson and appear on the Contractor's active payroll for at least sixty (60) of the last one-hundred-twenty (120) working days prior to being designated as a Core Employee. The date a Core Employee is designated is the date the Core Employee list is submitted to the Project Labor Coordinator and Council prior to the Contractor commencing work; and

(2) A Core Employee must possess any license required by state or federal law for the Covered Work to be performed; and

(3) A Core Employee must have the ability to safely perform the basic functions of the applicable trade; and

(4) A Core Employee must be a resident of San Diego County.

(f) In addition to the Core Employee provisions set forth herein, all Contractors may avail themselves of any opportunity provided for in the applicable Schedule A's to call for specific employees by name.

(g) During any layoffs or reductions in workforce, Contractors shall lay off employees in an order and manner consistent with the Core Employee hiring procedures and maintain the required Core Employee-to-Union referral ratios required by this Section for the duration of the Project.

Section 4.7 Time for Referral. If any Union's registration and referral system does not fulfill the requirements for specific classifications of covered employees (including Local Residents) requested by any Contractor within forty-eight (48) hours (excluding Saturdays, Sundays, and holidays), that Contractor may employ Core Employees without reference to the ratio requirements in Section 4.6 or use employment sources other than the Union registration and referral services, and may employ applicants from any other available source. The Contractor shall promptly inform the Union of any applicants hired from other sources, and such applicants shall register with the appropriate hiring hall, if any.

Section 4.8 Lack of Referral Procedure. If a signatory local Union does not have a job referral system as set forth in Section 4.3 above, the Contractors shall give the Union equal opportunity to refer applicants. The Contractors shall notify the Union of employees so hired, as set forth in Section 4.7.

Section 4.9 Union Membership. Employees are not required to become or remain union members, or pay dues or fees to a union, as a condition of performing Covered Work under this Agreement. Employers shall make and transmit all deductions for

union dues, fees, and assessments that have been authorized by employees in writing in accordance with the applicable Schedule A. Nothing in this Section 4.9, however, is intended to supersede independent requirements in applicable local union agreements such as those in Schedule A as to those Employers that are otherwise signatory to those agreements and as to the employees of those Employers who are performing Covered Work.

Section 4.10 Foremen. The selection and number of craft foremen and/or general foremen shall be the responsibility of the Contractor, consistent with the Schedule A's. All foremen shall take orders exclusively from the designated Contractor representatives. Craft foremen shall be designated as working foremen at the request of the Contractors.

ARTICLE 5

UNION ACCESS AND STEWARDS

Section 5.1 Access to Project Sites. Authorized representatives of the Union shall have access to Covered Projects, provided that they do not interfere with the work of employees and further provided that such representatives fully comply with posted visitor, security, and safety rules, including without limitation, those related to Transportation Worker Identification Credential (TWIC) where applicable.

Section 5.2 Stewards.

(a) Each signatory local Union shall have the right to dispatch a working journeyman as a steward for each shift, and shall notify the Contractor in writing of the identity of the designated steward or stewards prior to the assumption of such person's duties as steward. Such designated steward or stewards shall not exercise any supervisory functions. There will be no non-working stewards. Stewards will receive the regular rate of pay for their respective crafts.

(b) In addition to his/her work as an employee, the steward should have the right to receive, but not to solicit, complaints or grievances and to discuss and assist in the adjustment of the same with the employee's appropriate supervisor. Each steward should be concerned only with the employees of the steward's Contractor and not with the employees of any other Contractor. The Contractor will not discriminate against the steward in the proper performance of his/her Union duties.

(c) When a Contractor has multiple, non-contiguous work locations at one site, the Contractor may request and the Union shall appoint such additional working stewards as the Contractor requests to provide independent coverage of one or more such locations. In such cases, a steward may not service more than one work location without the approval of the Contractor.

(d) The stewards shall not have the right to determine when overtime shall be worked or who shall work overtime.

Section 5.3 Steward Layoff/Discharge. The Contractor agrees to notify the appropriate Union twenty-four (24) hours before the layoff of a steward, except in the case of disciplinary discharge for just cause. If the steward is protected against such layoff by the provisions of the applicable Schedule A, such provisions shall be recognized when the steward possesses the necessary qualifications to perform the remaining work. In any case in which the steward is discharged or disciplined for just cause, the appropriate Union will be notified immediately by the Contractor, and such discharge or discipline shall not become final (subject to any later filed grievance) until twenty-four (24) hours after such notice has been given; provided, however, that during the 24-hour period before the discipline or discharge becomes final, the steward will be considered suspended pending investigation without pay.

Section 5.4 Employees on Non-Covered Projects. On work where the personnel of District may be working in close proximity to the construction activities covered by this PLA, the Union agrees that the Union representatives, stewards, and individual workers will not interfere with District personnel, or with personnel employed by any other employer not a Party to this PLA.

ARTICLE 6

WAGES AND BENEFITS

Section 6.1 Wages. At a minimum, all employees covered by this PLA shall be classified in accordance with work performed and paid the hourly wage rates and benefits for those classifications in compliance with the applicable Prevailing Wage Determination established pursuant to the California Labor Code by the California Department of Industrial Relations.

Section 6.2 Benefits.

(a) Payment of Benefits. For all employees performing Covered Work, Contractors shall pay all fringe benefits and other required employer contributions

to the established Union employee benefit funds in the amounts required by the applicable Schedule A. In addition, the Contractors and Unions agree that only such bona fide employee benefits that accrue to the direct benefit of the employees (such as pension and annuity, health and welfare, vacation, apprenticeship, and training funds) shall be included in this requirement and required to be paid by the Contractor on Covered Projects.

(c) Where applicable, the Contractor adopts and agrees to be bound by the written terms of the applicable, legally established, Union trust agreement(s) specifying the detailed basis how payments will be made into, and benefits paid out of, such trust funds for its employees. The Contractor authorizes the sponsoring 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 the Contractor. The Contractor obligations to the applicable Union benefit fund(s) and trust agreement(s) are limited to work performed on Covered Work. The Union benefit funds and trust agreement(s) applicable to each Contractor are determined by the pre-job conference and Union work assignment process described in Articles 8 and 16.

(d) Each Contractor is required to certify to the Project Labor Coordinator that it has paid all benefit contributions due and owing to the appropriate Union trust(s) and benefit funds prior to the receipt of its final payment and/or retention. Further, upon timely notification by a Union to the Project Labor Coordinator, the Project Labor Coordinator shall work with any Contractor who is delinquent in payments to assure that proper benefit contributions are made, to the extent of requesting District or the prime Contractor to withhold payments otherwise due such Contractor, until such contributions have been made or otherwise guaranteed.

Section 6.3 Wage Premiums, with the exception of shift premiums, shall not be applicable to work performed under this PLA, except to the extent provided for in any applicable prevailing wage determination. The types of wage premiums that will not apply to the Project include, but are not limited to, pay based on height of work, hazard pay, scaffold pay, and special skills, except to the extent provided for in any prevailing wage determination. Similarly, there will be no wage premiums based on staggered start times or start times that are earlier or later than set forth in the applicable Schedule A, with the exception of shift premiums.

Section 6.4 Compliance with Prevailing Wage Laws. All complaints regarding possible prevailing wage violations may be referred to the Project Labor Coordinator or Labor Compliance Program, if any, for processing, investigation and resolution,

and if not resolved within thirty (30) calendar days, may be referred by any Party to the State Labor Commissioner. To facilitate compliance with applicable prevailing wage laws, each Contractor agrees to provide copies of certified payroll reports, redacted only to the extent required by law, to the Unions (or to any Labor Management Cooperation Committee in which a Union or its affiliate participates) within ten (10) days of their request. The Council or Union, as appropriate, shall be advised in a timely manner with the facts and resolution, if any, of any complaint.

ARTICLE 7

WORK STOPPAGES AND LOCKOUTS

Section 7.1 No Work Stoppages or Disruptive Activity. The Council and the Unions signatory hereto agree that neither they, nor their respective officers, agents or representatives, shall incite or encourage, condone or participate in any strike, walk-out, slowdown, picketing, observation of picket lines, or other activity of any nature or kind whatsoever, for any cause or dispute whatsoever with respect to or any way related to Covered Work, or which interferes with or otherwise disrupts Covered Work, including, but not limited to, economic strikes, unfair labor practice strikes, safety strikes, sympathy strikes, and jurisdictional dispute strikes, whether or not the underlying dispute is arbitrable. Any such actions by the Council, or any Union, or their members, agents, representatives, or the employees they represent shall constitute a material violation of this PLA. The Council and the Union shall take all steps necessary to obtain compliance with this Article.

Section 7.2 Employee Violations. The Contractor may discharge any employee violating Section 7.1 above, and any such employee will not be eligible for rehire under this PLA.

Section 7.3 Standing to Enforce. Any Contractor affected by an alleged violation of Section 7.1 shall have standing and the right to enforce the obligations established therein.

Section 7.4 Expiration of Schedule A's. If a collective bargaining agreement between a signatory Contractor and one or more of the Union(s) expires before the Contractor completes the performance of a Contract for Covered Work, and the Union or the Contractor gives notice of demand for a new or modified collective bargaining agreement, the Unions agree that they will not strike the Contractor on the Project, and the Union and the Contractor agree that the expired collective bargaining agreement will continue in full force and effect for the Covered Work

until a new or modified collective bargaining agreement is reached between the Union and the Contractor. If the new or modified collective bargaining agreement reached between the Union and the Contractor provides that any terms of the collective bargaining agreement shall be retroactive, the Contractor agrees to comply, consistent with the terms of this PLA and the Prevailing Wage Statute, with any retroactive terms of the new or modified collective bargaining agreement which are applicable to employees of said Contractor that are employed on the Project within seven (7) days at no cost to District. All employees shall continue to work and to perform all their obligations with respect to Covered Work despite the expiration of a Schedule A agreement. Should a Contractor engaged in Covered Work enter into an interim agreement with the Unions for work being performed elsewhere after the expiration, and before the renewal of a local collective bargaining agreement forming the basis for Schedule A, such interim agreement shall be utilized by that Contractor for Covered Work, subject to the provisions of Section 21.3.

Section 7.5 No Lock Outs. Contractors shall not cause, incite, encourage, condone or participate in any lock-out of employees with respect to Covered Work during the term of this PLA. The term "lock-out" refers only to a Contractor's exclusion of employees in order to secure collective bargaining advantage, and does not refer to the discharge, termination, or lay off of employees by the Contractor for any reason in the exercise of rights pursuant to any provision of this PLA, or any other agreement, nor does "lock-out" include District's decision to stop, suspend, or discontinue any Covered Project or any portion thereof for any reason.

Section 7.6 Best Efforts to End Violations.

(a) If a Contractor contends that there is any violation of this Article, it shall, prior to invoking the procedures of Section 7.7, provide written notification to the Council of the involved Union(s) and to the Project Labor Coordinator, setting forth the facts which the Contractor contends violates this Article. The Council and the leadership of the involved Union(s) will immediately instruct, order, and use their best efforts to cause the cessation of any violation of the Article.

(b) If the Union contends that any Contractor has violated this Article, it will notify the Contractor and the Project Labor Coordinator, setting forth the facts which the Union contends violate this Article, prior to invoking the procedures of Section 7.7. The Project Labor Coordinator shall promptly order the involved Contractor(s) to cease any violation of the Article.

Section 7.7 Expedited Enforcement Procedure. Any Party, and affected Contractors, may institute the following procedures, in lieu of or in addition to any other action at law or equity, when a breach of this Article is alleged.

(a) The Party invoking this procedure shall notify Robert M. Hirsch, who has been selected by the negotiating Parties, and whom the Parties agree shall be the permanent arbitrator under this procedure, and if Mr. Hirsch is unavailable, shall notify John Kagel, who has been selected as the alternate arbitrator under this procedure. If the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, then a selection shall be made from the list of arbitrators as set forth in Article 10. Notice to the arbitrator shall be by the most expeditious means available, with notices to the Parties alleged to be in violation, and to the Project Labor Coordinator and the Council. For purposes of this Article, written notice may be given by email, facsimile, hand delivery, or overnight mail and will be deemed effective upon receipt.

(b) Upon receipt of said notice, the arbitrator named above or his/her alternate shall sit and hold a hearing within seventy-two (72) hours if it is contended that the violation still exists, but not sooner than twenty-four (24) hours after notice has been dispatched to the Council of the involved Union(s) and/or Contractor as required by Section 7.6, above.

(c) The arbitrator shall notify the Parties of the place and time chosen for this hearing, which may be a Zoom proceeding or the equivalent. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all Parties. A failure of any Party or Parties to attend said hearings shall not delay the hearing of evidence or the issuance of any award by the arbitrator.

(d) The sole issue at the hearing shall be whether or not a violation of this Article has in fact occurred, and if so, whether the arbitrator shall order the applicable union(s) to return to work. The arbitrator shall have no authority to consider any matter in justification, explanation, or mitigation of such violation or to award damages, (except for damages as set forth in Section 7.8 below) which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing and may be issued without an opinion. If any Party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with, or enforcement of, the award. The arbitrator may order cessation of the violation of this Article and other appropriate relief, and such award shall be served on all Parties by hand, facsimile, email or registered mail upon issuance. The amount of

liquidated damages pursuant to Section 7.8 below shall be determined at a second hearing scheduled by the arbitrator within thirty (30) days of the first hearing to determine if a violation of this Article has occurred.

(e) Such arbitration award(s) shall be final and binding on all Parties and may be enforced by any court of competent jurisdiction upon the filing of this PLA and all other relevant documents referred to herein above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other Party. In any judicial proceeding to obtain a temporary order enforcing the arbitrator's award as issued under Section 7.7(d) of this Article, all Parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any Party's right to participate in a hearing for a final order of enforcement. The court's order or orders enforcing the arbitrator's award shall be sent to all disputing parties.

(f) The fees and expenses of the arbitrator shall be equally divided between the Party or Parties initiating this procedure and the respondent Party or Parties.

Section 7.8 Liquidated Damages.

(a) If the arbitrator determines in accordance with Section 7.7 above that a work stoppage has occurred, the respondent Union(s) shall, within eight (8) hours of receipt of the Award, direct all the employees they represent on the project to immediately return to work. If the craft(s) involved do not return to work by the beginning of the next regularly scheduled shift following such eight (8) hour period after receipt of the arbitrator's Award, and the respondent Union(s) have not complied with their obligations to immediately instruct, order, and use their best efforts to cause a cessation of the violation and return the employees they represent to work, then the non-complying Union(s) found in violation of Section 7.7 shall each pay liquidated damages in accordance with subsection (c) below.

(b) If the arbitrator determines in accordance with Section 7.7 above that a lock out has occurred, the respondent Contractor(s) shall, within eight (8) hours of receipt of the Award, return all affected employees to the work, or otherwise, correct the violations found by the arbitrator. If the respondent Contractor does not take such action by the beginning of the next regular schedule shift following the eight (8) hour period, it shall be found in violation of Section 7.7 shall pay liquidated damages in accordance with subsection (c) below.

(c) The Parties agree that project delays caused by violations of this Article will cause District to sustain damages. They agree that it would be impractical or extremely difficult to fix the amount of such damages. Therefore, the Parties

agree that, in the event of a breach of either of these provisions, the Party in breach shall pay to the impacted parties the sum of \$10,000 per shift from the time the arbitrator determines that a delay has occurred until the arbitrator determines that the project is no longer disrupted. If the breaching party is a Union, the liquidated damages will be paid to the Prime Contractor and other affected Contractors as determined by the Arbitrator. If the breaching party is a Contractor, the liquidated damages will be apportioned among the affected employees and the benefit funds as determined by the Arbitrator. The payment of liquidated damages, when made, shall constitute a damages remedy for the delay specified, but shall not prevent the impacted party or parties from seeking an injunction or equitable relief, including termination of this PLA. Payment of these sums as liquidated damages is not intended as a forfeiture or penalty within the meaning of California Civil Code sections 3275 or 3369, but instead, is intended to constitute liquidated damages to the affected party or parties pursuant to section 1671 of the California Civil Code.

Section 7.9 Payroll and Benefit Delinquencies. Notwithstanding other provisions of this PLA, it shall not be a violation of this PLA for any Union to withhold the services of its members from a Contractor who fails to timely pay its weekly payroll in accordance with the applicable Schedule A, or fails to make timely payments to the applicable Union benefit funds. This Section 7.9 does not inhibit or affect responsibilities of the Council and the Union under Section 7.1 to refrain from picketing or other disruption of Covered Projects.

Prior to withholding its members' services for the Contractor's failure to meet its weekly payroll, the Union shall give at least five (5) calendar days written notice of such failure to pay by certified mail, and by facsimile or email transmission to the involved Contractor, Prime Contractor and Project Labor Coordinator. The Prime Contractor, together with the involved Contractor and affected Union, shall meet within five (5) working days after the written notice of such failure to pay was sent to attempt to resolve the payroll delinquency. If the payroll delinquency remains unresolved, then the affected Union may withhold the services of its members from the involved Contractor. Upon the payment of all monies due and then owing for wages, the Union shall direct its members to immediately return to work and the Contractor shall return all such members back to work.

Prior to withholding its members' services for the Contractor's failure to make timely payments to the applicable Union benefit funds, the Union shall give at least thirty (30) days written notice of such failure to pay by certified mail, and by facsimile or email transmission to the involved Contractor, the Prime Contractor and Project Labor Coordinator. The Prime Contractor, together with the involved

Contractor and affected Union, shall meet within five (5) working days after the written notice of such failure to pay was sent to attempt to resolve the delinquency. If the delinquency remains unresolved, then the affected Union may withhold the services of its members from the involved Contractor. Upon payment by the delinquent Contractor of all monies due and then owing for employee benefit contributions, the Union shall direct its members to immediately return to work and the Contractor shall return all such members back to work.

Nothing in this section should be construed to prevent the Union having jurisdiction over the involved work from submitting a grievance under the procedures of Article 10 for any alleged or actual violations of Article 6 or referring any alleged or actual prevailing wage violation to the Project Labor Coordinator and District labor compliance program for review and enforcement, in accordance with Section 6.4.

District shall have the right to replace any delinquent Contractor in accordance with the terms and conditions of the applicable prime contract with District.

ARTICLE 8

WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

Section 8.1 No Jobsite Disruption. There will be no strikes, work stoppages, picketing, sympathy strikes, slowdowns, or other interference with the work because of jurisdictional disputes between Unions. 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 Settlement of Jurisdictional Disputes in the Construction Industry (the “Plan”) or any successor Plan.

Section 8.2 All jurisdictional disputes on this project 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 by the Building and Construction Trades Department. Decisions rendered shall be final and binding and conclusive on the Contractors and Unions parties to this PLA.

All jurisdictional disputes shall be resolved without the occurrence of any of the activities prohibited in Article 7 (Work Stoppages and Lockouts), 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 8.2.1 If a dispute arising under this Article involves the Southwest Regional Council of Carpenters or any of its subordinate bodies, an arbitrator shall be chosen by the

procedures specified in Article V, Section 5, of the Plan from a list composed of Thomas Pagan, Thomas Angelo, Robert Hirsch, and John Kagel, and the arbitrator's hearing on the dispute shall be held at the offices of the Council within fourteen (14) days of the selection of the arbitrator. All other procedures shall be as specified in the Plan.

Section 8.3 Failure to Comply. If any Union or Contractor fails to immediately and fully comply with the final decision rendered by the Plan, affected Union(s) or Contractor(s) may seek legal redress for such conduct, including, but not limited to, injunctive relief and/or damages.

Section 8.4 Pre-job Conference. It is required that a pre-job conference be held not later than fourteen (14) calendar days prior to the start of work by each Contractor for the Project in accordance with the procedure described in Article 16.

ARTICLE 9

MANAGEMENT RIGHTS

Section 9.1 Contractor and District Rights. The Contractors and District have the sole and exclusive right and authority to oversee and manage construction operations on Covered Projects without any limitations unless expressly limited by a specific provision of this PLA. In addition to the following and other rights of the Contractors enumerated in this PLA, the Contractors expressly reserve their management rights and all the rights conferred upon them by law. The Contractor's rights include, but are not limited to, the right to:

- (a) Plan, direct, and control operations of all work; and
- (b) Hire, promote, transfer, and lay off their own employees, respectively, as deemed appropriate to satisfy work and/or skill requirements; and
- (c) Promulgate and require all employees to observe reasonable job rules and security and safety regulations; and
- (d) Discharge, suspend, or discipline their own employees for just cause; and
- (e) Utilize, in accordance with District approval, any work methods, procedures, or techniques, and select, use, and install any types or kinds of materials, apparatus, or equipment, regardless of source of manufacture or construction; and
- (f) Assign and schedule work at their discretion; and

(g) Assign overtime, determine when it will be worked and the number and identity of employees engaged in such work, subject to such provisions in the applicable Schedule A(s) requiring such assignments be equalized or otherwise made in a nondiscriminatory manner.

Section 9.2 Specific District Rights. In addition to the following and other rights of District and Prime Contractor enumerated in this PLA, District expressly reserves its management rights and all the rights conferred on it by law and contract, including without limitation, any Covered Contract with Prime Contractor. District's rights (and those of the Project Labor Coordinator on its behalf) include, but are not limited to the right to:

(a) Inspect any construction site or facility to ensure that the Contractor follows the applicable safety and other work requirements; and

(b) At its sole option, terminate, delay, and/or suspend any and all portions of Covered Projects at any time; prohibit some or all work on certain days or during certain hours of the day to accommodate the ongoing operations of District and/or to mitigate the effect of ongoing Covered Work on businesses and residents in the neighborhood of the Covered Project sites; and/or require any other operational or schedule changes it deems necessary, in its sole judgment, to meet Project deadlines and remain a good neighbor to those in the area of the Covered Project. (In order to permit the Contractors and Unions to make appropriate scheduling plans, District will use best efforts to provide the Project Labor Coordinator and the affected Contractor[s] and Union[s] with reasonable notice of any changes it requires pursuant to this section); and

(c) Approve any work methods, procedures, and techniques used by Contractors whether or not these methods, procedures, or techniques are part of industry practices or customs; and

(d) Investigate and process complaints or disagreements, through its Project Labor Coordinator.

Section 9.3 Use of Materials. Subject to the terms of this Agreement, there shall be no limitations or restrictions by the Union upon a Contractor's choice of materials or design, nor, regardless of source or location, upon the full use and utilization of equipment, machinery, packaging, precast, prefabricated, prefinished, preassembled or modular materials, products, tools, or other labor-saving devices, subject to the application of the California Public Contract and Labor Codes. Generally, the onsite installation or application of such items shall be performed by the craft having jurisdiction over such work.

Section 9.4 Special Equipment, Warranties, and Guaranties.

- (a) It is recognized that certain equipment of a highly technical and specialized nature may be installed at Covered Project sites. The nature of the equipment, together with the requirements for manufacturer's warranties, may dictate that it be prefabricated, pre-piped, and/or pre-wired and that it be installed under the supervision and direction of the manufacturer's personnel. The Unions agree that such equipment is to be installed without incident.
- (b) The Parties recognize that the Contractor will initiate from time to time the use of new technology, equipment, machinery, tools, and other labor-savings devices and methods of performing Covered Work. The Unions agree that they will not restrict the implementation of such devices or work methods. The Unions will accept and will not refuse to handle, install, or work with any standardized and/or catalogue parts, assemblies, accessories, prefabricated items, preassembled items, partially assembled items, modular products or materials, whatever their source of manufacture or construction.
- (c) If any disagreement between the Contractor and the Unions concerning the methods of implementation or installation of any equipment, device, or item, or method of work arises, or whether a particular part or pre-assembled item is a standardized or catalog part or item, the work will proceed as directed by the Contractor, and the Parties shall immediately consult over the matter. If the disagreement is not resolved, the affected Union(s) shall have the right to proceed through the procedures set forth in Article 10.

ARTICLE 10**SETTLEMENT OF GRIEVANCES AND DISPUTES****Section 10.1** Cooperation and Harmony on Site.

- (a) This PLA is intended to establish and foster continued close cooperation between management and labor. The Council shall assign a representative to this Project for the purpose of assisting the local Unions, and working with the Project Labor Coordinator, together with the Contractors, to complete construction of the Covered Projects economically, efficiently, continuously, and without any interruption, delays, or work stoppages.
- (b) The Project Labor Coordinator, the Contractors, Unions, and employees, collectively and individually, realize the importance to all Parties of maintaining continuous and uninterrupted performance of Covered Work, and agree to resolve

all disputes in accordance with the grievance provisions set forth in this Article or, as appropriate, those of Article 7 or 8.

(c) The Project Labor Coordinator shall observe the processing of grievances under this Article and Articles 7 and 8, including the scheduling and arrangement of facilities for meetings, selection of the arbitrator from the agreed-upon panel to hear the case, and any other administrative matters necessary to facilitate the timely resolution of any dispute; provided, however, it is the responsibility of the principal Parties to any pending grievance to ensure the time limits and deadlines are met.

Section 10.2 Processing Grievances. Any disputes arising out of and during the term of this PLA involving its interpretation and application, and all disputes involving the interpretation or application of the applicable Schedule A's, but not alleged violations of Articles 7 or 8, shall be considered a grievance and subject to resolution under the following procedures.

Step 1. (a) Employee Grievances. When any employee subject to the provisions of this PLA feels aggrieved by an alleged violation of this PLA or the applicable Schedule A, the employee shall, through his local Union business representative or job steward, within ten (10) working days after the occurrence of the violation, give notice to the work site representative of the involved Contractor stating the provision(s) alleged to have been violated, the details of the alleged violation and the remedy sought to resolve the matter. A grievance shall be considered null and void if notice of the grievance is not given within the ten (10) day period. A business representative of the local Union or the job steward and the work site representative of the involved Contractor shall meet and endeavor to adjust the matter within ten (10) working days after timely notice has been given. If they fail to resolve the matter within the prescribed period, the grieving Party may, within ten (10) working days thereafter, pursue Step 2 of this grievance procedure provided the grievance is reduced to writing, setting forth the relevant information, including a short description thereof, the date on which the alleged violation occurred, and the provision(s) of the applicable agreement alleged to have been violated. Grievances and disputes settled at Step 1 shall be non-precedential except as to the Parties directly involved.

(b) Union or Contractor Grievances. Should the Union(s) or any Contractor have a dispute with the other Party(ies) and, if after conferring within ten (10) working days after the disputing Party knew or should have known of the facts or occurrence giving rise to the dispute, a settlement is not reached within five (5) additional working days, the dispute shall be reduced to writing and processed to

Step 2 in the same manner as outlined in Step 1(a) above for the adjustment of an employee complaint.

Step 2. The business manager of the involved local Union or his designee, together with the site representative of the involved Contractor, and the labor relations representative of the Project Labor Coordinator shall meet within seven (7) working days of the referral of the dispute to this second step to arrive at a satisfactory settlement thereof. If the Parties fail to reach an agreement, the dispute may be appealed in writing in accordance with the provisions of Step 3 within seven (7) calendar days after the initial meeting at Step 2.

Step 3. (a) If the grievance shall have been submitted but not resolved under Step 2, either the Union or Contractor Party may request in writing to the Project Labor Coordinator (with copy[ies] to the other Party[ies]) within seven (7) calendar days after the initial Step 2 meeting, that the grievance be submitted to an arbitrator selected from the agreed-upon list below, on a rotational basis in the order listed. Those arbitrators are: (1) Robert M. Hirsch; (2) Kenneth Perea; (3) John Kagel; (4) Michael Prihar; and (5) Michael Rappaport. The decision of the arbitrator shall be final and binding on all Parties, and the costs and expenses of such arbitrations shall be borne equally by the involved Contractor(s) and the involved Union(s).

(b) Failure of the grieving Party to adhere to the time limits established herein shall render the grievance null and void. The time limits established herein may be extended only by written consent of the Parties involved at the particular step where the extension is agreed upon. The arbitrator shall have the authority to make decisions only on issues presented and shall not have the authority to change, amend, add to, or detract from any of the provisions of this PLA or the applicable Schedule A.

Section 10.3 Limit on Use of Procedures. Procedures contained in this Article shall not be applicable to any alleged violation of Article 7 or 8, with a single exception that any employee discharged for violation of Section 7.2 may resort to the procedures of this Article to determine only if he/she was, in fact, engaged in that violation.

Section 10.4 Notice. The Project Labor Coordinator shall be notified by the involved Contractor of all actions at Steps 2 and 3, and further, the Project Labor Coordinator shall, upon its own request, be permitted to participate fully in all proceedings at such steps.

ARTICLE 11

COMPLIANCE

Section 11.1 Compliance with All Laws. The Council and all Unions, Contractors, and their employees shall comply with all applicable federal and state laws, ordinances, and regulations including, but not limited to, those relating to safety and health, employment, and applications for employment. All employees shall comply with the safety regulations established by District, the Project Labor Coordinator, and the Contractor. Employees must promptly report any injuries or accidents to a supervisor.

ARTICLE 12

SAFETY AND PROTECTION OF PERSON AND PROPERTY

Section 12.1 Safety.

(a) It shall be the responsibility of each Contractor to ensure safe working conditions and employee compliance with all applicable safety laws and regulations and any safety rules contained herein or established by District, the Prime Contractor, or the Contractor. It is understood that employees have an individual obligation to use diligent care to perform their work in a safe manner and to protect themselves and the property of the Contractor and District.

(b) All Parties and Contractor employees shall be bound by the safety, security, and visitor rules established by the Prime Contractor, Contractor and the District. These rules will be published and posted. An employee's failure to satisfy his/her obligations under this Section will subject him/her to discipline, up to and including discharge.

Section 12.2 Drug and Alcohol Testing Policy. The Parties agree to adopt the Drug and Alcohol Testing Policy attached hereto as Attachment C, which is the exclusive Drug and Alcohol Testing Policy for the Project.

Section 12.3 Inspection. The inspection of shipments of equipment, machinery, and construction materials of every kind shall be performed at the discretion of the Contractor by individuals of its choice.

ARTICLE 13

TRAVEL, SUBSISTENCE AND PARKING

Section 13.1 Travel expenses, travel time, subsistence allowances and/or zone rates, and parking reimbursements shall not be applicable to work under this PLA, except to the extent provided for in any applicable prevailing wage determination. Parking for employees covered by this PLA shall be provided by the Contractor(s) according to the provision of the applicable Schedule A's.

ARTICLE 14

APPRENTICES

Section 14.1 Importance of Training. The Parties recognize the need to maintain continuing support of the programs designed to develop adequate numbers of competent workers in the construction industry, the obligation to capitalize on the availability of the local workforce in the area served by District, and the opportunities to provide continuing work on Covered Projects for Local Residents. To these ends, and consistent with any laws or regulations, the Parties will facilitate, encourage, and assist Local Residents to commence and progress in Apprenticeship Programs and/or apprenticeship readiness programs in the construction industry leading to participation in such Joint-Labor Management Apprenticeship Programs. The Project Labor Coordinator, the Contractors, District, and the Council and Unions, will work cooperatively to identify, or establish and maintain, effective programs and procedures for persons interested in entering the construction industry and which will help prepare them for entry into Apprenticeship Programs. Apprentices, if utilized, must be enrolled in a California Apprenticeship Council-approved Program.

Section 14.2 Use of Apprentices.

(a) The Unions and Contractors agree to cooperate in referring and employing Apprentices up to the maximum percentage allowed by the State Labor Code and the standards of each Joint Labor-Management Apprenticeship Program. The minimum ratios for Apprentice to journeyman hours worked shall be in compliance, at a minimum, with the applicable provisions of the California Labor Code relating to utilization of Apprentices. District unless otherwise required by law, shall encourage such utilization, and, both as to Apprentices and the overall supply of experienced workers, the Project Labor Coordinator will work with the Council, Apprenticeship Programs, and Contractors to assure appropriate and

maximum utilization of Apprentices and the continuing availability of both Apprentices and journeypersons.

(b) The Parties and Contractors will comply with all applicable laws and regulations in the request for dispatch and employment of Apprentices.

(c) The Parties agree that Apprentices will not be dispatched to Contractors working under this PLA unless there is a journeyperson or other Contractor employee working on the Project where the Apprentice is to be employed who is qualified to assist and oversee the Apprentice's progress through the program in which he/she is participating.

ARTICLE 15

LEGAL ACTION

Section 15.1 Legal Action. District, Council and Unions recognize the substantial legal costs (including all attorney's fees and associated disbursements) that might accrue with regard to any legal challenge over this PLA and related to claims directly challenging the legality of this PLA, or a particular section or language that has been adopted herein. In the event of a legal challenge, the Council, on behalf of itself and affiliated Unions, agrees to seek to intervene in the legal action and actively participate in the litigation or other action to defend the legality of this PLA, or a particular section or language herein. The failure of the Council to seek to intervene in the legal action and actively participate to defend the legality of this PLA will constitute a material breach of this PLA. In the event the Council is denied leave to intervene in the legal action, the Council shall have its counsel coordinate with counsel for District, at the Council's own expense, regarding how the Council can best support District's legal position.

ARTICLE 16

PRE-JOB CONFERENCE

Section 16.1 Each Contractor is required to conduct a pre-job conference with the Unions not later than fourteen (14) calendar days prior to commencing work. The purpose of the conference will be to, among other things, convey craft manpower needs, the schedule of work for the Covered Project, project work rules, and propose preliminary Union work assignments. The Project Labor Coordinator may work with the Prime Contractor and Council to facilitate the scheduling of all pre-job conferences, but ensuring each Contractor conducts a pre-job conference in

accordance with this Agreement is the responsibility of the Prime Contractor. All preliminary Union work assignments shall be disclosed by each Contractor at a pre-job conference. Should there be work within the scope of a Construction Contract for a Covered Project that was not previously assigned at a pre-job conference, or additional work be added to the scope of a Covered Project, the Contractor(s) performing such work will conduct a separate pre-job conference. Any Union in disagreement with a proposed assignment shall notify the affected Contractor of its position in writing, with a copy sent to the Project Labor Coordinator, within seven (7) calendar days after the pre-job conference occurred. Within seven (7) calendar days after the period allowed for Union notices of disagreement with the Employer's proposed assignments, but prior to the commencement of any work, the Employer shall make final assignments in writing with copies sent to the Project Labor Coordinator and Council.

Section 16.2 A Contractor's failure to conduct a pre-job conference in accordance with this PLA is considered a breach of contract, and any affected Union may pursue a grievance under Article 10 of this PLA to seek a remedy for such a violation. Provided, however, if the Contractor has conducted a pre-job conference in accordance with this PLA, that Contractor is not required to participate in any additional pre-job conferences or mark-up meetings related to the original scope(s) of work assigned at the pre-job conference.

Section 16.3 The Project Labor Coordinator may attend and facilitate each pre-job conference. At each pre-job conference, the Project Labor Coordinator shall address the programs, goals and outcomes related to Local Resident employment, as well as the progress of implementing the Work Opportunities Program.

ARTICLE 17

LABOR/MANAGEMENT AND COOPERATION

Section 17.1 Labor/Management Collaboration Meetings. The Parties will conduct periodic labor/management cooperation meetings, which will be chaired jointly by a designee of District and a designee of the Council. The co-chairs shall determine the frequency and scheduling of the meetings with the assistance of the Project Labor Coordinator. The purpose of the meetings shall be to update the Parties about the progress and schedule of Covered Projects, promote harmonious and stable labor management relations, ensure effective and constructive communication between labor and management Parties, advance the proficiency of work in the industry, and to evaluate and ensure an adequate supply of skilled labor for all Covered Projects. The Project Labor Coordinator shall prepare

reports detailing the outcomes of the Local Resident and Apprentice utilization goals on each Covered Project, and the implementation and progress of the Work Opportunities Program. All Parties will be invited to attend the labor/management cooperation meetings. Substantive grievances or disputes shall not be reviewed or discussed by this Committee but shall be processed pursuant to the provisions of the appropriate Article.

ARTICLE 18

SAVINGS AND SEPARABILITY

Section 18.1 Savings Clause. It is not the intention of District the Project Labor Coordinator, Contractor, or the Union Parties to violate any laws governing the subject matter of this PLA. The Parties hereto agree that in the event any provision of this PLA is finally held or determined to be illegal or void as being in contravention of any applicable law or regulation, the remainder of the PLA shall remain in full force and effect unless the part or parts so found to be void are wholly inseparable from the remaining portions of this PLA. Further, the Parties agree that if and when any provision(s) of this PLA is finally held or determined to be illegal or void by a court of competent jurisdiction, the Parties will promptly enter into negotiations concerning the substantive effect of such decision for the purposes of achieving conformity with the requirements of any applicable laws and the intent of the Parties hereto. If the legality of this PLA is challenged and any form of injunctive relief is granted by any court, suspending temporarily or permanently the implementation of this PLA, then the Parties agree that all Covered Projects that would otherwise be covered by this PLA should be continued to be bid and constructed without application of this PLA so that there is no delay or interference with the ongoing planning, bidding, and construction of any Covered Projects.

Section 18.2 Effect of Injunctions or Other Court Orders. The Parties recognize the right of the District to withdraw, at its absolute discretion, the utilization of the PLA as part of any bid specification should a court of competent jurisdiction issue any order, or any applicable statute that could result, temporarily or permanently, in delay of the bidding, awarding, and/or construction on the Project.

ARTICLE 19

WAIVER

Section 19.1 Waiver. A waiver of or a failure to assert any provisions of this PLA by any or all of the Parties hereto shall not constitute a waiver of such provision for the future. Any such waiver shall not constitute a modification of the PLA or a change in the terms and conditions of the PLA and shall not relieve, excuse or release any of the Parties from any of their rights, duties, or obligations hereunder.

ARTICLE 20

AMENDMENTS

Section 20.1 Amendments. The provisions of this PLA can be renegotiated, supplemented, rescinded, or otherwise altered only by mutual agreement in writing, hereafter signed by the Parties.

ARTICLE 21

DURATION OF THE PLA

Section 21.1 Duration. This Agreement shall be effective on the date when it has been executed by both the Council and District. The Agreement shall continue in full force and effect for a term of five (5) years after the initial effective date. Notwithstanding, the terms of the Agreement shall continue to apply to a Covered Project awarded by the District during the term of this Agreement until such Covered Project is completed and accepted by the District as set forth in Section 21.2. Either District or the Council may provide written notice to the other not less than one hundred and eighty (180) days prior to the expiration of the PLA of its desire to extend the PLA or negotiate a new PLA. Any extension or new PLA is subject to approval by the parties in their sole and absolute discretion.

Section 21.2 Turnover and Final Acceptance of Completed Work.

(a) For the purposes of this PLA only, construction of any phase, portion, section, or segment of Covered Projects Work shall be deemed complete when such phase, portion, section or segment has been turned over to District by the Prime Contractor and District has accepted such phase, portion, section, or segment. As areas and systems of the Covered Project are inspected and construction-tested and/or approved and accepted by District or third parties with

approval of District, the PLA shall have no further force or effect on such items or areas, except when the Contractor is directed by District to engage in repairs, modifications or warranty work required by its Contract(s) with District or the Prime Contractor.

(b) Notice of each final acceptance received by the Contractor will be provided to the Council with the description of what portion, segment, etc. has been accepted. Final acceptance may be subject to a “punch” list, and in such case, the PLA will continue to apply to each such item on the list until it is completed to the satisfaction of District and Notice of Acceptance is given by District or its representative to the Contractor.

Section 21.3 Continuation of Schedule A's. Schedule A's incorporated as part of this PLA shall continue in full force and effect with regard to Covered Work, until the Schedule A is modified by parties thereto.

The Parties agree to recognize and implement all applicable changes on their effective dates, except as otherwise provided by this PLA; provided, however, that any such provisions negotiated in said collective bargaining agreements will not apply to work covered by this PLA if such provisions are less favorable to the Contractor under the PLA than those uniformly required of Contractors for construction work normally covered by those agreements in San Diego County; nor shall any provision be recognized or applied if it may be construed to apply exclusively or predominantly to work covered by this PLA. Any disagreement between the Parties over the incorporation into a Schedule A of any such provision agreed upon in a negotiation of the local collective bargaining agreement that is the basis for a Schedule A shall be resolved under the procedures established in Article 10.

Section 21.4 Final Termination. Final termination of all obligations, rights, and liabilities, and disagreements shall occur upon receipt by the Council of a Notice from District saying that no work remains within the scope of the PLA.

ARTICLE 22

WORK OPPORTUNITIES PROGRAM

Section 22.1 The magnitude, duration, and complexity of the Covered Projects will require large numbers of skilled craft personnel and create significant economic opportunities for Local Residents. It is therefore the understanding and intention of the Parties to use the opportunities provided by the extensive amount of work to collaborate and implement programs and procedures, which may include, for

example, North America's Building Trades Unions Multi-Craft Core Curriculum (MC3) apprenticeship readiness programs, to prepare persons, especially Local Residents, for entrance into Apprenticeship Programs to begin or continue their construction careers on Covered Projects and future projects. With assistance from the Project Labor Coordinator, the Contractors, the Unions and their affiliated regional and national organizations will work jointly to promptly develop and implement procedures for the identification of craft needs, the scheduling of work to facilitate the utilization of available craft workers, and the securing of services of craft workers in sufficient numbers to meet the high demands of the Covered Projects to be undertaken.

Section 22.2 The Parties support the development of increased numbers of skilled construction workers who are Local Residents to meet the labor needs of Covered Projects. Towards that end, the Parties, together with District and the Project Labor Coordinator, agree to develop and implement a work opportunities program for Local Residents to maximize construction career opportunities and create a construction career pipeline to becoming employed on Covered Projects. In furtherance of the foregoing, the Council and Unions specifically agree to work with District and the Project Labor Coordinator to:

- (a) Collaborate with existing or newly created MC3 apprenticeship readiness programs in San Diego County to offer opportunities for Local Residents, including students, to enroll in free short-term construction apprenticeship readiness training to prepare them to enter into Apprenticeship Programs and become employed by a Contractor on Covered Projects. The Project Labor Coordinator, with the assistance of the Parties, will assist with the recruitment, career placement, and tracking of such Local Residents who graduate from these apprenticeship readiness programs; and
- (b) The Parties will cooperate and collaborate with District and Project Labor Coordinator to conduct outreach to and include Local Residents from traditionally underrepresented segments of the local population in the construction craft workforce for Covered Projects; and
- (c) The Project Labor Coordinator, with input from the Council, shall produce detailed bi-annual reports to measure and report the outcomes of the policies, requirements, and programs established in this PLA, including the achievement of Local Resident employment participation on Covered Projects; and
- (d) The Unions will partner with District Contractors and Project Labor Coordinator to conduct outreach and recruitment activities by establishing or continuing to maintain existing centers, programs, and events to facilitate the

entry of Local Residents into the building and construction trades. These programs shall serve as a resource for preliminary orientation, assessment of construction aptitude, referral to MC3 apprenticeship readiness programs or Apprenticeship Programs, referral to hiring halls, and provide tailored orientation and mentoring for women; and

(e) The Unions shall assist Local Residents with contacting the Apprenticeship Programs for the crafts and trades they are interested in. The Unions shall assist Local Residents who are seeking employment on the Project and provide opportunities for Union membership by assessing their work experience and giving them credit for provable past experience in their relevant craft or trade, including experience gained working for non-Union Contractors. The Unions shall put on their rolls qualified bona fide Local Residents for employment on the Project.

Section 22.3 Joint Subcommittee on Work Opportunities. To carry out the intent and purpose of this Article, a subcommittee of the Labor Management Committee established pursuant to Article 17 shall be established, jointly chaired by a designee of District and a designee of the Council, to oversee the effective development and implementation of the programs and policies described herein, and to work with representatives of each apprenticeship committee and representatives of the MC3 apprenticeship readiness programs to maximize employment opportunities for Local Residents who reflect the diversity of the communities surrounding Covered Projects and who may not be previously qualified for the construction career opportunities created by Covered Projects. The subcommittee will meet as necessary at the call of the joint chairs to promptly facilitate its purposes in an expeditious manner as soon as this PLA becomes effective. In addition to the joint chairs, the membership of the committee will consist of at least three (3) representatives of the signatory local Unions and three (3) representatives of Contractors (or the organizations to which the Contractors belong) signatory to this PLA and experienced in overseeing and participating in Apprenticeship Programs.

ARTICLE 23

HELMETS TO HARDHATS

Section 23.1 Veterans Entry into Building and Construction Trades. The Parties 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 Contractors and Unions agree to utilize the services of the Center for Military

Recruitment, Assessment and Veterans Employment (hereinafter the “Center”) and the Center’s “Helmets to Hardhats” program to serve as a resource for preliminary orientation, assessment, and 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 23.2 Integrated Database. The Unions and Contractors 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.

In witness whereof, the Parties have caused this Project Labor Agreement for the San Diego Unified Port District to be executed as of the date and year above stated.

Dated: 12/19/2023

SAN DIEGO BUILDING AND CONSTRUCTION
TRADES COUNCIL

By: ^{DocuSigned by:}
Carol Kim
Carol Kim, Business Manager

Dated: 02/09/2024

SAN DIEGO UNIFIED PORT DISTRICT

By: *Rajula Cony, CEO*

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

Simon M. Kann
Simon M. Kann
Assistant General Counsel
San Diego Unified Port District

SIGNATORY UNIONS AND
(See Attached)

SIGNATORY UNIONS

DocuSigned by:
By: Michael Patterson
Allied Workers Local 5

DocuSigned by:
By: Luis Miramontes
Boilermakers Local 92

DocuSigned by:
By: Chris Brisson
Bricklayer & Allied Crafts Local 4

DocuSigned by:
By: Jack Alvarado
Cement Masons Local 500 / Area 744

DocuSigned by:
By: [Signature]
Electrical Workers Local 569

DocuSigned by:
By: Tony Garzaniga
Elevator Constructors Local 18

DocuSigned by:
By: Ernesto Toscano
Painters & Allied Trades District Council 36

DocuSigned by:
By: Beau Coleman
Iron Workers Local 229

DocuSigned by:
By: Val Macedo
Laborers Local 89

DocuSigned by:
By: David Casey
Plasterers Local 200

DocuSigned by:
By: Jose Sanchez
Plaster Tenders Local 1414

DocuSigned by:
By: [Signature]
Operating Engineers Local 12

DocuSigned by:
By: Steve Beringer
Plumbers & Pipefitters Local 230

DocuSigned by:
By: [Signature]
Operating Engineers Local 12

DocuSigned by:
By: Paul Colmenero
Roofers & Waterproofers Local 45

DocuSigned by:
By: [Signature]
Operating Engineers Local 12

DocuSigned by:
By: [Signature]
Laborers Local 1184

DocuSigned by:
By: Dave Gauthier
Sheet Metal Workers' Local 206

DocuSigned by:
By: Ed Iann
Laborers Local 345

DocuSigned by:
By: Jose Estrada
Teamsters Local 166

DocuSigned by:
By: Ricardo Perez
UA Local 345

DocuSigned by:
By: SERGIO RUSCON
Laborers Local 300

DocuSigned by:
By: Todd Barry on behalf of B.M. Robert Cooper, Jr.
Road Sprinkler Fitters Local 669

DocuSigned by:
By: Jon Preciado
Southern California District Council of Laborers

DocuSigned by:
By: [Signature]
Southwest Regional Council of Carpenters

DocuSigned by:
By: Victor Torres
Teamsters Local 481

SIGNATORY UNIONS

By: _____ By: _____
: _____
Allied Workers Local 5 Boilermakers Local 92

By: _____ By: _____
: _____
Bricklayer & Allied Crafts Local 4 Cement Masons Local 500 / Area 744

By: _____ By: _____
: _____
Electrical Workers Local 569 Elevator Constructors Local 18

By: _____ By: _____
: _____
Painters & Allied Trades Local 1399 Iron Workers Local 229

By: _____ By: _____
: _____
Laborers Local 89 Plasterers Local 200

By: _____ By: _____
: _____
Plaster Tenders Local 1414 Operating Engineers Local 12

By: _____ By: _____
: _____
Plumbers & Pipefitters Local 230 Road Sprinkler Fitters Local 669

By: _____ By: _____
: _____
Roofers & Waterproofers Local 45 Sheet Metal Workers' Local 206

By: _____ By: _____
: _____
Laborers Local 1184 Teamsters Local 166

By: _____ By: _____
: _____
Laborers Local 345 Tradeshow & Sign Crafts Local 831

ATTACHMENT A – LETTER OF ASSENT

To be signed by all Contractors awarded work covered by the Project Labor Agreement prior to commencing work.

[CONTRACTOR’S LETTERHEAD]

DATE

Project Labor Coordinator

Address

Address

Address

Attention: _____

Re: San Diego Unified Port District Project Labor Agreement

Dear Sir:

This is to confirm that [Name of Company] agrees to be party to and bound by the San Diego Unified Port District Project Labor Agreement, effective _____, 202_, as such Agreement may from time to time be amended by the negotiating Parties or interpreted pursuant to its terms. Such obligation to be a Party and bound by this Agreement shall extend to all work covered by the Agreement undertaken by this Company on the Project pursuant to [Contract No. _____], and this Company shall require all of its subcontractors of whatever tier to be similarly bound for all work within the scope of the Agreement by signing and furnishing to you an identical Letter of Assent prior to their commencement of work.

Sincerely,

[Name of Construction Company]

By:

[Name and Title of Authorized Executive]

[Copies of this Letter must be submitted to the Project Labor Coordinator and to the Council consistent with Article 3, Section 3.3(b)]

ATTACHMENT B-1 – WORKFORCE DISPATCH REQUEST FORM

ATTACHMENT B-2 – CONTRACTOR CORE WORKFORCE FORM

ATTACHMENT C – DRUG AND ALCOHOL TESTING POLICY

The Parties recognize the problems that drug and alcohol abuse have created in the construction industry and the need to develop drug and alcohol abuse prevention programs. Accordingly, the Parties agree that in order to enhance the safety of the workplace and to maintain a drug and alcohol-free work environment, individual Contractors shall require applicants or employees to undergo drug and alcohol testing in accordance with this PLA and this policy, Attachment C – Drug and Alcohol Testing Policy, hereafter “Policy.”

1. It is understood that the use, possession, transfer, or sale of illegal drugs, narcotics, or other unlawful substances, as well as being under the influence of alcohol and the possession of or consuming alcohol is absolutely prohibited while employees are on the Contractor’s job premises or while working on any jobsite in connection with work performed under the PLA.
2. No Contractor may implement a drug and alcohol testing program that does not conform in all respects to the provisions of this Policy.
3. No Contractor may implement drug and alcohol testing at any jobsite unless written notice is given to the Union setting forth the location of the jobsite, a description of the project under construction, and the name and telephone number of the Prime Contractor's project manager. Said notice shall be provided at the pre-job conferences for each Covered Project. Failure to give such notice shall make any drug and alcohol testing engaged in by the Contractor a violation of the Agreement and subject to the Article 10 grievance procedure.
4. A Contractor who elects to implement drug and alcohol testing pursuant to this Policy shall require all craft employees on the Covered Project to be tested. With respect to individuals who become employed on the Covered Project subsequent to the proper implementation of a valid drug and alcohol testing program, such test shall be administered upon the commencement of employment on the project, whether by referral from a Union Dispatch Office, transfer from another project, or another method. Individuals who were employed on the project prior to proper implementation of a valid drug and alcohol testing program may only be subjected to testing for the reasons set forth in paragraphs 5(g)(1) through 5(g)(3) and paragraphs 6(a) through 6(e) of this Policy. Refusal to undergo such testing shall be considered sufficient grounds to deny employment on the project.
5. The following procedure shall apply to all drug and alcohol testing:
 - a. The Contractor may request urine samples only. The applicant or employee shall not be observed when the urine specimen is given. An applicant or employee, at his or her sole option, shall, upon request, receive a blood test in lieu of a urine test. No employee of the Contractor shall draw blood from a bargaining unit employee, touch or handle

- urine specimens, or in any way become involved in the chain of custody of urine or blood specimens. A Union Business Representative, subject to the approval of the individual applicant or employee, shall be permitted to accompany the applicant or employee to the collection facility to observe the collection, bottling, and sealing of the specimen.
- b. A Contractor may request an applicant or employee promptly, within four (4) hours of the Contractor's request, perform an alcohol breathalyzer test at a certified laboratory only, and cutoff levels shall be those mandated by applicable state or federal law.
 - c. The testing shall be done by a laboratory approved by the Substance Abuse & Mental Health Services Administration (SAMHSA), which is chosen by the Contractor and the Union.
 - d. An initial test shall be performed using the Enzyme Multiplied Immunoassay Technique (EMIT). In the event a question or positive result arises from the initial test, a confirmation test must be utilized before action can be taken against the applicant or employee. The confirmation test will be by Gas Chromatography/Mass Spectrometry (GC/MS). Cutoff levels for both the initial test and confirmation test will be those established by SAMHSA and this Policy. Should these SAMHSA levels be changed during the course of the PLA or new testing procedures are approved, then these new regulations will be deemed as part of this existing PLA. Confirmed positive samples will be retained by the testing laboratory in secured long-term frozen storage for a minimum of one (1) year. Handling and transportation of each sample must be documented through strict chain-of-custody procedures.
 - e. In the event of a confirmed positive test result, the applicant or employee may request, within forty-eight (48) hours, a sample of his/her specimen from the testing laboratory for purposes of a second test to be performed at a second laboratory, designated by the Union and approved by SAMHSA. The retest must be performed within ten (10) days of the request. Chain of custody for this sample shall be maintained by the Contractor between the original testing laboratory and the Union's designated laboratory. Retesting shall be performed at the applicant's or employee's expense. In the event of conflicting test results, the Contractor may require a third test, at the Contractor's expense.
 - f. If, as a result of the above testing procedure, it is determined that an applicant or employee has tested positive, this shall be considered sufficient grounds to deny the applicant or employee his/her employment on the project.
 - g. No individual who tests negative for drugs and alcohol pursuant to the above procedure and becomes employed on the project shall again be subjected to drug and alcohol testing with the following exceptions:
 - 1) Employees who are involved in industrial accidents resulting in damage to plant, property, or equipment or injury to him/her or others may be tested for drugs or alcohol pursuant to the procedures stated hereinabove.
 - 2) The Contractor may test employees following thirty (30) days' advance written notice to the employee(s) to be tested and to the applicable Union. Notice to the applicable Union shall be sent by certified mail to the affected Union with a copy

to the Project Labor Coordinator. Such testing shall be pursuant to the procedures stated hereinabove.

- 3) The Contractor may test an employee where the Contractor has reasonable cause to believe that the employee is impaired from performing his/her job. Reasonable cause shall be defined as being aberrant or unusual behavior, the type of which is a recognized and accepted symptom of impairment (e.g., slurred speech, unusual lack of muscular coordination). Such behavior must be actually observed by at least two (2) persons, one (1) of whom shall be a supervisor who has been trained to recognize the symptoms of drug and alcohol abuse or impairment and the other of whom shall be the Job Steward. If the Job Steward is unavailable or there is no Job Steward on the Covered Project, the other person shall be a member of the applicable Union's bargaining unit. Testing shall be pursuant to the procedures stated hereinabove. Employees who are tested pursuant to the exceptions set forth in this paragraph and who test positive will be removed from the Contractor's payroll.
- h. Applicants or employees who do not test positive shall be paid for all time lost while undergoing drug and alcohol testing. Payment shall be at the applicable wage and benefit rates set forth in the applicable Union's Master Labor Agreement. Applicants who have been dispatched from the Union and who are not put to work pending the results of a test will be paid waiting time until such time as they are put to work. It is understood that an applicant must pass the test as a condition of employment. Applicants who are put to work pending the results of a test will be considered probationary employees.
6. The Contractors will be allowed to conduct periodic jobsite drug and alcohol testing on the Project under the following conditions:
 - a. The entire jobsite must be tested, including any employee or subcontractor's employee who worked on that project three (3) working days before or after the date of the test;
 - b. Jobsite testing cannot commence sooner than fifteen (15) days after start of the work on the project;
 - c. Prior to start of periodic testing, a Business Representative will be allowed to conduct an educational period on company time to explain periodic jobsite testing program to affected employees;
 - d. Testing shall be conducted by an SAMHSA-certified laboratory, pursuant to the provisions set forth in paragraph 5 hereinabove.
 - e. Only two (2) periodic tests may be performed in a twelve (12)-month period.
7. It is understood that the unsafe use of prescribed medication, or where the use of prescribed medication impairs the employee's ability to perform work, is a basis for the Contractor to remove the employee from the jobsite.
8. Any grievance or dispute that may arise out of the application of this Policy shall be subject to the grievance and arbitration procedures set forth in the PLA.

9. The establishment or operation of this Policy shall not curtail any right of any employee found in any law, rule, or regulation. Should any part of this Policy be found unlawful by a court of competent jurisdiction or a public agency having jurisdiction over the Parties, the remaining portions of the Agreement shall be unaffected, and the Parties shall enter negotiations to replace the affected provision.
10. Present employees, if tested positive, shall have the prerogative for rehabilitation program at the employee's expense. When such program has been successfully completed, the Contractor shall not discriminate in any way against the employee. If work for which the employee is qualified exists, he/she may be reinstated.
11. The Contractor agrees that results of urine and blood tests performed hereunder will be considered medical records held confidential to the extent permitted or required by law. Such records shall not be released to any persons or entities other than designated Contractor representatives and the applicable Union. Such release to the applicable Union shall only be allowed upon the signing of a written release by the employee, and the information contained therein shall not be used to discourage the employment of the individual applicant or employee on any subsequent occasion.
12. Employees who seek voluntary assistance for substance abuse may not be disciplined for seeking such assistance. Requests from employees for such assistance shall remain confidential and shall not be revealed to other employees or management personnel without the employee's consent. Employees enrolled in substance abuse programs will be subject to all Contractor rules, regulations, and job performance standards with the understanding that an employee enrolled in such a program is receiving treatment for an illness.
13. The Contractor shall indemnify and hold the Union harmless against any and all claims, demands, suits, or liabilities that may arise out of the application of this Policy.
14. This Policy shall constitute the only Policy in effect between the Parties concerning drug and alcohol abuse, prevention, and testing. Any modifications thereto must be accomplished pursuant to collective bargaining negotiations between the Parties.

SPECIMEN REPORTING CRITERIA

Initial Test Analyte	Initial Test Cutoff ¹	Confirmatory Test Analyte	Confirmatory Test Cutoff Concentration
Marijuana metabolites (THCA) ²	50 ng/ml ³	THCA	15 ng/ml
Cocaine metabolite (Benzoylecgonine)	150 ng/ml ³	Benzoylecgonine	100 ng/ml
Codeine/ Morphine	2000 ng/ml	Codeine Morphine	2000 ng/ml 2000 ng/ml
Hydrocodone/ Hydromorphone	300 ng/ml	Hydrocodone Hydromorphone	100 ng/ml 100 ng/ml
Alcohol	0.02%	Ethanol	0.02%
Oxycodone/ Oxymorphone	100 ng/ml	Oxycodone Oxymorphone	100 ng/ml 100 ng/ml
6-Acetylmorphine	10 ng/ml	6-Acetylmorphine	10 ng/ml
Phencyclidine	25 ng/ml	Phencyclidine	25 ng/ml
Amphetamine/ Methamphetamine	500 ng/ml	Amphetamine Methamphetamine	250 ng/ml 250 ng/ml
MDMA ⁴ /MDA ⁵	500 ng/ml	MDMA MDA	250 ng/ml 250 ng/ml
Initial Test Analyte	Initial Test Cutoff	Confirmatory Test Analyte	Confirmatory Test Cutoff Concentration
Barbiturates	300 ng/ml	Barbiturates	200 ng/ml
Benzodiazepines	300 ng/ml	Benzodiazepines	300 ng/ml
Methadone ⁶	300 ng/ml	Methadone	100 ng/ml
Methaqualone	300 ng/ml	Methaqualone	300 ng/ml
Propoxyphene	300 ng/ml	Propoxyphene	100 ng/ml

¹ For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):

Immunoassay: The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

Alternate technology: Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.

² An immunoassay must be calibrated with the target analyte, 9-tetrahydrocannabinol-9-carboxylic acid (THCA).

³ **Alternate technology (THCA and benzoylecgonine):** The confirmatory test cutoff must be used for an alternate technology initial test that is specific for the target analyte (i.e., 15 ng/ml for THCA, 100 ng/ml for benzoylecgonine).

⁴ Methylendioxyamphetamine (MDMA)

⁵ Methylendioxyamphetamine (MDA)

⁶ Employees with a prescription for methadone who are using the medication as prescribed, and are not impaired and can safely perform their work, will not be considered to have violated this Policy.

**MEMORANDUM OF UNDERSTANDING REGARDING
“QUICK” DRUG SCREENING TESTS PURSUANT TO
ATTACHMENT C – DRUG AND ALCOHOL TESTING POLICY**

It is hereby agreed between the Parties hereto that a Contractor who has otherwise properly implemented drug and alcohol testing, as set forth in the Policy, shall have the right to offer an applicant or employee a "quick" drug screening test. This “quick” screen test shall consist either of the “ICUP” urine screen or similar test or an oral screen test. The applicant or employee shall have the absolute right to select either of the two “quick” screen tests, or to reject both and request a full drug test.

An applicant or employee who selects one of the "quick" screen tests, and who passes the test, shall be put to work immediately. An applicant or employee who fails the "quick" screen test, or who rejects the "quick" screen tests, shall be tested pursuant to the procedures set forth in the Policy. The sample used for the "quick" screen test shall be discarded immediately upon conclusion of the test. An applicant or employee shall not be deprived of any rights granted to them by the Policy as a result of any occurrence related to the “quick” screen test.