RFP# 2024-1
Certified Payroll, Workforce Management, and Labor Compliance System

Attachment 9
Laws and Regulations

Code of Federal Regulations Title 41
Chapter 60

41 CFR 60-1.4 - Equal opportunity clause.

§ 60-1.4 Equal opportunity clause.

(a) Government contracts. Except as otherwise provided, each contracting agency shall include the following equal opportunity clause contained in section 202 of the order in each of its Government contracts (and modifications thereof if not included in the original contract):

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(b) Federally assisted construction contracts.

(1) Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and sub contractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and sub contractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(2) [Reserved]

(c) Subcontracts. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

(d) Inclusion of the equal opportunity clause by reference. The equal opportunity clause may be included by reference in all Government contracts and sub contracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and sub contracts as the Director of OFCCP may designate.

(e) Incorporation by operation of the order . By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

(f) Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.

[80 FR 54975, Sept. 11, 2015]

The Federal Davis Bacon Act of 1931

The Davis-Bacon Act, as Amended

U.S. Department of Labor
Wage and Hour Division

WH Publication 1246
(Revised April 2009)

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PUBLIC LAW 107–217—AUG. 21, 2002 [as amended[1]]

An Act

To revise, codify, and enact without substantive change certain general and permanent laws, related to public buildings, property, and works, as title 40, United States Code, ''Public Buildings, Property, and Works''.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE 40, UNITED STATES CODE.

Certain general and permanent laws of the United States, related to public buildings, property, and works, are revised, codified,and enacted as title 40, United States Code, ''Public Buildings, Property, and Works'', as follows:

TITLE 40—PUBLIC BUILDINGS, PROPERTY, AND WORKS

* * * *

SUBTITLE II—PUBLIC BUILDINGS AND WORKS

* * * *

PART A—GENERAL

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CHAPTER 31 – GENERAL

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SUBCHAPTER IV - WAGE RATE REQUIREMENTS

Sec. 3141. Definition

In this subchapter, the following definitions apply:

(1) Federal government.— The term "Federal Government" has the same meaning that the term "United States" had in the Act of March 3, 1931 (ch. 411, 46 Stat. 1494) (known as the Davis-Bacon Act).[2]

(2) Wages, scale of wages, wage rates, minimum wages, and prevailing wages.— The terms "wages", "scale of wages", "wage rates", "minimum wages", and "prevailing wages" include—

(A) the basic hourly rate of pay; and

[1] Pub. L. 109-284 Sec. 6(11), (12), and (13) made three minor technical corrections in Secs 3141(1), and 3142(d) and (e). (Sept. 27, 2006, 120 Stat.1213.)

[2] The Davis-Bacon Act, referred to in par. (1), is act of Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which was classified generally to sections 276a to 276a-5 of former Title 40, Public Buildings, Property, and Works, and was repealed and reenacted as sections 3141-3144, 3146, and 3147 of this title by Pub. L. 107-217, Secs. 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304.

(B) for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the forgoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying the costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of those benefits, the amount of—

(i) the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person under a fund, plan, or program; and

(ii) the rate of costs to the contractor or subcontractor that may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected.

Sec. 3142. Rate of wages for laborers and mechanics

(a) Application.— The advertised specifications for every contract in excess of $2,000, to which the Federal Government or the District of Columbia is a party, for construction, alteration, or repair, including painting and decorating, of public buildings and public works of the Government or the District of Columbia that are located in a State or the District of Columbia and which requires or involves the employment of mechanics or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics.

(b) Based on Prevailing Wage.— The minimum wages shall be based on the wages the Secretary of Labor determines to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there.

(c) Stipulations Required in Contract.— Every contract based upon the specifications referred to in subsection (a) must contain stipulations that—

(1) the contractor or subcontractor shall pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and the laborers and mechanics;

(2) the contractor will post the scale of wages to be paid in a prominent and easily accessible place at the site of the work; and

(3) there may be withheld from the contractor so much of accrued payments as the contracting officer considers necessary to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the contractor or subcontractors or their agents.

(d) Discharge of Obligation.— The obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Secretary of Labor, under this subchapter and other laws incorporating this subchapter by reference, may be discharged by making payments in cash, by making contributions described in section 3141(2)(B)(i) of this title, by assuming an enforceable commitment to bear the costs of a plan or program referred to in section 3141(2)(B)(ii) of this title, or by any combination of payment, contribution, and assumption, where the aggregate of the payments, contributions, and costs is not less than the basic hourly rate of pay plus the amount referred to in section 3141(2)(B) of this title.

(e) Overtime Pay.— In determining the overtime pay to which a laborer or mechanic is entitled under any federal law, the regular or basic hourly rate of pay (or other alternative rate on which premium rate of overtime compensation is computed) of the laborer or mechanic is deemed to be the rate computed under section 3141(2)(A) of this title, except that where the amount of payments, contributions, or costs incurred with respect to the laborer or mechanic exceeds the applicable prevailing wage, the regular or basic hourly rate of pay (or other alternative rate) is the amount of payments, contributions, or costs actually incurred with respect to the laborer or mechanic minus the greater of the amount of contributions or costs of the types described in section 3141(2)(B) of this title actually incurred with respect to the laborer or mechanic or the amount determined under section 3141(2)(B) of this title but not actually paid.

3141(2)(B) of this title but not actually paid. Sec.3143.

Every contract within the scope of this subchapter shall contain a provision that if the contracting officer finds that any laborer or mechanic employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid, the Federal Government by written notice to the contractor may terminate the contractor’s right to proceed with the work or the part of the work as to which there has been a failure to pay the required wages. The Government may have the work completed, by contract or otherwise, and the contractor and the contractor’s sureties shall be liable to the Government for any excess costs the Government incurs.

Sec. 3144. Authority of Comptroller General to pay wages and list contractors violating contracts

(a) Payment of Wages.—

(1) In general.— The Comptroller General shall pay directly to laborers and mechanics from any accrued payments withheld under the terms of a contract any wages found to be due laborers and mechanics under this subchapter.

(2) Right of action.— If the accrued payments withheld under the terms of the contract are insufficient to reimburse all the laborers and mechanics who have not been paid the wages required under this subchapter, the laborers and mechanics have the same right to bring a civil action and intervene against the contractor and the contractor’s sureties as is conferred by law on persons furnishing labor or materials. In those proceedings it is not a

defense that the laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

(b) List of Contractors Violating Contracts.—

(1) In general.— The Comptroller General shall distribute to all departments of the Federal Government a list of the names of persons whom the Comptroller General has found to have disregarded their obligations to employees and subcontractors.

(2) Restriction on awarding contracts.— No contract shall be awarded to persons appearing on the list or to any firm, corporation, partnership, or association in which the persons have an interest until three years have elapsed from the date of publication of the list.

* * * *

Sec. 3146. Effect on other federal laws

This subchapter does not supersede or impair any authority otherwise granted by federal law to provide for the establishment of specific wage rates.

Sec. 3147. Suspension of this subchapter during a national emergency

The President may suspend the provisions of this subchapter during a national emergency.

Sec. 3148. Application of this subchapter to certain contracts

This subchapter applies to a contract authorized by law that is made without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), or on a cost-plus-a-fixed-fee basis or otherwise without advertising for proposals, if this subchapter otherwise would apply to the contract.

California Labor Code Sections 1776-1777

State of California

LABOR CODE

Section 1776

1776. (a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the contractor or subcontractor in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by that person's employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and the Division of Labor Standards Enforcement of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) (1) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5)) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(2) Copies of electronic certified payroll records shall not satisfy payroll records requests made by Taft-Hartley trust funds and joint labor-management committees. Any copy of records requested by, and made available for inspection by or furnished to, a Taft-Hartley trust fund or joint labor-management committee shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division.

(f) (1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, the contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars ($100)

for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(j) The director shall adopt rules consistent with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

(Amended by Stats. 2023, Ch. 806, Sec. 1. (AB 587) Effective January 1, 2024.)

State of California

LABOR CODE

Section 1777

1777. Any officer, agent, or representative of the State or of any political subdivision who wilfully violates any provision of this article, and any contractor, or subcontractor, or agent or representative thereof, doing public work who neglects to comply with any provision of section 1776 is guilty of a misdemeanor.

(Enacted by Stats. 1937, Ch. 90.)

Executive Order 11246

United States Department of Labor
Office of Federal Contract Compliance Programs

Office of Federal Contract Compliance Programs (OFCCP)

Executive Order 11246, As Amended

— DISCLAIMER —

Executive Order 11246 — Equal Employment Opportunity

SOURCE: The provisions of Executive Order 11246 of Sept. 24, 1965, appear at 30 FR 12319, 12935, 3 CFR, 1964–1965 Comp., p.339, unless otherwise noted.

Under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

Part I — Nondiscrimination in Government Employment

[Part I superseded by EO 11478 of Aug. 8, 1969, 34 FR 12985, 3 CFR, 1966–1970 Comp., p. 803]

Part II - Nondiscrimination in Employment by Government Contractors and Subcontractors

Subpart A – Duties of the Secretary of Labor

SEC. 201

The Secretary of Labor shall be responsible for the administration and enforcement of Parts II and III of this Order. The Secretary shall adopt such rules and regulations and issue such orders as are deemed necessary and appropriate to achieve the purposes of Parts II and III of this Order.

[Sec. 201 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, l978 Comp., p. 230]

Subpart B – Contractors' Agreements

SEC. 202

Except in contracts exempted in accordance with Section 204 of this Order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

2. The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color,

religion, sex, sexual orientation, gender identity, or national origin.

3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

4. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

6. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

8. The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States. [Sec. 202 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966–1970 Comp., p. 684, EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230, EO 13665 of April 8, 2014, 79 FR 20749, EO 13672 of July 21, 2014, 79 FR 42971]

SEC. 203

a. Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

b. Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.

c. Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: Provided, that to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.

d. The Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this Order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the Secretary of Labor may require.

[Sec. 203 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966–1970 Comp., p. 684; EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230, EO 13672 of July 21, 2104, 79 FR 42971]

SEC. 204

a. The Secretary of Labor may, when the Secretary deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of Section 202 of this Order in any specific contract, subcontract, or purchase order.

b. The Secretary of Labor may, by rule or regulation, exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial supplies or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier.

c. Section 202 of this Order shall not apply to a Government contractor or subcontractor that is a religious corporation, association, educational institution, or society, with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities. Such contractors and subcontractors are not exempted or excused from complying with the other requirements contained in this Order.

d. The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor that are in all respects separate and distinct from activities of the contractor related to the performance of the contract: provided, that such an exemption will not interfere with or impede the effectuation of the purposes of this Order: and provided further, that in the absence of such an exemption all facilities shall be covered by the provisions of this Order.

[Sec. 204 amended by EO 13279 of Dec. 16, 2002, 67 FR 77141, 3 CFR, 2002 Comp., p. 77141 – 77144]

Subpart C – Powers and Duties of the Secretary of Labor and the Contracting Agencies

SEC. 205

The Secretary of Labor shall be responsible for securing compliance by all Government contractors and subcontractors with this Order and any implementing rules or regulations. All contracting agencies shall comply with the terms of this Order and any implementing rules, regulations, or orders of the Secretary of Labor. Contracting agencies shall cooperate with the Secretary of Labor and shall furnish such information and assistance as the Secretary may require.

[Sec. 205 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 206

a. The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor.

b. The Secretary of Labor may receive and investigate complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order.

[Sec. 206 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 207

The Secretary of Labor shall use his/her best efforts, directly and through interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization or agency violate Title VI or Title VII of the Civil Rights Act of 1964 or other provision of Federal law.

[Sec. 207 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 208

a. The Secretary of Labor, or any agency, officer, or employee in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, as the Secretary may deem advisable for compliance, enforcement, or educational purposes.

b. The Secretary of Labor may hold, or cause to be held, hearings in accordance with Subsection of this Section prior to imposing, ordering, or recommending the imposition of penalties and sanctions under this Order. No order for debarment of any contractor from further Government contracts under Section 209(6) shall be made without affording the contractor an opportunity for a hearing.

Subpart D – Sanctions and Penalties

SEC. 209

In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary may:

1. Publish, or cause to be published, the names of contractors or unions which it has concluded have complied or have failed to comply with the provisions of this Order or of the rules, regulations, and orders of the Secretary of Labor.

2. Recommend to the Department of Justice that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in Section 202 of this Order, appropriate proceedings be brought to enforce those provisions, including the enjoining, within the limitations of applicable law, of organizations, individuals, or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of this Order.

3. Recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964.

4. Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the Secretary of Labor as the case may be.

5. After consulting with the contracting agency, direct the contracting agency to cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with equal employment opportunity provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the Secretary of Labor.

6. Provide that any contracting agency shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary of Labor that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this Order.

(b) Pursuant to rules and regulations prescribed by the Secretary of Labor, the Secretary shall make reasonable efforts, within a reasonable time limitation, to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under subsection (a)(2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under subsection (a)(5) of this Section.

[Sec. 209 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 210

Whenever the Secretary of Labor makes a determination under Section 209, the Secretary shall promptly notify the appropriate agency. The agency shall take the action directed by the Secretary and shall report the results of the action it has taken to the Secretary of Labor within such time as the Secretary shall specify. If the contracting agency fails to take the action directed within thirty days, the Secretary may take the action directly.

[Sec. 210 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p 230]

SEC. 211

If the Secretary shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor.

[Sec. 211 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 212

When a contract has been cancelled or terminated under Section 209(a)(5) or a contractor has been debarred from further Government contracts under Section 209(a)(6) of this Order, because of noncompliance with the contract provisions specified in Section 202 of this Order, the Secretary of Labor shall promptly notify the Comptroller General of the United States.

[Sec. 212 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

Subpart E – Certificates of Merit

SEC. 213

The Secretary of Labor may provide for issuance of a United States Government Certificate of Merit to employers or labor unions, or other agencies which are or may hereafter be engaged in work under Government contracts, if the Secretary is satisfied that the personnel and employment practices of the employer, or that the personnel, training, apprenticeship, membership, grievance and representation, upgrading, and other practices and policies of the labor union or other agency conform to the purposes and provisions of this Order.

SEC. 214

Any Certificate of Merit may at any time be suspended or revoked by the Secretary of Labor if the holder thereof, in the judgment of the Secretary, has failed to comply with the provisions of this Order.

SEC. 215

The Secretary of Labor may provide for the exemption of any employer, labor union, or other agency from any reporting requirements imposed under or pursuant to this Order if such employer, labor union, or other agency has been awarded a Certificate of Merit which has not been suspended or revoked.

Part III – Nondiscrimination Provisions in Federally Assisted Construction Contracts

SEC. 301

Each executive department and agency, which administers a program involving Federal financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance, or guarantee thereunder, which may involve a construction contract, that the applicant for Federal assistance undertake and agree to incorporate, or cause to be incorporated, into all construction contracts paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to such grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the provisions prescribed for Government contracts by Section 202 of this Order or such modification thereof, preserving in substance the contractor's obligations thereunder, as may be approved by the Secretary of Labor, together with such additional provisions as the Secretary deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations. Each such applicant shall also undertake and agree (1) to assist and cooperate actively with the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations and relevant orders of the Secretary, (2) to obtain and to furnish to the Secretary of Labor such information as the Secretary may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor pursuant to Part II, Subpart D, of this Order, and (4) to refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Part II, Subpart D, of this Order.

[Sec. 301 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 302

a. "Construction contract" as used in this Order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

b. The provisions of Part II of this Order shall apply to such construction contracts, and for purposes of such application the administering department or agency shall be considered the contracting agency referred to therein.

c. The term "applicant" as used in this Order means an applicant for Federal assistance or, as determined by agency regulation, other program participant, with respect to whom an application for any grant, contract, loan, insurance, or guarantee is not finally acted upon prior to the effective date of this Part, and it includes such an applicant after he/she becomes a recipient of such Federal assistance.

SEC. 303

a. The Secretary of Labor shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor and to furnish the Secretary such information and assistance as the Secretary may require in the performance of the Secretary's functions under this Order.

b. In the event an applicant fails and refuses to comply with the applicant's undertakings pursuant to this Order, the Secretary of Labor may, after consulting with the administering department or agency, take any or all of the following actions: (1) direct any administering department or agency to cancel, terminate, or suspend in whole

or in part the agreement, contract or other arrangement with such applicant with respect to which the failure or refusal occurred; (2) direct any administering department or agency to refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received by the Secretary of Labor from such applicant; and (3) refer the case to the Department of Justice or the Equal Employment Opportunity Commission for appropriate law enforcement or other proceedings.

c. In no case shall action be taken with respect to an applicant pursuant to clause (1) or (2) of subsection (b) without notice and opportunity for hearing.

[Sec. 303 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 304

Any executive department or agency which imposes by rule, regulation, or order requirements of nondiscrimination in employment, other than requirements imposed pursuant to this Order, may delegate to the Secretary of Labor by agreement such responsibilities with respect to compliance standards, reports, and procedures as would tend to bring the administration of such requirements into conformity with the administration of requirements imposed under this Order: Provided, That actions to effect compliance by recipients of Federal financial assistance with requirements imposed pursuant to Title VI of the Civil Rights Act of 1964 shall be taken in conformity with the procedures and limitations prescribed in Section 602 thereof and the regulations of the administering department or agency issued thereunder.

Part IV – Miscellaneous

SEC. 401

The Secretary of Labor may delegate to any officer, agency, or employee in the Executive branch of the Government, any function or duty of the Secretary under Parts II and III of this Order.

[Sec. 401 amended by EO 12086 of Oct. 5, l978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 402

The Secretary of Labor shall provide administrative support for the execution of the program known as the "Plans for Progress."

SEC. 403

a. Executive Orders Nos. 10590 (January 19, 1955), 10722 (August 5, 1957), 10925 (March 6, 1961), 11114 (June 22, 1963), and 11162 (July 28, 1964), are hereby superseded and the President's Committee on Equal Employment Opportunity established by Executive Order No. 10925 is hereby abolished. All records and property in the custody of the Committee shall be transferred to the Office of Personnel Management and the Secretary of Labor, as appropriate.

b. Nothing in this Order shall be deemed to relieve any person of any obligation assumed or imposed under or pursuant to any Executive Order superseded by this Order. All rules, regulations, orders, instructions, designations, and other directives issued by the President's Committee on Equal Employment Opportunity and those issued by the heads of various departments or agencies under or pursuant to any of the Executive orders superseded by this Order, shall, to the extent that they are not inconsistent with this Order, remain in full force and effect unless and until revoked or superseded by appropriate authority. References in such directives to provisions of the superseded orders shall be deemed to be references to the comparable provisions of this Order.

[Sec. 403 amended by EO 12107 of Dec. 28, 1978, 44 FR 1055, 3 CFR, 1978 Comp., p, 264]

SEC. 404

The General Services Administration shall take appropriate action to revise the standard Government contract forms to accord with the provisions of this Order and of the rules and regulations of the Secretary of Labor.

SEC. 405

This Order shall become effective thirty days after the date of this Order.

San Francisco Administrative Code

Chapter 6.22

SEC. 6.22. PUBLIC WORK CONSTRUCTION CONTRACT TERMS AND WORKING CONDITIONS.

All construction Contracts awarded under this Chapter 6 by the City shall contain the following minimum terms and conditions:

(a) **Bonds.** Before the execution of any Contract for Public Work or Improvement in excess of $25,000, the Department Head shall require the successful Bidder to file corporate surety bonds for the faithful performance thereof and to guarantee the payment of wages for services engaged and of bills contracted for material, supplies and equipment used in the performance of the Contract. Each bond shall be for a sum not less than 100% of the awarded Contract amount.

The City, acting through the City Administrator, intends to provide guarantees to private bonding assistance companies and financial institutions in order to induce those entities to provide required bonding and financing to eligible Contractors bidding on and performing City Public Work Contracts. This bonding and financial assistance program is subject to the provisions of Administrative Code Chapter 14B.

(b) **Insurance.** All construction Contracts awarded under this Chapter 6 must conform to the insurance requirements established by the Risk Manager. The Risk Manager shall develop uniform insurance requirements for City Contracts subject to this Chapter 6. The Risk Manager shall review and update such insurance requirements as necessary to protect the City's interests.

Every Contractor and subcontractor shall comply with the provisions of California Labor Code Section 3700. Prior to commencing the performance of work under any Public Work Contract, the Contractor and all of its subcontractors shall file with the awarding department a certificate of insurance against liability for workers compensation or proof of self-insurance in accordance with the provisions of the California Labor Code.

(c) **Indemnification.** All construction Contracts awarded under this Chapter 6 shall require that the Contractor fully indemnify the City to the maximum extent provided by law, such that each Contractor must save, keep, bear harmless and fully indemnify the City and any of its officers or agents from any and all liability, damages, claims, judgments or demands for damages, costs or expenses in law or equity that may at any time arise.

This indemnification requirement may not be waived or abrogated in any way for any Contract without the recommendation of the Risk Manager and the express permission and approval of the Board of Supervisors.

(d) **Assignment.** No Contract shall be assigned except upon the recommendation of the Department Head concerned and with the approval of the Mayor, relative to the department under the Mayor's jurisdiction, or the approval of the board or commission concerned for departments not under the Mayor.

(e) **Prevailing Wages.**

(1) **Generally.** All Contractors and subcontractors performing a Public Work or Improvement for the City shall pay its workers on such projects the Prevailing Rate of Wages as provided below. For the purpose of Prevailing Wage requirements only, the definition of a public work shall include Public Works or Improvements as defined in the Section 6.1, and shall also include (A) any trade work performed at any stage of construction (including preconstruction work) and (B) any public work paid for by the City with "the equivalent of money" under the meaning of California Labor Code Section 1720(b).

(2) **Additional Projects Considered as "Public Works or Improvements" for Purposes of Prevailing Wages.**

(A) **Property Leased or Sold by the City.** For construction work performed on real property leased by the City or sold by the City for Housing Development, as that term is defined in Administrative Code subsection 23.61(a), Contractors and subcontractors must pay prevailing wages in accordance with Article VII of Chapter 23 of the Administrative Code and this subsection 6.22(e) as applicable.

(B) **Public Works Under California Labor Code.** For the limited purposes of this subsection 6.22(e) and Section 6.24, a "public work or improvement" also means and includes all projects for "public works" as defined in California Labor Code Section 1720, and projects for which Prevailing Wages are required to be paid pursuant to California Labor Code Section 1782. This subsection 6.22(e)(2)(B) is intended to have prospective effect only, and shall not be interpreted to impair the obligations of any pre-existing grant agreement, lease, development agreement or other contract entered into by the City. Notwithstanding the prior sentence, this subsection shall apply to newly included work in pre-existing grant agreements, leases, development agreements, or other contracts amended on or after the operative date. The subsection shall apply to grant agreements, leases, development agreements and other contracts entered into by the City on or after the operative date. All grant agreements, leases, development agreements and other contracts which allow for such construction on property owned by the City that the City enters after the operative date of the subsection must contain a provision that such construction shall comply with this subsection.

(3) **Determination of the Prevailing Wage.** It shall be the duty of the Board of Supervisors, from time to time and at least once during each calendar year, to fix and determine the Prevailing Rate of Wages as follows:

On or before the first Monday in November of each year, the Civil Service Commission shall furnish to the Board of Supervisors data as to the highest general Prevailing Rate of Wages of the various crafts and kinds of labor as paid in private employment in the City and County of San Francisco, plus "per diem wages" and wages for overtime and holiday work. The Civil Service Commission shall provide the Board of Supervisors data for "per diem wages" pursuant to California Labor Code Sections 1773.1 and 1773.9, as amended from time to time. The Board of Supervisors shall, upon receipt of such data, fix and determine the Prevailing Rate of Wages. The Prevailing Rate of Wages as so fixed and determined by the Board of Supervisors shall remain in force and shall be deemed to be the highest general Prevailing Rate of Wages paid in private employment for similar work, until the same is changed by the Board of

Supervisors. In determining the highest general Prevailing Rate of Wages per diem wages and wages for overtime and holiday work, as provided for in this section, the Board of Supervisors shall not be limited to the consideration of data furnished by the Civil Service Commission, but may consider such other evidence upon the subject as the Board shall deem proper and thereupon base its determination upon any or all of the data or evidence considered.

In the event that the Board of Supervisors does not fix or determine the highest general Prevailing Rate of Wages in any calendar year, the rates established by the California Department of Industrial Relations for such year shall be deemed adopted.

(4) **Specifications to Include Wage Rate.** The Department Head shall include in the contract specifications, or make available in the offices of the department or at the job site, a detailed statement of the Prevailing Rate of Wages as fixed and determined by the Board of Supervisors at the time the department issued the Advertisement For Bids on the contract. The Contractor shall agree to pay to all persons performing labor in and about the Public Work or Improvement the highest general Prevailing Rate of Wages as determined pursuant to this Chapter, including wages for holiday and overtime work. If the specifications do not include the Prevailing Rate of Wages, the specifications shall include a statement that copies of the Prevailing Rate of Wages as fixed and determined by the Board of Supervisors are on file at the department's principal office or at the job site and shall be made available to any interested party on request.

(5) **Subcontractors Bound by Wage Provisions.** Every contract for any Public Work or Improvement shall also contain a provision that the Contractor shall insert in every subcontract or other arrangement which he or she may make for the performance of any work or labor on a Public Work or Improvement. This provision shall be that the subcontractor shall pay to all persons performing labor or rendering service under said subcontract or other arrangement the highest general Prevailing Rate of Wages as fixed and determined by the Board of Supervisors for such labor or services.

(6) **Records to be Kept by Contractors and Subcontractors.** Every Public Works contract or subcontract for any Public Work or Improvement shall contain a provision that the Contractor shall keep, or cause to be kept, for a period of four years from the date of substantial completion of a public work, payrolls and basic records including time cards, trust fund forms, apprenticeship agreements, accounting ledgers, tax forms and superintendent and foreman daily logs for all trades workers performing work at or for a City Public Work or Improvement. Such records shall include the name, address and social security number of each worker who worked on the project, including apprentices, his or her classification, a general description of the work each worker performed each day, the rate of pay (including rates of contributions for, or costs assumed to provide fringe benefits), daily and weekly number of hours worked, deductions made and actual wages paid. Every subcontractor who shall undertake the performance of any part of a Public Work or Improvement shall keep a like record of each person engaged in the execution of the subcontract.

The Contractor shall maintain weekly certified payroll records for submission to the awarding department as required. The Contractor shall be responsible for the submission of payroll records of its subcontractors. All certified payroll records shall be accompanied by a statement of compliance signed by the Contractor indicating that the payroll records are correct and complete, that the wage rates contained therein are not less than those determined by the Board of Supervisors and that the classifications set forth for each employee conform with the work performed.

All such records as described in this section shall at all times be open to inspection and examination of the duly authorized officers and agents of the City, including representatives of the Office of Labor Standards Enforcement.

Should the Department Head responsible for the public work or the Labor Standards Enforcement Officer determine that a Contractor or subcontractor is not in compliance with the requirements of this subsection, the Department Head or the Labor Standards Enforcement Officer shall issue written notification to the Contractor or subcontractor mandating compliance within not fewer than 10 calendar days from the date of the notification. Should the Contractor or subcontractor fail to comply as required in the notification, the Department Head who executed the Contract or the Labor Standards Enforcement Officer may impose penalties consistent with analogous provisions of the California Labor Code, including Section 1776, as amended from time to time, for each calendar day of noncompliance, or portion thereof, for each worker. Upon the request of the responsible Department Head or the Labor Standards Enforcement Officer, the Controller shall withhold these penalties from progress payments then due or to become due.

(7) **Additional Required Contract Provisions.** Every public works Contract shall contain provisions stating that (A) the Contractor will cooperate fully with the Labor Standards Enforcement Officer and other City employees and agents authorized to assist in the administration and enforcement of the Prevailing Wage requirements and other labor standards imposed on Public Works Contractor by the Charter and Chapter 6 of the San Francisco Administrative Code; (B) the Contractor agrees that the Labor Standards Enforcement Officer and his or her designees, in the performance of their duties, shall have the right to engage in random inspections of job sites and to have access to the employees of the Contractor, employee time sheets, inspection logs, payroll records and employee paychecks; (C) the contractor shall maintain a sign-in and sign-out sheet showing which employees are present on the job site; (D) the Contractor shall prominently post at each job-site a sign informing employees that the project is subject to the City's Prevailing Wage requirements and that these requirements are enforced by the Labor Standards Enforcement Officer; and (E) that the Labor Standards Enforcement Officer may audit such records of the Contractor as he or she reasonably deems necessary to determine compliance with the Prevailing Wage and other labor standards imposed by the Charter and this Chapter on Public Works Contractors. Failure to comply with these requirements may result in penalties and forfeitures consistent with analogous provisions of the California Labor Code, including Section 1776(g), as amended from time to time.

(8) **Non-compliance with Wage Provisions ï Penalties.**

(A) **Penalty and Forfeiture.** Any Contractor or subcontractor who shall fail or neglect to pay to the several persons who shall perform labor under any contract, subcontract or other arrangement on any public work or Improvement as defined in this Chapter the highest general Prevailing Rate of Wages as fixed by the Board of Supervisors under authority of this Chapter, shall forfeit; and, in the case of any subcontractor so failing or neglecting to pay said wage, the original Contractor and the subcontractor shall jointly and severally forfeit to the City back wages due plus penalties in amounts consistent with analogous provisions of the California Labor Code as amended from time to time, including Sections 1775 and 1813, but not less than $50 per day for each laborer, workman or mechanic

employed for each calendar day or portion thereof, while they shall be so employed and not paid said highest general Prevailing Rate of Wages, and in addition shall be subject to the penalties set forth in Article V of this Chapter 6, including debarment.

(B) **Enforcement.**

(i) For a public work or improvement undertaken through a contract with the City and under which the City has the ability to withhold funds, it shall be the duty of the officer, board or commission under whose jurisdiction said Public Work or Improvement is being carried on, made or constructed, when certifying to the Controller any payment which may become due under said contract, to deduct from said payment or payments the total amount of said forfeiture provided for in this subsection. In doing so, the Department Head must also notify in writing the Labor Standards Enforcement Officer of his/her action. The Labor Standards Enforcement Officer may also upon written notice to the Department Head who is responsible for the project, certify to the Controller any forfeiture(s) to deduct from any payment as provided for in this subsection 6.22(e)(8). Certification of forfeitures under this subsection shall be made only upon an investigation and audit by the responsible Department Head or the Labor Standards Enforcement Officer and upon service of written notice to the Contractor that includes identification of the grounds for the forfeiture or forfeitures ("Certification of Forfeiture"). The audit supporting the forfeiture shall be appended to the Certification of Forfeiture, but failure to append such documentation shall not invalidate the Certification. Service of the Certification of Forfeiture shall be made by United States mail and the date of service shall be the date of mailing. The Controller, in issuing any warrant for any such payment, shall deduct from the amount which would otherwise be due on said payment or payments the amount of said forfeiture or forfeitures as so certified.

(ii) For any contract in which the City has required a third party to pay prevailing wages and for which the City does not have the ability to withhold funds, the Labor Standards Enforcement Officer shall determine whether a contractor and/or any subcontractor has failed to comply with the prevailing wage requirement. If after conducting an investigation, the Labor Standards Enforcement Officer determines that a violation has occurred, it shall issue to and serve a Determination of Violation on the contractor and/or any subcontractor, which sets forth the basis of the determination and orders payment of back wages due plus the penalty of at least $50 per day for each laborer, workman, or mechanic employed for each calendar day or portion thereof. Service of the Determination of Violation shall be made by United States mail and the date of service shall be the date of mailing.

(C) **Recourse Procedure.** A Contractor and/or a subcontractor may appeal from a Certification of Forfeiture under subsection 6.22(e)(8)(B)(i) or Determination of Violation under subsection 6.22(e)(8)(B)(ii). The Controller shall adopt and maintain rules and regulations for any appeal under this subsection 6.22(e)(8)(C), which rules shall be consistent with the following parameters:

(i) Any Appeal from Certification of Forfeiture or Determination of Violation (referred to in this subsection 6.22(e)(8)(C) as the "Appeal") shall be filed in writing by the Contractor and/or subcontractor (referred to in this subsection 6.22(e)(8)(C), whether singular or plural, as the "Appellant") within 15 days of the date of service of the Certification of Forfeiture or Determination of Violation. Appellant shall file the Appeal with the City Controller and serve a copy on the Labor Standards Enforcement Officer. Failure by the Contractor or subcontractor to submit a timely, written Appeal shall constitute concession to the forfeiture or determination, and the forfeiture or determination shall be deemed final upon expiration of the 15-day period.

(ii) The Office of Labor Standards Enforcement shall promptly afford Appellant an opportunity to meet and confer in good faith regarding possible resolution of the Certification of Forfeiture or Determination of Violation in advance of further proceedings under this subsection 6.22(e)(8)(C), with the intention that such meeting occur within 30 days of the date the Appeal is filed.

(iii) After the expiration of 30 days following the date the Appeal is filed, any party may request in writing, with concurrent notice to all other parties, that the Controller appoint a hearing officer to hear and decide the Appeal. If no party requests appointment of a hearing officer, the Certification of Forfeiture or Determination of Violation shall be deemed final on the 60th day after the date the Appeal is filed.

(iv) Within 15 days of receiving a written request for appointment of a hearing officer under subsection 6.22(e)(8)(C)(iii), the Controller shall appoint an impartial hearing officer and immediately notify the enforcing official and Appellant, and their respective counsel or authorized representative if any, of the appointment. The appointed hearing officer shall be an Administrative Law Judge with at least 10 years' experience with the City and not less than two years experience in labor law, Prevailing Wage, and/or wage and hour matters; or shall be an attorney with knowledge and not less than five years' experience in labor law, Prevailing Wage, and/or wage and hour matters.

(v) The hearing officer shall promptly set a date for a hearing. The hearing must commence within 45 days of the date of the notification of the hearing officer appointment, and conclude within 75 days of such notice. The hearing officer shall conduct a fair and impartial evidentiary hearing in conformance with the time limitations set forth in this subsection 6.22(e)(8)(C) and in the rules and regulations, so as to avoid undue delay in the resolution of any appeal. The hearing officer shall have the discretion to extend the times under this subsection 6.22(e)(8)(C), and any time requirements under the rules and regulations, only upon a showing of good cause.

(vi) Appellant has the burden of proving by a preponderance of the evidence that the basis for the Certification of Forfeiture or Determination of Violation is incorrect, including any back wage and penalty assessments that are at issue in the appeal.

(vii) Within 30 days of the conclusion of the hearing, the hearing officer shall issue a written decision affirming, modifying, or dismissing the Certificate of Forfeiture or Determination of Violation. The decision of the hearing officer shall consist of findings and a determination. The hearing officer's findings and determination shall be the final determination.

(viii) Appellant may appeal a final determination under this subsection 6.22(e)(8) only by filing in the San Francisco Superior Court a petition for a writ of mandate under California Code of Civil Procedure, Section 1084, *et seq.*, as applicable and as may be amended from time to time.

(D) **Distribution of Forfeiture and Damages.** The Controller shall withhold any forfeiture as provided in the foregoing paragraphs until such time as either the Contractor or subcontractor has conceded to the forfeiture or, in the event of an Appeal, there is a

determination no longer subject to judicial review. The Controller shall then distribute the amounts withheld in the following order: (1) the Labor Standards Enforcement Officer shall make best efforts to distribute back wages withheld to the individual workers identified as not having been paid the proper wage rate; (2) the penal sums provided for above shall inure to the benefit of the general fund of the City; (3) the Controller shall hold the balance of any back wages in escrow for workers who the Labor Standards Enforcement Officer, despite his or her best efforts, cannot locate. In the event back wages are unclaimed for a period of three years, the Controller shall undertake administrative procedures for unclaimed funds in conformance with California Government Code Section 50050, *et seq.*, as may be amended from time to time. This subsection 6.22(e)(8)(D) also shall be applicable to damages obtained as a result of an enforcement action pursuant to subsection 6.22(e)(8)(E), as applicable.

(E) **Remedies for Non-Compliance with Determination of Violation.** No later than 30 days after receipt of a Notice of Determination or, in the case of an Appeal, after an adverse final determination by a hearing officer, the contractor and/or subcontractor shall comply with the Notice of Determination of Violation by paying the amounts due for back wages and any penalty amount as set forth in the Determination of Violation or final determination. The contractor and/or subcontractor shall, in addition, be subject to the penalties set forth in Article V of this Chapter 6, including debarment. If any contractor and/or subcontractor fails to pay the amounts required under this subsection 6.22(e)(8)(E) within the required 30 days, the City may bring a civil action in a court of competent jurisdiction against the non-complying party and, upon prevailing, shall be entitled to such legal and equitable relief as may be appropriate to remedy the violation including, without limitation: (i) damages in the amount of back wages and any penalty amounts due to workers for violation of the prevailing wage requirement, which amounts the City shall, on receipt, distribute to workers following the procedures in subsection 6.22(e)(8)(D); and (ii) an award of reasonable attorney's fees and costs.

(f) **Hours and Days of Labor.**

(1) **Generally.** For the purpose of meeting prevailing conditions and enabling employers to secure a sufficient number of satisfactory workers and artisans, no person performing labor or rendering service in the performance of any Contract or subcontract for any Public Work or Improvement as defined in this Chapter shall perform labor for a longer period than five days (Monday through Friday) of eight hours each, with two 10-minute breaks per eight-hour day, except in those crafts in which a different work day or week now prevails by agreement in private employment. Any person working hours in addition to the above shall be compensated in accordance with the prevailing overtime standards and rates.

(2) **Noncomplianceand Forfeiture.** Any Contractor or subcontractor who shall violate any of the provisions of this subsection 6.22(f) shall be liable for the same penalties and forfeits as those specified in subsection 6.22(e) of this Chapter; penalties and forfeits shall be applicable for each laborer, mechanic or artisan employed for each calendar day or portion thereof whereon such laborer, mechanic or artisan is compelled or permitted to work more than the days and hours specified herein. The provisions of this subsection 6.22(f) shall be made a part of all Contracts and subcontracts for the construction of any Public Work or Improvement.

(3) **Contracts Outside City and County.** In the event that any Public Work or Improvement is to be constructed outside of the City and at such a distance therefrom that those engaged in performing labor on the Public Work or Improvement must under ordinary conditions remain at or near the site of the Public Work or Improvement when not actually engaged in the performance of labor thereon, then the officer, board or commission responsible for the construction of the Public Work or Improvement may, in making specifications or letting Contracts therefor, make provision therein for days and hours of labor beyond the limitations provided for in subsection 6.22(f) of this Chapter 6; but not to exceed eight hours in any one calendar day, or six days in any calendar week. In the event that emergency conditions shall arise, making a change advisable during the performance of any such Contract, or any portion thereof, the hours and days of labor may be extended beyond the limits hereinabove expressed; but not to exceed eight hours per day, upon the written authority of the officer, board or commission awarding such Contract. Failure of the Contractor to perform such Contract within the time provided shall not constitute an emergency.

(g) **Local Hiring Policy.** All Contracts and subcontracts for performance of Public Works or Improvements that exceed the Threshold Amount are subject to the requirements of the San Francisco Local Hiring Policy for Construction as set forth in Chapter 82 of the Administrative Code ("Local Hiring Policy") and shall include compliance with the Local Hiring Policy as a material term of the Contract, directly enforceable by the City as described therein. As a condition of performance of Project Work, as that term is defined in Administrative Code Section 82.3, each Contractor and subcontractor agrees: to comply with all provisions of the Local Hiring Policy; that provisions of the Local Hiring Policy are reasonable and are achievable by the Contractor or subcontractor, including the reporting requirements and consequences for noncompliance described in Chapter 82 of the Administrative Code; and that the Contractor or subcontractor had a full and fair opportunity to review and understand terms of the Local Hiring Policy, in consultation with counsel if so desired.

(h) **Modifications - Requirements.** If it becomes necessary in the prosecution of any Public Work or Improvement Contract to make alterations or modifications or to provide for extras, such alterations, modifications or extras shall be made only on written recommendation of the Department Head responsible for the supervision of the Contract, together with the approval of the Mayor or the board or commission, as appropriate to the department, and also the approval of the Controller, except as hereafter provided. The Mayor or the board or commission, as appropriate to the department, may delegate in writing the authority to approve such alterations, modifications or extras to the Department Head, except as provided below. The Controller may delegate in writing the authority to encumber funds from prior appropriations for such alterations, modifications or extras to the Department Head prior to the certification for payment. Such authority, when granted, will clearly state the limitations of the changes to be encompassed.

(1) **Increasing or Decreasing Price.** Alterations, modifications, or extras in any Contract, which will increase or decrease the Contract cost or scope, may be made or allowed only on the written recommendation of the Department Head responsible for the supervision of the Contract stating the amount and basis for such increase or decrease. For any cumulative increase or decrease in price in excess of 10% of the original Contract price or scope, the Department Head shall obtain the approval of the Mayor or the board or commission as appropriate and also the approval of the Controller notwithstanding any delegation provided for above.

(2) **Extensions of Time.** Upon finding that work under a construction Contract cannot be completed within the specified time

because of an unavoidable delay as defined in the Contract, the Department Head may extend the time for completion of the work. If the cumulative extensions of time exceeds 10% of the original Contract duration, the Department Head shall obtain the approval of the Mayor, board or commission, as appropriate to the department notwithstanding any delegation provided for above. The Department Head may seek such approval after completion of the work if the Department Head makes a written finding in the time extension that no basis exists to assess liquidated damages for delay against the Contractor. All time extensions shall be in writing, but in no event shall any extension be granted subsequent to the issuance of a certificate of final acceptance.

(A) **Time Extension Not Waiver of City's Rights.** The granting of an extension of time because of unavoidable delays shall in no way operate as a waiver on the part of the City or the Department Head, Mayor, board or commission of the right to collect liquidated damages for other delays or of the right to collect other damages or of any other rights to which the City is entitled.

(B) **No Extension Granted When Contract Based on Time Estimates.** When any Award of Contract has been made in consideration, in whole or in part, of the relative time estimates of Bidders for the completion of the work, no extension of time may be granted on such Contract beyond the time specified for completion, unless the liquidated damages for each day the work is uncompleted beyond the specified time shall be collected; provided, however, that this shall not apply to unavoidable delays as specified in the Contract.

(C) **Avoidable and Unavoidable Delay; Limitation of Damages for Delay.** The Department Head administering the Public Work or Improvement shall have the authority to specify in the Contract the delays that shall be deemed avoidable or unavoidable. The City shall not pay damages or compensation of any kind to a Contractor because of delays in the progress of the work, whether such delays be avoidable or unavoidable; provided, however, the City may pay for (1) delays caused to the Contractor by the City and (2) such unavoidable delays as may be specifically stated in the Contract. Such latter delays will be compensated for only under the conditions specified in the Contract.

(D) **Notice of Delay Required.** The Contractor shall promptly notify the Department Head in writing, of all anticipated delays in the prosecution of the work and, in any event, promptly upon the occurrence of a delay, the notice shall constitute an application for an extension of time only if the notice requests such extension and sets forth the Contractor's estimate of the additional time required together with a full recital of the causes of unavoidable delays relied upon. The Department Head may take steps to prevent the occurrence or continuance of the delay, may classify the delay as avoidable or unavoidable, and may determine to what extent the completion of the work is delayed thereby.

(i) **Liquidated Damages.** Any Contract may provide a time within which the Contract work, or portions thereof, shall be completed and may provide for the payment of agreed liquidated damages to the City for every calendar or working day thereafter during which such work shall be uncompleted.

(j) **Progressive Payments Authorized; Retentions.** Any Contract for construction services may provide for progressive or milestone payments, if the Advertisement For Bids shall so specify. Each progress or milestone payment shall constitute full compensation for the value of work performed and materials furnished for a specified period, less amounts withheld as a result of dispute or as required by law.

(1) For all Contracts entered into on or after the effective date of this subsection 6.22(j), from every progress payment, the City shall hold 5% in retention.

(2) Notwithstanding the subsection 6.22(j)(1) above, the City may hold greater than 5% but not more than 10% in retention if the Department Head responsible for the Public Work determines that the Public Work or Improvement is substantially complex and therefore warrants a higher retention amount, and the retention amount is specified in the Advertisement For Bids. For Contracts with retention amounts greater than 5%, if the Department Head responsible for the Public Work determines that the Contract is 50% or more complete, that the Contractor is making satisfactory progress, and that there is no specific cause for greater withholding, the Department Head, upon the written request of Contractor, may authorize one of the following two options: (A) the City shall release part of the retention to the Contractor so that the amount held in retention by the City, after release to the Contractor, is reduced to an amount not less than 5% of the total value of the labor and materials furnished, and the City shall proceed to retain 5% of any subsequent progress payment under the Contract; or (B) the City shall continue to hold the already withheld retention amount, up to 5% of the total Contract price, and shall not deduct further retention from progress payments.

(3) The Department Head shall authorize the release of retention, in whole or in part, for work completed by subcontractors certified by CMD as LBEs. The Department Head shall do so only upon a written request by the Contractor certifying (A) the work by the certified LBE subcontractor is completed and satisfactory in accordance with the plans and specifications for the project; (B) the total amount paid to the certified LBE subcontractor by the Contractor as of the date of the written request and the total amount of the subcontract; and (C) the amount of retention associated with the work performed by the certified LBE subcontractor. Following a release of such retention, and in order to calculate retention and retention withholding from further progress or milestone payments, the City will reduce the total retention required under the foregoing paragraphs (1) and (2) by the amount paid to the certified LBE subcontractor(s) for whom the City released the retention. The release of retention under this subsection 6.22(j)(3) shall not reduce the responsibilities or liabilities of the Contractor or its surety under the Contract or applicable law.

(4) The Department Head shall authorize the release of retention, in whole or in part, for work completed by subcontractors under any Public Work Contract awarded under this Chapter 6 with a duration of more than two years. The Department Head shall do so only upon a written request by the Contractor certifying (A) the work by the subcontractor is completed and satisfactory in accordance with the plans and specifications for the project; (B) the total amount paid to the subcontractor by the Contractor as of the date of the written request and the total amount of the subcontract; and (C) the amount of retention associated with the work performed by the subcontractor. The City may issue or authorize the release of retention within six months of the date of the request. Following a release of such retention, and in order to calculate retention and retention withholding from further progress or milestone payments, the City will reduce the total retention required under the foregoing subsections (1) and (2) by the amount paid to the subcontractor(s) for whom the

City released retention. The release of retention under this subsection 6.22(j)(4) shall not reduce the responsibilities or liabilities of the Contractor or its surety under the Contract or applicable law.

(5) Retention shall be withheld solely for the benefit and protection of the City.

(6) When the Department Head responsible for the Public Work determines that the Contract is 98% or more complete, the Department Head may reduce retention funds to an amount equal to 200% of the estimated value of work yet to be completed, plus any amount necessary to cover offsets by the City for liquidated damages, defective work, stop notices, forfeitures, and other charges. The City shall release retention to the Contractor upon the following conditions: (A) the Contractor has reached final completion under the Contract terms and conditions and (B) the Contract is free of offsets by the City for liquidated damages, defective work and the like, and is free of stop notices, forfeitures, and other charges.

(7) For all Contracts awarded under this Chapter 6, in no event shall the City be liable for interest or charges arising out of or relating to the date the City issues any progress, milestone, or other payment, or the date the City releases all or part of the retention, except that the City will pay interest at the legal rate, as set forth in Section 685.010(a) of the California Code of Civil Procedure, as may be amended from time to time, on any improperly withheld amounts commencing no earlier than 90 days after the date the City should have made any progress payment or released all or part of the retention. Under no circumstances shall the legal rate of interest paid by the City under this provision exceed 10% per annum. The payment of interest under this provision is the limit of the City's liability with respect to any claim for interest on improperly withheld amounts.

(k) **Inspection and Acceptance of Completed Work; Final Payment.** The Department Head shall be responsible for the inspection and acceptance of Public Works or Improvements on completion. Such acceptance shall be in writing and shall include the certificate of the Department Head concerned that the work covered by the Contract has been fully and satisfactorily completed in accordance with the plans and specifications therefor. Receipt of copy of such acceptance in writing shall constitute the Controller's authority to complete any payments due the Contractor under the Contract; provided that the Controller may make such additional investigation or inspection as is provided by Administrative Code Section 10.07.

(l) **Termination for Convenience.** In all Contracts for the construction of any Public Work or Improvement, the Department Head may include in the specifications setting forth the terms and conditions for the performance of the Contract a provision that the City may terminate the performance of work under the Contract whenever the Department Head shall determine, with the approval of the Mayor or the board or commission concerned, that such termination is in the best interest of the City. Any such termination shall be effected by delivery to the Contractor of a notice of termination specifying the extent to which performance of work under the Contract is terminated and the date upon which such termination becomes effective. The Department Head is hereby authorized to include within such construction Contract the appropriate language to implement this subsection 6.22(l).

(m) **Articles Not to be Prison Made.** No article furnished under any Contract awarded under the provisions of this Chapter 6 shall have been made in a prison or by convict labor except for articles made in prisons or by convicts under the supervision and control of the California Department of Corrections and limited to articles for use by the City's detention facilities.

(n) **Employment of Apprentices.** All construction Contracts awarded under this Chapter 6 shall require the Contractor to comply with the requirements of the State Apprenticeship Program (as set forth in the California Labor Code, Division 3, Chapter 4 [commencing at Section 3070] and Section 1777.5), as it may be amended from time to time, and shall require the Contractor to include in its subcontracts the obligation for subcontractors to comply with the requirements of the State Apprenticeship Program.

(o) **Safety.** All construction Contracts awarded under this Chapter 6 shall require the Contractor and all of its subcontractors to abide by the applicable Occupational Safety and Health statutes and regulations.

Additionally, all construction Contracts awarded under this Chapter 6 shall require the Contractor and all of its subcontractors to abide by the requirements of Administrative Code Section 64.1, prohibiting masonry-dry cutting and masonry dry-grinding, with exceptions.

(p) **Claims.** The City shall consider only those claims for additional payment under a Contract that are certified and that conform to the Contract requirements for claims, pricing, and schedule.

(1) **Claims by Contractors.** The Contractor shall certify under penalty of perjury that (A) the claim is made in good faith; (B) the supporting data are accurate and complete to the best of Contractor's knowledge and belief; and (C) the amount request accurately reflects the Contract adjustment for which the Contractor believes the City is liable. An individual or officer authorized to act on behalf of the Contractor shall execute the certification.

(2) **Claims by Subcontractors.** Subcontractors at any tier are not third-party beneficiaries of any Contract awarded under this Chapter. The City shall not consider a direct claim by any subcontractor. A Contractor presenting to the City any claim on behalf of a subcontractor must certify the subcontractor's claim in the same manner the Contractor would certify its own claim under the foregoing subsection 6.22(p)(1).

(q) **Contractor Prompt Payment.** All construction Contracts under this Chapter 6 shall require the Contractor to pay its subcontractors within seven calendar days after receipt of each progress payment from the City, unless otherwise agreed to in writing in advance by both Contractor and subcontractor. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from a Contractor to a subcontractor, the Contractor may withhold the disputed amount but shall pay the undisputed amount.

Any Contractor who violates this subsection 6.22(q) shall pay to the subcontractor a penalty of 2% of the amount due per month for every month or portion thereof that payment is not made. This subsection 6.22(q) is enforceable in a court of competent jurisdiction, and is not intended to create a private right of action against the City.

(Added by Ord. 286-99, File No. 991645, App. 11/5/99; amended by Ord. 153-00, File No. 000805, App. 6/30/2000; Ord. 237-00, File No. 001207, App. 10/20/2000; Ord. 7-02, File No. 011675, App. 1/25/2002; Ord. 208-02, File No. 021221, App. 10/18/2002; Ord. 58-05, File No. 041571, App. 4/1/2005; Ord. 107-05, File No. 050215, App. 6/10/2005; Ord. 131-06, File No. 060444, App. 6/22/2006; Ord. 119-08, File No. 080277, App. 7/11/2008; Ord. 19-10, File No. 091163, App. 2/10/2010; Ord. 23-10, File No. 091233, App. 2/11/2010; Ord. 311-10, File No. 101311, App. 12/23/2010; Ord. 79-11, File No. 110330, App. 5/19/2011, Eff. 6/18/2011; Ord. 225-12, File No. 120750, App. 11/1/2012, Eff. 12/1/2012; Ord. 27-13 , File No. 121200, App. 2/19/2013, Eff. 3/21/2013; Res. 80-14, File No. 140091, App. 3/21/2014; Ord. 32-14 , File No. 140090, App. 3/27/2014, Eff. 4/26/2014, Oper. 6/25/2014; Ord. 85-14 , File No. 140151, App. 6/19/2014, Eff. 7/19/2014, Oper. 9/17/2014 (part) ; Ord. 108-15, File No. 150175, App. 7/2/2015, Eff. 8/1/2015; Ord. 224-15, File No. 150817, App. 12/22/2015, Eff. 1/21/2016, Oper. 4/20/2016; Ord. 84-17, File No. 170004, App. 3/30/2017, Eff. 4/29/2017, Retro. 3/25/2017; Ord. 220-20, File No. 200949, App. 11/6/2020, Eff. 12/7/2020; Ord. 164-23, File No. 230647, App. 7/28/2023, Eff. 8/28/2023)

San Francisco Labor and Employment Code
Article 102

DIVISION II: CITY CONTRACTOR EMPLOYEE PROVISIONS

ARTICLE 102: MISCELLANEOUS PREVAILING WAGE REQUIREMENTS*

***Editor's Note:**

Former Administrative Code Chapter 21C ("Miscellaneous Prevailing Wage Requirements") was redesignated as Labor and Employment CodeArticle 102 by Ord. 221-23, File No. 230835, approved November 3, 2023, effective December 4, 2023, and operative January 4, 2024.

SEC. 102.1. STANDARD PROVISIONS GOVERNING THE PREVAILING RATE OF WAGES, WORKER RETENTION, AND USE OF EMPLOYEES FOR WORK UNDER CITY CONTRACTS FOR CERTAIN SERVICES.

(a) **Prevailing Wage Requirement.** Every Covered Contract issued by the City and County of San Francisco must require that any Individual performing services thereunder be paid not less than the Prevailing Rate of Wages.

(b) **Definitions.** For purposes of this Article 102, the following definitions shall apply to the terms used herein.

"City" shall mean the City and County of San Francisco.

"Contracting Officer" shall mean any officer or employee of the City authorized to enter into a Covered Contract on behalf of the City.

"Contractor" shall mean any Person who submits a bid or proposal and/or enters into a Covered Contract.

"Covered Contract" shall mean an agreement between the City and a Contractor for the following services: "Motor Bus Services" as defined in Section 102.7, subject to the provisions of Section 102.7; "Janitorial Services" as defined in Section 102.2; "Public Off-Street Parking Lots, Garages, or Storage Facilities for Automobiles" as defined in Section 102.3; "Theatrical Services" as defined in Section 102.4; "Solid Waste Generated By The City In Course of City Operations" as defined in Section 102.5; "Moving Services" as defined in Section 102.6; "Trade Show and Special Event Work" as defined in Section 102.8; "Broadcast Services" as defined in Section 102.9 and "Loading, Unloading, and Driving of Commercial Vehicles" under Section 102.10 and "Security Guard Services" as defined in Section 102.11.

"Individual" shall mean any person who performs work under a Covered Contract.

"Permit" shall mean a permit to use City property, and shall include a permit to use a public right of way, including a street or sidewalk encroachment permit or closure permit, including but not limited to an ISCOTT (Interdepartmental Staff Committee on Traffic and Transportation) permit.

"Person" shall mean any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ or hire individuals or enter into contracts.

"Prevailing Rate of Wages" shall mean that rate of compensation, including fringe benefits or the matching equivalents thereof, being paid to a majority of workers engaged in the services for which a Covered Contract is entered into by the City and County of San Francisco, if a majority of such workers are paid at a single rate; if there is no single rate being paid to a majority, then the prevailing rate shall be that single rate being paid to the greatest number of workers.

"Subcontract" shall mean any agreement under or subordinate to a prime Contract.

"Subcontractor" shall mean any Person who enters into a Subcontract with a Contractor.

(c) **Prevailing Wage Rate Requirements.**

(1) **Determination of Prevailing Rate of Wages.** It shall be the duty of the Board of Supervisors, from time to time and at least once during each calendar year, to fix and determine the Prevailing Rate of Wages paid in private employment in the City for Individuals engaged in services under Covered Contracts including such rate of wages paid for overtime and holiday work, which said Prevailing Rate of Wages shall be fixed and determined as follows:

The Civil Service Commission shall furnish to the Board of Supervisors on or before the first Monday in November of each year, data as to the Prevailing Rate of Wages for Individuals engaged in services under Covered Contracts including such rate of wages paid for overtime and holiday work, and the Board of Supervisors shall, upon receipt of such data, fix and determine the Prevailing Rate of overtime and holiday work, as paid for similar work in the City in private employment. Such Prevailing Rate of Wages as so fixed and determined by the Board of Supervisors shall remain in force and shall be deemed to be the Prevailing Rate of Wages paid in private employment for similar work, until the same is changed by the Board of Supervisors.

In determining the Prevailing Rate of Wages, as provided for in this Section, the Board of Supervisors shall not be limited to the consideration of data furnished by the Civil Service Commission, but may consider such other evidence upon the subject as the Board of Supervisors shall deem proper and thereupon base its determination upon any or all of the data or evidence considered.

For purposes of this Section, the Civil Service Commission shall provide data on and the Board shall certify two components for each craft, classification, and type of work, which together shall be deemed the "Prevailing Rate of Wages": (1) the basic hourly wage rate and (2) the hourly rate of each fringe benefit, which together equal the hourly prevailing rate of wages. The Civil Service Commission shall provide this data to the Board of Supervisors within days of the effective date of this Section.

(2) **Contracting Officers.** Each bid or proposal for a Contract shall include, on a form provided by the Contracting Officer, the (a) basic hourly rate of wages to be paid by the Contractor and Subcontractor, if any, for each craft, classification, or type of work to be performed by Employees under the Contract, and (b) for each required fringe benefit, the hourly cost of each fringe benefit, or cash equivalent, the Contractor and Subcontractor, if any, intend to provide. In meeting the Prevailing Rate of Wages, no amount of fringe benefit credit shall be used to reduce the obligation to pay the basic hourly straight time or overtime wage rate. The Contracting Officer shall reject any bid or proposal that does not include payment of the Prevailing Rate of Wages as defined in this Section. This provision shall become operative after the Board of Supervisors adopts a "Prevailing Rate of Wages" under Subsection (c)(1) that includes a wage rate and the hourly rate of each fringe benefit.

(3) **Contractual Provision Concerning Prevailing Wage Rate Requirement.** All Contracts subject to this Section shall include a provision in which the Contractor agrees to comply with, and to require Subcontractors to comply with, the prevailing wage rate requirement imposed by this Section.

(4) **Enforcement of Prevailing Wage Rate Requirements.** Where the Contracting Officer or the Labor Standards Enforcement Officer determines that a Contractor or a Subcontractor may have violated the prevailing wage rate requirements of this Section, the Contracting Officer or Labor Standards Enforcement Officer shall send written notice to the Contractor of the possible violation (a "violation notice"). In addition to and without prejudice to any other remedy available, the Contracting Officer may terminate the Contract, in which case the Contractor shall not be entitled to any additional payment thereon unless within thirty (30) days of receipt of the violation notice the Contractor has either (i) cured the violation or (ii) established by documentary evidence, including but not limited to payroll records, the truth and accuracy of which is attested to by affidavit, proof of compliance with the provisions of this Section. For purposes of this Section, where a Contractor or Subcontractor fails to pay at least the Prevailing Rate of Wages to Individuals as required by this Section, the Contractor shall have "cured the violation" once the Contractor or Subcontractor reimburses such Individuals by paying each individual the balance of what he or she should have earned in accordance with the requirements of this Section, plus an annualized rate of interest of ten percent (10%). In addition to, or instead of terminating the Contract, if the Contracting Officer or the Labor Standards Enforcement Officer finds that the Contractor has willfully violated the requirements of this Section, the Contracting Officer or the Labor Standards Enforcement Officer, shall assess a penalty (a "willful violation penalty") of not more than ten (10%) percent of the dollar amount of the Contract, such sums to be deposited in the fund out of which the Contract is awarded or, if none exists, the General Fund. The Contracting Officer or Labor Standards Enforcement Officer may impose such willful violation penalty regardless of whether the Contractor has cured the violation.

(d) **Transition Employment Requirements.** The City has an important proprietary interest in maintaining the stability of the workforce engaged by a Contractor or Subcontractor under a Covered Contract. Turnover of experienced workers resulting from a change in the City's Contractor jeopardizes the quality, efficiency, and cost-effectiveness of service provided to the City under the successor Contract. All Covered Contracts shall impose the following obligations on the Contractor and Subcontractor.

(1) Where the Contracting Officer has given notice that a Covered Contract will be bid, or where a Contractor has given notice of termination, upon giving or receiving such notice, as the case may be, the Contractor ("ending Contractor") shall, within ten days thereafter, provide to the Contracting Officer and the Purchaser, for each Employee who worked at least 15 hours per week for the ending Contractor, the name, date of hire, number of hours and months worked in total for the employer, wage rate, and employment occupation classification. This provision shall also apply to the subcontractors of the ending Contractor.

Where a Subcontractor has been terminated prior to the termination or ending of the Contract, the Subcontractor shall for the purposes of this Section be deemed an ending Contractor.

All requests for bids for Covered Contracts shall include the information listed above for Employees and shall notify prospective bidders about the Transition Employment requirements of this Section.

(2) A successor Contractor shall retain, for a six-month transition employment period, Employees who have worked at least 15 hours per week and have been employed by the ending Contractor or its Subcontractors, if any, for the preceding twelve months under the Covered Contract, providing that just cause does not exist to terminate such Employee. The ending Contractor's Employees who

worked at least 15 hours per week shall be employed in order of their seniority with the predecessor within job classification and shall be paid the Prevailing Rate of Wages to which they were entitled when employed by the ending Contractor. This requirement shall be stated by the City in all initial bid packages involving a Covered Contract.

(3) If at any time a successor Contractor determines that fewer Employees are required to perform the new Contact than were required by the ending Contractor (and Subcontractors, if any), the successor Contractor shall retain Employees by seniority within job classification.

(4) During such six-month period the successor Contractor (or Subcontractor, where applicable) shall maintain a preferential hiring list of eligible covered Employees not retained by the successor Contractor (or Subcontractor) from which the successor Contractor (or Subcontractor) shall hire additional Employees.

(5) During the six-month period, the successor Contractor (or Subcontractor, where applicable) shall not discharge without cause an Employee retained pursuant to this Subsection. "Cause," for this purpose, shall include, but not be limited to, the Employee's conduct while in the employ of the ending Contractor or Subcontractor that contributed to any decision to terminate the Contract or Subcontract for fraud or poor performance, excluding permissible union-related activity.

(6) At the end of the six-month period, a successor Contractor (or Subcontractor, where applicable) shall perform a written performance evaluation for each Employee retained pursuant to this Subsection. If the Employee's performance during such six-month period is satisfactory, the successor Contractor (or Subcontractor) shall offer the Employee continued employment under the terms and conditions established by the successor Contractor (or Subcontractor) or as required by law.

(7) All Covered Contracts subject to this Section shall include a provision in which the Contractor agrees to require any Subcontractor to comply with the obligation imposed by this Subsection (d).

(8) **Successor's Prior Employees.** Notwithstanding the provisions of this Subsection (d), a successor Contractor or Subcontractor may replace an Employee otherwise entitled to be retained with a person employed by the Contractor or Subcontractor continuously for twelve months prior to the commencement of the successor Contract or Subcontract in a capacity similar to that proposed under the successor Contract or Subcontract. This provision shall apply only where the existing Employee of the successor Contractor or Subcontractor would otherwise be laid off work as a result of the award of the successor Contract.

(9) The retention requirements of this Subsection (d) shall not apply where there is no successor Contractor or Subcontractor. For example, where a Contract is for services over a single day, week, or month for a discrete nonrepeating event there is no successor and the retention requirements described herein are inapplicable.

(10) For the purposes of this Subsection (d) on Transition Employment Requirements only, the term "Employee" shall include any person who performs work under a Covered Contract but shall not include an individual who serves in a managerial, supervisory, or confidential capacity, including those individuals who would be defined as such under the Fair Labor Standards Act.

(11) **Enforcement.** An Employee who has not been hired or has been discharged in violation of this Section by a successor Contractor or its Subcontractor may bring an action in the Superior Court of the State of California, as appropriate, against the successor Contractor and, where applicable, its Subcontractor, and shall be awarded back pay, including the value of benefits for each day during which the violation continues, which shall be calculated at a rate of compensation not less than the higher of:

(i) The average regular rate of pay received by the Employee during the last three years of the Employee's employment in the same occupation classification; or

(ii) The final regular rate received by the Employee.

If the Employee is the prevailing party in any such legal action, the Court shall award reasonable attorney's fees and costs as part of the costs recoverable.

(12) This Section is not intended to create a private right of action against the City and County of San Francisco.

(13) If during the term of a Covered Contract, a Contractor (or Subcontractor engaged by said Contractor) violates the worker transition requirements of this Subsection (d), the Contractor or Subcontractor shall be subject to the enforcement remedies as set forth in Subsection (c)(4), including termination of the Contract or Subcontract and penalties for willful violation.

(e) **Requirement of Employer-Employee Relationship.**

(1) The City has an important proprietary interest in maintaining the stability of the workforce engaged by a Contractor for a Covered Contract by ensuring that individuals working pursuant to City contracts have the protections afforded by state and municipal laws governing employment. In order for the City to maintain the integrity of its contracting process, the city's prevailing wage laws ensure contractors a level playing field on which to bid for contracts. When contractors are allowed to classify workers as independent owner operators, contractors can appear to pay the prevailing wage when in reality, after the owner operator's operating costs are taken into account, the owner operator receives less than the prevailing wage for his or her labor. This outcome contradicts one of the goals of the prevailing wage law, which is to provide for fair competition among contractors, all of whom must pay workers, at a minimum, the same prevailing rate of wages and benefits. The City's proprietary interest is such that employment of Employees in an Employer-Employee relationship shall be required for all work done under any Covered Contract.

(2) Every Covered Contract shall require the Contractor (and Subcontractors, if any) to perform said Contract, with Individuals employed by said Contractor or Subcontractor in an Employer-Employee relationship as defined by California law.

(3) No Covered Contract shall be awarded by the City to a Contractor and/or Subcontractor who proposes to perform the Contract with self-employed persons or independent contractors.

(4) If during the term of a Covered Contract, a Contractor (or Subcontractor engaged by said Contractor) engages any self-employed persons or independent contractors to perform the Contract for a period of three (3) days or more, the Contractor or Subcontractor shall be subject to the enforcement remedies as set forth in Subsection (c)(4), including termination of the Contract or Subcontract and penalties for willful violation.

(5) Contractors shall be fully responsible for the compliance of Subcontractors with this provision. Contractors shall be jointly and severally liable for any penalties assessed against their Subcontractors in the event that the Subcontractor is unable or unwilling to pay a penalty.

(f) **Preemption.** Nothing in this Section shall be interpreted or applied so as to create any power or duty in conflict with any federal or state law.

(g) **No Cause of Action Against City.** This Section is not intended to create a private right of action against the City.

(h) **Prospective Application.** This Section is intended to have prospective effect only, and shall not be interpreted to impair the obligations of any pre-existing Contract entered into by the City. This Section shall only apply to Contracts entered into on or after the effective date of this Section.

(i) **Severability.** If any part or provision of this Section, or the application thereof to any Person or circumstance, is held invalid, the remainder of this Section, including the application of such part or provisions to other Persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Section are severable.

(Added as Administrative Code Sec. 21C.7 by Ord. 12-12, File No. 111190, App. 2/2/2012, Eff. 3/3/2012; amended by Ord. 90-14, File No. 140383, App. 6/19/2014, Eff. 7/19/2014; Ord. 10-16, File No. 150874, App. 2/10/2016, Eff. 3/11/2016; Ord. 187-16, File No. 160199, App. 10/14/2016, Eff. 11/13/2016; Ord. 211-16, File. No. 160891, App. 10/28/2016, Eff. 11/27/2016; redesignated by Ord. 221-23, File No. 230835, App. 11/3/2023, Eff. 12/4/2023, Oper. 1/4/2024)

SEC. 102.2. PREVAILING RATE OF WAGES REQUIRED IN CONTRACTS FOR JANITORIAL SERVICES; NON-PROFIT ORGANIZATIONS EXCLUSION.

(a) **Prevailing Wage Requirement.** Every Contract issued by the City and County of San Francisco for Janitorial Services to be performed at any facility owned or leased by the City and County of San Francisco, where such work is to be done directly under the contract awarded (a "prime contract") must require that any Individual performing Janitorial Services thereunder be paid not less than the Prevailing Rate of Wages, including fringe benefits or the matching equivalents thereof, paid in private employment for similar work in the area in which the Contract is being performed, as determined by the Civil Service Commission. This Section does not extend to contracts beyond those entered into by the City specifically for janitorial services on property owned or leased by the City.

(b) **Exclusion.** This Section shall not apply to a Contract for Janitorial Services with a nonprofit organization to provide work experience for persons with disabilities.

(c) **Definitions.** For purposes of this Section, the following definitions shall apply to the terms used herein:

"Contract" shall mean an agreement for Janitorial Services to be performed at the expense of the City and County of San Francisco or to be paid out of moneys deposited in the treasury or out of trust moneys under the control or collected by the City and County of San Francisco, and does not include contracts for the sale of goods, contracts issued by the San Francisco Airport Commission or to be performed at any facility owned, leased or otherwise under the jurisdiction of the San Francisco Airport Commission, agreements entered into before the effective date of this Section, or contracts for a cumulative amount of $10,000 or less per janitorial service provider in each fiscal year.

"Janitorial Services" shall mean maintenance and cleaning services on property owned or leased by the City and County of San Francisco.

"Prevailing Rate of Wages" shall mean that rate of compensation as determined under Section 102.1.

(d) **Preemption.** Nothing in this Section shall be interpreted or applied so as to create any power or duty in conflict with any federal or state law.

(e) **Effective Date and Application.** This Section shall become effective 30 days after it is enacted, is intended to have prospective effect only, and shall not be interpreted to impair the obligations of any pre-existing agreement to which the City is a party, unless such pre-existing agreement has been amended after the effective date of this Section.

(f) **Severability.** If any part or provision of this Section, or the application thereof to any Person or circumstance, is held invalid, the remainder of this Section, including the application of such part or provisions to other Persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Section are severable.

(Added as Administrative Code Sec. 21C.2 by Ord. 222-99, File No. 990877, App. 8/6/99; amended by Ord. 9-11, File No. 101007, App. 1/7/2011; Ord. 12-12, File No. 111190, App. 2/2/2012, Eff. 3/3/2012; Ord. 75-14, File No. 140226, App. 5/28/2014, Eff. 6/27/2014; redesignated by Ord. 221-23, File No. 230835, App. 11/3/2023, Eff. 12/4/2023, Oper. 1/4/2024)

SEC. 102.3. PREVAILING RATE OF WAGES AND DISPLACED WORK PROTECTION REQUIRED FOR WORKERS IN PUBLIC OFF-STREET PARKING LOTS, GARAGES, OR STORAGE FACILITIES FOR AUTOMOBILES.

(a) **Prevailing Wage Requirement.** Every Lease, Management Agreement, or Other Contractual Arrangement for the operation of a

public off-street parking lot, garage, or storage facility for automobiles on property owned or leased by the City and County of San Francisco must require that any Individual working in such public off street parking lot, garage, or storage facility for automobiles, including but not limited to individuals engaged in Washing, Polishing, Lubrication, Rent-Car Service, Parking Vehicles, Cashiers, Attendants, Checking Coin Boxes, Non-Attendant Parking Lot Checking, Daily Ticket Audit, Traffic Directors and Shuttle Driver, shall be paid not less than the Prevailing Rate of Wages, including fringe benefits or the matching equivalents thereof, paid in private employment for similar work in the area in which the Lease, Management Agreement, or Other Contractual Arrangement is being performed, as determined by the Civil Service Commission.

(b) **Definitions.** For purposes of this Section, the following definitions shall apply to the terms used herein:

(1) "Lease, Management Agreement, or Other Contractual Arrangement" shall mean an agreement with the City and County of San Francisco for the operation of a public off-street parking lot, garage, or storage facility for automobiles on property owned or leased by the City and County of San Francisco.

(2) "Prevailing Rate of Wages" shall mean that rate of compensation as determined in Section 102.1.

(3) "Public Off-Street Parking Lot, Garage, or Automobile Storage Facility" shall mean any off-street parking lot, garage, or automobile storage facility that is operated on property owned or leased by the City and County of San Francisco.

(c) **Preemption.** Nothing in this Section shall be interpreted or applied so as to create any power or duty in conflict with any federal or state law.

(d) **Effective Date and Application.** This Section shall become effective 30 days after it is enacted, is intended to have, prospective effect only, and shall not be interpreted to impair the obligations of any pre-existing Lease, Management Agreement, or Other Contractual Arrangement to which the City and County of San Francisco is a party, unless such pre-existing Lease, Management Agreement, or Other Contractual Arrangement has been amended after the effective date of this Section.

(e) **Public Entities with Coterminous Boundaries with the City and County of San Francisco.** It is the policy of the City and County of San Francisco that all public entities with coterminous boundaries with the City and County of San Francisco, including but not limited to the Parking Authority of the City and County of San Francisco, adopt this prevailing wage and employee transition period policy. The Board of Supervisors of the City and County of San Francisco urges all public entities with coterminous boundaries with the City and County of San Francisco, including but not limited to the Parking Authority of the City and County of San Francisco, to adopt this prevailing wage and employee transition period policy.

(f) **Severability.** If any part or provision of this Section, or the application thereof to any Person or circumstance, is held invalid, the remainder of this Section, including the application of such part or provisions to other Persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Section are severable.

(Added as Administrative Code Sec. 21C.3 by Ord. 3-03, File No. 021504, App. 1/24/2003; amended by Ord. 9-11, File No. 101007, App. 1/7/2011; Ord. 12-12, File No. 111190, App. 2/2/2012, Eff. 3/3/2012; Ord. 75-14, File No. 140226, App. 5/28/2014, Eff. 6/27/2014; redesignated by Ord. 221-23, File No. 230835, App. 11/3/2023, Eff. 12/4/2023, Oper. 1/4/2024)

SEC. 102.4. PREVAILING RATE OF WAGES REQUIRED FOR THEATRICAL WORKERS.

(a) **Prevailing Wage Requirement.** Every Contract, Lease, Franchise, Permit, or Agreement awarded, let, issued, or granted by the City and County of San Francisco for the use of property owned by the City and County of San Francisco must require that any Individual engaged in theatrical or technical services related to the presentation of a show, including, but not limited to, workers engaged in rigging, sound, projection, theatrical lighting, videos, computers, draping, carpentry, special effects, and motion picture services be paid not less than the Prevailing Rate of Wages, including fringe benefits or the matching equivalents thereof, paid in private employment for similar work in the area in which the Contract, Lease, Franchise, Permit or Agreement is being performed. All Contracts, Leases, Franchises, Permits or Agreements subject to this Section shall include a provision in which the Contractor agrees to comply with, and to require Subcontractors to comply with, the obligations imposed by this Section.

(b) **Definitions.** For purposes of this Section, the following definitions shall apply to the terms used herein:

(1) "Contract, Lease, Franchise, Permit, or Agreement" shall mean an agreement with the City and County of San Francisco for the use of property owned by the City and County of San Francisco, but shall not include any contract, lease, franchise, permit, or agreement for:

A. Celebration of a marriage, domestic partnership, or similar civil union,

B. The presentation of a show to which the public has free access when the show is in a public park, on a public street, or on property under the jurisdiction of the Port Commission.

C. Any permit or agreement to engage in film production pursuant to Chapter 57 of the San Francisco Administrative Code or under the circumstances set forth in Section 57.7 of the Administrative Code,

D. Any show on property under the jurisdiction of the Arts Commission, or

E. In any circumstance where application of this Section would be preempted by federal or state law,

F. Any show for which the time required for the set-up is three hours or less and the number of individuals working on the set-up is no more than two.

(2) "Prevailing Rate of Wages" shall mean that rate of compensation as determined in Section 102.1.

(3) "Show" shall mean any live act, play, review, pantomime, scene, music, song, dance act, song and dance act, or poetry recitation provided in front of a live audience or recorded for the purpose of later presentation, but shall not include an event where a person solely plays pre-recorded music or pre-recorded performances so long as no other live performance is provided.

(c) **Preemption.** Nothing in this Section shall be interpreted or applied so as to create any power or duty in conflict with any federal or State law.

(d) **Effective Date and Application.** This Section shall become effective 30 days after it is enacted, is intended to have prospective effect only, and shall not be interpreted to impair the obligations of any pre-existing Contract, Lease, Franchise, Permit, or Agreement issued or entered into by the City and County of San Francisco.

(e) **Applicability to Existing Contracts, Leases, Franchises, Permits, or Agreements.** This Section shall only apply to Contracts, Leases, Franchises, Permits, or Agreements entered into on or after the effective date of this Section.

(f) **Severability.** If any severable provision or provisions of this Section or any application thereof is held invalid, such invalidity shall not affect any other provisions or applications of the Section.

(Added as Administrative Code Sec. 21C.4 by Ord. 76-04, File No. 021505, App. 5/6/2004; amended by Ord. 9-11, File No. 101007, App. 1/7/2011; Ord. 12-12, File No. 111190, App. 2/2/2012, Eff. 3/3/2012; redesignated by Ord. 221-23, File No. 230835, App. 11/3/2023, Eff. 12/4/2023, Oper. 1/4/2024)

SEC. 102.5. PREVAILING RATE OF WAGES AND WORKER RETENTION REQUIRED FOR WORKERS ENGAGED IN HAULING OF SOLID WASTE GENERATED BY THE CITY IN THE COURSE OF CITY OPERATIONS.

(a) **Prevailing Wage Requirement.** Every Contract awarded by the City for the hauling of solid waste generated by the City in the course of City operations must require that any Individual engaged in the hauling of solid waste be paid not less than the Prevailing Rate of Wages, including fringe benefits or the matching equivalents thereof, paid in private employment for similar work in the area in which the Contract is being performed.

(b) **Definitions.** For purposes of this Section, the following definitions shall apply to the terms used herein.

(1) "Contract" shall mean an agreement with the City for the hauling of solid waste, generated by the City in the course of City operations, to be performed at the expense of the City or to be paid out of moneys deposited in the treasury or out of trust moneys under the control or collected by the City. For purposes of this Section, "Contract" shall not include (a) a permit issued under the Refuse Collection and Disposal Ordinance, Appendix 1 of the San Francisco Administrative Code, or (b) a contract governed by the provisions of Chapter 6 of the San Francisco Administrative Code. Should the Administrative Code be amended to change the permit process contained in Appendix 1 to a franchise process, or any other process for authorizing refuse collection and disposal within the City, it shall be City policy to require refuse companies to pay the prevailing wage to any individual engaged in the hauling of refuse, recyclables, compostables and solid waste within the City.

(2) "Hauling" of solid waste shall mean collection and transport of solid waste generated by the City in the course of City operations. For purposes of this Section, "hauling" shall not include "solid waste disposal" or "disposal" as defined in Section 40192 of the California Public Resources Code.

(3) "Prevailing Rate of Wages" shall mean that rate of compensation as determined in Section 102.1.

(4) "Solid Waste" shall mean "solid waste" as defined in Section 40191 of the California Public Resources Code and includes material collected for "recycling" as defined in Section 40180 of the California Public Resources Code.

(c) **Preemption.** Nothing in this Section shall be interpreted or applied so as to create any power or duty in conflict with any federal or state law.

(d) **Prospective Application.** This Section is intended to have prospective effect only, and shall not be interpreted to impair the obligations of any pre-existing Contract entered into by the City. This Section shall only apply to Contracts entered into on or after the effective date of this Section.

(e) **Severability.** If any part or provision of this Section, or the application thereof to any Person or circumstance, is held invalid, the remainder of this Section, including the application of such part or provisions to other Persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Section are severable.

(Added as Administrative Code Sec. 21C.5 by Ord. 299-06, File No. 061468, App. 12/12/2006; amended by Ord. 5-07, File No. 061584, App. 1/19/2007; Ord. 9-11, File No. 101007, App. 1/7/2011; Ord. 12-12, File No. 111190, App. 2/2/2012, Eff. 3/3/2012; redesignated by Ord. 221-23, File No. 230835, App. 11/3/2023, Eff. 12/4/2023, Oper. 1/4/2024)

SEC. 102.6. PREVAILING RATE OF WAGES REQUIRED IN CONTRACTS FOR MOVING SERVICES; NONPROFIT ORGANIZATIONS EXCLUSION.

(a) **Prevailing Wage Requirement.** Every Contract issued by the City and County of San Francisco for Moving Services to be performed at any facility owned or leased by the City and County of San Francisco, where such work is to be done directly under the contract awarded (a "prime contract") must require that any Individual performing Moving Services thereunder be paid not less than the Prevailing Rate of Wages, including fringe benefits or the matching equivalents thereof, paid in private employment for similar work in the area in which the Contract is being performed.

(b) **Exclusions.** This Section shall not apply to the following:

(1) **Non-profits.** This Section shall not apply to a Contract where the Moving Services are to be performed by a non-profit organization that provides job training and work experience for disadvantaged individuals in need of such training.

(2) **Prior Agreements.** This Section shall not apply to agreements entered into before the effective date of this Section.

(3) **Contracts for $1000 or Less.** This Section shall not apply to contracts for $1000 or less per moving service provider. Contracts may not be split for purposes of evading the requirements of this Section.

(c) **Definitions.** For purposes of this Section, the following definitions shall apply to the terms used herein:

(1) "Contract" shall mean an agreement for Moving Services to be performed at the expense of the City and County of San Francisco or to be paid out of moneys deposited in the treasury or out of trust moneys under the control or collected by the City and County of San Francisco.

(2) "Moving Services" shall mean moving or handling of goods being relocated under a contract for commercial moving services to relocate City offices, facilities and institutions.

(3) "Non-profit" shall mean a non-profit corporation, duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and (if a foreign corporation) in good standing under the laws of the State of California, which corporation has established and maintains a valid non-profit status under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and all rules and regulations promulgated under such Section.

(4) "Prevailing Rate of Wages" shall mean that rate of compensation as determined in Section 102.1.

(d) **Preemption.** Nothing in this Section shall be interpreted or applied so as to create any power or duty in conflict with any federal or state law.

(e) **Effective Date and Application.** This Section shall become effective 30 days after it is enacted. This Section is intended to have prospective effect only, and shall not be interpreted to impair the obligations of any pre-existing agreement to which the City is a party, unless such pre-existing agreement has been amended after the effective date of this Section.

(f) **Severability.** If any part or provision of this Section, or the application thereof to any Person or circumstance, is held invalid, the remainder of this Section, including the application of such part or provisions to other Persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Section are severable.

(Added as Administrative Code Sec. 21C.6 by Ord. 169-04, File No. 040540, App. 7/22/2004; amended by Ord. 9-11, File No. 101007, App. 1/7/2011; Ord. 12-12, File No. 111190, App. 2/2/2012, Eff. 3/3/2012; redesignated by Ord. 221-23, File No. 230835, App. 11/3/2023, Eff. 12/4/2023, Oper. 1/4/2024)

SEC. 102.7. PREVAILING RATE OF WAGES IN MOTOR BUS SERVICE CONTRACTS.

In the case of any contract for Services wherein motor bus service is to be rendered to the general public on any facility owned by the City, or in the case of any contract for the transportation within the boundaries of the City of any Commodities owned or in the possession of the City, the Purchaser, on recommendation of the department head concerned and approval of the Mayor or the Mayor's designee provided that the designee is not the department head of the department concerned or the board or commission in charge of such department upon the ground that the public interest would be best served by requiring the inclusion of such a provision in the contract, may require that any person performing labor thereunder shall be paid not less than the highest general prevailing rate of wages, including fringe benefits or the matching equivalents thereof, paid in private employment for similar work in the area in which the contract is being performed, as determined by the Civil Service Commission; provided, however, if such a provision is to be included in the contract the notice inviting offers under Section 102.2 of this Code must call attention of Offerors to the requirements of said provision.

(Added as Administrative Code Sec. 21C.1 by Ord. 156-99, File No. 990743, App. 6/2/99; amended by Ord. 9-11, File No. 101007, App. 1/7/2011; Ord. 220-20, File No. 200949, App. 11/6/2020, Eff. 12/7/2020; redesignated by Ord. 221-23, File No. 230835, App. 11/3/2023, Eff. 12/4/2023, Oper. 1/4/2024)

SEC. 102.8. PREVAILING RATE OF WAGES REQUIRED FOR TRADE SHOW AND SPECIAL EVENT WORK.

(a) **Prevailing Wage Requirement.** Every Contract, Lease, Franchise, Permit, or Agreement awarded, let, issued, or granted by the City for the use of property owned by the City must require that any Individual engaged in Exhibit, Display, or Trade Show Work at a Special Event be paid not less than the Prevailing Rate of Wages, including fringe benefits or the matching equivalents thereof, paid in private employment for similar work in the area in which the Contract, Lease, Franchise, Permit or Agreement is being performed. All Contracts, Leases, Franchises, Permits or Agreements subject to this Section 102.8 shall include a provision in which the Contractor agrees to comply with, and to require Subcontractors to comply with, the obligations imposed by this Section.

(b) **Definitions.** For purposes of this Section 102.8, the following definitions shall apply:

"City" shall mean the City and County of San Francisco.

"Contract, Lease, Franchise, Permit, or Agreement" shall mean an agreement with the City for the use of property owned by the City, but shall not include any contract, lease, franchise, permit, or agreement for:

A. Celebration of a marriage, domestic partnership, or similar civil union;

B. The presentation of a Special Event to which the public has free access when the Special Event is in a public park, on a public street, or on property under the jurisdiction of the Port Commission, and the advertising and promotion for the Special Event is less than $10,000;

C. Any permit or agreement to engage in film production pursuant to Chapter 57 of the San Francisco Administrative Code or under the circumstances set forth in Section 57.7 of the Administrative Code;

D. In any circumstance where application of this Section 102.8 would be preempted by federal or state law;

E. Any Special Event for which the time required for the set-up is three hours or less and the number of individuals working on the set-up is no more than two.

F. Any Special Event where the Special Event itself takes five hours or less.

G. Any Special Event that requires the payment of prevailing wage rates applicable to public works projects.

H. A street fair organized by and for which a permit has been issued to a nonprofit entity, where the street fair is free and open to the public and does not have as a primary purpose the advertising or promotion of a product or service.

"Convention" shall mean an organized association of persons with a common interest, including but not limited to a professional, commercial, political, social, cultural, vocational, recreational, or fraternal interest, who meet in a hotel, convention center, or other building to discuss or act on matters affecting their common interest or to participate in activities related to their common interest. Attendees at a "Convention" come mainly from places other than San Francisco.

"Exhibit, Display, or Trade Show Work" shall mean the on-site installation, set-up, assembly, and dismantling of temporary exhibits, displays, booths, modular systems, signage, drapery, specialty furniture, floor coverings, or decorative materials in connection with or related to a Special Event.

"Exposition" shall mean a large-scale public exhibition with a primary though not necessarily exclusive purpose of promoting one or more products, services, or businesses.

"On-site" shall mean the site of the Special Event, which may occur in enclosed space or open space or both. If the primary site of the Special Event is enclosed space, "On-site" shall include open space within 150 feet of the enclosed space that is the primary site of the Special Event. "On-site" shall also include public rights of way, including but not limited to a street or sidewalk, as to which a City permit, including but not limited to an ISCOTT (Interdepartmental Staff Committee on Traffic and Transportation) permit, has been issued in connection with the Special Event.

"Prevailing Rate of Wages" shall mean that rate of compensation as determined in Section 102.1.

"Special Event" shall mean any Trade Show, Convention, Exposition, or other Temporary Event with the characteristics of a Trade Show, Convention, or Exposition, that involves Exhibit, Display, or Trade Show Work.

"Temporary Event" shall mean an event lasting no more than six months.

"Trade Show" shall mean a gathering in which one or more businesses or association of businesses in one or more industries or professions show their products or services to possible customers or patrons. A "Trade Show" may include but is not limited to a gathering in which there are exhibits, displays, or demonstrations of specific products or services or that highlight all or part of an industry or profession.

(c) **Preemption.** Nothing in this Section 102.8 shall be interpreted or applied so as to create any power or duty in conflict with any federal or State law.

(d) **Operative Date and Application.**

(1) This Section 102.8 shall become operative upon the initial setting of a Prevailing Rate of Wages for Exhibit, Display, or Trade Show Work by the Board of Supervisors. This initial Prevailing Rate of Wages shall be set in accordance with the process established in Section 102.1(c)(1), except the Civil Service Commission shall submit to the Board of Supervisors data as to the Prevailing Rate of Wages no later than the first week in August 2014. Thereafter, the Commission shall submit data as to the Prevailing Rate of Wages for Exhibit, Display, or Trade Show Work on or before the first Monday in November each year, including 2014, in accordance with Section 102.1(c)(1).

(2) This Section 102.8 is intended to have prospective effect only, and shall not be interpreted to impair the obligations of any pre-existing Contract, Lease, Franchise, Permit, or Agreement issued or entered into by the City. This Section shall only apply to Contracts, Leases, Franchises, Permits, or Agreements entered into on or after the operative date of this Section.

(e) **Severability.** If any provision or provisions of this Section 102.8 or any application thereof is held invalid, such invalidity shall not affect any other provisions or applications of the Section.

(Added as Administrative Code Sec. 21C.8 by Ord. 90-14, File No. 140383, App. 6/19/2014, Eff. 7/19/2014; redesignated by Ord. 221-23, File No. 230835, App. 11/3/2023, Eff. 12/4/2023, Oper. 1/4/2024)

SEC. 102.9. PREVAILING RATE OF WAGES REQUIRED FOR BROADCAST SERVICES WORKERS ON CITY PROPERTY.

(a) **Prevailing Wage Requirement.** Every Contract, Lease, Franchise, Permit, or Agreement awarded, let, issued or granted by the City for the use of property owned by the City must require that any Individual engaged in Broadcast Services on City property be paid not less than the Prevailing Rate of Wages, including fringe benefits or the matching equivalents thereof, paid in private employment for similar work in the area in which the Contract, Lease, Franchise, Permit, or Agreement is being performed. All Contracts, Leases, Franchises, Permits, or Agreements subject to this Section 102.9 shall include a provision in which the Contractor agrees to comply with, and to require Subcontractors to comply with, the obligations imposed by this Section.

(b) **Definitions.** For purposes of this Section 102.9, the following definitions shall apply to the terms used herein:

"Broadcast Services" shall mean the electronic capture and/or live transmission on-site of video, digital, and/or audio content for Commercial Purposes through the use of a remote production or satellite truck on-site. An individual engaged in Broadcast Services includes, but is not limited to, a technical director, video controller, assistant director, and stage manager, as well as individuals engaged in the following functions: audio; camera; capture and playback; graphics; and utility.

"Commercial Purposes" shall mean an operation for profit and shall not include instances where the capture and transmission of video, digital, and/or audio content is performed by or on behalf of a governmental entity.

"Contract, Lease, Franchise, Permit, or Agreement" shall mean an agreement with the City for the use of property owned by the City, but shall not include any contract, lease, franchise, permit, or agreement:

(1) For any event where the total number of hours of Broadcast Services work being performed for the set-up, the event itself and the takedown is less than ten hours in the aggregate;

(2) For celebration of a marriage, domestic partnership, or similar civil union, except where the capture of video, digital and/or audio content of the celebration is for a Commercial Purpose;

(3) To engage in film production pursuant to Chapter 57 of the San Francisco Administrative Code or under the circumstances set forth in Section 57.7 of the Administrative Code; provided, however, that if the film production involves Broadcast Services, the requirements of this Section 102.9 shall apply to those persons engaged in Broadcast Services;

(4) In any circumstance where application of this Section 102.9 would be preempted by federal or state law;

(5) For a street fair, block party, parade, or festival, or any celebration directly associated with such street fair, block party, parade, or festival, or any other expressive activity such as a protest, demonstration, or similar public assembly, that is free and open to the public and does not have as a primary purpose the advertising or promotion of a commercial product or commercial service;

(6) For any event that requires the payment of prevailing wage rates applicable to public works projects;

(7) In any circumstances where video and/or audio content is being captured solely for personal use;

(8) For a concert in a public park to which the public has free access;

(9) For any event sponsored by a nonprofit entity where the primary purpose of the event is fundraising for that nonprofit entity and/or other nonprofit entities; provided, however, that this exemption shall not apply if the event is a collegiate sporting event or a professional sporting event. For purposes of this subsection (b)(9), "professional sporting event" means an event at which athletes receive compensation for their performance;

(10) In any circumstance where application of this Section 102.9 would apply to work covered by a collective bargaining agreement; or

(11) For any event sponsored by a primary or secondary educational institution.

(c) **Preemption.** Nothing in this Section 102.9 shall be interpreted or applied so as to create any right, power, or duty in conflict with any federal or state law.

(d) **Conflict with Other Sections.** In the event of a conflict between this Section 102.9 and any other section of this Article 102, the other section shall prevail.

(e) **Operative Date and Application.**

(1) This Section 102.9 shall become operative upon the initial setting of a Prevailing Rate of Wages for Broadcast Services Work by the Board of Supervisors. This initial Prevailing Rate of Wages shall be set in accordance with the process established in Section 102.1(c)(1), except the Civil Service Commission shall submit to the Board of Supervisors data as to the Prevailing Rate of Wages no later than 120 days after the effective date of this Section 102.9. Thereafter, the Commission shall submit data as to the Prevailing Rate of Wages for Broadcast Services Work on or before the first Monday in November each year in accordance with Section 102.1(c)(1).

(2) This Section 102.9 is intended to have prospective effect only, and shall not be interpreted to impair the obligations of any pre-existing Contract, Lease, Franchise, Permit, or Agreement issued or entered into by the City. This Section shall only apply to Contracts, Leases, Franchises, Permits, or Agreements issued or entered into on or after the operative date of this Section.

(f) **Exemption.** This Section 102.9 shall not apply to Broadcast Services being performed by a news service or similar entity engaged in on-the-spot broadcasting of news events that does not require a Contract, Lease, Franchise, Permit, or Agreement.

(g) **Severability.** If any provision or provisions of this Section 102.9 or any application thereof is held invalid, such invalidity shall not affect any other provisions or applications of the Section.

(Added as Administrative Code Sec. 21C.9 by Ord. 10-16, File No. 150874, App. 2/10/2016, Eff. 3/11/2016; redesignated by Ord. 221-23, File No. 230835, App. 11/3/2023, Eff.

SEC. 102.10. PREVAILING RATE OF WAGES REQUIRED FOR LOADING, UNLOADING, AND DRIVING COMMERCIAL VEHICLES ON CITY PROPERTY. [1]

(a) **Prevailing Wage Requirement.** Every Contract, Lease, Franchise, Permit, or Agreement awarded, let, issued, or granted by the City for the use of property owned by the City must require that (1) any Individual engaged in loading or unloading on City property of materials, goods, or products into or from a Commercial Vehicle in connection with the presentation of a Show or for a Special Event be paid not less than the Prevailing Rate of Wages, including fringe benefits or the matching equivalents thereof, paid in private employment for similar work in the area in which the loading or unloading is being performed, and (2) any Individual driving a Commercial Vehicle from which materials, goods, or products are loaded or unloaded on City property in connection with the presentation of a Show or for a Special Event shall be paid not less than the Prevailing Rate of Wages for hours driven within the City limits. All Contracts, Leases, Franchises, Permits or Agreements subject to this Section 102.10 shall include a provision in which the Contractor agrees to comply with, and to require Subcontractors to comply with, the obligations imposed by this Section.

(b) **Definitions.** For purposes of this Section 102.10, the following definitions shall apply to the terms used herein:

"Commercial Vehicle" shall mean a vehicle that (1) is used or maintained primarily for the transportation of materials, goods, or products, (2) has six wheels or more, and (3) displays or is required to display a California Department of Motor Vehicles weight decal as required by the Commercial Vehicle Registration Act, California Vehicle Code Section 9400 *et seq.*, as amended. Notwithstanding the foregoing sentence, Commercial Vehicle shall not include a vehicle used exclusively for food catering purposes, meaning its exclusive purpose on a particular trip is for the transport of food and/or beverages to be served at a Show or Special Event, the transport of equipment for the preparation and service of such food and/or beverages at a Show or Special Event, or both.

"Contract, Lease, Franchise, Permit, or Agreement" shall have the meanings set forth in Section 102.4(b) of this Code with regard to Shows, and in Section 102.8(b) of this Code with regard to Special Events, including the exemptions stated therein.

"Mass Participation Sports Event" shall mean a participatory sporting event such as a marathon, running race, or bicycle race or tour with anticipated participation by 150 participants or more.

"Show" shall have the meaning set forth in Section 102.4 of this Code.

"Special Event" shall have the meaning set forth in Section 102.8 of this Code, and shall also include a Mass Participation Sports Event.

(c) **Preemption.** Nothing in this Section 102.10 shall be interpreted or applied so as to create any right, power, or duty in conflict with any federal or state law.

(d) **Conflict with Other Sections.** In the event of a conflict between this Section 102.10 and any other sections of this Article 102, the other section(s) shall prevail.

(e) **Operative Date and Application.**

(1) This Section 102.10 shall become operative upon the initial setting by the Board of Supervisors of a Prevailing Rate of Wages for loading, unloading, and driving of Commercial Vehicles on City property. This initial Prevailing Rate of Wages shall be set in accordance with the process established in Section 102.1(c)(1), except the Civil Service Commission shall submit to the Board of Supervisors data as to the Prevailing Rate of Wages no later than 120 days after the effective date of this Section 102.10. Thereafter, the Commission shall submit data as to the Prevailing Rate of Wages for loading, unloading, and driving of Commercial Vehicles on City property, on or before the first Monday in November each year in accordance with Section 102.1(c)(1).

(2) This Section 102.10 is intended to have prospective effect only, and shall not be interpreted to impair the obligations of any pre-existing Contract, Lease, Franchise, Permit, or Agreement issued or entered into by the City. This Section shall only apply to Contracts, Leases, Franchises, Permits, or Agreements entered into on or after the operative date of this Section.

(f) **Exemptions.** In addition to the exemptions set forth in Section 102.4(b) of this Code for certain Shows and set forth in Section 102.8(b) of this Code for certain Special Events, this Section 102.10 shall not apply to the following:

(1) any Individual engaged in the loading or unloading of portable toilets, temporary fencing, temporary barricades, or temporary tents or canopies of less than 700 square feet when erected, or any Individual driving a Commercial Vehicle from which portable toilets, temporary fencing, temporary barricades, or temporary tents or canopies of less than 700 square feet when erected, are loaded or unloaded;

(2) individual vendors at a flea market or farmers market conducted on City property; provided, however, that this Section shall apply to loading, unloading, or driving of Commercial Vehicles for such events if these events would otherwise be covered by this Section 102.10 and the loading, unloading or driving is performed by the operator or management of the flea market or farmers market;

(3) work that is covered under a collective bargaining agreement;

(4) work that is performed by a City employee; or

(5) a Mass Participation Sports Event that is sponsored by a non-profit entity where the primary purpose of the Event is fundraising for that non-profit entity and/or other non-profit entities.

(g) **Severability.** If any provision or provisions of this Section 102.10 or any application thereof is held invalid, such invalidity shall

not affect any other provisions or applications of the Section.

(Added as Administrative Code Sec. 21C.10 by Ord. 187-16, File No. 160199, App. 10/14/2016, Eff. 11/13/2016; redesignated by Ord. 221-23, File No. 230835, App. 11/3/2023, Eff. 12/4/2023, Oper. 1/4/2024)

CODIFICATION NOTE

1. Ord. 187-16, Section 2, states: "as indicated in Administrative Code Section 21C.10(e) (now in Labor and Employment Code Section 102.10(e)), Section 21C.10 (now at Section 102.10) shall become operative only upon the initial setting of a Prevailing Rate of Wages for the categories of work covered by that section."

SEC. 102.11. PREVAILING RATE OF WAGES FOR SECURITY GUARD SERVICES IN CITY CONTRACTS AND FOR EVENTS ON CITY PROPERTY. [1]

(a) **Definitions.** For purposes of this Section 102.11, the following definitions shall apply:

"Event" means any organized gathering of people, including but not limited to a live performance, dance, convention, conference, parade, or exposition on City property.

"Security Guard Services" means services to protect persons or property or prevent theft, performed by nonsupervisory employees who are licensed by the California Bureau of Security and Investigative Services (BSIS) or a successor agency to provide security guard or proprietary security guard service, including but not limited to men and women serving as security guards, watchmen, patrolmen, and security officers.

(b) **City Contracts.**

(1) **Prevailing Wage Requirement.** Every Contract issued by the City must require that any individual performing Security Guard Services thereunder at any facility or on any property owned or leased by the City be paid not less than the Prevailing Rate of Wages, including fringe benefits or the matching equivalents thereof, paid in private employment for similar work in the area in which the Contract is being performed. All Contracts subject to this Section 102.11 shall include a provision in which the Contractor agrees to comply with, and to require Subcontractors to comply with, the obligations imposed by this Section.

(2) **Exclusions.** For purposes of this subsection (b), "Contract" shall mean an agreement to be performed at the expense of the City or to be paid out of moneys deposited in the City treasury or out of trust moneys under the control of or collected by the City, but shall not include the following:

(A) Contracts issued by the San Francisco Airport Commission or to be performed at any facility owned, leased, or otherwise under the jurisdiction of the San Francisco Airport Commission.

(B) Contracts for a cumulative amount of $10,000 or less per Security Guard Services provider in each fiscal year. Contracts may not be split for purposes of evading the requirements of this Section.

(c) **Events on City Property.**

(1) **Prevailing Wage Requirement.** Every Contract, Lease, Franchise, Permit, or Agreement awarded, let, issued, or granted by the City for the use of property owned by the City must require that any individual engaged in Security Guard Services for an Event on City property be paid not less than the Prevailing Rate of Wages, including fringe benefits or the matching equivalents thereof, paid in private employment for similar work in the area in which the Contract, Lease, Franchise, Permit, or Agreement is being performed. All Contracts, Leases, Franchises, Permits, or Agreements subject to this Section 102.11 shall include a provision in which the Contractor (including a lessee, franchisee, permittee or other party to an Agreement) agrees to comply with, and to require Subcontractors to comply with, the obligations imposed by this Section.

(2) **Exclusions.** For purposes of this subsection (c), "Contract, Lease, Franchise, Permit, or Agreement" shall mean an agreement with the City for the use of property owned by the City, but shall not include any contract, lease, franchise, permit, or agreement for:

(A) Celebration of a marriage, domestic partnership, or similar civil union,

(B) The presentation of an Event to which the public has free access when the Event is in a public park, on a public street, or on property under the jurisdiction of the Port Commission, and the advertising and promotion for the Event is less than $10,000,

(C) Any permit or agreement to engage in film production pursuant to Chapter 57 of the San Francisco Administrative Code or under the circumstances set forth in Section 57.7 of the Administrative Code,

(D) In any circumstance where application of this Section 102.11 would be preempted by federal or state law, or

(E) Any Event for which the total number of employees providing Security Guard Services for the Event is less than fifteen persons.

(d) **Preemption.** Nothing in this Section 102.11 shall be interpreted or applied so as to create any right, power, or duty in conflict with any federal or state law.

(e) **Operative Date and Prospective Effect.**

(1) This Section 102.11 shall become operative upon the initial setting of a Prevailing Rate of Wages for Security Guard Services by the Board of Supervisors. This initial Prevailing Rate of Wages shall be set in accordance with the process established in Section 102.1(c)(1), except the Civil Service Commission shall submit to the Board of Supervisors data as to the Prevailing Rate of Wages no later than 120 days after the effective date of this Section 102.11. Thereafter, the Commission shall submit data as to the Prevailing Rate

of Wages for Security Guard Services on or before the first Monday in November each year in accordance with Section 102.1(c)(1).

(2) This Section 102.11 is intended to have prospective effect only, and shall not be interpreted to impair the obligations of any pre-existing Contract, Lease, Franchise, Permit, or Agreement"[2] issued or entered into by the City, unless such pre-existing agreement is amended after the effective date of this Section and such amendment extends the term of the pre-existing agreement.

(f) **Severability.** If any part or provision of this Section 102.11, or the application thereof to any Person or circumstance, is held invalid, the remainder of this Section, including the application of such part or provisions to other Persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Section are severable.

(Added as Administrative Code Sec. 21C.11 by Ord. 211-16, File No. 160891, App. 10/28/2016, Eff. 11/27/2016; redesignated by Ord. 221-23, File No. 230835, App. 11/3/2023, Eff. 12/4/2023, Oper. 1/4/2024)

CODIFICATION NOTES

1. Ord. 211-16, Section 4, states: "as indicated in Administrative Code Section 21 C.11(e) (now in Labor and Employment Code Section 102.11(e)), Section 21 C.11 (now at Section 102.11) shall become operative only upon the initial setting by the Board of Supervisors of a Prevailing Rate of Wages for the categories of work covered by that section."

2. So in Ord. 211-16.

OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE (OCII)

EQUAL OPPORTUNITY PROGRAM

EXHIBIT 1

CONSTRUCTION WORKFORCE AGREEMENT

I. PURPOSE. The Office of Community Investment and Infrastructure as Successor Agency to the San Francisco Redevelopment Agency ("OCII" or "Agency") has established these Provisions for the purposes of ensuring participation of San Francisco residents and equal employment opportunities in the construction work force involved in constructing any of the phases upon the site covered by the underlying agreement to which these Provisions are attached hereto. OCII may enter into an agreement with the Workforce Development Division of the San Francisco Office of Economic and Workforce Development ("OEWD") to implement and monitor compliance with this Construction Workforce Provision ("Provision").

II. DEFINITIONS.

The following definitions apply to this Provision.

A. "CityBuild" means the construction employment program of the Workforce Development Division of the San Francisco Office of Economic and Workforce Development (OEWD).

B. "Contract" means any agreement in excess of $10,000 between the Owner, its Contractors and a person to provide or procure labor, materials or services for the construction of the Owner Improvements, including a purchase order that requires installation of materials.

C. "Contractor" means the Owner's general contractor, all prime contractors and all subcontractors (regardless of tier) having a Contract or subcontract in excess of $10,000 and who employ persons in a Trade for construction of the Owner Improvements.

D. "Owner Improvements" means improvements constructed in the Transbay Area by the Owner.

E. "Project Area Resident" means a San Francisco Resident who resides in a redevelopment area under the management of OCII.

F. "San Francisco Resident" in the case of a new hire shall mean an individual who has lived in San Francisco for at least one week prior to submitting his/her initial application for employment to work on the Owner Improvements. In the case of a person employed by the Owner or its Contractor or Consultant prior to assignment to the Owner Improvements, this term shall mean a person who has lived in San Francisco for at least six months prior to the date he/she applied for a transfer to a position at the Owner Improvements or the date he/she was assigned to work on the Owner Improvements, whichever is earlier; or a person who establishes, to the satisfaction of the Agency, that he/she lived in San Francisco prior to applying for or being considered for a position with the Owner, Contractor or Consultant.

III. WORK FORCE GOALS.

The Owner agrees and will require each Contractor and all subcontractors to use good faith

efforts to employ 50 percent of its construction workforce hires by trade and by hours from qualified San Francisco Residents with first consideration given to Project Area Residents. Owner and Contractors will be deemed in compliance with this Provision by meeting or exceeding the goal or by demonstrating good faith efforts toward compliance.

IV. GOOD FAITH EFFORTS.

A. Submission of Labor Force Projections and Other Data

The Contractor shall submit, to the extent available, labor force projections to the OCII Compliance Officer, or its agent, within two (2) weeks of contract award.

B. Submit Subcontractor Information Form

The Contractor shall submit to the Compliance Officer, or its agent, the Subcontractor Information Forms, twenty-four (24) hours prior to the preconstruction meeting. The Subcontractor Information Forms are available from the Compliance Officer upon request.

C. Preconstruction Meeting

The Contractor shall hold a preconstruction meeting which shall be attended by the Compliance Officer, CityBuild, all prime contractor(s) and all subcontractor(s). The preconstruction meeting shall be scheduled between two (2) days and thirty (30) days prior to the start of construction at a time and place convenient to all attendees. The purpose of the meeting is to discuss: the hiring goals, workforce composition, worker referral process, certified payroll reporting, procedure for termination and replacement of workers covered by this Provision and to explore any anticipated problems in complying with the Provision. All questions regarding how this Provision applies to the Owner, Contractor, subcontractors and consultants should be answered at this meeting. Failure to hold or attend at least one (1) preconstruction meeting will be a breach of this Provision that may result in the Agency ordering a suspension of work until the breach has been cured. Suspension under this provision is not subject to arbitration.

D. Submit Construction Worker Request Form

For the Term of the Provision, each time the Owner or Contractor seeks to hire workers for the construction or rehabilitation of improvements, they must first submit, by fax, email or hand delivery, an executed construction worker request form to CityBuild. Preferably this request will be submitted at least two (2) business days before the workers are needed. However, requests with less than two (2) business days notice will be accepted. The construction worker request form will indicate generally: the number of workers needed, duration needed, required skills or trade and date/time to report. The construction worker request form is available from the Compliance Officer upon request.

E. Response from CityBuild

CityBuild shall respond, in writing, via fax, email or hand delivery to each request for construction workers. The response shall state that CityBuild was able to satisfy the request in full, in part or was unable to satisfy the request. CityBuild shall look to their own referral lists, as well as confer with CBOs in an attempt to find qualified Project Area Residents and San Francisco Residents. If CityBuild is able to satisfy the request in full or in part, it shall direct the qualified Project Area Resident(s) or San Francisco Resident(s) to report to the Contractor on the date and time indicated in the request. If CityBuild is unable to satisfy the request, then CityBuild shall send a fax or email stating

that no qualified Project Area Residents or San Francisco Residents are currently available.

F. Action by Contractor When Referrals Available

The Owner or Contractor whose request has been satisfied in full or in part shall make the final determination of whether the Project Area Residents or San Francisco Residents are qualified for the positions and the ultimate hiring decision. The Agency strongly encourages the Contractor to hire the qualified Project Area Residents or San Francisco Residents referred by CityBuild. However, if the Contractor finds the Project Area Residents or San Francisco Residents are not qualified, then the Contractor shall send the Project Area Residents or San Francisco Residents back to CityBuild. Before the close of business on the same day, the Contractor shall fax or email a statement addressed td CityBuild stating in detail the reason(s) the Project Area Residents or San Francisco Residents were not qualified or the reason(s) for not hiring the Project Area Residents or San Francisco Residents. CityBuild shall, within one (1) business day of receipt of the fax or email, send new qualified Project Area Residents or San Francisco Residents that meet the legitimate qualifications set by the Contractor or alternatively, send a fax or email stating that no qualified Project Area Residents or San Francisco Residents are currently available.

G. Action by Contractor When Referrals Unavailable

If a Contractor receives a response from CityBuild stating that no qualified Project Area Residents or San Francisco Residents are currently available, then the Contractor may hire the number of construction workers requested from CityBuild, using its own recruiting methods, giving first consideration to Project Area Residents and then San Francisco Residents. Any additional new construction workforce hires (including the replacement of any terminated workers) must comply with this Provision, unless the Contractor has already met or exceeded the goal. The Contractor must keep a copy of the response it receives from CityBuild as proof of compliance and submit a copy of each response received to the Compliance Officer upon request.

H. Action by Contractor When No Response From CityBuild

If a Contractor has not received a response to its construction worker request from CityBuild within two (2) business days, then the Contractor should immediate advise the Compliance Officer by phone, fax or email. The Compliance Officer or his/her designee shall cause a response to be sent to the Contractor within two (2) business days of being notified. If the Contractor does not receive a response from CityBuild within four (4) business days (the original two (2) business days plus the additional two (2) business days), then the Contractor may hire the number of construction workers requested from CityBuild, using its own recruiting methods, giving first consideration to Project Area Residents and then San Francisco Residents. Any construction workforce hires (including the replacement of any terminated workers) must comply with this Provision, unless the Contractor has already met or exceeded the goal. The Contractor must keep a copy of the response it receives from CityBuild as proof of compliance and submit a copy of each response received to the Compliance Officer upon request. This Provision is intended to provide qualified Project Area and San Francisco Residents with employment opportunities without causing undue delay in hiring needed construction workers.

I. Action by Contractor When No Response From Union

The Contractor should immediately advise the Compliance Officer by phone, fax or email when the Contractor has sent a qualified Project Area Resident or San Francisco Resident to a union hall for referral in accordance with a collective bargaining agreement and the union did not refer the qualified Project Area or San Francisco Resident back for employment or when the union referral process impedes the Contractor's ability to meet its obligations under this Provision. Nothing in this Provision shall be interpreted to interfere with or prohibit existing labor agreements or collective bargaining agreements.

J. Hiring Apprentices

A Contractor may meet part of the Construction Workforce Goal by hiring apprentices. However, hiring an apprentice does not satisfy or waive the trainee hiring obligation, if any, for design professionals. Unless otherwise permitted by law, apprentices must be trained pursuant to training programs approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training or the California Department of Industrial Relations, Division of Apprenticeship Standards. Credit towards compliance will only be given for paid apprentices actually working on the project. No credit is available for apprentices while receiving class room training. Under no circumstances shall the ratio of apprentices to journeymen in a particular trade or craft exceed 1:5.

K. Termination and Replacement of Referrals

If at any time it becomes necessary to terminate for cause a construction worker who was hired under this Provision, the Contractor shall notify CityBuild in writing via fax or email and submit a report of termination pursuant to Section (B)(4). If the Contractor intends to fill the vacant position, then the Contractor shall follow the process set forth in this Provision beginning at Section (A)(6).

V. REPORTING REQUIREMENTS.

A. Submission of Certified Payroll Reports

Each Contractor subject to this Provision shall submit to the Agency a certified payroll report for the preceding work week on each of its employees. The Owner is ultimately responsible for the submission of these reports by the Contractors. The certified payroll report is due to the Agency by noon each Wednesday. To facilitate compliance, the Agency uses an online Project Reporting System (PRS) for submission of certified payroll reports. This system is available at no cost to the Contractor. Training and educational materials for PRS are available at no cost online and through the Compliance Officer. Contractors are required to report certified payroll using PRS. However, a waiver may be granted to any Contractors who do not have a computer or online access.

B. Additional Information

In order to prevent unlawful discrimination in the selection, hiring and termination of employees on the basis of race, ethnicity, gender or any other basis prohibited by law and to identify and correct such unlawful practices, the Agency will monitor and collect information on the ethnicity and gender of each construction worker and apprentice. If an identifiable pattern of apparent discrimination is revealed by this additional information, it will be treated as a breach of this Provision and may be addressed as set forth in the arbitration provisions included in Agency contracts.

C. Report on Terminations

In the event a Project Area Resident or San Francisco Resident hired pursuant to this Provision is terminated for cause, the responsible Contractor shall within two (2) days fax or email a termination report to CityBuild with a copy to the Compliance Officer stating in detail: (1) the name of the worker(s) terminated; (2) his/her job title and duties; (3) the reasons and circumstances leading to the termination(s); (4) whether the Contractor replaced the construction worker(s); and (5) whether the replacement worker(s) were Project Area Resident(s) or San Francisco Resident(s).

D. Inspection of Records

The Owner and each Contractor shall make the records required under this Provision available for inspection or copying by authorized representatives of the Agency and its designated Compliance Officer, and shall permit such representatives to interview construction workers and apprentices during working hours on the job.

E. Failure to Submit Reports

If a Contractor fails or refuses to provide the reports as required it will be treated as a breach of this Provision and may be addressed under arbitration provisions pursuant to Article VII (Arbitration of Disputes) of this Provision.

F. Submission of Good Faith Effort Documentation

If the Owner's or Contractor's good faith efforts are at issue, the Contractor shall provide the Agency or its designated Compliance Officer with the documentation of its efforts to comply with this Provision. The Owner or Contractor must maintain a current file of the names, addresses and telephone numbers of each Project Area Resident or San Francisco Resident applicant referral (whether a self-referral or a referral from a union, CBO or CityBuild referral) and what action was taken with respect to each such individual.

G. Coding Certified Payrolls

Each Contractor shall include, on the weekly payroll submissions, the proper job classification (as approved by the California Department of Industrial Relations), apprentice's craft (if applicable), skill level, protected class status, and domicile of each construction worker.

VI. RECORDKEEPING REQUIREMENTS.

Contractor shall comply with the requirements of California Labor Code Section 1776, as amended, regarding the keeping, filing and furnishing of certified copies of payroll records of wages paid to its employees and to the employees of its subcontractors of all tiers.

In addition, each Contractor shall keep, or cause to be kept, for a period of four years from the date of substantial completion of Owner Improvements, certified payroll and basic records, including time cards, tax forms, and superintendent and foreman daily logs, for all workers within each trade performing work on the Owner Improvements. Such records shall include the name, address and social security number of each worker who worked on the covered project, his or her classification, a general description of the work each worker performed each day, the apprentice or journey-level status of each worker, daily and weekly number of hours worked, the self-identified race, gender, and ethnicity of each worker, whether or not the worker was a local resident or disadvantaged worker, and the referral source or method through which the Contractor

hired or retained that worker for work on the Owner Improvements (e.g., core workforce, name call, union hiring hall, City-designated referral source, or recruitment or hiring method). Contractor may verify that a worker is a local resident through the worker's possession of a valid SF City ID Card or other government-issued identification. OCII may require additional records to be kept with regard to Contractor's compliance with this Provision. All records described in this section shall at all times be open to inspection and examination by the duly authorized officers and agents of OCII, including representatives of the OEWD.

VII. ARBITRATION OF DISPUTES.

A. **Arbitration by AAA**. Any dispute regarding this Construction Workforce Provision shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. The arbitration shall take place in the City and County of San Francisco.

B. **Demand for Arbitration**. Where the Owner disagrees with the Agency's Notice of Non-Qualification or Notice of Non-Compliance, **the Owner shall have seven (7) business days, in which to file a Demand for Arbitration,** unless otherwise stipulated by the parties. The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying entities believed to be involved in the dispute; (2) a copy of the Notice of Non-Qualification or Notice of Non-Compliance; and (3) any written response to the Notice of Non-Qualification or Notice of Non-Compliance. If the Owner fails to file a timely Demand for Arbitration, the Owner shall be deemed to have accepted and to be bound by the finding of Non-Qualification or the findings and recommendations contained in the Notice of Non-Compliance.

C. **Parties' Participation**. The Agency and all persons or entities that have a contractual relationship affected by the dispute shall be made an Arbitration Party. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such person or entity as an Arbitration Party, provided however, that the Owner made an initial timely Demand for Arbitration pursuant to Section VII.B. above.

D. **Agency Request to AAA**. Within seven (7) business days after service of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration, the Notice of Non-Qualification or Notice of Non-Compliance, and any written response thereto from the affected party. Such material shall be made part of the arbitration record.

E. **Selection of Arbitrator**. One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within ninety (90) days from the arbitrator's fulfillment of the disclosure requirements set forth in California Code of Civil Procedure Section 1281.9.

F. **Setting of Arbitration Hearing.** A hearing shall be held within ninety (90) days of the date of the filing of the Request, unless otherwise agreed by the parties. The arbitrator

shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.

G. **Discovery.** In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.

H. **Burden of Proof**. The burden of proof with respect to Construction Workforce compliance and/or Good Faith Efforts shall be on the Owner. The burden of proof as to all other alleged breaches by the Owner shall be on the Agency.

I. **California Law Applies.** Except where expressly stated to the contrary in this Construction Workforce Provision, California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings.

J. **Arbitration Remedies and Sanctions.** The arbitrator may impose only the remedies and sanctions set forth below:

1. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance.

2. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Owner or this Construction Workforce Provision, or from granting extensions or other modifications to existing contracts related to services covered by the Owner or this Construction Workforce Provision, other than those minor modifications or extensions necessary to enable compliance with this Construction Workforce Provision.

3. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any party to the arbitration to comply with any of the Agency's Workforce provision requirements. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.

4. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars ($50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of this Construction Workforce Provision unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.

5. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.

K. **Arbitrator's Decision.** The arbitrator shall make his or her award within twenty (20) days after the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.

L. **Default Award; No Requirement to Seek an Order Compelling Arbitration.** The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) said person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

M. **Arbitrator Lacks Power to Modify.** Except as otherwise provided, the arbitrator shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of this Construction Workforce Provision or any other agreement between the Agency and Owner or to negotiate new agreements or provisions between the parties.

N. **Jurisdiction/Entry of Judgment.** The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The non-prevailing Arbitration Party(ies) shall pay the arbitrator's fees and related costs of arbitration (or reimburse the Arbitration Parties that advanced such arbitration fees and costs). Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.

O. **Exculpatory Clause.** Owner expressly waives any and all claims against the Agency for damages, direct or indirect, including, without limitation, claims relative to the commencement, continuance and completion of construction and/or providing professional and consulting services ("the Work"). Owner acknowledges and agrees that the procedures set forth herein for dealing with alleged breaches or failure to comply with the obligations and requirements of this Construction Workforce Provision are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids and proposals for the planning, design and construction of the improvements and in determining the times for commencement and completion of the planning, design and construction and/or for providing consulting, professional or personal services.

P. **Severability**. The provisions of this Construction Workforce Provision are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Construction Workforce Provision or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this Construction Workforce Provision or the validity of their application to other persons or circumstances.

Q. **Arbitration Notice:** BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

_____ _____

Agency Owner

PREVAILING WAGE PROVISIONS
(LABOR STANDARDS)

1. **Applicability**. These Prevailing Wage Provisions (hereinafter referred to as "Labor Standards") apply to any and all contracts for construction, alteration, demolition, installation, repair, or maintenance of public facilities or improvements.

2. **All Contracts and Subcontracts for construction and construction-related improvements shall contain the Labor Standards.**

(a) All specifications relating to the construction of the improvements shall contain these Labor Standards and the Contractor shall have the responsibility to assure that all contracts and subcontracts, regardless of tier, incorporate by reference the specifications containing these Labor Standards. If for any reason said Labor Standards are not included, the Labor Standards shall nevertheless apply. The Contractor shall supply the Agency with true copies of each contract relating to the construction of the improvements showing the specifications that contain these Labor Standards promptly after due and complete execution thereof and before any work under such contract commences. Failure to do shall be a violation of these Labor Standards.

3. **Definitions**. The following definitions shall apply for purposes of this Attachment:

(a) "Contractor" is the Contractor if permitted by law to act as a contractor, the general contractor, and any contractor as well as any subcontractor of any tier subcontractor having a contract or subcontract that exceeds $10,000, and who employs Laborers, Mechanics, working foremen, and security guards to perform the construction on all or any part of the improvements.

(b) "Laborers" and "Mechanics" are all persons providing labor to perform the construction, including working foremen and security guards.

(c) "Working foreman" is a person who, in addition to performing supervisory duties, performs the work of a Laborer or Mechanic during at least 20 percent of the work week.

4. **Prevailing Wage**.

(a) All Laborers and Mechanics employed in the construction of the improvements will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by §5) the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at the time of payment computed at rates not less than those contained in the General Prevailing Wage Determination (hereinafter referred to as the "Wage Determination") made by the Director of Industrial Relations pursuant to California Labor Code Part 7, Chapter 1, Article 2, sections 1770, 1773 and

1773.1, regardless of any contractual relationship which may be alleged to exist between the Contractor and such Laborers and Mechanics. A copy of the applicable Wage Determination is on file in the offices of the Agency.

(b) All Laborers and Mechanics shall be paid the appropriate wage rate and fringe benefits for the classification of work actually performed, without regard to skill. Laborers or Mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein provided that the Contractor's payroll records accurately set forth the time spent in each classification in which work is performed.

(c) Whenever the wage rate prescribed in the Wage Determination for a class of Laborers or Mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit in the manner as stated therein i.e. the vacation plan, the health benefit program, the pension plan and the apprenticeship program, or shall pay an hourly cash equivalent thereof.

(d) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any Laborer or Mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the Wage Determination, provided that the Executive Director of the Agency has found, upon the written request of the Contractor, made through the Contractor that the intent of the Labor Standards has been met. Records of such costs shall be maintained in the manner set forth in subsection (a) of §8. The Executive Director of the Agency may require the Contractor to set aside in a separate interest bearing account with a member of the Federal Deposit Insurance Corporation, assets for the meeting of obligations under the plan or program referred to above in subsection (b) of this §4. The interest shall be accumulated and shall be paid as determined by the Agency acting at its sole discretion.

(e) Regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

5. **Permissible Payroll Deductions**. The following payroll deductions are permissible deductions. Any others require the approval of the Agency's Executive Director.

(a) Any withholding made in compliance with the requirements of Federal, State or local income tax laws, and the Federal social security tax.

(b) Any repayment of sums previously advanced to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A "bona fide prepayment of wages" is considered to have been made only when case or its equivalent has been advanced to the employee in such

manner as to give him or her complete freedom of disposition of the advanced funds.

(c) Any garnishment, unless it is in favor of the Contractor (or any affiliated person or entity), or when collusion or collaboration exists.

(d) Any contribution on behalf of the employee, to funds established by the Contractor, representatives of employees or both, for the purpose of providing from principal, income or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts or similar payments for the benefit of employees, their families and dependents provided, however, that the following standards are met:

1. The deduction is not otherwise prohibited by law; and

2. It is either:

   a. Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for obtaining or for the continuation of employment, or

   b. Provided for in a bona fide collective bargaining agreement between the Contractor and representatives of its employees; and

3. No profit or other benefit is otherwise obtained, directly or indirectly, by the Contractor (or any affiliated person or entity) in the form of commission, dividend or otherwise; and

4. The deduction shall serve the convenience and interest of the employee.

(e) Any authorized purchase of United States Savings Bonds for the employee.

(f) Any voluntarily authorized repayment of loans from or the purchase of shares in credit unions organized and operated in accordance with Federal and State credit union statutes.

(g) Any contribution voluntarily authorized by the employee for the American Red Cross, United Way and similar charitable organizations.

(h) Any payment of regular union initiation fees and membership dues, but not including fines or special assessments provided, that a collective bargaining agreement between the Contractor and representatives of its employees

provides for such payment and the deductions are not otherwise prohibited by law.

6. **Apprentices and Trainees**. Apprentices and trainees will be permitted to work at less than the Mechanic's rate for the work they perform when they are employed pursuant to and are individually registered in an apprenticeship or trainee program approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training ("BAT") or with the California Department of Industrial Relations, Division of Apprenticeship Standards ("DAS") or if a person is employed in his or her first 90 days of probationary employment as an apprentice or trainee in such a program, who is not individually registered in the program, but who has been certified by BAT or DAS to be eligible for probationary employment. Any employee listed on a payroll at an apprentice or trainee wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate for a Mechanic. Every apprentice or trainee must be paid at not less than the rate specified in the registered program for the employee's level of progress, expressed as a percentage of a Mechanic's hourly rate as specified in the Wage Determination. Apprentices or trainees shall be paid fringe benefits in accordance with the provisions of the respective program. If the program does not specify fringe benefits, employees must be paid the full amount of fringe benefits listed in the Wage Determination.

7. **Overtime**. No Contractor contracting for any part of the construction of the improvements which may require or involve the employment of Laborers or Mechanics shall require or permit any such Laborer or Mechanic in any workweek in which he or she is employed on such construction to work in excess of eight hours in any calendar day or in excess of 40 hours in such workweek unless such Laborer or Mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of 40 hours in such workweek, whichever is greater.

8. **Payrolls and Basic Records**.

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of its construction of the improvements and preserved for a period of one year thereafter for all Laborers and Mechanics it employed in the construction of the improvements. Such records shall contain the name, address and social security number of each employee, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for fringe benefits or cash equivalents thereof), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the wages of any Laborer or Mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program, the Contractor shall maintain records which show the costs anticipated or the actual costs incurred in providing such benefits and that the plan or program has been communicated in writing to the Laborers or Mechanics affected. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of

apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage prescribed in the applicable programs or the Wage Determination.

(b) 1. The Contractor shall submit to the Agency on each Wednesday at noon a copy of the payrolls for the week preceding the previous week in which any construction of the improvements was performed. The payrolls submitted shall set out accurately and completely all of the information required by the Agency's Optional Form, an initial supply of which may be obtained from the Agency. The Contractor if a prime contractor or the Contractor acting as the Contractor is responsible for the submission of copies of certified payrolls by all subcontractors; otherwise each Contractor shall timely submit such payrolls.

2. Each weekly payroll shall be accompanied by the Statement of Compliance that accompanies the Agency's Optional Form and properly executed by the Contractor or his or her agent, who pays or supervises the payment of the employees.

(c) The Contractor shall make the records required under this §8 available for inspection or copying by authorized representatives of the Agency, and shall permit such representatives to interview employees during working hours on the job. On request the Executive Director of the Agency shall advise the Contractor of the identity of such authorized representatives.

9. **Occupational Safety and Health**. No Laborer or Mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his or her safety and health as determined under construction safety and health standards promulgated by Cal-OSHA or if Cal-OSHA is terminated, then by the federal OSHA.

10. **Equal Opportunity Program**. The utilization of apprentices, trainees, Laborers and Mechanics under this part shall be in conformity with the Agency's equal opportunity program.

11. **Nondiscrimination Against Employees for Complaints**. No Laborer or Mechanic to whom the wage, salary or other Labor Standards of this Agreement are applicable shall be discharged or in any other manner discriminated against by the Contractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to these Labor Standards.

12. **Posting of Notice to Employees**. A copy of the Wage Determination referred to in subsection (a) of §4 together with a copy of a "Notice to Employees," in the form appearing on the last page of these Labor Standards, shall be given to the Contractor at the close of escrow. The Notice to Employees and the Wage Determination shall both be posted and maintained by the Contractor in a prominent place readily accessible to all

applicants and employees performing construction of the improvements before construction commences. If such Notice and Wage Determination is not so posted or maintained, the Agency may do so.

13. Violation and Remedies.

(a) Liability to Employee for Unpaid Wages. The Contractor shall be liable to the employee for unpaid wages, overtime wages and benefits in violation of these Labor Standards.

(b) Stop Work--Contract Terms, Records and Payrolls. If there is a violation of these Labor Standards by reason of the failure of any contract or subcontract for the construction of the improvements to contain the Labor Standards as required by §2 ("Non-Conforming Contract"); or by reason of any failure to submit the payrolls or make records available as required by §8 ("Non-Complying Contractor"), the Executive Director of the Agency may, after written notice to the Contractor with a copy to the Contractor involved and failure to cure the violation within five working days after the date of such notice, stop the construction work under the Non-Conforming Contract or of the Non-Complying Contractor until the Non-Conforming Contract or the Non-Complying Contractor comes into compliance.

(c) Stop Work and Other Violations. For any violation of these Labor Standards the Executive Director of the Agency may give written notice to the Contractor, with a copy to the Contractor involved, which notice shall state the claimed violation and the amount of money, if any, involved in the violation. Within five working days from the date of said notice, the Contractor shall advise the Agency in writing whether or not the violation is disputed by the Contractor and a statement of reasons in support of such dispute (the "Notice of Dispute"). In addition to the foregoing, the Contractor, upon receipt of the notice of claimed violation from the Agency, shall with respect to any amount stated in the Agency notice withhold payment to the Contractor of the amount stated multiplied by 45 working days and shall with the Notice of Dispute, also advise the Agency that the moneys are being or will be withheld. If the Contractor fails to timely give a Notice of Dispute to the Agency or to advise of the withhold, then the Executive Director of the Agency may stop the construction of the improvements under the applicable contract or by the involved Contractor until such Notice of Dispute and written withhold advice has been received.

Upon receipt of the Notice of Dispute and withhold advice, any stop work which the Executive Director has ordered shall be lifted, but the Contractor shall continue to withhold the moneys until the dispute has been resolved either by agreement, or failing agreement, by arbitration as is provided in §14.

(d) Withholding Certificates of Completion. The Agency may withhold any or all certificates of completion of the improvements provided for in this Agreement, for any violations of these Labor Standards until such violation has been cured.

(e) General Remedies. In addition to all of the rights and remedies herein contained, but subject to arbitration, except as hereinafter provided, the Agency shall have all rights in law or equity to enforce these Labor Standards including, but not limited to, a prohibitory or mandatory injunction. Provided, however, the stop work remedy of the Agency provided above in subsection (b) and (c) is not subject to arbitration.

14. Arbitration of Disputes.

(a) Any dispute regarding these Labor Standards shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further provisions thereof.

(b) The Agency and all persons or entities who have a contractual relationship affected by the dispute shall be made a party to the arbitration. Any such person or entity not made a party in the demand for arbitration may intervene as a party and in turn may name any such person or entity as a party.

(c) The arbitration shall take place in the City and County of San Francisco.

(d) Arbitration may be demanded by the Agency, the Contractor or the Contractor.

(e) With the demand for arbitration, there must be enclosed a copy of these Labor Standards, and a copy of the demand must be mailed to the Agency and the Contractor, or as appropriate to one or the other if the Contractor or the Agency is demanding arbitration. If the demand does not include the Labor Standards they are nevertheless deemed a part of the demand. With the demand if made by the Agency or within a reasonable time thereafter if not made by the Agency, the Agency shall transmit to the AAA a copy of the Wage Determination (referred to in §4) and copies of all notices sent or received by the Agency pursuant to §13. Such material shall be made part of the arbitration record.

(f) One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators of the AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the parties fail to select an arbitrator, within seven (7) days from the receipt of the panel, the AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within 30 days from appointment.

(g) Any party to the arbitration whether the party participates in the arbitration or not shall be bound by the decision of the arbitrator whose decision shall be final and binding on all of the parties and any and all rights of appeal from the decision are waived except a claim that the arbitrator's decision violates an applicable statute or regulation. The decision of the arbitrator shall be rendered on or before 30 days from appointment. The arbitrator shall schedule hearings as necessary to meet this 30 day decision requirement and the parties to the arbitration, whether they appear or not, shall be bound by such scheduling.

(h) Any party to the arbitration may take any and all steps permitted by law to enforce the arbitrator's decision and if the arbitrator's decision requires the payment of money the Contractor shall make the required payments and the Contractor shall pay the Contractor from money withheld.

(i) Costs and Expenses. Each party shall bear its own costs and expenses of the arbitration and the costs of the arbitration shall be shared equally among the parties.

15. **Non-liability of the Agency**. The Contractor and each Contractor acknowledge and agree that the procedures hereinafter set forth for dealing with violations of these Labor Standards are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids for the construction of the improvements, in determining the time for commencement and completion of construction and in proceeding with construction work. Accordingly the Contractor, and any Contractor, by proceeding with construction expressly waives and is deemed to have waived any and all claims against the Agency for damages, direct or indirect, arising out of these Labor Standards and their enforcement and including but not limited to claims relative to stop work orders, and the commencement, continuance or completion of construction.

OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE

N O T I C E T O E M P L O Y E E S

EQUAL OPPORTUNITY NON-DISCRIMI-NATION	The contractor must take equal opportunity steps to provide employment opportunities to minority group persons and women and shall not discriminate on the basis of age, ancestry, color, creed, disability, gender, national origin, race, religion or sexual orientation.
PREVAILING WAGE	You shall not be paid less than the wage rate contained in the General Prevailing Wage Determination made by the Director of Industrial Relations pursuant to California Labor Code Part 7, Chapter 1, Article 2, sections 1770, 1773 and 1773.1.
OVERTIME	You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 8 a day or 40 a week, whichever is greater.
APPRENTICES	Apprentice rates apply only to employees registered under an apprenticeship or trainee program approved by the Bureau of Apprenticeship and Training or the California Division of Apprenticeship Standards.
PROPER PAY	If you do not receive proper pay, write the Office of Community Investment and Infrastructure, OCII 1 South Van Ness Ave. 5th Floor San Francisco, CA 94103 or call **415-749-2400** and ask for the Contract Compliance Department.

San Francisco Public Utilities Commission Project Labor Agreement and Extension

San Francisco Public Utilities Commission

WATER SYSTEM IMPROVEMENT PROGRAM

PROJECT LABOR AGREEMENT

PROJECT LABOR AGREEMENT

This Project Labor Agreement (hereinafter, the "Agreement") is entered into this March 27, 2007 by and between the San Francisco Public Utilities Commission, its successors or assigns, and the construction contractors and subcontractors of whatever tier directly executing this Agreement or the Letter of Assent, (hereinafter, collectively, the "Contractor" or "Contractors") and the signatory craft unions (hereinafter, collectively the "Union" or "Unions"), with respect to the construction work within the scope of this Agreement owned by the San Francisco Public Utilities Commission (hereinafter, the "SFPUC" or the "Owner") and financed by the funds authorized pursuant to the revenue Bond Proposition A and by Proposition E, passed by the voters of San Francisco on November 5, 2002, and designated for the construction or major renovation/seismic upgrade of the water delivery system.

It is understood by the parties to this Agreement that if this Agreement is acceptable to the SFPUC pursuant to Proposition E section 8B.127 November 2002, it will become the policy of the SFPUC that the construction work covered by this Agreement shall be contracted exclusively to Contractors who agree to be bound by the terms of this Agreement through execution of it or the Letter of Assent. The SFPUC, through its Designated Representative shall administer this Agreement and shall monitor compliance with it by all Contractors and Unions. For purposes of this Agreement, each Contractor recognizes and appoints the Designated Representative as its agent, with full, independent authority to implement and administer this Agreement and, when and if appropriate or necessary, negotiate amendments to this Agreement. Together with the Union parties, the SFPUC shall be considered a "negotiating party" of this Agreement.

ARTICLE I
PURPOSE

Section 1.1 The SFPUC is undertaking an estimated $4.3 billion program to rebuild and seismically upgrade Hetch Hetchy Water System's aging pipelines, tunnels, reservoirs, pump stations, storage tanks and dams. The capital improvement program, referred to hereinafter as the Water System Improvement Program ("WSIP"), is a comprehensive program involving numerous individual projects.

Section 1.2 The purpose of this Agreement is to promote efficiency of construction of the WSIP ("the Project") by facilitating communication, education and partnerships among the SFPUC, Unions, Contractors, and contract-enforcement agencies to identify and resolve issues, to enhance understanding and compliance with the labor-related policies and regulations, and to provide for peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby

promoting the public interest in assuring the timely and economical completion of the Project.

ARTICLE II
SCOPE OF AGREEMENT

Section 2.1 This Agreement hereinafter designated as the "Water System Improvement Project Labor Agreement" or "WSIPLA" shall apply and is limited to construction as defined in Section 2.2 performed by contractors of whatever tier who have contracts awarded for such work on or after the effective date of the WSIPLA, with regard to the construction or any other construction-related activities necessary to the "Project"; except that work performed under the NTL Articles of Agreement and the National Agreement of Elevator Constructors, with the exception of Article VI, VII and VIII of this Agreement shall apply.

Section 2.2 This Agreement shall apply to all on-site construction work on the Project. This shall include all construction work as defined in San Francisco Administrative Code, Section 6.1(I) and contained within the scope of the construction contracts executed for the Projects contained in Appendix A. (For informational purposes only, San Francisco Administrative Code, Section 6.1(I) is attached hereto as Appendix B).

Section 2.3 The parties acknowledge that conditions may require that the SFPUC combine or divide projects under the WSIP, and that this combination or division of projects may affect the scope of the Agreement. In order for the parties to the Agreement to be able to track any changes that might arise, the SFPUC shall provide the Joint Administrative Committee (as defined in Article XVII of this Agreement) with WSIP Quarterly Reports, including detailed and updated project descriptions, scopes, budgets, schedules, etc. In the event of a dispute as to applicability of the PLA to any project contained within a Quarterly Report, the Joint Administrative Committee shall determine, at its first regularly scheduled meeting after receipt of said Quarterly Report, whether or not the combined or divided projects are covered under the Agreement. The Joint Administrative Committee shall meet prior to its regularly scheduled meeting to resolve any dispute should construction bid schedules require an earlier meeting. The Joint Administrative Committee shall use Appendix A as a template in any such determination of coverage. Cost estimates and/or division of projects may not be manipulated for the purpose of avoiding coverage of this Agreement.

Section 2.4 To the extent consistent with the National Labor Relations Act, all hauling work done physically on the site of construction or hauling to any non-remote facility that is owned, leased or controlled by the San Francisco Public Utilities Commission and dedicated to the Water System Improvement Program shall be covered by the terms and conditions of this Agreement.

Section 2.5 It is further agreed that this Project Labor Agreement shall be included in all invitations to bid or solicitations for proposals from contractors or

subcontractors for work on the Project that are issued on and after the effective date of this Agreement.

Section 2.6 It is understood that the Owner may at any time and at its sole discretion determine to build segments of the Project under the WSIPLA not currently proposed, or to modify or to build any one or more of the particular segments proposed to be covered.

Section 2.7 Items specifically **excluded** from the scope of the WSIPLA include the following:

(a) Work of non-manual employees, including but not limited to: superintendents; supervisors above the level of general foreman; staff engineers; inspectors, quality control and quality assurance personnel except that the classifications of surveyors, on-site inspectors, material testers, and/or x-ray technicians that are customarily covered by the Local Collective Bargaining Agreement(s) and as to which classification(s) a prevailing wage determination has been published shall be covered by this Agreement; timekeepers; mail carriers; clerks, office workers, including messengers, guards, safety personnel, emergency medical and first aid technicians, and other professional, engineering, administrative, supervisory and management employees. Superintendents and other non-covered employees on Project work may, at their option, and with the agreement of the involved Jointly-Trusted Fund(s) contribute to and participate in such Fund(s).

(b) Equipment and machinery owned or controlled and operated by the SFPUC.

(c) All off-site manufacture and handling of materials, equipment or machinery, except at dedicated project lay-down or storage areas, except as modified by Side Letters of Agreement as contained in Appendix C.

(d) All employees of the SFPUC, Designated Representative, Project Manager, Program Manager, Construction Managers and Design Team (including, but not limited to, architects and engineers, or any other consultant for the SFPUC and their sub-consultants, and other employees of professional service organizations);

(e) Any work performed on, near, or leading to or into 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 SFPUC or its contractors for work which is not within the scope of this Agreement;

(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 manufacturer's or vendor's warranty or guarantee; provided, however, that the manufacturer or vendor can demonstrate by enumeration of specific tasks that the work cannot be performed by covered employees;

(h) All work by employees of the SFPUC involved in general maintenance, emergency repair, cleaning work, and/or any work of an emergency nature as determined by the SFPUC General Manager;

(i) Laboratory work for specialty testing or inspections.

Section 2.8 The SFPUC and/or Contractors, as appropriate, have the absolute right to award contracts or subcontracts on this Project to any Contractor notwithstanding the existence or nonexistence of any agreement between such contractor and any union party, provided only that such contractor is willing, ready and able to execute and comply with this Project Labor Agreement, should such contractor be awarded work covered by this Agreement. In making such awards of work, the SFPUC and the Contractors recognize the SFPUC's programs and goals to include small, local business enterprises as contractors or subcontractors on the Project and all parties to the Agreement shall make their best good faith efforts to effectuate these provisions of the Agreement. Such good faith efforts shall be intended to insure that micro and small local business enterprises, as defined in San Francisco Administrative Code section 14B, are given a full opportunity to competitively bid for work on the Project. It is agreed that all contractors and subcontractors, of whatever tier, whom have been awarded contracts for work covered by this Agreement shall be required to accept and to be bound by the terms and conditions of this Project Labor Agreement, and shall evidence their acceptance by the execution of the Letter of Assent, prior to the commencement of work. Each Contractor and Subcontractor shall provide a copy of the Letter of Assent**,** contained in Appendix D**,** to the Union prior to commencement of work.

Section 2.9 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.

Section 2.10 The provisions of the WSIPLA shall apply to the work covered notwithstanding the provisions of any local, area and/or national agreement that may conflict with or differ from the terms of the WSIPLA. 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 the provisions of a Schedule A and is not covered by this Agreement, the provisions of the Schedule A shall prevail. Copies of all collective bargaining agreements of the signatory Unions ("Scheduled As") shall be on file with the PUC and shall be available for inspection by all contractors seeking to bid on work for the Project.

It shall be the responsibility of the respective Building and Construction Trades Councils in each of the counties in which the projects are located to provide current and updated copies of all collective bargaining agreements as provided for herein.

Any dispute as to whether the WSIPLA or any local, area and/or national agreement governs the determination of wages, hours and working conditions of employees on the Project shall be resolved by an arbitrator to be determined under procedures in Article VI. It is understood that the WSIPLA is a stand-alone agreement and that by virtue of having become bound to the WSIPLA the Contractor will not be obligated to sign any other local, area or national agreement as a condition of performing work within the scope of WSIPLA.

Section 2.11 The WSIPLA shall only be binding on the signatory parties hereto and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party.

Section 2.12 This Agreement shall be limited to the construction work within the scope of this Agreement, as it may be amended from time to time. Nothing contained herein shall be construed to prohibit, restrict, or interfere with the performance of any other operation, work or function, which may be performed or contracted by the SFPUC for its own account on its property or in and around a Project construction site.

Section 2.13 It is understood that the liability of the Contractor and the liability of the separate 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 SFPUC or the Designated Representative and/or any Contractor.

Section 2.14 None of the provisions of this Agreement shall be construed to prohibit or restrict the SFPUC or its employees from performing work not covered by this Agreement on or around the construction site.

Section 2.15 It is understood that the SFPUC, at its sole option, may terminate, delay and/or suspend any and all portions of the covered work at any time. Further, the SFPUC may prohibit some or all work on certain days or during certain hours of the day to accommodate the ongoing operations of the SFPUC's facilities and/or to mitigate the effect of the ongoing Project work on the businesses and residents in the neighborhood of the Project site; and/or require such other operational or schedule changes that it may deem necessary.

ARTICLE III
UNION RECOGNITION AND EMPLOYMENT

Section 3.1 No employee covered by this Agreement shall be required to join any union as a condition of being employed, or remaining employed, on the Project. All employees shall, however, be required to be members in good standing with the referring union or to comply with the union security provisions of the applicable Schedule A on or before the eighth (8^{th}) day of continuous or

cumulative employment on the Project for the period during which they are performing Project work. This shall include rendering payment of the applicable monthly dues and fees uniformly required for union membership in the local union which is signatory to this Agreement**,** to the extent such payments are consistent with federal law.

Section 3.2 The Employer shall honor Union dues and initiation fees check-off pursuant to receipt of properly authorized dues deduction cards signed by its employees, along with other lawful authorizations from employees providing for deductions from wages.

Section 3.3 The Contractor/Employer(s) performing construction work on the Project shall, in filling craft job requirements, utilize and be bound by the registration facilities and referral systems established or authorized by the Unions signatory hereto. The Contractor/Employer(s) shall have the right to reject any applicant referred by the Union(s), in accordance with the applicable Schedule A.

Section 3.4 The Contractor/Employer(s) and Union(s) agree not to engage in any form of discrimination because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, disability, or any other protected classification, against any employee, or applicant for employment, on the Project.

Section 3.5 The signatory Unions represent that their respective job referral systems are operated in a non-discriminatory manner and in full compliance with the federal, state, and local laws and regulations, requiring equal employment opportunities and non-discrimination.

Section 3.6 The Unions will exert their utmost efforts to recruit sufficient numbers of skilled applicants to fulfill the workforce requirements of the Contractors. In the event the referral system maintained by the respective Union does not refer the required number of qualified applicants requested by the Contractor within a forty-eight (48) hour period after such request is made (Saturdays, Sundays, and holidays excepted), the contractor may withdraw the request and employ applicants from other sources.

Section 3.7 The parties to the WSIPLA support the development of increased number of skilled construction workers from the residents of the SFPUC's service territory to meet the needs of the Project. Towards that end, the Unions agrees to encourage the referral and utilization, to the extent permitted by law, hiring hall procedures**,** and the Standards of the applicable Apprenticeship Program approved by the State of California, Division of Apprenticeship Standards, of qualified residents as journeymen, apprentices and trainees on this Project and entrance into such apprenticeship and training programs as may be operated by signatory Unions.

Section 3.8 The Union(s) shall be the primary source of all craft labor employed on the Project. The parties recognize the SFPUC's interest in providing opportunities to participate on the Project to enterprises that may not have previously had a relationship with the Unions signatory to the WSIPLA. Therefore, in the event that a Contractor has his/her own core workforce, the Contractor may request by name, and the local will honor, referral of persons who have applied to the local union for Project work and who demonstrate the following qualifications:

(a) Possesses any license required by state or federal law for the Project work to be performed;

(b) Has worked a total of at least one thousand (1,000) hours in the construction craft during the prior three (3) years;

(c) Has been on the Contractor's active payroll for at least 500 hours in the calendar year immediately prior to the contract award; and

(d) Has the ability to perform safely the basic functions of the applicable trade.

Section 3.9 The Union will refer to such Contractor one journeyman employee from the hiring hall out-of-work list for each affected trade or craft, and will then refer one of such Contractor's "core" employees as a journeyman and shall repeat the process, one and one, until such Contractor has hired seven (7) "core" employees, whichever occurs first. Thereafter, all additional employees in the affected trade or craft shall be hired exclusively from the hiring hall out-of-work list(s). 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 as core employees to hiring hall referrals as was applied in the initial hiring period.

Section 3.10 Contractors signatory to Local, Regional, and/or National collective bargaining agreements with Union(s) signatory hereto shall be bound to use the hiring hall provisions contained in the Schedule A Agreement of the affected Union(s), and nothing in the referral provisions of this Agreement shall be construed to supersede the local hiring hall provisions of the Schedule A Agreement(s) as they relate to such contractors.

ARTICLE IV
MANAGEMENT RIGHTS

Section 4.1 The Contractor(s) retains full and exclusive authority for the management of its work force for all work performed under this Agreement. This authority includes, but is not limited to the right to:

(a) Plan, direct and control the operation of all the work.

(b) Decide the number and types of employees required to perform the work safely and efficiently. The lawful manning provisions of the applicable Schedule A shall be recognized.

(c) Hire, promote and layoff employees as deemed appropriate to meet work requirements and/or skills required. The Contractor will determine the competency and qualifications of applicants and employees with the right to hire, reject, or terminate for just cause.

(d) Assign and schedule work at its sole discretion and determine when overtime will be worked.

(e) Discharge, suspension or discipline of employees will be handled under the applicable craft Schedule A.

Section 4.2 Unless otherwise specified in this Agreement, the Contractor may use any method or techniques of construction. The use of new technology, equipment, machinery, tools and/or labor saving devices and methods of performing work may be initiated by the Contractor from time-to-time during the Project. Except as specifically provided for herein, there shall be no limitation or restriction by a signatory Union upon a Contractor's choice of materials or design.

ARTICLE V
UNION REPRESENTATION AND STEWARDS

Section 5.1 Authorized representatives of the Union shall have access to the Project, provided that they do not interfere with the work of the employees and further provided that such representatives fully comply with the posted visitor, security and safety rules and any other applicable rules and regulations. This section is not intended to interfere with the unions' right to administer this Agreement.

Section 5.2 Each Union shall have the right to appoint a working steward for each shift who will be paid the journeyman rate of pay. Such designated steward shall

not perform any supervisory functions and will be permitted a reasonable amount of time to fulfill his duties. Stewards shall be the last employee of each craft's workforce to be laid-off provided they could perform the work provided by the Contractor. Prior notification of any lay-off or termination shall be given to the Union.

Section 5.3 Stewards shall not have the right to determine when overtime shall be worked or who shall work overtime. Steward overtime shall be as provided in the applicable schedule A, provided the steward is qualified to perform the work available.

ARTICLE VI
WORK STOPPAGES AND LOCKOUTS

Section 6.1 During the term of the WSIPLA there will be no strikes, sympathy strikes, picketing, work stoppages, slowdowns, interference with the work or other disruptive activity for any reason by the Union, its applicable Local Union or by any employee and there shall be no lockout by the Contractor. Signatory unions and employees shall refuse to honor picket lines or any work stoppages at the Contractor's project site.

In the event of any strike, sympathy strike, picketing, work stoppage, slowdowns, interference with the work or other disruptive activities, the Contractor may suspend all or any portion of the project work affected by such activity without penalty.

Section 6.2 Withholding employees, but not picketing, for failure of a Contractor(s) to tender trust fund contributions as required in accordance with Article IX and/or for failure to meet its weekly payroll is not a violation of this Article; however, the Union shall give the affected Contractor, Project Manager and the SFPUC written notice no less than five working days prior to the withholding of employees. Should a Contractor performing work on this Project be delinquent in the payment of Trust Fund contributions required under this Agreement with respect to employees represented by the Union, the Union may request that the General Contractor issue joint checks payable to the Contractor and the appropriate employee benefit Trust Fund(s) until such delinquencies are satisfied. Any Trust Fund claiming that a Contractor is delinquent in its fringe benefit contributions to the funds will provide written notice of the alleged delinquency to the affected Contractor, with copies to the General Contractor, the Project Manager and the SFPUC. The notice will indicate the amount of delinquency asserted and the period that the delinquency covers. It is agreed, however, with respect to contractors delinquent in trust or benefit contribution payments, that nothing in this Agreement shall affect normal contract remedies available under the local collective bargaining agreements and/or Trust Agreements.

Each General Contractor and subcontractor shall be required to certify in writing that it has paid all wage and benefit contributions due and owing prior to receipt of its final payment and/or retention. Further, upon timely notification by a Union to either**:** (a) the General Contractor (in the case of a delinquent subcontractor); or (b) the SFPUC (in the case of a delinquent General Contractor); the General Contractor or the SFPUC shall work with the subcontractor or General Contractor, respectively, that is delinquent in payments of benefit contributions or wages to assure that proper wage and benefit payments are made. The General Contractor or the SFPUC may withhold otherwise due payments owed the delinquent subcontractor or General Contractor until such payments have been made or otherwise guaranteed.

Section 6.3 The International Union and its applicable Local Union shall not aid, abet, encourage any work stoppage, strike, picketing or other disruptive activity at the Contractor's project site and shall take all reasonable means to prevent or to terminate such activity. No employee shall engage in activities that violate this article. Any employee that participates in or encourages such activities will be subject to disciplinary action, including discharge.

Section 6.4 Neither the International Union nor its applicable Local Union shall be liable for the acts of employees over which it has no responsibility. The International Union will immediately instruct, order and use the best efforts of its office to cause the Local Union(s) to cease any violations of this article. An International Union complying with this article will not be liable for the unauthorized acts of its Local Union. The principal officer or officers of the Local Union shall immediately instruct, order and use the best efforts of its office to cause the employees the Local Union represents to cease any violations of this article. A Local Union complying with these obligations will not be liable for the unauthorized acts of employees it represents. The failure of a Contractor to exercise its right in any instance shall not be deemed a waiver of its right in any other instance.

Section 6.5 In lieu of, or in addition to, any other action at law or equity, any party may institute the following procedure when a breach of this Article is alleged, after the International Union and/or Local Union have been notified of the fact.

a) The party invoking this procedure shall notify Tom Angelo, the permanent Arbitrator agreed upon under this procedure. In the event the permanent Arbitrator is unavailable at any time, the party invoking this procedure shall notify William Riker, the permanent alternate Arbitrator agreed upon under this procedure. Notice to the Arbitrator shall be by the most expeditious means available, with notice by electronic means or any other effective written means, to the parties involved.

b) Upon receipt of said notice, the permanent Arbitrator shall set and hold a hearing if it is contended that the violation still exists.

c) The Arbitrator shall notify the parties by electronic means or any other effective written means, of the place and time he has chosen for such hearing. Said hearing shall take place within 24 hours of notice to the Arbitrator and shall be completed in one session unless the SFPUC and the affected parties agree on a longer period of time. Failure by any party or parties to attend such hearing shall not delay the hearing of evidence and issuance of award by the Arbitrator.

d) The sole issue at the hearing shall be whether or not a violation of this Article has occurred. The issuance of award shall be within three (3) hours of the close of the hearing and may be issued without a written Opinion. If any party desires a written Opinion, one will be issued within fifteen (15) days, but its issuance shall not delay compliance with or enforcement of the Award. The Arbitrator may order cessation of the violation of this Article, and such Award shall be issued to all parties either by hand or registered mail upon issuance.

e) Such Award may be enforced in a court of competent jurisdiction upon the filing of this Agreement and other relevant documents referred to hereinabove in the following manner. Facsimile notice of the filing of enforcement shall be given to the other party. In the proceeding to obtain a temporary order enforcing the Arbitrator's Award, all parties waive the right to a hearing and agree that such hearings may be *ex parte*. Such agreement does not waive any party's right to participate in a hearing for final order of enforcement. The Court's orders 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.

f) Any rights created by statue or law governing arbitration hearings inconsistent with the above procedure or which interfere with compliance therewith are hereby waived by the parties to which such rights accrue. The fees and expenses of the Arbitrator shall be borne equally by the parties involved in the dispute.

g) If the Arbitrator determines that a violation of Section 6.1 above has been committed by a Union or a Contractor, the party or parties found in violation shall pay as liquidated damages in amount not less than $10,000, or more than $25,000, at the discretion of the arbitrator, for each shift where the craft has not returned to work, or where the Contractor has not ceased its lockout. The decision of the Arbitrator shall be final and binding on the parties. The Arbitrator shall determine whether the specified damages in this Section shall be paid to the SFPUC or to the affected Contractor or to the affected Union, as the case may be. The Arbitrator shall retain jurisdiction to determine compliance with Sections 6.4 and 6.5 of this Article.

h) The procedures contained in Sections 6.4 through 6.4(g) shall be applicable to alleged violations of this Article. Disputes alleging violation of any other provision of the WSIPLA, including any underlying disputes alleged to be in

justification, explanation or mitigation of this Article, shall be resolved under the grievance procedure or jurisdictional dispute procedure of this Agreement.

ARTICLE VII
GRIEVANCE PROCEDURE

Section 7.1 Any dispute alleging violation of the WSIPLA, excluding jurisdictional disputes and alleged violations of Article VI, shall be resolved in accordance with the procedures set forth herein. No grievance shall be recognized unless called to the attention of the Contractor by the Union or to the attention of the Union by the Contractor within ten (10) working days after the alleged violation was committed but in no event more than thirty (30) days after the grievant knew or reasonably should have known of the event giving rise to the dispute. Any dispute as to the interpretation or application of a Schedule A between a Union and an Employer signatory to that Schedule A, where such dispute involves an issue not covered in this Agreement, shall be resolved pursuant to the grievance and arbitration procedures contained in the respective Schedule A.

Step 1. The dispute shall be referred to the business representative of the Union involved and the Project superintendent and/or the Contractor's representative at the construction site.

Step 2. In the event that the representatives are unable to resolve the dispute within the five (5) business days after its referral to Step 1, either involved party may submit it within three (3) business days to the Joint Administrative Committee, which shall meet within five (5) business days after such referral (or such longer time as is mutually agreed upon by all representatives on the Joint Administrative Committee), to confer in an attempt to resolve the grievance. If the dispute is not resolved within the time of five (5) business days after its referral, or such longer time as mutually agreed upon, it may be referred by either party to Step 3.

Step 3. If the grievance is not settled at Step 2, either party to the grievance may request the dispute be submitted to arbitration within seven (7) calendar days thereafter. The request for arbitration and/or the request for an extension of time must be in writing. The arbitrator shall be selected from among the following designated Arbitrators: Gerald McKay, Thomas Angelo, William Riker, Jerri-Lou Cossack and Alexander Cohn, who shall constitute a permanent panel of arbitrators and who shall be selected to hear disputes on a rotational basis. If none of the designated Arbitrators are available within a reasonable period of time to hear the dispute, the parties shall select an arbitrator by the alternate striking method from a list of seven (7) experienced Northern California construction industry labor arbitrators obtained from the American Arbitration Association.

Section 7.2 The Arbitrator shall issue a written decision that will be served on all parties. The Arbitrator's decision shall be confined to the issue(s) posed by the grievance and the Arbitrator shall not have the authority to modify, amend, alter, add to or subtract from, any provision of the WSIPLA. The Arbitrator's Award shall be final and binding upon all parties to the grievance.

Section 7.3 The cost of the Arbitrator fees and expenses, including a court reporter, and any cost to pay for facilities for the hearing shall be borne equally by the parties to the grievance.

Section 7.4 In determining whether the time limits of Steps 2 and 3 of the grievance procedure have been met, a written referral or request shall be considered timely if it is personally delivered, faxed, electronically mailed, or postmarked within the seven (7) calendar day period.

Section 7.5 Any of the time periods set forth in this Article may be extended in writing by mutual consent of the parties to the grievance, and any written referral or request shall be considered timely if it is personally delivered, faxed, electronically mailed, or postmarked during the extended time period.

ARTICLE VIII
JURISDICTIONAL DISPUTE RESOLUTION

Section 8.1 The contractor shall assign work on the basis of traditional craft jurisdictional lines. It is agreed that the craft assignment of work to a respective craft shall be the determining factor for proper wage payment as required under section 9.1 of this Agreement.

Section 8.2 There shall be no strikes, picketing, sympathy strikes, leafleting or work disruption or stoppages of any kind because of jurisdictional disputes.

Section 8.3 When conflicting claims for work on the Project are submitted to a Contractor, the dispute shall be resolved pursuant to agreed upon Jurisdictional Dispute Procedures, as adopted by the National Building & Construction Trades Department, or by the Mechanical Allied Crafts (MAC) (Appendix E), or by the National Construction Alliance (NCA) (Appendix F), incorporated herein respectively. It is understood by the parties that these Procedures might be amended from time to time. In the event a jurisdictional dispute arises between two or more Unions affiliated with the National Building & Construction Trades Department, such dispute shall be resolved by the procedures set forth in the Plan for the Settlement of Jurisdiction Disputes in the Construction Industry. In the event a jurisdictional dispute arises between two or more Unions affiliated with the MAC, such dispute may be resolved under the MAC Procedure. In the event a jurisdictional dispute arises between two or more Unions affiliated with the NCA, such dispute shall be resolved under the NCA Procedure. In the event a

jurisdictional dispute arises between two or more Unions that are not affiliated with the same International group and are not stipulated to the same jurisdictional dispute resolution procedure, the dispute shall be handled in accordance with and resolved as described in Appendix G hereto.

ARTICLE IX
WAGES AND BENEFITS

Section 9.1 All employees covered by this Agreement shall be classified and paid for all hours worked in accordance with the classification(s) and wage scales, overtime scales and benefits contained in the prevailing wage determination published by the State Director of Industrial Relations for the relevant craft and geographic jurisdiction. If the prevailing wage laws are repealed during the term of this Agreement, the Contractor shall pay the wage rates established under the recognized local collective bargaining agreement.

Section 9.2 All employees covered by this Agreement shall have fringe benefit contributions made on their behalf to the recognized Labor-Management Employee Benefit Trust Funds identified in the relevant Schedule A agreement(s).

Section 9.3 During the period of construction on this Project, the Contractors agree to recognize and put into effect such increases in wages and fringe benefits as shall be negotiated between the various Unions and the historically recognized local bargaining parties on the effective date as set forth in the applicable Schedule A agreement. The Unions shall notify the Contractors in writing of the specific increases in wages and recognized fringe benefits and the date on which they become effective.

Section 9.4 The Contractors hereby adopt and agree to be bound by the written terms of the legally established local trust agreements specifying the detailed basis on which payments are to be made into, and benefits paid out of, such appropriately qualified employee fringe benefit funds established by such local Schedule A agreements. The Contractors authorize the parties to such local trust agreements to appoint Trustees and successor Trustees to administer the trust funds, and hereby ratify and accept the Trustees so appointed as if made by the Contractors.

Section 9.5 Wages shall be paid weekly on an established payday before quitting time. No more than three (3) days' wages may be withheld. Payment shall be made by check with detachable stub. Employees being discharged shall be paid at the time of dismissal. Employees who quit shall be paid in accordance with State law.

Section 9.6 Travel expenses, subsistence allowance and/or zone rates shall be governed by the applicable prevailing wage determination.

Section 9.7 Should the SFPUC or project contractors establish camps for employees working in remote locations, the SFPUC shall meet and confer with the Unions over issues involving such camps within the scope of bargaining.

Section 9.8 If the trust fund offices do not receive payments for contributions as defined above by the date prescribed by the appropriate trust funds for hours worked the previous month, the applicable Trust Fund office(s) will notify the Contractor and the Owner's designated representative of such delinquency. It is agreed, however, with respect to contractors delinquent in trust or benefit contribution payments, that nothing in this Agreement shall affect normal contract remedies available under the local collective bargaining agreements or Trust Agreements against general contractors or upper-tier subcontractors signatory to those agreements for recovery of subcontractor delinquencies.

Section 9.9 Signatory unions shall use their best efforts to facilitate the advancement of core employees to journeyman status within the respective trade, including priority dispatch in accordance with the respective Schedule As and hiring hall procedures, access to training and other available avenues to achieve these goals.

ARTICLE X
HOURS OF WORK, OVERTIME, SHIFTS AND HOLIDAYS

Section 10.1 The standard workday shall consist of eight (8) hours of work scheduled between 6:00 AM and 5:30 PM with one-half hour designated as an unpaid period for lunch. Forty (40) hours per week shall constitute a regular week's work. The workweek shall be five (5) days of work, will start on Monday and conclude on Sunday. Nothing herein shall be construed as guaranteeing any employee eight (8) hours of work per day or 40 hours of work per week.

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(a) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. Nothing in the provision shall prevent an employer from staggering rest periods to avoid interruption in the flow of work and to maintain continuous operations, or from scheduling rest periods to coincide with breaks in the flow of work that occur in the course of the workday. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time for every four (4) hours worked, or major fraction thereof. Rest periods shall take place at employer-designated areas, which may include or be limited to the employees' immediate work area.

(b) Rest periods need not be authorized in limited circumstances when the disruption of continuous operations would jeopardize the produce or process of the work. However, the employer shall make up the missed rest period within the same workday or compensate the employee for the

missed ten (10) minutes of rest time at his/her regular rate of pay within the same pay period.

(c) A rest period need not be authorized for employees whose total daily work time is less than three and one-half (31/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

(d) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided. In cases where a valid collective bargaining agreement provides final and binding mechanism for resolving disputes regarding enforcement of the rest period provisions, the collective bargaining agreement will prevail.

Section 10.2

(a) The parties acknowledge that certain construction activities may pose unique work scheduling issues, including a requirement for continuous work 24 hours per day, seven days a week. The SFPUC has the unfettered right to require the Contractor(s) to establish a different work week, the number of shifts, and shift schedules for particular employees as are reasonably required to meet the operational needs of the Project and particular locations, or otherwise to mitigate adverse affects of construction activity on the affected communities. Shifts may be established for some or all crews when considered necessary by the Contractor or the SFPUC. The Contractor or the SFPUC may establish any shift without regard to whether or not a previous shift is worked.

(b) In consideration of the special shift requirements of the Project, shift premiums shall be governed by the applicable Schedule A.

(c) All work requiring a Contactor to establish a starting time or other special conditions which will vary from the regularly scheduled starting time and which is established due to the tide schedule shall perform such work under the applicable Schedule A "Tide Work" provisions of the craft performing the work.

Section 10.3 Employees shall be at their place of work at the designated starting time and shall remain at their place during working hours until the designated quitting time. A reasonable clean-up time will be allowed for employees to put company and personal tools in secured storage by quitting time.

If parking is not readily available near the jobsite, it shall be the responsibility of the Contractor(s)/Employer(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.

The place of work shall be defined as the gang or toolbox, or equipment at the employee's assigned work location or the place where the foreman gives instructions; provided however, that for tunnel work, the place of work shall be the portal, and pay shall be on a portal-to-portal basis.

Section 10.4 A badge system may be used to check in and out. Each employee must personally check in and out. If a badge system is used, the Contractor(s) will provide adequate facilities for check in and out in an expeditious manner.

Section 10.5 Overtime will be paid in accordance with the requirements of the applicable General Prevailing Wage Determination. There will be no restriction on the contractor's scheduling of overtime or the non-discriminatory designation of employees who will work the available overtime.

Section 10.6 Except to the extent that a California Department of Industrial Relations determination provides otherwise, recognized holidays on this Project shall be New Year's Day, Martin Luther King's Birthday, Presidents Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day After Thanksgiving, and Christmas Day. Holidays that fall on a Saturday shall be observed on the preceding Friday and holidays that fall on a Sunday shall be observed on the following Monday.

ARTICLE XI
REPORTING PAY

Section 11.1 In order to permit the Contractors and Unions to make appropriate scheduling plans, the SFPUC will provide the Designated Representative, the affected Contractor(s) and Union(s) with reasonable notice of any scheduling changes it requires pursuant to Section 2.12 and section 10.2, provided however**,** that any provisions covering reporting pay in the relevant Schedule A shall apply.

ARTICLE XII
MAKE-UP DAY

Section 12.1 To the extent permitted by a Union's Schedule A, when an employee has been prevented from working for reasons beyond the control of the Contractor during the regularly scheduled work week including, but not limited to inclement weather and other natural causes or major mechanical breakdowns, a voluntary make-up day may be worked.

ARTICLE XIII
APPRENTICES AND EMPLOYMENT OPPORTUNITIES

Section 13.1 Recognizing the need to maintain continuing support of programs designed to develop adequate numbers of competent workers in the construction industry, contractors shall use all good faith efforts to employ apprentices on the Project consistent with the ratios contained in the applicable apprenticeship program's standards as approved by the State of California, Division of Apprenticeship Standards. Acceptable apprenticeship programs must have been approved by the State of California, DAS and shall have graduated an average of at least ten (10) apprentices annually for at least the past five (5) years. This requirement applies to any craft for which the state of California, Division of Apprenticeship Standards, has approved an Apprenticeship Program. A properly indentured apprentice must be employed under the regulations of the craft or trade at the work of which he or she is indentured and shall be employed only for work of the craft or trade in which he or she is registered.

Section 13.3 The Parties further recognize the SFPUC's goal to work with pre-apprenticeship training programs, including the San Francisco Mayor's Office of Economic and Workforce Development's Citybuild Program and/or similarly situated pre-apprentice training organizations within the SFPUC's service area, to ensure recruitment and training of low-income San Franciscans and local residents in the SFPUC's service territories and in each County where construction will take place, and they commit to make good faith efforts to further the indenture of such qualified residents into the Unions' recognized Apprenticeship Programs consistent with the Apprenticeship Program's indenture rules approved by the State of California, Division of Apprenticeship Standards.

Section 13.4 The Employers and the Unions 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 Employer and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment 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.

Section 13.5 The Unions and Employers 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 for bona fide, provable past experience.

ARTICLE XIV
PRE-JOB CONFERENCES

Section 14.1 A pre-job conference shall be held prior to the commencement of each construction contract. Representatives from the participating Contractor/Subcontractor, Union(s) and the SFPUC are expected to attend such conferences. The pre-job conference shall be held at the offices of the SFPUC or the offices of the Local Building and Construction Trades Council, unless a different location is identified by the SFPUC.

ARTICLE XV
HEALTH & SAFETY

Section 15.1 It shall be the responsibility of the contractor to ensure safe working conditions and employee compliance with any safety rules contained herein or established by the Owner, the Owner's designated Construction Manager, or the Contractor.

Employees shall be bound by the safety compliance requirements established by the Owner, the Owner's designated Construction Manager, and/or the Contractor. The Contractor shall publish and post such requirements in conspicuous places throughout the work site. An employee's failure to satisfy his obligations under this section shall subject him to discipline, including discharge. Nothing in this Agreement shall make the Unions, the SFPUC or the City and County of San Francisco liable to any employee or to other persons or entities in the event an injury or accident occurs.

Section 15.2 A Contractor may suspend all or a portion of the job to protect the life and safety of an employee or 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 available for work, the standby time shall be considered time worked and compensated at the appropriate rate of pay.

Section 15.3 The Contractor shall provide adequate supplies of drinking water and sanitary facilities for all employees.

Section 15.4 The parties recognize the potential that the WSIP may provide for the implementation of a modified workers' compensation system as permitted by California Labor Code Section 3201.5. Should the SFPUC request, the Unions agree to meet and negotiate in good faith with the SFPUC for the development and implementation of a comprehensive program involving improved and revised dispute resolution and medical care procedures for the delivery of workers' compensation benefits and medical coverage as permitted by the Code.

The parties recognize that some unions have previously negotiated alternative dispute resolution programs pursuant to California Labor Code section 3201.5 and shall be considered in the above-referenced negotiations, as well as ADR programs that may be approved in the future.

ARTICLE XVI
SUBSTANCE ABUSE

Section 16.1 Drug and alcohol testing shall be conducted in accordance with Appendix H, as attached.

ARTICLE XVII
JOINT ADMINISTRATIVE COMMITTEE

Section 17.1 The parties to this Agreement shall establish a four (4) person Joint Administrative Committee. This Committee shall be comprised of one (1) representative selected by the PUC; one (1) representative from the Project Manager; and two (2) representatives of the signatory Unions. Each representative shall designate an alternate who shall serve in his or her absence for any purpose contemplated by this Agreement.

Section 17.2 The Joint Administrative Committee shall meet as required but not less than once every 3 months to review the implementation of the Agreement and the progress of the Project and resolve problems and/or grievances by majority vote with such resolutions to be binding on all signatories of the Agreement as provided herein. Any question regarding the meaning, interpretation, or application of the provisions of this Agreement shall be referred directly to the Joint Administrative Committee for resolution prior to such question being referred to arbitration in the event the Joint Administrative Committee is unable to resolve the question.

ARTICLE XVIII
DURATION OF THE AGREEMENT

Section 18.1 This Project Labor Agreement shall be effective on the date approved by the SFPUC, and shall continue in effect for the duration of the Project construction work described in Article II hereof.

Section 18.2 In the event that the SFPUC determines that extending this Project Labor Agreement to any further construction projects would meet one or more

legitimate governmental interests, this Agreement may be extended by mutual consent of the parties.

ARTICLE XIX
TURNOVER

Section 19.1 Construction of any phase, portion, section or segment of the Project shall be deemed complete when such a phase, portion, section or segments has been turned over to the Owner by the Contractor and the Owner has accepted such phase, portion, section or segment. As areas and systems of the Project are inspected and construction-tested and/or approved by and accepted by the Owner or third parties with approval of the Owner, the Agreement shall have no further force or effect on such items or areas, except when the Contractor is directed by the Owner to engage in repairs or modifications required by its contract(s) with the Owner.

Notice of each final acceptance received by the Contractor shall be provided to the Union with a description of what portion, segment, etc. has been accepted. Final acceptance may be subject to a "punch list", and in such case, the Agreement will continue to apply to each such item on the list until it is completed to the satisfaction of the Owner and the Owner gives Notice of Acceptance to the Contractor.

Final termination of all obligations, rights, and liabilities arising from this Agreement shall occur upon receipt by the Union of a notice from the Owner stating that no work remains within the scope of the Agreement.

ARTICLE XX
GENERAL SAVINGS CLAUSE

Section 20.1 If any Article or provision of the WSIPLA shall be declared invalid, inoperative or unenforceable by any competent authority of the executive, legislative, judicial or administrative branch of the Federal or California government, the Contractor and the Union shall suspend the operation of such Article or provision during the period of its invalidity. The SFPUC shall substitute by mutual consent of the Union, in its place and stead, an Article or provision which will meet the objections to its validity and which will be in accord with the intent and purpose of the Article or provision in question.

Section 20.2 Should a court of competent jurisdiction nullify a significant portion of the PLA so that one or the other of the parties believes that the intention of the parties can no longer be achieved, the parties shall reconvene to renegotiate the terms of

the PLA with all the issues being open. The remaining provisions of the PLA shall remain in full force and effect until a successor PLA is fully ratified.

Section 20.3 Signatures to this Settlement Agreement may be affixed on separate pages and, taken together, shall apply to a single agreement.

IN WITNESS HEREOF, the parties hereto have executed this agreement this 27 day of March 2007
Authorized by the San Francisco Public Utilities Commission at the public hearing held on March 27, 2007 by Resolution No. 07-0044

FOR THE UNIONS

Edward C. Sullivan, President
Building and Construction Trades Council, AFL-CIO

Ray Poupore, Executive Vice President
National Construction Alliance

Michael D' Antuono, Vice President
National Construction Alliance

Michael Theriault , Secretary-Treasurer
San Francisco Building and Construction Trades Council, AFL-CIO

Barry Luboviski, Secretary-Treasurer
Alameda County Building and Construction Trades Council, AFL-CIO

William Nack, Secretary-Treasurer
San Mateo County Building and Construction Trades Council, AFL-CIO

Neil Struthers, Chief Executive Officer
Santa Clara and San Benito Counties Building and Construction Trades Council, AFL-CIO

Lucille Palmer-Byrd, Secretary-Treasurer
Stanislaus, Merced, Tuolumne, and Mariposa Counties Building and Construction Trades Council, AFL-CIO

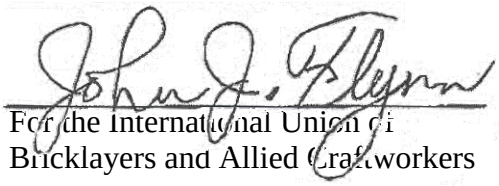
FOR THE SAN FRANCISCO PUBLIC UTILITIES COMMISSION

Susan Leal, General Manager
San Francisco Public Utilities Commission

As Approved to Form:
Dennis J. Herrera, City Attorney

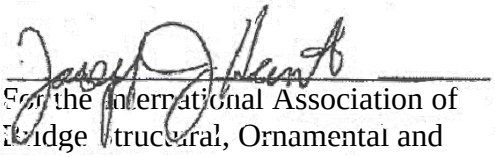
By:
Martin Gran
Deputy City Attorney

INTERNATIONAL UNIONS:



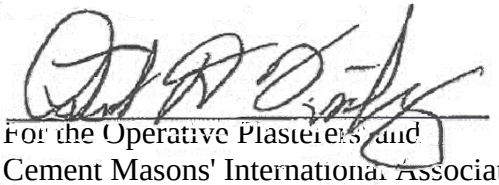
For the International Union of Bricklayers and Allied Craftworkers

For the International Brotherhood of Electrical Workers

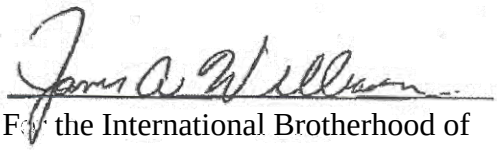


For the International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers

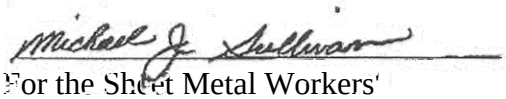
For the International Union of Elevator Constructors



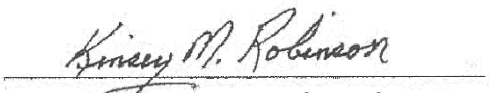
For the Operative Plasterers and Cement Masons' International Association of the United States and Canada



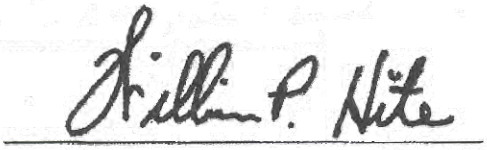
For the International Brotherhood of Painters and Allied Trades



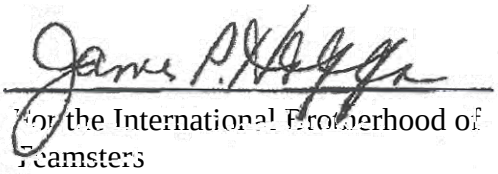
For the Sheet Metal Workers' International Association



For the United Union of Roofers, Waterproofers and Allied Workers



For the United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada



For the International Brotherhood of Teamsters

BASIC CRAFT ALLIANCE OF NORTHERN CALIFORNIA

For the United Brotherhood of Carpenters and Joiners

Northern California District Council of Laborers

Northern California Carpenters Regional Council

Local 46 Northern California Counties Conference Board

For the International Union of Operating Engineers

Local 3

LOCAL SIGNATORY UNIONS

For the International Brotherhood of Electrical Workers

Local 6

Local 332

Local 595

Local 617

Local 684

For the United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada

Local 38

Local 342

Local 355

Local 393

Local 442

Local 467

Local 483

For the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers

Local 549

For the International Association of Heat and Frost Insulators and Asbestos Workers

Local 16

For the International Union of Elevator Constructors

Local 8

For the International Union of Bricklayers and Allied Craftworkers

Local 3

For the Operative Plasterers' and Cement Masons' International Association of the United States and Canada

District Council of Plasterers and Cement Masons of Northern California

Local 66

Local 300

For the International Brotherhood of Teamsters

Local 853

For the International Association of, Bridge Structural, Ornamental and Reinforcing Iron Workers

District Council of Iron Workers of the State of California and Vicinity

Local 377

Local 378

For the United Union of Roofers, Waterproofers and Allied Workers

Local 40

Local 36

Local 95

For the Sheet Metal Workers' International Association

Local 104

Local 162

APPENDIX A

Counties	Type	Project #	Project Title	Construction Start	Construction Finish	Estimated Base Construction Contract Cost
Alameda	Pipeline	CUW35902	Alameda Siphons # 4	Dec-08	Oct-10	$56,824,000
Alameda	Dam	CUW37401	Calaveras Dam Replacement	Jan-09	Jul-11	$169,019,000
Alameda & San Mateo	Pipeline & Tunnel	CUW36801	Bay Division Pipeline Reliability & Tunnel	Jul-09	Jul-13	$406,648,000
Alameda	Pump Station	CUW38601	San Antonio Pump Station Upgrade	Nov-09	Jul-11	$11,235,477
Alameda	Tunnel	CUW35901	New Irvington Tunnel	Nov-09	Apr-13	$153,994,000
Alameda	Pipeline	CUW37403	San Antonio Back Up Pipeline	Jan-10	Dec-11	$21,712,000
Alameda	Dam	CUW35201	Alameda Creek Fishery Enhancement	Jun-10	Dec-11	$10,869,000
Alameda	Pipeline	CUW35302	Seismic Improvements of BDPL Nos.3 & 4	Sep-10	Apr-12	$47,268,000
Alameda	Treatment Plant	CUW38101	New Sunol Valley Treated Water Plant Expansion & Treated Water	Dec-10	Mar-13	$147,801,000
San Francisco	Reservoir	CUW33401	Stanford Heights Reservoir	Sep-07	Sep-09	$18,000,000
San Francisco	Pump Station	CUW32301	Alemany Pump Station	Nov-07	Aug-09	$14,000,000
San Francisco	Pipeline/Valves	CUW32301	North University Mound System	May-08	Dec-09	$12,000,000
San Francisco	Reservoir	CUW37201	University Mound Reservoir Upgrades- North Basin	Jan-09	Oct-10	$71,228,000
San Francisco	Ground Water Proj.	CUW30102	Groundwater Projects - Phase B	Jan-09	Dec-12	$15,397,771
San Francisco	Pump Station	CUW30901	Lake Merced Pump Station	Mar-09	May-11	$52,410,000
San Francisco	Pipeline	CUW31301	Noe Valley Transmission Main	Apr-09	Sep-10	$8,050,000
San Francisco	Reservoir	CUW33701	Sutro Reservoir	Feb-10	Jan-12	$30,000,000
San Francisco	Reclamation Projects	CUW30201	Recycled Water Project	Mar-10	Mar-12	$136,031,643
San Francisco	Reservoir	CUW31901	Hunters Point Reservoir	Jul-10	Dec-11	$7,750,000
San Francisco	Ground Water Proj.	CUW30103	Groundwater Projects - Phase C	Oct-10	Aug-13	$27,724,744
San Joaquin	Treatment Plant	CUW38401	Advanced Disinfection	Jan-09	Dec-10	$70,917,000

Counties	Type	Project #	Project Title	Construction Start	Construction Finish	Estimated Base Construction Contract Cost
San Mateo	Miscellaneous	CUW35501	Standby Power Facilities - Various Locations *	Sep-07	Oct-09	$6,440,000
San Mateo	Tunnel	CUW35601	New Crystal Springs Bypass Tunnel	Jul-08	Jun-11	$57,512,000
San Mateo	Treatment Plant	CUW36602	HTWTP Short-Term Improvements (Remaining Filters)	Jul-08	Mar-10	$11,475,000
San Mateo	Treatment Plant	CUW36603	HTWTP Short-Term Improvements (Coag. & Floccu.)	Jul-08	Mar-10	$6,089,845
San Mateo	Pipeline	CUW37901	San Andreas Pipeline No. 3 Installation	Mar-09	Dec-10	$29,165,000
San Mateo	Valve Lots	CUW39101	Baden and San Pedro Valve Lots Improvements	Apr-09	Apr-11	$31,536,000
San Mateo	Pipeline	CUW37801	Crystal Springs Pipeline No. 2 Replacement	Oct-09	Nov-11	$64,439,000
San Mateo	Inst. & Controls	CUW36302	Installation of SCADA System - Phase II - Security System *	Dec-09	9-Sep-11	$9,112,000
San Mateo	Dams	CUW35401	Lower Crystal Springs Dam Improvements	Jan-10	Mar-11	$13,774,000
San Mateo	Inst. & Controls	CUW36301	Installation of SCADA System - Phase II *	Jun-10	Mar-12	$15,018,000
San Mateo	Reservoir	CUW36103	Pulgas Balancing Reservoir Rehabilitation	Oct-9	Nov-11	$20,000,000
San Mateo	Treatment Plant	CUW36701	HTWTP Long-Term Improvements	Apr-11	Oct-13	$112,445,000
San Mateo	Pipeline	CUW37101	Crystal Springs / San Andreas Transmission Upgrade	Jun-11	Oct-13	$101,860,000
Santa Clara	Miscellaneous	CUWxxxxxx	Watershed Management and Land Acquisition	Jul-10	Jun-13	$12,000,000
Santa Clara	Pipeline	CUW38001	BDPL No. 3 & 4 – Crossovers	Nov-10	Nov-12	$24,921,000
Stanislaus	Pipeline	CUW37302	San Joaquin Pipeline Systems - Rehab of Existing System	Oct-06	May-14	$66,763,944
Stanislaus	Pipeline	CUW37301	San Joaquin Pipeline Systems	Jan-11	Jul-13	$249,053,000

Note: * These projects are located in more than one county.

APPENDIX B

CITY AND COUNTY OF
SAN FRANCISCO MUNICIPAL CODE
ADMINISTRATIVE CODE

Section 6.1. DEFINITIONS.
(I) Public Work or Improvement. A public work or public work or improvement, as used in this Chapter, is any erection, construction, renovation, alteration, improvement, demolition, excavation, installation, or repair of any public building, structure, infrastructure, bridge, road, street, park, dam, tunnel, utility or similar public facility performed by or for the City and County of San Francisco, the cost of which is to be paid wholly or partially out of moneys deposited in the treasury of the City and County.

APPENDIX C:

SAN FRANCISCO PUBLIC UTILITIES COMMISSION
1155 Market St., 11th Floor, San Francisco, CA 94103 • Tel. (415) 554-3155 • Fax (415) 554-3161 • TTY (415) 554.3488

February 27, 2007

John O'Rourke, Business Manager
IBEW Local No. 6
55 Fillmore Street
San Francisco, CA 94117

Dear Mr. O'Rourke:

Re: San Francisco Public Utilities Commission Water System Improvement Program Project Labor Agreement

This letter will confirm the discussions we had during the negotiation of the captioned PLA and the clarifications we made concerning the application of Article II, Section 2.4 (c) of the Agreement for work performed in the geographical jurisdiction of IBEW Local 6. Consistent with the provisions of that Article and the IBEW Local 6 collective bargaining agreement (Schedule A), the on-site fabrication and installation which is customarily the work of IBEW Local 6 members will continue to be recognized.

As you know from the discussions in negotiations, if fabrication work recognized by this letter as customarily the work of IBEW Local 6 members is to be done off-site, this work will be performed in shops or at off-site assembly yards consistent with the IBEW Local 6 collective bargaining agreement (Schedule A) and employing workers whose terms and conditions of employment are equal to or exceed those established in the area under the prevailing wage laws for employees represented by the IBEW Local 6, unless such work is otherwise performed pursuant to the provisions of this letter.

IBEW Local 6 recognizes that the timely completion of the WSIP is vital to the SFPUC and the Community it is intended to serve. Therefore, if the nature of the work, the project schedule, or contracting circumstances make it necessary to obtain fabrication outside the geographical jurisdiction of IBEW Local 6 or under conditions different than those described above, IBEW Local 6 agrees to cooperate in accommodating the reasonable needs of the Project. The SFPUC, or its designated representative, and IBEW Local 6 agree to discuss such circumstances affecting off-site fabrication contracting purchases where an accommodation is sought and any reasons making it necessary to depart from the conditions set forth above. IBEW Local 6 will not unreasonably withhold its consent to such accommodations and Local 6 agrees to install on-site any components fabricated pursuant to the terms of this letter without limitation. The parties will make every effort to keep an open channel of communication to insure that both parties are fully informed of the facts affecting the substance of this letter.

If you agree that this letter accurately sets forth the substance of our understanding and provides the basis for resolving any questions concerning the interpretation and application of Article II, Section 2.4 (c) of the Project Labor Agreement, please indicate your acceptance in the space provided below.

Very truly yours,

Tony Irons
Deputy General Manager
San Francisco Public Utilities Commission

Agreed and accepted this_____ day of_____2007
International Brotherhood of Electrical Workers, Local 6

By: John J O'Rourke
John O'Rourke, Business Manager

SAN FRANCISCO PUBLIC UTILITIES COMMISSION

1155 Market St., 11th Floor, San Francisco, CA 94103 • Tel. (415) 554-3155 • Fax (415) 554-3161 • TTY (415) 554.3488

March 22, 2007

Larry Mazzola, Sr., Business Manager,
UA Local No. 38
1621 Market Street
San Francisco, CA 94103

Dear Mr. Mazzola:

Re: San Francisco Public Utilities Commission Water System Improvement Program Project Labor Agreement

This letter will confirm the discussions we had during the negotiation of the captioned PLA and the clarifications we made concerning the application of Article II, Section 2.7 (c) of the Agreement for work performed in the geographical jurisdiction of Local 38. Consistent with the provisions of that Article, the on-site fabrication and installation of pipe and pipe formations between manufactured components which are customarily the work of UA members will continue to be recognized.

As you know from the discussions in negotiations, if fabrication work recognized by this letter as customarily the work of UA members is to be done off-site, this work will be performed in shops or at off-site assembly yards employing workers whose terms and conditions of employment are equal to or exceeding those established in the area under the prevailing wage laws for employees represented by the United Association in that area, unless such work is otherwise performed pursuant to the provisions of this letter.

The UA recognizes that the timely completion of the WSIP is vital to the SFPUC and the Community it is intended to serve. Therefore, if the nature of the work, the project schedule, or contracting circumstances make it necessary to obtain fabrication outside the geographical jurisdiction of UA Local 38 or under conditions different than those described above, the United Association agrees to cooperate in accommodating the reasonable needs of the Project. The SFPUC, or its designated representative, and the UA Local 38 agree to discuss such circumstances affecting off-site fabrication contracting purchases where an accommodation is sought and any reasons making it necessary to depart from the conditions set forth above. The UA Local 38 will not unreasonably withhold its consent to such accommodations and UA Local 38 agrees to install on-site any components fabricated pursuant to the terms of this letter. The parties will make every effort to keep an open channel of communication to insure that both parties are fully informed of the facts affecting the substance of this letter.

If you agree that this letter accurately sets forth the substance of our understanding and provides the basis for resolving any questions concerning the interpretation and application of Article II, Section 2.7 (c) of the Project Labor Agreement, please indicate your acceptance in the space provided below.

Very truly yours,

Tony Irons
Deputy General Manager
San Francisco Public Utilities Commission

Agreed and accepted this 22 day of March 2007
United Association Local 38

By:

SAN FRANCISCO PUBLIC UTILITIES COMMISSION
1155 Market St., 11th Floor, San Francisco, CA 94103 • Tel. (415) 554-3155 • Fax (415) 554-3161 • TTY (415) 554.3488

WATER
POWER

March 26, 2007

Bruce Word, Business Manager/President
SMWIA Local No. 104
2610 Crow Canyon Road, Suite 300
San Ramon, CA 94583-1547

Dear Mr. Word:

Re: San Francisco Public Utilities Commission Project Labor Agreement; Water System Improvement Program: Prefabrication

This letter will confirm the discussions we had during the negotiation of the captioned Project Labor Agreement and the clarifications we made concerning the application of Article II, Section 2.7 (c) of the Agreement. Consistent with the provisions of that Article, the on-site fabrication and installation of prefabricated duct and components which are customarily the work of the Sheet Metal Workers will continue to be recognized as such.

As you know from the discussions in negotiations, if fabrication work recognized by this letter as customarily the work of SMWIA members is to be done off-site, this work will be performed in the San Francisco Bay Area and in shops or at off-site assembly yards employing workers whose terms and conditions of employment equal or exceed those established in the area under the prevailing wage laws for employees represented by the Sheet Metal Workers International Association, unless such work is performed otherwise pursuant to the provisions of this letter.

The Sheet Metal Workers union recognizes that the timely completion of this project is vital to the SFPUC and the Community it is intended to serve. Therefore, if the nature of the work or the project schedule make it necessary to obtain fabrication outside the region, the Sheet Metal Workers International Association agrees to make reasonable efforts to address timely requirements accommodating the reasonable needs of the Project. The SFPUC and the Union agree to discuss such circumstances affecting off-site fabrication contracting purchases where an accommodation is sought and any reasons making it necessary to depart from the conditions set forth above. The Sheet Metal Workers International Association and Local 104 will not unreasonably withhold consent to such accommodations and Local 104 agrees to install on-site any components fabricated pursuant to the terms of this letter without limitation. The parties will make every effort to keep an open channel of communication to insure that both parties are fully informed of the facts affecting the substance of this letter.

If you agree that this letter accurately sets forth the substance of our understanding and provides the basis for resolving any questions concerning the interpretation and application of Article II, Section 2.7 (c), of the Project Labor Agreement, please indicate your acceptance in the space provided below.

Very truly yours,

Tony Irons
Deputy General Manager
San Francisco Public Utilities Commission

Agreed and accepted this 27 day of March 2007
Sheet Metal Workers Local 104

By: _____
Bruce Word, Business Manager/President

SFPUC
WATER
WASTEWATER
POWER

SAN FRANCISCO PUBLIC UTILITIES COMMISSION

1155 Market St., 11th Floor, San Francisco, CA 94103 • Tel. (415) 554-3155 • Fax (415) 554-3161 • TTY (415) 554.3488

March 29, 2007

Jay Williams, Business Manager
UA Local No. 342
4842 Nutcracker Lane
Modesto, CA 95356

Dear Mr. Williams:

Re: San Francisco Public Utilities Commission Water System Improvement Program Project Labor Agreement

This letter will confirm the discussions we had during the negotiation of the captioned PLA and the clarifications we made concerning the application of Article II, Section 2.7 (c) of the Agreement for work performed in the geographical jurisdiction of Local 342. Consistent with the provisions of that Article, the on-site fabrication and installation of pipe and pipe formations between manufactured components which are customarily the work of UA members will continue to be recognized.

As you know from the discussions in negotiations, if fabrication work recognized by this letter as customarily the work of UA members is to be done off-site, this work will be performed in shops or at off-site assembly yards employing workers whose terms and conditions of employment are equal to or exceeding those established in the area under the prevailing wage laws for employees represented by the United Association in that area, unless such work is otherwise performed pursuant to the provisions of this letter.

The UA recognizes that the timely completion of the WSIP is vital to the SFPUC and the Community it is intended to serve. Therefore, if the nature of the work, the project schedule, or contracting circumstances make it necessary to obtain fabrication outside the geographical jurisdiction of UA Local 342 or under conditions different than those described above, the United Association agrees to cooperate in accommodating the reasonable needs of the Project. The SFPUC, or its designated representative, and the UA Local 342 agree to discuss such circumstances affecting off-site fabrication contracting purchases where an accommodation is sought and any reasons making it necessary to depart from the conditions set forth above. The UA Local 342 will not unreasonably withhold its consent to such accommodations and UA Local 342 agrees to install on-site any components fabricated pursuant to the terms of this letter. The parties will make every effort to keep an open channel of communication to insure that both parties are fully informed of the facts affecting the substance of this letter.

If you agree that this letter accurately sets forth the substance of our understanding and provides the basis for resolving any questions concerning the interpretation and application of Article II, Section 2.7 (c) of the Project Labor Agreement, please indicate your acceptance in the space provided below.

Very truly yours,

Tony Irons
Deputy General Manager
San Francisco Public Utilities Commission

Agreed and accepted this 28th day of March 2007
United Association Local 342

By _____
Jay Williams, Business Manager

SAN FRANCISCO PUBLIC UTILITIES COMMISSION
1155 Market St., 11th Floor, San Francisco, CA 94103 • Tel. (415) 554-3155 • Fax (415) 554-3161 • TTY (415) 554.3488

WATER
POWER

March 29, 2007

Bill Meyer, Business Manager,
UA Local No. 393
6150 Cottle Road
San Jose, CA 95123

Dear Mr. Meyer:

Re: San Francisco Public Utilities Commission Water System Improvement Program Project Labor Agreement

This letter will confirm the discussions we had during the negotiation of the captioned PLA and the clarifications we made concerning the application of Article II, Section 2.7 (c) of the Agreement for work performed in the geographical jurisdiction of Local 393. Consistent with the provisions of that Article, the on-site fabrication and installation of pipe and pipe formations between manufactured components which are customarily the work of UA members will continue to be recognized.

As you know from the discussions in negotiations, if fabrication work recognized by this letter as customarily the work of UA members is to be done off-site, this work will be performed in shops or at off-site assembly yards employing workers whose terms and conditions of employment are equal to or exceeding those established in the area under the prevailing wage laws for employees represented by the United Association in that area, unless such work is otherwise performed pursuant to the provisions of this letter.

The UA recognizes that the timely completion of the WSIP is vital to the SFPUC and the Community it is intended to serve. Therefore, if the nature of the work, the project schedule, or contracting circumstances make it necessary to obtain fabrication outside the geographical jurisdiction of UA Local 393 or under conditions different than those described above, the United Association agrees to cooperate in accommodating the reasonable needs of the Project. The SFPUC, or its designated representative, and the UA Local 393 agree to discuss such circumstances affecting off-site fabrication contracting purchases where an accommodation is sought and any reasons making it necessary to depart from the conditions set forth above. The UA Local 393 will not unreasonably withhold its consent to such accommodations and UA Local 393 agrees to install on-site any components fabricated pursuant to the terms of this letter. The parties will make every effort to keep an open channel of communication to insure that both parties are fully informed of the facts affecting the substance of this letter.

If you agree that this letter accurately sets forth the substance of our understanding and provides the basis for resolving any questions concerning the interpretation and application of Article II, Section 2.7 (c) of the Project Labor Agreement, please indicate your acceptance in the space provided below.

Very truly yours,

Tony Irons
Deputy General Manager
San Francisco Public Utilities Commission

Agreed and accepted this 29th day of March 2007
United Association Local 393

By: _____
Bill Meyer, Business Manager

SFPUC
WATER
WASTEWATER
POWER

SAN FRANCISCO PUBLIC UTILITIES COMMISSION
1155 Market St., 11th Floor, San Francisco, CA 94103 • Tel. (415) 554-3155 • Fax (415) 554-3161 • TTY (415) 554.3488

March 23, 2007

Bill Taylor, Business Manager,
UA Local No. 442
4842 Nutcracker Lane
Modesto, CA 95356

Dear Mr. Taylor:

Re: San Francisco Public Utilities Commission Water System Improvement Program Project Labor Agreement

This letter will confirm the discussions we had during the negotiation of the captioned PLA and the clarifications we made concerning the application of Article II, Section 2.7 (c) of the Agreement for work performed in the geographical jurisdiction of Local 442. Consistent with the provisions of that Article, the on-site fabrication and installation of pipe and pipe formations between manufactured components which are customarily the work of UA members will continue to be recognized.

As you know from the discussions in negotiations, if fabrication work recognized by this letter as customarily the work of UA members is to be done off-site, this work will be performed in shops or at off-site assembly yards employing workers whose terms and conditions of employment are equal to or exceeding those established in the area under the prevailing wage laws for employees represented by the United Association in that area, unless such work is otherwise performed pursuant to the provisions of this letter.

The UA recognizes that the timely completion of the WSIP is vital to the SFPUC and the Community it is intended to serve. Therefore, if the nature of the work, the project schedule, or contracting circumstances make it necessary to obtain fabrication outside the geographical jurisdiction of UA Local 442 or under conditions different than those described above, the United Association agrees to cooperate in accommodating the reasonable needs of the Project. The SFPUC, or its designated representative, and the UA Local 442 agree to discuss such circumstances affecting off-site fabrication contracting purchases where an accommodation is sought and any reasons making it necessary to depart from the conditions set forth above. The UA Local 442 will not unreasonably withhold its consent to such accommodations and UA Local 442 agrees to install on-site any components fabricated pursuant to the terms of this letter. The parties will make every effort to keep an open channel of communication to insure that both parties are fully informed of the facts affecting the substance of this letter.

If you agree that this letter accurately sets forth the substance of our understanding and provides the basis for resolving any questions concerning the interpretation and application of Article II, Section 2.7 (c) of the Project Labor Agreement, please indicate your acceptance in the space provided below.

Very truly yours,

Tony Irons
Deputy General Manager
San Francisco Public Utilities Commission

Agreed and accepted this 23 day of March 2007
United Association Local 442

By: William F Taylor
Bill Taylor, Business Manager

SAN FRANCISCO PUBLIC UTILITIES COMMISSION
1155 Market St., 11th Floor San Francisco, CA 94103 • Tel (415) 554-3155 • Fax (415) 554-3161 • TTY (415) 554 3488

March 14, 2007

Gary Saunders, Business Manager,
UA Local No. 467
1519 Rollins Road
Burlingame, CA 94103

Dear Mr. Saunders:

Re: San Francisco Public Utilities Commission Water System Improvement Program Project Labor Agreement

This letter will confirm the discussions we had during the negotiation of the captioned PLA and the clarifications we made concerning the application of Article II, Section 2.7 (c) of the Agreement for work performed in the geographical jurisdiction of Local 467. Consistent with the provisions of that Article, the on-site fabrication and installation of pipe and pipe formations between manufactured components which are customarily the work of UA members will continue to be recognized.

As you know from the discussions in negotiations, if fabrication work recognized by this letter as customarily the work of UA members is to be done off-site, this work will be performed in shops or at off-site assembly yards employing workers whose terms and conditions of employment are equal to or exceeding those established in the area under the prevailing wage laws for employees represented by the United Association in that area, unless such work is otherwise performed pursuant to the provisions of this letter.

The UA recognizes that the timely completion of the WSIP is vital to the SFPUC and the Community it is intended to serve. Therefore, if the nature of the work, the project schedule, or contracting circumstances make it necessary to obtain fabrication outside the geographical jurisdiction of UA Local 467 or under conditions different than those described above, the United Association agrees to cooperate in accommodating the reasonable needs of the Project. The SFPUC, or its designated representative, and the UA Local 467 agree to discuss such circumstances affecting off-site fabrication contracting purchases where an accommodation is sought and any reasons making it necessary to depart from the conditions set forth above. The UA Local 467 will not unreasonably withhold its consent to such accommodations and UA Local 467 agrees to install on-site any components fabricated pursuant to the terms of this letter. The parties will make every effort to keep an open channel of communication to insure that both parties are fully informed of the facts affecting the substance of this letter.

If you agree that this letter accurately sets forth the substance of our understanding and provides the basis for resolving any questions concerning the interpretation and application of Article II, Section 2.7 (c) of the Project Labor Agreement, please indicate your acceptance in the space provided below.

Very truly yours,

Tony Irons
Deputy General Manager
San Francisco Public Utilities Commission

Agreed and accepted this 14 day of March 2007
United Association Local 467

By: Gary Saunders
Gary Saunders, Business Manager

SAN FRANCISCO PUBLIC UTILITIES COMMISSION
1155 Market St. 11th Floor San Francisco, CA 94103 • Tel (415) [illegible] • Fax (415) 554-3161 • TTY (415) [illegible]

March 22, 2007

Dennis Canevari, Business Manager/President
SMWIA Local No. 162
2840 El Centro Rd #110
Sacramento, CA 95833

Dear Mr. Canevari:

Re: San Francisco Public Utilities Commission Project Labor Agreement; Water System Improvement Program; Prefabrication

This letter will confirm the discussions we had during the negotiation of the captioned Project Labor Agreement and the clarifications we made concerning the application of Article II, Section 2.7 (e) of the Agreement. Consistent with the provisions of that Article, the on-site fabrication and installation of prefabricated duct and components which are customarily the work of the Sheet Metal Workers will continue to be recognized as such.

As you know from the discussions in negotiations, if fabrication work recognized by this letter as customarily the work of SMWIA members is to be done off-site, this work will be performed in the San Francisco Bay Area and in shops or at off-site assembly yards employing workers whose terms and conditions of employment equal or exceed those established in the area under the prevailing wage laws for employees represented by the Sheet Metal Workers International Association, unless such work is performed otherwise pursuant to the provisions of this letter.

The Sheet Metal Workers union recognizes that the timely completion of this project is vital to the SFPUC and the Community it is intended to serve. Therefore, if the nature of the work or the project schedule make it necessary to obtain fabrication outside the region, the Sheet Metal Workers International Association agrees to make reasonable efforts to address timely requirements accommodating the reasonable needs of the Project. The SFPUC and the Union agree to discuss such circumstances affecting off-site fabrication contracting purchases where an accommodation is sought and any reasons making it necessary to depart from the conditions set forth above. The Sheet Metal Workers International Association and Local 162 will not unreasonably withhold consent to such accommodations and Local 162 agrees to install on-site any components fabricated pursuant to the terms of this letter without limitation. The parties will make every effort to keep an open channel of communication to insure that both parties are fully informed of the facts affecting the substance of this letter.

If you agree that this letter accurately sets forth the substance of our understanding and provides the basis for resolving any questions concerning the interpretation and application of Article II, Section 2.7 (c), of the Project Labor Agreement, please indicate your acceptance in the space provided below.

Very truly yours,

Tony Irons
Deputy General Manager
San Francisco Public Utilities Commission

Agreed and accepted this 23 day of March 2007
Sheet Metal Workers Local 162

By:
Dennis Canevari, Business Manager/President

APPENDIX D

SAN FRANCISCO PUBLIC UTILITIES COMMISSION
1155 Market St., 11th Floor, San Francisco, CA 94103 • Tel. (415) 554-3155 • Fax (415) 554-3161 • TTY (415) 554.3488

Ivy V. Fine, Director
San Francisco Public Utilities Commission
Contract Administration Bureau
1155 Market Street, 9th Floor
San Francisco, CA 94103

Re: **SFPUC Water System Improvement Project CUW33401**
Stanford Heights Reservoir Seismic Retrofit And Improvements
(San Francisco Water Department Contract No. WD-2504)

Project Labor Agreement -- Letter of Assent

Dear Ms. Fine:

The undersigned party confirms that it agrees to be a party to and bound by the SFPUC Water System Improvement Project, Project Labor Agreement as such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms.

The undersigned, as a Contractor or Subcontractor (CONTRACTOR) on the Project CUW33401 Stanford Heights Reservoir Seismic Retrofit And Improvements (hereinafter PROJECT), for and in consideration of the award to it of a contract to perform work on said PROJECT, and in further consideration of the mutual promises made in the SFPUC Water System Improvement 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) The CONTRACTOR agrees to be bound by the legally established local trust agreements as set forth in Article IX of this AGREEMENT.
(3) The CONTRACTOR authorizes the parties to such local 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;
(4) Certifies that it has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of said AGREEMENT.
(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 of Higher Level Subcontractor)

_____
(Authorized Officer & Title)

_____
(Address)

_____
(Phone) (Fax)
Contractor's Sate License
_____

APPENDIX E

Mechanical Allied Crafts Work Assignment Procedures

The Mechanical Allied Crafts (MAC) Unions are committed to the principle that there shall be no work disruptions on any MAC designated project and that any disputes involving work assignments among MAC Unions will be resolved expeditiously and, if possible, before the work begins. To this end, MAC Unions have formed Joint Jurisdictional Committees to resolve any outstanding issues and update, if necessary, existing jurisdictional agreements. MAC Local Unions are also engaging in direct and continuing consultations to resolve jurisdictional issues at the local level. The goal is to alleviate work assignment issues among the MAC Unions by having MAC Local Unions establish written work assignment practices within their geographic region that can serve as a roadmap for contractors on MAC designated projects.

The MAC Unions recognize the need for a mechanism to expeditiously resolve jurisdictional issues in the event that two or more MAC Unions are unable to resolve a particular matter. The MAC Unions have adopted the following procedures that will only apply to jurisdictional disputes between or among MAC Unions and their Local Unions on MAC designated projects where the contractor responsible for the work in question has agreed to be bound by these procedures by signing below indicating agreement and acceptance of these procedures. Work assignment disputes involving Unions not part of MAC or on projects not designated as MAC projects may not be resolved through these procedures.

1. Work assignments are the sole responsibility of the contractor that directly hires the craft workers and is responsible for the performance of the work.

2. For each MAC designated project, the contractor(s) shall conduct a pre-job meeting. At the pre-job meeting, each contractor will present their intended work assignments. In the event that a contractor makes a work assignment that is contrary to an established local area assignment practice that has been agreed to in writing by the MAC Local Unions, the contractor's assignment shall be changed to the agreed upon local area assignment practice provided that:

(a) Any Local Union to which an assignment change is made must demonstrate that it can refer in a timely manner, competent craft workers who can safely and efficiently perform the work tasks in question. The Local Union may be required to

provide proof of necessary journeyperson certifications, safety training and similar qualifications.

(b) In the event that a work assignment change is implemented, the contractor shall not be required to become a signatory to an area-wide collective bargaining agreement to which the contractor is not currently a party. The MAC Local Unions agree that in such instance the Local Unions will supply the required craft workers to the contractor provided the contractor agrees in writing to abide by the terms of the applicable collective bargaining agreement but only for the MAC project.

(c) Any arrangements agreed upon to allow for inter-union supply of workers during periods of worker shortages affecting some of the MAC Local Unions will not be precedent setting for future work assignments.

3. Any disagreement regarding a work assignment may be submitted for resolution to the MAC permanent Mediator/Arbitrator by any MAC Local Union or contractor. The MAC Mediator/Arbitrator will schedule a hearing in the location of the disagreement within three working days of receipt of the request. The hearing process shall be as follows:

(a) The parties in disagreement will have an opportunity to present their respective positions. Each party will complete its presentation within one half-hour. Each party will have fifteen minutes for rebuttal.

(b) Upon conclusion of the presentations and rebuttals, the Mediator/Arbitrator will conduct a mediation conference with the parties in an attempt to arrive at a mutually satisfactory resolution. The mediation effort will not exceed two hours.

(c) In the event that mediation is not successful, the Mediator/Arbitrator shall have full authority as Arbitrator to render a final and binding decision. In rendering his decision, the Arbitrator shall apply the criteria set forth in Article V, Section 8, of the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry or the criteria set forth in any successor plan adopted in the future by the Building and Construction Trades Department. The decision will be in writing and served upon the parties via e-mail within three working days from the close of the hearing. The decision will not require an opinion.

(d) The fees and expenses of the Mediator/Arbitrator shall be borne equally by the parties if the matter is resolved during mediation or by the losing party or parties, as designated by the Mediator/Arbitrator, if the matter is decided by the Mediator/Arbitrator. To ensure prompt payment, MAC will pay the Mediator/Arbitrator directly but the responsibility to pay the fees and expenses will remain the responsibility of the applicable MAC Local Union(s) and/or contractor, which will reimburse MAC within ten days of receipt of the request for reimbursement.

4. Agreements reached during mediation and decisions of the Mediator/Arbitrator shall be final, binding and conclusive on the MAC Local Unions and contractors involved on the particular MAC project where the disagreement arose and neither the MAC Unions not the contractor may seek to resolve the matter in any other forum.

Signed this 9th day of January 2007

United Association of Plumbers, Pipefitters & Sprinklerfitters

International Association of Sheet Metal Workers

International Association of Heat and Frost Insulators & Asbestos Workers

International Brotherhood of Electrical Workers

International Association of Bridge, Structural, Ornamental & Reinforcing Iron Workers

International Union of Elevator Constructors

Agreed to and accepted by: _____for the
(Name of Contractor)

_____ project this
(Name of MAC project)

_____ day of _____, 20__.

_____
Signature of Contractor

APPENDIX F

National Construction Alliance
Jurisdictional Policy

The jurisdictional boundaries of basic trade and building trade unions are relatively well defined. The vast majority of work task assignments are undisputed. The three basic trades forming the National Construction Alliance have set forth their respective core jurisdictions for the construction industry, attached hereto as Appendix 1 through 3. The basic trades are committed to honoring their respective, well-established core jurisdictions.

However, when jurisdictional disputes arise, they frequently dominate not only the relationship between the disputing labor organizations but also the relationship between those organizations and the contractor or owner. It is vital to the interests of those working in the construction industry that jurisdictional questions be resolved efficiently and without disruption to the construction process. The NCA is committed to working with owners and contractors to establish a more modern system reflecting the current reality within the construction industry for the resolution of jurisdictional disputes. Accordingly, the NCA will work to facilitate the informal resolution of jurisdictional issues where owners or contractors so desire. Alternatively, the NCA endorses the following Jurisdictional Disputes Resolution Procedure, for use on a project-by-project or agreement basis where an owner seeks a formal jurisdictional dispute resolution procedure.

Terrence M. O'Sullivan
General President
Laborers International Union of North America

Vincent J. Giblin
General President
International Union of Operating Engineers
North America

Douglas J. McCarron
General President
United Brotherhood of Carpenters and Jointers of America

January 12, 2007

Jurisdiction Dispute Resolution Procedure

National Construction Alliance

All questions, complaints or disputes dealing with a determination of craft jurisdiction shall be resolved through the application of the following jurisdictional criteria and procedures.

Work assignments should be made by the contractor and jurisdictional questions, complaints or disputes should be resolved on the basis of the following jurisdictional criteria. In the first instance, questions, complaints or disputes should be resolved on the basis of agreements between the unions, including both international and local area agreements. Where there is no such agreement or the agreement is insufficient to resolve the particular question or dispute, consideration should then be given to both contractor preference and to local area practice. The relative weight to be given to contractor preference as compared to local area practice will vary depending on the circumstances, for example, the inherent weight of reasons advanced by a contractor justifying its preference versus the quality and uniformity of the local area practice.

Jurisdictional disputes shall be resolved through the following procedure:

1. Disputes shall be referred initially to the business representatives of the unions involved in the dispute and to the contractor's authorized representative, who shall then meet at a location acceptable to all parties. Normally, a jurisdictional dispute will be identified and the meeting between the disputing unions and the contractor's authorized representative will occur at the pre-job conference. If identification and discussion of the dispute does not occur at the pre-job conference, identification and discussion shall occur as promptly as circumstances permit.

2. Jurisdictional disputes which cannot be resolved at the local level within seven days of being identified may be referred to the international unions involved within five days thereafter. This step shall be deemed exhausted seven days after referral.

3. Jurisdictional disputes not resolved at the local or international union levels may be referred by any party to arbitration within five days of exhaustion of Step two. Referral to arbitration shall be accomplished by submission of a written request for referral to arbitration to the Executive Vice President of the NCA, ray@ncabuild.org or (fax) 202.347.1661, who shall be responsible for administration of the arbitral process. The parties will choose a permanent arbitrator and an alternate to hear disputes arising under this procedure.
The Executive Vice President of the NCA will make arrangements for the timely hearing of the dispute by the permanent arbitrator, or the alternate if the permanent arbitrator is not available.

There shall be no strikes or work stoppages because of any jurisdictional dispute. Pending the resolution of any jurisdictional dispute, the work will continue as originally assigned by the contractor. Illegal strikes or work stoppages because of jurisdictional dispute shall be subject to a fine of up to $50,000 per shift where deemed appropriate by the permanent arbitrator. Claims of the illegal strike or work stoppage subject to such fine may be filed by the contractor directly at Step 3 of this procedure for hearing by the permanent arbitrator. Any determination or resolution made pursuant to this procedure, including determination or resolution by arbitration or mediation, shall be final and binding on the disputing unions and the contractor on this project only and shall not establish a precedent on other project sites.

The following rules shall apply in any arbitration conducted under this procedure:

(a) The jurisdictional dispute or question shall be determined or mediated based upon the jurisdictional criteria, including the priority of the criteria, set forth above.

(b) The hearing will be conducted in the geographical area where the jurisdictional dispute has occurred. Each of the parties' (Employer/Union(s)) cases shall be presented by a representative of their respective organizations. No party will be represented by legal counsel nor will any legal counsel make an appearance at the hearing proceedings.

(c) Each party to the dispute will have one-half hour to present its case. Witnesses may appear but will not be placed under oath. The introduction of any witnesses shall not extend the one-half hour time period. There shall be no objections made during the presentation of cases.

(d) Upon the completion of the one-half hour initial presentations each party will be entitled to a fifteen-minute rebuttal period. Such rebuttals will be heard in the same order as the initial presentations. There shall be no objections made during the rebuttal period. Witnesses may be recalled.

(e) At the conclusion of presentations and rebuttals, the Arbitrator will conduct a mediation conference between the parties in an attempt to arrive at a satisfactory resolution to the dispute. This mediation shall not exceed two hours in duration. In the event that mediation resolves the dispute, such resolution will be reduced to writing and signed by the parties and the Arbitrator.

(f) In the event that mediation is not successful, the Arbitrator will close the proceedings and shall have full authority to render a final and binding decision in resolution of the jurisdictional dispute. The decision will be in writing and served upon the parties via e-mail within three working days from the day following the hearing. The decision will not require an opinion.

The losing party(s) as determined by the Arbitrator shall be responsible for the fee and expenses of the Arbitrator. Said fee and expenses will be invoiced to the losing party(s) by the office of the National Construction Alliance.

APPENDIX G

Jurisdiction Dispute Resolution Procedure

San Francisco Public Utilities Commission
Water System Improvement Program

In the event a jurisdictional dispute arises while the parties are attempting to negotiate an alternative resolution mechanism either party may refer the jurisdictional dispute to the General Presidents of the affected unions, and if the General Presidents cannot resolve the dispute within five (5) business days of the dispute being referred to them for resolution, the dispute shall be resolved as follows:

The Panel of Permanent Arbitrators shall be composed of: John Kagel, Gerald McKay, Thomas Angelo, Robert Hirsch and Thomas Pagan. The Arbitrator shall be selected by alternately striking the names of Arbitrators from the list of five (5) permanent Arbitrators. Each craft shall have three (3) days to cross off the names of two Arbitrators. If a party does not respond, this means any Arbitrator is acceptable. The remaining Arbitrator shall serve as the Arbitrator who shall hear the dispute on an expedited basis and resolve the dispute. The Arbitrator shall render his decision within three (3) days of the hearing.

In rendering his decision, the Arbitrator shall determine:

1. First, whether a previous agreement of record that was unabrogated as of January 1, 2007, or applicable agreement, including a disclaimer agreement, between the National or International Unions to the dispute governs;

2. If the Arbitrator cannot resolve the matter based on No. 1 then if the Arbitrator finds that a previous decision of record governs the case, the Arbitrator shall apply the decision of record in rendering his decision except under the following circumstances. After notice to the other parties to the dispute, prior to the hearing, that it intends to challenge the decision of record, if a trade challenging the decision of record is able to demonstrate that the recognized and established prevailing practice in the locality of the work has been contrary to the applicable decision of record, the Arbitrator may rely on such prevailing practice rather than the decision of record. If the craft relying on the decision of record demonstrates that it has performed the work in dispute in the locality of the job as a prevailing practice, then the Arbitrator shall apply the decision of record in rendering his decision. If the Arbitrator finds that a craft has improperly obtained the prevailing practice in the locality through raiding, the undercutting of wages or by the use of vertical agreements, the Arbitrator shall rely on the decision of record rather than the prevailing practice in the locality;

3. If no decision of record is applicable, the Arbitrator shall then consider the established trade practice in the industry and prevailing practice in the locality; and;

4. Only if none of the above criteria is found to exist, the Arbitrator shall then consider that because efficiency, cost or continuity and good management are essential to the wellbeing of

the industry, the interests of the consumer or the past practices of the employer shall not be ignored.

The Arbitrator shall comply with the Code of Professional Responsibility for Arbitrators of Labor Management Disputes jointly adopted by the National Academy of Arbitrators, the American Arbitration Association and the Federal Mediation and Conciliation Service. The Arbitrator shall set forth the basis for his decision and shall explain his findings regarding the applicability of the above criteria. If lower-ranked criteria are relied upon, the Arbitrator shall explain why the higher-ranked criteria were not deemed applicable. The Arbitrator's decision shall only apply to the job in dispute.

5. Unabrogated agreements of record are applicable only to the parties signatory to such agreements. Decisions of record are applicable to all trades.

6. The Arbitrator is not authorized to award back pay or any other damages for a misassignment of work. Nor may any party to this Plan bring an independent action for back pay or any other damages, based upon a decision of an Arbitrator.

7. Each party to the arbitration shall bear its own expense for the arbitration and agrees that the fees and expenses of the Arbitrator shall be borne by the losing party or parties.

8. **ENFORCEMENT**

   A. If the claims of the challenging trade are upheld in the decision of the Arbitrator, and work onsite is being performed on the eighth calendar day after the issuance of that decision, the assigned trade shall cede the work in question to the challenging trade and withdraw its members from said work, and the affected Employer shall employ members of the challenging trade on said work. This shall be termed the effective date of the decision. If the eighth calendar day after the issuance of said decision falls on a weekend or on a holiday, the effective date shall be the next working day. Holidays shall include and be limited to New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving Day, and Christmas Day.

   B. The Arbitrator shall have no authority to undertake any action to enforce its decision after a hearing beyond informing the affected parties of its decision. Rather, it shall be the responsibility of the prevailing party to seek appropriate enforcement of a decision. The prevailing party in any enforcement proceeding shall be entitled to recover its reasonable costs and attorney fees from the non-prevailing party. In the event the Arbitrator is made a party to, or is otherwise required to participate in any such enforcement proceedings for whatever reason, the non-prevailing party shall bear all reasonable costs, attorney fees, and any other expenses incurred by the Arbitrator in those proceedings.

APPENDIX H

SUBSTANCE ABUSE POLICY

TABLE OF CONTENTS

SUBSTANCE ABUSE POLICY

NORTHERN CALIFORNIA CONSTRUCTION INDUSTRY UNIFORM SUBSTANCE ABUSE PREVENTION POLICY

This Uniform Substance Abuse Prevention Policy, hereinafter referred to as "Policy," has been adopted by the San Francisco Public Utilities Commission (hereinafter "SFPUC") and their successors or assigns, for and on behalf of themselves and their Construction Managers and Contractors, and the Building and Construction Trades Council of San Francisco County, Building and Construction Trades Council of San Mateo County, Building and Construction Trades Council of Alameda County, Building and Construction Trades Council of Santa Clara and San Benito Counties, Building and Construction Trades Council of Stanislaus, Merced, Tuolumne, and Mariposa County, the Local Unions or Councils that become signatory to the Agreement, (collectively referred to as "Unions") and is binding on the Contractors who agree to be bound by the Substance Abuse Policy.

The Parties agree and acknowledge that the United States Government may require differing testing and detection standards than those that are contained in this policy for certain projects that will be constructed under the Project Labor Agreement. To the degree that these federal policies differ in substance or procedure (including the use of random testing) the Parties acknowledge that the federal policies will prevail where required by law or regulation. Violation of any federal policy will result in the same consequences as a violation of this policy.

POLICY

The Contractors and the Union are committed to protecting the health and safety of individual employees, their co-workers, and the public at large from the hazards caused by the misuse of drugs and alcohol on the job. The safety of the public, as well as the safety of fellow employees, dictates that employees are not permitted to perform their duties while under the influence of drugs or alcohol.

This program supersedes any policies negotiated for any other work outside of the Project by Contractors and the Unions that might otherwise apply. Nothing in this Agreement is intended to supersede or diminish more restrictive controlled substance or alcohol regulations imposed by federal or state agencies upon specific employee groups or categories of employees who are also covered by this Program. A summary of this Program will be provided to all dispatched employees. The full Agreement will be made available to any Union representative or to Project employees upon request.

The intention of this Program is to comply with the SFPUC's WISPLA requirement of maintaining a drug and alcohol free workplace in order to assure safe and productive working conditions with due regard for the personal privacy interests of Project employees. It is not the intention of the parties that any Contractor intrude on off-duty activities of Project

employees away from the Project site unless those activities have a job-related impact. The circumstances permitting controlled substance and alcohol testing in this Program have been carefully defined and intentionally restricted.

The Substance Abuse Prevention Coordinator will retain oversight over the Programs and will monitor test procedures for consistency and policy compliance.

In order to implement this Policy, the following Agreements have been reached:

1. No employee may purchase, sell, transfer, furnish, possess, use or be under the influence of illegal drugs or any alcoholic beverage while working on any Project job site in connection with work performed under the Project Labor Agreement, or when using any Contractor vehicle.

2. The proper use of prescription drugs or over-the-counter medication as part of a medical treatment program and consistent with the terms of this Policy is not a violation of this Policy. The improper use of prescription drugs, over-the-counter medication or the use of designer or synthetic drugs that alters or affects and individual's motor function or mental capacity is prohibited and is a violation of this Policy. Employees who believe or have been informed that their use of any prescription drug or over-the-counter medication may present a safety risk are to report such use to the Contractor's supervision to insure the safety of themselves, other employees, and Contractor or Project property or vehicles.

3. Any employee, while employed on the Project, who tests positive for drug or alcohol abuse or who is convicted for selling illegal drugs off the Project will not be permitted to work on the Project and will be subject to discipline up to and including discharge, subject to the provisions of this policy. Employees engaged in the sale, purchase or use of illegal drugs during the employee's working hours will be subject to immediate termination and removed from the project and will not be eligible for rehire.

4. Any prospective or dispatched worker who fails the pre-employment testing required pursuant to this Policy will be denied employment and will not be eligible for referral to any Contractor on the Project until a period of not less than sixty (60) calendar days has passed and the applicant has provided a certification of rehabilitation and satisfactory participation in an approved counseling or rehabilitation program, which will be at the employee's expense.

5. Any prospective or dispatched worker/employee who refuses to submit to a properly administered drug or alcohol test will be treated as having tested positive on the test and will be subject to removal from the Project and will not be granted permission for a second drug or alcohol test for a period of ninety (90) days.

NOTICE

1. When calling the Union hiring hall for workers, the Contractor shall advise the Union dispatcher that the Contractor will require any dispatched worker to take a pre-employment drug and alcohol test, and that worker(s) will be subject to further testing in accordance with specified circumstances outlined in this policy.

2. At the commencement of a contract, the Contractor shall also provide notice in advance of the first dispatch request either by certified mail, by facsimile transmission or by hand delivery.

3. The Contractor shall provide written notice to each employee, attached hereto as Appendix C, of the major provisions of the drug and alcohol testing policy and its consequences.

4. A contractor that fails to provide notice to the dispatcher shall be liable for two hours show up pay for any dispatched worker that refuses to take a pre-employment test, and a dispatched worker's refusal to take the test may not be used in any adverse manner against that worker, except that no dispatched worker will be hired without having taken a pre-employment drug test.

TERMS / DEFINITIONS

For purposes of this Policy, the following terms/conditions will apply:

1. Illegal Drugs:

   For the purpose of this Policy, the terms "illegal drugs" or "drugs" refer to those drugs listed in Appendix A, except in those circumstances where they are prescribed by a duly licensed health care provider. Appendix A lists the illegal drugs and alcohol and the threshold levels for which an employee/applicant will be tested. Threshold levels of categories of drugs and alcohol constituting positive test results will be determined using the applicable Substance Abuse and Mental Health Services Administration ("SAMHSA") (formerly the National Institute of Drug Abuse, or "NIDA") threshold levels, or U.S. government required thresholds where required, in effect at the time of testing. Appendix A will be updated periodically to reflect the SAMHSA or the U.S. Government threshold changes, subject to mutual agreement of the parties.

2. Prescription Drug:

A drug or medication prescribed by a duly licensed health care provider for current use by the person possessing it that is lawfully available for retail purchase only with a prescription.

3. Reasonable Cause:

Reasonable cause to test (which test must be conducted pursuant to this Policy's Identification and Consent Procedures outlined below) an employee for illegal drugs or alcohol will exist when specific, reliable objective facts and circumstances are sufficient for a prudent person to believe that the employee more probably than not has used a drug or alcohol as evidenced by work performance, behavior or appearance while on the jobsite. These indicators will be recognized and accepted symptoms of intoxication or impairment caused by drugs or alcohol, and will be indicators not reasonably explained as resulting from causes other than the use of such controlled substances (such as, but not by way of limitation, fatigue, lack of sleep, side effects of proper use of prescription drugs, reaction to noxious fumes or smoke, etc.) If cause results from an observation, the observation must be confirmed by a second member of the Individual Contractor's supervision and those Contractor representatives will endeavor to consult with the Contractor's Safety Representative or a jobsite management representative, one who must be trained in detection of drug use, and whose training will be documented. The specific behavioral, performance or on-the-spot physical indicators of being under the influence of drugs or alcohol on the job will be substantiated in writing by the use of an Incident Report Form (attachment 5).

The following may constitute some of the reasonable causes to believe that an employee is under the influence of drugs or alcohol.

(a) Incoherent, slurred speech;
(b) Odor of alcohol on the breath;
(c) Staggering gait, disorientation, or loss of balance;
(d) Red and watery eyes, if not explained by environmental causes;
(e) Paranoid or bizarre behavior; or
(f) Unexplained drowsiness.

4. Post-Accident Testing

A Contractor will require that an employee who is involved in an accident in the course of job duties resulting in serious damage to plant, property or equipment or injury to him/herself or others as defined below may be tested (which test must be conducted pursuant to this Policy's Identification and Consent Procedures outlined below) for drugs or alcohol where the Contractor safety representative or designee concludes that:

(a) The accident may have resulted from human error or could have been avoided by reasonably alert action; and
(b) The employer's representative reasonably concluded that the employee(s) to be tested caused or contributed to the following circumstances:
(i) An OSHA recordable injury, i.e., medical treatment case, restricted work case or lost workday case;
(ii) Damage to equipment, vehicles, structures, or guarding resulting in repair costs that in the judgment of the Contractor will exceed $2,500.00;

(iii) Loss of material containment resulting in an environmental spill notification; or
(iv) Any incident resulting in job site shutdown or involving a fatality; and
A basis exists to believe that the employee was under the influence of a drug or alcohol at the time of the accident.

5. Adulterated, Substituted or Diluted Specimens

This Substance Abuse Prevention Policy adheres to guidelines established in SAMHSA Public Document 035 dated September 28, 1998 for determining the validity of a specimen. This guideline is consistent with the Department of Transportation (DOT) regulations (49 CFR Part 40 and 382) that permit laboratories to conduct additional tests to determine the validity of a specimen.

An employee/applicant submitting a specimen for which an approved testing laboratory reports the existence of an "adulterant", "interfering substance" and /or "masking agent" or the sample is identified as a "substituted specimen" will be deemed a violation of this Project Labor Agreement and Policy and will be processed as if the test result were positive. Those employees/applicants for whom the testing laboratory reports an "adulterated", interfering substance", masking agent", or substituted" specimen will be prohibited from the Project for not less than ninety (90) calendar days and the employee/applicant shall be required to show certification of rehabilitation and satisfactory participation in a Substance Abuse Prevention Coordinator-approved rehabilitation program, not at the expense of the Contractor or Owner, as a condition of the employee's return to work at that time.

The guideline issued in PD 035, in the SAMHSA September 28, 1998 memo uses the following reporting protocols:

(a) Adulterated Specimen: PD035 includes three definitions for Adulterated:
If the nitrite concentration is equal to or greater than 500 mcg/mL.

1. If the pH is less than or equal to 3, or if it is greater than or equal to 11.
2. If a foreign substance is present, or if an endogenous substance (one that is normally found in urine) is present at a concentration greater than the normal physiological concentration.

(b) Substituted Specimen: one that has a creatinine of less than or equal to 5mg/dL and a specific gravity less than or equal to 1.001 or greater than or equal to 1.020. These specimens do not exhibit the clinical signs or characteristics associated with normal urine.
(c) Dilute Tests: Protocol covering dilute specimens will follow guidelines established by SAMSHA PD 035 in their memo dated September 28, 1998. Specimens identified by the testing laboratory as dilute will require the employee/applicant to be retested. A second test due to a dilute specimen will require the employee/applicant to submit to an observed test. Refusal to retest or noncompliance with drug testing procedures will result in the employee/applicant being prohibited from working on the Project for ninety (90) calendar days and the employee/applicant will be required to successfully complete a Substance Abuse Prevention Coordinator-approved rehabilitation program at his/her own expense as a condition of the employee's return to work at that time.

A "dilute specimen" is defined as: "one that has a creatinine reading less than 20 mg/dL, but greater than 5 mg/dL, and a specific gravity less than 1.003 but greater than 1.001.

6. Project. The Project is defined as any construction activity that is undertaken under the terms of the SFPUC Water System Improvement Program Project Labor Agreement.

IDENTIFICATION AND CONSENT PROCEDURES

1. When a prospective employee or dispatched worker arrives at the job site for potential employment, he/she will be shown and sign a copy of the Pre-Employment Substance Abuse Prevention Testing Consent/Waiver Form attached as Attachment 4 before taking a pre-employment drug or alcohol screening test. An employee who is working on the Project and has submitted to the pre-employment drug and alcohol test and has tested negative may thereafter be required to submit to drug or alcohol testing only if the Contractor has "reasonable cause" to believe that the employee is under the influence of drugs or alcohol in violation of this Policy or in connection with an accident as set out above in this Policy. The Contractor may order urine (or in the case of alcohol, breathalyzer) testing only.

2. If a management representative (preferably not in the bargaining unit) makes observations of an employee which may constitute reasonable cause for drug or alcohol testing, the supervisor shall immediately take the following actions:

   (a) Inform the employee that he/she may have a Union Representative present, if reasonably available. The employee will be shown the Substance Abuse Prevention Testing Consent/Waiver Form (attachment 2).

   (b) Fill out the Incident Report Form, including a statement of the specific facts constituting reasonable cause to believe that the employee is under the influence of drugs or alcohol, and the names of the person(s) making the supporting observations;

   (c) Provide a completed copy of this Incident Report Form to the bargaining unit employee before he/she is required to be tested, (and one copy made available to the Union Representative, if present). After being given a copy of the Incident Report Form, the bargaining unit employee will be allowed enough time to read the entire document, to understand the reasons for the test.

   (d) Provide the employee with an opportunity to provide an explanation of his/her condition, including providing evidence (e.g., doctor's prescription or note, or prescription container) of existing medical treatment or reaction to a prescribed drug. If available, the Union Representative shall be present during such explanation**;** and will be entitled to confer with the employee before the explanation is required;

(e) If the Management representative(s), after observing the employee, and hearing any explanation, concludes that there is in fact reasonable cause to believe that the employee is under the influence of drugs or alcohol, the employee may be ordered to submit to a drug and/or alcohol test and will be asked to sign the Consent/Waiver Form attached as Attachment 2.

3. Failure to follow any of these procedures will result in the elimination of the test results as if no test had been administered; the test results will be destroyed and no discipline shall be imposed against the bargaining unit employee. Refusal of the employee to submit to the test where these procedures have been followed will be treated as a positive test and subject the employee to discipline including removal from the Project and discharge.

4. Unless there is reason to believe that the person being tested has previously altered a sample, or unless there is agreement in writing, an individual will be allowed to provide the required specimen in the privacy of a stall or partitioned area.

5 A worker initially dispatched to a Project jobsite where this Policy is in effect will be required to submit to testing for illegal drugs or alcohol as defined in this Policy. The testing of such workers must be conducted in compliance with the "Drug Testing Procedures" described in this Policy, and be required of dispatched workers only on the first day of reporting to the initial jobsite. The urine drug and alcohol testing of these dispatched workers, is the only testing allowed under this Policy other than for “reasonable cause” or in connection with an accident as set out above in this Policy. Notwithstanding this provision, if a rehabilitation program or drug treatment program determines that periodic testing is appropriate or necessary for the employee who has tested positive under this Policy, then that employee will be subject to future urine drug testing as recommended by the rehabilitation program.

Except as set out in the Notice provision above, a worker initially dispatched to such jobsite who refuses to submit a urine sample for drug/alcohol testing will not be entitled to show-up pay for that day, and will be denied employment on the Project for a period of ninety (90) calendar days. If a worker who has refused a test returns to the same jobsite within ninety (90) calendar days, and is denied work, that worker will not be entitled to show-up pay. If a worker initially dispatched to the jobsite refuses to submit a urine sample or to take a breathalyzer test for drug/alcohol testing, and that worker is denied employment for ninety (90) calendar days, this Individual Contractor action will not be grieveable under the Project Labor Agreement. If the worker tests negative for drugs and alcohol, he/she will not be drug tested again while employed by the Individual Contractor at any jobsite except for reasonable cause or post-accident as described in this Policy.

6. If the Individual Contractor has reasonable cause to believe an employee is under the influence of drugs or alcohol, or requires a post accident drug or alcohol test, as set forth in this Policy, and the employee refuses to submit to a drug test, the refusal shall be treated as a positive test result and the employee/applicant shall be subject to discipline, including removal from the Project and discharge.

7. The following rules control the pay for dispatched workers tested on the first day of their employment:

   (a) A dispatched worker who is put to work immediately after having passed the test shall be paid starting at the time the worker reported for the test(s).

   (b) Where a contractor requests a dispatched worker to report for purposes of a pre-hire substance abuse test, and does not intend to place the worker in an active work position on that day, the worker shall receive four (4) hours of pay at the regular straight-time hourly rate if the test is negative.

   (c) If the dispatched worker is not allowed to work until the results of the drug test are received, and the test results are positive, the dispatched worker is not entitled to any form of pay (including show-up pay).

   (d) If the dispatched worker is put to work, that dispatched worker is entitled to pay and benefits under the Project Labor Agreement for all hours worked, regardless of the results of the drug test.

   (e) Where a contractor fails to provide notice, pursuant to this Policy, to the Union hiring hall that the job site is a drug and alcohol testing site, a dispatched worker who refuses to take the pre-employment test will be paid two hours show up pay, except that no dispatched worker will be hired without having taken a pre-employment drug test.

DRUG TESTING PROCEDURES

1. The testing shall be done at a certified laboratory located in California. The collective bargaining parties retain the right to inspect the laboratory to determine conformity with the standards described in this policy. The laboratory will only test for alcohol and the illegal drugs listed in the Definition Section of this Policy and Attachment 1. All testing will be at the Contractor's expense.

   Testing procedures, including controlled substances to be tested, specimen collection, chain of custody and threshold and confirmation test levels shall comport with the Mandatory Guidelines For Federal Workplace Testing Programs established by the U.S. Department of Health and Human Services, as amended and the Federal Motor Carrier Safety Act regulations, where applicable. Controlled substance tests shall be conducted only by laboratories licensed and approved by SAMHSA which comply with the American Occupational Medical Association (AOMA) ethical standards. Controlled substance tests shall be by urinalysis and shall consist of two procedures, a screen test (EMIT or equivalent) and if that is positive, a confirmation test (GC/MS). Alcohol tests shall be by breathalyzer. Any test revealing a blood/alcohol level equal to or greater than 0.08 or the established California State standard for non-commercial motor vehicle operations, or

when operating a moving vehicle or crane any test revealing a blood/alcohol level equal to or greater that 0.04 or the established California State standard for commercial motor vehicle operations, percent shall be positive and will be conducted under procedures consistent with California State law.

An employee/applicant presenting himself/herself at a Substance Abuse Prevention Coordinator-approved drug collection site must have a minimum of one piece of government-issued photo identification and may not leave the collection site for any reason – unless authorized by the collection agency – until he/she has fully completed all collection procedures. Failure to follow all collection procedures will result in the employee/applicant being classified as "refusing to test" and being prohibited from working on the Project for a minimum of ninety (90) calendar days from the date of the scheduled test.

At the time the urine specimens are collected, two (2) separate samples shall be placed in separate sealed containers. One (1) of the samples collected in a separate container shall be kept refrigerated at the site where the sample is given. Upon request, this second sample shall be made available to the employee for testing by a certified laboratory selected by the employee at the employee's expense.

2. The specific required procedure is as follows:

   (a) Urine will be obtained directly in a tamper-resistant urine bottle. Alternatively, the urine specimen may be collected at the employee's option in a wide-mouthed clinic specimen container that must remain in full view of the employee until transferred to, sealed and initialed, in separate tamper-resistant urine bottles.

   (b) Immediately after the specimen is collected, it will be divided into two (2) urine bottles, which, in the presence of the employee, will be labeled and then initialed by the employee and witness. If the sample must be collected at a site other than the drug and/or alcohol-testing laboratory, the specimens must then be placed in a transportation container. The container shall be sealed in the employee's presence and the employee must be asked to initial or sign the container. The container will be sent to the designated testing laboratory on that day or the earliest business day by the fastest available method.

   (c) A chain of possession form must be completed by the hospital, laboratory and/or clinic personnel during the specimen collection and attached to and mailed with the specimens.

3. The initial test of all urine specimens will utilize immunoassay techniques. All specimens identified as positive in the initial screen must be confirmed utilizing gas chromatography/mass spectrometry (GC/MS) technique that identifies at least three (3) ions. In order to be considered "positive" for reporting by the laboratory to the employer, both samples must be tested separately in separate batches and must also show positive results on the GC /MS confirmatory test.

4. All positive drug, alcohol or adulterant test results must be reported to a Medical Review Officer (MRO) appointed by the designated testing laboratory. The MRO shall review the

5. test results and any disclosure made by the employee/prospective or dispatched worker and shall attempt to interview the employee/ prospective or dispatched worker to determine if there is any physiological or medical reason why the result should not be deemed positive. If no extenuating reasons exist, the MRO shall designate the test positive. The MRO shall make good faith efforts to contact the employee/applicant, but failing to make contact within two (2) working days, may deem the employee/applicant's result a "lab positive." After the issuance of a "lab positive", the employee/applicant will be barred from the Project until the employee/applicant makes contact with the MRO and the MRO sends the Substance Abuse Prevention Coordinator a written confirmation of a negative result.

6. If the testing procedures confirm a positive result, as described above, the employee/dispatched worker and the Substance Abuse Prevention Coordinator will be notified of the results in writing by the MRO, including the specific quantities. If requested by the employee or the Union, (with the written consent of the member), the laboratory will provide copies of all laboratory reports, forensic opinions, laboratory work sheets, procedure sheets, acceptance criteria and laboratory procedures.

7. In the event of a positive drug or alcohol test, an automatic confirmation test will be performed on the original specimen by the testing laboratory at no cost to the employee. In addition, the testing laboratory shall preserve a sufficient specimen to permit an independent re-testing at the request of the employee at his/her expense. The same, or any other, approved laboratory may conduct re-tests. The laboratory shall endeavor to notify the MRO of positive drug, alcohol or adulterant tests results within five (5) working days after receipt of the specimen. The employee may request a re-test within five (5) working days from notice of a positive test result by the MRO. The requesting party will pay costs of re-tests in advance.

7. The Substance Abuse Prevention Coordinator shall assure that all specimens confirmed positive will be retained and placed in properly secured long-term frozen storage for a minimum of one (1) year, and be made available for retest as part of any administrative proceedings.

8. All information from an employee's or dispatched worker's drug and alcohol test is confidential for purposes other than determining whether this Policy has been violated. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee or applicant. The results of a positive drug test shall not be released until the results are confirmed.

9. Every effort will be made to insure that all employee substance abuse problems will be discussed in private and actions taken will not be made known to anyone other than those directly involved in taking the action, or who are required to be involved in any disciplinary procedure, and those persons will be identified in writing at the time of the procedure.

   No laboratory or medical test results will appear in the employee's Personnel File. Information of this nature will be kept in a separate, confidential file.

   All necessary measures shall be taken to keep the fact and the results of the test confidential.

PROCEDURE FOR PRE-EMPLOYMENT "ON SITE SCREEN TEST"

1. The parties agree that an Employer may conduct for pre-employment purposes only an "on-site screen test" ("Quicktest" – saliva testing), and only if that test is "non-negative" will a confirmation test be performed. This on-site screen test is to enable the dispatched worker and the employer to know immediately that the prospective employee has been cleared for work.

2. The parties acknowledge that this effort to provide a quicker way to put an employee to work requires a slightly different set of test protocols for the on-site test (set out in Attachment 1(a)). The parties understand that this in no way changes the ultimate right of the employee to have his/her eligibility for employment determined under the original Attachment 1 (as it might be changed by evolving federal standards). The parties also acknowledge that the category of Amphetamines includes Methamphetamines.

3. In order to facilitate the on-site test, the parties agree that an individual's sample will be divided into three separate containers. One of the containers will provide a sample for the on-site test that will be read within 5-10 minutes of collection. The other two containers will be sealed and sent to the lab when a confirmation is necessary because of a "non-negative" outcome of an on-site test. The laboratory will store the split sample in accordance with SAMSHA guidelines. One of the two samples will be used for a confirmation test and the other will be made available to the employee for testing by a certified laboratory selected by the employee at the employee's expense. The parties acknowledge that this is consistent with the intent of this Agreement.

4. An employee who originally passed a pre-employment drug test and who is continuously employed by a Contractor on covered project work does not have to be re-tested solely as a consequence of being shifted from work on one covered project to another. In addition, the parties agree that the term "prospective employee or dispatched worker" does not include an individual that has previously passed a pre-employment drug test, has not failed any employment-related test on the Project, has been employed on covered work and was laid off from that project and dispatched to another Contractor on covered work within seven days of being laid off. Such an employee will be considered to have passed an on-site test and the Substance Abuse Prevention Coordinator will so notify the Employer; however this does not preclude an Employer from determining that there is reasonable cause to require drug or alcohol testing of that employee under the provisions of this Policy.

CONSEQUENCES FOR VIOLATING THE RULES AND PROVISIONS OF THIS POLICY

1. Prospective or dispatched workers: Dispatched workers who test positive to the pre-employment drug and alcohol test conducted pursuant to this Policy will be denied

employment by the Individual Contractor until their test is confirmed to the dispatched worker in writing. Dispatched workers will be informed in writing if they are rejected on the basis of a confirmed positive drug test result. A dispatched worker may utilize the Project Labor Agreement grievance procedure to challenge the validity of a positive test result.

2. Employees: If the initial results of a drug or alcohol test administered by the Individual Contractor show that the employee was under the influence of drugs or alcohol while on duty, the employee will be removed from the Project until the test results have been confirmed by the procedures contained in this Policy.

   (a) If the final test is negative, the employee will be reinstated with full backpay for lost time.

   (b) If the initial positive test result is confirmed, the employee will be barred from the Project effective the date and time of the collection of the test specimen. The employee is subject to termination, subject to the provisions of this section below.

   (c) Discipline imposed for a first positive test for an employee subjected to reasonable-cause testing, or subject to post-accident testing when in fact drugs or alcohol played no role in the accident, and any grievance filed in response thereto, will be held in abeyance pending voluntary participation by the employee in a Substance Abuse Prevention Coordinator-approved treatment program during an unpaid leave of absence.

   (d) The employee may return to work if work is available after a certificate of either rehabilitation or satisfactory participation in the program. If the program determines that periodic testing is appropriate or necessary, the employee will be subject to future urine drug or alcohol testing, even on a random basis.

   (e) If the employee successfully completes or participates in such a program or is not disciplined for substance use, possession or being under the influence of drugs or alcohol for twenty-four (24) months following the initial confirmed positive test, the discipline shall be revoked.

   (f) A second positive test will result in the imposition of discipline, including termination and removal from the Project and the lifting of any suspension regarding discipline imposed for a first test less than twenty-four months preceding the date of the second positive test.

NOTICE AND CONSENT/WAIVER FORMS

Employees must execute a written consent and waiver to submit to the drug and alcohol tests and for the testing laboratory to release the report of test results to the Contractor. The individual to be tested will sign the form as shown in Attachment 4 at the time of submitting to a pre-employment test and the form attached as Attachment 2 for any subsequent test. Signing the Consent/Waiver Form will not waive any individual rights available to the employee under

federal or state law. The employee must also sign at the time of employment the Notice Form, as shown in Attachment 3, describing the employee's obligations under this Uniform Substance Abuse Prevention Policy.

SUBSTANCE ABUSE PREVENTION COORDINATOR

The SFPUC will designate a Substance Abuse Prevention Coordinator from candidates nominated by the parties to the Project Labor Agreement to monitor compliance with this Policy and to provide assistance to Project employees with questions concerning drug or alcohol test procedures, availability of approved counseling or rehabilitation or any other drug or alcohol matters. All inquiries to the Coordinator will be confidential. The parties are eager to help employees with drug and alcohol abuse problems. The Coordinator will be prepared to assist employees in discussing insurance coverage and locating available counseling, rehabilitation and community resources.

SUPERVISOR TRAINING

The Contractor shall develop and implement a program of training to assist Management representatives and stewards in identifying factors which constitute reasonable cause for drug testing, as well as a detailed explanation and emphasis on the terms and conditions of the drug policy.

EMPLOYEE VOLUNTARY SELF-HELP PROGRAM

An employee who engages in drug/alcohol abuse is encouraged to participate in an Employee Voluntary Self-Help Program. Employees who seek voluntary assistance for alcohol and/or substance abuse not arising out of or in connection with the occurrence of any testing incident or related disciplinary action may not be disciplined for seeking such assistance. Request by employees for such assistance shall remain confidential and shall not be revealed to other employees or management personnel without the employee's consent. Such Voluntary Self-Help Program will not be at the expense of the Owner or Contractor. An Employee Voluntary Self-Help Program Counselor shall not disclose information on drug/alcohol use received from an employee for any purpose or under any circumstances, unless specifically authorized in writing by the employee.

The Contractor shall offer an employee affected by alcohol or drug dependency an unpaid medical Leave of Absence, for the purpose of enrolling and participating in a drug or alcohol rehabilitation program. Any employee who voluntarily submits to such Voluntary Self-Help Program may return to employment on the project upon successful completion of such a program, or upon a certification of rehabilitation and satisfactory participation in such a

program, and provided that the employee passes a drug and alcohol test upon return to the project and agrees for a period of one (1) year thereafter, to submit to periodic drug and alcohol testing which shall be conducted in addition to any reasonable cause or post-accident testing otherwise conducted, if considered appropriate or necessary by the rehabilitation program.

The Substance Abuse Prevention Coordinator will work with the signatory Unions to develop an "approved" list of counseling and rehabilitation programs to be used by employees/applicants who test positive for illegal drugs, alcohol, adulterants or misuse of prescription drugs. The cost of counseling and rehabilitation will not be the responsibility of the Contractor or Owner.

GRIEVANCE PROCEDURE

All disputes concerning the interpretation or application of this Policy shall be subject to the Disputes and Grievances Procedure established by Article VII of the Project Labor Agreement. Such disputes may be initiated at Step 2 of the Procedure. Nothing in the grievance procedure may void this Uniform Substance Abuse Policy on the SFPUC Water System Improvement Program from continued utilization on Project work.

SAVINGS CLAUSE

The establishment or operation of this Policy shall not curtail any right of any employee found in any law, rule or regulation. Should any part of this Policy be determined contrary to law, such invalidation of that part or portion of this Policy will not invalidate the remaining portions. In the event of such determination, the parties to the Project Labor Agreement agree meet promptly to commence negotiations concerning the provision affected by such decision for the purpose of achieving conformity with the requirements of the applicable law and the intent of the parties hereto.

TERM OF AGREEMENT

This Policy constitutes the only Agreement in effect between the parties to the Project Labor Agreement concerning drug abuse, prevention and drug testing. No revisions or amendments will be made to this Policy except with the written approval of the parties hereto. This Policy shall become effective for all work covered by the Project Labor Agreement (and, to the current work covered by the SFPUC pursuant to the terms of Section 16.1 of Article XVI "SUBSTANCE ABUSE", of that Agreement) upon the effective date of the Project Labor Agreement and shall remain in effect for the duration of the Agreement unless terminated or amended by the mutual consent of the parties hereto.

The parties to the Project Labor Agreement agree to meet on an annual basis to review this Policy, to bring it into compliance with the law, if necessary, and to review other considerations, which may arise during the course of this Agreement. Changes in this Policy may be made only if mandated by law or agreed upon by the collective bargaining parties.

ATTACHMENT 1

SUBSTANCE ABUSE PREVENTION AND DETECTION THRESHOLD LEVELS

CONTROLLED SUBSTANCE*	SCREENING METHOD	SCREENING LEVEL**	CONFIRMATION METHOD	CONFIRMATION LEVEL
Amphetamines	EMIT	1000 ng/ml**	GC/MS	500 ng/ml**
Barbiturates	EMIT	300 ng/ml	GC/MS	200 ng/ml
Benzodiazepines	EMIT	300 ng/ml	GC/MS	300 ng/ml
Cocaine	EMIT	300 ng/ml**	GC/MS	150 ng/ml**
Methadone	EMIT	300 ng/ml	GC/MS	100 ng/ml
Opiates	EMIT	2000 ng/ml**	GC/MS	2000 ng/ml**
PCP (Phencyclidine)	EMIT	25 ng/ml**	GC/MS	25 ng/ml**
Propoxyphene	EMIT	300 ng/ml	GC/MS	100 ng/ml
THC (Marijuana)	EMIT	50 ng/ml**	GC/MS	15 ng/ml**
Alcohol	EMIT	0.08 or 0.04 % as required	GC/MS	0.08 or 0.04 % as required

* All controlled substances including their metabolite components

** SAMHSA specified threshold

*** A sample reported positive contains the indicated drug at or above the cutoff level for that drug. A negative sample either contains no drug or contains a drug below the cutoff level. Testing levels may be changed to meet revised industry standards subject to mutual agreement.

EMIT – Enzyme immunoassay

GC/MS – Gas Chromatography/Mass Spectrometry

ATTACHMENT 1(a)

SUBSTANCE ABUSE PREVENTION AND DETECTION
THRESHOLD LEVELS
FOR
ON-SITE TEST

CONTROLLED SUBSTANCE*	SCREENING METHOD	SCREENING LEVEL**	CONFIRMATION METHOD	CONFIRMATION LEVEL
Amphetamines	EMIT	1000 ng/ml**	GC/MS	500 ng/ml**
Barbiturates	EMIT	300 ng/ml	GC/MS	200 ng/ml
Benzodiazepines	EMIT	300 ng/ml	GC/MS	300 ng/ml
Cocaine	EMIT	300 ng/ml**	GC/MS	150 ng/ml**
Methadone	EMIT	300 ng/ml	GC/MS	100 ng/ml
Opiates	EMIT	2000 ng/ml**	GC/MS	2000 ng/ml**
PCP (Phencyclidine)	EMIT	25 ng/ml**	GC/MS	25 ng/ml**
Propoxyphene	EMIT	300 ng/ml	GC/MS	100 ng/ml
THC (Marijuana)	EMIT	50 ng/ml**	GC/MS	15 ng/ml**
Alcohol	EMIT	0.08 or 0.04 % as required	GC/MS	0.08 or 0.04 % as required

ATTACHMENT 2

EMPLOYEE DRUG TEST CONSENT/WAIVER FORM

TO: (Name of Contractor/Employer)_____
FOR: (Project Name) _____

Name of Dispatched Worker/Employee:_____
Social Security Number: _____
Home Address: _____
City: _____ State: _____ Zip code: _____
Home Telephone: _____
Other phone numbers: Pager_____ Mobile_____

Consent for Testing

I (write your name) _____ understand that my Employer has determined that there is probable cause to believe that I have been working at the job site under the influence of alcohol or drugs. In response to this, my Employer requires that I provide a urine (or breathalyzer) sample as is allowed under the Project drug testing policy.

These tests will be used to detect the presence of alcohol, marijuana and/or other drugs in my body. I understand that if these drugs are found to be present in my body that I will be subject to discipline including discharge from employment.

I hereby consent and agree to give specimens of my urine or to take the breathalyzer test. **My refusal to provide such a specimen or take such a test will lead to termination of my employment.**

All charges for these tests will be paid for by the Employer and not by me.

Waiver: The results of any test I am required to take may be furnished, in accordance with the terms of this policy, to the Medical Review Officer, the Substance Abuse Prevention Coordinator and my employer. The company may inform the Union that I failed the test only if a grievance is filed in my behalf.

I have read, understand and agree to the above:

_____ _____
Witness Signature Employee Signature

Date: _____ **Date:_____**

ATTACHMENT 3

UNIFORM SUBSTANCE ABUSE PREVENTION PROGRAM NOTICE FORM

The SFPUC Water System Improvement Program. Substance Abuse Prevention Program requires that:

- Use, possession or the sale of controlled substances at the Project site is prohibited. Employees engaged in the sale, purchase or use of illegal drugs during the employee's working hours will be subject to immediate termination, removed from the project and not be eligible for rehire.
- Conviction for selling illegal drugs, while employed on this Project, even if off the Project, will cause me to be barred from the Project and will subject me to discipline, including discharge.
- Use of prescribed or over-the-counter medication is permitted if it will not affect work performance.
- If prescribed or over-the-counter may cause a safety risk, I must notify my Contractor-employer prior to using such substances on the job.
- If I refuse to submit to pre-employment screening/testing for controlled substances and alcohol as requested by the Contractor in accordance with the terms of the Program, I will not be eligible to retake the drug test for ninety (90) calendar days. I understand that nobody will be hired on the Project without taking and passing such a test.
- The presence of an adulterant in my system at or above the defined threshold levels will make me ineligible for employment, or will result in the termination of my employment and ineligibility for reemployment, for at least ninety (90) calendar days.
- I will not be hired if I fail the test because an illegal drug or alcohol is found in my system, and I will not be eligible to be employed for ninety (90) calendar days and unless I have participated successfully in a drug or alcohol rehabilitation program.
- I may be terminated for failing a drug or alcohol test, and I will be required to complete an approved counseling or rehabilitation program and to agree to periodic testing at that program's request in order to return to work.

I sign this acknowledgment voluntarily, with full knowledge and understanding of the SFPUC Project Substance Abuse Prevention Program and I agree to be bound by its terms.

(Employee Name) Print _____
Signature _____
Date _____

Contractor/Company Name _____

ATTACHMENT 4

SAN FRANCISCO PUBLIC UTILITIES COMMISSION
WATER SYSTEM IMPROVEMENT PROGRAM
PRE-EMPLOYENT DRUG TEST
CONSENT/WAIVER FORM

TO: (Name of Contractor/Employer)_____
FOR: (Project Name) _____

Name of Dispatched Worker/Employee:_____
Social Security Number: _____
Home Address: _____
City: _____ State: _____ Zip code: _____
Home Telephone: _____
Other phone numbers: Pager_____ Mobile_____

Consent for Testing

I (write your name) _____ understand that the SFPUC Project to which I have been dispatched, or for which I am seeking employment, requires pre-employment drug and alcohol testing. The company to which I have been dispatched requires that I take and pass this test prior to commencing employment.

These tests will be used to detect the presence of alcohol, marijuana and/or other drugs in my body. I understand that if these drugs are found to be present in my body that I will be ineligible for employment on the Project and will not be able to take a new drug or alcohol test for ninety (90) days.

I hereby consent and agree to give specimens of my urine. **My refusal to provide such a specimen will prevent me from gaining employment on the Project for 90 days.**

All charges for these tests will be paid for by the Employer and not by me.

Waiver: The results of any test I am required to take may be furnished, in accordance with the terms of this policy, to the Medical Review Officer, the Substance Abuse Prevention Coordinator and my employer. The company may inform the Union that I failed the test only if a grievance is filed in my behalf.

I have read, understand and agree to the above:

_____ _____
Witness Signature Prospective/Dispatched Worker

Date:_____ **Date:**_____

ATTACHMENT 5

INCIDENT REPORT FORM

Employer _____

Employee Involved _____

Date of Incident _____ Time of Incident _____

Location of Incident _____

Employee's Job Assignment/Position _____

Has employee been notified of

his/her right to Union representation? _____

Date/Time Notified _____ _____
DATE TIME

Employee's Initials _____

Witness to Incident _____

OBSERVATIONS _____

_____

_____

EMPLOYEE'S EXPLANATION _____

_____

_____

Action Recommended: _____

_____

_____

Action Taken _____

_____

1. _____ 2. _____
Signature Signature

Employer Representative Union Representative (if present)

Title: _____ Title: _____

Date/Time/Action Taken: _____

1/431678

San Francisco Public Utilities Commission Sewer System Improvement Program and Auxiliary Water Supply System Pumping Station 2 Construction Project Extension Agreement

May 16, 2016

SAN FRANCISCO PUBLIC UTILITIES COMMISSION SEWER SYSTEM IMPROVEMENT PROGRAM AND AUXILIARY WATER SUPPLY SYSTEM PUMPING STATION 2 CONSTRUCTION PROJECT EXTENSION AGREEMENT

The San Francisco Public Utility Commission ("SFPUC") and the signatory Unions hereto enter into this agreement ("Extension Agreement") and mutually agree to apply the terms and conditions of the 2007 Water System Improvement Program Labor Agreement (WSIPLA) to the SFPUC's Sewer System Improvement Program and the Auxiliary Water Supply System Pumping Station 2 ("AWSS") construction projects on the same terms as the WSIPLA, with the following modifications:

ARTICLE I
PURPOSE

Section 1.1 ***(Revised)***

The SFPUC is undertaking an estimated $4.3 billion program to rebuild and seismically upgrade Hetch Hetchy Water System's aging pipelines, tunnels, reservoirs, pump stations, storage tanks and dams. The capital improvement program, referred to hereinafter as the Water System Improvement Program ("WSIP"), is a comprehensive program involving numerous individual projects.

The Sewer System Improvement Program includes projects listed in the SFPUC Commission-approved Capital Improvement Plan as Sewer System Improvement Program projects, which are awarded by the SFPUC after May 10, 2016 ("SSIP"). The AWSS, also known as the Emergency Firefighting Water System Projects, will repair and improve the reliability of the core facilities, cisterns, pipelines and tunnels of the emergency firefighting water system, and includes for purposes of this Extension Agreement, AWSS Pumping Station 2. Collectively, the SSIP and AWSS Pumping Station 2 constitute "Covered Work."

Section 1.2 ***(Revised)***

The purpose of this **Extension Agreement** is to promote efficiency of construction of **Covered Work** by facilitating communication, education and partnerships among the SFPUC, Unions, Contractors, and contract-enforcement agencies to identify and resolve issues, to enhance understanding and compliance with the labor-related policies and regulations, and to provide for peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of the Project. **This Extension Agreement extends the terms of the WSIPLA to encompass all Covered Work. The term "WSIP" or "Project" as used in the WISPLA shall include all Covered Work. For the purposes of applying WSIPLA terms to Covered Work under this Extension Agreement, the terms "signatory Unions," "Union" or "Unions" as used in the**

WISPLA and this Extension Agreement shall refer to the signatory craft unions to this Extension Agreement. This Extension Agreement does not amend or modify the WSIPLA.

ARTICLE II
SCOPE OF AGREEMENT

Section 2.1 ***(Revised)***

This **Extension** Agreement, hereinafter designated as the **"Extension Agreement,"** shall apply and is limited to construction as defined in Section 2.2 performed by contractors of whatever tier who have contracts awarded for ~~such~~ **Covered** ~~w~~**W**ork on or after the **E**ffective **D**ate of **this Extension Agreement** ~~the WSIPLA~~, with regard to the construction or any other construction-related activities necessary to the "**Covered Work**"; except that**, where there is a conflict, the terms and conditions of this Extension Agreement shall govern the terms and conditions of any and all other agreements, except for the following: (i) all work performed under the NTL Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement; (ii) all instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians; and (iii) all work performed under the National Agreement of International Union of Elevator Constructors. Notwithstanding the foregoing, Articles VI (Work Stoppages and Lockouts), Article VII (Grievance Procedure) and Article VIII (Jurisdictional Dispute Resolution) of this Extension Agreement shall apply to all Covered Work.**

All Covered Work is strictly located in the geographical jurisdiction of the Unions comprising the San Francisco Building & Construction Trades Council, AFL-CIO, and no other Building Trades Council is party to this Extension Agreement.

Section 2.2 ***(Revised)***

This Agreement shall apply to all on-site construction **Covered** ~~w~~**W**ork ~~on the Project~~. This shall include all construction work **covered by the definition of Public Work or Improvement** as defined in San Francisco Administrative Code, Section 6.1~~(l)~~ and Section 6.22(e)(1), and contained within the scope of the construction contracts executed for **all Covered Work**. (For informational purposes only, **the definition of Public Work or Improvement in** San Francisco Administrative Code, Section 6.1~~(i)~~ **and Section 6.22(e)(1)** is attached hereto as Appendix B). **With respect to Covered Work jointly delivered with other City agencies ("Jointly Covered Work), the Extension Agreement shall only apply to Jointly Covered Work after those other agencies have agreed to apply the Extension Agreement to the particular project prior to advertisement.**

Section 2.4 ***(Revised)***

~~To the extent consistent with the National Labor Relations Act, all hauling work done physically on the site of construction or hauling to any non-remote facility that is owned, leased~~

~~or controlled by the San Francisco Public Utilities Commission and dedicated to the Water System Improvement Program shall be covered by the terms and conditions of this Agreement.~~

The furnishing of supplies, equipment or materials that are stockpiled for later use shall in no case be considered construction subcontracting. Construction trucking work, such as the delivery of ready-mix, asphalt, aggregate, sand or other fill or material which are directly incorporated into the construction process, as well as the off-hauling of debris and excess fill, material and/or mud, shall be covered by the terms and conditions of this Extension Agreement to the fullest extent provided by prevailing wage law and by the prevailing wage determinations of the California Department of Industrial Relations. Contractors/Employers, including brokers, of persons providing construction trucking work shall provide certified trucking payroll records to the SFPUC within ten (10) calendar days of written request or as required by bid specifications.

Section 2.8 (*Revised*)

The SFPUC and/or Contractors, as appropriate, have the absolute right to award contracts or subcontracts on **Covered Work** ~~this Project~~ to any Contractor notwithstanding the existence or nonexistence of any agreement between such contractor and any union party, provided only that such contractor is willing, ready and able to execute and comply with this ~~Project Labor~~ **Extension** Agreement, should such contractor be awarded **Covered** ~~w~~**W**ork ~~covered by this Agreement~~. In making such awards of work, the SFPUC and the Contractors recognize the SFPUC's programs and goals to include small, local business enterprises as contractors or subcontractors on the ~~Project~~ **Covered Work** and all parties to the Agreement shall make their best good faith efforts to effectuate these provisions of the **Extension** Agreement. Such good faith efforts shall be intended to insure that micro and small local business enterprises, as defined in San Francisco Administrative Code section 14B, are given a full opportunity to competitively bid for work on the **Covered Work** ~~Project~~. It is agreed that all contractors and subcontractors, of whatever tier, whom have been awarded contracts for work covered by this **Extension** Agreement shall be required to accept and to be bound by the terms and conditions of this **Extension** ~~Project Labor Agreement~~, and shall evidence their acceptance by the execution of the Letter of Assent, prior to the commencement of work. Each Contractor and Subcontractor shall provide a copy of the Letter of Assent**,** contained in Appendix D**,** to the Union prior to commencement of work.

Notwithstanding the above, with respect to SSIP projects covered under this Extension Agreement only, subcontractors certified as Local Business Enterprises ("LBEs") and Micro LBE prime contractors awarded Micro-Set Aside Contracts under San Francisco Administrative Code Chapter 14.B that are unwilling to provide a copy of the Letter of Assent to the relevant signatory Union(s) prior to commencement of work, shall be exempt from the terms of this Extension Agreement, except as set forth herein.

This exemption shall apply until such time that: (i) the certified LBE subcontractor is either listed to perform work and/or awarded work; and/or (ii) the certified Micro LBE prime contractor is awarded Micro-Set Aside Contract(s); and (iii) the aggregate total of the work for which the LBE subcontractor and /or the Micro LBE prime contractor is

listed and/or awarded totals five million dollars ($5,000,000) or more across all SSIP projects covered by the terms of this Extension Agreement. In the event that the awarded and/or listed dollar amount differs from the amount for work actually performed for covered SSIP projects, the dollar amount of work actually performed at substantial completion of the project shall govern.

When the LBE subcontractor and/or Micro LBE prime contractor reaches the threshold of five million dollars ($5,000,000) or more in the aggregate across all SSIP projects covered under this Extension Agreement, such contractor shall comply with the terms and requirements of this Extension Agreement. Dollar amounts for work for which the LBE subcontractor and/or the Micro LBE prime contractor is listed, awarded, and/or performed shall be tracked and shall count toward the five million dollar ($5,000,000) threshold commencing from the Effective Date of this Extension Agreement.

At the pre-job conference for SSIP projects covered under this Extension Agreement, SFPUC staff will provide the Unions with a list of LBE subcontractors exempted under this Section 2.8, as well as the dollar amount of work for which the LBE subcontractor is either listed to perform and/or is awarded on the specific SSIP project. At the regular meetings of the Joint Administrative Committee, SFPUC staff will also provide a list of LBE contractors exempted from the terms of this Extension Agreement under this Section 2.8, as well as the dollar amounts of the work for which the LBE contractors are listed to perform and/or are awarded work, and the dollar amount of the actual work performed at substantial completion for the SSIP projects covered under this Extension Agreement.

ARTICLE III

UNION RECOGNITION AND EMPLOYMENT

Section 3.7 (*Revised*)

The parties to **this Extension Agreement** ~~the WSIPLA~~ support the development of increased number of skilled construction workers from the residents of the SFPUC's service territory to meet the needs of the Project. Towards that end, the Unions agrees to encourage the referral and utilization, to the extent permitted by law, hiring hall procedures**,** and the Standards of the applicable Apprenticeship Program approved by the State of California, Division of Apprenticeship Standards, of qualified residents as journeymen, apprentices and trainees on this Project and entrance into such apprenticeship and training programs as may be operated by signatory Unions. **The parties acknowledge that San Francisco's Local Hiring Policy for Construction, codified at San Francisco Administrative Code Section 6.22(g) as amended from time to time, applies to Covered Work.**

ARTICLE VI

WORK STOPPAGES AND LOCKOUTS

Section 6.5 ***(Revised)***

… (a) The party invoking this procedure shall notify **Barry Winograd** ~~Tom Angelo~~, the permanent Arbitrator agreed upon under this procedure. **…**

In the event of the death, incapacity, or retirement of an arbitrator named in Article VI, (Work Stoppages and Lockouts), the Joint Administrative Committee shall meet to name a replacement arbitrator by mutual consent. All parties to this Extension Agreement hereby agree to such replacement.

ARTICLE VII
GRIEVANCE PROCEDURE

Section 7.1 (*Revised*)

Step 3. … The arbitrator shall be selected from among the following designated Arbitrators: **Katherine Thompson**~~Gerald McKay~~, **Barry Winograd**~~Thomas Angelo~~, William Riker, **David Weinberg**~~Jerri-Lou Cossack~~ and Alexander Cohn **…**

In the event of the death, incapacity, or retirement of an arbitrator named in Article VII, (Grievance Procedure), the Joint Administrative Committee shall meet to name a replacement arbitrator by mutual consent. All parties to this Extension Agreement hereby agree to such replacement.

ARTICLE VIII.
JURISDICTIONAL DISPUTE RESOLUTION

Section 8.3 ***(Revised)***

~~When conflicting claims for work on the Project are submitted to a Contractor, the dispute shall be resolved pursuant to agreed upon Jurisdictional Dispute Procedures, as adopted by the National Building & Construction Trades Department, or by the Mechanical Allied Crafts (MAC) (Appendix E), or by the National Construction Alliance (NCA) (Appendix F), incorporated herein respectively. It is understood by the parties that these Procedures might be amended from time to time. In the event a jurisdictional dispute arises between two or more Unions affiliated with the National Building & Construction Trades Department, such dispute shall be resolved by the procedures set forth in the Plan for the Settlement of Jurisdiction Disputes in the Construction Industry. In the event a jurisdictional dispute arises between two or more Unions affiliated with the MAC, such dispute may be resolved under the MAC Procedure. In the event a jurisdictional dispute arises between two or more Unions affiliated with the NCA, such dispute shall be resolved under the NCA Procedure. In the event a jurisdictional dispute arises between two or more Unions that are not affiliated with the same International group and are not stipulated to the same jurisdictional dispute resolution procedure, the dispute shall be handled in accordance with and resolved as described in Appendix G hereto.~~

The assignment of Covered 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 the Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

All jurisdictional disputes on this Project between or among the building and construction trades Unions party to this Extension Agreement and Contractors executing the Letter of Assent, 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 Contractors and Unions parties to this Extension Agreement.

Notwithstanding the above, if a dispute arising under this Article involves the Northern California Carpenters Regional Council or any of its subordinate bodies, an Arbitrator shall be chosen by the procedures specified in Article V, Section 5, of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch, and Thomas Pagan, and the Arbitrator's hearing on the dispute shall be held at the offices of the California State Building and Construction Trades Council in Sacramento, California, within 14 days of the selection of the Arbitrator. All other procedures shall be as specified in the Plan.

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. Individual employees violating this section shall be subject to immediate discharge. Each Contractor will conduct a pre-job conference with the Council prior to commencing work. The Owner and Construction Manager will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Contractors may be held together. Appendices E, F, and G shall not apply to any Covered Work.

ARTICLE IX

WAGES AND BENEFITS

Section 9.1 (*Revised*)

All employees covered by this Agreement shall be classified and paid for all hours worked in accordance with the classification(s) and wage scales, overtime scales and benefits contained in the prevailing wage determination published by the State Director of Industrial Relations for the relevant craft and geographic jurisdiction**, and/or the U.S. Secretary of Labor when federal funds are involved, whichever is higher.** If the prevailing wage laws are repealed during the term of this Agreement, the Contractor shall pay the wage rates established under the recognized local collective bargaining agreement.

ARTICLE XX

GENERAL SAVINGS CLAUSE

Section 20.3 (*New Section*)

The Effective Date of this Extension Agreement is May 10, 2016.

IN WITNESS HEREOF, the parties hereto have executed this Extension Agreement effective May 10, 2016. Authorized by the San Francisco Public Utilities Commission at the public hearing held on May 10, 2016, by Resolution No. 16-0090.

FOR THE UNIONS

Michael Theriault
Secretary-Treasurer
San Francisco Building and
Construction Trades Council

FOR THE SAN FRANCISCO PUBLIC UTILITIES COMMISSION

Harlan L. Kelly, Jr., General Manager
San Francisco Public Utilities Commission

Approved As To Form
Dennis J. Herrera
City Attorney

Erik Rapoport

Erik Rapoport
Deputy City Attorney

Heat and Frost Insulators Local 16

Iron Workers Local 377

Boilermakers Local 549

Northern California District Council of Laborers

Bricklayers and Allied Crafts Local 3

Laborers Local 67

Carpenters Local 22

Laborers Local 261

Carpenters Local 2236

Lathers Local 68L

Cement Masons Local 300, Area 580

Millwrights Local 102

Electrical Workers Local 6

Operating Engineers Local 3

Elevator Constructors Local 8

Painters and Allied Trades District Council 16

Piledrivers Local 34

Teamsters Local 853

Plasterers Local 66

Teamsters Local 2785

Plumbers and Pipe Fitters Local 38

Roofers and Waterproofers Local 40

Sheet Metal Workers Local 104

Sign and Display Local 510

Sprinkler Fitters Local 483

Teamsters Local 665

San Francisco Citywide
Project Labor Agreement

SAN FRANCISCO CITYWIDE PROJECT LABOR AGREEMENT

This Project Labor Agreement is entered into by and between the City and County of San Francisco (hereinafter the "City"), together with contractors and subcontractors of all tiers, who shall become signatory to this Agreement by signing the Letter of Assent set forth in **Addendum A** (referred to collectively herein as "Contractors"), and the San Francisco Building & Construction Trades Council (hereinafter the "Council") and its affiliated local Unions that have executed this Agreement (referred to collectively herein as the "Union" or "Unions").

WHEREAS, effective February 18, 2019, the San Francisco Board of Supervisors ("Board") passed the Citywide Project Labor Agreement Ordinance, Ordinance No. 001-19, File No. 181043 ("Ordinance"), codified at Section 6.27 of the San Francisco Administrative Code ("Administrative Code"), which requires the City to negotiate a Citywide project labor agreement applicable to Covered Projects; and

WHEREAS, Section (b) of the Ordinance sets forth the findings and purpose of the Ordinance and this Agreement as determined by the Board and as supplemented by the statements herein; and

WHEREAS, the timely and successful completion of Covered Projects is of the utmost importance to meet the business and operational needs of the City and to avoid increased costs resulting from delays in construction on Covered Projects; and

WHEREAS, a large number of workers with various skills will be required in the performance of Covered Projects and will be represented by the Unions signatory to this Agreement and employed by Contractors; and

WHEREAS, the use of skilled labor on construction work increases the safety of construction projects as well as the quality of completed work; and

WHEREAS, it is recognized that on Covered Projects, with multiple Contractors and workers represented by different Unions on the job site at the same time over an extended period of time, the potential for work disruption may be substantial without an overriding commitment to maintain continuity of work; and

WHEREAS, the interests of the general public, the City, the Council, the Unions and the Contractors are served if the construction work proceeds in an orderly manner without disruption

because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

WHEREAS, the Contractors and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on Covered Projects and to encourage close cooperation among the Contractors and the Unions so that a satisfactory, continuous and harmonious relationship will exist among the parties to this Agreement; and

WHEREAS, this Agreement is not intended to replace, interfere with, abrogate, diminish or modify existing collective bargaining agreements in effect during the duration of Covered Projects insofar as legally binding agreements exist between the Contractors and the Unions, except that if the provisions of this Agreement are inconsistent with such collective bargaining agreements, the provisions of this Agreement shall prevail; and

WHEREAS, the City will award Construction Contracts for Covered Projects in accordance with the applicable provisions of federal, state and local law, including but not limited to the requirements of the San Francisco Charter and the San Francisco Administrative Code; and

WHEREAS, the parties place a high priority on developing the local construction workforce via programs for the recruitment, training and employment of local area residents and military veterans, and recognize the ability of local pre-apprenticeship and apprenticeship programs to provide meaningful and sustainable careers in the construction industry; and

WHEREAS, the parties pledge their full good faith and trust to work toward the satisfactory completion of Covered Projects;

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

ARTICLE I

PURPOSE

1.1 In addition to the legislative intent set forth in the Ordinance, and the WHEREAS provisions in the preamble of this Agreement, the purpose of this Agreement is to promote the efficiency and cost effectiveness of construction operations for the City through the use of skilled labor resulting in quality construction outcomes, and to prevent labor disputes and resolve grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of Covered Projects.

1.2 In addition, the cyclical nature of the Bay Area economy has led and will lead to high levels of unemployment and underemployment of San Francisco residents, particularly in certain neighborhoods and communities. Statistics indicate that high levels of unemployment or underemployment correlate to a higher number of families living at or near the poverty line. As a result, it is the policy of the City to increase and improve the employment of persons living in San Francisco in an attempt to counteract the grave economic ills associated with the unemployment and underemployment levels that have existed and will exist within San Francisco. As a result, there is a need to provide San Francisco residents with more opportunities to participate in workforce development and pre-apprenticeship programs that include life skills training and job readiness training. To this end, the City has funded the CityBuild Academy ("CityBuild") established by the Office of Economic and Workforce Development and has funded and may in the future fund additional programs such as the Mario DeLaTorre Academy. Such pre-apprenticeship programs increase the capacity of San Francisco residents to succeed later in formal apprenticeship programs and hence reduce unemployment and underemployment and accompanying poverty and economic conditions. This Agreement incorporates the parties' support for the CityBuild Academy and other pre-apprenticeship programs.

ARTICLE II

DEFINITIONS

2.1 Wherever a word or phrase defined below, or a pronoun used in place of such word, is used in this Agreement (as defined in this Section 2.1), it shall have the meaning set forth in this Section.

2.1.1 "Administrative Code" means the San Francisco Administrative Code, as may be amended. For informational purposes only, San Francisco Administrative Code Sections 6.0, 6.1, 6.2, and 6.3, in effect as of July 1, 2020, are attached hereto as **Addendum B**.

2.1.2 "Agreement" means this Project Labor Agreement.

2.1.3 "Board" means the San Francisco Board of Supervisors.

2.1.4 "City" means the City and County of San Francisco.

2.1.5 “Completion” means that point at which there is Final Acceptance by the City of a Construction Contract and the City has filed a Notice of Completion. For purposes of this definition, "Final Acceptance" means that point at which the City has determined upon final inspection that the work has been completed in all respects and all required contract documents, contract drawings, warranties, certificates, manuals and data have been submitted and training completed in accordance with the contract documents and the City has executed a written acceptance of the work.

2.1.6 “Contract” or “Construction Contract” means a Contract as that term is defined in Administrative Code Section 6.1 awarded on a Covered Project.

2.1.7 “Contractor” means any individual, firm, partnership, owner-operator, limited liability company, corporation, joint venture, proprietorship, trust, association, or other entity that is independent of the City and has entered into a Construction Contract with the City or Contractors of any tier. As applicable depending on its context, “Contractors” shall refer to Prime Contractors and/or Subcontractors at any tier.

2.1.8 “Core Employee” means an employee of a Contractor who has not previously had a relationship with the Union and who demonstrates the following qualifications: (1) possesses any license required by state or federal law for the Covered Work to be performed; (2) has worked a total of at least 1,000 hours in the construction craft during the three years prior to the demonstration; (3) has been on the Contractor’s active payroll for at least 500 hours during the most recent five (5) month time period prior to the demonstration; and (4) has the ability to perform safely the basic functions of the applicable trade. Notwithstanding the foregoing, an employee who is referred to a non-signatory Contractor as a Core Employee on a Covered Project may be treated as a Core Employee on other Covered Projects provided that employee meets the definition of Core Employee set forth above; this subsequent employment on other Covered Projects does not establish a relationship with the Union.

2.1.9 “Cost” means the amount of money the Department Head estimates the City will spend on construction work for a Covered Project. “Cost” does not include money the Department Head projects the City will spend on City employees, project

managers, program managers, construction managers, and design teams including, but not limited to, architects and engineers, or any other consultant employed by a City department and their respective sub-consultants, and other employees of professional service organizations, unless performing craft work.

2.1.10 "Council" means the San Francisco Building & Construction Trades Council.

2.1.11 "Covered Project" means a project performed under a Contract involving Public Work or Improvement as those terms are defined in Administrative Code Section 6.1, if either: (1) the Contract is funded in whole or in part by a General Obligation Bond or Revenue Bond and the Department Head estimates the Cost of the Contract to exceed the following threshold amounts: (a) $5,000,000 for Covered Projects where the advertisement for bid is released in the first year after the Effective Date of this Agreement, (b) $3,000,000 for Covered Projects where the advertisement for bid is released in the second year after the Effective Date of this Agreement, and (c) $1,000,000 for Covered Projects where the advertisement for bid is released in the third year after the Effective Date of this Agreement or thereafter; or (2) the Contract is funded by a source other than a General Obligation Bond or Revenue Bond and the Department Head estimates the Cost of the Covered Project to exceed $10,000,000, or (3) the Department Head has determined that delay in completing the Covered Project may lead to interruption or delay of services or use of facilities that are important to the essential operations or infrastructure of the City. Notwithstanding the foregoing sentence, "Covered Project" does not include any Public Work or Improvement projects undertaken by the San Francisco International Airport, the San Francisco Public Utilities Commission, the Port of San Francisco, or the San Francisco Municipal Transportation Agency. "Covered Project" also does not include any Public Work or Improvement project where application of this Agreement would violate the conditions of a state, federal, or other public funding source. In addition, "Covered Project" does not include: (i) a project under a Contract for professional services between the City and a consultant, Project Manager, construction manager or design team (but not a design-build contractor), including, but not limited to, architects and engineers, or other professional service providers; or (ii) a project under a subcontract for professional services with a consultant, Project Manager, construction manager or

design team, including, but not limited to, architects and engineers, or other professional service providers; unless the project under any such Contract or subcontract for professional service includes Covered Work and the dollar value of such Covered Work exceeds the monetary thresholds set forth in subsections (1) and (2) of this Section 2.1.11. In this situation, only the Covered Work portion of the project under the Contract or subcontract for professional services is covered by this Agreement. The requirement that, for Covered Work to be part of a Covered Project under a professional services Contract or subcontract, such Covered Work must exceed the monetary thresholds set forth in Subsections (1) and (2) of this Section 2.1.11 does not apply to shop and field drawings/details used in fabrication and erection under the International Association of Sheet Metal, Air, Rail and Transportation Workers, Sheet Metal Workers' Local Union No. 104's Schedule A agreement; such work is covered regardless of whether the monetary thresholds are met.

2.1.12 "Covered Work" means work under a Schedule A agreement performed under a Construction Contract.

2.1.13 "Days" means business days unless otherwise specified in this Agreement. If a deadline falls on a holiday or a weekend, the deadline shall fall on the next business day.

2.1.14 "Department Head" means a Department Head for a particular City department as defined in Administrative Code Section 6.1.

2.1.15 "Effective Date" means the date immediately after the City Administrator, the Council and all Unions have executed this Agreement.

2.1.16 "Expiration Date" means the day twenty (20) calendar years from the Effective Date.

2.1.17 "Letter of Assent" means the Letter of Assent attached to this Agreement as **Addendum A**.

2.1.18 "Local Business Enterprise Contractor" or "LBE Contractor" means any Contractor certified by the City as an LBE under Administrative Code Section 14B.

2.1.19 "LBE Threshold" means the five million dollar ($5,000,000) threshold applicable to LBE Contractors as set forth and more fully described in Section 3.5 (Local Business Enterprises).

2.1.20 "Local Resident" means a Local Resident as that term is defined in Administrative Code Section 82.3.

2.1.21 "Ordinance" means the Citywide Project Labor Agreement Ordinance, Administrative Code Section 6.27.

2.1.22 "Plan" means the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry.

2.1.23 "Prime Contractor" shall mean a Contractor who has a Construction Contract with the City on a Covered Project.

2.1.24 "Project Manager" means the person or entity designated by the City to oversee a Covered Project. A Contractor may function as Project Manager.

2.1.25 "Public Work or Improvement" means a Public Work or Improvement as that phrase is defined in Administrative Code Section 6.1.

2.1.26 "Schedule A agreements" means the applicable collective bargaining agreements of the Unions signatory hereto, including any agreements incorporated by reference therein. Schedule A agreements may also be referred to as "collective bargaining agreements" in this Agreement.

2.1.27 "Subcontractor" means any individual, firm, partnership, owner-operator, limited liability company, corporation, joint venture, proprietorship, trust, association, or other entity, at any tier, providing services to a Prime Contractor or other Subcontractor in fulfillment of the Prime Contractor's or other Subcontractor's obligations arising from a Construction Contract.

2.1.28 "Unions" means the Council and its affiliated local unions. These affiliated local unions are listed in a document that is on file in Board of Supervisors File No. 181043 and incorporated by reference as if set forth herein. The City Administrator and the Council may update the list by mutual agreement at any time. Nothing in the Ordinance or this Agreement is intended to imply that the City has the authority to approve the local unions that may affiliate with the Council.

2.2 The defined terms set forth in Section 2.1 and throughout this Agreement shall have the same meaning whether singular or plural and shall be treated in this Agreement as gender neutral.

ARTICLE III

SCOPE

3.1 **Parties.** This Agreement is made by and among the following parties with respect to Covered Projects: (1) the City; (2) the Unions; (3) the Council; and (4) the Contractors who agree to be bound by this Agreement through a Letter of Assent.

3.1.1 It is agreed that all Contractors and Subcontractors, of whatever tier, whom have been awarded Covered Work under a Construction Contract shall be required to accept and to be bound by the terms and conditions of this Agreement, and shall evidence their acceptance by executing the Letter of Assent attached hereto as **Addendum A** prior to the commencement of work. Each Contractor and Subcontractor shall provide a copy of the Letter of Assent to the Council and the City Administrator or designee prior to commencement of work.

3.1.2 When a Contractor enters into a subcontract with any Subcontractor to perform Covered Work under a Construction Contract, the Contractor shall require the Subcontractor, as a condition of accepting the award of the subcontract, to execute a Letter of Assent to be bound to the Agreement prior to the commencement of work. The Prime Contractor has the primary obligation to meet all conditions of this Agreement. This obligation cannot be relieved, evaded or diminished by subcontracting. Should the Prime Contractor elect to subcontract, the Prime Contractor shall continue to have such primary obligation.

3.1.3 The City has the absolute right to award a Construction Contract to any Contractor notwithstanding the existence or nonexistence of any agreement between such Contractor and any Union, provided only that such Contractor is willing, ready and able to execute and comply with this Agreement should such Contractor be awarded a Construction Contract, unless such Contractor is exempted under Section 3.5. All qualified Contractors and Subcontractors may bid and be awarded work on Covered Projects without regard to whether they are otherwise parties to collective bargaining agreements.

3.1.4 The City shall not divide Construction Contracts to intentionally evade the Covered Project monetary thresholds.

3.1.5 This Agreement shall be binding only on the signatory parties to this Agreement or to a Letter of Assent, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party.

3.1.6 The liability of the Contractor and the liability of any Union under this Agreement shall be several and not joint. This Agreement shall not have the effect of creating any joint employment status between or among the City, the Council, the Union, or any Contractor. Any dispute between the Unions and their signatory-Contractors respecting compliance with this Agreement shall not affect the rights, liabilities, obligations and duties between the Unions and such signatory-Contractors under their respective Schedule A agreements, unless specifically set forth in this Agreement.

3.1.7 If the City Administrator and the Council agree to update the list of affiliated local Unions on file in Board of Supervisors File No. 181043 by adding or deleting one or more Unions to the list, the Council shall ensure that the newly added Union(s) signs this Agreement at the same time as the list is updated.

3.2 The City, at its sole option and discretion, may add, delete, terminate, delay, modify or suspend any and all portions of a Covered Project at any time.

3.3 The City may also prohibit some or all Covered Work on certain days or during certain hours of the day to accommodate ongoing operations at City facilities or City security issues in the area of any Covered Project, or require such other operational or schedule changes that it may deem necessary.

3.4 **Construction Contracts and Contract Award.** For all Covered Projects advertised after the City Administrator signs the PLA on behalf of the City, each Department Head shall set as a precondition to the award of the Construction Contract that, except for LBE Contractors that have not reached the LBE Threshold, the Prime Contractor and its Subcontractors sign a Letter of Assent to be bound by the Agreement. The City shall include this Agreement in all advertisements for bid for Covered Projects. The City shall determine, in its sole discretion, the budget, schedule, terms and conditions, and scope of Covered Projects.

3.4.1 In awarding Construction Contracts subject to this Agreement, the City and Contractors shall comply with applicable federal, state, and local laws including, but not limited to, Administrative Code Chapters 6, 12B, 14B, 82 and 83.

3.4.2 The Unions shall support and cooperate in the implementation of all applicable local laws, recognizing the particular importance of local hiring policies, including as set forth in Administrative Code Chapters 82 and 83, and the City's interest in promoting opportunities for small local business enterprises as Contractors or Subcontractors to competitively bid for work on a Covered Project as set forth in Administrative Code Chapter 14B.

3.4.3 To avoid costly delays and additional expense on Covered Projects, the Council and the Unions agree to work cooperatively to encourage competitive bidding for all Covered Work on Covered Projects. The Council and the applicable Unions agree to use their best efforts to contact signatory Contractors, provide information to those Contractors to support bidding the work, and take any other reasonable steps to encourage bidding for the work. Nothing in this Section shall relieve the City or any Contractor of their responsibilities under this Agreement.

3.4.4 If an LBE Contractor who has not reached the LBE Threshold is a Prime Contractor, then any Subcontractor of the LBE Prime Contractor must comply with this Agreement unless otherwise exempt under Section 3.5.

3.5 **Local Business Enterprises.** Contractors certified as LBEs under Administrative Code Chapter 14B that are unwilling to execute the Letter of Assent before commencement of work shall be exempt from the terms of this Agreement, except as set forth herein.

3.5.1 The exemption in Section 3.5 shall apply until such time that the certified LBE Contractor has received an amount exceeding five million dollars ($5,000,000) for work on a Covered Project(s) cumulatively over the entire duration of this Agreement ("LBE Threshold"). The City Administrator shall establish a process to track the value LBE Contractors have received for work on Covered Projects. Notwithstanding the foregoing, a certified LBE Contractor exempt from the terms of this Agreement may nonetheless choose to sign a Letter of Assent and comply with this Agreement.

3.5.2 When the amount an LBE Contractor has received exceeds the LBE Threshold, the LBE Contractor shall sign a Letter of Assent and comply with this Agreement for all current, ongoing, and subsequent Construction Contracts. For current and ongoing Construction Contracts, an LBE, after exceeding the LBE Threshold, shall have a reasonable amount of time, not to exceed thirty (30) calendar days, to comply with this Agreement.

3.5.3 The City Administrator, or designee, shall track the LBE Threshold and shall provide documentation regarding the value LBE Contractors have received on Covered Projects to the Council and shall provide a report at each regularly scheduled JAC meeting.

3.6 **Covered Work.** This Agreement shall apply and is limited to Covered Work under Construction Contracts solicited and awarded by the City on or after the Effective Date of this Agreement and prior to the Expiration Date, and **includes**, but is not limited to, the following scopes of work:

3.6.1 Site preparation, surveying, construction, alteration, demolition, installation, improvement, remediation, retrofit, painting or repair of buildings, structures, geotechnical and exploratory drilling, temporary HVAC, landscaping and temporary fencing, soils and materials testing and inspection, pipelines (including those in linear corridors built to serve the Covered Project), pumps, pump stations, start-up, modular furniture installation, and final clean-up and related activities for a Covered Project that are within the craft jurisdiction of one of the Unions as set forth in a Schedule A agreement.

3.6.2 All on-site work for a Covered Project over which the City, a Contractor or a Subcontractor possesses the right of control, including fabrication work done in any temporary yard or area established for a Covered Project.

3.6.3 Off-site work, including fabrication, that is traditionally performed by the United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industry, Local No. 38, the International Brotherhood of Electrical Workers, Local 6, or the International Association of Sheet Metal, Air, Rail and Transportation Workers, Sheet Metal Workers' Local Union No. 104, and that is under a Covered Project, provided such work is covered by the local Schedule A agreement or local

addenda to a national agreement of the applicable Union, as more fully set forth by Side Letters of Agreement contained in **Addendum C**. In the event that a Union, other than the three (3) Unions listed above, negotiates language in a Schedule A regarding off-site work, including fabrication, the Council, the affected Union, and the City may mutually agree to cover such off-site work under this Agreement.

3.6.4 Work done in temporary yards, dedicated sites, or areas adjacent to the Project, and at any on-site or off-site batch plant constructed to supply materials to the Project.

3.6.5 Construction trucking work on a Covered Project, such as the delivery of ready-mix, asphalt, aggregate, sand or other fill or material that are directly incorporated into the construction process, as well as the off-hauling of debris and excess fill, material or mud, shall be covered by this Agreement to the fullest extent provided by prevailing wage law and by the applicable prevailing wage rate determinations. The furnishing of supplies, equipment or materials that are stockpiled for later use shall in no case be considered construction subcontracting and is not covered by this Agreement. Contractors, including brokers of persons providing construction trucking work, shall provide certified trucking payroll records to the City Administrator or designee within ten (10) calendar days of written request from the City Administrator or designee or as required by bid specifications.

3.6.6 Surveyors, on-site inspectors, material testers, and/or x-ray technicians customarily covered by the Schedule A agreements, and as to which classifications a prevailing wage rate determination has been published.

3.6.7 Start-up, calibration, commissioning performance testing, repair, maintenance, and operational revisions to systems and subsystems for a Covered Project performed after Completion as required under a Construction Contract and as customarily covered by a Schedule A agreement. This provision shall not apply if the work is: (i) excluded under a warranty or a guarantee under Section 3.6.9.6; or (ii) performed by City employees.

3.6.8 This Agreement applies to Construction Contracts on Covered Projects until Completion, except if the City directs a Contractor to engage in repairs, warranty work, punch list work, or modifications under a Construction Contract after Completion, or when a Contractor performs work under a change order for a

Construction Contract after Completion, in which case this Agreement shall apply to such work.

3.6.9 The following work is specifically **excluded** from the scope of this Agreement:

3.6.9.1 Work of non-manual employees, including but not limited to superintendents; supervisors above the level of general foreman; staff engineers; inspectors, quality control and quality assurance personnel (except that the classifications of surveyors, on-site inspectors, material testers, and/or x-ray technicians that are customarily covered by a Schedule A agreement and as to which classifications a prevailing wage determination has been published shall be covered by this Agreement); timekeepers; mail carriers; clerks, office workers, including messengers, guards, safety personnel, emergency medical and first aid technicians, and other professional, engineering, administrative, supervisory and management employees.

3.6.9.2 Work performed under the NTL Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, and all instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians; and Covered Work within the craft jurisdiction of the Elevator Constructors will be performed under the terms of the National Agreement of the International Union of Elevator Constructors, with the exception that Article XII (Work Stoppages, Strikes, Sympathy Strikes and Lockouts), Article XIII (Grievance Arbitration Procedure) and Article XIV (Work Assignments and Jurisdictional Disputes) of this Agreement shall apply to such work;

3.6.9.3 Work by all City employees.

3.6.9.4 Work by all consultants of the City, designated City representatives, Project Managers, construction managers and design teams including, but not limited to, architects and engineers, and other employees of professional service providers, unless such work is covered by a Schedule A agreement and is not excluded under Section 2.1.11;

3.6.9.5 Work for which a professional architect's or engineer's stamp is required;

3.6.9.6 Work by employees of a manufacturer or vendor necessary to maintain such manufacturer's or vendor's warranty or guarantee; provided, however, that the manufacturer or vendor can demonstrate by enumeration of specific tasks that the work cannot be performed by craft employees (including Core Employees) referred by the Unions;

3.6.9.7 All emergency work under Administrative Code Section 6.60, and special event work performed at the direction of the City in its sole discretion, where such contracts are not advertised for bid;

3.6.9.8 All off-site manufacture and handling of materials, equipment or machinery, except at dedicated project lay-down or storage areas, except as set forth in Section 3.6.3 above;

3.6.9.9 Off-site maintenance of leased equipment and on-site supervision of such maintenance work;

3.6.9.10 Off-site laboratory work for specialty testing or inspections;

3.6.9.11 Contracts awarded by the San Francisco Municipal Transportation Agency, the San Francisco International Airport, the San Francisco Public Utilities Commission, and the Port of San Francisco.

3.6.10 Electrical work performed on, near, or leading to or into the Covered Project site and undertaken by state, county, city or other governmental bodies, or their contractors, or by public utilities or their contractors, or by the City or its contractors, for work that is not within the scope of this Agreement, shall be excluded. Electrical work performed by public or private utilities, including all electrical utility, voice-data-video, and security installation work ahead of and up to the electrical service entry connection or the main point of entry into the building is also excluded from this Agreement. However, all electrical utility, voice-data-video, and security installation work performed after the electrical utility service entrance or the main point of entry shall be covered by this Agreement. Additionally, all contracted electrical work performed ahead of the service entrance connection and main point of entry that is inside the property line and provides for access to the building via a conduit or series of conduits shall also be covered by

this Agreement. This section applies only to electrical work covered under a Schedule A agreement for which there is a state prevailing wage determination.

3.6.11 The City has an interest in ensuring that Contractors working on art related Construction Contracts have the expertise to fabricate, install, inspect, repair and transport such art work in a safe manner consistent with industry standards and expertise, and in accordance with the original artist's design intent. To facilitate early resolution of any disputes on art related Construction Contracts, the parties may refer any disputes relating to fabrication, installation, repair and transport of art work under a Construction Contract to the JAC. In addition, the parties must submit such disputes to the JAC prior to filing a grievance pursuant to Article XIII.

3.7 **Complete Agreement.** The Council, Unions and Contractors agree to abide by the terms and conditions of this Agreement and further agree that this Agreement, together with the applicable Schedule A agreements, represent the complete understanding of the parties. Each Union shall provide current copies of its Schedule A agreement(s) and/or any agreements incorporated therein to the City Administrator or designee or any Contractor promptly upon request. The Unions shall be responsible for providing updated copies of their newly negotiated Schedule A agreements to the City Administrator or designee.

3.7.1 Where a subject is covered by both this Agreement and a Schedule A agreement, this Agreement shall prevail. Where a subject is covered by a Schedule A agreement and not by this Agreement, the Schedule A agreement shall prevail.

3.7.2 Any dispute as to whether this Agreement or any Schedule A agreement governs shall be resolved as provided under Article XIII [Grievance Procedure] of this Agreement.

3.7.3 The parties understand and agree that this Agreement is a stand-alone agreement and that by virtue of having become bound to the Agreement by a Letter of Assent, the Contractor will not be obligated to sign any other local, area or national agreement as a condition of performing Covered Work.

3.8 If the Board amends Chapter 6 of the Administrative Code, including the Ordinance, in a manner that nullifies or directly impacts this Agreement, then the Council, the Unions and the City shall meet to negotiate and amend this Agreement consistent with the amendments to the Administrative Code and the purpose of this Agreement.

ARTICLE IV

UNION RECOGNITION AND REFERRAL

4.1 The Unions shall be the primary source of craft labor employed on Covered Projects, subject to the provisions set forth in this Agreement.

4.2 No employee covered by this Agreement shall be required to join any Union as a condition of being employed, or remaining employed, to work on a Covered Project. All employees who are employed by Contractors to perform Covered Work shall be required, however, to be members in good standing with the referring Union or to comply with the union security provisions of the applicable Schedule A agreement on or before the eighth (8th) day of continuous or cumulative employment on a Covered Project. This requirement shall include rendering payment of the applicable periodic dues and fees uniformly required for membership in the applicable Union which is signatory to this Agreement, to the extent such payments are consistent with federal and state law.

4.3 The Contractor shall honor Union dues and initiation fees check-off pursuant to receipt of properly authorized dues deduction cards signed by its employees, along with other lawful authorizations from employees providing for deductions from wages.

4.4 The Contractor performing Covered Work shall, in filling craft job requirements, utilize and be bound by the registration facilities and referral systems established or authorized by the Unions signatory to this Agreement. The Contractor shall have the right to reject any applicant referred by a Union in accordance with the applicable Schedule A agreement.

4.5 The Unions will exert their best efforts to recruit sufficient numbers of skilled craft workers to fulfill Contractors' workforce requirements. If the Union's referral system does not refer the required number of qualified applicants requested by the Contractor within a forty-eight (48) hour period after such request is made (Saturdays, Sundays, and holidays excepted), the Contractor may withdraw the request and employ craft workers from other sources. If the Contractor hires an employee from another source, the Contractor promptly shall provide the appropriate Union with the name and address of the employee and refer the employee to the appropriate Union to satisfy the requirements of this Article. Nothing in this Article relieves the Contractor from its responsibilities under all other sections of this Agreement with respect to such employees.

4.6 Contractors signatory to local, regional, or national collective bargaining agreements with Unions signatory to this Agreement shall be bound to use the hiring hall provisions contained in the Schedule A agreement of the affected Unions, and nothing in the referral provisions of this Agreement shall be construed to supersede the local hiring hall provisions of the Schedule A agreements as they relate to such Contractors.

4.7 **Referrals of Core Employees to Contractors Not Signatory to a Schedule A Agreement.** The parties recognize the City's interest in providing opportunities to participate in Covered Projects to Contractors that may not have previously had a relationship with the Unions. Therefore, if a Contractor has its own core workforce, the Contractor may request by name, and the Union will honor, referral of Core Employees who have applied to the Union as set forth in Section 4.7.1 below, and who meet the definition of Core Employee as set forth in Section 2.1.8. Upon request, the Contractor shall provide the Union with satisfactory proof of the Core Employee's eligibility as set forth in Section 2.1.8.

4.7.1 **Core Employee Referral Procedure.** For a Contractor not signatory to a Schedule A agreement, the Union and the Contractor shall use an alternating process by which the Union shall refer to such Contractor one (1) of such Contractor's Core Employees as a journeyman and will then refer one (1) journeyman employee from the hiring hall out-of-work list for each affected trade or craft, and shall repeat the process, one and one, until such Contractor's crew requirements are met or until such Contractor has hired five (5) Core Employees for each trade or craft, whichever occurs first. Thereafter, all additional employees in the affected trade or craft shall be hired exclusively from the applicable hiring hall out-of-work list. For the duration of the Contractor's work on a Covered Project, the ratio shall be maintained and when the Contractor's workforce is reduced, the Contractor shall layoff Core Employees using the same alternating process.

4.7.2 A Contractor who hires any Core Employee to perform Covered Work shall provide the City Administrator or designee and the appropriate Union with the name, address, craft classification, and other required payroll information for such Core Employee, and refer such Core Employee to the appropriate Union to be dispatched, before the Core Employee starts working.

ARTICLE V

APPRENTICES/EMPLOYMENT OPPORTUNITIES

5.1 **Generally.** The parties recognize the need to develop adequate numbers of competent workers in the construction industry. Contractors shall employ apprentices only from a state-approved joint apprenticeship training program to perform such Covered Work that is customarily performed by the craft in which they are indentured and is within their capabilities.

5.2 The Council and the Unions also recognize the need to provide San Francisco residents with more opportunities to participate in workforce development and pre-apprenticeship programs for the reasons set forth in Section 1.2. The parties will cooperate and support the incorporation of apprentices, veterans, and local disadvantaged workers and Local Residents as provided in this Article V. The Union shall make best efforts to give credit to apprentices who are transitioning from a state-approved unilateral employer apprentice program to a state-approved joint apprenticeship training program commensurate with their knowledge, skills and abilities.

5.3 In order to offer legitimate, cost-effective, transparent and accountable workforce development programming in connection with this Agreement, and in furtherance of City-wide policy objectives, any construction industry pre-apprenticeship training and programming shall be coordinated by the Council and the Mayor's Office of Economic and Workforce Development and will be administered and overseen by CityBuild.

5.4 **Apprentices.** The Contractors and the Unions shall comply with the requirements of the State of California, Department of Industrial Relations, Division of Apprenticeship Standards, as set forth in the California Labor Code §1777.5, *et seq.*, as they may be amended from time to time.

5.4.1 Acceptable joint apprenticeship programs must have been approved by the State of California, Department of Industrial Relations, Division of Apprenticeship Standards. This requirement applies to any craft for which the Division of Apprenticeship Standards has approved an Apprenticeship Program. A properly indentured apprentice must be employed under the regulations of the craft or trade at the work of which the apprentice is indentured and shall be employed only for work of the craft or trade in which the apprentice is registered. Any review of an

alleged failure to comply with this Section 5.4.1, shall be made in conformance with Labor Code §1777.5, *et seq.*, as it may be amended from time to time.

5.4.2 The apprentice ratios will be in compliance with the provisions of the California Labor Code and the applicable state prevailing wage determination, as they may be amended from time to time.

5.4.3 Consistent with the Schedule A agreements, there shall be no restriction on using apprentices in performing the work of their craft provided they are properly supervised.

5.5 **CityBuild Agreements.** Within three (3) years after the Effective Date of this Agreement, all of the Unions with a state-approved joint apprenticeship program in construction shall enter into agreements, or modify existing agreements, with CityBuild to ensure graduates of CityBuild have a pathway for direct entry into the Union's apprenticeship program. Such CityBuild agreements shall be signed by authorized representatives of CityBuild and each Union, and shall at a minimum include verbatim the following terms:

5.5.1 To the maximum extent possible and consistent with all applicable federal, state and local laws, hiring hall procedures and apprenticeship program standards, the Union will refer graduates of CityBuild for employment on projects covered by the San Francisco Citywide Project Labor Agreement under San Francisco Administrative Code Section 6.27.

5.5.2 At least annually, the Union will participate in a job fair and information night exclusive to participants of CityBuild, to inform them about career opportunities and provide a pathway into the Union's apprenticeship program.

5.5.3 At the request of CityBuild, the Union will set up a trade booth at a career fair hosted by the City within the geographic limitations of the City.

5.5.4 At the request of CityBuild, once per CityBuild class cycle the Union will collaborate to provide guest speakers to CityBuild participants.

5.5.5 At the request of CityBuild, the Union will collaborate to host CityBuild participants at its apprenticeship training center.

5.5.6 The parties to the CityBuild agreement shall meet as reasonably requested, and no less than annually, to review the enrollment of CityBuild graduates and discuss

ways to further facilitate entry into the Union's apprenticeship program for graduates of CityBuild.

5.5.7 The Union will exert its best efforts to recruit CityBuild graduates and Local Residents to qualify for entry into its joint apprenticeship program(s). Towards that end, the Union shall prioritize outreach efforts for CityBuild graduates into the Union apprenticeship program from Local Residents residing within Tier 1 zip codes determined by CityBuild.

5.5.8 If the Union cannot recruit a sufficient number of Local Resident CityBuild graduates into the Union apprenticeship program under section 5.5.7 above, the Union will exert its best efforts to recruit Local Residents from any City zip code to qualify for entry into the Union apprenticeship program.

5.6 **Data Reporting.** On an annual basis, starting one year after the Effective Date, the Council and the Unions shall work with CityBuild to compile an annual joint report for the JAC, the City Administrator, or designee, the Mayor and Board of Supervisors, which shall include a summary of the gender, race, veteran status, zip code and number of:

i. CityBuild graduates accepted into joint apprenticeship programs;

ii. CityBuild graduates who have graduated from joint apprenticeship programs;

iii. Local Residents accepted into joint apprenticeship programs;

iv. Local Residents who have graduated from joint apprenticeship programs.

The Council, the Unions and CityBuild shall work together to validate the data underlying the annual report.

5.7 Nothing in this Article V shall prohibit the Unions and CityBuild from mutually agreeing to additional terms and conditions in their respective agreements. A copy of the Memorandum of Understanding between the San Francisco Office of Economic and Workforce Development's CityBuild Academy and the International Union of Elevator Constructors, Local Union No. 8 (Union) is attached as **Addendum D**.

5.8 Any Union that does not, on the Execution Date, have a state-approved joint apprenticeship program in construction, and thereafter adopts a state-approved joint apprenticeship program in construction, must enter into a CityBuild Agreement in accordance with Section 5.5 above. Within three (3) years after the Effective Date of this Agreement, each Union

that does not have a state-approved joint apprenticeship program in construction shall provide CityBuild with an acknowledgement that it will comply with Section 5.5 if the Union thereafter adopts a state-approved joint apprenticeship program in construction.

5.9 Two years after the Effective Date of this Agreement, at the next regularly scheduled meeting of the JAC, the Council shall appear to provide an update on the status of the Unions with respect to Section 5.5 above.

5.10 If any Union with a state-approved joint apprenticeship program in construction has not entered into an agreement, or modified an existing agreement, with CityBuild within two and one half years after the Effective Date of this Agreement, consistent with Section 5.5 above, that Union shall appear at a meeting of the JAC to facilitate compliance by the three year deadline. If any such Union has not entered into an agreement, or modified an existing agreement, with CityBuild within three years after the Effective Date of this Agreement, consistent with Section 5.5 above, then:

5.10.1 The City may file a grievance under Article XIII seeking enforcement of this section. The Arbitrator is authorized to mediate the dispute, and the losing party shall pay all arbitration costs associated with the grievance; and

5.10.2 The Arbitrator shall, if warranted: (a) issue monetary penalties including, but not limited to, per diem monetary penalties; and/or (b) impose injunctive relief.

5.10.3 Until an agreement between the Union and CityBuild is signed, the Union:

i. shall not file any legal challenges to this Agreement; and

ii. shall remain bound by Article XII (Work Stoppages, Strikes, Sympathy Strikes and Lockouts).

5.11 Nothing in this Article V shall prevent the Unions from recruiting apprentices into their respective apprenticeship programs from sources other than CityBuild.

5.12 **Military Veterans.** The Contractors and Unions share a desire to facilitate the entry into the building and construction trades of military veterans who are interested in careers in the building and construction industry. In addition to the Unions' local veteran recruitment programs, the Contractors and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment ("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. The Unions and Contractors agree to coordinate with the Center to participate in an integrated database of veterans interested in working on Covered Projects and of apprenticeship and employment opportunities for Covered Projects. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past construction experience.

5.13 To effectuate the goals of hiring military veterans, the Unions shall, on an annual basis, report to the JAC on the status of ongoing outreach efforts to increase the hiring of military veterans, including veterans hired through the Helmets to Hardhats program.

5.14 **Local Hiring.** The Unions and Contractors are bound by the requirements of Administrative Code Chapters 6, 12B, 14B, 82 and 83, as they may be amended from time to time, including but not limited to the provisions addressing Local Hire and Local Business Enterprises. Specifically, the parties to this Agreement support increasing the number of skilled construction workers from City residents to fulfill the needs of Covered Projects, as provided under San Francisco Administrative Code §6.22(G), as it may be amended from time to time. Under their Contracts with the City, Contractors will be required to comply with Administrative Code §6.22(G). The Unions will support the Contractors' efforts. The Unions agree, to the extent permitted by law, to encourage the referral and utilization in hiring hall procedures of qualified City residents as journeymen and apprentices to work on Covered Projects.

ARTICLE VI

UNION REPRESENTATION AND STEWARDS

6.1 Authorized representatives of the Unions shall have access to Covered Projects, provided that they do not unreasonably interfere with the work of the employees and further provided that such representatives fully comply with the posted visitor, security and safety rules and regulations. This Section is not intended to interfere with the Unions' right to administer this Agreement, or engage in lawful Union activity, or interfere with the Union's responsibility to provide representation to employees.

6.2 The Contractors recognize the Unions as the sole bargaining representatives of all craft employees working within the scope of this Agreement.

6.3 Each Union shall have the right to appoint a working steward for each shift in accordance with the applicable Schedule A agreement; however, the steward shall not be a supervisor. The working steward will be permitted a reasonable amount of paid release time to fulfill the steward's Union duties. Each Union shall notify the applicable Contractor of the steward working on each Covered Project.

6.4 Stewards shall not have the right to determine when overtime shall be worked or who shall work overtime. Steward overtime shall be as provided in the applicable Schedule A agreement, provided the steward is qualified to perform the overtime work available.

ARTICLE VII

MANAGEMENT RIGHTS

7.1 The Contractor(s) retains full and exclusive authority for the management of its work force for all work performed under this Agreement. This authority includes, but is not limited to, the right to:

i. Plan, direct and control the operation of all the work.

ii. Decide the number and types of employees required to perform the work safely and efficiently. The lawful manning provisions of the applicable Schedule A shall be recognized.

iii. Hire, promote, and lay off employees as deemed appropriate to meet work requirements and/or skills required. The Contractor will determine the competency and qualifications of applicants and employees with the right to hire, reject, or terminate for just cause.

iv. Assign and schedule work at its sole discretion and determine when overtime will be worked.

v. Discharge, suspension or discipline of employees will be handled under the applicable craft Schedule A.

7.2 Unless otherwise specified in this Agreement, the Contractor may use any method or techniques of construction. The use of new technology, equipment, machinery, tools and/or labor saving devices and methods of performing work may be initiated by the Contractor from time-to-time during the Project. Except as specifically provided for

herein, there shall be no limitation or restriction by a signatory Union upon a Contractor's choice of materials or design.

7.3 Notwithstanding Section 7.2 above, upon the request of a Union, a Contractor must meet and confer with the Union regarding the wages and benefits that should apply to the use of new technology as required under the applicable Schedule A agreement. Such meet and confer shall not delay any Covered Work.

ARTICLE VIII

WAGES AND BENEFITS

8.1 Contractors shall classify and pay all employees covered by this Agreement for all hours worked in accordance with the classification(s) and wage scales, overtime scales and benefits contained in the prevailing wage determination under Chapter 6 of the Administrative Code. If the prevailing wage laws are repealed during the term of this Agreement, the Contractor shall pay the wage rates established under the applicable Schedule A agreement(s).

8.2 All employees covered by this Agreement shall have fringe benefit contributions made on their behalf by the Contractor employing those employees to the recognized employee benefit trust funds identified in the applicable Schedule A agreements.

8.3 Holidays shall be set forth in the applicable Schedule A agreement.

8.4 Each Contractor shall pay contributions to the established employee benefit trust funds in the amounts designated in the applicable Schedule A agreement on behalf of all employees and make all employee-authorized deductions in the amounts designated in the applicable Schedule A agreement.

8.5 While performing Covered Work, each Contractor agrees to be bound by the written terms of the applicable, legally-established trust agreements specifying the detailed basis on which payments are to be made into, and benefits paid out of, such trust funds for Contractor's employees. The Contractor 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. Each Contractor agrees to execute a separate subscription agreement if the trust fund so requires.

8.6 The Unions shall notify the Contractor and the City Administrator or designee of any Contractor delinquencies as soon as they learn of such delinquencies and as set forth in Section 12.5. However, any failure to provide such notice shall not affect the Unions' or their members' right to recover such delinquencies under the law.

8.7 Nothing in this Agreement shall affect normal legal remedies available under the Schedule A agreements or trust agreements against Contractors signatory to those agreements for recovery of Contractor or Subcontractor delinquencies.

ARTICLE IX

HEALTH AND SAFETY

9.1 The Contractor shall comply fully with all laws, orders, rules, regulations, requirements, standards, and statutes with respect to occupational health and safety, the handling and storage of hazardous materials, accident prevention, safety equipment and practices including, but not limited to, any safety rules adopted by the State Department of Industrial Relations, the City, and/or the Contractor.

9.2 The Contractor is responsible for ensuring safe working conditions and employee compliance with any safety rules, safety regulations and safety requirements contained herein or established by the City, the City's designated Project Manager, or the Contractor. The Contractor shall publish and post such rules, regulations and requirements in conspicuous places throughout the work site. Employees shall be bound by the published and posted safety rules, regulations and requirements established by the City, the Project Manager, and/or the Contractor. An employee's failure to satisfy the obligations under this Article shall subject the employee to discipline, up to and including discharge. Nothing in this Agreement shall make the Unions or the City liable to any employee or to other persons or entities if an injury or accident occurs.

9.3 Each Contractor and Subcontractor shall be required to have each employee sign in themselves before the start of each shift and sign out at the close of each shift. All employees shall sign in and sign out themselves at a location designated by the Prime Contractor. These sign in sheets shall be kept by the Prime Contractor on a daily basis and retained at the Covered Project job site from the first day of the Covered Project until the Completion of the Covered Project. The sign in sheets, copies of which may be retained

electronically, shall be made available upon request to the Project Manager, the Council, and/or the Unions for inspection and to copy.

9.4 No employee may purchase, sell, transfer, furnish, possess, or use drugs (illegal under federal or state law) or alcohol while working on any Covered Project job site. No employee may be under the influence of drugs (illegal under federal or state law) or alcohol while working on any Covered Project job site, or when using any Contractor vehicle or heavy equipment.

9.5 The use, sale, transfer, purchase and/or possession of a firearm at any time on a Covered Project site is prohibited.

9.6 The proper use of prescription drugs or over-the-counter medication as part of a medical treatment program and consistent with the terms of this Article is not a violation of this Article. The improper use of prescription drugs, over-the-counter medication or the use of designer or synthetic drugs that alter or affect an individual's motor function or mental capacity while working on any Covered Project job site, or when using any Contractor vehicle or heavy equipment, is prohibited and is a violation of this Article.

9.7 A Contractor may suspend all or a portion of the Covered Work to protect the life and safety of an employee or employees. In such cases, the Contractor shall compensate affected employees in conformance with the applicable Schedule A agreements.

9.8 The Contractor shall provide adequate supplies of drinking water and sanitary facilities for all employees.

9.9 The Contractor shall, at the site of a Covered Project, maintain adequate first aid equipment and provisions for the safety of its employees. The Contractor shall arrange for adequate and prompt transportation to a hospital or doctor for any employee who is injured on the job and may require medical attention. The Contractor shall post at the job site the name and address of the hospital and the doctor who would provide such medical attention and the contact information for the Contractor's Workers' Compensation Insurance carrier.

9.10 In the event of an injury or accident, this Agreement shall not constitute grounds for liability to any employee or to other persons or entities by or among the Unions, the Contractor, or the City.

ARTICLE X

DRUG AND ALCOHOL TESTING

10.1 Drug and alcohol testing shall be conducted in accordance with the substance abuse prevention policies set forth in the applicable Schedule A agreement.

10.2 If the City determines that a single drug and alcohol testing policy is preferable to the multiple policies set forth in the Unions' Schedule A agreements, then the drug and alcohol testing policy attached to the San Francisco Public Utilities Commission Water System and Improvement Program ("WSIP") Project Labor Agreement, as amended, may be implemented for all Covered Work under this Agreement or for a particular Covered Project or Projects.

10.3 If the City is unable to implement the WSIP Project Labor Agreement drug and alcohol testing policy under this Agreement, the City shall request to meet and confer with the Council in order to substitute, by mutual agreement, language that would allow the WSIP policy to be implemented. If, following that meeting, the City and the Council have not agreed upon language, the City may submit a proposed drug and alcohol testing policy for a final and binding decision under the Grievance Procedure in Article XIII.

ARTICLE XI

PRE-CONSTRUCTION CONFERENCE

11.1 The Project Manager shall provide notice and hold a pre-construction conference at least fourteen (14) calendar days before the commencement of any Covered Project. Each pre-construction conference shall be held at a date, time, and location designated by the Project Manager, with at least fourteen (14) calendar days' prior notice to the Council, and shall be attended by representatives from the Project Manager and all Contractors and Subcontractors, including LBE Contractors, and the Unions.

11.2 It is the responsibility of the Prime Contractor to coordinate and ensure all Subcontractors, including LBE Contractors, attend the pre-construction conference. The Project Manager will be responsible for taking meeting minutes of discussions and distributing those minutes within two (2) days after the pre-construction conference to participants, including Contractors, Subcontractors and the Council.

11.3 At the pre-construction conference, the Contractors shall announce the assignment of work. The Contractor shall fill out and submit the Council's Craft Assignment Form (attached as **Addendum E**) to the Council at or before the pre-construction conference.

11.4 The pre-construction conference shall include, but not be limited to, the following subjects:

i. A listing of each Contractor's scope of work;

ii. Craft assignments;

iii. Estimated number of craft workers required to perform the work;

iv. The estimated start and completion dates of the work;

v. Transportation arrangements (if any);

vi. The use of new technology, equipment, machinery and/or tools (if any); and

vii. Pre-fabricated materials (if any).

11.5 Any Union jurisdictional dispute relating to the assignment of work made at the pre-construction conference and listed on the Craft Assignment Form (attached as **Addendum E**) is waived if not made within twenty-one (21) calendar days of the pre-construction conference, or from when the Union becomes aware or should have become aware of the pre-construction conference assignment on the Craft Assignment Form. All work shall proceed without delay as assigned at the pre-construction conference notwithstanding any pending disputes about the assignment of any portion of that work. Work assignments and jurisdiction disputes are subject to the procedures set forth in Article XIV [Work Assignments and Jurisdictional Disputes].

11.6 For any Covered Projects where LBE requirements apply, the Project Manager shall provide to the Council and the Unions the LBE Participation Worksheet ("Worksheet") (sample attached as **Addendum F**). This Worksheet will be provided at or before the pre-construction conference.

11.7 The pre-construction conference referenced in this Article is the same as the "pre-job conference with the Council" referenced in Section 14.5.

ARTICLE XII

WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS

12.1 During the term of this Agreement, there will be no strikes, sympathy strikes, picketing, work stoppages, slowdowns, interference with the work or other disruptive activity for any reason by the Unions, the applicable local Union, or by any employee, and there shall be no lockout by the Contractor. Signatory Unions and their represented employees shall refuse to honor picket lines or any work stoppages at the Contractor's project site.

12.2 If any applicable Schedule A agreement between a Contractor and Union expires before the Contractor completes the performance of its Construction Contract, and the Union and Contractor fail to reach agreement on a new or extended Schedule A agreement, the Union shall not strike or engage in other activities prohibited under this Article XII. The Contractor and the Union agree that the expired Schedule A agreement shall continue in full force and effect until a new or extended Schedule A agreement is reached between the Contractor and the Union.

12.3 There shall be no lockout of any kind by any Contractor arising out of, or relating to, a dispute under this Agreement or relating to a Covered Project.

12.4 The failure of any Union or its represented employees to cross any picket line at the site of any Covered Project during the term of this Agreement, whether the picket line is established by any union, signatory or non-signatory, to this Agreement, or by any other organization or individual, is a violation of this Article. Contractors and Unions shall take all steps necessary to obtain compliance with this Article.

12.5 In the case of an alleged nonpayment of wages or trust fund contributions on a Covered Project, the Union shall give written notice of the alleged non-payment to the Project Manager, the City Administrator or designee and the applicable Contractor or Subcontractor. The written notice shall provide for either: (a) five (5) days' notice to cure when a nonpayment of trust fund contributions has occurred; or (b) two (2) days' notice to cure when a nonpayment of wages has occurred, or when a financial institution normally recognized to honor such paychecks will not honor paychecks tendered to such institution because of insufficient funds and, in either case; (c) notice of the intent to withhold labor under this Section 12.5 from the Contractor's or Subcontractor's workforce if the non-payment is not cured during the notice period. Upon timely notification of an alleged

nonpayment of wages or trust fund contributions, the City may work with the Contractor and/or Subcontractor that is delinquent in payments to assure that proper wage and benefit payments are made. In the event a default is not cured after the applicable notice period has expired, a Union's withholding of labor (but not picketing) from the Contractor or Subcontractor, shall not be considered a violation of this Article.

12.6 If the City or any Contractor contends that any Union(s) has violated this Article, it will notify in writing the Council, the Senior Executive of the involved Union(s), and the City Administrator or designee, setting forth the facts the complaining party contends constitute a violation. The Council will immediately use its best efforts to cause the cessation of any violation of this Article and the leadership of the involved Union(s) shall immediately direct the membership to cease any violation of this Article. The City or any Contractor shall adhere to the procedure set forth in this Section prior to taking any action under Section 12.8 below.

12.7 If the Union contends that any Contractor has violated this Article, it will notify in writing the applicable Contractor, the Council and the City Administrator or designee, setting forth the facts the complaining party contends constitute such a violation. The City shall immediately order the involved Contractor to cease any violation of this Article and the Contractor shall immediately order any involved Subcontractor to cease any violation of this Article. A Union shall adhere to the procedure set forth in this Section prior to taking any action under Section 12.8 below.

12.8 **Expedited Arbitration**. When a party alleges a breach of this Article has occurred, the party shall institute the following procedure after providing the applicable notice under Section 12.6 or 12.7 above:

12.8.1 The party invoking this procedure shall make a written request to Robert Hirsch who is the permanent arbitrator under this Article and to the parties alleged to be in violation of this Article. In the event that the permanent arbitrator is unavailable at any time, the parties shall make a written request to Barry Winograd as the alternate. Request may be made by electronic mail, hand delivery, or overnight mail, which will be deemed effective upon receipt. If neither of the designated arbitrators are available within a reasonable period of time to hear the dispute, the parties may designate an arbitrator. If the parties are unable to reach agreement on

an arbitrator, the parties shall select an arbitrator by the alternate striking method from a list of seven (7) experienced Northern California construction industry labor arbitrators obtained from the American Arbitration Association.

12.8.2 The arbitrator shall hold a hearing within twenty-four (24) hours after receipt of the notice invoking the procedure under this Section.

12.8.3 The arbitrator shall notify the parties of the place and time chosen for this hearing. The hearing shall be completed in one session, not to exceed twenty-four (24) hours, including appropriate recesses, unless otherwise agreed upon by all parties. A failure of any party or parties to attend a hearing shall neither prevent the arbitration from proceeding nor delay the hearing of evidence or the issuance of any decision by the arbitrator.

12.8.4 The sole issue at the hearing shall be whether a violation of this Article has occurred. The arbitrator shall not consider any matter in justification, explanation, or mitigation of such violation and shall not award damages except as provided in Section 12.9, below. The arbitrator shall issue a written decision and award within three (3) hours after the close of the hearing and may or may not include a written opinion. If any party desires a written opinion, the arbitrator shall issue one within ten (10) days but its issuance shall not delay compliance with or enforcement of the award. The requesting party shall be responsible to pay any additional cost associated with the written opinion. The arbitrator may order cessation of any violation of this Article and other appropriate relief, and shall serve the award on all parties by hand or electronic mail.

12.8.5 Any rights created by statute or law governing arbitration proceedings and any practices, understandings, or agreements between the parties that are not specifically set forth in this Agreement and that are inconsistent with or interfere with the above procedure are hereby waived by the parties to whom they accrue.

12.8.6 The fees and expenses of the arbitrator shall be equally divided between or among the party or parties initiating this procedure and the respondent party or parties.

12.8.7 If a hearing has not taken place within three Days after a party has requested an arbitrator under the expedited arbitration procedure set forth in subsection (a) above, then the City or the Council may seek judicial enforcement of Sections 12.1, 12.2, 12.3, 12.4, and 12.5, in addition to the relief set forth in this Section 12.8.

12.8.8 The procedures contained in Sections 12.8.1 through 12.8.7 shall be applicable to alleged violations of this Article. Disputes alleging violation of any other provision of this Agreement, including any underlying disputes alleged to be in justification, explanation or mitigation of this Article, shall be resolved under the grievance procedure or jurisdictional dispute procedure of this Agreement.

12.9 If the arbitrator determines that a violation of Section 12.1, 12.2, 12.3, 12.4, or 12.5 has occurred, the breaching party shall within twenty-four (24) hours after the issuance of the award take all steps necessary to immediately cease such activities and return to work. If the breaching party does not cease such activities by the beginning of the next shift following the expiration of the twenty-four (24) hour period after the arbitrator's issuance of the award, then the breaching party shall pay to the City as liquidated damages and not as a penalty the sum of fifteen thousand dollars ($15,000) per shift until the breach is remedied. The arbitrator shall retain jurisdiction for the purpose of determining compliance with this obligation, and determining the amount of liquidated damages, if any; but~~,~~ such retention shall not prevent or delay judicial enforcement of the initial decision.

12.10 The City is a party of interest in all proceedings arising under this Article and, at its option, may participate in any proceeding initiated under this Article. However, the City shall not be responsible for any fees and expenses under Section 12.8.6 unless the City initiates the expedited arbitration procedure.

12.11 Any party to the arbitration may seek to confirm, correct or vacate the award in the San Francisco Superior Court. The moving party shall serve the Court's order or orders on all parties by hand or by certified mail.

12.12 Should any of the arbitrators listed in this Article no longer work as a labor arbitrator, the City and the Council shall mutually agree upon a replacement.

ARTICLE XIII

GRIEVANCE ARBITRATION PROCEDURE

13.1 Any question, dispute, or claim arising out of, or involving the interpretation or application of this Agreement shall be considered a grievance and shall be resolved in conformance with the procedures set forth in this Article. However, jurisdictional disputes, addressed under Article XIV, between a Contractor and the City arising out of performance of a

Construction Contract, and disputes involving alleged violations of the work stoppage provisions contained in Article XII are not grievances subject to this Article XIII.

13.2 Any dispute as to the interpretation or application of a Schedule A agreement between a Union and a Contractor signatory to that Schedule A agreement, where such dispute involves an issue not covered in this Agreement, shall be resolved in conformance with the grievance procedures contained in the particular Schedule A agreement.

13.3 No grievance initiated by a Union or Contractor shall be recognized unless called to the attention of the other party by the party who filed the grievance (hereinafter "Grievant") as soon as possible after the alleged violation was committed, but in no event more than thirty (30) days after the grievant knew or reasonably should have known of the event giving rise to the dispute. In addition to the Unions and Contractors, the City also has the authority to initiate a grievance and to avail itself of the grievance and arbitration procedure described in this Article, subject to the timelines stated herein.

13.4 Grievances shall be resolved under the following procedures:

13.4.1 **Step 1.** Within five (5) days after receipt of the written notice of the grievance, the business representative of the Union involved and the Contractor's designated representative at the construction site shall confer and attempt to resolve the grievance. The Union or Contractor, as applicable, shall notify the Project Manager and the City Administrator or designee of the grievance by email and the Project Manager and City Administrator or designee may participate in the Step 1 meeting if they wish.

13.4.2 **Step 2.** If the representatives are unable to resolve the dispute either party may advance the grievance to Step 2 within ten (10) days after the Step 1 grievance meeting by referring the grievance to the Joint Administrative Committee ("JAC") (see Article XV below). The JAC shall then meet within five (5) days after the referral of the grievance (or such longer time as agreed by more than half the members of the JAC), to confer in an attempt to resolve the grievance. Regardless of which party initiated the grievance, the Union will notify its International Union representative prior to the Step 2 meeting, and the International Union representative shall advise if it intends to participate in the Step 2 meeting. The Project Manager and the Council shall have the right to participate in any efforts to

resolve the grievance at Step 2. If the dispute is not settled or otherwise resolved within five (5) days after the Step 2 meeting, or such longer time as mutually agreed upon by the parties that cannot exceed ninety (90) calendar days after the Step 2 meeting, either party may advance it to Step 3.

13.4.3 **Step 3.** Any grievance timely advanced to Step 3 shall proceed as follows:

13.4.3.1 The party requesting advancement to Step 3 shall serve the Step 3 request on the other party, with a copy to the City Administrator or designee, the Council, and the Project Manager, by hand delivery or electronic mail. Grievances that are not advanced to Step 3 within ninety (90) days of the Step 2 meeting, are waived.

13.4.3.2 The parties shall select an arbitrator from among the following designated arbitrators: David Weinberg, Morris Davis, Robert Hirsch, Barry Winograd, Catherine Harris, Joel Schaffer, and Barbara Kong-Brown, who shall constitute a permanent panel of arbitrators and who shall be selected to hear disputes on an alternate striking method. The winner of a coin flip may choose first or second strike. If none of the designated arbitrators (in reverse strike order) are available within one hundred and twenty (120) calendar days, or longer if mutually agreed to by the parties, the parties shall select an arbitrator by the alternate striking method from a list of seven (7) experienced Northern California construction industry labor arbitrators obtained from the American Arbitration Association.

13.4.3.3 The arbitrator shall arrange for a hearing on the earliest date available, recognizing that time is of the essence for all parties.

13.4.3.4 The arbitrator's decision shall be confined to the issue(s) posed by the grievance and the arbitrator shall not have the authority to modify, amend, alter, add to or subtract from, any provision of this Agreement. The arbitrator shall issue a written decision and award within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. If any party desires a written opinion, the arbitrator shall issue the opinion within fifteen (15) days of the request, but its issuance shall not delay compliance with, or enforcement of the award. The requesting party shall be responsible to pay any additional cost

associated with the written opinion. The arbitrator's decision shall be final and binding on all parties to the grievance.

13.4.3.5 The cost of the arbitrator's fees and expenses, and any cost to pay for facilities for the hearing shall be borne equally by the parties to the grievance. If any party requests a court reporter, the cost of the court reporter shall be borne by the requesting party.

13.4.3.6 Any of the time periods set forth in this Article may be modified in writing by mutual consent of the parties to the grievance, and any written referral or request shall be considered timely if it is personally delivered, faxed, electronically mailed, or postmarked during the extended time period. Failure to respond in writing within the time limits provided above, without a request for an extension of time, shall be deemed a waiver of such grievance with prejudice. Notwithstanding the foregoing, a grievance filed regarding a subsequently occurring like or similar dispute may be resolved through this grievance procedure provided that it is timely filed and advanced through the grievance steps.

13.5 All disputes involving discipline and/or discharge of employees working on a Covered Project shall be resolved through grievance and/or arbitration provisions contained in the Schedule A agreement for the Union of the affected employee.

13.6 The City is a party in interest in all proceedings arising under this Article and, at its option, may participate in any proceeding initiated under this Article. However, the City shall not be responsible for fees and expenses unless it initiates the procedure.

13.7 Should any of the arbitrators listed in this Article no longer work as a labor arbitrator, the City and the Council shall mutually agree upon a replacement.

ARTICLE XIV

WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

14.1 The assignment of Covered 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 (the “Plan”) or any successor Plan.

14.2 All jurisdictional disputes on a Covered Project between or among the building and construction trades Unions and the Contractors party to this Agreement, shall be settled and adjusted according to the present Plan 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 Contractors and Unions party to this Agreement.

14.3 If a dispute arising under this Article involves the Northern California Carpenters Regional Council or any of its subordinate bodies, then an arbitrator shall be chosen by the procedures specified in Article V, Section 5 of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch and Thomas Pagan, and the arbitrator's hearing on the dispute shall be held at the offices of the California State Building and Construction Trades Council in Sacramento, California within fourteen (14) calendar days of the selection of the arbitrator. All other procedures shall be as specified in the Plan.

14.4 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. Individual employees violating this section shall be subject to immediate discharge.

14.5 Each Contractor will conduct a pre-job conference with the Council prior to commencing 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 Contractors may be held together.

ARTICLE XV

JOINT ADMINISTRATIVE COMMITTEE AND NOTICE

15.1 **Joint Administrative Committee.** The parties to this Agreement shall establish a six (6) person JAC. The JAC shall be comprised of three (3) representatives selected by the City (designated by the City Administrator) and three (3) representatives of the signatory Unions selected by the Council. The City or the Council may select an alternate in the event that a representative is not available to attend a JAC meeting.

15.2 The JAC shall meet as needed to review the implementation of this Agreement and the progress of Covered Projects, and attempt to resolve problems and grievances by majority vote. Any such vote shall constitute a recommendation and shall not be binding. Nothing

in this Article shall be construed to waive the right of any party to bring a grievance to arbitration as provided in this Agreement or, if appropriate, the applicable Schedule A agreement. This Article shall not apply to individual employee discipline. Meetings of the JAC may be convened by the City or the Council.

15.3 **Notice.** For purposes of providing notices under this Agreement, communications to the City Administrator must be sent to:

Office of the City Administrator, City Hall, 1 Dr Carlton B. Goodlet Place, Room 362, San Francisco, California 94102.

The City Administrator may update the contact information for notices as necessary by written notice to the Council.

ARTICLE XVI

NO DISCRIMINATION

16.1 The Contractors and Unions agree not to engage in any form of discrimination because of actual or perceived race, color, creed, national origin, ancestry, age, sex, sexual orientation, disability, or any other protected classification, against any employee or applicant for employment on a Covered Project. The signatory Unions represent that their respective job referral systems are operated in full compliance with the federal, state, and local laws and regulations requiring equal employment opportunities and non-discrimination.

ARTICLE XVII

SAVINGS CLAUSE

17.1 If any article or provision of the Agreement shall be declared invalid, inoperative or unenforceable by any competent authority of the executive, legislative or judicial branch of the Federal or California government, the City, Contractor and the Council shall suspend the operation of such article or provision during the period of its invalidity. The City shall substitute by mutual consent of the Council, in its place and stead, an article or provision which will meet the objections to its validity and which will be in accord with the intent and purpose of the article or provision in question, if possible.

17.2 Should a court of competent jurisdiction nullify a significant portion of the Agreement so that any party believes that the intention of the parties can no longer be achieved, the parties shall reconvene to renegotiate the terms of the Agreement, with all the provisions of the

Agreement being open. The remaining provisions of the Agreement shall remain in full force and effect until a successor Agreement is fully ratified. If the parties do not reach a successor Agreement, then the entire Agreement shall be null and void.

ARTICLE XVIII

TERM

18.1 This Agreement shall remain in effect for a period of twenty (20) years from the Effective Date as defined in Article II of this Agreement. This Agreement shall apply to Construction Contracts awarded after the Effective Date and prior to the Expiration Date. Any Construction Contract awarded during the term of this Agreement shall continue to be covered hereunder until Completion notwithstanding the Expiration Date of this Agreement.

18.2 Prior to the Expiration Date of this Agreement, the City and the Council shall meet to discuss whether the parties should extend this Agreement for an additional term and whether to jointly make such a recommendation to the Board of Supervisors.

ARTICLE XIX

MISCELLANEOUS PROVISIONS

19.1 The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

19.2 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. The parties agree that their signatures on any facsimile or electronic transmission thereof shall be fully binding upon them in the same manner as if the parties had each signed the same original Agreement.

19.3 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 signing this Agreement warrants and represents that such party is legally authorized and entitled to enter into this Agreement.

19.4 The parties agree that jurisdiction to enforce this Agreement shall be limited to the San Francisco Superior Court or United States District Court, Northern District of California. All disputes arising out of this Agreement shall be resolved by the San Francisco Superior Court, or United States District Court, Northern District of California, in accordance with

the provisions set forth in this Agreement. This Section 19.4 is not intended to abrogate or otherwise interfere with any arbitration or dispute resolution procedures, rights, or obligations set forth in this Agreement.

19.5 This Agreement is to be governed by and construed in accordance with the laws of the State of California and without regard to the conflicts of laws principles thereof.

19.6 The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

[*Signatures on page to follow*]

CITY AND COUNTY OF SAN FRANCISCO

By: Naomi M. Kelly Date: 7/14/2020

Naomi Kelly, City Administrator

SAN FRANCISCO BUILDING AND
CONSTRUCTION TRADES COUNCIL

By: Date:

Title: SECRETARY-TREASURER

TIM PAULSON

APPROVED AS TO FORM:
DENNIS J. HERRERA, CITY ATTORNEY

By: Erik A. Rapoport Date: 7/14/2020

Erik A. Rapoport, Deputy City Attorney

UNION SIGNATURES

Insulators &Asbestos Workers, Local 16

By: _____

Boilermakers, Local 549

By: _____

Bricklayers & Allied Craftworkers, Local 3

By: _____

Cement Masons, Local 300

By: _____

Electrical Workers, Local 6

By: _____

Elevator Constructors, Local 8

By: _____

Iron Workers, Local 377

By: _____

Laborers, Local 261

By: _____

Laborers, Local 67

By: _____

Northern California District Council of Laborers

By: _____

Operating Engineers, Local 3

By: _____

Plasterers, Local 66

By: _____

Roofers & Waterproofers, Local 40

By: _____

International Association of Sheet Metal, Air, Rail and Transportation Workers, SMW Local Union No. 4

By: _____

Sign & Display, Local 510

By: _____

Sprinkler Fitters, Local 483

By: _____

[*continued on next page*]

Teamsters Local 2785

By: _____

Teamsters Local 350

By: _____

Teamsters Local 853

By: _____

Teamsters Local 665

By: _____

District Council No. 16 Northern California International Union of Painters & Allied Trades (on behalf of Painters Local 913, Carpet, Linoleum & Soft Tile Workers Local 12, Glaziers Local 718)

By: _____

Northern California Carpenters Regional Council (on behalf of Carpenters Local 22, Carpenters Local 2236, Lathers Local 68L, Millwrights Local 102, Pile Drivers Local 34)

By: _____

United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry, Local 38

By: _____

Addendum A

LETTER OF ASSENT

[Date]
[Addressee]
[Address]

Re: City of San Francisco Project Labor Agreement – Letter of Assent

Dear _____:

The undersigned confirms that it agrees to be a party to and bound by the City of San Francisco Project Labor Agreement ("Agreement") as such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms.

By executing this Letter of Assent, the undersigned subscribes to, adopts and agrees to be bound by the written terms of the legally established trust fund documents as set forth in Sections 8.4 and 8.5 of the Agreement, as they may from time to time be amended, specifying the detailed basis upon which contributions are to be made into, and benefits made out of, such trust funds, and ratifies and accepts the trustees appointed by the parties to such trust funds.

The obligation to be a party to and bound by the Agreement shall extend to all Covered Work self-performed or subcontracted under a Construction Contract (as defined in the Agreement) that is undertaken by the undersigned. The undersigned shall require all of its Subcontractors (as defined in the Agreement), of whatever tier, to become similarly bound by signing an identical Letter of Assent.

CONTRACTOR/SUBCONTRACTOR: _____

California Contractor State License No. or Motor Carrier (CA) Permit No.: _____

Name of Authorized Person (print): _____

Signature of Authorized Person: _____

Title of Authorized Person: _____

Telephone Number of Authorized Person: _____

Address of Authorized Person: _____

State Public Works Registration Number: _____

Addendum B

SAN FRANCISCO ADMINISTRATIVE CODE

SECTIONS 6.0, 6.1, 6.2, AND 6.3

[As of July 1, 2020]

[*See pages to follow*]

PROJECT LABOR AGREEMENT
ADDENDUM B
SAN FRANCISCO ADMINISTRATIVE CODE SECTIONS 6.0 – 6.3

SEC. 6.0. SCOPE OF CHAPTER.

Chapter 6 shall govern Public Work or Improvement contracting policies and procedures, including the procurement of professional design, consulting and construction management services for Public Work or Improvement projects.

(Added by Ord. 286-99, File No. 991645, App. 11/5/99; amended by Ord. 108-15, File No. 150175, App. 7/2/2015, Eff. 8/1/2015)

SEC. 6.1. DEFINITIONS.

Advertisement For Bid. An Advertisement For Bid is a set of documents which includes without limitation the published Advertisement for Bids on a construction Contract; the forms to be submitted with a Bid, as required by the contracting department and CMD; the construction Contract general and special conditions; and the plans and specifications for the Public Work or Improvement.

Award. The action taken by the City in conformance with the Administrative Code and the Charter to enter into a Contract pursuant to this Chapter 6. For Contracts in excess of the Threshold Amount, a Contract is awarded by the City when the following events have occurred:

(1) For departments under the Mayor, (a) the Mayor or the Mayor's designee has approved the Contract for Award and (b) the Department Head has then issued an order of Award;

(2) For departments empowered to contract for Public Works or Improvements with boards or commissions, (a) the Department Head has recommended to the board or commission concerned a Contract for Award and (b) such board or commission has then adopted a resolution awarding the Contract.

For Contracts less than or equal to the Threshold Amount, a Contract is awarded when the Department Head either signs the Contract or issues an order of Award, whichever occurs first. Pursuant to Charter Section 3.105, all Contract Awards are subject to certification by the Controller as to the availability of funds.

Bid. A sealed document submitted in response to an Advertisement For Bids. No Bid shall be deemed accepted by the City until such time as the Contract is awarded in accordance with this Chapter 6.

Bidder. One who submits a Bid in response to an Advertisement For Bids.

City. The City and County of San Francisco.

Construction Manager. Any individual, firm, partnership, corporation, association, joint venture or other legal entity permitted by law to furnish construction management services to the City.

Contract. For the purposes of this Chapter, a Contract is an agreement in writing between the City and any party to perform professional design services, consultant services, construction management services or construction services relative to a Public Work or Improvement. No Contract shall be deemed awarded, effective or binding on the City until such time as the requirements for Award are met, as provided in this Chapter 6.

Contract Monitoring Division (CMD). A division of the Office of the City Administrator to which the City Administrator has delegated responsibility to implement Administrative Code Chapter 14B.

Contractor. A party who contracts directly with the City to perform professional design services, consultant services, construction management services or construction services relevant to a Public Work or Improvement. A Contractor performing construction services may also be referred to as a "General Contractor" or a "Prime Contractor."

Core Trade Subcontractor. A subcontractor identified by the City or the Contractor that may provide key pre-construction services for a procurement under Section 6.61 or Section 6.68.

Department Head. The duly appointed General Manager, Director, or Executive Director of a City department authorized to perform Public Work or Improvements under Section 6.2. For

purposes of this Chapter only, an authorized Department Head may designate an individual to execute on his or her behalf any document referenced in this Chapter 6, including but not limited to Contracts, change orders, modifications, service orders, task orders, approvals, progress payments, and certificates of acceptance. Such designation shall be in writing and shall identify the individual by name and title and the scope and term of the designation.

Integrated Furniture, Fixtures, and Equipment (IFF&E). Furniture, fixtures, and/or equipment that require integration that significantly affects the building design and/or the design of interior renovation of a Public Work or Improvement due to physical dimension, power connection, or data communication, and/or coordination with construction trades, including but not limited to, electrical, plumbing, mechanical, or building controls.

Prevailing Wage or Prevailing Rate of Wage. For purposes of this Chapter 6, the highest general prevailing rate of wage plus "per diem wages" and wages paid for overtime and holiday work paid in private employment in the City for the various crafts and kinds of labor employed in the performance of any Public Work or Improvement. "Per diem wages" are defined pursuant to Labor Code Section 1773.1, as amended from time to time.

Public Work or Improvement. Any erection, construction, renovation, alteration, improvement, demolition, excavation, installation, or repair of any public building, structure, infrastructure, bridge, road, street, park, dam, tunnel, utility or similar public facility performed by or for the City, the cost of which is to be paid wholly or partially out of moneys deposited in the Treasury of the City. A Public Work or Improvement may include Integrated Furniture, Fixtures, and Equipment.

Quote or Quotation. A statement or proposal setting out the estimated cost for work or services submitted in response to a request for a quote from a department for work or services on a Public Work or Improvement.

Responsible. A Bidder or Contractor who (1) meets the qualifying criteria required for a particular project, including without limitation the expertise, experience, record of prior timely performance, license, resources, bonding and insurance capability necessary to perform the work under the Contract and (2) at all times deals in good faith with the City and submits bids, estimates, invoices, claims, requests for equitable adjustments, requests for change orders, requests for Contract modifications, or requests of any kind seeking compensation on a City Contract only upon a good faith honest evaluation of the underlying circumstances and a good faith, honest calculation of the amount sought.

Responsive. A Bid or proposal that complies with the requirements of the subject Advertisement For Bids or request for proposals and/or qualification without condition or qualification.

Threshold Amount. The Threshold Amount, for the purposes of this Chapter, is $600,000. On January 1, 2020, and every five years thereafter, the Controller shall recalculate the Threshold Amount to reflect any proportional increase in the Urban Regional Consumer Price Index from January 1, 2015, rounded to the nearest $1,000.

(Added by Ord. 286-99, File No. 991645, App. 11/5/99; amended by Ord. 324-00, File No. 001919, App. 12/28/2000; Ord. 208-02, File No. 021221, App. 10/18/02; Ord. 19-10, File No. 091163, App. 2/10/2010; Ord. 96-10, File No. 100332, App. 5/13/2010; Ord. 108-15, File No. 150175, App. 7/2/2015, Eff. 8/1/2015; Ord. 6-17, File No. 161081, App. 1/20/2017, Eff. 2/19/2017)

SEC. 6.2. DEPARTMENTS OR COMMISSIONS EMPOWERED TO CONTRACT FOR PUBLIC WORKS OR RELATED PROFESSIONAL SERVICES.

Except as otherwise provided, the departments or commissions empowered on behalf of the City to contract for Public Works or Improvements or professional services related to a Public Work or Improvement are San Francisco Public Works, the Municipal Transportation Agency, and the Airport, Port, Public Utilities, and Recreation and Park Commissions. All other

departments or commissions must procure construction or related professional services through San Francisco Public Works.

(Added by Ord. 286-99, File No. 991645, App. 11/5/99; amended by Ord. 118-00, File No. 000478, App. 6/2/2000; Ord. 58-05, File No. 041571, App. 4/1/2005Ord. 108-15, File No. 150175, App. 7/2/2015, Eff. 8/1/2015)

SEC. 6.3. CONTRACTING POWERS AND PROCEDURE.

(a) Public Work or Professional Service Contracts Less Than or Equal to the Threshold Amount. The Department Head may award any construction Contract or professional services Contract of less than or equal to the Threshold Amount. For such Contracts, approval of the Mayor, commission or board concerned is not required.

(b) Public Work or Professional Service Contracts in Excess of the Threshold Amount.

(1) Departments Under the Mayor. For departments under the Mayor, the Mayor or the Mayor's designee shall approve for Award all Public Work and professional service Contracts in excess of the Threshold Amount and the Department Head may then issue an order of Award.

(2) Departments Under Boards or Commissions. For departments empowered to contract for Public Works or Improvements, the Department Head shall recommend to the board or commission concerned the Award of all Public Work and professional service Contracts in excess of the Threshold Amount and such board or commission may then adopt a resolution awarding the Contract.

(c) Certification Required. In accordance with Section 3.105 of the Charter, all Contract Awards are subject to certification by the Controller as to the availability of funds.

(d) Execution of Contracts. Following all necessary approvals, orders or resolutions and execution by the Contractor, the Department Head shall execute all Contracts, modifications and change orders. All paper transactions under this Chapter 6 shall be executed in duplicate. All electronic transactions shall be executed in accordance with Section 21.06 of the Administrative Code.

(Added by Ord. 286-99, File No. 991645, App. 11/5/99; amended by Ord. 108-15, File No. 150175, App. 7/2/2015, Eff. 8/1/2015)

Addendum C

SIDE LETTERS OF AGREEMENT

United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry, Local No. 38

International Brotherhood of Electrical Workers, Local 6

International Association of Sheet Metal, Air, Rail and Transportation Workers, Sheet Metal Workers' Local Union No. 104

[*See pages to follow*]

SIDE LETTER BETWEEN
THE UNITED ASSOCIATION OF JOURNEYMAN AND APPRENTICES OF THE PLUMBING AND PIPEFITTING INDUSTRY, LOCAL NO. 38
AND
THE CITY AND COUNTY OF SAN FRANCISCO

Consistent with Article III, Sections 3.6.3 and 3.6.9.8 of the Citywide Project Labor Agreement ("PLA"), the City recognizes off-site work, including fabrication work customarily performed under the United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industry, Local No. 38 ("UA Local 38") Schedule A agreement as Covered Work under the PLA.

UA Local 38 recognizes that the timely and efficient completion of Covered Projects is vital to the parties. To this end, UA Local 38 recognizes that the City may seek relief from this letter to address construction and community concerns that may arise in the future.

If the City requests relief from this letter, then UA Local 38 agrees to meet with the City to discuss the scope of the request. At the option of either the City or UA Local 38, the matter may be referred to the PLA Joint Administrative Committee. The parties will consider the City's request for relief from this letter. Any relief from this letter shall be by mutual agreement between the City and UA Local 38.

The parties agree this letter accurately sets forth the substance of the parties' understanding and provides the basis for resolving any questions or concerns regarding the interpretation and application of Sections 3.6.3 and 3.6.9.8 of the Agreement.

SO AGREED:

LARRY MAZZOLA JR.
Business Manager

NAOMI KELLY
City Administrator

APPROVED AS TO FORM
DENNIS J. HERRERA, CITY ATTORNEY

Erik A. Rapoport
Deputy City Attorney

SIDE LETTER BETWEEN

THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL NO. 6
AND
THE CITY AND COUNTY OF SAN FRANCISCO

Consistent with Article III, Sections 3.6.3 and 3.6.9.8 of the Citywide Project Labor Agreement ("PLA"), the City recognizes off-site work, including fabrication work customarily performed under the International Brotherhood of Electrical Workers, Local No. 6 ("IBEW Local 6") Schedule A agreement as Covered Work under the PLA.

IBEW Local 6 recognizes that the timely and efficient completion of Covered Projects is vital to the parties. To this end, IBEW Local 6 recognizes that the City may seek relief from this letter to address construction and community concerns that may arise in the future.

If the City requests relief from this letter, then IBEW Local 6 agrees to meet with the City to discuss the scope of the request. At the option of either the City or IBEW Local 6, the matter may be referred to the PLA Joint Administrative Committee. The parties will consider the City's request for relief from this letter. Any relief from this letter shall be by mutual agreement between the City and IBEW Local 6.

The parties agree this letter accurately sets forth the substance of the parties' understanding and provides the basis for resolving any questions or concerns regarding the interpretation and application of Sections 3.6.3 and 3.6.9.8 of the Agreement.

SO AGREED:

JOHN DOHERTY
Business Manager

NAOMI KELLY
City Administrator

APPROVED AS TO FORM
DENNIS J. HERRERA, CITY ATTORNEY

Erik A. Rapoport
Deputy City Attorney

SIDE LETTER BETWEEN
THE INTERNATIONAL ASSOCIATION OF SHEET METAL, AIR, RAIL AND TRANSPORTATION WORKERS, SHEET METAL WORKERS LOCAL NO. 104
AND
THE CITY AND COUNTY OF SAN FRANCISCO

Consistent with Article III, Sections 3.6.3 and 3.6.9.8 of the Citywide Project Labor Agreement ("PLA"), the City recognizes off-site work, including fabrication work customarily performed under the International Association of Sheet Metal, Air, Rail and Transportation Workers, Sheet Metal Workers, Local No. 104 ("SMW Local 104") Schedule A agreement as Covered Work under the PLA.

SMW Local 104 recognizes that the timely and efficient completion of Covered Projects is vital to the parties. To this end, SMW Local 104 recognizes that the City may seek relief from this letter to address construction and community concerns that may arise in the future.

If the City requests relief from this letter, then SMW Local 104 agrees to meet with the City to discuss the scope of the request. At the option of either the City or SMW Local 104, the matter may be referred to the PLA Joint Administrative Committee. The parties will consider the City's request for relief from this letter. Any relief from this letter shall be by mutual agreement between the City and SMW Local 104.

The parties agree this letter accurately sets forth the substance of the parties' understanding and provides the basis for resolving any questions or concerns regarding the interpretation and application of Sections 3.6.3 and 3.6.9.8 of the Agreement.

SO AGREED:

RICK WERNER
Business Manager

NAOMI KELLY
City Administrator

APPROVED AS TO FORM
DENNIS J. HERRERA, CITY ATTORNEY

Erik A. Rapoport
Deputy City Attorney

Addendum D

Memorandum of Understanding (MOU) between the San Francisco Office of Economic and Workforce Development's CityBuild Academy and the International Union of Elevator Constructors, Local Union No. 8 (Union)

[*See pages to follow*]

International Union of Elevator Constructors

AFFILIATED WITH THE
AFL-CIO
PHONE (415) 285-2900
FAX (415) 285-2020

LOCAL UNION NO.8
690 POTRERO AVENUE
SAN FRANCISCO, CA 94110-2117

Memorandum of Understanding

for

San Francisco City Wide Project Labor Agreement

The following is a Memorandum of Understanding (MOU) between the San Francisco Office of Economic and Workforce Development's CityBuild Academy and the International Union of Elevator Constructors, Local Union No. 8 (Union):

- To the maximum extent possible and consistent with all applicable federal, state and local laws, hiring hall procedures and apprenticeship program standards, the Union will refer graduates of CityBuild for employment on projects covered by the San Francisco Citywide Project Labor Agreement under San Francisco Administrative Code Section 6.27.
- At least annually:
    - The Union will participate in a job fair and information night exclusive to participants of CityBuild, to inform them about career opportunities and provide a pathway into the Union's apprenticeship program.
    - At the request of CityBuild, the Union will set up a trade booth at a career fair hosted by the City within the geographic limitations of the City.
    - At the request of CityBuild, the Union will collaborate to host CityBuild participants at its apprenticeship training center.
    - The parties to this CityBuild MOU shall meet as reasonably requested to review the enrollment of CityBuild graduates and discuss ways to further facilitate entry into the Union's apprenticeship program for graduates of CityBuild.
- Once per CityBuild class cycle:
    - At the request of CityBuild, the Union will collaborate to provide guest speakers to CityBuild participants.
- The Union will exert its best efforts to recruit CityBuild graduates and Local Residents to qualify for entry into its Northern California Elevator Industry Joint Apprenticeship and Training Program. The Union shall prioritize outreach efforts for CityBuild graduates into the Union apprenticeship program from Local Residents residing within Tier 1 zip codes as determined by CityBuild.
    - If the Union cannot recruit a sufficient number of Local Resident CityBuild graduates into the Union apprenticeship program under this provision, as set forth immediately above, the Union will exert its best efforts to recruit Local Residents from any City zip code to qualify for entry into the Union apprenticeship program.

- It is further agreed that applicants who have successfully completed the CityBuild Program associated with City College of San Francisco will qualify for a direct interview provided the applicants meet the qualifications below. Such applicants will be allowed this direct to interview opportunity only once, and only at the next open application period for the apprenticeship program, as is determined solely by the Northern California Elevator Industry Joint Apprenticeship and Training Committee. CityBuild graduates must:
    1. Pass a pre-employment drug test.
    2. Provide proof of 100% attendance in the CityBuild program.
    3. Provide transcripts demonstrating successful completion of the CityBuild Academy program with cumulative academic scores of 75% or higher.
    4. Provide transcripts demonstrating CityBuild math course grade of C or higher.
    5. Provide a copy of their high school diploma or GED.
    6. Provide proof the applicant is a San Francisco resident.
    7. Provide proof of their U.S. citizenship or eligibility to work in the U.S.
    8. Provide a copy of their valid California driver's license.
    9. Be able to perform all duties as detailed in the NCEIJATC Application Announcement.

For IUEC Local 8

Date: 7-13-2020

For CityBuild

Date: 7/14/2020

Addendum E

CRAFT ASSIGNMENT FORM

[*See pages to follow*]

CRAFT ASSIGNMENT FORM

PROJECT NAME: _____ DATE: _____

NAME OF CONTRACTOR: _____

PRINCIPAL OFFICE ADDRESS: _____

PHONE: _____ E-MAIL: _____

PROJECT CONTACT INFORMATION: _____

_____

MEMBER OF ASSOCIATION (IF APPLICABLE): _____

NAME OF PRIME CONTRACTOR (IF APPLICABLE): _____

NAME OF SUPERVISOR: _____ TITLE: _____

CONTRACT VALUE: _____

UNION(S) SIGNATORY TO: _____

_____

START DATE:

END DATE:

FOR EACH SCOPE OF WORK PROVIDE THE FOLLOWING INFORMATION:

WORK DESCRIPTION:	
VALUE:	
CRAFT DESIGNATION/UNION:	
ESTIMATED CRAFT HOURS:	
NUMBER OF WORKERS:	
START DATE:	

PROVIDE THE FOLLOWING INFORMATION FOR EACH SUBCONTRACTOR
(ATTACH ADDITIONAL PAGES IF NECESSARY):

CONTRACTOR NAME:	
PRIMARY CONTACT:	
ADDRESS:	
PHONE:	
E-MAIL:	
UNION(S) SIGNATORY TO:	

WORK DESCRIPTION:	
VALUE:	
CRAFT DESIGNATION/UNION:	
ESTIMATED CRAFT HOURS:	
NUMBER OF WORKERS:	
START DATE:	

Addendum F

LBE PARTICIPATION WORKSHEET

[*See pages to follow*]

CITY AND COUNTY OF SAN FRANCISCO
Project Labor Agreement - LBE Participation Worksheet

Total LBE Subparticipation Requirement (%) for this contract as established by CMD:

For column "A", list the Prime Consultant, each joint venture partner and **ALL** subconsultants and vendors including 2nd and 3rd tier subs. Make copies if more space is needed.
For the "Name of the Firm" column below, list the prime consultant (including each JV partner) and ALL subconsultants including lower tier LBEs. Indicate if the firm is an LBE.

A	B	B	C	D
Name of Firm	**LBE? (Yes or No)**	**Service(s) to Be Performed**	**Amount of Contract or Purchase Order at Time of Award**	**Percent LBE Requried Participation**
[insert Prime Proposer here]				
[insert your team of non-LBE and LBE subs in subsequent rows]				
		CONTRACT TOTALS	$ -	