



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2012 OCT 18 PM 4:23

# AGENDA REPORT

TO: DEANNA J. SANTANA  
CITY ADMINISTRATOR

FROM: Fred Blackwell

SUBJECT: Army Base Project Labor  
Agreement Supplemental Report

DATE: October 23, 2012

City Administrator  
Approval

Date

10/18/12

COUNCIL DISTRICT: 3

## RECOMMENDATION

Staff recommends that the City Council and the Oakland Redevelopment Successor Agency (ORSA) Board authorize the City/ORSA Administrator to negotiate and execute the Project Labor Agreement ("PLA") with the Building and Construction Trades Council of Alameda County, AFL-CIO, and specified local unions for the construction of public improvements at the former Oakland Army Base, in a form and content substantially in conformance with the attached agreement, without returning to the City Council.

## REASON FOR SUPPLEMENTAL

The parties continued to draft the PLA up to the deadline for filing the Agenda Report. Consequently, the City Attorney's Office did not have an opportunity to review the latest version of the agreement and approve it for inclusion in the Report. This Supplemental Report provides the most current contents of the PLA, included as *Attachment A*, for the City Council's consideration.

For questions regarding this report, please contact Al Auletta, Army Base Program Manager, at 510-238-3752.

Respectfully submitted,

FRED BLACKWELL  
Assistant City Administrator

Prepared by: Al Auletta, Program Manager  
Office of Neighborhood Investment

Attachment A: Project Labor Agreement

Item: \_\_\_\_\_  
CED Comte  
October 23, 2012

**PROJECT LABOR AGREEMENT  
FOR THE  
OAKLAND ARMY BASE – PUBLIC IMPROVEMENTS**

**PREAMBLE**

This Agreement is made and entered into on this date, \_\_\_\_\_, 2012, by and between the City of Oakland ("City"), the Building and Construction Trades Council of Alameda County, AFL-CIO and the Local Unions signatory hereto ("Union(s)"), and any Contractor(s) and/or subcontractors at any tier who shall subsequently become signatory to this Agreement.

**RECITALS**

**WHEREAS**, the large, complex, multi-craft, and long-term Project described in this Agreement has been designated by the City as one in which a Project Labor Agreement Requirement applies; and

**WHEREAS**, the Contractor(s) will be engaged in construction of the Project; and

**WHEREAS**, large numbers of workers of various skills employed by Contractor(s) (and/or subcontractors at all tiers) will be required in the performance of the construction work for the Project, including those to be represented by the unions affiliated with the Building and Construction Trades Council of Alameda County and any other Union which is signatory to this Agreement; and

**WHEREAS**, the Union(s), Contractor(s) and the subcontractors, and the City wish to insure labor peace at the Project Site devoid of any disruption that could jeopardize the schedule and timeliness of the construction process, where both contractors that are signatory to collective bargaining agreements of the Union(s) are supervising employees that are members of the Union(s) and where contractors that are not signatory to collective bargaining agreements are supervising employees; and

**WHEREAS**, the interests of the general public, the City, the Union(s) and Contractor(s) would best be served if the construction work proceeded in an orderly manner without disruption because of any Work Stoppage or lockouts; and

**WHEREAS**, the Union(s) agree to cooperate in every way possible with Contractor(s) and the employees of the Contractor(s); and

**WHEREAS**, the parties to this Agreement mutually agree that safety, quality, productivity, efficiency and labor harmony are primary goals; and

**WHEREAS**, the City desires to provide construction training and employment opportunities for students of and residents within the City through apprentice programs; and

**WHEREAS**, the parties recognize the need for safe, efficient and speedy construction in order to reduce unnecessary delays and insure timely and economical completion of the Project and that this promotes the public interest; and

**WHEREAS**, the parties wish to advance the goals of the City's Construction Jobs Policy for the Oakland Army Base ("Construction Jobs Policy"); and

**WHEREAS**, the parties desire mutually to establish and stabilize wages, hours and working conditions for the employees employed by the Contractor(s) and/or subcontractors for the construction of the Project, and further to encourage close cooperation to achieve a satisfactory, continuous and harmonious relationship among the parties to this Agreement;

**NOW, THEREFORE, THE PARTIES, IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN CONTAINED, MUTUALLY AGREE AS FOLLOWS:**

## **ARTICLE 1** **DEFINITIONS**

- 1.1 "Agreement" means this Project Labor Agreement.
- 1.2 "Alternative Employees" shall mean those employees selected by the Contractor(s) in accordance with Paragraph 14.5 of this Agreement.
- 1.3 "City" means the City of Oakland, California, a municipal corporation, as owner and ground-lessor, and its agents.
- 1.4 "Contractor(s)" means—any individual, firm, partnership or corporation, or combination thereof, including joint ventures, which is an independent business enterprise and has entered into a contract with the City or any of its contractors or subcontractors at any tier, with respect to the construction work necessary for the Project or any part thereof, including construction management services and construction building material delivery and removal truckers, trucking companies and trucking brokers, who agree, under contract with the Contractor(s); or a subcontractor of the contractor(s), to perform Project work for any part or portion of the construction work covered by this Agreement, including the operating of construction equipment, performance of labor and/or installation of materials.
- 1.5 "Construction Contract(s)" means all of the contract(s) for construction of this Project to which the Project Labor Agreement is applicable.
- 1.6 "Construction Jobs Policy" means the City's Construction Jobs Policy for Public Improvements, as set forth in the LDDA.
- 1.7 "Covered Work" shall mean the work described in connection with the Project in Article 3, except as specifically excluded under Article 16.B.

- 1.8 "Disadvantaged Worker" shall mean a Resident meeting eligibility criteria for California Enterprise Zone Hiring Credits, as set forth in Cal. Rev. & Tax Code Sec. 23622.7(b)(4)(A). Disadvantaged Workers shall be certified and identified by name by the City's Job Center.
- 1.9 "General Contractor(s)" shall mean any contractor awarded a contract directly by the City, Project Manager, or Construction Manager as defined in the LDDA. The term "Prime Contractor(s)" as used herein shall have the same meaning as "General Contractor(s)."
- 1.10 "New Apprentice" shall mean a Resident who on the date that such individual is hired or assigned to perform the applicable work, is newly enrolled (less than three months) in a labor-management apprenticeship program that is currently registered with the State of California's Division of Apprenticeship Standards.
- 1.11 "Master Labor Agreement" ("MLA") means the Master Agreement of a Union(s) signatory to this Agreement and which is listed in Appendix A.
- 1.12 "Project" means Public Improvements to be constructed on City-owned portions of the Oakland Army Base, pursuant to a design-build contract as contemplated in the Lease Disposition and Development Agreement, dated \_\_\_\_\_, 2012, between the City and Prologis CCIG Oakland Global, LLC ("LDDA"), and the Property Management Agreement, contemplated between City and CCIG, Inc. Such Project shall include all work as described in Article 3 herein.
- 1.13 "Project Manager" means CCIG, Inc., its successors and assigns, and any other person or persons(s) or business entity(ies) designated by City to oversee all phases of construction for the Project, including the Construction Manager as defined in the LDDA.
- 1.14 "Resident" shall mean an individual domiciled in the City for at least six (6) months prior to the date that such individual is hired or assigned to perform the applicable work, with "domiciled" as defined by Section 349(b) of the California Election Code.
- 1.15 "Targeted Worker" shall mean a Resident, a Disadvantaged Worker, or a New Apprentice, each as defined in the Construction Jobs Policy (for ease of reference, definitions are repeated in this Article 1).
- 1.16 "Union(s)" means the Building and Construction Trades Council of Alameda County, AFL-CIO and any other 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.
- 1.17 "Work Stoppage" shall mean any strike, sympathy strike, walkout, slowdown, sit-down, boycott, picketing, work stoppages, picketing, interference with work or handbilling encouraging any of the above.

**ARTICLE 2**  
**PURPOSE**

- 2.1 The purposes of this Agreement are to promote efficient construction operations for the Project, to insure an adequate supply of skilled craftspersons, to provide for labor-management peace and an efficient, expedited, effective and binding procedure for settling labor disputes without labor action or lockouts, and to facilitate implementation of the Construction Jobs Policy for development of the Oakland Army Base. In so doing, the parties to this Agreement establish the foundation to promote the public interest, to provide a safe work place, to assure high quality construction, to ensure an uninterrupted construction project, and to secure optimum productivity, on-schedule performance, and satisfaction.
- 2.2 It is the intent of the parties to set out uniform and fair working conditions for the efficient and economical completion of the Project, maintain harmonious labor/management relations and eliminate strikes, lockouts and other delays.
- 2.3 Parties to this Agreement acknowledge and agree that the terms of the Construction Jobs Policy, which governs all construction work on the Project, advances the public interest and the policy goals of the City of Oakland in the expenditure of public funds. It is the belief and intent of the parties that this Agreement facilitates and advances the purposes of the Construction Jobs Policy, in addition to having the other benefits and achieving the other purposes described herein.

**ARTICLE 3**  
**SCOPE OF AGREEMENT**

- 3.1 The City will apply this Agreement as a contract specification to the award of all construction contracts as covered work under Article 3 of this Agreement, except as excluded under Article 16.B.
- 3.2 This Agreement shall apply only to construction/craft employees working for this Project represented by the Union(s) signatory hereto, and shall not apply to Contractor(s)' supervisors above the classification of general foreman, or technical or non-manual employees including, but not limited to, executives, administrative or professional employees, engineers and licensed architects, office and clerical employees, drafters, timekeepers, messengers, and guards.
- 3.3 This Agreement covers, without limitation, all on-site construction, demolition, alteration, painting or repair of buildings, structures, landscaping, temporary fencing and other work and related activities for the Project that are within the craft jurisdiction of one of the Union(s) and that is part of the Project, including, without limitation, pipelines, site preparation, survey work, and all construction, demolition or improvements required to be performed as a condition of approval by any public agency. This scope of work includes all soils and materials testing

and inspection where such testing and inspection is performed by a classification in which a prevailing wage determination has been published.

- 3.4 This Agreement shall apply to any start-up, calibration, performance testing, repair, maintenance, operational revisions to systems and/or subsystems performed within ninety (90) days after Final Notice of Completion.
- 3.5 The Project includes work necessary for the Project and/or in temporary yards or areas adjacent to and dedicated to the Project, and at any batch plant(s) constructed or used solely to supply materials to the Project, when those sites or processes are dedicated exclusively to the Project.  
This Agreement covers all on-site fabrication work over which the City or Contractor(s) possess the right of control (including work done for the Project in any temporary yard or area established for the Project). Additionally, any offsite work, including fabrication, necessary for the Project defined herein, that is lawfully 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 of this Agreement shall be considered covered work under this Agreement.
- 3.6 The furnishing of supplies, equipment or materials which are stockpiled for later use shall in no case be considered subcontracting.
- 3.7 Construction building material delivery truckers, trucking companies and trucking brokers, performing construction trucking work, such as the delivery of ready-mix, asphalt, aggregate, sand or other fill material which are directly incorporated into the construction process as well as the off-hauling of debris and excess fill material and/or mud, shall be covered by the terms and conditions of this Agreement, to the fullest extent provided by law, or by prevailing wage determinations of the California Department of Industrial Relations. Employers, 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.
- 3.8 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, in limited circumstances requiring special knowledge of the particular item(s), may be performed by construction persons of the vendor or other companies where necessary to protect a manufacturer's warranty. The issue of whether it is necessary to use construction persons of the vendor or other companies to protect the manufacturer's warranty shall be subject to the grievance and arbitration clause in Article 12 of this Agreement.
- 3.9 There shall be no limitation or restriction upon the choice of materials or upon the full use and installation of equipment, machinery, package units, factory pre-cast, prefabricated or preassembled materials, tools or other labor-saving devices.
- 3.10 After installation by the Contractor(s) and upon the issuance of a notice of substantial completion, final completion or formal acceptance of a portion of the project or a building system by the City, 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.

- 3.11 It is recognized by the parties to this Agreement that the Contractor(s) are acting only on behalf of said Contractor(s), and said Contractor(s) have no authority, either expressed, implied, actual, apparent or ostensible, to speak for or bind the City. Further, it is understood that this is a self-contained, stand alone Agreement and that by virtue of having become bound to this Agreement, neither the City, any project manager, construction manager nor the Contractor(s) will be obligated to sign any local, area or national agreement, or master labor agreement, with any signatory Union(s) hereto.
- 3.12 It is expressly agreed and understood by the parties hereto that the City shall retain the right at all times to perform and/or subcontract all portions of the construction and related work on Project sites not covered by this Agreement.
- 3.13 The working conditions and hours of employment herein provided have been negotiated between the Union(s) and Contractor(s) signatory to this Agreement.
- 3.14 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.
- 3.15 Without limiting the foregoing, items specifically excluded from the scope of this Agreement include the following:
  - (a) The operation of equipment and machinery owned or controlled by the City and not directly related to or used for the construction project;
  - (b) All employees of any contractor, design team or any other consultant of the City not performing construction craft labor within the scope of this Agreement;
  - (c) Any work performed on or near or leading to or on to the site of work covered by this Agreement and undertaken by state, county, city or other governmental bodies, or their contractors, or by public utilities or their contractors, and/or by the City or its contractors for work which is not part of the scope of this Agreement;
  - (d) Off-site maintenance of leased equipment and on-site supervision of such work;
  - (e) Non-construction support services contracted by the City or any contractor in connection with this Project; and

- (f) All work by employees of the City.

**ARTICLE 4  
EFFECT OF AGREEMENT**

- 4.1 By executing the Agreement, the Contractor(s) (and subcontractors at all tiers) and Union(s) agree to be bound by the Agreement. By executing the Agreement, the City and the Union(s) agree to be bound by the Agreement. Contractor(s) shall become signatory to, and agree to comply with, this Agreement by executing the Agreement to be Bound. The City is an owner and ground-lessor of the Project, but shall not be considered an employer or joint employer for any work covered by this Agreement, and, with regard to its employment practices, is not bound by provisions of this Agreement applicable to Contractor(s). To promote project stability and economic savings, to ensure that the work on the Project will not be subject to major disruption, to advance the goals of the City's Construction Jobs Policy, and to maintain a spirit of harmony, cooperation and labor-management peace, including establishing an effective and expeditious method for the settlement of all labor misunderstandings, disputes or grievances that may arise, the City shall require its construction manager and all General Contractor(s) to ensure that all Contractor(s) execute the Agreement to be Bound prior to commencing performance.
- 4.2 By accepting the award of a Construction Contract for the Project, all Contractor(s) agree to be bound by each and every provision of the Agreement and agree 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 Exhibit A. If the Contractor(s) refuses to execute the Agreement to be Bound, then such Contractor(s) shall not be awarded a Construction Contract.
- 4.3 At the time that any Contractor(s) enters into a subcontract with any subcontractor providing for the performance of the Construction Contract, the Contractor(s) shall provide a copy of this Agreement, as it may from time to time be modified, 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. 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.
- 4.4 The Contractor(s) has the primary obligation for performance of all conditions of this Agreement. This obligation cannot be relieved, evaded or diminished by subcontracting. Should the Contractor(s) elect to subcontract, the Contractor(s) shall continue to have such primary obligation.
- 4.5 Each Contractor(s) shall give written notice to the Union(s) of any subcontract involving the performance of work covered by this Agreement within either even (7) days of entering such subcontract or before such Contractor(s) commences work on the Project, whichever occurs first. Such notice shall specify the name, address and the California State License Board license number of the



Contractor(s). Written notice at a Pre-Job Conference shall be deemed written notice under this provision for those Contractor(s) listed at the Pre-Job only.

- 4.6 (a) With regard to any Contractor(s) that is independently signed to any MLA, this Project Labor Agreement shall in no way supersede or prevent the enforcement of any subcontracting clause contained in such MLA, except as specifically set forth in subsections (b) and (c) of this Section. 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 Labor Agreement shall be interpreted and/or applied in any manner that would give this Project Labor 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 4.6.

(b) If a craft union (hereafter "Aggrieved Union") believes that an assignment of work on this Project has been made improperly by a Contractor(s) 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 4.6, the Aggrieved Union may submit a claim under the jurisdictional resolution process contained in Article 7 of this PLA, and the decision rendered as part of that process shall be enforceable to require the Contractor(s) 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 4.6(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 PLA. If the award made under the MLA conflicts with the jurisdictional award made pursuant to this PLA, the award of any damages under the former shall be null and void ab initio.

## **ARTICLE 5**

### **RELATIONSHIP BETWEEN PARTIES**

- 5.1 This Agreement shall only be binding on the signatory parties hereto, and shall not apply to parents, affiliates, subsidiaries, or other divisions of the Contractor(s), or other venture unless signed by such parent, affiliate, subsidiary, or other division(s) of such Contractor(s), or other venture. This Agreement does not create and does not have the effect of creating any joint employer, single employer or alter-ego status between or among the Contractor(s) or between or among any of the parents, affiliates, subsidiaries, other divisions of the Contractor(s), or other joint or sole ventures of any Contractor(s).
- 5.2 Each Contractor(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(s) or any dispute between the Union(s) and the Contractor(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 other Contractor(s), party to this Agreement.

- 5.3 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(s) and the other Union(s) party to this Agreement.

**ARTICLE 6**  
**NO STRIKES - NO LOCKOUTS**

- 6.1 During the life of this Agreement, and with respect to the Project and the work described in Article 3, the Union(s) and its officers, members, agents, representatives, employees, and any other person acting on behalf of said Union(s), shall not incite, encourage, condone or participate in any Work Stoppage of any nature whatsoever, for any cause whatsoever, or any other type of interference of any kind, coercive or otherwise, and it is expressly agreed that any such action is a violation of this Agreement.
- 6.1.1 Withholding employees of a specific Contractor(s), and only that specific Contractor(s), for that Contractor(s)' failure to tender Trust Fund contributions as required in accordance with Article 17 and/or for failure to meet its weekly payroll is not a violation of this Article 6; however, provided further that the Union(s) shall give the affected Contractor(s) and the City written notice seventy-two (72) hours prior to the withholding of such Contractor(s)' employees when failure to tender trust fund contributions has occurred. There shall be one (1) day's 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.
- 6.1.2. Should a Contractor(s) performing work for this Project be delinquent in the payment of Trust Fund contributions required under this Agreement, the Union(s) may request that the General Contractor(s) issue joint checks payable to the Contractor(s) and the appropriate employee benefit Trust Fund(s), on behalf of the employee(s) until such delinquencies are satisfied. Any Trust Fund claiming that a Contractor(s) is delinquent in its fringe benefit contributions to the funds will provide written notice of the alleged delinquency to the affected Contractor(s), with copies to the general Contractor(s) 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(s) delinquent in trust or benefit contribution payments, that nothing in this Agreement shall affect normal contract remedies available under the local collective bargaining agreements. If the General Contractor(s) is delinquent in the payment of Trust Fund(s) contributions for covered work performed for this Project, the General Contractor(s) agrees that the affected Trust Fund(s) may place the City on notice of such delinquencies and the General Contractor(s) further agrees that the City may issue joint checks to the General Contractor(s) and the Trust Fund(s), on behalf of the employee(s) until the delinquency is satisfied.

- 6.1.3 The General Contractor(s) or the City may elect to issue a joint check for the disputed delinquencies. Upon written notification to the Union(s) of this election by either the General Contractor(s) or the City, the Union(s) shall promptly order all employees to return to work, or, if within the 24-hour or 72-hour notice period as applicable, shall not withhold labor from Contractor(s) with which the Union(s) have a dispute over, respectively, payroll or Trust Fund contributions. The Union(s) and subject Contractor(s) agree to use their best efforts to resolve any dispute over Trust Fund contributions in a prompt and expeditious manner in order to minimize any disruption of work of the subject Contractor(s).
- 6.1.4 It is specifically agreed that there shall be no Work Stoppage as a result of the expiration of any local, regional or other applicable labor agreement having application at the Project and/or failure of the parties to that agreement to reach a new contract. If an MLA expires before the Contractor(s) completes the performance of a construction contract and the Union(s) or Contractor(s) gives notice of demands for a new or modified MLA, the Union(s) agrees that it will not strike or withhold labor from the Contractor(s) for said contract for work covered under this Agreement and the Union(s) and the Contractor(s) agree that the expired collective bargaining agreement shall continue in full force and effect for work covered under this Agreement until a new or modified Master Agreement is reached between the Union(s) and Contractor(s). If the Union(s) and Contractor(s) agree to an interim agreement that will apply until a new Master Agreement is reached, then, at the Contractor(s)' option, the Contractor(s) may work under the terms of the interim agreement until a new or modified Master Agreement is reached between the Union(s) and Contractor(s). If the new or modified Master Agreement reached between the Union(s) and Contractor(s) provides that any terms of compensation of the Master Agreement shall be retroactive, the Contractor(s) agrees to comply with any retroactive terms of the new or modified MLA to its effective date which is applicable to employees employed on a project within seven (7) days after notification by the Union(s).
- 6.2 In consideration of the foregoing, the Contractor(s) shall not incite, encourage or participate in any lockout or cause to be locked out any employee covered under the provisions of this Agreement. The term "lockout" does not refer to the discharge, termination or layoff of employees by the Contractor(s) for any reasons in the exercise of its rights as set forth in any provision of this Agreement, nor does "lockout" include the City's decision to terminate or suspend work on the site or any portion thereof for any reason.
- 6.3 Any employee or employees inciting, encouraging or participating in any Work Stoppage or other activity in violation of this Agreement is/are subject to immediate discharge and the procedure of Article 12, if invoked.
- 6.4 Upon facsimile or e-mail or notice by similar means of a violation to the Union(s) offices, the Union(s) and its officers shall take immediate action and will use its (their) best efforts to prevent, end or avert any such aforementioned activity or the threat thereof by any of its officers, members, representatives or employees, either individually or collectively, including but not limited to, publicly disavowing any such action and ordering all such officers, representatives, employees or members

who participate in such unauthorized activity to cease and desist from same immediately and to return to work and comply with its orders. The Contractor(s) shall have the right, in the event of a Work Stoppage by the Union(s) to replace the employees represented by the Union(s) in violation of this Article 6 until the Union(s) shall effect the return to work of such employees. Nothing in this Agreement shall be construed to limit or restrict the right of any of the parties to this Agreement to pursue fully any and all remedies available under law in the event of a violation of this Article 6.

6.5 Any party to this Agreement may institute the following binding arbitration procedure when a Work Stoppage breach is alleged. In the event a party institutes this procedure, arbitration shall be mandatory.

6.5.1 Within seven calendar days after initiation of arbitration as described above, the parties to the dispute shall choose an arbitrator for final and binding arbitration. The parties agree that an arbitrator shall be selected by the alternate striking method from the following list. The party who shall strike the first name shall be selected by toss of a coin. (1) Robert Hirsch; (2) Morris Davis; (3) William Ricker; (4) Thomas Angelo; and (5) Barbara Kong-Brown.

6.5.2 Upon selection, the Arbitrator shall designate a place for, schedule and hold a hearing in such time as to render a decision within seventy-two (72) hours of Notice.

6.5.3 The Arbitrator shall notify the parties by facsimile or e-mail or similar means of the place and time chosen for the session. 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 Arbitrator.

6.5.4 The sole issue at the hearing shall be whether or not a violation of this Article has in fact occurred, and the Arbitrator shall have no authority to consider any matter in justification, explanation or mitigation of such violation or to award damages, which issues shall be reserved for court or other arbitration proceedings, if any. The award shall be issued 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 shall order cessation of the violation of this Article and other appropriate relief, and such award shall be served on all parties in the manner set forth in 6.5.1.

6.5.5 The award shall be final, binding and non-reviewable as to the merits. A judgment of any court of competent jurisdiction shall be entered upon the award, which may be enforced by any such court, upon the filing of this Agreement and all other relevant documents referred to hereinabove in the following manner. Facsimile, e-mail, or similar 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 6.5.4, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final

order of enforcement. The court's order or order enforcing the Arbitrator's award shall be served on all parties by hand or by delivery to their last known address or by registered mail, or by other means allowed by the court.

- 6.5.6 Any rights created by statute or law governing arbitration or injunction proceedings inconsistent with the above procedure, or which interfere with compliance therewith, are hereby knowingly and expressly waived by the parties to whom they accrued.
- 6.5.7 The costs of the arbitration, including the fee and expenses of the Arbitrator, shall be borne equally.
- 6.5.8 The procedures contained in Article 6 shall be applicable only to alleged violations of this Article 6. Discharge or discipline of employees for violation of this Article 6 shall be subject to the grievance and arbitration procedures of Article 12.

## **ARTICLE 7**

### **WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES**

- 7.1 The assignment of Covered Work will be solely the responsibility of the Contractor(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.
- 7.2 All jurisdictional disputes on this Project between or among the Building and Construction Trades Unions and the Contractor(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(s) and Union parties to this Agreement.
  - 7.2.1 For the convenience of the parties, and in recognition of the expense of travel between Northern 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 applicable Building and Construction Trades Council. All other procedures shall be as specified in the Plan.
- 7.3 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractor(s)' assignment shall be adhered to until the dispute is resolved. Individuals violating this Section shall be subject to immediate discharge.

- 7.4 Each Contractor(s) shall conduct a Pre-Job Conference with the Council prior to commencing Covered Work. The Project Manager and the City will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Contractor(s) may be held together.

**ARTICLE 8**  
**PRE-JOB CONFERENCES**

- 8.1 A mandatory Pre-Job Conference will be held with each Contractor prior to the commencement of work to establish the scope of work in each Contractor(s)' contract. When a contract has been let to a Contractor(s) covered hereby, this Pre-Job Conference and/or Mark-Up Meeting shall be required and shall be held at the offices of the Building and Construction Trades Council of Alameda County, AFL-CIO. The parties may mutually agree to waive the requirement to hold a Pre-Job Conference and/or Mark-Up Meeting for any particular contract.
- 8.2 The Contractor(s) performing the work shall have the responsibility for making work assignments in accordance with Section 7.1 of this Agreement.

**ARTICLE 9**  
**MANAGEMENT RIGHTS**

- 9.1 The Contractor(s) shall retain full and exclusive authority for the management of their workforces for all work performed under this Agreement. This authority includes, but is not limited to the right to:
- (a) Implement and Enforce the Construction Jobs Policies.
  - (b) Plan, direct and control the workforce and the operation of all the work.
  - (c) Recognizing the lawful manning provisions of the applicable MLA except as otherwise provided in this Agreement.
  - (d) Hire, promote, transfer and layoff employees as deemed appropriate to meet work requirements and/or skills required, in accordance with the applicable MLA except as otherwise provided in this Agreement.
  - (e) Require all employees to observe the Contractor(s)' Project Rules, Security and Safety Regulations, consistent with the provisions of this Agreement. These Project Rules and Regulations shall be reviewed and mutually agreed upon at the Pre-Job Conference and supplied to all employees and/or posted on the jobsite.
  - (f) Discharge, suspension or discipline will be handled under the applicable MLA.

- (g) Assign and schedule work at its sole discretion and determine when overtime will be worked consistent with provisions of this Agreement and the Master Labor Agreements.
- (h) Utilize any work methods, procedures or techniques and select and use any type or kind of materials, apparatus or equipment regardless of source, manufacturer or designator in accordance with the provisions of this Agreement, which covers the fabrication provisions and any other conflicts that are addressed in this Agreement.
- (i) The foregoing listing of management rights shall not be deemed to exclude other functions not specifically set forth herein. The Contractor(s), therefore, retain all legal rights not specifically enumerated in this Agreement.

## **ARTICLE 10**

### **WORK RULES**

- 10.1 The selection of craft foremen and general foremen shall be entirely the responsibility of the Contractor(s), it being understood that in the selection of such foremen, the Contractor(s) will give first consideration to the qualified individuals available in the local area. Foremen and general foremen shall take orders from the designated Contractor(s) representatives.
- 10.2 There shall be no limit on production by employees or restrictions on the full use of tools or equipment. Craftpersons using tools shall perform any of the work of the trade and shall work under the supervision of the craft foremen.
- 10.3 Security procedures for control of tools, equipment and materials are solely the responsibility of the Contractor(s).
- 10.4 A badge system may be used to check in and out. Each employee must personally check in and out. The Contractor(s) will provide adequate facilities for check in and out in an expeditious manner. Excessive instances of late starting and/or early quitting will be cause for termination. If parking is not readily available near the jobsite, it shall be the responsibility of the Contractor(s) to provide adequate parking facilities and the means for employees to be transported from the parking facilities to and from the jobsite in an expeditious manner.
- 10.5 Employees shall be at their place of work taking into account the badge system and workplace access (as designated by the Contractor(s) at the Pre-Job Conference) and ready to work at the starting time and shall remain at their place of work performing their assigned functions until quitting time. A reasonable clean-up time will be allowed for employees to put company and personal tools in secured storage and return to the parking lot by quitting time. The parties reaffirm their policy of a fair day's work for a fair day's wage.
- 10.6 Slowdowns, standby crews and featherbedding practices will not be tolerated.

- 10.7 It is understood by the Contractor(s) and agreed to by the Union(s), that the employees of the Contractor(s) will perform the work requested by the Contractor(s) without having any concern or interference with any other work performed by any employees of the City or others who are not covered by this Agreement including, but not limited to, maintenance and operations, except as otherwise provided in Section 3.14(c) of this Agreement, which provision shall control.
- 10.8 Contractor(s) shall provide rest periods in accordance with Industrial Welfare Commission Order No. 16-2001 regulating wages, hours and working conditions for certain on-site occupations in the construction, drilling, logging and mining industries. Any dispute regarding rest and meal periods contained within this Section shall be resolved exclusively under the provisions of Article 12 of this Agreement. Employees will be permitted to have personal thermos bottles or other containers (i.e. water bottles), the contents of which may be consumed during working hours at their assigned work locations.
- 10.9 All foremen will remain with their crews and supervise such crews in the performance of their duties.
- 10.10 There shall be no interference with vendor or supplier deliveries of equipment, apparatus, machinery and construction materials to the jobsite, since such deliveries shall not fall under this Agreement except as provided for in Article 3.7. Unloading of the above will be performed by Contractor(s)' employees.
- 10.11 The Contractor(s) will furnish facilities for storage of tools, adequate sanitary facilities and clean, heated, dry change rooms. However, Contractor(s) will incur no liability for loss, theft, or damage to personal tools left in tool storage not provided by the Contractor(s). The Contractor(s) has the right to take any reasonable action deemed necessary to control tool losses. Personal tools when brought onto the jobsite may be inventoried as to type and number of tools and condition. Tool provision and losses will be handled according to the applicable MLA.
- 10.12 The Contractor(s) and the Union(s) recognize the necessity for promoting efficiency and agree that no rules, customs or practices shall be permitted that cause over-manning, limit production or increase the time required to do the work, and no limitation shall be placed upon the amount of work which an employee shall perform, nor shall there be any restrictions against the use of any kind of machinery, tools or labor-saving devices, except as expressly addressed in this Agreement.

## **ARTICLE 11**

### **JOINT ADMINISTRATIVE COMMITTEES**

- 11.1 The parties to this Agreement shall establish a five-person person Joint Administrative Committee. This Committee shall be comprised of two



representatives of the City, two representatives of the Union(s) (selected by the Building and Construction Trades Council of Alameda County – AFL-CIO), and the City’s Project Manager for the Project. Each representative shall designate an alternate who shall serve in his or her absence 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 Project.

- 11.2 In regard to disputes between one or more Union(s) and one or more Contractor(s) concerning the terms of this Agreement, the Joint Administrative Committee shall appoint a Subcommittee consisting of one representative each for the Union(s) and for the City for the purpose of convening to confer in an attempt to resolve the grievance that has been filed consistent with Article 12. 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 described in Article 12 by majority vote with such resolutions to be final and binding on all signatories of the Agreement. Disputes resulting in the filing of grievances for all parties signatory to this Agreement shall be resolved by the process set forth in this paragraph 11.2 and Article 12.
- 11.3 In regard to disputes between one or more Union(s) and the City, the Union(s) and the City shall appoint one representative each for the purpose of convening to confer in an attempt to resolve the grievance that has been filed consistent with Article 12. The two representatives shall meet along with two representatives of the Joint Administrative Committee as the "City/Union(s) Joint Administrative Subcommittee" as required to resolve grievances described in Article 12. Disputes resulting in the filing of grievances for all parties signatory to this Agreement shall be resolved by the process set forth in paragraph 11.2 and Article 12.

## ARTICLE 12 GRIEVANCE PROCEDURE

- 12.1 All disputes concerning the interpretation and/or application of this Agreement that do not fall within the Article 6 No-Strike/No-Lockout procedure shall be governed by the following grievance and arbitration procedure.
- 12.2 Grievances between one or more Union(s) and one or more Contractor regarding interpretation and/or application of this Agreement shall be pursued according to the following provisions:
  - 12.2.1 A grievance shall be considered null and void if not brought to the attention of the Contractor(s) or the Union(s) within ten (10) working days after the grievance is alleged to have occurred but in no event more than thirty (30) days after the charging party became aware of the event giving rise to the dispute.

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

- Step 1: The Union(s)' or Contractor(s)' representative and the grievant shall attempt to resolve the grievance with the craft supervisor or Contractor representative.
- Step 2: In the event the matter remains unresolved in Step 1 above, within five (5) working days, the grievance shall be reduced to writing and may then be referred by the Union(s) or the Contractor(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 five (5) days (not including Saturdays, Sundays, and holidays) after its referral to Step 2, either involved party may submit the dispute within five (5) days (not including Saturdays, Sundays, and holidays) to the Joint Administrative Subcommittee established in Section 11.2. The Joint Administrative Subcommittee shall meet within five (5) days (not including Saturdays, Sundays, and holidays) 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. Regardless of which party has initiated the grievance proceeding, prior to the meeting of the Joint Administrative Subcommittee, the Union 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 five (5) days (not including Saturdays, Sundays, and holidays) by either party to Step 4.

At the time a grievance is submitted under this PLA 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(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 five (5) working 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.

Step 5: The Parties agree that the Arbitrator shall be determined in accordance with the procedure set forth in Paragraph 6.5.1. 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 equally by the Parties. 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.

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

Step 1: The City/Union(s) Joint Administrative Subcommittee shall attempt to resolve the grievance. The City/Union(s) Joint Administrative Subcommittee shall meet within five (5) days (not including Saturdays, Sundays, and holidays) 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) days (not including Saturdays, Sundays, and holidays) 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) days (not including Saturdays, Sundays, and holidays) 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) days (not including Saturdays, Sundays, and holidays) after receipt of the grievance, either involved party may proceed to Step 3.

Step 4: 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 6.5.1.

Step 5: 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 equally by the Parties. 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.

12.4 Where an issue is addressed in this Agreement and an MLA, this Agreement shall prevail. Where an issue is addressed in an MLA and not in this Agreement, the MLA shall control. This provision applies to each and every provision and Article in this Agreement.

12.6 Grievances between a Union(s) and a Union(s)' signatory contractor involving interpretation or application of the Master Agreement shall be governed by the grievance procedures contained in the Master Agreement.

### ARTICLE 13

#### **UNION RECOGNITION AND REPRESENTATION**

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

13.2 No employee subject to this Agreement can be required to join any Union as a condition of being first employed on the Project. For the period during which they are performing Covered Work, all employees who are employed by the Contractor(s) shall, as a condition of employment, on or before the eighth (8) day of consecutive or cumulative employment for a construction contract subject to this Agreement, be responsible for the payment of the applicable monthly working dues, with the exception that the Union(s) will waive initiation fees for construction workers who are dispatched for work on the Project but are not offered or do not seek membership in the Union. There is nothing in this

Agreement that would prevent non-union employees from joining the Union(s). No employee shall be discriminated against by the Union or at the Project Site because of the employee's union membership or lack thereof

- 13.3 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. Access for Union(s)' representatives will not be unduly restricted.
- 13.4 A Steward shall be a working journeyman appointed in writing by the authorized Union(s)' representative who shall, in addition to work as a journeyman, be permitted to perform during working hours such Union(s) duties as cannot be performed at other times which consist of those duties assigned by the Union(s). The Union(s) agrees that such duties shall be performed as expeditiously as possible and the Contractor(s) agrees to allow the Steward a reasonable amount of time for the performance of such duties. The Steward shall not leave the work area without notifying the appropriate supervisor.
- 13.5 The Steward will be paid at the journeyman wage for the job classification in which the Steward is employed.
- 13.6 The treatment of Stewards shall be in accordance with the applicable MLA.

#### **ARTICLE 14** **REFERRAL-LOCAL HIRE**

- 14.1 All employees employed by Contractor(s) shall be dispatched by the Union(s). Except as otherwise set forth in this Agreement or the Construction Jobs Policy, all Contractor(s) shall be bound by and utilize the registration facilities and referral systems established or authorized by the relevant MLAs.
- 14.2 Contractor(s) are subject to the City's Construction Jobs Policy for the Project, which is a term of the LDDA for the Project, and with which all Contractors are required to comply. Parties to this Agreement represent that the Construction Jobs Policy is reasonable and workable, and that Contractor(s) can comply with the Construction Jobs Policy without violating this Agreement. In the event of any conflict between the Construction Jobs Policy and this Agreement with regard to responsibilities of Union(s), the terms of this Agreement shall prevail and take precedence.
- 14.3 Contractor(s) agree to use the Craft Request Form (Appendix D) and the procedures written therein to request workers from Union(s). The Union(s) agree to accept and utilize the Craft Request Form and the procedures written therein, including providing referrals of Targeted Workers needed in order for Contractor(s) to satisfy requirements of the Construction Jobs Policy, on a priority basis. Contractor(s) agree to maintain copies of all Craft Request Forms used on the Project submitted, including transmission verification documents that are date/time imprinted. All Craft Request Forms and transmission verification

documents shall be available for inspection upon request by authorized representatives of the City.

- 14.4 In the event that a Contractor(s) not signatory to an MLA has its own core workforce, the Contractor(s) may request by name, and the Union(s) shall honor, referral of persons who demonstrate the following qualifications:
- (1) possess any license and/or certifications required by State or Federal law for the Project work to be performed;
  - (2) have worked a total of at least one thousand (1,000) hours in the construction craft during the prior three (3) years;
  - (3) were on the Contractor(s)' active payroll for at least sixty (60) out of the one hundred and eighty (180) calendar days prior to the contract award; and
  - (4) is a Resident. "Resident" shall mean an individual domiciled in the City for at least six (6) months prior to the date that such individual is hired or assigned to perform the applicable work, with "domiciled" as defined by Section 349(b) of the California Election Code.

The Union(s) will first refer to such Contractor(s) one journeyman employee from the hiring hall out-of-work list for the affected trade or craft, and will thereafter refer one of such Contractor(s)' "core" employees as a journeyman and shall repeat the process, one and one, until such Contractor(s)' crew requirements are met or until such Contractor(s) has hired no more than ten (10) "core" employees, whichever occurs first. Thereafter, all additional employees shall be hired exclusively from the Union(s)' hiring hall out-of-work list(s). Hiring hall referrals made pursuant to this Article 14.4 shall be made in conformance with Article 14.3. For the duration of the Contractor(s)' work the ratio shall be maintained and when the Contractor(s)' workforce is reduced, employees shall be reduced in the same ratio of core employees to hiring hall referrals as was applied in the initial hiring. Contractor(s) signatory to a Local, Regional, and/or National collective bargaining agreement(s) with Union(s) signatory hereto shall be bound to use the hiring hall provisions contained in the relevant collective bargaining agreement of the affected Union(s), except as specifically set forth in this Agreement.

- 14.5 In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor(s) within a forty-eight (48) hour period after such request is made by the Contractor(s), Saturdays, Sundays and Holidays excluded, the Contractor(s) shall be free to obtain work persons from any source ("Alternative Employees"). Upon hiring Alternative Employees, the Contractor(s) shall immediately notify the appropriate Union(s) of the name and address of the Alternative Employees hired, which Alternative Employees shall be bound by relevant provisions of the Union MLA during performance of work for the Project.

**ARTICLE 15**  
**NON-DISCRIMINATION**

- 15.1 The Union(s) and Contractor(s) shall not discriminate against or harass any employee or applicant for employment because of race, creed, color, sex, sexual orientation, gender, genetic information, national origin, age, religion, union activity (or lack thereof), military veteran status, disability as identified in the California Fair Employment and Housing Act and the Americans With Disabilities Act, or any other basis recognized by law.

**ARTICLE 16**  
**WORKFORCE AND LOCAL AND SMALL LOCAL BUSINESS**  
**DEVELOPMENT**

**A. 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(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. As required by the Construction Jobs Policy, apprentices shall comprise at least twenty percent (20%) of total work hours for each Contractor(s). Union(s) will cooperate by referring apprentices to Contractor(s) as requested in order to facilitate Contractor(s)' satisfaction of this requirement, and shall use any and all influence and authority to encourage, or, where possible, require such referral. Union(s) agree that apprentices shall be dispatched to any Contractor(s) working under this PLA.
- 16.2 The Construction Jobs Policy requires that, in each calendar year, for each 20,000 Project Work Hours performed by a Prime Contractor and its subcontractors of any tier, the Prime Contractor and/or its subcontractors shall sponsor at least one New Apprentice and employ that apprentice for at least 1000 hours of construction work, for the Project Site and/or for other Project. Union(s) agree that this requirement is reasonable and attainable, and commit to working proactively and collaboratively with the City, Contractor(s), and joint labor/management apprenticeship programs to ensure satisfaction of this requirement. Union(s) represent to the City that their influence with and collaborative efforts with such parties will assure satisfaction of this requirement, assuming Contractor(s) provide sponsorship opportunities as required by the Construction Jobs Policy.
- 16.3 In order to facilitate Prime Contractor(s)' satisfaction of the requirement described in Article 16.2, Union(s) shall cooperate and take the following steps,

and shall use any and all influence and authority, with regard to joint labor/management apprenticeship programs to encourage or, where possible, require such programs to take the following steps:

- a. accept sponsored Residents and Disadvantaged Workers into joint labor/management apprenticeship programs, and refer New Apprentices to Contractor(s) upon request;
- b. if a sponsored Resident or Disadvantaged Worker is not accepted into a joint labor/management apprenticeship program, upon request from the City or a sponsoring Contractor, provide information regarding the reasons for not accepting the worker into the program (to the extent allowed by law), and work collaboratively with the City and the Contractor(s) to resolve obstacles to enrollment of that worker and other Residents and Disadvantaged Workers.
- c. Respond to City requests regarding retention and progress through the apprenticeship program of New Apprentices over the duration of this Agreement, to the extent allowed by law;
- d. facilitate, encourage, and assist Residents and Disadvantaged Workers to commence and progress in joint labor/management apprenticeship programs;
- e. develop and collaborate with effective pre-apprenticeship programs to prepare Residents and Disadvantaged Workers to become New Apprentices;
- f. assist with recruitment of Residents and Disadvantaged Workers for such programs;
- g. assist in connecting Residents and Disadvantaged Workers with Contractor(s), for sponsorship opportunities.

## **B. LOCAL AND SMALL LOCAL BUSINESS ENTERPRISE HIRING PROGRAM**

- 16.4 The Parties recognize that the expansion of economic opportunities in the Oakland area is mutually beneficial and that the local development activities generated by the Project will enhance the lives and well being of all City residents and members of the Oakland community. The Parties also recognize that the Project will be consistent with and further the important economic and community development goals of the City's Local and Small Local Business Enterprise Program ("L/SLBE Program"). In keeping with the L/SLBE Program's purpose of growing local business capacity and overcoming the disadvantages that have resulted from the operation of various economic, social and cultural forces, the City and the signatory Unions believe that these goals can be achieved and operate within the framework of this Agreement.
- 16.5 The Parties agree that for the purposes of this Agreement, the definition of "Construction Contract(s)" shall not include contracts that are otherwise covered by the scope of this Agreement that have an estimated value before bidding below One Million Dollars (\$1,000,000.00), and that are awarded to contractors who are certified under the L/SLBE Program. The aggregate value of all contracts falling



under this exclusion will not exceed five percent (5%) of the total value of Covered Work over the duration of this Project Labor Agreement.

- 16.6 The Parties intend that the implementation of this Article 16.B shall not have a significantly disproportionate impact on any particular craft or upon Local and Small Local Business Enterprises already signatory to MLAs. The City shall work with the signatory Unions to ensure that no more than ten percent (10%) of any particular craft's work may be subject to this Article 16.B.
- 16.7 The Unions agree that they will not undertake any Work Stoppage against a contractor performing work on the Project under this provision, and the Parties expressly agree that any such work shall not be subject to Trust Fund contributions. This Agreement shall not limit the rights of signatory Unions to seek to organize and to utilize legal and administrative remedies not precluded by this Agreement, according to applicable federal or state laws, to secure such rights.

## ARTICLE 17 WAGE SCALES AND FRINGE BENEFITS

- 17.1 All employees covered by this Agreement shall be classified and paid in accordance with the classification and wage scales contained in the appropriate MLA which has been negotiated by the historically recognized bargaining parties and in compliance with the applicable general prevailing wage determination made by the Director of Industrial Relations pursuant to the California Labor Code.
- 17.2 During the period of construction on this Project, the Contractor(s) agree to recognize and put into effect such increases in wages and recognized fringe benefits as shall be negotiated between the various Union(s) and the historically recognized local bargaining parties on the effective date as set forth in the applicable MLAs. The Union(s) shall notify the Contractor(s) in writing of the specific increases in wages and recognized fringe benefits and the date on which they become effective.
- 17.3 The Contractor(s) hereby adopt and agree to be bound by the written terms of the legally established Trust Agreements specifying the detailed basis on which contributions are to be made into, and benefits paid out of, such appropriately qualified employee fringe benefit funds established by such appropriate Trust Agreements. The Contractor(s) authorize the parties to such 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 Contractor(s).
- 17.4 Wages due shall be paid to all employees weekly, in accordance with the MLAs.

- 17.5 When an employee is discharged, the employee shall be paid wages due immediately. If an employee is discharged or voluntarily terminates, wages due shall be paid in accordance with California State Law.
- 17.6 Wage rates, fringe benefits or working conditions negotiated in MLAs which are construed to apply exclusively or predominantly to the construction work covered by this Agreement will not be recognized or applied on work covered by this Agreement.

**ARTICLE 18**  
**HOURS OF WORK, OVERTIME and SHIFTS**

- 18.1 The hours of work, establishment of overtime and the establishment of shifts and shift pay shall be governed by the MLAs. It is understood and agreed that the City and Contractor(s) may, at their discretion, establish a uniform starting time and/or ending time as specified in the bid announcement for each contract. Nothing herein shall be construed as guaranteeing any employee eight (8) hours per day or forty (40) hours per week, or overtime hours of work.

**ARTICLE 19**  
**HOLIDAYS**

- 19.1 In order to promote efficient and cost-effective construction, Unions (as represented by the Building and Construction Trades Council of Alameda County, shall negotiate with the City's construction manager for the Project a unified schedule of holidays for the Project for all trades, and Unions shall comply with such schedule. At the request of the construction manager, the Unions will make best efforts to come to agreement on a reasonable, unified schedule of holidays; in the absence of such agreement, holiday provisions of the MLAs shall govern.

**ARTICLE 20**  
**REPORTING PAY**

- 20.1 Any employee reporting for work and for whom no work is provided, except when given notification in accordance with the MLA not to report to work, shall receive two (2) hours pay at the regular straight time hourly rate. Any employee who starts work shall receive four (4) hours pay at the regular straight time hourly rate. Any employee who works beyond four (4) hours shall be paid in accordance with the applicable MLA. .
- 20.1.1 Whenever minimum reporting pay is provided for employees, they will be required to remain at the project site available for work for such time as they

receive pay, unless released sooner by the Contractor(s) or its designated representative.

20.1.2 The provisions of this Section are not applicable where the employee voluntarily quits, in which case the employee shall be paid for the actual time worked.

20.2 It will not be a violation of this Agreement when the City or Contractor(s) consider it necessary to shut down because of an emergency situation that could endanger life or property. In such cases, employees will be compensated only for the actual time worked. In the case of a situation described above whereby the City or Contractor(s) request employees to wait in a designated area available for work, the employees will be compensated for the waiting time.

## **ARTICLE 21**

### **TRAVEL, SUBSISTENCE and ZONE PAY**

21.1 Travel, subsistence and zone pay shall be governed by the MLA.

## **ARTICLE 22**

### **HEALTH AND SAFETY**

22.1 The employees covered by the terms of this Agreement shall at all times, while in the employ of the Contractor(s), be bound by the safety rules and regulations as established by the City and Contractor(s) and in accordance with OSHA/Cal-OSHA. These rules and regulations will be published and posted at conspicuous places throughout the Project.

22.2 In accordance with the requirements of OSHA/Cal-OSHA, it shall be the exclusive responsibility of each Contractor(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(s).

22.3 A convenient supply of cold and potable drinking water shall be provided by the Contractor(s).

22.4 The Contractor(s) and Union(s) agree to abide by the substance abuse policies contained in the applicable MLA, subject to the Article 12. The Contractor(s) and Union(s) understand that the facilities are smoke free sites.

## **ARTICLE 23**

### **SECURITY OF MATERIAL, EQUIPMENT and TOOLS**

23.1 All employees will comply with the reasonable security procedures established and published by the Contractor(s) and/or the City and presented at the pre-job conference.

**ARTICLE 24**  
**HELMETS TO HARDHATS**

- 24.1 The parties recognize a desire to facilitate the entry into the Building and Construction Trade Unions 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.
- 24.2 The Union(s) and Contractor(s) 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 Union(s) will give credit to such Veterans for bona fide, provable past experience.

**ARTICLE 25**  
**MISCELLANEOUS PROVISIONS**

- 25.1 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. Facsimile signature pages transmitted to other parties to this Agreement shall be deemed equivalent to original signatures.
- 25.2 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.
- 25.3 Ratification by Governing Board. This Agreement shall not be binding on the City until it is ratified by the Governing Board.

**ARTICLE 26**  
**ENTIRE AGREEMENT**

- 26.1 This Agreement represents the complete understanding of the parties. The provisions of this Agreement shall in every instance exclusively apply to and control work performed for the Project and take precedence over provisions of local, area, regional or national labor agreements. Nothing contained in the working rules, by-laws, constitution and other similar documents of the Union(s) or other collective bargaining agreements, shall in any way affect, modify or add

to this Agreement unless otherwise specifically indicated in this Agreement. Practices not part of the terms and conditions of this Agreement shall not be recognized.

- 26.2 The Union(s) agree that this Agreement covers all matters affecting wages, hours and other terms and conditions of employment, and that during the term of this Agreement, neither the Contractor(s), nor the Union(s) will be required to negotiate on any further matters affecting these or any other subjects not specifically set forth in this Agreement except by mutual agreement of the Union(s) involved and the City.

**ARTICLE 27**  
**GENERAL SAVINGS CLAUSE**

- 27.1 It is not the intention of any party to this Agreement 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 parties 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 parties 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 28**  
**DURATION OF AGREEMENT**

- 28.1 This Agreement shall become effective on the day the City ratifies this Agreement and shall continue in full force and effect for a period of five (5) years, or until the Project(s) covered by this Agreement is completed, whichever shall come later. The parties may mutually agree in writing to amend, extend or terminate this Agreement at any time.

**SIGNATURES**

City of Oakland  
Council

Building and Construction Trades  
Of Alameda County, AFL-CIO

\_\_\_\_\_  
As Owner and Ground-Lessor

\_\_\_\_\_  
Andreas Cluver, Secretary-Treasurer

**Signatory Unions**

Asbestos Workers, Local 16

By:

\_\_\_\_\_  
Boilermakers, Local 549

By:

\_\_\_\_\_  
Bricklayers & Allied Craftsmen, Local 3

By:

\_\_\_\_\_  
Northern California Carpenters

By:

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

\_\_\_\_\_  
Cement Masons, Local 300

By:

\_\_\_\_\_  
Electrical Workers, Local 595

By:

\_\_\_\_\_  
Elevator Constructors, Local 8

By:

\_\_\_\_\_  
Hod Carriers, Local 166

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**

By:

---

**Apprentices Fitting Industry, Underground  
Utility & Landscape, Local 355**

**United Association of Steamfitters,**

By:

---

**Pipefitters, Plumbers, & Gas  
Fitters, Local 342**

**District Council No. 16 Northern**

By:

---

**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**



EXHIBIT A

PROJECT LABOR AGREEMENT  
FOR THE  
OAKLAND ARMY BASE - PUBLIC IMPROVEMENTS

CONTRACTOR AGREEMENT TO BE BOUND

The undersigned, as a Contractor or Subcontractor ("CONTRACTOR(S)") for the \_\_\_\_\_ Project, (hereinafter PROJECT), for and in consideration of the award to it of a contract to perform work for said PROJECT, and in further consideration of the mutual promises made in the " Project Labor Agreement" (hereinafter AGREEMENT), a copy of which was received and is acknowledged, hereby:

- (1) Accepts and agrees to be bound by the terms and conditions of the AGREEMENT, together with any and all amendments and supplements now existing or which are later made thereto:
- (2) Agrees to be bound by the legally established Trust Agreements as set forth in Article 17 of this AGREEMENT; and
- (3) Authorizes the parties to such Trust Agreements 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(S); and
- (4) Certifies that it has no commitments or agreements which would preclude its full and complete compliance with the terms and conditions of said AGREEMENT; and
- (5) Agrees to secure from any CONTRACTOR(S) (as defined in said AGREEMENT) which is or becomes a Subcontractor (of any tier) to it, a duly executed Agreement to be Bound in form identical to this document.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_  
(Name of Prime Contractor or Higher Level Subcontractor)

\_\_\_\_\_  
(Authorized Officer & Title)

Project \_\_\_\_\_

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Phone)

CSLB #: \_\_\_\_\_  
(Fax)

Motor Carrier (CA) Permit Number

**Appendix B: Craft Request Form**

**CITY OF OAKLAND  
REQUEST FOR CRAFT EMPLOYEES FOR  
OAKLAND ARMY BASE PROJECT**

**To the Contractor:**

Please complete and transmit this form to the applicable Union to request craft workers that fulfill all hiring requirements for the Oakland Army Base project. After transmitting your request, call the Local to verify receipt and substantiate their capacity to furnish categories of workers as requested. Please print your Transmission Verification Report and keep a copy of this request for your records.

**To:**

Name of Union: \_\_\_\_\_ Fax# \_\_\_\_\_ Date: \_\_\_\_\_

**From:**

Name of company: \_\_\_\_\_ Name of individual sending request: \_\_\_\_\_

Contractor Phone# \_\_\_\_\_

Please provide me with Union craft workers per the Oakland Army Base Construction Jobs Policy, to assist in fulfillment of project requirements as defined below:

Residents (individuals, including both journeypersons and apprentices, who for at least six months have resided in the City of Oakland with intent to remain)

Disadvantaged Workers (individuals identified by name as Disadvantaged Workers pursuant to certification by City's Jobs Center)

New Apprentices (individuals meeting the above definition of "Resident" and who are newly enrolled (less than three months) in a labor-management apprenticeship program that is currently registered with the State of California's Division of Apprenticeship Standards)

General Dispatch (Union craft employees dispatched per normal dispatch procedures not including the above)

Job/Craft Description	Number Requested	Number Requested	Number Requested	Number Requested	Total Number Requested	Report Date	Report Time
	Resident	Disadvantaged	New Apprentices	General Dispatch			

**Total Workers Requested**

Please have worker(s) report to the following work address indicated below:

**Comments or special requirements**

**Note:**

This form should be used for all requests for dispatch from construction trade Union(s) for work for the Oakland Army Base project. The Construction Jobs Policy and PLA for the project contain requirements for hiring of Residents, Disadvantaged Workers, and New Apprentices. In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a contractor/ employer for qualified employees within a forty-eight hour period after such requisition is made by the contractor/ employer the contractor/ employer shall be free to obtain work persons from any source.