

PROJECT STABILIZATION AGREEMENT
FOR THE
CITY OF ALAMEDA

PREAMBLE

This Agreement is made and entered into on this date, _____, by and between the city of Alameda ("City" or "Owner") together with contractors and/or subcontractors who shall become signatory to this Agreement by signing the "Agreement To Be Bound" (Addendum "A"), ("Contractor/Employer(s)"), and the Building and Construction Trades Council of Alameda County, AFL-CIO ("Council") and its affiliated Local Unions signatory hereto ("Union(s)").

The purpose of this Agreement is to promote efficiency of construction operations during construction of the Project (as defined in Section 1.11 below) by providing for the orderly and peaceful settlement of labor disputes and grievances without strikes, work stoppages or lockouts, thereby promoting the public interest in assuring the timely and economical completion of the Project.

RECITALS

WHEREAS, the timely and successful completion of the Project is of the utmost importance to the city of Alameda; and

WHEREAS, large numbers of workers of various skills will be required in the performance of the construction work, including those to be represented by the Union(s) signatory to this Agreement employed by Contractor/Employer(s) and subcontractors who are also signatories to this Agreement; and

WHEREAS, it is recognized that on a project of this magnitude 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 interests of the general public, the city of Alameda, the Union(s) and Contractor/Employer(s) would be best served if the construction work proceeded in an orderly manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

WHEREAS, the Contractor/Employer(s) and the Union(s) desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the Project by the Contractor/Employer(s), and further, to encourage close cooperation among the

Contractor/Employer(s) and the Union(s) so that a satisfactory, continuous and harmonious relationship will exist among the parties to this Agreement; and

WHEREAS, the parties agree that one of the primary purposes of this Agreement is to avoid the tensions that might arise on the Project if union and non-union workers of different employers were to work side by side on the Project thereby leading to labor disputes that could delay completion of the Project; and

WHEREAS, this Agreement is not intended to replace, interfere with, abrogate, diminish or modify existing local or national collective bargaining agreements in effect during the duration of the Project, insofar as a legally binding agreement exists between the Contractor/Employer(s) and the affected Union(s), except to the extent that the provisions of this Agreement are inconsistent with said collective bargaining agreements, in which event, the provisions of this Agreement shall prevail; and

WHEREAS, the contract(s) for construction work on the Project will be awarded in accordance with the applicable provisions of the California Public Contract Code; and

WHEREAS, the city of Alameda desires to provide construction training and employment opportunities for residents of the city of Alameda and Alameda County through apprentice and pre-apprentice programs; and

WHEREAS, the parties to this Agreement pledge their full good faith and trust to work towards a mutually satisfactory completion of the Project;

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

ARTICLE 1

DEFINITIONS

- 1.1 “City” means the city of Alameda.
- 1.2 “Agreement” means this Project Stabilization Agreement and all attached hereto Addenda.
- 1.3 “Agreement To Be Bound” means the document, as set forth in Addendum A hereto, that formally binds the Contractor/Employer(s) to comply with all the terms and conditions of this Agreement and that operates as a pre-condition to performing work on the Project.
- 1.4 “Apprentice” means an individual registered and participating as an apprentice in a Joint Labor/Management Apprenticeship Program approved by the State of California, Department of Industrial Relations, Division of Apprenticeship Standards.

- 1.5 “Completion” shall mean the date upon which the written notice of completion has been issued for a specific building, phase or project constructed under this Agreement.
- 1.6 “Construction Contract” means the public works or improvement contract(s) which will be awarded by the City and which are necessary to complete the Project, including subcontracts at any tier.
- 1.7 "Contractor/Employer(s)" means any individual, firm, partnership or corporation, or combination thereof, including joint ventures, and their successors and assigns that is an independent business enterprise and enters into a contract with the City or its Project Manager or any of its contractors or subcontractors at any tier, with respect to the construction of any part of the Project under contract terms and conditions approved by the City and which incorporate this Agreement.
- 1.8 “Coordinator” means that individual or entity designated and authorized by the City to provide those administrative services required by this Agreement.
- 1.9 “Council” means the Building and Construction Trades Council of Alameda County, AFL-CIO.
- 1.10 “Master Labor Agreement” (“MLA” or “Schedule A”) means the Master Collective Bargaining Agreement of each craft Union(s) signatory to this Agreement listed in Exhibit A to this Agreement and incorporated herein by reference, a copy of which shall be made available to the City upon request.
- 1.11 "Project" means those Construction Contracts for individual public works, within the City of Alameda with a total value (as estimated by the City) of one million dollars (\$1,000,000.00) or more. Specifically excluded from this definition of Project and, therefore, the scope of this Agreement are multi-year contracts that have already been let by the City. The City and the Council may mutually agree in writing to add additional components to the Project Scope of Work to be covered under this Agreement.
- 1.12 “Project Manager” means the person or persons or business entity designated by City or private developer having control over a public works project to oversee all phases of construction on the Project.
- 1.13 “Trust Fund(s)” means an agreement for an established vacation, pension or other form of deferred compensation plan, apprenticeship and health benefit funds established by an applicable Master Labor Agreement as set forth in Section 17.1.
- 1.14 “Union(s)” means the Building and Construction Trades Council of Alameda County, AFL-CIO and any affiliated Labor Organization signatory to this Agreement, acting on their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement.

ARTICLE 2

SCOPE OF AGREEMENT

- 2.1 The City will apply this Agreement as a contract specification to the award of all public works construction contracts on the Project for Covered Work as specifically defined under Article 2 of this Agreement. This Agreement does not apply to any private development projects. In the event that the City is made aware that this Agreement or portions thereof are inconsistent with the terms and conditions of any grant, loan, or contract with any Federal or State agency or with the instructions or directions of an authorized representative of a Federal or State agency regarding the requirements of any such grant, loan, or contract, the City shall notify the Council. Within seven (7) days of notification, the parties shall meet and confer to attempt to modify the Agreement to avoid forfeiture of any funding or otherwise resolve the issue. Should the parties be unable to come to agreement, the Agreement or any inconsistent provision shall be subject to resolution by the grievance arbitration procedures set forth in Article 11. The foregoing notwithstanding, if the granting agency determines that the resolution of such grievance procedure will result in the forfeiture of material grant funds (meaning an amount that would threaten viability of the project), then the Agreement may be modified or terminated in order to avoid the forfeiture.
- 2.2 Parties: The Agreement shall apply and is limited to all Contractor/Employer(s) performing work for the Project (including subcontractors at any tier), the City, the Council and the Union(s) signatory to this Agreement, acting on their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement.
- 2.3 Covered Work: This Agreement covers, without limitation, all site preparation, surveying, construction, alteration, demolition, installation, improvement painting or repair of buildings, structures and other works, and related activities for the Project, including geotechnical and exploratory drilling, temporary HVAC, and landscaping and temporary fencing that is within the craft jurisdiction of one of the Union(s) and which is directly or indirectly part of the Project, including, without limitation to the following examples, pipelines (including those in linear corridors built to serve the project), pumps, pump stations, start-up, and modular furniture installation. On-site work includes work done for the Project in temporary yards or areas adjacent to the Project, and at any on-site or off-site batch plant constructed solely to supply materials to the Project. This scope of work includes all on-site soils and materials testing and inspection where such testing and inspection is a classification in which a prevailing wage determination has been published.
- 2.4.1 This Agreement shall apply to any start-up, calibration, commissioning, performance testing, repair, operational revisions to systems and/or subsystems performed after Completion if it is within the scope of the contract for public work unless it is performed by City employees.

- 2.4.2 This Agreement covers all on-site fabrication work over which the City, Contractor/Employer(s) or subcontractor(s) possess the right of control (including work done for the Project in any temporary yard or area established for the Project). Additionally, it is agreed hereby that this Agreement covers any off-site work, including fabrication work necessary for the Project defined herein, that is covered by a current MLA or local addenda to a National Agreement of the applicable Union(s) that is in effect as of the execution date of this Agreement.
- 2.4.3 The furnishing of supplies, equipment or materials which are stockpiled for later use shall not be covered by this Agreement. However, construction trucking work, such as the delivery of ready-mix, asphalt, aggregate, sand or other fill material which are incorporated into the construction process as well as the off-hauling of debris and excess fill, material and/or mud, shall be covered by the terms and conditions of this Agreement, to the fullest extent provided by law and by prevailing wage determinations of the California Department of Industrial Relations. Contractor/Employer(s), including brokers, of persons providing construction trucking work shall provide certified payroll records to the City within ten (10) days of written request or as required by bid specifications.
- 2.4.4 It is agreed that the Contractor shall require all contractors of whatever tier who have been awarded contracts for work covered by this Agreement, to accept and be bound by the terms and conditions of this Project Agreement by executing the Agreement to be Bound (Attachment A) prior to commencing work. The Project Manager and/or Coordinator shall assure compliance with this Agreement by the Contractors. It is further agreed that, where there is a conflict, the terms and conditions of this Project Agreement shall supersede and override terms and conditions of any and all other national, area, or local collective bargaining agreements, except work covered by the Agreement within the following craft jurisdictions shall be performed under the terms of their National Agreements as follows: National Agreement of Elevator Constructors, National Transient Lodge (NTL) Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, and all instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, except that Articles 5, 6, and 11 of this Agreement shall prevail and be applied to such work. It is understood that this is a self-contained, stand alone, Agreement and that by virtue of having become bound to this Project Agreement, neither the Project Contractor/Manager nor the Contractors will be obligated to sign any other local, area, or national agreement.
- 2.5 The on-site installation or application of all items shall be performed by the craft having jurisdiction over such work as set forth under the provisions of this Agreement; provided, however, it is recognized that installation of specialty items which may be furnished by the owner of the Project or a contractor shall be performed by construction persons employed under this Agreement who may be directed by other personnel in a supervisory role.

- 2.6 After installation by the Contractor/Employer(s) and upon Completion, it is understood, the City reserves the right to perform start-up, operation, repair, maintenance or revision of equipment or systems with employees of the City. If required, the service representative may make a final check and may direct workmen on site to make any necessary repairs to protect the terms of a manufacturer's guarantee or warranty prior to start-up of a piece of equipment.
- 2.7 It is expressly agreed and understood by the parties hereto that the City shall have the right to purchase material and equipment from any source, except where limited by this Agreement, and the craftspersons will handle and install such material and equipment.
- 2.8 Exclusions. The following shall be excluded from the scope of this Agreement:
- 2.8.1 The Agreement is not intended to, and shall not affect or govern the award of public works contracts by the City which are not included in the Project.
- 2.8.2 The Agreement shall not apply to a Contractor/Employer(s)' non-construction craft employees, including, but not limited to, executives, managerial employees, engineering employees and supervisors above the level of General Foreman or Senior General Foreman (except those covered by existing MLAs), staff engineers or other professional engineers, administrative and management.
- 2.8.3 This Agreement shall not apply to any work performed on or near or leading to the site of work covered by this Agreement that is undertaken by state, county, city or other governmental bodies or their contractors; or by public or private utilities or their contractors.
- 2.8.4 Off-site maintenance of leased equipment and on-site supervision of such work;
- 2.8.5 The City shall not be required to comply with this Agreement for any work performed with its own forces as permitted by the City Charter, City Codes or Ordinances, the California Uniform Construction Cost Accounting Act, Public Contract Code and Education Code, as applicable.
- 2.9 Award of Contracts: It is understood and agreed that the City shall, for the award of contracts for public works, have the absolute right to select the bidder with the lowest responsive, responsible bid for the award of contracts under this Agreement. The bidder need only be willing, ready and able to execute and comply with this Agreement.

ARTICLE 3

EFFECT OF AGREEMENT

- 3.1 By executing the Agreement, the Union(s) and the City agree to be bound by each and all of the provisions of the Agreement.

- 3.2 By accepting the award of a construction contract for the Project, whether as contractor or subcontractor, the Contractor/Employer(s) agrees to be bound by each and every provision of the Agreement and agrees that it will evidence its acceptance prior to the commencement of work by executing the Agreement To Be Bound in the form attached hereto as Addendum A.
- 3.3 At the time that any Contractor/Employer(s) enters into a subcontract with any subcontractor providing for the performance of a construction contract, the Contractor/Employer(s) shall provide a copy of this Agreement to said subcontractor and shall require the subcontractor as a part of accepting an award of a construction subcontract to agree in writing to be bound by each and every provision of this Agreement prior to the commencement of work. The obligations of a Contractor/Employer(s) may not be evaded by subcontracting.
- 3.4 Each Contractor/Employer(s) shall give written notice to the Union(s) of any subcontract involving the performance of work covered by this Agreement within either seven (7) days of entering such subcontract or before such Contractor/Employer(s) commences work on the Project, whichever occurs first. Such notice shall specify the name, address, phone number, and the California Contractor State License Board (CSLB) license number and motor carrier permit number, and DIR registration number, of the Contractor/Employer(s). Written notice at a Pre-Job Conference shall be deemed written notice under this provision for those Contractor/Employer(s) listed at the Pre-Job only.
- 3.5 This Agreement 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. Each Contractor/Employer(s) shall alone be liable and responsible for its own individual acts and conduct and for any breach or alleged breach of this Agreement. Any dispute between the Union(s) and the Contractor/Employer(s) respecting compliance with the terms of the Agreement shall not affect the rights, liabilities, obligations and duties between the signatory Union(s) and other Contractor/Employer(s) party to this Agreement.
- 3.6 The provisions of this Agreement, including MLA's, shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement. Where a subject covered by the provisions of this Agreement is also covered by a MLA, the provisions of this Agreement shall prevail. Where a subject is covered by the provisions of a MLA and is not covered by this Agreement, the provisions of the MLA shall prevail.
- 3.7 (a) With regard to any Contractor/Employer(s) that is independently signed to any MLA, this Project Stabilization Agreement shall in no way supersede or prevent the enforcement of any subcontracting clause contained in such MLA, except as specifically set forth in subsection (b) of this Section 3.7. Any such subcontracting clause in an MLA shall remain and be fully enforceable between each craft union and its signatory employers, and no provision of this Project Stabilization Agreement shall be interpreted and/or applied in any

manner that would give this Project Stabilization Agreement precedence over subcontracting obligations and restrictions that exist between craft unions and their respective signatory employers under an MLA, except as specifically set forth in subsection (b) of this Section 3.7.

- (b) If a craft union (hereafter "Aggrieved Union") believes that an assignment of work on this Project has been made improperly by a contractor or subcontractor, even if that assignment was as a result of another craft union's successful enforcement of the subcontracting clause in its MLA, as permitted by subsection (a) of this Section 3.7, the Aggrieved Union may submit a claim under the jurisdictional resolution process contained in Article 6 of this PLA, and the decision rendered as part of that process shall be enforceable to require the contractor or subcontractor that made the work assignment to assign that work prospectively to the Aggrieved Union. An award made to a craft union under the subcontracting clause of its MLA, as permitted pursuant to Section 3.7 (a) of this Article, shall be valid and fully enforceable by that craft union unless it conflicts with a jurisdictional award made pursuant to this Agreement. If the award made under the MLA conflicts with the jurisdictional award, the award of any damages under the former shall be null and void ab initio.

ARTICLE 4

RELATIONSHIP BETWEEN PARTIES

- 4.1 This Agreement shall only be binding on the signatory parties hereto, and shall not apply to parents, affiliates, subsidiaries, or other ventures of any such party.
- 4.2 Each Contractor/Employer(s) shall alone be liable and responsible for its own individual acts and conduct and for any breach or alleged breach of this Agreement. Any alleged breach of this Agreement by a Contractor/Employer(s) or any dispute between the Union(s) and the Contractor/Employer(s) respecting compliance with the terms of this Agreement, shall not affect the rights, liabilities, obligations and duties between the signatory Union(s) and each of the other Contractor/Employer(s), party to this Agreement.
- 4.3 It is mutually agreed by the parties that any liability of a Union(s) shall be several and not joint. Any alleged breach of this Agreement by a signatory Union(s) shall not affect the rights, liabilities, obligations and duties between the Contractor/Employer(s) and the other Union(s) party to this Agreement.
- 4.4 It is recognized by the parties to this Agreement that the Contractor/Employer(s) are acting only on behalf of said Contractor/Employer(s), and said Contractor/Employer(s) have no authority, either expressed, implied, actual, apparent or ostensible, to speak for or bind the City.

ARTICLE 5

NO STRIKES - NO LOCKOUTS

- 5.1 The Union(s), the City and Contractor/Employer(s) covered by the Agreement agree that for the duration of the Project:
- 5.1.1 There shall be no strikes, sympathy strikes, work stoppages, picketing, hand billing or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Union(s) or employees employed on the Project, at the job site of the Project or at any other facility of the City because of a dispute on the Project. Disputes arising between the Union(s) and Contractor/Employer(s) on other City projects are not governed by the terms of the Agreement or this Article.
 - 5.1.2 As to employees employed on the Project, there shall be no lockout of any kind by a Contractor/Employer(s) covered by the Agreement.
 - 5.1.3 If a master collective bargaining agreement expires before the Contractor/Employer(s) completes the performance of the Construction Contract and the Union(s) or Contractor/Employer(s) gives notice of demands for a new or modified master collective bargaining agreement, the Union(s) agrees that it will not strike on work covered under this Agreement and the Union(s) and the Contractor/Employer(s) agree that the expired master collective bargaining agreement shall continue in full force and effect for work covered under this Agreement until a new or modified master collective bargaining agreement is reached. If the new or modified master collective bargaining agreement provides that any terms of the master collective bargaining agreement shall be retroactive, the Contractor/Employer(s) agrees to comply with any retroactive terms of the new or modified master collective bargaining agreement which are applicable to employees who were employed on the projects during the interim with retroactive payment due within seven (7) days of the effective date of the modified Master Agreement.
 - 5.1.4 Withholding employees for failure of a Contractor/Employer(s) to tender timely Trust Fund(s) contributions as required in accordance with Article 16 and/or for failure to timely meet its weekly payroll is not a violation of this Article 5; however, the Union(s) shall give the affected Contractor/Employer(s), the Coordinator and the City written notice seventy-two (72) hours prior to the withholding of employees when failure to tender Trust Fund(s) contributions has occurred. There shall be twenty-four (24) hours notice when failure to meet weekly payroll has occurred or when paychecks are determined to be nonnegotiable by a financial institution normally recognized to honor such paychecks.

Should a Contractor/Employer(s) performing work on this Project be delinquent in the payment of Trust Fund(s) contributions required under this Agreement, the

Union(s) may request that the general Contractor/Employer(s) issue joint checks payable to the Contractor/Employer(s) and the appropriate employee benefit Trust Fund(s), on behalf of the employee(s) until such delinquencies are satisfied. Any Trust Fund(s) claiming that a Contractor/Employer(s) is delinquent in its fringe benefit contributions to the Trust Fund(s) will provide written notice of the alleged delinquency to the affected Contractor/Employer(s), with copies to the General Contractor/Employer(s), the Coordinator and the City. The notice will indicate the amount of delinquency asserted and the period that the delinquency covers. It is agreed, however, with respect to Contractor/Employer(s) delinquent in trust or benefit contribution payments, that nothing in this Agreement shall affect normal contract remedies available under the MLAs. If the General Contractor/Employer(s) is delinquent in the payment of Trust Fund(s) contributions for covered work performed on this project, the General Contractor/Employer(s) agrees that the affected Trust Fund(s) may place the City on notice of such delinquencies and the General Contractor/Employer(s) further agrees that the City may issue joint checks to the General Contractor/Employer(s) and the Trust Fund(s), on behalf of the employee(s) until the delinquency is satisfied.

- 5.2 Expedited Arbitration: Any party to this Agreement shall institute the following procedure, prior to initiating any other action at law or equity, when a breach of this Article is alleged to have occurred:
- 5.2.1 A party invoking this procedure shall notify Bob Hirsch, as the permanent Arbitrator, or, Barry Winograd, as the alternate Arbitrator under this procedure. In the event that the permanent Arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, then a selection shall be made from the list of Arbitrators in Article 11.2.2, Step 5. Should either the permanent or the alternate arbitrator listed above no longer work as a labor arbitrator, the City and the Council shall mutually agree to a replacement. Notice to the Arbitrator shall be by the most expeditious means available, with notices by facsimile, email or telephone to the Coordinator, the City and the party alleged to be in violation, and to the Council and involved local Union(s) if a Union(s) is alleged to be in violation.
- 5.2.2 Upon receipt of said notice, the Coordinator will contact the designated Arbitrator named above or his alternate who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.
- 5.2.3 The Arbitrator shall notify the parties by facsimile, email or telephone of the place and time for the 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 to attend said hearings shall not delay the hearing of evidence or the issuance of an award by the Arbitrator.

- 5.2.4 The sole issue at the hearing shall be whether or not a violation of Article 5, Section 5.1.1 of the Agreement has occurred. The Arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award damages, 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 a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with or enforcement of the award. The Arbitrator may order cessation of the violation of this Article and other appropriate relief and such award shall be served on all parties by hand or certified mail upon issuance.
- 5.2.5 Such award may be enforced by any Court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the Arbitrator's award as issued under Section 5.2.4 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 or enforcement. The Court's order or orders enforcing the Arbitrator's award shall be served on all parties by hand or delivered by certified mail.
- 5.2.6 Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure, or which interfere with compliance, are waived by the parties.
- 5.2.7 The fees and expenses of the Arbitrator shall be divided equally between the party instituting the arbitration proceedings provided in this article and the party alleged to be in breach of its obligation under this article.

ARTICLE 6

WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

- 6.1 The assignment of Covered Work will be solely the responsibility of the Contractor/Employer(s) performing the work involved and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.
- 6.2 All jurisdictional disputes on this Project between or among the Union(s) and the Contractor/Employer(s), parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department, or any other plan or method of procedure that may be adopted in the future by the Building

and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Contractor/Employer(s) and Union(s) parties to this Agreement.

- 6.2.1 If a dispute arising under this Article involves the Northern California Carpenters Regional Council 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 California State Building and Construction Trades Council in Sacramento, California, within fourteen (14) days of the selection of the Arbitrator. All other procedures shall be as specified in the Plan.
- 6.3 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractor/Employer(s)' assignment shall be adhered to until the dispute is resolved. Individuals violating this Section shall be subject to immediate discharge.
- 6.4 Each Contractor/Employer(s) shall conduct a Pre-Job Conference with the Council prior to commencing Covered Work. The Primary Employer, the Coordinator and the City will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Contractor/Employer(s) may be held together.

ARTICLE 7

COORDINATOR

- 7.1 The City will designate a Coordinator, who will be responsible for the administration and application of this Agreement.
- 7.2 The Coordinator shall endeavor to facilitate harmonious relations between the Contractors and Unions signatory hereto and will represent the City at the Pre-Job Conference(s) called for in Article 8 and the A Joint Administrative Committee called for in Article 20. The Coordinator shall not be responsible for the acts of the Contractor/Employer(s) or Unions signatory hereto, and will not be a party to any arbitration or litigation arising out of this Agreement.

ARTICLE 8

PRE-JOB CONFERENCES

- 8.1 Pre-Job Conference Timing and Attendees:

8.1.1 The Contractor shall hold and conduct a mandatory pre-job conference with representatives of all involved sub-contractors and the Unions at a location mutually agreeable to the Council at least twenty-one (21) calendar days prior to:

- (a) The commencement of any Covered Work, as defined in section 2.3 above; and

(b) The commencement of Covered Work on each subsequently awarded Construction Contract.

8.1.2 The conference shall be attended by a representative of each participating Contractor, each affected Union, and the Council. The Owner may attend at its discretion.

8.2 Pre-Job Conference Information.

8.2.1 The information to be presented at the pre-job conference will consist of:

- (a) A listing of each Contractor's scope of work;
- (b) The Contractor's craft assignments;
- (c) The estimated number of craft workers required to perform the work;
- (d) Transportation and parking arrangements, if any;
- (e) The estimated start and completion dates of the work;
- (f) Identification of any pre-fabricated materials;
- (g) All workforce projection information required under Article 14 of this Agreement; and
- (h) A listing of all specialty work to be performed by the employees of an equipment vendor or manufacturer to protect the warranty on such equipment, and a demonstration by enumeration of specific tasks why such work cannot be performed by Covered Employees.

8.3 Work will not commence for any Contractor until an **Agreement to be Bound** has been signed and submitted by a duly authorized representative of the Contractor to the applicable Union(s) and the Council.

ARTICLE 9

MANAGEMENT RIGHTS

9.1 Consistent with the Schedule A Agreements, the Contractor/Employer(s) shall retain full and exclusive authority for the management of their operations, including the right to direct their work force in their sole discretion. No rules, customs or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees except that lawful manning provisions in the MLA shall be recognized.

ARTICLE 10

WORK RULES

10.1 Work rules shall apply as set forth in the applicable MLA.

ARTICLE 11

GRIEVANCE PROCEDURE

- 11.1 All disputes concerning the interpretation and/or application of this Agreement which do not fall within the Article 5, No Strikes-No Lockouts procedure or Article 6, Work Assignments and Jurisdictional Disputes, shall be governed by the following grievance and arbitration procedure.

Employee Grievances: All disputes involving discipline and/or discharge of employees working on the Project shall be resolved through the grievance and arbitration provision contained in the MLA for the craft of the affected employee. No employee working on the Project shall be disciplined or dismissed without just cause.

- 11.2 Grievances between one or more Union(s) and one or more Contractor/Employer(s); or between the City and one or more Contractor/Employer(s) regarding interpretation and/or application of this Agreement shall be pursued according to the following provisions:

11.2.1 A grievance shall be considered null and void if not brought to the attention of the Contractor/Employer(s) or the Union(s) within fourteen (14) calendar days after the grievance is alleged to have occurred but in no event more than thirty (30) calendar days after the charging party became aware of the event giving rise to the dispute. The Coordinator shall be delivered a copy of all grievances.

11.2.2 Grievances between one or more Union(s) and one or more Contractor/Employer(s), or between the City and one or more Contractor/Employer(s) regarding provisions of this Agreement shall be settled or otherwise resolved according to the following Steps and provisions:

Step 1: A representative of the grievant and the party against whom the grievance is filed shall meet and attempt to resolve the grievance.

Step 2: In the event the matter remains unresolved in Step 1 above, within seven (7) calendar days, the grievance shall be reduced to writing and may then be referred by the Union(s), the City, or the Contractor/Employer(s) to the other party for discussion and resolution.

Step 3: In the event that the representatives are unable to resolve the dispute within the seven (7) calendar days after its referral to Step 2, either involved party may submit the dispute within seven (7) calendar days to the Joint Administrative Subcommittee established in Section 20.2. The Joint Administrative Subcommittee shall meet within seven (7) calendar days after such referral (or such longer time as is mutually agreed upon by the representatives on the Joint Administrative Subcommittee) to confer in an attempt to resolve the grievance. If a Union(s) is party to the grievance, regardless of which party has initiated the grievance proceeding, prior to the

meeting of the Joint Administrative Subcommittee, the Union(s) shall notify its International Union Representative(s), which shall advise both parties if it intends on participating in the meeting. The participation by the International Union Representative in this Step 3 meeting shall not delay the time set herein for the meeting, unless otherwise mutually agreed by the parties. If the dispute is not resolved by the Joint Administrative Subcommittee, it may be referred within seven (7) calendar days by either party to Step 4.

At the time a grievance is submitted under this Agreement or any MLA, the Union(s) may request that the City withhold and retain an amount from what is due and owing to the Contractor/Employer(s) against whom the grievance is filed, sufficient to cover the damages alleged in the grievance, should the Union(s) prevail.

The amount shall be retained by the City until such time as the underlying grievance giving rise to the retention is withdrawn, settled, or otherwise resolved, and the retained amount shall be paid to whomever the parties to the grievance shall decide, or to whomever an Arbitrator shall so order.

Step 4: In the event the matter remains unresolved in Step 3, either Party may request, within seven (7) calendar days, that the dispute be submitted to arbitration. The time limits set out in this procedure may, upon mutual agreement, be extended. Any request for arbitration, request for extension of time limits, and agreement to extend such time limits shall be in writing with a copy delivered to the Coordinator.

Step 5: The Parties agree that the Arbitrator who will hear the grievance shall be selected from the following: Barry Winograd, William Riker, and Robert Hirsch. The parties shall flip a coin to determine who shall strike the first name and shall then alternately strike names from the list and the last remaining name shall be the neutral third party Arbitrator who shall have the power to resolve the dispute in a final and binding manner. Should a Party to the procedure fail or refuse to participate in the hearing, if the Arbitrator determines that proper notice of the hearing has been given, said hearing shall proceed to a default award. The Arbitrator's award shall be final and binding on all Parties to the arbitration. The costs of the arbitration, excluding attorney fees, including the Arbitrator's fee and expenses, shall be borne by the losing party. The Arbitrator's decision shall be confined to the question(s) posed by the grievance and the Arbitrator shall not have authority to modify amend, alter, add to, or subtract from, any provisions of this Agreement.

- 11.3 Grievances raised by the City against one or more Union(s) and/or the Council, or against the City by one or more Union(s) and/or the Council, regarding provisions of this Agreement shall be settled or otherwise resolved according to the following Steps and provisions:

Step 1: The Joint Administrative Subcommittee shall attempt to resolve the grievance. The Joint Administrative Subcommittee shall meet within five (5) working days after receipt of the grievance (or such longer time as is mutually agreed upon by the representatives on this Joint Administrative Subcommittee) to confer with regard to the grievance. If the dispute is not resolved by the Joint Administrative Subcommittee, it may be referred within five (5) working days by either party to the Joint Administrative Committee.

Step 2: The Joint Administrative Committee shall attempt to resolve the grievance. The Joint Administrative Committee shall meet within five (5) working days after receipt of the grievance (or such longer time as is mutually agreed upon by the representatives on the Joint Administrative Committee) to confer with regard to the grievance. In the event that the Joint Administrative Committee is unable to resolve the dispute within the five (5) working days after receipt of the grievance, either involved party may proceed to Step 3.

Step 3: In the event the matter remains unresolved pursuant to Step 2, either Party may request that the dispute be submitted to arbitration in accordance with the process set forth in Paragraph 11.2.2. Step 5.

Step 4: Should a Party to the procedure fail or refuse to participate in the hearing, if the Arbitrator determines that proper notice of the hearing has been given, said hearing shall proceed to a default award. The Arbitrator's award shall be final and binding on all Parties to the arbitration. The costs of the arbitration, including the Arbitrator's fee and expenses, shall be borne by the losing Party. The Arbitrator's decision shall be confined to the question(s) posed by the grievance and the Arbitrator shall not have authority to modify amend, alter, add to, or subtract from, any provisions of this Agreement.

- 11.4 Grievances between a Union(s) and a Union(s)' signatory Contractor/Employer(s) involving interpretation or application of the MLA shall be governed by the grievance procedures contained in the MLA.

ARTICLE 12

UNION RECOGNITION AND REPRESENTATION

- 12.1 The Contractor/Employer(s) recognize the Union(s) signatory hereto as the sole and exclusive collective bargaining representatives for all craft employees on the Project.

- 12.2 The Contractor/Employer(s) shall require all employees who work on a Construction Contract on or before eight (8) days of consecutive or cumulative employment on the Project to comply with the applicable Union(s)' security provisions, and to maintain compliance for the period of time they are performing work on the Project, which requirement shall be satisfied by the tendering of periodic dues and fees uniformly required to the extent allowed by law. Further, there is nothing in this Agreement that would prevent non-union employees from joining the Union(s).
- 12.3 Authorized representatives of the Union(s) shall have access to the site at all times. Such representatives shall comply with reasonable visitor safety and security rules established for the Project at the pre-job meeting. Access for Union(s) representatives will not be unduly restricted.

ARTICLE 13

REFERRAL

- 13.1 Contractor/Employer(s) performing construction work on the Project described in the Agreement shall, in filling craft job requirements, utilize and be bound by the registration facilities and referral systems established or authorized by the Union(s) signatory hereto when such procedures are not in violation of Federal law. The Contractor/Employer(s) shall have the right to reject any applicant referred by the Union(s), in accordance with the applicable Master Agreement.
- 13.2 The Contractor/Employer(s) shall have the unqualified right to select and hire directly all supervisors above the level of general foreman or senior general foreman it considers necessary and desirable, without such persons being referred by the Union(s).
- 13.3 In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor/Employer(s) for employees within a forty-eight (48) hour period (Saturdays, Sundays and Holidays excluded) after such requisition is made by the Contractor/Employer(s), the Contractor/Employer(s) shall be free to obtain workers from any source. A Contractor/Employer(s) who hires any personnel to perform covered work on the Project pursuant to this Section shall immediately provide the appropriate Union(s) with the name and address of such employee(s) and shall immediately refer such employee(s) to the appropriate Union(s) to satisfy the requirements of Article 12 of this Agreement.

ARTICLE 14

LOCAL WORKFORCE DEVELOPMENT

- 14.1 The parties agree to a goal that residents of the city of Alameda, and Alameda County ("Local Residents"), in order of priority as here listed, will perform up to twenty-five

percent (25%) percent of all hours worked on the Project, on a craft-by-craft basis, if such workers are available, capable and willing to work. Contractors will first be required to request residents from the City of Alameda, and if those are not available, will then request residents from Alameda County. If the Local Resident is also a high school graduate of the Alameda Unified School District, those hours will count double. In addition, the parties agree that participants in the Alameda Point Collaborative Program will be referred to the apprentice programs of the Union(s) and establish a goal that such participants will perform fifteen percent (15%) of all apprentice hours worked on the Project. All participants that will be referred to the contractors to meet this requirement will have gone through a pre-apprenticeship program that meets the Multi-Craft Core Curriculum as established by the National Building Trades, or other union pre-apprenticeship programs.

- 14.2 The Contractor/Employer(s) shall make good faith efforts to reach these goals working through the hiring hall procedures of the applicable Schedule A Agreement and, when applicable, utilize their “rehire” and “name call” rights to employ such Local Residents. The Union(s) shall utilize their utmost efforts to recruit sufficient numbers of apprentice and journeymen craftspersons who are Local Residents to fulfill the requirements of the Contractor/Employer(s). The parties to this Agreement support the development and placement of increased numbers of skilled construction workers from Local Residents to meet the needs of the Project and the requirements of the industry generally.
- 14.3 To evaluate the performance of the Contractor/Employer(s) and Union(s) in achieving the employment of Local Residents goal on this Project, the Contractor/Employer(s) shall submit copies of their monthly certified payroll reporting forms to the Coordinator. The Contractor shall also submit a monthly report tabulating the ratio of Local Residents to total employees for each craft Union to the Coordinator. The performance of the Contractor/Employer(s) and Union(s) will be reviewed at the periodic Joint Administrative Committee meetings called for in Section 20 of this Agreement.

ARTICLE 15

NON-DISCRIMINATION

- 15.1 The Contractor/Employer(s) and Union(s) agree to comply with all anti-discrimination provisions of federal, state and local law, to protect employees and applicants for employment on the Project.

ARTICLE 16

APPRENTICES

- 16.1 Recognizing the need to maintain continuing support of programs designed to develop adequate numbers of competent workers in the construction industry, the

Contractor/Employer(s) will employ apprentices in the respective Union(s) to perform such work as is within their capabilities and which is customarily performed by the Union(s) in which they are indentured. The apprentice ratios will be in compliance with the applicable provisions of the California Labor Code and Prevailing Wage Rate Determinations.

- 16.2 The parties only recognize the State-approved Apprenticeship training programs administered by Joint Labor/Management Apprenticeship Training Committees for the purposes of meeting the goals of this Article 16.

ARTICLE 17

WAGE SCALES AND FRINGE BENEFITS

- 17.1 All Contractor/Employer(s) agree to pay contributions to the established vacation, pension and other form of deferred compensation plan, apprenticeship, health benefit funds, and all other contributions established by the applicable MLA for each hour worked on the Project in the amounts designated in the MLAs of the appropriate Union(s) that are recognized by a prevailing wage determination and paid in accordance with the MLA. The Contractor/Employer(s) shall not be required to pay contributions to any other trust funds or other contributions that are not contained in the published prevailing wage determination to satisfy their obligation under this Article, except that those Contractor/Employer(s) who are signatory to the MLAs with the respective trades shall continue to pay all trust fund or other contributions as outlined in such MLAs.
- 17.2 By signing this Agreement, the Contractors/Employers adopt and agree to be bound by the written terms of the legally established Trust Agreements, as described in Section 17.1, which may from time to time be amended, specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds. The Contractors/Employers authorize the parties to such local trust agreements to appoint trustees and successor trustees to administer the Trust Funds and hereby ratify and accept the trustees so appointed as if made by the Contractors/Employers. The Contractors/Employers agree to execute a separate Subscription Agreement(s) for Trust Funds when such Trust Fund(s) requires such document(s).
- 17.3 Wages, Hours, Terms and Conditions of Employment: The wages, hours and other terms and conditions of employment on the Project shall be governed by the MLAs of the respective Union(s), copies of which shall be made available to the City upon request, to the extent such MLA is not inconsistent with this Agreement.
- 17.4 Holidays: Holidays shall be established as set forth in the applicable MLA.

ARTICLE 18

HEALTH AND SAFETY

- 18.1 The employees covered by the terms of this Agreement shall at all times, while in the employ of the Contractor/Employer(s), be bound by the reasonable safety rules and regulations as established by the City and Contractor/Employer(s) and in accordance with OSHA/Cal-OSHA. These rules and regulations will be published and posted at conspicuous places throughout the Project.
- 18.2 In accordance with the requirements of OSHA/Cal-OSHA, it shall be the exclusive responsibility of each Contractor/Employer(s) on the Project to assure safe working conditions for its employees and compliance by them with any safety rules contained herein or established by the Contractor/Employer(s).
- 18.3 A convenient supply of cold and potable drinking water shall be provided by the Contractor/Employer(s).
- 18.4 The Contractor/Employer(s) and Union(s) agree that the work site shall be a drug free workplace. Parties agree to recognize and use the Substance Abuse Prevention Program contained in each applicable Union(s)' MLA.

ARTICLE 19

HELMETS TO HARDHATS

- 19.1 The parties recognize a desire to facilitate the entry into the Building and Construction Trade Union(s) of Veterans who are interested in careers in the building and construction industry. The parties agree to utilize the services of the Center for Military Recruitment, Assessment and Veteran's Employment (hereinafter "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.
- 19.2 The Union(s) and Contractor/Employer(s) agree to coordinate with the Center to assist in the creation and maintenance an integrated database of Veterans interested in working on this Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Union(s) will give credit to such Veterans for bona fide, provable past experience.

ARTICLE 20

JOINT ADMINISTRATIVE COMMITTEE

- 20.1 The Council and the City to this Agreement shall establish a six (6) person Joint Administrative Committee. This Committee shall be comprised of three (3) representatives selected by the City and three (3) representatives selected by the Council. The City and the Council shall designate alternates who shall serve in the absence of designated representatives for any purpose contemplated by this Agreement. The Joint Administrative Committee shall meet as required to review the implementation of the Agreement and the progress of the Projects.
- 20.2 The Joint Administrative Committee shall appoint a Joint Administrative Subcommittee consisting of one City representative and one Union(s) representative for the purpose of convening to confer in an attempt to resolve a grievance that has been filed consistent with Article 11. Any question regarding the meaning, interpretation, or application of the provisions of this Agreement shall be referred directly to the Joint Administrative Subcommittee for resolution. The Joint Administrative Subcommittee shall meet as required to resolve grievances by majority vote with such resolutions to be final and binding on all signatories of the Agreement. A failure of any party or parties to attend said hearing shall not delay the hearing of evidence or issuance of an award by the Joint Administrative Subcommittee, if such award is made by a majority vote, and the hearing shall proceed ex parte. If the subcommittee is unable to resolve the grievance, the grievance may be referred in accordance with Step 3 of Article 11.

ARTICLE 21

MISCELLANEOUS PROVISIONS

- 21.1 Counterparts. This Agreement may be executed in counterparts, such that original signatures may appear on separate pages, and when bound together all necessary signatures shall constitute an original. Faxed or e-mailed pdf signature pages transmitted separately to other parties to this Agreement shall be deemed equivalent to original signatures.
- 21.2 Warranty of Authority. Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the party indicated, and each of the parties by signing this Agreement warrants and represents that such party is legally authorized and entitled to enter into this Agreement.

ARTICLE 22

GENERAL SAVINGS CLAUSE

- 22.1 It is not the intention of either the City, Contractor/Employer(s) or the Union(s) parties to violate any laws governing the subject matter of this Agreement. If any Article or provision of this Agreement shall be declared invalid, inoperative, or unenforceable by any competent authority of the executive, legislative, judicial or administrative branch of the federal, state or local government, the parties shall suspend the operation of each such Article or provision during the period of invalidity. Such suspension shall not affect the operation of any other provision covered in this Agreement to which the law or regulation is not applicable. Further, the Contractor/Employer(s) and Union(s) agree that if and when any or all provisions of this Agreement are finally held or determined to be illegal or void by a Court of competent jurisdiction, the City and the Council will promptly enter into negotiations concerning the substance affected by such decision for the purpose of achieving conformity with the requirements of an applicable law and the intent of the parties hereto.

ARTICLE 23

DURATION OF AGREEMENT

- 23.1 This Agreement shall become effective on the day the city of Alameda ratifies this Agreement and shall continue in full force and effect for a period of three (3) years, at which time this Agreement will be reviewed and considered for extension or renewal with modifications if appropriate. Individual projects within the scope of this Agreement may be completed in phases and this Agreement shall be applied to such individual projects until Completion of such phase. After the expiration of this Agreement, the provisions of the Agreement shall continue to apply to those Projects subject to this Agreement until construction is completed. The parties may mutually agree in writing to amend, extend or terminate this Agreement at any time.

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ADDENDUM "A"

PROJECT STABILIZATION AGREEMENT FOR THE CITY OF ALAMEDA

AGREEMENT TO BE BOUND

The undersigned party confirms that it agrees and assents to comply with and to be bound by the City of Alameda Project Stabilization Agreement as such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms.

By executing this Agreement To Be Bound, the undersigned party subscribes to, adopts and agrees to be bound by the written terms of the legally established trust agreements, as set forth in section 17, specifying the detailed basis upon which contributions are to be made into, and benefits made out of, such Trust Fund(s) and ratifies and accepts the trustees appointed by the parties to such Trust Fund(s) and agrees to execute a separate Subscription Agreement(s) for Trust Funds when such Trust Fund(s) require(s) such document(s).

Such assent and obligation to comply with and to be bound by this Agreement shall extend to all work covered by said Agreement undertaken by the undersigned party. The undersigned party shall require all of its subcontractors, of whatever tier, to become similarly bound for all their work within the scope of this Agreement by signing an identical Agreement To Be Bound.

This letter shall constitute a subscription agreement, to the extent of the terms of the letter.

Dated: _____

Project: _____

Signature of Authorized Officer

Authorized Officer & Title

Name of Contractor/Employer(s)

Contractor/Employer(s) Address

CSLB #

Area Code Phone

E-mail and/or Fax

Motor Carrier (CA) Permit Number

DIR Prevailing Wage Registration #

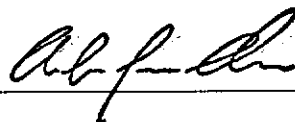
EXHIBIT A

MASTER LABOR AGREEMENTS OF SIGNATORY AFFILIATED LOCAL UNIONS:

SIGNATURES

City of Alameda

Building and Construction Trades Council
Of Alameda County, AFL-CIO



Andreas Cluver, Secretary-Treasurer

SIGNATORY UNION(S)

Asbestos Workers, Local 16

By: _____

Boilermakers, Local 549

By: _____

Bricklayers & Allied Craftsmen, Local 3

By: _____

Cement Masons, Local 300

By: _____

Electrical Workers, Local 595

By: _____

Elevator Constructors, Local 8

By: _____

Laborers, Local 886

By: _____

Iron Workers, Local 378

By: _____

Laborers, Local 67

By: _____

Laborers, Local 304

By: _____

Operating Engineers, Local 3

By: _____

Plasterers, Local 66

By: _____

Roofers, Local 81

By: _____

Sheet Metal Workers, Local 104

By: _____

Sign Display, Local 510

By: _____

Sprinkler Fitters, Local 483

By: _____

Teamsters, Local 853

By: _____

United Association of Journeymen and
Apprentices Fitting Industry, Underground
Utility & Landscape, Local 355

By: _____

United Association of Steamfitters,
Pipefitters, Plumbers, & Gas Fitters,
Local 342

By: _____

Northern California Carpenters
Regional Council (on behalf of Carpenters,
Local 713, Carpenters, Local 2236, Lathers,
Local 68L, Millwrights, Local 102,
Pile Drivers, Local 34)

By: _____

District Council No. 16 Northern
California International Union of
Painters & Allied Trades (on behalf of
Auto & Marine Painters, Local 1176,
Carpet & Linoleum Layers, Local 12,
Glaziers, Architectural Metal
& Glassworkers, Local 169,
Painters & Tapers, Local 3)

By: _____

District Council of Iron Workers of the
State of California & Vicinity Trades

By: _____