

SAN BERNARDINO COMMUNITY COLLEGE DISTRICT

TO: Board of Trustees
FROM: Bruce Baron, Chancellor
REVIEWED BY: Bruce Baron, Chancellor
PREPARED BY: Bruce Baron, Chancellor
DATE: December 11, 2014
SUBJECT: Consideration of Approval of a Community Benefits Agreement for Measure M Projects

RECOMMENDATION

It is recommended that the Board of Trustees consider approval of a Community Benefits Agreement (CBA) for Measure M projects.

OVERVIEW

On October 9, 2014, the Board authorized the Chancellor to proceed toward the development of a Community Benefits Agreement for Measure M Projects. The item stated that the CBA would be presented to the Board for approval at the December 2014 Board meeting.

ANALYSIS

Upon approval of the Board of Trustees, the CBA would apply to all Measure M projects with a total cost of One Million Dollars (\$1,000,000). The CBA will not apply to contracts that are in progress or have been bid. The District's bond program management firm will manage the CBA on behalf of the District.

BOARD IMPERATIVE

III. Resource Management for Efficiency, Effectiveness, and Excellence

FINANCIAL IMPLICATIONS

The financial implications are yet to be determined as the costs or savings related to implementing similar agreements vary. Depending on the source of information, a similar CBA may provide cost savings, or may have additional costs ranging from 5% to 15% or more.

In addition, the District's bond program management firm will require additional fees to manage the CBA at an estimated annual cost of \$100,000 to \$200,000 depending on the volume of Measure M contracts, the extent of work required, and the related costs of collecting and reporting of data.

**SAN BERNARDINO COMMUNITY COLLEGE DISTRICT
COMMUNITY BENEFITS AGREEMENT**

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This Community Benefits Agreement (hereinafter “**CBA**” or “**Agreement**”) is entered into by and between the San Bernardino Community College District (hereinafter “**District**”) and the San Bernardino/Riverside Counties Building and Construction Trades Council, AFL-CIO (hereinafter “**Council**”), and the signatory Craft Unions (hereinafter, together with the Council, collectively, the “**Union**” or “**Unions**”). This CBA establishes the labor relations policies and procedures for the District, the Contractors awarded contracts for Project Work, and for the craft persons employed by the Contractors and represented by the Unions while engaged in the Project Work defined in Section 2.2. The District, the Council, and the Unions are referred to herein as “**Party,**” or collectively as “**Parties.**”

It is understood by the Parties that by virtue of the approval of this Agreement by the District’s Board of Trustees, it will become the practice of the District for the Project Work to be contracted exclusively to Contractors who agree to be bound by the terms of this CBA through a Letter of Assent (see Exhibit “A”), and to require each of its subcontractors, of whatever tier, to become bound as well. The District shall include, directly or by incorporation by reference, the requirements of this CBA in the advertisement of and/or specifications for every contract for Project Work awarded by the District.

It is further understood that the District shall actively administer and enforce its obligations under this Agreement to ensure that the benefits envisioned from it flow to the Parties, the Contractors, the craft persons working under it, Local Residents, and taxpayers of the District. The District shall retain the services of a CBA Administrator to act as a consultant to the District to monitor compliance with this Agreement; to assist, as the authorized representative of the District, in developing and implementing the programs referenced herein, all of which are critical to fulfilling the intent and purpose of the Parties and this CBA; and to otherwise implement and administer the CBA. The District, as it sees fit, shall have the exclusive right to retain or dismiss the CBA Administrator. The CBA Administrator shall not have the right to expand, terminate, or modify this Agreement without the express written approval of the District.

The term “**Project Work**” as used in this CBA includes all construction work undertaken on behalf of the District for the “Project” as defined in Section 2.2.

The term “**Contractor**” as used in this CBA 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/corporation, or combination thereof, including joint ventures, which have entered into a contract with the District with respect to the Project Work or with another Contractor as a subcontractor for Project Work.

The term “**Labor/Management Apprenticeship Program**” as used in this Agreement shall be defined as an apprenticeship program jointly administered by representatives of labor and construction organizations and certified by the State of California.

The term “**Local Business**” as used in this CBA is defined as those businesses having either their principal office in, or functioning within, the Inland Empire, pursuant to District Board Policy 6610 as defined by the zip codes listed in “Exhibit “B”, and actively engaged in their principal line(s) of business within the Inland Empire on the date that this CBA was approved by the District’s Board of Trustees, or for six months prior to the award of covered work.

The term “**Local Resident**” as used in this CBA is defined as residents of the Inland Empire, pursuant to District Board Policy 6610 (as defined by the zip codes listed in Exhibit “B”).

No Contractor is or will be required to sign or otherwise become a party to any collective bargaining agreement with a Union as a condition of performing work within the scope of this Agreement. No practice, understanding, or agreement between a Contractor and a Union which is not specifically set forth in this CBA shall be binding on any third party contractor or union on Project Work unless endorsed in writing by the CBA Administrator.

The Parties agree that this CBA 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 CBA shall not apply to any work of any Contractor other than that on Project Work specifically covered by this Agreement.

The use of masculine or feminine gender or titles in this CBA should be construed as including both genders and not as gender limitations unless the CBA clearly requires a different construction. Further, the use of Article titles and or Section headings are for information only, and carry no legal significance.

ARTICLE 1.
INTENT AND PURPOSE

Section 1.1 Purpose. It is the purpose and intent of the Parties to make every cooperative effort to achieve the timely, safe, and economical construction of the facilities designated as the Project, and to provide opportunities and programs for the Local Residents and Local Businesses to participate in the Project. With this CBA, the Parties have established a framework for fair wages, hours, and working conditions through which these goals may be achieved, which will permit the utilization of the most modern (e.g., LEED Certified), efficient, and effective procedures for construction, which will assure a sufficient supply of skilled craft persons, and which will reduce or eliminate the causes of disruptions or interference with Project Work.

It is critical to the Local Residents, to the taxpayers of the District, and to the District, that the Project Work be completed in as timely and economical manner as possible; that the Project Work provide employment opportunities for Local Residents, as well as opportunities for students and graduates of the District to enter the construction industry through pre-apprenticeship and apprenticeship programs sponsored by Parties to this CBA; that business opportunities be enhanced for Local Businesses; and that this CBA facilitate the achievement of these goals.

Finally, it is the purpose and intent of the Parties to make every cooperative effort to achieve the timely, safe, and economical construction of the facilities designated as the Project, to provide the opportunities and programs for Local Residents and Local Businesses to participate in the Project, and to enforce compliance with the established prevailing wages, benefits, and working conditions affecting the craft employees employed on the Project.

Section 1.2 Identification and Retention of Skilled Labor and Employment of Local Residents. The Project Work will require large numbers of craft personnel and other supporting employees. It is therefore the explicit understanding and intention of the Parties to use the opportunities provided by the extensive amount of work to be covered on these Projects to identify and promote, through cooperative efforts,

programs and procedures (which may include, for example, programs to prepare persons for entrance into formal labor/management apprenticeship and/or training programs) or outreach programs to the community describing opportunities available as a result of the Project Work, for involvement of Local Residents in the construction industry, to assist them in entering the construction trades, and, through utilization of labor/management apprenticeship and/or training programs, to provide training opportunities for Local Residents and students and graduates of the District wishing to pursue a career in construction. Further, with assistance of the CBA Administrator, the District, the Contractors, and the Unions will work together to develop and implement promptly procedures for the identification of craft needs, the scheduling of work to facilitate the utilization of available craft employees, and the securing of services of craft employees in sufficient numbers to meet the demand of the Project Work to be undertaken.

Section 1.3 Encouragement of Local Businesses. The Project Work will provide many opportunities for Local Businesses to participate as Contractors or suppliers, and the Parties agree that they will cooperate with all efforts of the District, the CBA Administrator, and any other organizations retained by the District for the purpose of encouraging and assisting the participation of District businesses in Project Work. The Parties agrees that they shall employ demonstrable efforts to encourage participation in an effort to achieve such goals. This may include, for example, participation in outreach programs (including for minority, disabled, women, and veteran businesses and employees), education, and assistance to businesses not familiar with working on a public works project, and the encouragement of Local Residents to participate in Project Work through programs and procedures jointly developed to prepare and encourage Local Residents for participation in labor/management apprenticeship and/or training programs, and employment on the Project Work through the referral programs sponsored or supported by the Parties.

Section 1.4 Project Work Cooperation. The construction to take place under this CBA 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 Local Residents. The Parties therefore agree that maximum cooperation among the Parties is required; and that, with multiple

Contractors and crafts performing Project Work on multiple sites over an extended period of time, it is essential that the Parties work in a spirit of harmony and cooperation and with an overriding commitment to maintain the continuity of Project Work.

Section 1.5 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 the CBA, 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 interruption or disruption of Project Work, and the Contractors agree not to engage in any lockout.

ARTICLE 2.

SCOPE OF THE AGREEMENT

Section 2.1 General. This Agreement shall apply and is limited to all new construction, rehabilitation, and/or renovation work for the development of the District's facilities and infrastructure components that have been designated by the District for inclusion in the Project, as specifically described in Section 2.2, and performed by those Contractors of whatever tier who have contracts awarded for such work more than 30 days after the effective date of this Agreement.

Section 2.2 Specific Facilities/Construction Contained in the Project. The "Project" is defined and limited to all new construction, rehabilitation, and renovation work with a total cost of One Million Dollars (\$1,000,000) or more, and for which Measure "M" funds are used (which includes, when an integral part of the Project, demolition, site clearing, and hazard abatement work).

It is understood by the Parties that the District may, at any time, at its sole discretion, determine to add, delete, or modify construction, renovation, or remodeling of any facilities or infrastructure components of the Project, or to modify or not to build any one or more of the particular segments proposed to be covered.

Section 2.3 Exclusions. Items specifically excluded from the scope of this Agreement include the following:

- (a) Work of Contractors' non-manual employees, including, but not limited to superintendents, supervisors, staff engineers, quality control and quality assurance personnel, time keepers, mail carriers, clerks, office employees, messengers, guards, safety personnel, emergency medical and first aid

technicians, and other professional engineering, administrative, supervisory, and management employees (not covered by the master labor agreement of one of the Unions);

- (b) Equipment and machinery owned or controlled and operated by the District;
- (c) All off-site manufacture and handling of materials, equipment, or machinery; provided, however, that lay down or storage areas for equipment or material and manufacturing (prefabrication) sites dedicated solely to the Project or Project Work, and the movement of materials or goods between locations on a Project site, are within the scope of this Agreement;
- (d) All employees of the District, the CBA Administrator, design teams (including, but not limited to architects, engineers, and master planners), and any other consultants for the District (including, but not limited to, program or Project managers, construction managers and their employees, building/construction inspectors, and field soils and materials testers/inspectors) and their sub-consultants, and other employees of professional service organizations not performing manual labor within the scope of this CBA; provided, however, that it is understood and agreed that building or construction inspectors and field soils and material testers (**“Inspectors”**) as defined in the State of California wage determination for that craft are covered under the CBA when employed by a Contractor and engaged on the Project site in Project Work. Nothing in this Section will be construed to include inspectors certified by the Department of State Architects within the scope of this Agreement;
- (e) Any work performed on or near or leading to or into a site of Project Work and undertaken by state, county, or other governmental bodies, or their agents or contractors, or by public utilities, or their contractors; and/or by the District, or its contractors, work for which is not within the scope of this CBA:
- (f) Off-site Maintenance of leased equipment and on-site supervision of such work;
- (g) Work by employees of a manufacturer or vendor necessary to maintain such manufacturers’ or vendors’ warranty or guaranty;
- (h) Non-construction support services contracted by the District, District consultants, the CBA Administrator, or a Contractor in connection with this Project;

- (i) All work by employees of the District or its contractors involving general maintenance, repair, or cleaning work, except as specifically covered by this CBA; and
- (j) Laboratory work for testing.

Section 2.4 Awarding of Contracts.

- (a) The District or the Contractors, as appropriate, have the absolute right to award contracts or subcontracts on this Project to any Contractor notwithstanding the existence or non-existence of any agreements between such Contractor and any Union, provided only that such Contractor is willing, ready, and able to execute and comply with this CBA should such Contractor be awarded work covered by this CBA.
- (b) It is agreed that all Contractors and subcontractors of whatever tier, who have been awarded contracts for work covered by this CBA, shall be required to accept and be bound by the terms and conditions of this CBA, and shall evidence their acceptance by the execution the Letter of Assent as set forth in Exhibit "A", prior to the commencement of work. No Contractor or subcontractor shall commence Project Work without having first provided a copy of the Letter of Assent as executed by it to the CBA Administrator and to the Council 48 hours before the commencement of Project Work, or within 48 hours after the award of the Project Work to that Contractor or subcontractor, whichever occurs later.

Section 2.5 Coverage Exception. The Parties agree and understand that this CBA shall not apply to any work that would otherwise be Project Work when a governmental agency or granting authority partially or fully funding such Project Work determines that it will not provide this funding if such Project Work is covered by this Agreement, or when a law, regulation, proposition, or measure prohibits such coverage or the use by the District or for its benefit of particular funds. The District agrees that it will make every effort with any such governmental agency or granting authority to permit the implementation of this Agreement with regard to Project Work that the agency or authority may be partially or fully funding.

Section 2.6 Schedule A's.

- (a) The provisions of this Agreement, including the Schedule A's, which are the collective bargaining 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 20.3, and which are incorporated herein by reference, shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area, and/or national agreement which may conflict with or differ from the terms of the Agreement; provided, however, that such does not apply to work performed under the National Cooling Tower Agreement, the National Stack Agreement, the National Transit Division (NTD), or within the jurisdictional of the International Union of Elevators Constructors, except that Articles 6, 7, and 9 shall apply to such work. Where a subject covered by the provisions of this Agreement is also covered by a Schedule A, the provisions of this Agreement shall prevail. Where a subject is covered by a provision of a Schedule A and not covered by this Agreement, the provision of the Schedule A shall prevail. Any dispute as to the applicable source between this Agreement and any Schedule A for determining the wages, hours, or working conditions of employees on this Project shall be resolved under the procedures established in Article 9.

- (b) It is understood that this CBA, together with the referenced Schedule A's, constitutes a self-contained, stand-alone Agreement, and by virtue of having become bound to this CBA, a Contractor will not be obligated to sign any other local or national collective bargaining Agreement as a condition of performing work within the scope of this CBA; provided, however, that the Contractor will be required to sign a uniformly applied, non-discriminatory participation 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 is bound to make a contribution under this CBA as a result of his employment of persons working within the craft for which the trust fund provides coverage; but provided further, however, that the Contractor shall have no obligation to execute a participation agreement that binds, or attempts to bind, the Contractor beyond the terms and conditions of this CBA and/or expands the Contractor's obligation to make contributions pursuant thereto. It shall be the responsibility of the Contractor to have each of its subcontractors of whatever tier sign documents as appropriate.

Section 2.7 Binding Signatories Only. This CBA shall be binding only on the Parties, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any Party.

Section 2.8 Other District Work. This Agreement shall be limited to the Project Work. Nothing contained herein shall be interpreted to prohibit, restrict, or interfere with the performance of any other operation, work, or function not covered by this Agreement 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 2.9 Separate Liability. It is understood that the liability of the Contractors, and the liability of the Unions under this Agreement shall be several and not joint. The Unions agree that this Agreement does not have the effect of creating any joint employment status between or among the District, the CBA Administrator, and any Contractor.

Section 2.10 Completed Project Work. As areas of Project Work are accepted by the District, this CBA 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, modifications, check-out, or warranty functions required by its contract with the District.

ARTICLE 3.

UNION RECOGNITION AND EMPLOYMENT

Section 3.1 Recognition. The Contractors recognize the Unions as the sole and exclusive bargaining representatives of all craft employees within their respective jurisdictions working on the Project within the scope of this Agreement.

Section 3.2 Contractor Selection of Employees. The Contractor shall have the right to determine the competency of all employees, the number of employees required, and the duties of such employees within their craft jurisdiction, and shall have the sole responsibility for selecting employees to be laid off, consistent with Sections 3.9 and 4.3 herein. The Contractor also shall have the right to reject any applicant referred by a Union for any lawful reason, provided, however, that such right is exercised in good faith and not for the purpose of avoiding the Contractor's commitment to employ qualified employees through the procedures endorsed in this CBA.

Section 3.3 Referral Procedures.

(a) For Unions 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 CBA. 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 and non-discriminatory employment opportunities. All hiring procedures, including related practices affecting apprenticeship, shall be operated so as to consider the goals of the District to encourage employment of Local Residents, and utilization of Local Businesses on the Project, and to facilitate the ability of all Contractors to meet their employment needs.

- (b) The Unions will exert their best efforts to recruit and refer sufficient numbers of skilled craft employees to fulfill the labor requirements of the Contractors, including specific employment obligations to which the Contractors may be legally or contractually obligated, and to refer apprentices as requested to develop a larger, skilled workforce and to meet apprenticeship ratios. The Unions will work with their affiliated regional and national Unions, and jointly with the CBA Administrator and any others designated by the District, to identify and refer competent crafts persons as needed for Project Work, and to identify Local Residents for entrance into Joint Labor/Management Apprenticeship Programs, or for participation in other identified programs 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, renovation, and rehabilitation work to be undertaken by the District.
- (c) The Unions shall not knowingly refer an employee currently employed by a Contractor on Project Work to any other employer.

Section 3.1 Employment of Local Residents. In recognition of the District's mission to serve Local Residents, the Unions and Contractors agree that, to the extent allowed by law, and as long as they possess the requisite skills and qualification, Local Residents shall be referred first for Project Work, including journey-person, apprentice, or other positions which may be established under a Schedule A and covered by applicable prevailing wage for utilization on Project Work, until at least ~~thirty~~ 50% of the positions for Project Work for a particular Contractor (including Contractor's Core Employees), by craft, have been filled with Local Residents.

The CBA Administrator shall work with the Unions and contractors in the administration of this local residency preference; and the contractors and Unions shall

cooperate by maintaining adequate records to demonstrate to the CBA Administrator that such preferences have been pursued.

Section 3.2 Non-Discrimination in Referral, Employment, and Contracting.

The Unions and Contractors agree that they will not unlawfully discriminate against any employee or applicant for employment on the basis of race, color, religion, gender, national origin, age, union status, sexual orientation, marital status, or disability, or political affiliation.

Section 3.3 Core Employees. The Parties recognize and support the District's commitment to provide opportunities for all businesses to participate on the Project. In furtherance of this commitment, the Parties agree that a Contractor who is not a party to a current collective bargaining agreement with a Union shall have the opportunity to employ its experienced Core Employees on the Project, and that, therefore,

- (a) A Contractor or subcontractor may directly employ, as needed, first, a member of its core workforce, then an employee through a referral from the appropriate union hiring hall, then a second Core Employee, then a second through the referral system, and so on until a maximum of five Core Employees are employed, after which all further employment shall be pursuant to the referral provisions of this Article. On layoff, the reverse process shall be followed if and when the workforce is to be reduced below 10.
- (b) A Contractor's core workforce is comprised of those employees:
 - (i) Whose names appeared on the Contractor's active payroll for 50 of the 100 working days before award of Project Work to the Contractor;
 - (ii) Who possess any license or certification required by state or federal law for the Project work to be performed.
 - (iii) Who have the ability to safely perform the basic functions of the applicable trade, and;
 - (iv) Who are Local Residents on the effective date of this Agreement, or who have been Local Residents for the 100 working days prior to the award of the Project Work to the Contractor.
- (c) A Contractor desiring to use its Core Employees on the Project must identify them at the time it receives the Notice to Proceed, and provide proof of their eligibility to the CBA Administrator who shall provide such proof to the Council at request. 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, proof is demonstrated by a driver's license, voter registration, postal address, utility statements, or other official acknowledgment.

Section 3.4 Time for Referral. If any Union's referral system does not fulfill the requirements for specific classifications of covered employees (including residency standards) requested by any Contractors within 48 hours (excluding Saturdays, Sundays, and holidays), that Contractor may use employment sources other than Union registration and referral services, and may employ applicants meeting such standards from any other available source. The Contractor should promptly inform the Union of any applicants hired from other sources.

Section 3.5 Lack of Referral Procedure. If a signatory local Union does not have a job referral system as set forth in Section 3.3 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 3.5.

Section 3.6 Union Membership. No employee covered by this Agreement shall be required to join any Union as a condition of being employed, or remaining employed, for the completion of Project Work; provided, however, that any employee who is a member of the referring Union at the time of referral shall maintain that membership in good standing while employed under this CBA. All employees shall, however, be required to comply with the Union security provisions of the applicable Schedule A for the period during which they are performing on-site Project Work. This includes rendering payment of the applicable monthly working dues and any non-initiation or application fees uniformly required of members in the Union.

Section 3.7 Individual Seniority. Except as provided in Section 4.3, individual seniority shall not be recognized or applied to employees on the Project; provided, however, that group or classification seniority in a Union's Schedule A as of the effective date of this Agreement shall be recognized for purposes of layoffs.

Section 3.8 Foremen. The selection and number of craft foremen or general foreman shall be the responsibility of the Contractor. All foremen shall take orders exclusively from the designated Contractor representatives. Craft foremen shall be designated as working foremen at the request of the Contractors.

ARTICLE 4.

UNION ACCESS AND STEWARDS

Section 4.1 Access to Project Sites. Authorized representatives of the Union shall have access to the Project sites, provided they do not interfere with the work and further provided such representatives fully comply with posted visitor, security, and safety rules, including checking/signing in with the Contractor representatives on site and with the appropriate construction manager, if present on the site, prior to entering into the Project construction areas.

Section 4.2 Stewards.

- (a) As part of the referral process of Article 3, above, each Union shall have the right to designate 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.
- (b) In addition to his/her work, the steward shall 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 shall be concerned only with the employees of the steward's Contractor and, if applicable, subcontractors, and not with the employees of any other Contractor. Contractors shall not discriminate against the steward in the proper performance of his/her Union duties.
- (c) When a Contractor has multiple, non-continuous work locations at one site, the Contractor may request, and the Union shall appoint, such additional stewards as the Contractor may request 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 4.3 Steward Layoff/Discharge. The Contractors agree to notify the appropriate Union 24 hours before the layoff of a steward, except in the case of disciplinary discharge for 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 cause, the appropriate Union will be notified promptly by the Contractor, and such discharge or discipline shall not become final (subject to any later filed grievance) until 24 hours after such notice has been given.

Section 4.4 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 CBA, the Union agrees the Union representatives, stewards, and individual employees will not interfere with the District personnel or with personnel employed by any other employer not a party to this CBA.

ARTICLE 5. WAGES AND BENEFITS

Section 5.1 Wages. All employees covered by this Agreement 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, and not pursuant to the Schedule A's. If a prevailing rate increases under state law, the Contractor shall pay that rate as of its effective date under the law. If the prevailing wage laws are repealed during the term of this Agreement, the Contractor shall pay the wage rates established under the Schedule A's, except as otherwise provided in this CBA.

Section 5.2 Benefits.

- (a) Contractors shall pay contributions to the established employee benefit funds in the amounts designated in the appropriate Schedule A, and make all worker-authorized deductions in the amount designated in the appropriate Schedule A for all covered employees. The Parties further agree that, unless otherwise mandated by the applicable prevailing wage determination, only such bonafide benefits as accrue to the direct benefit of the employees (such as pension and annuity, health, and welfare, vacation, apprenticeship, and training funds, etc.) shall be included in this requirement and required to be paid on the Project. Such contributions for each benefit shall not exceed the amounts specified for such in the applicable prevailing wage determination. Contractors directly signatory to one or more of the Schedule A's are required to make all contributions set forth in those Schedule A's without reference to the forgoing.

Bonafide jointly-trusted benefit plans or authorized employee deductions programs established or negotiated under the applicable Schedule A or by the parties to his Agreement during the life of this Agreement may be added, subject to the limitations upon such negotiated changes contained in Sections 21.3, and provided that the contributions do not exceed the amounts set forth in the applicable prevailing wage determination.

- (b) The Contractor adopts and agrees to be bound by the written terms of the applicable, legally established, trust agreements specifying the detailed basis on which payments are made into, and benefits paid out of, such trust funds for its employees. The Contractors authorize the parties to such trust funds to appoint trustees and successor trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor.
- (c) Each Contractor and subcontractor is required to certify to the CBA Administrator that it has paid all benefit contributions due and owing to the appropriate employee benefit trust fund or fringe benefit programs prior to the receipt of its final payment or retention. Further, upon timely notification by a Union to the CBA Administrator, the CBA Administrator 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 Contractor to withhold payments otherwise due such Contractor, until such contributions have been made or otherwise guaranteed.

Section 5.3 Wage Premiums. Wage premiums, including, but not limited to, pay based on height of work, hazard pay, scaffold pay, and special skills, shall not be applicable to work under this CBA, except to the extent provided for in any applicable prevailing wage determination.

Section 5.4 Compliance with Prevailing Wage Laws. The Parties agree that the CBA Administrator shall monitor the compliance by all Contractors and subcontractors with all applicable federal and state prevailing wage laws and regulations, and that such monitoring shall not include Contractors engaged in what would otherwise be Project Work but for the exceptions to coverage set forth in Section 2.3. All complaints regarding possible prevailing wage violations shall be referred to the CBA Administrator for processing, investigation, and resolution, and if not resolved within 30 calendar days, may be referred by any Party to the state labor commissioner.

ARTICLE 6.
WORK STOPPAGES AND LOCK-OUTS

Section 6.1 During the term of this Agreement, there shall be no strikes, picketing, work stoppages, slowdowns, or other disruptive activity for any reason by the Unions, or by any employee covered by this Agreement, and there shall be no lockout by the Contractors. The establishment of any activity disrupting work, including strikes, pickets, work stoppages, or slowdowns, or the failure of any Union or worker to cross any picket line established at the Project site constitutes a material breach of this Agreement.

The Unions shall not sanction, aid, abet, encourage, or continue any work stoppage, strike, picketing, or other disruptive activity, and shall undertake all reasonable means to prevent or to terminate any such activity. No worker covered by this Agreement shall engage in activities which violate this Article. Any worker who participates in or encourages any activities which interfere with the normal operation of the Project shall be subject to disciplinary action, including discharge.

the Unions shall not be liable for acts of employees for whom it has no responsibility. The International Union General President or Presidents shall immediately instruct, order, and use the best efforts of his office to cause the Unions to cease any violations of this Article. An International complying with this obligation shall not be liable for unauthorized acts of its local Union. The principal officer or officers of a local Union will immediately instruct, order and use the best efforts of his office to cause the employees that the local Union represents to cease any violations of this Article. A local Union complying with this obligation shall not be liable for unauthorized acts of employees it represents. The failure of the Contractor to exercise its right in any instance shall not be deemed a waiver of its right in any other instance.

Section 6.2 Worker Violations. The Contractor may discharge any worker in violation of Section 6.1, and any such worker will not be eligible for rehire under this Agreement.

Section 6.3 Standing to Enforce. The District, the CBA Administrator, or any Contractor affected by an alleged violation of Section 6.1 shall have standing and the right to enforce the obligations established therein.

Section 6.4 Expiration of Schedule A's. All employees shall continue to work and to perform all their obligations with respect to the Project Work despite the

expiration of a Schedule "A" Agreement. Any renegotiated Schedule A shall be implemented on Project Work pursuant to Section 20.3.

Section 6.5 No Lockouts. 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 Agreement. 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 provisions of the Agreement, 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 6.6 Best Efforts to End Violations.

- (a) If a Contractor contends there is any violation of this Article, Section 7.3, or the Section 20.4, it shall notify, in writing, the Executive Secretary of the Council, the Senior Executive of the involved Union(s), and the CBA Administrator. The Executive Secretary 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 provision.
- (b) If the Union contends that any Contractor has violated this Article, it will notify the Contractor and the CBA Administrator, setting forth the facts which the Union contends violate the CBA, at least 24 hours prior to invoking the procedures of Section 6.7. The CBA Administrator shall promptly order the involved Contractor(s) to cease any violation of the Article.

Section 6.7 Expedited Enforcement Procedure. Any Party or the CBA Administrator, may institute the following procedures in lieu of, or before any other action at law or equity, when breach of Sections 6.1, 6.5, 7.3, or 20.4 is alleged.

- (a) The Parties will negotiate in good faith to select a mutually agreeable, unbiased individual to serve as the Permanent Arbitrator under this procedure, as well as two alternate arbitrators who shall be identified as Alternate #1 and Alternate #2. The Party invoking this procedure shall notify the Permanent Arbitrator. If the Permanent Arbitrator is unavailable, the Party invoking this procedure shall first notify Alternate #1. If Alternate #1 is not available, then Alternate #2 shall be selected. Notice to the Arbitrator shall be by the most expeditious means available, with notices to the Parties as well. For purposes of this Article, written

notice may be given by facsimile, hand delivery, or overnight mail, and will be deemed effective upon receipt.

- (b)** Upon receipt of said notice, the Arbitrator, or his/her alternate, shall sit and hold a hearing within 24 hours if it is contended that the violation still exists, but not sooner than 24 hours after notice has been dispatched to the Executive Secretary and the Senior Official(s), as required by Section 6.6.
- (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 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 issuance of any decision by the Arbitrator.
- (d)** The sole issue at the hearing shall be whether or not a violation of Sections 6.1, 6.5, 7.3, or 20.4 has, occurred. The Arbitrator shall have no authority to consider any matter in justification, explanation, or mitigation of such violation, or to access damages (except for damages as set forth in 6.8 below) which issue is reserved for court proceedings, if any. The Arbitrator's decision shall be issued in writing within three 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 15 days, but its issuance shall not delay compliance with, or enforcement of, the decision. The Arbitrator may order cessation of the violation of the Agreement and other appropriate relief, and such decision shall be served on all Parties by personal delivery, facsimile, or overnight mail to the address or facsimile number that each Party provides to the other Parties.

Such decision shall be final and binding on all Parties, and may be enforced by any court of competent jurisdiction. 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 decision as issued under Section 6.7(d), above, all Parties waive the right to a hearing and agree that such proceedings may be conducted on an ex parte basis. Such agreement does not waive any party's right to participate in a hearing for final order of enforcement. The court's order or orders enforcing the Arbitrator's decision shall be served on all Parties pursuant to law.

- (e) Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which would interfere with compliance hereto, are hereby waived by the Parties to whom they accrue.
- (f) The fees and expenses of the Arbitrator shall be equally divided between the Party or Parties initiating this procedure and the respondent Party or Parties.
- (g) The CBA Administrator shall be sent copies of all notifications required by this Article, and, at its option, may participate as a full party in any proceeding initiated under these Articles.

Section 6.8 Liquidated Damages.

- (a) If the arbitrator determines, in accordance with Section 6.7 above, that a work stoppage has occurred, the respondent Union(s) shall, within eight hours of receipt of the decision, direct all of the employees that they represent on the Project to immediately return to work. If these employees do not return to work by the beginning of the next regularly scheduled shift following such eight hour period after receipt of the Arbitrator's decision, 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 that they represent to work, then the non-complying respondent 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 sub-section "c" below, for each shift thereafter on which the craft(s) have not returned to work.
- (b) If the Arbitrator determines, in accordance with Section 6.7, that a lock-out has occurred, the respondent Contractor(s) shall, within eight hours after receipt of the decision, return all the affected employees to work on the Project, or otherwise correct the violation found by the arbitrator. If the respondent Contractor(s) do not take such action by the beginning of the next regularly schedule shift following the eight 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 sub-section "c" below, for each shift thereafter in which compliance by the respondent Contractor(s) have not been completed.

- (c) The Arbitrator shall retain jurisdiction to determine compliance with this Section and to establish the appropriate sum of liquidated damages, which shall be not less than \$1,000.00, nor more than \$5,000.00 per shift for each non-complying entity.

ARTICLE 7.

WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

Section 7.1 Assignments of Work. The assignment of work will be solely the responsibility of the Contractor performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (“Plan”), or any successor plan.

Section 7.2 Resolution of Jurisdictional Disputes. All jurisdictional disputes on this Project, between or among Building and Construction Trades Unions and the Contractors shall be settled and adjusted according to the Plan or any other plan, method, or 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 Parties.

Section 7.2.1 For the convenience of the Parties, and in recognition of the expense of travel between Southern California and Washington D.C., at the request of any Party to a jurisdictional dispute under this Agreement, 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. All other procedures shall be as specified in the Plan.

Section 7.3 No Work Disruption Over Jurisdiction. All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slowdown of any nature and the Contractor’s assignments shall be adhered to until the dispute is resolved. Individuals violating this provision shall be subject to immediate discharge.

Section 7.4 Pre-Construction Conference. As provided in Article 15, each Contractor and construction manager shall conduct a pre-construction conference with the appropriate affected Union(s) prior to commencing work.

Section 7.5 Resolution of Jurisdictional Disputes. If any actual or threatened strike, sympathy strike, work stoppage, slowdown, picketing, hand-billing, otherwise advising of the public that a labor dispute exists, or any other interference with the

progress of Project Work by reason of a jurisdictional dispute, the Parties first shall exhaust the expedited procedures set forth in the Plan, if such procedures are in the Plan then currently in effect, or otherwise as in Article 6 above.

ARTICLE 8.
MANAGEMENT RIGHTS

Section 8.1 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. Where possible, and as allowed by law, purchases are to be made locally unless costs locally differentiate by 5% or greater. In addition to the following and other rights of the Contractors enumerated in this CBA, the Contractors expressly reserve their management rights and all the rights conferred upon them by law. The Contractors' rights include, but are not limited to, the right to:

- (a) Plan, direct, and control operations of all work;
- (b) Hire, promote, transfer, and layoff their own employees as deemed appropriate to satisfy work or skill requirements;
- (c) Promulgate and require all employees to observe reasonable job rules and security and safety regulations;
- (d) Discharge, suspend, or discipline their own employees for just cause;
- (e) Utilize 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, unless specifically disapproved by the District or its authorized representative; and
- (f) Assign overtime, determine when it will be worked, and determine the number and identity of employees engaged in such work, subject to such provisions in this Agreement and the applicable Schedule A's requiring such assignments be equalized or otherwise made in a non-discriminatory manner.

Section 8.2 Specific District Rights. In addition to the following and other rights of the District enumerated in this Agreement, the District expressly reserves its management rights and all the rights conferred on it by law or contract. The District rights (and those of the CBA Administrator on its behalf) include, but are not limited to, the right to:

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

- (b) Require Contractors to establish a different work week or shift schedule for particular employees as required to meet the operational needs of the District and/or Project Work at a particular location, or in order to accommodate any difficulties at the Project site where schedules may interfere with District or resident requirements during construction activity;
- (c) At its sole option, terminate, delay, or suspend any portion of the Project 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 facilities or to mitigate the effect of ongoing Project Work on businesses and residents in the neighborhood of the Project site; and 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 CBA Administrator and the affected Contractors and Unions with reasonable notice of any changes it requires pursuant to this section;
- (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 custom; and
- (e) Investigate and process complaints, through its CBA Administrator, in the manner set forth in Sections 6 and 9.

Section 8.3 Use of Materials. There should be no limitations or restrictions by the Unions upon a Contractor's choice of materials or design, regardless of source or location, or upon the use and utilization of equipment, machinery, packaging, precast, prefabricated, pre-finished, or pre-assembled materials, tools or other labor saving devices, subject to the application of law, in reference to off-site construction. Generally, the on-site installation or application of such items shall be performed by the craft having jurisdiction over such work. The District and its CBA Administrator shall advise all Contractors of, and enforce as appropriate, the off-site application of the prevailing wage law as it affects Project Work.

Section 8.4 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 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-saving devices and methods of performing Project Work. The Union agrees 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 or catalog parts, assemblies, accessories, prefabricated items, pre-assembled 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, item, or method of work arises, or whether a particular part or pre-assembled item is standardized or a catalog part or item, the work will proceed as directed by the Contractor, and the Parties shall promptly consult over the matter. If the disagreement is not resolved, the affected Unions shall have the right to proceed through the procedures set forth in Article 9.

Section 8.5 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 9.

SETTLEMENT OF GRIEVANCES AND DISPUTES

Section 9.1 Cooperation and Harmony on Site.

- (a) This Agreement 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 CBA Administrator, together with the Contractors, to complete the construction of the Project economically, efficiently, continuously, and without any interruption, delays or work stoppages.
- (b) The CBA Administrator, the Contractors, and the Unions, and the employees, collectively and individually, realize the importance to all Parties of maintaining

continuous and uninterrupted performance Project Work, and agree to resolve disputes in accordance with the grievance provisions set forth in this Article, or, as appropriate, those of Articles 6 or 9.

- (c) The CBA Administrator shall oversee the processing of grievances under this Article and Articles 6 and 9, 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, that it is the responsibility of the Parties to any pending grievance to insure the time limits and deadlines are met.

Section 9.2 Processing Grievances.

Part 1. This Agreement is intended to provide close cooperation between management and labor. Each of the Unions will assign a representative to this Project for the purpose of completing the construction of the Project economically, efficiently, continuously, and without interruptions, delays, or work stoppages.

Part 2. The Contractors, the Unions, and the employees, collectively and individually, realize the importance to all parties to maintain continuous and uninterrupted performance of the work of the Project, and agree to resolve disputes in accordance with the grievance-arbitration provisions set forth in this Article.

Part 3. Any question or dispute arising out of and during the term of this Agreement (other than trade jurisdictional disputes) 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 Agreement feels aggrieved by an alleged violation of this Agreement, the employee shall, through his/her local union business representative or job steward, within ten working days after the occurrence of the violation, give notice to the work site representative of the involved Contractor stating the provision alleged to have been violated. A representative of the Union or the job steward, and the work site representative of the involved Contractor shall meet and endeavor to

adjust the matter within ten 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 working days, provide relevant information, including a short description, the date on which the alleged violation occurred, and the provisions of the Agreement alleged to have been violated. Grievances and disputes settled at Step 1 shall be non-precedential except to the Parties directly involved.

(b) Union or Contractor Grievances. Should the Union(s) or any Contractor have a dispute with any other Party, and, if after conferring within ten working days after the disputing Party knew or should have known of the facts or occurrence given rise to the dispute, a settlement is not reached within five working days, the dispute shall be reduced to writing and processed to Step 2 in the same manner as outlined in 1(a) above for the adjustment of an employee grievance.

Step 2. The business manager of the involved local Union or his/her designee, together with the site representative of the involved Contractor, and a representative of the CBA Administrator, shall meet within seven working days of the referral of the dispute to this second step to arrive at a satisfactory settlement. If the parties fail to reach an agreement, the dispute may be appealed in writing in accordance with the provision of Step 3 within seven working days after the initial meeting at Step 2.

Step 3.

(a) If the grievance had been submitted but not adjusted under Step 2, either party may request in writing, within seven calendar days thereafter, that the grievance be submitted to an Arbitrator mutually agreed upon by them. The Contractor and the involved Union shall attempt mutually to select an Arbitrator, but if they are unable to do so, they shall request the American Arbitration Association to provide them with a list of arbitrators from which the Arbitrator shall be selected. The rules of the American Arbitration Association shall govern the conduct of the arbitration hearing. The decision of the Arbitrator shall be final and binding on all Parties. The fee and expenses of such Arbitration shall be borne equally by the Contractor and the involved local 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 to him or her, and he or she shall not have authority to change, amend, add to, or detract from any of the provisions of this Agreement.

Part 4. The Contractor and District, through the CBA Administrator, shall be notified of all actions at Steps 2 and 3 and shall, upon their request, be permitted to participate in all proceedings at these steps.

Section 9.3 Limit on Use of Procedures. Procedures contained in this Article shall not be applicable to any alleged violation of Article 6 or 7, with the single exception that any employee discharged for violation of Section 6.1 or 7.3 may resort to the procedures of this Article to determine only if he or she was, in fact, engaged in that violation.

Section 9.4 Notice. The CBA Administrator (and the District, in the case of any grievance regarding the scope of this Agreement), shall be notified by the involved Contractor of all actions at Steps 2 and 3, and further, the CBA Administrator shall, upon its own request, be permitted to participate fully as a party in all proceedings at such steps.

ARTICLE 10. REGULATORY COMPLIANCE

Section 10.1 Compliance with All Laws. The Council, the Unions, Contractors, subcontractors, and their employees shall comply with all applicable federal and state laws, ordinances, and regulations, including, but not limited to those relating to safety and health, employment, and applications for employment, and all applicable District Policies and Administrative Procedures, as currently exist and as may be subsequently revised or added. All employees shall also comply with the safety regulations established by the District, the CBA Administrator, or the Contractor. Employees must promptly report any injuries or accidents to a supervisor.

Section 10.2 Monitoring Compliance. The Parties agree that the District shall require, and that the CBA Administrator shall monitor, compliance by all Contractors and subcontractors with all federal and state laws and regulations that, from time-to-

time, may apply to Project Work. It shall be the responsibility of the CBA Administrator to investigate or monitor compliance with these various laws and regulations. The Council may recommend to the CBA Administrator or the District procedures to encourage and enforce compliance with these laws and regulations.

Section 10.3 Prevailing Wage Compliance. The Council or the Unions shall refer all complaints regarding potential prevailing wage violation to the CBA Administrator which shall process, investigate, and resolve such complaints, consistent with Section 5.4. 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 law, including the rights of an individual to file a complaint with the State Labor Commissioner.

Section 10.4 Violations of Law. Should there be a finding by a court or administrative tribunal of competent jurisdiction that a Contractor has violated federal and or state law or regulation (including any finding of non-compliance with the California prevailing wage obligations as enforced pursuant to DIR regulations), the District, upon notice to the Contractor, that it, or its subcontractors, are in such violation, and on the failure of the Contractor or subcontractor to remedy such violation promptly, may take such action as is permitted by law or contract to encourage or require the Contractor or the subcontractor to come into compliance. Such action may include, if permitted by contract and or law, removing the Contractor or subcontractor from Project Work.

ARTICLE 11.

SAFETY AND PROTECTION OF PERSON AND PROPERTY

Section 11.1 Safety.

- (a)** It shall be the responsibility of each Contractor to ensure safe working conditions and employee compliance with any safety rules contained herein or established by the District, the CBA Administrator, 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 and construction manager, the CBA Administrator, and the

District. These rules will be published and posted. An employee's failure to satisfy his/her obligations under this section will subject himself/herself to discipline, up to and including discharge.

The Parties may establish and implement reasonable substance-abuse testing procedures and regulations, which may include pre-hire, reasonable cause, and random and post-accident testing, to the extent permitted by law. Should the CBA Administrator approve an established program to which the Unions are currently a party, such program may 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 or otherwise adopted by the CBA Administrator, 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.

Section 11.2 Inspection. The inspection of incoming shipments of equipment, machinery, and construction materials of every kind shall be performed at the discretion of the Contractor by individuals of its choice.

Section 11.3 Suspension of Work for Safety. A Contractor may suspend all or a portion of the job to protect the life and safety of the employees. In such cases, employees shall be compensated only for the actual time worked; provided, however, that where the Contractor requests employees to remain at the site and be available for work, the employees will be compensated for stand-by time at the applicable rate of pay.

Section 11.4 Water and Sanitary Facilities. The Contractor shall provide adequate supplies of drinking water and sanitary facilities for all employees as required by state law.

ARTICLE 12.

TRAVEL AND SUBSISTENCE

Travel expenses, travel time, subsistence allowances, zone rates, and parking reimbursements shall not be applicable to work under this CBA, except to the extent provided for in any applicable prevailing wage determination. Parking for employees covered by this CBA shall be provided by the Contractors according to the provision of the Schedule A's., and upon presentation of proof of any expense incurred.

ARTICLE 13.
APPRENTICES

Section 13.1 Importance of Training. The Parties recognized the need to maintain continuing support of the programs designed to develop adequate members of competent employees 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 opportunity to provide employment at fair wages and working conditions on Project Work. To these ends, the Parties will facilitate, encourage, and assist Local Residents to enter and progress in labor/management apprenticeship or training programs in the construction industry leading to participation in such apprenticeship programs. The District, the CBA Administrator, other District consultants, and the Council, will work cooperatively to identify, establish, and maintain, effective programs and procedures for persons interested in entering the construction industry which will help prepare them for the formal joint labor/management apprenticeship programs maintained by the Unions.

Section 13.2 Use of Apprentices.

- (a)** Apprentices may comprise up to 30% of each craft's work force at any time, unless the standards of the applicable joint apprenticeship committee confirmed by the State Labor Commissioner establish a lower maximum percentage, and where such is the case, the applicable Unions should use their best efforts with the committee and, if necessary, the commissioner to permit up to 30% apprentices on the Project. When available and capable of undertaking the tasks involved, 40% of such apprentice workforce of each craft may consist of first-year apprentices.
- (b)** The Unions agree to cooperate with the Contractors 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 the utilization of apprentices. The District shall encourage such utilization, and, both as to apprentices and the overall supply of experienced employees, the CBA Administrator will work with the Council to assure appropriate and maximum utilization of apprentices and the continuing availability of both apprentices and journey persons.
- (c)** The Parties agree that apprentices will not be dispatched to Contractors working under this CBA unless there is a journey person, or other Contractor employee,

working on the Project where the apprentice is to be employed who is qualified to assist and oversee the apprentice's progress through the program in which he/she is participating.

Section 13.3 Joint Subcommittee on Training and Apprenticeship. In order to carry out the intent and purpose of this Article, a subcommittee of the Labor Management Committee ("**Subcommittee**") pursuant to Article 16 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 signatory Union's Joint Apprenticeship Committee ("**JAC**") and representatives of the District to establish appropriate criteria for recognition by such JAC's of the educational and work experience possessed by Local Residents toward qualifying for entry or advanced level in the apprenticeship programs under the direction of such JAC's. Specific emphasis will be placed on coordination of the District's existing or planned educational programs with the apprenticeship training programs of the signatory Unions, and the cooperation of the District and the Unions, and the representatives of their JAC's, to encourage District graduates, students, and prospective students to participate in such apprenticeship programs, for the improvement of the construction industry. 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 CBA becomes effective. In addition to the joint chairs, the membership of the Subcommittee will consist of at least three representatives of the Unions and three representatives of the Contractors.

Section 13.4 Helmets to Hardhats.

- (a) 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 Parties 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 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.

- (b) The Unions and the Contractors agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on this Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bonafide, provable past experience.

ARTICLE 14.

WORKING CONDITIONS

Section 14.1 Rest Periods. There will be no non-working times established during working hours except as may be required by applicable law. Individual coffee containers will be permitted at the work locations.

Section 14.2 Work Rules. The District, the CBA Administrator, and the Contractors or construction manager shall establish such reasonable work rules as they deem appropriate and not inconsistent with this Agreement. These rules will be posted at the work sites by the Contractor and may be amended thereafter as necessary. Failure to observe these rules and regulations may be grounds for discipline up to and including discharge. Said work rules shall include the prohibition of the playing of portable radios.

Section 14.3 Emergency Use of Tools and Equipment. There should be no restrictions on the emergency use of any tools by any qualified employee or supervisor, or on the use of any tools or equipment for the performance of work within the jurisdiction, provided that the employee can safely use the tools or equipment involved in compliance with law and regulations.

Section 14.4 Access to District Property and Facilities. Recognizing the nature of the work being conducted on the site, employee access by private automobile may be limited by the District to certain roads and parking areas. Further, unless expressly permitted otherwise by the District or its authorized representative, covered employees shall not utilize the public areas of the District's facilities, including without limitation, sanitary and eating facilities.

ARTICLE 15.

PRE-CONSTRUCTION CONFERENCES

Consistent with Section 7.4, all work assignments should be disclosed by the Contractor and construction manager at a pre-construction conference held in

accordance with industry practice. The Contractor shall notify the CBA Administrator at least two weeks before starting work under this CBA, and the CBA Administrator shall coordinate the scheduling of a pre-construction conference with the Council, the Contractors, and the affected Unions. Should there be any formal jurisdictional dispute raised under Article 7, the CBA Administrator shall be promptly notified. At the pre-construction conference, the CBA Administrator shall review the District's employment and contracting programs and goals with the participants.

ARTICLE 16.

LABOR/MANAGEMENT AND COOPERATION

Section 16.1 Joint Committee. The Parties will form a Joint Committee consisting of representatives selected by Council and the CBA Administrator, respectively, to be chaired jointly by a representative of the CBA Administrator and of the Council. The purpose of the Joint Committee shall be to promote harmonious and stable labor management relations on this Project, to ensure effective and constructive communication between labor and management, to advance the proficiency of work in the industry, and to evaluate and ensure an adequate supply of skilled labor for all Project Work. Representatives of the District may participate upon its request.

Section 16.2 Functions of Joint Committee. The Joint Committee shall meet on a schedule to be determined by the Joint Committee, or at the call of the co-chairs, to discuss the administration of this Agreement, the progress of the Project, general labor management problems that may arise, outreach programs (including for minority, disabled, women, and veteran businesses and employees), and any other matters consistent with this CBA. Substantive grievances or disputes arising under Articles 6, 7 or 9 shall not be reviewed or discussed by the Joint Committee, but shall be processed pursuant to the provisions of the appropriate Article.

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

The CBA Administrator shall prepare quarterly reports on apprentice utilization and the training and employment of Local Residents, and a schedule of Project Work

and estimated number of craft employees needed. The Joint 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.

ARTICLE 17.

SAVINGS AND SEPARABILITY

Section 17.1 Savings Clause. As it is not the intention of the District, the CBA Administrator, or the Unions to violate any laws governing the subject matter of this Agreement, the Parties agree that in the event that any provision of this Agreement is finally held or determined to be illegal or void as being in contravention of any applicable law or regulation, the remainder of the Agreement shall remain in full force and effect unless the part or parts determined to be void are wholly inseparable from the remaining portions of this Agreement. Further, the Parties agree that if and when any provision of this Agreement is finally 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 purpose of achieving conformity with the requirements of any laws and the intent of the Parties. If the legality of this Agreement is challenged and injunctive relief is granted by any court, suspending temporarily or permanently the implementation of this Agreement, then the Parties agree that all Project Work that would otherwise be covered by this Agreement should be continued to be bid and constructed without application of this Agreement so that there is no delay or interference with the ongoing planning, bidding and construction of any Project Work.

Section 17.2 Effect of Injunctions or Other Court Orders. The Parties recognize the right of the District to withdraw, at its absolute discretion, the utilization of this CBA as part of any bid specification should a Court of competent jurisdiction issue any order, or any applicable statute be enacted, which could result temporarily or permanently in delay of the bidding, awarding, or construction of the Project. Notwithstanding such an action by the District, or such court order or statutory provision, the Parties agree that the CBA shall remain in full force and effect on covered Project Work to the maximum extent legally possible.

ARTICLE 18.

WAIVER

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

ARTICLE 19.

AMENDMENTS

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

ARTICLE 20.

DURATION OF THE AGREEMENT

Section 20.1 Duration and Final Termination.

This CBA shall be effective on January 1, 2015, and shall continue in effect through December 31, 2020, or until the Project Work is completed, whichever occurs first. All Project Work awarded prior to the latter date shall continue to be covered by this CBA until the turnover and final acceptance of such work, subject to the specifications, pursuant to Section 20.2. Final termination of all obligations, rights, and liabilities, under this CBA shall occur upon receipt by the Council of a notice from the District saying that no work remains within the scope of the CBA, or on December 31, 2017 (except for Project Work awarded prior to that date and not yet completed and turned over, or unless there is a mutually agreed upon extension), whichever occurs first. This CBA may be extended by mutual written consent of the Parties.

Section 20.2 Turnover and Final Acceptance of Completed Work.

- (a) Construction on 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, or approved and accepted by the District or third parties with the approval of the District, the Agreement 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 are required by its contract 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, this CBA 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. At the request of the Union, complete information describing any “punch” list work, as well as any additional work required of a Contractor at the direction of the District pursuant to “a” above, involving otherwise turned-over and completed facilities which have been accepted by the District, will be available from the CBA Administrator.

Section 20.3 Continuation of Schedule A’s. Schedule A’s incorporated as part of this Agreement shall continue in full force and effect until the Contractor and Union notify the CBA Administrator of the mutually agreed upon changes in such Agreements and their effective dates.

The Parties agree to recognize and employ all applicable changes on their effective dates, except as otherwise provided by this CBA; provided, however, that any such provisions negotiated in said collective bargaining agreements will not apply to work covered by this CBA if such provisions are less favorable to the Contractor under the CBA 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 CBA. Any disagreement among 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 9.

Section 20.4 No Work Stoppages. The Unions agree that there will be no strikes, work stoppages, sympathy strikes, picketing, slowdowns, or any other disruptive activity affecting the Project by any Union involved in the negotiations of the local collective bargaining agreement and resulting Schedule A’s, nor shall there be any lock-out on this Project of the involved Unions during the course of such negotiations

Section 20.5 Notices. Notices under this Agreement to the Parties may be given by personal delivery, facsimile, or overnight mail to the address or facsimile number that each Party provides to the other Parties.

**ARTICLE 21.
TAXPAYER PROTECTION**

Section 21.1 Pursuant to Public Contract Code Section 2500(a), the following additional taxpayer protection provisions are incorporated into this Agreement, to the extent not already expressed herein:

- (a)** This Agreement prohibits discrimination based on race, national origin, religion, sex, sexual orientation, political affiliation, or membership in a labor organization in hiring and dispatching employees for the Project.
- (b)** This Agreement permits all qualified Contractors and subcontractors to bid for and be awarded work on the Project without regard to whether they are otherwise parties to collective bargaining agreement.

Date: _____ **San Bernardino Community College District**

Signature: _____
Name: _____
Position: _____

Date: _____ **San Bernardino/Riverside Counties Building and Construction Trades Council, AFL-CIO**

Signature: _____
Name: _____
Position: _____

Date: _____ **Heat and Frost Insulators & Allied Workers Local 5**

Signature: _____
Name: _____
Position: _____

Date: _____

Boilermakers Local 92

Signature: _____

Name: _____

Position: _____

Date: _____

Bricklayers Local 4

Signature: _____

Name: _____

Position: _____

Date: _____

Cement Masons Local 500

Signature: _____

Name: _____

Position: _____

Date: _____

Drywall Finishers Local 36/D.C. #36

Signature: _____

Name: _____

Position: _____

Date: _____

Electrical Workers Local 477

Signature: _____

Name: _____

Position: _____

Date: _____

Iron Workers Local 416

Signature: _____

Name: _____

Position: _____

Date: _____

Iron Workers Local 433

Signature: _____

Name: _____

Position: _____

Date: _____

Laborers Local 300

Signature: _____

Name: _____

Position: _____

Date: _____

Laborers Local 783

Signature: _____

Name: _____

Position: _____

Date: _____

Laborers Local 1184

Signature: _____

Name: _____

Position: _____

Date: _____

Operating Engineers Local 12

Signature: _____

Name: _____

Position: _____

Date: _____

Painters & Allied Trades Local 775/D.C. #36

Signature: _____

Name: _____

Position: _____

Date: _____

Plasterers Local 200

Signature: _____

Name: _____

Position: _____

Date: _____

Plaster Tenders Local 1414

Signature: _____

Name: _____

Position: _____

Date: _____

Roofers & Waterproofers Local 220

Signature: _____

Name: _____

Position: _____

Date: _____

Sheet Metal Local 105

Signature: _____

Name: _____

Position: _____

Date: _____

Sprinkler Fitters (Road) Local 669

Signature: _____

Name: _____

Position: _____

Date: _____

Teamsters Local 166

Signature: _____

Name: _____

Position: _____

Date: _____

Tile, Marble, & Terrazo Local 18

Signature: _____

Name: _____

Position: _____

Date: _____

Resilient Floor & Decorative Covering Local 1247

Signature: _____

Name: _____

Position: _____

Date: _____

Pipefitters Local 250

Signature: _____

Name: _____

Position: _____

Date: _____

Plumbers & Steamfitters Local 398

Signature: _____

Name: _____

Position: _____

Date: _____

Landscape/Irrigation Local 345

Signature: _____

Name: _____

Position: _____

Date: _____

Southwest Regional Council of Carpenters

Signature: _____

Name: _____

Position: _____

EXHIBIT A
AGREEMENT TO BE BOUND
COMMUNITY BENEFITS AGREEMENT
SAN BERNARDINO COMMUNITY COLLEGE DISTRICT

The undersigned hereby certifies and agrees that:

1. It is a "Contractor" as defined in the Community Benefits Agreement ("Agreement") of the San Bernardino Community College District.
2. In consideration of the award of a contract or subcontract, and in further consideration of the promises made in the Agreement, and, when appropriate, in the referenced Schedule A's, it accepts and agrees to be bound by the terms and conditions of the Agreement.
3. If it performs Project Work, as defined in the Agreement, it will be bound by the referenced trust agreements designated in local master collective bargaining agreements, and hereby authorizes the parties to such local trust agreements to appoint trustees and successor trustee to administer the trust fund, and hereby ratifies and accepts the trustees so appointed as if made by the undersigned.
4. It has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of the Agreement.
5. .

Dated: _____

Name of Contractor:

(print/stamp)

Project:

(Authorized Officer & Title)

(Signature)

(Address)

EXHIBIT B
Inland Empire Zip Codes

Riverside

92501
92503
92504
92505
92506
92507
92508
92509

Corona

92879
92880
92881
92882
92883

Norco

92860

Chino

91708
91710

Ontario

91710
91758
91761
91762
91764

Montclair

91763

Claremont

91711

Temecula

92590
92591
92592

Murrieta

92562
92563

Lake Elsinore

92530
92532

San Bernardino

92401
92403
92404
92405
92407
92408
92410
92411

Redlands

92373
92374

Grand Terrace

92313
92324

Highland

92343

Colton

92324

Rancho Cucamonga

91701
91730
91737
91739

Pomona

91765
91766
91767
91768

Upland

91784
91785
91786

Victorville

92392
92394
92395

Hesperia

92344
92345

Barstow

92310
92311
92312

Palm Springs
92262
92264

Palm Desert
92210
92211
92260

Cathedral City
92234

Rancho Mirage
92270

Beaumont
92223

Banning
92220

Fontana
92331
92334
92335
92336
92337

Rialto
92376
92377