

San Ysidro School District Governing Board

SPECIAL BOARD MEETING

AGENDA

Tuesday
September 13, 2022
5:00 p.m.
Via Zoom Teleconference

Pursuant to AB361 and Resolution No. 22/23-0017, this Special Meeting of the San Ysidro School District Board shall be held by teleconference. Trustees of San Ysidro School District Board and the public shall participate in this meeting via teleconference. The Public may view this meeting by accessing the following link <https://www.youtube.com/channel/UCGyF01068pwbhe-B5xnyl-A/videos>. Public comment may be submitted by email to publiccomment@syzdschools.org on or before Tuesday, September 13, 2022 at 5:00 p.m. Public wanting to address the Governing Board telephonically may submit the Public Comment Request Form: <https://forms.gle/qGebSHWHB1StdRjx8> on or before Tuesday, September 13, 2022 at 5:00 p.m. Any meeting participant who engages in disorderly conduct which disturbs the peace and good order of the meeting, or refuses to comply with the lawful orders of the Board may be ordered removed from the meeting, and may be guilty of a misdemeanor (Cal. Penal Code Sec. 403). To listen to this meeting in Spanish, please call 1 (470) 310-0974 and enter the access code 925 283 914#.

GENERAL ADMINISTRATION

SAN YSIDRO SCHOOL DISTRICT GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: September 13, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

Informational
 Action

AGENDA ITEM: PROJECT LABOR AGREEMENT WITH THE SAN DIEGO COUNTY BUILDING AND CONSTRUCTION TRADE COUNCIL FOR MEASURE T AND U

BACKGROUND INFORMATION:

A Project Labor Agreement (PLA), also known as a Community Workforce Agreement, is a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project. Before any workers are hired on the project, construction unions have bargaining rights to determine the wage rates and benefits of all employees working on the particular project and to agree to the provisions of the agreement. The terms of the agreement apply to all contractors and subcontractors who successfully bid on the project, and supersedes any existing collective bargaining agreements. PLAs are used on both public and private projects, and their specific provisions may be tailored by the signatory parties to meet the needs of a particular project. The agreement may include provisions to prevent any strikes, lockouts, or other work stoppages for the length of the project. PLAs typically require that employees hired for the project are referred through union hiring halls, that nonunion workers pay union dues for the length of the project, and that the contractor follow union rules on pensions, work conditions and dispute resolution.

PLAs are authorized under Public Contract Code section 2500 et seq. and the National Labor Relations Act (NLRA), 29 U.S.C. §§ 151-169. Sections 8(e) and (f) of the NLRA, 29 U.S.C. §§ 158(e) and (f) make special exceptions from other requirements of the NLRA in order to permit employers to enter into pre-hire agreements with labor unions in the construction industry.

The District, its legal counsel, and the local San Diego County Building & Construction Trades Council mutually negotiated and agreed upon a Project Labor Agreement for interested contractors to submit bids. Term is 3 years with 2 years automatic renewal (Best, Best & Krieger, legal counsel for the District assisted with this process.)

RECOMMENDATION:

Approve the Project Labor Agreement with the San Diego County Building and Construction Trade Council for certain Measures T and U General Obligation Bond construction projects.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Renewal New Amendment Ratify Other

Financial Implications?

Are funds for this item available in the 2022-2023 Budget?

Requisition #

Yes No

Yes No

N/A

(Amount)

General Obligation Bonds – Measures T & U

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

**SAN YSIDRO SCHOOL DISTRICT PROJECT LABOR AGREEMENT
FOR CONSTRUCTION AND MAJOR REHABILITATION
FUNDED BY MEASURE T AND U**

This Project Labor Agreement (hereinafter, "PLA") is entered into this 14th day of September 2022, by and between the San Ysidro School District, its successors or assigns, (hereinafter "District") and the San Diego Building and Construction Trades Council (hereinafter "Council"), and the signatory Craft Unions affiliated to the Council and their successors or assigns, (hereinafter, together with the Council, collectively, the "Union" or "Unions"). The District, Council and Unions are herein collectively referred to as the "Parties" and individually as a "Party."

**ARTICLE 1
RECITALS**

WHEREAS, the District undertakes and anticipates undertaking expenditures of Measure T and U Bond Funds for the demolition, construction, alteration, repair and maintenance of District properties; and

WHEREAS, all projects related to the Measure T and U Bond Funds shall be designed and completed with the philosophy of "instruction leads construction" to all ensure facility improvements support learning; and

WHEREAS, the District desires of assuring the completion of the construction projects and the related facilities in a professional, confident, and economical manner, without undue delay or work stoppage; and

WHEREAS, the successful completion of the District's Measure T and U Projects is of the utmost importance to the general public and the District; and

WHEREAS, the Parties have pledged their full good faith and trust to work towards a mutually satisfactory completion of the Measure T and U Projects and other identified Projects; and

WHEREAS, large numbers of workers of various skills will be required in the performance of the construction work on the Measure T and U Projects and other identified 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 Measure T and U Projects and other identified Projects, a satisfactory, continuous and harmonious relationship will exist among labor and management that will lead to the efficient and economical completion of said Projects; and

WHEREAS, the District places high priority upon the development of comprehensive programs for the recruitment, training and employment of local area residents and military

veterans, and also recognizes the ability of local apprenticeship programs to provide meaningful and sustainable careers in the building and construction industry; and

WHEREAS, the Parties believe that this PLA provides the District with the opportunity to establish a partnership with the local construction community respecting the District's Measure T and U Projects, the benefits of which are expected to be: project cost containment, the efficient and economical completion of projects to secure optimum productivity, a boost to the economy by generating local construction jobs and related jobs, partnering with responsible companies and contractors, ensuring a steady supply of skilled construction workers in order to increase the quality of completed work and the safety of construction operations, and providing for the peaceful settlement of labor disputes and grievances without work interruptions such as strikes, slowdowns or lockouts, thereby promoting the public interest in assuring the timely and economical completion of projects contracted under the PLA; and

WHEREAS, the Parties believe it is desirable that this PLA apply to contracts for capital improvement work respecting Measure T and U Projects awarded after the Effective Date, as set forth in Section 2.2, and are paid for, in whole or in part, with Measure T and U Funds (hereinafter, "Covered Contracts"); and

WHEREAS, it is understood by the Parties to this PLA that if this PLA is acceptable to the District, it will become the policy of the District for the Project Work to be contracted exclusively to Contractors who agree to execute and be bound by the terms of this PLA, directly or through the Letter of Assent ("Attachment A"), and to require each of its Subcontractors, of whatever tier, to become bound. The District shall include, directly or by incorporation by reference, the requirements of this PLA in the advertisement of and/or specifications for each and every contract for Project Work to be awarded by the District; and

WHEREAS, it is further understood that the District shall actively administer and enforce the obligations of this PLA to ensure that the benefits envisioned from it flow to all signatory Parties, the Contractors and craft persons working under it, and the ratepayers, residents and students of the District. The District shall, therefore, designate a "Project Labor Coordinator," either from its own staff or an independent contractor acting on behalf of the District, to monitor and enforce compliance with this PLA; assist, as the authorized representative of the District, in the development and implementation of the programs referenced herein, all of which are critical to fulfilling the intent and purposes of the Parties and this PLA; and to otherwise implement and administer the PLA.

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

The above Recitals are a part of the terms of the PLA and are incorporated herein by reference.

ARTICLE 2 DEFINITIONS

Capitalized terms utilized in this PLA which are not otherwise defined herein shall have the meanings ascribed to said terms below. To the extent of any conflict between the definition of a term in this Article and the meaning ascribed to said term in the Recital paragraphs hereof, the definition of said term in this Article shall prevail.

Section 2.1 The term "Contractor" as used in this PLA includes any Contractor to whom the District awards a construction contract for Project Work, and also to Subcontractors of whatever tier utilized by such Contractors for Project Work. The term "Contractor" includes any individual, firm, partnership, or corporation, or combination thereof, including joint ventures, which as an independent Contractor has entered into a contract with the District with respect to the Project Work, or with another Contractor as a Subcontractor for Project Work.

Section 2.2 "Covered Contract" means a contract (and related subcontracts) for capital improvement work on a Covered Project.

Section 2.3 "Covered Project or Project Work" means a Project as defined in Section 4.2.

Section 2.4 "Union" or "Unions" means any labor organization affiliated to the Council and signatory to this PLA acting in 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.

Section 2.5 The term "Small Business Enterprise" as used in this PLA shall be defined in the same manner as a small business enterprise under California state guidelines and has its primary place of business in San Diego County.

Section 2.6 The term "Apprenticeship Program" as used in this PLA shall be defined as Joint Labor-Management Apprenticeship Program certified by the State of California as provided in the Schedule A's.

ARTICLE 3 INTENT AND PURPOSE

Section 3.1 Background. The District's construction and major rehabilitation projects funded by Measure T and U will affect school buildings and offices that are owned, leased or controlled by the District. The goal is to provide construction and major rehabilitation of the District's facilities so as to provide sufficient facilities and technologies to properly educate the students. The District, therefore, wishing to utilize the most modern, efficient and effective procedures for construction, including assurances of a sufficient supply of skilled craft persons, and the elimination of disruptions or interference with Project Work, adopts this PLA in the best interests of the students, parents, District staff, and the taxpayers of the District to meet the District's goal that the Project Work be completed on time and within budget.

Section 3.2 Identification and Retention of Skilled Labor and Employment of District Residents. The vast amount of school construction, substantial rehabilitation, and capital improvement work scheduled to be performed pursuant to Measure T and U will require large numbers of craft personnel and other supporting workers. It is therefore the explicit understanding and intention of the Parties to this PLA to use the opportunities provided by the extensive amount of work to be covered by this PLA to identify and promote, through cooperative efforts, programs and procedures (which may include, for example, programs to prepare persons for entrance into formal apprenticeship programs, or outreach programs to the community describing opportunities available as a result of the PLA), the interest and involvement of District residents in the

construction industry, such as assisting residents in entering the construction trades, and through utilization of the apprenticeship programs, providing training opportunities for those residents and other individuals wishing to pursue a career in construction. Further, with assistance of the Project Labor Coordinator, the District, 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 Project Work to be undertaken.

Section 3.3 Encouragement of Small Business Enterprise. The Project Work will provide many opportunities for Small Business Enterprises to participate as Contractors or suppliers, and the Parties therefore agree that they will cooperate with all efforts of the District, the Project Labor Coordinator, and other organizations retained by the District for this purpose, to encourage and assist the participation of Small Business Enterprises in Project Work. Specifically, all Parties understand that the District has established and quantified goals which place a strong emphasis on the utilization of local small businesses on the Project. Each Party agrees that it shall employ demonstrable efforts to encourage utilization in an effort to achieve such goals. This may include, for example, participation in outreach programs, education and assistance to businesses not familiar with working on projects of this scope, and the encouragement of local residents to participate in Project Work through programs and procedures jointly developed to prepare and encourage such local residents for apprenticeship programs and formal employment on the Project Work through the referral programs sponsored and/or supported by the Parties to this PLA. Further, the Parties shall ensure that the provisions of this PLA do not inadvertently establish impediments to participation of such Small Business Enterprises and residents of the District.

Section 3.4 Project Cooperation. The Parties recognize that the construction to take place under this PLA involves unique and special circumstances which dictate the need for the Parties to develop specific procedures to promote high quality, rapid and uninterrupted construction methods and practices. The smooth operation and successful and timely completion of the work is vitally important to the District and the students of the District. The Parties therefore agree that maximum cooperation among all Parties involved is required; and that with construction work of this magnitude, with multiple Contractors and crafts performing work on multiple sites over an extended period of time, it is essential that all Parties work in a spirit of harmony and cooperation, and with an overriding commitment to maintain the continuity of Project Work.

Section 3.5 Peaceful Resolution of All Disputes. In recognition of the special needs of the Project Work and to maintain a spirit of harmony, labor-management, 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; and in recognition of such methods and procedures, the Unions agree not to engage in any strike, slowdowns or interruptions or disruption of Project Work, and the Contractors agree not to engage in any lockout.

Section 3.6 Section 3.6 Binding PLA on Parties and Inclusion of District Residents and Businesses. By executing this PLA, the District, Council, Unions and Contractors agree to be bound by each and all of the provisions of this PLA, and pledge that they will work together to adopt, develop and implement processes and procedures which are inclusive of the residents and businesses of the District.

ARTICLE 4
SCOPE OF THE AGREEMENT

Section 4.1 General. This PLA shall apply to: (i) all construction, rehabilitation and capital improvement work as described in Section 4.2 of this Article, performed by those Contractor(s) of whatever tier. Notwithstanding the foregoing: (i) each Covered Contract shall be awarded in accordance with the applicable provisions of California's Public Contract Code and/or Education Code as applicable, (ii) the District has the absolute right to award Covered Contracts to the lowest responsible and responsive bidder or as otherwise allowed pursuant to applicable law, and (iii) the District has the absolute right to combine, consolidate or cancel contract(s) or portions of contract(s) for work on Measure T and U Projects.

Section 4.2 Specific. The Covered Projects are defined and limited to:

(a) All construction, major rehabilitation and renovation work awarded to Contractors which exceed one million dollars (\$1,000,000.00) are covered by the terms and conditions of this PLA; and

(b) All on-site site preparation, surveying, construction, alteration, demolition, installation, improvement, painting or repair of buildings, structures and other works, and related activities that are directly or indirectly part of the projects described in Section 4.2(a) and that are within the craft jurisdiction of one of the Unions, including, without limitation to the following examples, treatment facilities, generators, piping, electrical and control systems, fencing, valves, pipelines (including those in linear corridors built to serve the Project), start-up, landscaping and temporary fencing, temporary HVAC, pumps, pump stations, site preparation, soils and material inspection and testing, geotechnical and exploratory drilling, survey work, and all on-site fabrication work provided such work is within the fabrication provision of a local master or national agreement of one of the Unions ("Covered Work"). On-site fabrication work includes work done for the Project in temporary yards or areas near the Project. Purchase of manufactured items in a genuine manufacturing facility for the supply of products is not considered fabrication. On-site construction shall also include the site of any batch plant constructed solely to supply materials to the Project; and

(c) Covered Work includes all physical work that is part of startup and commissioning, including, but not limited to, system flushes and testing, loop checks, rework and modifications, functional and operational testing up to and including the final running test. It is understood that the District's personnel, 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 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

(d) It is understood by the Parties that the District may at any time, and at its sole discretion, determine to build segments of work not defined in Section 4.2 under this PLA

which were not currently proposed, or to modify or not to build any one or more particular segments proposed to be covered by Section 4.2.

Section 4.3 Exclusions. Items specifically excluded from the Scope of this PLA include the following:

(a) The PLA shall be limited to Covered Work, undertaken pursuant to Covered Contracts which are awarded by the District on or after the Effective Date, and is not intended to, and shall not govern, any construction contracts entered into prior to the Effective Date of this PLA, or after the expiration or termination of the PLA. In addition, in the event the District does not receive bona fide bids on otherwise Covered Work on or before the deadline for receiving such bids from at least three (3) Responsible Contractors (two (2) for ready-mix concrete) or the lowest responsive and responsible bid on a Covered Project is in excess of ten percent (10%) of the engineer's estimate, the District reserves the right to reject all bids and re-advertise the Project with or without the application of this PLA; and

(b) This PLA is not intended to, and shall not affect or govern the award of contracts by the District, which are outside the approved scope of a Covered Project. Determination by the District whether a separately awarded contract is outside the scope of a Covered Contract shall be final and binding on all Parties; and

(c) Work of non-manual employees, including but not limited to: superintendents, supervisors, staff engineers, quality control and quality assurance personnel, time keepers, 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

(d) All employees of the District, Project Labor Coordinator, design teams (including, but not limited to architects, engineers and master planners), or any other consultants for the District (including, but not limited to, project managers and construction managers and their employees where not engaged in Project Work) and their sub-consultants, and other employees of professional service organizations, not performing manual labor within the scope of this PLA; provided, however, that it is understood and agreed that Building/Construction Inspector and Field Soils and Material Testers (Inspectors) are a covered craft under the PLA (This inclusion applies to the scope of work defined in the State of California Wage Determination for said craft). Every Inspector performing under the Wage classification of Building/Construction Inspector and Field Soils Material Testers under a professional services agreement of a construction contract shall be bound to all applicable requirements of the PLA). Nothing in this section will be construed to include Department of State Architects-certified inspectors as included under the scope of this PLA; and

(e) Any work performed on or near or leading to or into a site of work covered by this PLA and undertaken by state, county, city or other governmental bodies, or their contractors; or by public utilities, or their contractors, and/or by the District or its contractors (for work for which is not within the scope of this PLA); and

(f) Off-site maintenance of leased equipment and on-site supervision of such work; and

(g) Work by employees of a manufacturer or vendor that is not deemed to be covered work under the Schedule A's and which is necessary to maintain such manufacturer's or vendor's warranties or guaranty; and

(h) Manufacturer's Warranty work; and

(i) Non-construction support services contracted by the District, Project Labor Coordinator, or Contractor in connection with this Project; and

(j) Laboratory work for testing. Inspections not ordinarily done by the signatory local unions. Surveying, soil testing, and similar work are examples of work ordinarily done by the signatory local unions and included in this PLA.

Section 4.4 Awarding of Contracts.

(a) The District and/or the Contractors, as appropriate, have the absolute right to award through competitive bidding, lease leaseback, design build or other delivery method contracts or subcontracts on any Project subject to the PLA to any Contractor notwithstanding the existence or non-existence of any agreements between such Contractor and any Union Parties, provided only that such Contractor is ready, willing and able to execute and comply with this PLA should such Contractor be awarded work covered by this PLA. Further, if the District enters into a contract subject to Education Code sections 17250.10, et seq. and Education Code sections 17406, et seq., this PLA shall be deemed to satisfy the requirements of Education Code sections 17250.25(c)(2)(B) and 17407.5(b)(2).

(b) It is agreed that all Contractors and Subcontractors of whatever tier, who have been awarded contracts for Covered Work by this PLA, shall be required to accept and be bound by the terms and conditions of this PLA, and shall evidence their acceptance by the execution of the PLA or of the Letter of Assent as set forth in Attachment A hereto, prior to the commencement of work. It is the prime Contractor with whom the District contracts obligation that no Contractor or Subcontractor shall commence Project Work without first providing a copy of the PLA or Letter of Assent as executed by it to the Project Labor Coordinator and to the Council and have a pre-job conference fourteen (14) days before the commencement of Project Work, or within forty-eight (48) hours after the award of Project Work to that Contractor (or Subcontractor), whichever occurs later.

(c) The District agrees that to the extent permitted by law and consistent with the economy and efficiency of construction and operation, it will use its best efforts to purchase materials, equipment and supplies which will not create labor strife. Under all circumstances, however, the District shall retain the absolute right to select the lowest responsive and responsible bidder for the award of contracts on all Covered Projects.

(d) The District shall ensure that all electrical work within the state contractor's license C-10 scope of work is performed by a licensed contractor who, regardless of license classification, will certify that all work within the C-10 classification will be performed by a

California state-certified electrician, and electrical apprentices registered in a joint labor management apprenticeship training program in California.

Section 4.5 Coverage Exceptions.

(a) The Parties agree and understand that this PLA shall not apply to any work that would otherwise be covered Project Work except when a governmental agency or granting authority partially or fully funding such work determines that it will not fund if such Project Work is covered by this PLA or other requirement that Contractors enter an agreement with one or more labor organizations; or a law regulation, proposition or measure prohibits such coverage or the use by the District, or for its benefit, of particular funds if such coverage exists. The District agrees that it will make every effort to establish the enforcement of this PLA with any governmental agency or granting authority

(b) The Parties agree and understand that in the event bids and/or proposals are sought for covered Project Work pursuant to this PLA and less than three bids/proposals are received (two for ready-mix concrete), the District shall have the right to cancel such procurement and re-solicit such work without the applicability of the PLA to such re-procurement.

Section 4.6 Schedule A's.

(a) The provisions of this PLA, including the Schedule A's, (which are the local Master Labor Agreements or similar agreements of the signatory Unions having jurisdiction over the work on the Project, as such may be changed from time-to-time consistent with Section 23.3, 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 which 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 apply. 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 prevail. Any dispute as to the applicable source between this PLA and any Schedule A for determining the wages, hours of working conditions of employees on this Project shall be resolved under the procedures established in Article 12.

(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 an 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 with whom the District contracts to have each of its Subcontractors sign the documents with the appropriate Union prior to the Subcontractor beginning Project Work.

Section 4.7 The Parties agree that this PLA will be made available to, and will fully apply to, any successful bidder for Project 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 Project Work specifically covered by this PLA.

Section 4.8 Binding Signatories Only. This PLA and Letter of Assent shall only be binding on the signatory Parties hereto, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party.

Section 4.9 Other District Work. This PLA shall be limited to the construction work within the Scope of this PLA including, specifically, site preparation and related demolition work, and new construction and major rehabilitation work for new or existing facilities referenced in Section 4.2 above. 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 the District for its own account, on its property or in and around a Project site.

Section 4.10 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 the District or Project Labor Coordinator and/or any Contractor.

Section 4.11 Completed Project Work. As areas of Covered Work are accepted by the District, this PLA shall have no further force or effect on such items or areas except where the Contractor is directed by the District or its representatives to engage in repairs or modification required by its contract(s) with the District.

Section 4.12 Except for all work performed under the NTL Articles of Agreement, the National Stack/Chimney Agreement, 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 12 (Settlement of Grievances and Disputes) and Article 10 (Work Assignments and Jurisdictional Disputes) of this PLA, which shall apply to such work.

ARTICLE 5 UNION RECOGNITION AND EMPLOYMENT

Section 5.1 Recognition. The Contractor recognizes the Unions as the exclusive bargaining representative for the employees engaged in Project Work. Such recognition does not extend beyond the period when the employee is engaged in Project Work.

Section 5.2 Contractor Selection of Employees. The Contractor 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 Section 5.6 and 6.3, below. The Contractor 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 Contractor's commitment to employ qualified workers through the procedures endorsed in this PLA.

Section 5.3 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 which require equal employment opportunities and non-discrimination. All of the foregoing hiring procedures, including related practices affecting apprenticeship, shall be operated so as to consider the goals of the District to encourage employment of District residents and utilization of Small Business Enterprises on the Project Work, and to facilitate the ability of all Contractors to meet their employment needs.

(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 Project Work, and to identify individuals, particularly residents of the District, 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 Project Work and future construction work to be undertaken by the District.

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

Section 5.4 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 race, color, religion, gender, national origin, age, union status, sex, sexual orientation, marital status, political affiliation, or disability. Further, it is recognized that the District has certain policies, programs, and goals for the utilization of Small Business Enterprises. The Parties shall jointly endeavor to assure that these commitments are fully met, and that any provisions of this PLA which may appear to interfere with a Small Business Enterprises successfully bidding for work within the scope of this PLA shall be carefully reviewed, and adjustments made as may be appropriate and agreed upon among the Parties, to ensure full compliance with the spirit and letter of the District's policies and commitment to its goals for the significant utilization of Small Business Enterprises as direct contractors or suppliers on Project Work.

Section 5.5 Employment of District Residents.

(a) In recognition of the District's mission to serve the District and its residents, the Unions and Contractors agree that, to the extent allowed by law, and as long as they possess the requisite skills and qualifications, residents of the District in the following zip codes: 92154

and 92173 shall be first referred for Project Work, including journey person, apprentice, or other positions which may be established under a Schedule A and covered by the applicable prevailing wage for utilization on Project Work. ("Tier One") Also included in Tier One are Veterans with a verified DD 214 Form and graduates of, or those receiving a GED from, San Ysidro High School regardless of residence. In the event a Union exhausts individuals in its job referral system who are within Tier One, the Union shall next dispatch residents of South San Diego County defined as residents who reside South of Interstate 8 in San Diego County prior to the dispatch of any other worker. ("Tier Two") Only in the event the Union exhausts individuals in its job referral system who are within Tier Two, the Union shall next dispatch residents of San Diego County. ("Tier Three") Only in the event the Union has no one in its job referral system who are within the Tier One, Tier Two or Tier Three, may the Union refer for employment a worker who is not within Tier One, Tier Two and Tier Three. It is the Parties' goal that eighty percent (80%) of the workers for Project Work for a particular Contractor (including the Contractor's "core employees") by craft, have been filled with individuals within Tier One, Tier Two and Tier Three of which twenty-five percent (25%) of the workers should be within Tier One and Tier Two of which twenty-five percent (25%) of the workers should be within Tier One. The Parties agree to facilitate and encourage the enrollment of District residents into Apprenticeship Programs so that any District resident enrolled in an Apprenticeship Program after the effective date of this PLA shall be included in the Tier One goal. To facilitate the dispatch of local residents all Contractors will be required to utilize the Craft Employee Request Form for, a sample of which is attached as Attachment B.

(b) The Project Labor Coordinator shall work with the Unions and Contractors in the administration of this local residency goal; and. the Contractors and Unions shall cooperate by maintaining adequate records to demonstrate to the Project Labor Coordinator that the goals described in paragraph 5.5(a) have been pursued. As part of this process, and in order to facilitate the contract administration procedures, as well as appropriate benefit fund coverage, all Contractors shall require their "core work force" and any other persons employed other than through the Union referral process, to register with the appropriate hiring hall, if any.

(c) Hours worked by residents of states other than California shall not be included in the calculation of workers of Project Work for purposes of the percentage requirements set forth above.

Section 5.6 Core Employees. Except for Contractors who are signatory to separate collective bargaining agreement(s) with a signatory Union,

(a) All Contractors, including Subcontractors, may employ, as needed, first a member of his core workforce, then an employee through a referral from the appropriate Union hiring hall, then a second core employee, and a second employee through the referral system, and so on until up to three (3) members of Contractor's core work force are employed on Project Work. Once a maximum of three (3) core employees are employed, all further employees shall be employed pursuant to the dispatch provisions of this Article. In laying off, the number of core employees shall not exceed one-half plus one of the workforce of a Contractor with six (6) or fewer employees, assuming the remaining employees are qualified to undertake the work available.

(b) The core work force is comprised of those employees:

- (1) whose names appeared on the Contractor's active payroll for at least thirty (30) of the last one-hundred eighty (180) working days before award of the Project Work to the Contractor; and
- (2) who possess any license required by state or federal law for the Project Work to be performed; and
- (3) who have the ability to safely perform the basic functions of the applicable trade; and
- (4) who are residents of the County on the effective date of this PLA or have been residents of the County for one hundred eighty (180) days prior to the award of Project Work to the Contractor or are Veterans with a verified DD 214 Form or graduates of, or those that have received a GED from San Ysidro High School.

(c) If there are any questions regarding a core employee's eligibility under this provision, the Project Labor Coordinator, at the Council's request, shall obtain appropriate proof of such from the Contractor. For proof of employment eligibility, quarterly tax records or payroll records normally maintained by the Contractor (or officially recognized substitutes) shall be utilized; and for residency, adequate proof thereof through driver's license, voter registration, postal address, or other official acknowledgements.

(d) All core employees shall register with the appropriate hiring hall, if any.

Section 5.7 Time for Referral. If any Union's registration and referral system does not fulfill the requirements for specific classifications of covered employees (including residency standards) 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 or residency requirements in Section 5.6 or use employment sources other than the Union registration and referral services, and may employ applicants from any other available source. The Contractor should promptly inform the Union of any applicants hired from other sources, and such applicants shall register with the appropriate hiring hall, if any.

Section 5.8 Lack of Referral Procedure. If a signatory local Union does not have a job referral system as set forth in Section 5.3 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 5.7.

Section 5.9 Union Membership. Employees are not required to become or remain union members as a condition of performing Covered Work under this Agreement. Contractors 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 Master Agreement. Nothing in this Section 5.9 is intended to supersede the requirements of applicable Master Agreements as to those Contractors otherwise signatory to such Master Agreements and as to the employees of those Contractors who are performing Covered Work.

Section 5.10 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 foreman at the request of the Contractors.

ARTICLE 6 UNION ACCESS AND STEWARDS

Section 6.1 Access to Project Sites. Authorized representatives of the Union shall have access to Project Work, 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.

Section 6.2 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 their 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 their 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 6.3 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 have been given.

Section 6.4 Employees on Non-Project Work. On work where the personnel of the 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 the District personnel, or with personnel employed by any other employer not a party to this PLA.

ARTICLE 7 WAGES AND BENEFITS

Section 7.1 Wages. All employees covered by this PLA shall be classified in accordance with work performed and paid the hourly wage rates for those classifications in compliance with the applicable prevailing wage rate determination established pursuant to the California Labor Code by the Department of Industrial Relations. If a prevailing rate increases under state law, the Contractor shall pay that rate in accordance with the California Labor Code. If the prevailing wage laws are repealed during the term of this PLA, the Contractor shall pay the wage rates established under the Schedule A's, except as otherwise provided in this PLA. Signatory Contractors to one or more of the Schedule A's are required to pay all of the wages set forth in such agreement.

Section 7.2 Benefits.

(a) Contractors shall pay contributions for all employees to the established employee benefit funds in the amounts designated in the appropriate Schedule A; and make all employee - authorized deductions in the amounts designated in the appropriate Schedule A: provided, however, that the Contractor and Unions agree that only such bona fide employee benefits as 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 the Project; and provided further, however, that such contributions shall not exceed the contribution amounts set forth in the applicable prevailing wage determination.

(b) Unless otherwise required by law, Contractors who have fringe benefits for their core workforce equal to or better than those designated in the Schedule A do not have to pay the fringe benefit contribution designated in the Schedule A on the core workforce and may utilize their own fringe benefits. Contractors who believe their benefit plans are equal to or better than those designated in the Schedule A's must submit their fringe benefit packages including Summary Plan Descriptions to the Project Labor Coordinator for evaluation by the Project Labor Coordinator at least fourteen (14) days prior to bidding. The Project Labor Coordinator will be responsible for determining benefits are equal to or better than those designated in the Schedule A's and the credit the Contractor can take for providing the fringe benefits. The Parties hereby agree that, to qualify as "equal to or better than," all of the following must be true:

- (1) Each component (medical, vision, dental, retirement, life insurance, etc.) of the Contractor's plan(s) must be "equal to or better than" the benefits designated in the Schedule A's;
- (2) If the Schedule A provides for a defined benefit plan, a Contractor's plan must also be a defined benefit plan and be 100% paid for by the Contractor in order a to be eligible for a determination that it is "equal to or better than" the plan in the Schedule A;

- (3) The Contractor's health & welfare premiums (including vision and dental, if applicable) must be 100% paid by the Contractor, including coverage for any eligible dependents;

Any appeal of the Project Labor Coordinator's decision must be made within seven (7) days to the Joint Committee under Article 19. Contractors may only take credit against the prevailing wage for its core work force in accordance with the Prevailing Wage Statute and the difference between the hourly cost, if any, of the fringe benefit provided and the hourly cost of the applicable fringe benefit portion of the wage determination must be paid to the worker as wages. Benefits designated in the Schedule A will be paid on all employees dispatched by the Union.

(c) Where applicable, the Contractor adopts and agrees to be bound by the written terms of the applicable, legally established, trust agreement(s) specifying the detailed basis on which payments are to be made into, and benefits paid out of, such trust funds for its employees. The Contractor authorizes the Parties to such trust funds to appoint trustees and successors' trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor.

(d) Each Contractor and Subcontractor is required to certify to the Project Labor Coordinator that it has paid all benefit contributions due and owing to the appropriate Trust(s) or fringe benefit programs 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 or Subcontractor who is delinquent in payments to assure that proper benefit contributions are made, to the extent of requesting the District or the prime Contractor to withhold payments otherwise due such Contractor, until such contributions have been made or otherwise guaranteed

Section 7.3 Wage Premiums. Wage premiums, including but not limited to pay based on height of work, shift premiums, hazard pay, scaffold pay and special skills shall not be applicable to work under this PLA, except to the extent provided for in any applicable prevailing wage determination.

Section 7.4 Compliance with Prevailing Wage Law. All complaints regarding possible prevailing wage violations may be referred to the Project Labor Coordinator 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, the District and 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.

ARTICLE 8 WORK STOPPAGES AND LOCKOUTS

Section 8.1 No Work Stoppages or Disruptive Activity. The Council and the Unions signatory hereto agree that neither they, and each of them, nor their respective officers, or 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 Project Work, or which interferes with or otherwise disrupts, Project Work, or with respect to or related to the District or Contractors or Subcontractors, including, but not limited to, economic strikes, unfair labor practice strikes, safety strikes, sympathy strikes and jurisdictional strikes whether or not the underlying dispute is arbitrable. Any such actions by the Council, or Unions, 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 8.2 Employee Violations. The Contractor may discharge any employee violating Section 8.1 above and any such employee will not be eligible for rehire under this PLA.

Section 8.3 Standing to Enforce. The District, the Project Labor Coordinator, or any Contractor affected by an alleged violation of Section 8.1 shall have standing and the right to enforce the obligations established therein.

Section 8.4 Expiration of Schedule A's. If a collective bargaining agreement between a Contractor and one or more of the Union(s) expires before the Contractor completes the performance of a Covered Contract for a Covered Project, 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 any Covered 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 under the agreement 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 a Covered Project within seven (7) days at no cost to the District. All employees shall continue to work and to perform all their obligations with respect to Project Work despite the expiration of a Schedule A agreement. Should a Contractor engaged in Project 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 Project Work, subject to the provisions of Section 23.3.

Section 8.5 No Lock-Outs. Contractors shall not cause, incite, encourage, condone or participate in any lock-out of employees with respect to Project 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 layoff 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 the District's decision to stop, suspend or discontinue any Project Work or any portion thereof for any reason.

Section 8.6 Best Efforts To End Violations.

(a) If a Contractor contends that there is any violation of this Article, Section 10.3 or the provisions of Section 23.3, it shall notify, in writing, the Council and the involved Union(s) and the Project Labor Coordinator. 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 relevant Article.

(b) If the Union contends that any Contractor has violated this Article, it will notify that the Contractor and the Project Labor Coordinator, setting forth the facts which the Union contends violate this Article, at least twenty-four (24) hours prior to invoking the procedures of Section 8.7. The Project Labor Coordinator shall promptly order the involved Contractor(s) to cease any violation of the Article.

Section 8.7 Expedited Enforcement Procedure. Any party, including the District, which is an intended beneficiary of this Article, or the Project Labor Coordinator, may institute the following procedures, in lieu of or in addition to any other action at law or equity, when a breach of Section 8.1 or 8.5, above, or Section 10.3, or Section 23.3, is alleged.

(a) The party invoking this procedure shall notify Thomas Pagan, who has been selected by the negotiating Parties, and whom the Parties agree shall be the permanent arbitrator under this procedure. If the permanent arbitrator is unavailable at any time, the party invoking this procedure shall notify one of the alternates selected by the Parties, in that order on an alternating basis. 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 Council if it is a Union alleged to be in violation. For purposes of this Article, written notice may be given by telegram, facsimile, hand delivery or overnight mail and will be deemed effective upon receipt.

(b) Upon receipt of said notice, the arbitrator named above or their alternate shall sit and hold a hearing within twenty-four (24) 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 8.6, above.

(c) The arbitrator shall notify the Parties of the place and time chosen for this hearing. 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 Sections 8.1 or 8.5, above, of Section 10.3, or Section 23.3, has in fact occurred. 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 8.8 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 the Article and other appropriate relief, and such Award shall be served on all Parties by hand or registered mail upon issuance.

(e) Such Award 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 8.7(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 served on all Parties by hand or by delivery to their address as shown on this PLA (for a Union), as shown on their business contract for work under this PLA (for a Contractor) and to the representing Union (for an employee), by certified mail by the Party or Parties first alleging the violation.

(f) Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance hereto are hereby waived by the Parties to whom they accrue.

(g) 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 8.8 Liquidated Damages.

(a) If the arbitrator determines in accordance with Section 8.7 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) shall each pay a sum as liquidated damages to the District, and each will pay an additional sum per shift, as set forth in (c), below, for each shift thereafter on which the craft(s) has not returned to work.

(b) If the arbitrator determines in accordance with Section 8.7 above that a lock-out has occurred, the respondent Contractor(s) shall, within eight (8) hours after receipt of the award, return all the affected employees to work on the Project, or otherwise correct the violations found by the arbitrator. If the respondent Contractor(s) do not take such action by the beginning of the next regular scheduled shift following the eight (8) hour period, each non-complying respondent Contractor shall pay or give as liquidated damages, to the affected Union(s) (to be apportioned among the affected employees and the benefit funds to which contributions are made on their behalf, as designated by the arbitrator) and each shall pay an additional sum per shift, as set forth in (c), below, for each shift thereafter in which compliance by the respondent Contractor(s) has not been completed.

(c) The Parties agree that project delays caused by violations of this Article will cause the 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 District the sum of not less than \$10,000.00 and no more than \$20,000.00 per shift from the time the arbitrator determines that a delay has occurred until the arbitrator determines that the project is again on construction schedule. The payment, when made, shall constitute a damages remedy of the District for the delay specified,

but shall not prevent the District from seeking an injunctive or other monetary 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 District pursuant to section 1671 of the California Civil Code.

ARTICLE 9 RIGHTS UPON BREACH

Section 9.1 Breach of PLA. In the event the District, Union(s) or Council is found to have committed a breach of this PLA, including without limitation, Articles 6, 8 and 10, the District, Union(s) or Council shall have the right, in addition to any other rights the parties may have under this PLA in law or equity, immediately and unilaterally, to terminate this PLA effective upon delivery of written notification to the other party. In such event, the PLA shall terminate as to any or all Covered Projects, in the terminating party's sole and absolute discretion, notwithstanding that a Covered Project or Projects may then already be in progress.

ARTICLE 10 WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

Section 10.1 No Job site Disruption. There will be no strikes, work stoppages, picketing, sympathy strikes, slowdowns or other interferences 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 10.2 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 8 (Work Stoppages and Lock-outs), 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 10.2.1 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 John Kagel, Thomas Angelo, Robert Hirsch, and Thomas Pagan, 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 10.3 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 10.4 Pre-job Conference. In order to avoid jurisdictional disputes, it is required that a pre-job conference be held fourteen (14) days prior to the start of work by the Prime

Contractor for the Covered Project covered by this PLA. The Contractors including Subcontractors and owner operators will be advised in advance of the pre-job conference. The purpose of the conference will be to, among other things, determine craft and manpower needs, schedule of work and assignment of work for the Contract and Project Work rules/owner rules.

ARTICLE 11 MANAGEMENT RIGHTS

Section 11.1 Contractor and District Rights. The Contractors and the District have the sole and exclusive right and authority to oversee and manage construction operations on Project Work 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 layoff 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; assign and schedule work at their discretion; and
- (f) 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 11.2 Specific District Rights. In addition to the following and other rights of the District enumerated in this PLA, the District expressly reserves its management rights and all the rights conferred on it by law and contract. The 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) Require Contractors to establish a different work week or shift schedule for particular employees as required to meet the operational needs of the Project Work at a particular location or in order to accommodate the instructional programs at various Project sites where school may be in session during periods of construction activity; and
- (c) At its sole option, terminate, delay and/or suspend any and all portions of the Covered Work at any time; prohibit some or all work on certain days or during certain hours

of the day to accommodate the ongoing operations of the District's educational facilities and/or to mitigate the effect of ongoing Project Work on businesses and residents in the neighborhood of the Project site; and/or require such other operational or schedule changes it deems necessary, in its sole judgment, to effectively maintain its primary mission and remain a good neighbor to those in the area of its facilities. (In order to permit the Contractors and Unions to make appropriate scheduling plans, the District will 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

(d) 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

(e) Investigate and process complaints, through its Project Labor Coordinator, in the matter set forth in Articles 10 and 12.

Section 11.3 Use of Materials. There should be no limitations or restrictions by 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, or preassembled materials, 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 11.4 Special Equipment, Warranties and Guaranties.

(a) It is recognized that certain equipment of a highly technical and specialized nature may be installed at Project Work 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 District's and/or 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 Project 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, 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 12.

Section 11.5 No Less Favorable Treatment. The Parties expressly agree that Project Work will not receive less favorable treatment than that on any other project which the Unions, Contractors and employees work.

ARTICLE 12 SETTLEMENT OF GRIEVANCES AND DISPUTES

Section 12.1 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 the construction of the Project Work 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 Project Work, and agree to resolve disputes in accordance with the grievance provisions set forth in this Article or, as appropriate, those of Article 8 or 10.

(c) The Project Labor Coordinator shall observe the processing of grievances under this Article and Articles 8 and 10, including the scheduling and arrangements 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 insure the time limits and deadlines are met.

Section 12.2 Processing Grievances. Any questions arising out of and during the term of this PLA involving its interpretation and application, which includes applicable provisions of the Schedule A's, but not jurisdictional disputes or alleged violations of Section 8.1 and 8.4 and similar provisions, 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, 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. A grievance should 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) 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) David Hart; (2) John Kagel; (3) Mike Rappaport; (4) Michael Prihar; and (5) Fred Horowitz. The decision of the arbitrator shall be final and binding on all Parties and the fee 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.

Section 12.3 Limit on Use of Procedures. Procedures contained in this Article shall not be applicable to any alleged violation of Article 8 or 10, with a single exception that any employee discharged for violation of Section 8.2, or Article 10, may resort to the procedures of this Article to determine only if they were, in fact, engaged in that violation.

Section 12.4 Notice. The Project Labor Coordinator (and the District, in the case of any grievance regarding the Scope of this PLA), 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 as a party in all proceedings at such steps.

ARTICLE 13 REGULATORY COMPLIANCE

Section 13.1 Compliance with All Laws. The Council and all Unions, Contractors, Subcontractors and their employed 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 the District, the Project Labor Coordinator or the Contractor. Employees must promptly report any injuries or accidents to a supervisor.

Section 13.2 Prevailing Wage Compliance. The Council or Union may refer all complaints regarding any potential prevailing wage violation to the Project Labor Coordinator, who may process, investigate and resolve such complaints, consistent with Section 7.4. The Council or Union, as appropriate, shall be advised in a timely manner with regard to the facts and resolution, if any, of any complaint. It is understood that this Section does not restrict any individual rights as established under the State Labor Code, including the rights of an individual to file a complaint with the State Labor Commissioner.

Section 13.3 Violations of Law. Based upon a finding of violation by the District of a federal and state law, and upon notice to the Contractor that it or its Subcontractors is in such violation, the District, in the absence of the Contractor or Subcontractor remedying such violation, shall take such action as it is permitted by law or contract to encourage the Contractor to come into compliance, including, but not limited to, assessing fines and penalties and/or removing the offending Contractor from Project Work.

ARTICLE 14 SAFETY AND PROTECTION OF PERSON AND PROPERTY

Section 14.1 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 the District, the Project Labor Coordinator 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 the District.

(b) Employees shall be bound by the safety, security and visitor rules established by the Contractor, the Project Labor Coordinator and/or the District. These rules will be published and posted. An employee's failure to satisfy their obligations under this Section will subject them to discipline, up to and including discharge.

(c) The Project Labor Coordinator may, at the request of the District, establish and implement, after negotiation with the Union, reasonable substance abuse testing procedures and regulations, which may include pre-hire, reasonable cause, random and post-accident testing to the extent permitted by federal and state law. Should the Project Labor Coordinator approve an established program to which signatory Union(s) are currently a party, it shall become the project-wide substance abuse testing program, after consultation with the Unions. Until there is such a project-wide substance abuse testing procedure negotiated and/or otherwise adopted by the Project Labor Coordinator, such substance abuse testing procedures as are contained in the Schedule A's shall be applicable to work on the Project pursuant to their terms. If an applicable Schedule A does not contain a substance abuse testing procedure, the Council's default substance abuse testing procedure, attached as Attachment C, shall apply. Contractors shall be financially responsible for any testing done pursuant to the Council's default substance abuse testing procedure.

Section 14.2 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 15 ARTICLE 15 TRAVEL AND SUBSISTENCE

Section 15.1 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 Schedule A(s) existing on the Effective Date of this PLA, and upon presentation of proof of any expense incurred.

ARTICLE 16 APPRENTICES

Section 16.1 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 work force in the area served by the District, and the opportunities to provide continuing work under the construction program funded by Measure T and U. 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 and/or training programs in the construction industry leading to participation in such Joint Labor Management Apprenticeship Programs. The District, the Project Labor Coordinator, other District consultants, the Contractors 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 the entry into Apprenticeship Programs. Apprentices, if utilized, must be enrolled in a California Apprenticeship Council approved apprenticeship program.

Section 16.2 Use of Apprentices.

(a) The Unions agree to cooperate with the Contractor in furnishing apprentices as requested up to the maximum percentage. The apprentice ratio for each craft shall be in compliance, at a minimum, with the applicable provisions of the Labor Code relating to utilization of apprentices. The 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 journey persons.

(b) The Parties agree that all 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 journeymen 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 is participating.

Section 16.3 Joint Subcommittee on Training and Apprenticeship. To carry out the intent and purposes of this Article, a subcommittee of the Labor Management Committee established pursuant to Article 19 shall be established, jointly chaired by a designee of the District and a designee of the Council, to oversee the identification and/or effective development of procedures and programs leading to the full utilization of Apprenticeship Programs, and to work with representatives of each apprenticeship committee and representatives of the District's technical schools to establish appropriate criteria for recognition by such Apprenticeship Programs of the educational and work experience possessed by District residents and graduates toward qualifying for entry or advanced level in the Apprenticeship Programs. The Joint Subcommittee will cooperate with and assist the District's Training and Educational Program to facilitate their entrance into the apprenticeship programs. 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 representatives of the signatory local Unions and three representatives of Contractors (or organization to which the Contractors belong) signatory to this PLA and experienced in overseeing and participating in Apprenticeship Programs.

ARTICLE 17 LEGAL ACTION

Section 17.1 Legal Action. The District, Council and Unions recognize the substantial legal costs (including all attorneys' fees and associated disbursements) that might accrue with regard to any legal challenge over the adoption by the District of 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 the PLA. The failure of the Council to seek to intervene in the legal action and actively participate to defend the legality of the 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 the District's counsel, at the Council's own expense, regarding how the Council can best support the District's legal position.

ARTICLE 18 PRE-JOB CONFERENCE

Section 18.1 Work Assignments. Consistent with Section 10.4, all work assignments should be disclosed by the Contractor at a pre-job conference held in accordance with industry practice. The Contractor shall notify the Project Labor Coordinator at least three (3) weeks before starting work under this PLA, and the Project Labor Coordinator shall coordinate the scheduling of a pre-job conference to be held fourteen (14) days before the start of work with the Council, the Contractor(s) and the affected Union(s). Should there be any formal jurisdictional dispute raised under Article 10, the Project Labor Coordinator shall be promptly notified. At the pre-job conference, the Project Labor Coordinator shall review the District's employment and contracting programs and goals with the participants.

ARTICLE 19 LABOR/MANAGEMENT AND COOPERATION

Section 19.1 Joint Committee. The Parties to this PLA may form a joint committee consisting of three (3) representatives selected by the Council and three (3) representative selected by the Project Labor Coordinator, to be chaired jointly by a representative of the Project Labor Coordinator and the Council. The purpose of the Committee shall be to promote harmonious and stable labor management relations on this Project, to ensure effective and constructive communication between labor and management Parties, to advance the proficiency of work in the industry, and evaluate and ensure an adequate supply of skilled labor for all Project Work. Representatives of the District may participate upon its request. The Project Labor Coordinator will in the event of a deadlock cast a vote.

Section 19.2 Functions of Joint Committee. The Committee shall meet on a schedule to be determined by the Committee or at the call of the joint chairs, to discuss the administration of the PLA, the progress of the Project, general labor management problems that may arise, and any other matters consistent with this PLA. Substantive grievances or disputes arising under Articles 8, 10 or 12 shall not be reviewed or discussed by this Committee, but shall be processed pursuant to the provisions of the appropriate Article.

The Project Labor Coordinator shall be responsible for the scheduling of the meetings, the preparation of the agenda topics for the meetings, with input from the Unions, the Contractors, and the District. Notice of the date, time and place of meetings, shall be given to the Committee members at least three (3) days prior to the meeting. The District should be notified of the meetings and invited to send a representative(s) to participate.

The Project Labor Coordinator shall prepare quarterly reports on apprentice utilization and the training and employment of District residents, and a schedule of Project work and estimated number of craft workers needed. The Committee, or an appropriate subcommittee, may review such reports and make any recommendations for improvement, if necessary, including increasing the availability of skilled trades, and the employment of local residents or other individuals who should be assisted with appropriate training to qualify for apprenticeship programs.

Section 19.3 Subcommittees. The Committee may form subcommittees to consider and advise the full Committee with regard to safety and health issues affecting the Project and other similar issues affecting the overall Project, including any workers compensation program initiated under this PLA.

ARTICLE 20 SAVINGS AND SEVERABILITY

Section 20.1 Savings Clause. It is not the intention of the District, the Project Labor Coordinator, Contractor or the Union Parties to violate any laws governing the subject manner 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 Project Work 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 Project Work.

Section 20.2 Effect of Injunctions or Other Court Order 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 which could result, temporarily or permanently in delay of the bidding, awarding and/or construction on the Project.

ARTICLE 21 WAIVER

Section 21.1 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 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 22 AMENDMENTS

Section 22.1 The provisions of this PLA can be renegotiated, supplemented, rescinded or otherwise altered only by mutual agreement in writing, hereafter signed by the Council and the District.

ARTICLE 23 DURATION OF THE PLA

Section 23.1 Duration. This PLA shall be effective from the date of the award of the first Covered Contract for purposes of Project Work after approval by the District's Governing Board ("Effective Date") and shall be subject to renewal by the Parties three (3) years after the Effective Date (provided, however, it shall continue in effect for all work awarded prior to such termination date until the completion of such Project Work). The Parties agree to discuss extensions or modifications of this PLA based on the District's determination as to whether the PLA achieves its intent. At the end of the initial three (3) year term (and any subsequent terms), this PLA shall automatically renew for an additional term of two (2) years unless either the District or the Council provides written notice to the other at least 90 days before the expiration date of its intention to renegotiate or terminate the PLA. Further, any signatory Union may withdraw from subsequent terms of the PLA by providing written notice to the Council and the District at least 90 days before the expiration date.

Section 23.2 Turnover and Final Acceptance of Completed Work.

(a) Construction of any phase, portion, section, or segment of Project Work shall be deemed complete when such phase, portion, section or segment has been turned over to the District by the Contractor and the District has accepted such phase, portion, section, or

segment. As areas and systems of the Project are inspected and construction-tested and/or approved and accepted by the District or third parties with the approval of the District, the PLA shall have no further force or effect on such items or areas, except when the Contractor is directed by the District to engage and repairs or modifications required by its contract(s) with the District.

(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 the District and Notice of Acceptance is given by the District or its representative to the Contractor.

Section 23.3 Continuation of Schedule A's. Schedule A's incorporated as part of this PLA shall continue in full force and effect, as previously stated, until the Contractor and Union Parties to the collective bargaining agreement(s), which are the basis for such Schedule A's, notify the Project Labor Coordinator of the mutually agreed upon changes in such agreements and their effective date(s).

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; nor shall any provision be recognized or applied if it may be construed to apply exclusively or predominately 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 which is the basis for a Schedule A shall be resolved under the procedures established in Article 12.

Section 23.4 Final Termination. Final termination of all obligations, rights, and liabilities, and disagreements shall occur upon receipt by the Council of a Notice from the District saying that no work remains within the scope of the PLA.

ARTICLE 24 WORK OPPORTUNITIES PROGRAM

Section 24.1 Work Opportunity Programs. The Parties to this PLA support the development of increased numbers of skilled construction workers from among residents of the District and San Diego County to meet the labor needs of covered projects specifically and the requirements of the local construction industry generally. Towards that end the Parties agree to cooperate respecting the establishment of a work opportunities program for District residents and students, the primary goals of which shall be to maximize (1) construction work opportunities for County and District residents, and (2) business opportunities for traditionally underrepresented members of the community, minority and women-owned business, and disabled veteran-owned businesses in the construction industry, the latter goal being consistent with the Government Code requirement that public agencies promote and encourage the use of these organization on public projects. In furtherance of the foregoing, the Unions specifically agree to:

(a) Establish a pre-apprenticeship program for District residents, including students, whereby residents will be trained in a pre-apprenticeship skill to enable them to gain employment/training within the signatory Unions; and

(b) Encourage the referral and utilization, to the extent permitted by law and hiring hall practices, of qualified District residents as journeymen, apprentices and trainees on Covered Projects and entrance into such qualified apprenticeship and training programs as may be operating by signatory Unions. Activities to achieve this goal include but are not limited to each Union contacting its members that live within the targeted zip codes informing them of the availability of Covered Work; communicating through the District's portal to families as to the existence of Covered Work; and encouraging nonunion construction workers who live within the targeted zip codes to register at the Union Hiring Hall so they could be considered local residents; and

(c) The Unions will cooperate with the community representatives to include those from traditionally underrepresented segments of the community, whose task is to achieve the inclusion of historically disadvantaged business and individuals in the construction and employment opportunities created by this Project; and

(d) The Unions will provide accurate data to the committee pertaining to their level of economic support provided to meet these goals, numbers of minorities and traditionally disadvantaged businesses and individuals employed on the Project and other data as requested by the Project Labor Coordinator; and

(e) The Unions will partner with the District in conducting outreach activities by establishing or continuing to maintain existing centers and programs to facilitate the entry of traditionally disadvantaged residents of the District, as well as other residents of the District into the building and construction trades. These programs shall serve as a resource for preliminary orientation, assessment of construction aptitude, referral to a qualified pre-apprenticeship program or apprenticeship program, referral to hiring halls, and provide tailored orientation for women and disadvantaged groups; and

(f) The Unions shall assist District residents in contacting the Apprenticeship Training Committee for the crafts and trades they are interested in. The Unions shall assist District residents who are seeking Union jobs on the Project and Union membership is 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 District residents for work on this Project; and

ARTICLE 25 HELMETS TO HARDHATS

Section 25.1 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 "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,

Section 25.2 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 Covered Project and of apprenticeship and employment opportunities for this Covered Project.

In witness whereof the Parties have caused this Project Labor Agreement for San Ysidro School District and Major Rehabilitation Funded by Measure T and U to be executed as of the date and year above stated.

Dated: _____

[COMPANY NAME]

By: _____

Its: _____

Dated:

SAN YSIDRO SCHOOL DISTRICT

By: _____

Its: _____

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
[Address]
[Address]

Labor

Coordinator

Attention: _____

Re: San Ysidro School District Agreement for Construction and Major Rehabilitation

Dear Sir:

This is to confirm [Name of Company] agrees to be party to and bound by the San Ysidro School District Project Labor Agreement - For Construction and Major Rehabilitation effective _____, 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 [District Contract No. _____ and Name of Project/School], 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 4, Section 4.4(b)]



PROJECT LABOR AGREEMENT (PLA)

Workforce Dispatch Request Form

CONTRACTOR USE ONLY

Contractor Information

Requesting Contractor

Phone:

Fax:

Email:

Job Site Information

Project Name:

Address:

Job Superintendent:

Work Request Start Date & Time:

Estimated Work Duration:

Contractor Requirements

Employee Classification

Requested Skills, Experience, Certifications and/or Equipment to Be Utilized

Indicate Level

Craft/Classification

Quantity

Journeyman

Apprentice

UNION USE ONLY

Dispatch Information

Name of Applicant(s) Dispatched:

Date of Dispatch:

UNION DISPATCHER: PLEASE CIRCLE THE ZIP CODE OF THE DISPATCHED WORKER(S)

Tier One Zip Codes (SYSD)

92154	92173							
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Tier Two Zip Codes (South County)

91901	91902	91903	91905	91906	91910	91911	91912
91913	91914	91915	91917	91931	91934	91935	91941
91942	91945	91950	91962	91963	91977	91978	91980
92019	92020	92021	92101	92102	92103	92104	92105
92106	92107	92108	92110	92113	92114	92115	92116
92120	92134	92136	92139	92140	92147	92155	92179
92182	92187						

Tier Three Zip Codes (San Diego County)

91908	91909	91943	91944	91948	91979	92003	92004
92007	92008	92009	92010	92011	92014	92024	92025
92026	92027	92028	92029	92036	92037	92040	92054
92055	92056	92057	92058	92059	92060	92061	92064
92065	92066	92067	92069	92070	92071	92075	92078
92081	92082	92083	92084	92086	92091	92093	92096
92109	92111	92117	92119	92121	92122	92123	92124
92126	92127	92128	92129	92130	92131	92135	92145
92158	92159	92160	92161	92163	92164	92165	92166
92167	92168	92169	92170	92171	92172	92174	92175
92176	92177	92536	92672	91916			

Tier One (SYSD) Zip Codes: 5% of contractor's total workforce by craft (25% of South County Residents)

Tier Two (South County) Zip Codes: 20% of contractor's total workforce by craft (25% of SD County Residents)

Tier Three (SD County) Zip Codes: 80% of contractor's total workforce by craft

Veteran Status: Names of Applicants with Verified DD 214 Forms:

District Graduate Status: Names of Applicants with Diploma or GED from San Ysidro H.S.:



PROJECT LABOR AGREEMENT (PLA)

Contractor Core Workforce Form

CONTRACTOR USE ONLY

Contractor Information

Requesting Contractor

Phone:

Fax:

Email:

Job Site Information

Project Name:

Address:

Job Superintendent:

Work Request Start Date & Time:

Estimated Work Duration:

Union Registration

Employee Classification

Contractors Workforce Information

Name and Zip Code of Applicant

Indicate Level **Craft/Classification**

Journeyman

Apprentice

UNION USE ONLY

Dispatch Information

Applicant's Information Reviewed By:

Date of Union Registration (Referral):

UNION DISPATCHER: PLEASE CIRCLE THE ZIP CODE OF THE DISPATCHED WORKER(S)

Tier One Zip Codes (SYSD)

	92154	92173	
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Tier Two Zip Codes (South County)

91901	91902	91903	91905	91906	91910	91911	91912
91913	91914	91915	91917	91931	91934	91935	91941
91942	91945	91950	91962	91963	91977	91978	91980
92019	92020	92021	92101	92102	92103	92104	92105
92106	92107	92108	92110	92113	92114	92115	92116
92120	92134	92136	92139	92140	92147	92155	92179
92182	92187						

Tier Three Zip Codes (San Diego County)

91908	91909	91943	91944	91948	91979	92003	92004
92007	92008	92009	92010	92011	92014	92024	92025
92026	92027	92028	92029	92036	92037	92040	92054
92055	92056	92057	92058	92059	92060	92061	92064
92065	92066	92067	92069	92070	92071	92075	92078
92081	92082	92083	92084	92086	92091	92093	92096
92109	92111	92117	92119	92121	92122	92123	92124
92126	92127	92128	92129	92130	92131	92135	92145
92158	92159	92160	92161	92163	92164	92165	92166
92167	92168	92169	92170	92171	92172	92174	92175
92176	92177	92536	92672	91916			

SD County Zip Codes: Maximum of 3 core workers

Note to Dispatching Agent: Please fax a copy of the form to the PLA Coordination Team at: [insert fax number here]

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 and/or any program permitted hereunder.
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

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 Methylenedioxyamphetamine (MDMA)

⁵ Methylenedioxyamphetamine (MDA)

**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.