

**PROJECT LABOR AGREEMENT FOR ALL MEASURE G, E, I and Z
BOND PROJECTS FOR THE
EAST SIDE UNION HIGH SCHOOL DISTRICT**

PREAMBLE

This Agreement is made and entered into effective August 17, 2017 (the "Effective Date"), by and between the East Side Union High School District ("District"), the Santa Clara & San Benito Counties Building & Construction Trades Council, AFL-CIO and its affiliated local Unions signatory hereto, acting on their own behalf and on behalf of their respective affiliates and member organizations, ("Union(s)"), and the contractors and/or subcontractors and other persons and entities who shall become signatory to this Agreement by signing the "Agreement to Be Bound" (Appendix A).

INTRODUCTION, RECITALS AND FINDINGS

WHEREAS, on May 9, 2013, the Board of Trustees of the District approved a Project Labor Agreement For All Measure G, E, and I Projects for the East Side Union High School District (the "2013 Agreement");

WHEREAS, on November 8, 2016, the District voters approved Measure Z which is a \$510 million general obligation bond to provide for funding to continue the improvements and rehabilitation of Andrew P. Hill, Calero, Evergreen Valley, Foothill, Independence, James Lick, Mt. Pleasant, Oak Grove, Piedmont Hills, Santa Teresa, Silver Creek, Yerba Buena and W.C. Overfelt high schools and alternative, adult and District charter schools; and

WHEREAS, based on the success and benefits of the 2013 Agreement the District desires to enter into a project labor agreement for the District's Measure G, E, I and Z bond programs; and

WHEREAS, the purpose of this Agreement is to promote efficiency of construction operations during the **East Side Union High School District Measure G, E, I and Z Bond Projects ("the Project")** and 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, and to increase training and employment opportunities for the District's students in the construction trades through apprenticeship and pre-apprentice programs as the students graduate from the District's schools, and the communitywide benefits to be achieved through the encouragement of local and skilled labor force participation; and

WHEREAS, the successful completion of the Project is of the utmost importance to the East Side Union High School District ("the District"); and

WHEREAS, the Project Labor Agreement for the District's Measure G, E and I Bond Projects has proven to be successful; and

WHEREAS, the Project Labor Agreement provides a level of accountability that greatly reduces if not eliminates the exploitation of workers and circumvention of the Labor Code as it applies to the payment of prevailing wages and has saved and continues to save the District financial and human resources in prevailing wage enforcement; and

WHEREAS, large numbers of workers of various skills will be required in the performance of the construction work and will be represented by the Unions affiliated with the Santa Clara & San Benito County Building and Construction Trades Council signatory to this Agreement and employed by contractors and subcontractors who are signatory to this Agreement; and

WHEREAS, it is recognized that on a project of this magnitude with multiple contractors and bargaining units on job sites at the same time over an extended period of time, the potential for work disruption is substantial without an overriding commitment to maintain continuity of work; and

WHEREAS, the interests of the general public, the District and its students, the Unions and Contractor/Employers would be best served if the construction work proceeded in an orderly manner without disruption because of strikes, picketing or other legal and recognizable rights of workers; and

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

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

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

WHEREAS, the contract for the Project will be awarded in accordance with the applicable provisions of the California State Public Contract Code, Education Code and other applicable laws; and

WHEREAS, the District has the absolute right to select the lowest reliable and responsible bidder for the award of the Construction Contract on the Project; and

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

WHEREAS, the East Side Union High School District places high priority upon the development of comprehensive programs for the recruitment, training and employment of Local Area Residents (persons who reside within the jurisdiction of the District) and has identified the need to prepare their students for lifelong careers and continuing education, recognizing the ability of local apprenticeship programs to provide meaningful and sustainable careers in the building and construction industry; and

WHEREAS, by requiring, as a condition of performing work on the Project, contractors to provide training and employment opportunities to local residents registered in (bona fide) apprenticeship programs, the District and the district residents desiring training all benefit.

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

ARTICLE I

DEFINITIONS

- 1.1 **“Agreement”** means this Project Labor Agreement plus Appendices A, B and C.
- 1.2 **“Agreement to be Bound”** means the agreement (attached hereto and incorporated herein as Appendix A) which each and every Contractor(s)/Employer(s) shall execute as a condition of performing Project work.
- 1.3 **“Bona Fide Apprenticeship Program”** means a joint labor management apprenticeship training program approved by the State Division of Apprenticeship Standards in the applicable crafts.
- 1.4 **“Completion”** means that point at which there is Final Acceptance by the District of a Construction Contract and the District has filed a Notice of Completion. For the purposes of this definition, "Final Acceptance" means that point in time at which the engineer for the District 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 District has executed a written acceptance of the work.
- 1.5 **“Construction Contract”** means the public works contract(s) (including design-bid, design-build, lease-leaseback or other contracts under which construction of the Project is performed) awarded by the District or other person or entity subject to this Agreement which is necessary to complete the Project.
- 1.6 **“Contractor(s)/Employer(s)”** means any individual, firm, partnership or corporation (including the prime contractor, general contractor, design-build entity, lease-leaseback entity or equivalent entity), or combination thereof, including joint ventures, which is an independent business enterprise and enters into a contract with the District or any of its contractors or subcontractors of any tier, or any other person or entity subject to this Agreement, with respect to the construction of any part of the Project under contract terms and conditions approved by the District and which incorporate this Agreement.
- 1.7 **“District”** means the East Side Union High School District and the administrative staff under its Superintendent.

- 1.8 “Master Agreement(s)” or “Schedule A”** means the Master Collective Bargaining Agreements to which the Union(s) and signatory contractor(s) are bound, which are incorporated herein by reference and which shall apply to the Project. The list of Schedule A Agreements is attached as Appendix C.
- 1.9 “Project”** includes and shall apply to all Measure G, E, I and Z funded work, including State matching funds for new school site construction, or school site modernizations performed by those contractors of whatever tier that are awarded contracts by the District done in full or in part with Measure G, E, I or Z Bond monies, including any State matching money, as is described in Section 2.2 of Article II, where the engineer’s estimate for the Project is \$175,000 or greater, and to such other construction or improvements projects on District property as deemed or directed by the Board of Trustees.
- 1.10 “Program/Construction Manager”** means the person or persons or business entity(ies) if so chosen and designated by the District to oversee all or select phases of construction on the Project.
- 1.11 “Union” or “Unions”** means the Santa Clara & San Benito Counties Building and Construction Trades Council, AFL-CIO (“Council”) and any other labor organization signatory to this Agreement, acting in their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement.

ARTICLE II

SCOPE OF AGREEMENT

- 2.1 Parties:** The Recitals above are incorporated herein. This Agreement shall apply and is limited to all Contractors/Employer(s) performing Construction Contracts on the Project, the District and the Santa Clara & San Benito Counties Building and Construction Trades Council, AFL-CIO (“Council”) and any affiliated labor organization signatory to this Agreement, acting in their own behalf and on behalf of their respective affiliates and

member organizations whose names are subscribed hereto and who have through their officers executed this Agreement.

- 2.2 Project Description:** The Project will include all new school site construction and the modernization of school site buildings, and their related facilities; and the improvement of current or to-be-acquired real property to relieve overcrowding of the facilities on these campuses paid for in whole or in part with Measure G, E, I or Z funds where the engineer's estimate for the Project is \$175,000 or greater. The Project includes work performed by a Contractor through the filing of Notice of Completion and also includes work where the District directs a Contractor to perform repairs, warranty work, modifications or punch list work as required under a Construction Contract, or when a Contractor performs work under change orders for a Construction Contract.
- 2.3 Covered Work:** This Agreement covers, without limitation, all on-site site preparation, surveying, construction, alteration, demolition, installation, improvement, remediation, retrofit, painting or repair of buildings, structures and other works, and related activities for the Project that is within the craft jurisdiction of one of the Unions and which is directly or indirectly part of the Project, including, without limitation to the following examples, geotechnical and exploratory drilling, temporary HVAC, landscaping and temporary fencing, pipelines (including those in linear corridors built to serve the Project), pumps, pump stations, start-up, and modular furniture installation. On-site work includes work done for the Project in temporary yards, dedicated sites, or areas adjacent to the Project, and at any on-site or off-site batch plant constructed solely to supply materials to the Project.. This scope of work includes all soils and materials testing and inspection where such testing and inspection is a classification in which a prevailing wage determination has been published.
- 2.3.1** This Agreement applies to any start-up, calibration, commissioning, performance testing, repair, maintenance, and operational revisions to systems and/or subsystems for the Project performed after Completion pursuant to the Construction Contract(s) unless it is performed by District employees.

- 2.3.2 This Agreement covers all on-site fabrication work over which the District, Contractor(s)/Employer(s) or subcontractor(s) possess the right of control (including work done for the Project in any temporary yard or area established for the Project). Additionally, this Agreement covers any off-site work, including fabrication necessary for the Project defined herein, that is covered by a current Schedule A Agreement or local addenda to a National Agreement of the applicable Union(s) that is in effect as of the execution date of this Agreement.
- 2.3.3 The delivery of supplies, equipment or materials which are stockpiled for later use shall not be covered by this Agreement. However, construction trucking work, such as the hauling and delivery of ready-mix, asphalt, aggregate, sand, or other fill or similar material which is incorporated into the construction process as well as the off-hauling of debris and excess fill, material and/or mud, shall be covered by the terms and conditions of this Agreement. Contractor(s)/Employer(s), including brokers, of persons providing construction trucking work shall provide certified payroll records to the District within ten (10) days of written request or as required by bid specifications.
- 2.3.4 Work covered by this Agreement within the following craft jurisdictions shall be performed under the terms of their National Agreements as follows: the National Agreement of Elevator Constructors, the National Transient Lodge (NTL) Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, and any 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, with the exception that Articles IV, XII and XIII of this Agreement shall apply to such work.
- 2.4 Exclusions from this Agreement:**
- 2.4.1 The Agreement shall be limited to only construction work paid for in full or in part with Measure G, E, I or Z Bond monies as outlined in 1.9 and 2.2 above.
- 2.4.2 The Agreement is not intended to, and shall not, affect or govern the award of public works contracts by the District that are outside the approved scope of the Project or the operation and maintenance of other District facilities.

- 2.4.3 Unless covered by a Schedule A collective bargaining agreement, this Agreement shall not apply to a Contractor/Employer's (including a design team's or any other District consultant's) executives, managerial employees, engineering employees, supervisors, office and clerical employees.
- 2.4.4 All off-site manufacture and handling of materials, equipment or machinery shall not be covered by this Agreement except as set forth herein; provided, however, prefabrication of materials that are directly part of the Project and are traditionally performed under the provisions of an existing Schedule A Agreement of a signatory Union(s), shall be covered by the terms and conditions of this Agreement.
- 2.4.5 This Agreement shall not apply to work performed by the District's own forces as permitted by the Public Contract Code and the Education Code.
- 2.4.6 At the sole option of the District, this Agreement shall not apply to contracts awarded under Public Contract Code 22032(a) or 22032(b), or any emergency public works resolutions.
- 2.4.7 In limited circumstances requiring special knowledge of the particular item(s), this Agreement shall not apply to work performed by employees of a manufacturer or vendor when required to maintain a manufacturer's or vendor's warranty or guarantee, provided that the warranty or guarantee is consistent with the manufacturer's or vendor's standard warranty or guarantee, and provided the Contractor using the vendor or manufacturer can demonstrate by an enumeration of the specific tasks that the work cannot be performed by construction persons employed under this Agreement. The Contractor/Employer must also notify the Union thirty (30) days prior to exercising this provision, and certification of specialty products shall not be unreasonably withheld from any party signatory to this Agreement.

ARTICLE III

EFFECT OF AGREEMENT

- 3.1 By executing the Agreement, the Unions and the Contractors agree to be bound by each and all of the provisions of the Agreement.

- 3.2 By accepting the award of a Construction Contract for the Project, whether as contractor or subcontractor, the Contractor/Employer agrees to be bound by each and every provision of the Agreement, including the Schedule A's incorporated herein by reference, and agrees to execute the Agreement To Be Bound in the form attached hereto as Appendix A.
- 3.3 At the time that any Contractor/Employer enters into a subcontract with any subcontractor providing for the performance of the Construction Contract, the Contractor/Employer(s) shall provide a copy of this Agreement, as it may from time to time be modified, to said subcontractor and shall require the subcontractor as a part of accepting an award of a construction subcontract to agree in writing to be bound by each and every provision of this Agreement prior to the commencement of work.
- 3.4 This Agreement shall only be binding on the signatory parties hereto and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party. The liability of each Contractor/Employer and of each Union shall be several and not joint.
- 3.5 The District is the owner of the Projects, but shall not be considered an employer or joint employer for any work covered by this Agreement, and, with regard to its employment practices, is not bound by provisions of this Agreement applicable to Contractor/Employer(s).
- 3.6 The 2013 Agreement is superseded by the terms of this Agreement as to all Construction Contracts for Measure G, E, I and Z Projects which, as of the effective date of this Agreement, have not been awarded by the Board of Trustees.

ARTICLE IV

NO WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS

- 4.1 The Unions, District and Contractor/Employers agree that for the duration of the Project:
- 4.1.1 There shall be no strikes, sympathy strikes, work stoppages, picketing, handbilling or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions or employees employed on the Project, at the job site of the

Project or at any other facility of the District because of a dispute on the Project. Disputes arising between the Unions and Contractor/Employers on other District projects or work specifically excluded under Section 2.4 are not governed by the terms of this Section 4.1.1.

4.1.2 As to employees employed on the Project, there shall be no lockout of any kind by a Contractor/Employer covered by the Agreement.

4.1.3 If a collective bargaining agreement between a Contractor/Employer and the Union expires before the Contractor/Employer completes the performance of the Construction Contract, and the Union or Contractor/Employer gives notice of demands for a new or modified collective bargaining agreement, the Union agrees that it will not strike the Contractor/Employer on said contract for work covered under this Agreement and the Union and the Contractor/Employer agree that the expired collective bargaining agreement shall continue in full force and effect for work covered under this Agreement until a new or modified collective bargaining agreement is reached between the Union and Employer. If the new or modified collective bargaining agreement reached between the Union and Employer provides that any terms of the collective bargaining agreement shall be retroactive, the Contractor/Employer agrees to comply with any retroactive terms of the new or modified collective bargaining agreement that are applicable to employees employed on the Project within seven (7) days of execution of the new or modified collective bargaining agreement.

4.2 Expedited Arbitration: Any party to this Agreement shall institute the following procedure, prior to any other action at law or equity, when a breach of this Article is alleged to have occurred:

4.2.1 A party invoking this procedure shall notify Robert Hirsch, as the permanent arbitrator, or Barry Winograd, as the alternate arbitrator, under this procedure. In the event the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, the parties shall select the arbitrator from the list in Section 12.3. Notice to the arbitrator shall be by the most expeditious means available, with notice by e-mail with telephone confirmation to the party alleged to be in violation, the District

representative, and the Santa Clara & San Benito Counties Building and Construction Trades Council and the involved Local Union if a Union is alleged to be in violation of this Article.

- 4.2.2 Upon receipt of a notice alleging that a party has breached Article IV, the District shall contact the permanent arbitrator named above, or his alternate, who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.
- 4.2.3 The arbitrator shall notify the parties by e-mail with telephone confirmation of the place and time for the hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party to attend said hearings shall not delay the hearing of evidence or the issuance of any award by the arbitrator.
- 4.2.4 The sole issue at the hearing shall be whether or not a violation of Article IV, Section 4.1 of the Agreement has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with or enforcement of the award. The arbitrator may order cessation of the violation of this Article and other appropriate relief and such award shall be served on all parties by hand or registered mail upon issuance. Should a party found in violation of this Article fail to comply with an arbitrator's order to cease the violation, the party in violation shall pay to the affected party as liquidated damages the sum of ten thousand dollars (\$10,000.00) per shift for which it failed to comply, or portion thereof, until such violation is ceased. The arbitrator shall retain jurisdiction to resolve any disputes regarding the liquidated damages claimed under this section.
- 4.2.5 Such award may be enforced by any Court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following

manner. Written notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the arbitrator's award as issued under Section 4.2.4 of this Article, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order of enforcement. The Court's order or orders enforcing the arbitrator's award shall be served on all parties by hand or delivered by certified mail.

- 4.2.6 Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance are waived by the parties.
- 4.2.7 The fees and expenses of the arbitrator and the costs of the arbitration, if any, shall be divided equally between the parties.
- 4.2.8 Withholding employees, but not picketing, for failure of a Contractor/Employer to tender trust fund contributions as required in Article IX and/or for failure to meet its weekly payroll is not a violation of this Article; *provided* the applicable Union provides written notice to the affected Contractor/Employer, the Program/Construction Manager, and the District twenty-four (24) hours prior to exercising its rights under this provision for failure to make payroll and seventy-two (72) hours prior to exercising its rights under this provision for failure to make trust fund contributions, and an opportunity to cure the delinquency by rendering payment to the applicable employees or Trust Funds.
- 4.2.9 Should either the permanent or the alternate arbitrator identified above no longer work as a labor arbitrator, the District and the Council shall mutually agree to a replacement.

ARTICLE V

PRE-CONSTRUCTION CONFERENCE

- 5.1 A pre-construction conference shall be held when requested by any party to this Agreement prior to the commencement of the Construction Contract. Such conference shall be attended by a representative each from the participating Contractor/Employer(s) and Union(s), and the Program/Construction Manager.

ARTICLE VI
NO DISCRIMINATION

- 6.1** The Contractor/Employer(s) and Union(s) agree not to engage in any form of discrimination on the ground or because of race, color, religion, national origin, culture, ancestry, age, sex, gender, sexual orientation, gender identity, pregnancy, marital status, disability, medical condition, political belief or affiliation, organizational affiliation, or any other basis recognized by law, against any employee, or applicant for employment, on the Project.

ARTICLE VII
UNION RECOGNITION

- 7.1** The Contractor/Employer(s) recognize the Union(s) as the sole and exclusive bargaining representative of all craft employees working within the scope of this Agreement.
- 7.2** No employee covered by this Agreement can be required to join any Union as a condition of being first employed on the Project; provided, however, that an employee who is a member of the referring Union at the time of the referral shall maintain that membership while employed under the Agreement. All employees shall, however, comply with the union security provision of the applicable Schedule A Agreement for the period during which they are performing Project work covered by this Agreement. All such employees shall be required to pay such monthly dues, or service dues, “working dues” or administrative dues and fees as are uniformly required of employees working under this Agreement and subject to the full security provisions of the applicable Schedule A.
- 7.3** Authorized representatives of the Union shall have access to the Project, whenever work covered by this Agreement is being, has been, or will be performed on the Project, provided they comply with reasonable established security and safety rules of the Project.

ARTICLE VIII

REFERRAL

8.1 The Union(s) shall be the primary source of all craft labor employed on the Project. Contractor/Employer(s) shall be bound by and utilize the registration facilities and referral systems established or authorized by the signatory Unions. The Contractor shall have the right to determine the competency of all employees and may reject any referral provided that the Contractor complies with Section 6.1 (No Discrimination) hereof, and the applicable Schedule A

8.2 The Parties recognize the Owner's commitment to provide opportunities to participate on the Project to emerging business enterprises as well as other enterprises that may not have previously had a relationship with the Unions signatory to this Agreement. To ensure that such enterprises will have an opportunity to employ their "core" employees on this Project, the parties agree that in those situations where a Contractor not a party to a current collective bargaining agreement with the signatory Union having jurisdiction over the affected work is a successful bidder, the Contractor may request by name, and the local will honor, referral of core non-apprentice persons who have applied to the Local Union for Project work and who demonstrate to the Local Union dispatcher and provide satisfactory proof of all of the following qualifications:

- (1) possess any and all license(s) required by state or federal law for the Project work to be performed;
- (2) have worked a total of at least five thousand (5,000) hours in the appropriate construction craft;
- (3) were on the Contractor's active payroll for at least ninety (90) out of the one-hundred twenty (120) calendar days prior to the contract award; and
- (4) have the ability to perform safely the basic functions of the applicable trade.

As its first employee for work on the Project, the Union shall refer a worker pursuant to the referral procedures referenced in Section 8.1, above. The Contractor may then directly employ one (1) of its qualified "core employees" that is referred pursuant to the referral procedures referenced in Section 8.1. This alternating procedure of referral shall

continue until a maximum of five (5) qualified “core employees” have been referred to the Contractor. The maximum number of “core employees” employed by a Contractor under this procedure shall be five (5). All additional employees shall be requested and referred pursuant to Section 8.1, above. On layoffs, the Contractor shall reverse the alternating process with respect to the employment of “core employees” on the Project such that with the employment of ten (10) or fewer employees, there is an equal number or fewer “core employees” in relation to those workers referred by the Union employed on construction work under the Scope of this Agreement. The Contractor shall notify the appropriate Union of the name and Social Security number of each regular, experienced employee to work on the Project and each such employee shall register with the Union’s hiring hall before commencing work on the Project. If there is any question regarding an employee’s eligibility under this Section 8.2, the Contractor shall provide satisfactory proof of such at a Union’s request.

- 8.3** In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor/Employer(s) for employees within a forty eight (48) hour period after such requisition is made in writing by the Contractor/Employer(s), the Contractor/Employer(s) shall be free to obtain work persons from any source.
- 8.4** Unions will exert their utmost efforts to recruit sufficient numbers of skilled craftpersons to fulfill the requirements of the Contractor/Employer(s). Additionally the parties to this Agreement, including the Program/Construction Manager(s), support the development of increased numbers of skilled construction workers from the residents of the East San Jose Area to meeting the needs of the Project and the requirements of the industry generally. Toward that end, the Unions agree to encourage the referral and utilization, to the extent permitted by law and the hiring hall procedures of the Local Unions and the standards of the Apprenticeship programs, of qualified residents residing in the geographic jurisdiction of the District, in partnership with the Program/Construction Manager(s), as journeymen and apprentices on this Project including entrance into such apprenticeship programs as may be operated by the signatory Unions. Additionally the Program/Construction Manager(s) under contract to the District for the Project will

sponsor and participate in an apprenticeship awareness program and summer internship in conjunction with the parties to this Agreement as outlined in Appendix B.

8.5 Each contractor or subcontractor performing work on the Project shall, for each apprenticeable craft that it employs, employ on its regular workforce the ratio of apprentices as required by Labor Code Section 1777.5 who are enrolled and participating in a “Bona Fide Apprenticeship Program.”

8.6 Helmets to Hardhats Program: The Parties recognize the Unions’ participation in the “Helmets-to-Hardhats” program and the District’s 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 Employers and the Unions agree to utilize services for the Center for Military Recruitment, Assessment and Veteran’s Employment (hereinafter “Center”) and the orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs of such veterans. The Employers and the Unions agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on the Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience. The experience and practical knowledge of veterans will be reviewed and tested by the applicable Joint Apprenticeship Training Committee. Applicants will be placed at the appropriate stage of apprenticeship or at the journey level as the case may be. Final decision will be the responsibility of the applicable Joint Apprenticeship Training Committee.

ARTICLE IX

WAGES, HOURS AND FRINGE BENEFITS

9.1 The wages, hours, fringe benefits and terms and conditions of employment on the Project shall be governed by California prevailing wages and the applicable “Schedule A” of the affected craft(s) as listed in Appendix C.

- 9.2 All Contractor/Employer(s) agree to pay contributions to the established vacation, pension or other form of deferred compensation plan, apprenticeship, worker protection and assistance, and health benefit funds established by the Master Agreements of the appropriate Local Unions in the amounts designated therein. The Contractor/Employers shall not be required to pay contributions to any other trust funds to satisfy their obligation under this Article except that Contractor/Employers who are signatory to collective bargaining agreements with the respective trades shall continue to pay all trust fund contributions as outlined in such collective bargaining agreements.
- 9.3 By signing this Agreement, the Contractor/Employers adopt and agree to be bound by the written terms of the legally established Trust Agreements, as described in 9.1 and 9.2, specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds.
- 9.4 If a contractor fails to pay wages or benefits, the District agrees to honor a properly submitted, legally enforceable Stop Notice. Nothing in this Agreement shall be construed to limit or prevent the Unions or Trust Funds from asserting or enforcing legal rights to collect delinquent wages or benefit contributions.
- 9.5 Nothing in this Agreement shall be construed as prohibiting employees from refusing to work if such refusal is based on the failure of his or her employer to timely pay wages or fringe benefit contributions, if such refusal to work is allowed by the applicable Schedule A. Prior to withholding employees for failure to timely pay wages and/or benefits, the Union shall give the affected Contractor/Employer, Program/Construction Manager, and the District twenty-four (24) hours for failure to pay wages or seventy-two (72) hours for failure to pay benefits advance written notice.

ARTICLE X

COMPLIANCE

- 10.1 It shall be the responsibility of the Contractor/Employers and Unions to investigate and monitor compliance with the provisions of the Agreement contained in Article IX. The District through the services of the Program/Construction Manager(s) shall monitor

compliance with the prevailing wage and public works requirements of the State, and institute compliance enforcement measures to ensure the Contractor/Employer's compliance with the contract conditions of the Construction Contract.

ARTICLE XI

JOINT ADMINISTRATIVE COMMITTEE

- 11.1** The parties to this Agreement shall establish a four (4) person Joint Administrative Committee. This Committee shall be comprised of two (2) representatives selected by the District 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. The Joint Administrative Committee shall meet as required but not less than once each 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.

ARTICLE XII

GRIEVANCE ARBITRATION PROCEDURE

- 12.1 Project Labor Disputes:** All disputes involving the application or interpretation of a Master Agreement to which a signatory Contractor/Employer and a signatory Union are parties shall be resolved pursuant to the resolution procedures of the applicable Master Agreement, including any disputes involving the discipline and/or discharge of an employee working on the Project. No employee shall be disciplined or discharged without just cause. All disputes relating to the interpretation or application of this Agreement shall be subject to resolution by the Joint Administrative Committee, as described in Section 11.1, and the grievance arbitration procedure set forth herein.

12.2 The parties understand and agree that in the event any dispute arises out of the meaning, interpretation or application of the provisions of this Agreement, the same shall be settled by means of the procedures set out herein. No grievance shall be recognized unless the grieving party (Local Union or District Council on its own behalf, or on behalf of an employee whom it represents, or a contractor on its own behalf) provides notice in writing to the signatory party with whom it has a dispute within ten (10) days after becoming aware of the dispute but in no event more than thirty (30) days after it reasonably should have become aware of the event giving rise to the dispute. The time limits may be extended by mutual written agreement of the parties.

12.3 Grievances shall be settled according to the following procedures:

Step 1: Within five (5) business days after the receipt of the written notice of the grievance, the Business Representative of the involved Local Union or District Council, or his/her designee, or the representative of the employee, and the representative of the involved Contractor/Employer shall confer and attempt to resolve the grievance.

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 such time (five (5) business days after its referral or such longer time as mutually agreed upon) it may be referred within five (5) business days by either party to Step 3.

Step 3: Within five (5) business days after referral of a dispute to Step 3, the representatives shall notify the permanent arbitrator, or if he is not available, his alternate, for final and binding arbitration. The parties agree that if the permanent arbitrator or his alternate is not available, an arbitrator shall be selected by the alternate striking method from the list of three (3) below. The

order of striking names from the list of arbitrators shall be determined by a coin toss, the winner of which shall decide whether they wish to strike first or second.

1. William Riker
2. Morris Davis
3. William Engler

- 12.4** The costs of the arbitration shall be borne equally by the party filing the grievance and the party or parties against which the grievance has been filed, with each party bearing their own attorneys fees and costs. It is understood that this grievance arbitration procedure will be used to resolve disputes regarding the language of the Project Labor Agreement, but will not be used to resolve disputes over language of a Schedule A contract. Those disputes will be resolved under the dispute resolution procedures contained in the Schedule A contract. The decision of the Arbitrator shall be final and binding on all parties. The Arbitrator shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement.
- 12.5** The Arbitrator shall arrange for a hearing as soon as practicable from the date of his/her selection. A written opinion may be requested by a party from the presiding Arbitrator. The time limits specified in any step of the Grievance Procedure set forth in this Article may be extended by mutual agreement of the parties initiated by the written request of one party to the other, at the appropriate step of the Grievance Procedure. However, failure to process a grievance, or 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 without prejudice, or without precedent to the processing of and/or resolution of like or similar grievances or disputes.
- 12.6** In order to encourage the resolution of disputes and grievances at Steps 1 and 2 of this Grievance Procedure, the parties agree that such settlements shall not be precedent setting.
- 12.7** Should any of the arbitrators listed in this Article no longer work as a labor arbitrator, the District and the Council shall mutually agree to a replacement.

ARTICLE XIII
JURISDICTIONAL DISPUTES

- 13.1** The assignment of Covered Work will be solely the responsibility of the Contractor/Employer 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.
- 13.2** All jurisdictional disputes on this Project between or among the building and construction trades Unions and the Contractor/Employers party to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Contractor/Employer and Unions party to this Agreement.
- 13.2.1** If a dispute arising under this Article involves the Northern California Carpenters Regional Council or any of its subordinate bodies, an Arbitrator shall be chosen by the procedures specified in Article V, Section 5, of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch, and Thomas Pagan, and the Arbitrator’s hearing on the dispute shall be held at the offices of the California State Building and Construction Trades Council in Sacramento, California, within fourteen (14) days of the selection of the arbitrator. All other procedures shall be as specified in the Plan.

- 13.3** All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractor/Employer's assignment shall be adhered to until the dispute is resolved. Individuals violating this Section shall be subject to immediate discharge. Each Employer will conduct a pre-job conference with the Council prior to commencing work. The Project Manager and the District will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Employers may be held together.

ARTICLE XIV

MANAGEMENT RIGHTS

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

ARTICLE XV

SAVINGS CLAUSE

- 15.1** It is not the intention of the District, Contractor/Employer(s) or the Union(s) parties to violate any laws, regulations or orders governing the subject matter of this Agreement. The parties agree that in the event any article, provision, clause, sentence or word of the Agreement is determined by a court of competent jurisdiction to be illegal or void as being in contravention of any federal or state law, local ordinance, regulation or order enacted or issued, as applicable, after the execution of this Agreement, or which materially reduces or impairs Federal funding in the District's budget based on this Agreement, then the District and the Council shall immediately meet and confer, within five (5) business days of a request, to come to a mutually acceptable solution that will most closely carry out the aims and intent of this Agreement for the specific project

without materially reducing or impairing such governmental funding for, or delaying construction of, the project. All other Projects subject to this Agreement shall proceed pursuant to this Agreement. The parties further agree that if any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void, by a court of competent jurisdiction, the parties shall substitute, by mutual agreement, in its place and stead, an article, provision, clause, sentence or word which will meet the objections to its validity and which will be in accordance with the intent and purpose of the article, provision, clause, sentence or word in question. The parties also agree that in the event that a decision of a court of competent jurisdiction materially alters the terms of the Agreement such that the intent of the parties is defeated, then the entire Agreement shall be null and void.

ARTICLE XVI

HEALTH AND SAFETY

- 16.1** The employees covered by the terms of this Agreement shall at all times, while in the employ of the Contractor/Employer(s), be bound by the safety rules and regulations as established and communicated by the District and Contractor/Employer(s) and in accordance with OSHA/Cal-OSHA and the applicable Schedule A. These rules and regulations will be communicated prior to the performance of work on a Project, and published and posted at conspicuous places throughout the Projects. They shall not be intended to limit or prevent lawful union access to project sites.
- 16.2** The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms at any time at a Project site(s) are prohibited. Drug and alcohol testing shall be conducted in accordance with the Substance Abuse Prevention Policy set forth in each applicable Schedule A which is incorporated herein by reference.
- 16.3** In accordance with the requirements of OSHA/Cal-OSHA, it shall be the exclusive responsibility of each Contractor/Employer on a Project to assure safe working conditions for its employees and compliance by them with any safety rules contained

herein or established by the Contractor/Employer(s) consistent with OSHA/Cal-OSHA and the applicable Schedule A.

- 16.4 A convenient supply of cold and potable drinking water shall be provided by the Contractor/Employer(s).
- 16.5 The Contractor/Employer(s) and Union(s) agree to abide by the District's smoke-free policy which shall be posted at each Project site. The Contractor/Employer(s) and Union(s) understand that the District facilities are smoke-free sites.

ARTICLE XVII

TERM

- 17.1 This Agreement shall be included as a condition of the award of all Construction Contracts on the Project. The Council shall be provided with Notice of all bid solicitations at the time any Project goes out for bid.
- 17.2 This Agreement shall continue in full force and effect until the completion of the Project.

Dated: 12/01/2017

SANTA CLARA & SAN BENITO COUNTIES
BUILDING & CONSTRUCTION TRADES
COUNCIL

By _____
CEO



Dated: 12-4-2017

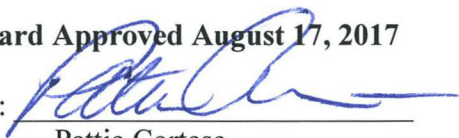
EAST SIDE UNION HIGH SCHOOL DISTRICT

By _____
Chris D. Funk, Superintendent



Board Approved August 17, 2017

By: _____
Pattie Cortese
Board Clerk



UNION SIGNATORIES


ASBESTOS WORKERS LOCAL 16

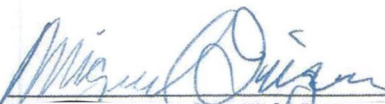

BAC LOCAL UNION 7



ELEVATOR CONSTRUCTORS LOCAL
UNION 8


IRON WORKERS LOCAL 377



OPERATING ENGINEERS LOCAL 3


PLASTERERS LOCAL UNION 300


UNITED ASSOCIATION, PLUMBERS &
PIPEFITTERS LOCAL UNION 355

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UNITED ASSOCIATION, SPRINKLER
FITTERS LOCAL UNION 483


BOILERMAKERS LOCAL UNION 549


IBEW LOCAL 332

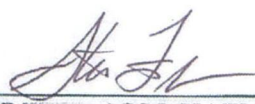

I.U.P.A.T. DISTRICT COUNCIL 16



LABORERS LOCAL UNION 270


OPERATIVE PLASTERERS AND
CEMENT MASONS LOCAL UNION 400

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ROOFERS LOCAL UNION 95


UNITED ASSOCIATION, PLUMBERS &
PIPEFITTERS LOCAL UNION 393


SHEET METAL WORKERS
INTERNATIONAL UNION LOCAL 104

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Joe Toback

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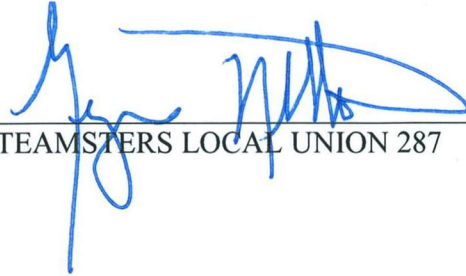
SIGN, DISPLAY AND ALLIED CRAFTS
LOCAL UNION 510



LABORERS LOCAL UNION 67



NORTHERN CALIFORNIA CARPENTERS
REGIONAL COUNCIL, FOR ITSELF AND
ITS AFFILIATES



TEAMSTERS LOCAL UNION 287

APPENDIX A

AGREEMENT TO BE BOUND

The undersigned, as a Contractor or Subcontractor ("Employer") performing work for the East Side Union High School District on a project paid for in full or in part with Measure G, E, I or Z Bond monies, including State matching monies (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 Project Labor Agreement for the Project (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 this Agreement and all Appendices, together with any and all amendments and supplements now existing or which are later made to said Agreement.
2. Certifies that it has no commitments or agreements which would preclude its full and complete compliance with the terms and conditions of said Agreement.
3. Agrees to secure from any Contractor (as defined in said Agreement) which is or becomes a subcontractor (of any tier) to it, and from any successors, a duly executed Agreement To Be Bound in form identical to this document.
4. Has read and understands Article VIII (Referral) of this Agreement and accepts that the Unions are the primary source of all craft labor employed on the Project and that Contractor/Employers shall be bound by and utilize the registration facilities and referral systems of the signatory Unions.
5. Agrees that it shall be bound by all applicable trust agreements and plans for the provision of such fringe benefits as accrue to the direct benefit of the employees including, but not limited to, Health and Welfare, Pension, Training, Vacation and/or other direct benefits provided pursuant to the appropriate Schedule "A" agreement, and ratifies and accepts the trustees appointed by the parties to such trust funds. The undersigned agrees to execute a separate Subscription Agreement(s) for Trust Fund(s) when such Trust Fund(s) requires such document(s). This document shall constitute a subscription agreement to the extent of its terms.

Date _____ Company Name _____

Name of Prime Contractor or
Higher Level Subcontractor _____

Signature _____ Print Name _____

Title _____ Contractor's License # _____

Project Name _____ Bid # _____

APPENDIX B

Construction Technology Academy. The Parties have agreed to participate in the District's Construction Technology Academy ("Academy"), funded by the District, to carry out the training and employment objectives of Appendix B. The overall objectives are to (a) offer opportunities and skills necessary to enter post-secondary study and to pursue lifelong learning within the broader context of the building trades industry; and (b) develop and reinforce academic course content standards in order to maximize career opportunities and technical competency.

Industry Steering Committee. In order to facilitate the goals of the Academy, the District and Council agree to continue as members of the Santa Clara County Construction Careers Association (S4CA). S4CA will provide technical assistance and job placement and tracking services on behalf of the District for students who enter and graduate the Construction Technology program and will act as the Industry Steering Committee. The purpose of the Industry Steering Committee will be to assist and aid in the Program/Class delivered by the District. Additionally S4CA and the Council will actively work to identify sources for educational and financial support including State and Federal funding for the program.

1) Annual Training Summer Sessions. Annual summer intern training sessions developed by the Industry Steering Committee shall be made available for qualified District students nominated by the District.

a) Purpose of Summer Training Sessions. The purpose of the summer intern training sessions is to teach the interns employable skills in the construction trades. The skill sets to be taught by the District shall, in part, include materials taken from a curriculum known as "SCANS" which identifies and teaches such general employability skills as dependability, responsibility, working with other people, active listening (i.e., receiving and responding to instruction), organizing work tasks, and utilizing technology. The other skill sets shall include the proper use of tools of the construction trades in addition to practical application of skills in the construction trades. The sessions shall include classroom and job visit components.

2) Employment of Interns/Graduates. The Building Trades Council and the District working through S4CA shall make arrangements for contractors who perform \$175,000 or more

of work on any given Project working under this Construction Careers Agreement to employ both interns and graduates selected by the District. Up to twenty (20) interns annually shall be paid no less than \$2.00 per hour above the then-current minimum wage, for on the job training, but not for periods of time attending the classroom training sessions. The sessions shall occur over a minimum of four and a maximum of five weeks for summer internship positions. Due to safety, prevailing wage, and related issues, the interns shall not be employed directly on the public works projects that are the subject of the Construction Careers Agreement and this Appendix B. Up to twenty (20) graduates selected by the District annually shall be paid no less than \$7.00 per hour above the then-current minimum wage, for work in job classifications unless employed as an apprentice, and then the appropriate hourly rate determined by the appropriate apprentice program will apply.

3) *Intern Program and Priority on California Apprenticeship Council Approved Program Apprenticeship Lists.*

a) *Priority on Apprenticeship List.* The training and employment program of the interns has been developed by the Academy Steering Committee such that graduating interns shall possess the skills, training, and educational background to help the graduate achieve priority on the lists of the Building Trades Apprenticeship Programs for those which maintain a list and direct entry for those programs where direct entry is possible. It is recognized that the Apprenticeship Programs operate according to existing Standards approved by the Division of Apprenticeship Standards of the State of California Department of Industrial Relations and the standards set forth in the collective bargaining agreements for each building trade. Therefore, in order to maximize the opportunity that graduates may achieve a priority standing on an apprenticeship list or direct entry to an apprenticeship program, the Industry Steering Committee shall develop a plan for an annual assessment of the goals and objectives set out in this Appendix B and in so doing, shall coordinate with the District's Career Services representative. The annual program assessment by the Industry Steering Committee shall follow the completion of each summer internship program.

4) *Binding Effect.* This Agreement is binding on the parties, as per Appendix A to this Construction Careers Agreement, and their successors and assigns. However, nothing in this

Appendix B shall supersede the provisions of the Construction Careers Agreement, a Schedule A labor agreement, or the approved standards for any Building Trades apprenticeship program.

AGREEMENT OF CONTRACTOR

I, _____, by affixing my signature hereto, understand that with the support of the Building and Construction Trades Council, the General Contractor and all subcontractors have agreed to work with the Program Manager and the Industry Steering Committee to provide construction employment opportunities on this project, for qualifying participants (interns/graduates) in the District's Construction Technology Academy program.

The Industry Steering Committee will recruit, screen, and refer qualified individuals for employment opportunities through the building and construction trades Unions.

The Committee will also provide retention services to individuals referred to this project for employment. Program Manager will serve as the lead agency for the committee, and as such, will be the agency that contractors will contact to provide appropriate employment information as described below.

I understand that as a contractor on this project performing \$175,000 or more of work, my participation in the Committee's employment program is mandatory and by execution of this Construction Careers Agreement, the obligations contained herein are incorporated by reference into and acknowledged as a material term of the existing agreement the undersigned has with the general contractor and/or the District for work on the Project. Specifically, I agree to comply with the following requirements:

- 1) To contact and provide the following information to Program Manager of all apprentice level job openings on this project in a timely manner *when requested*:
 - a) description of the job, including the trade;
 - b) specific qualifications, skills, and any other job requirements;
 - c) person's name and telephone number at my business who will be responsible for answering questions regarding the job opening; and
 - d) description of how applicants should apply for the job.

2) To work cooperatively with the Program Manager and make good faith efforts to employ qualified individuals referred by the Program Manager. "Good faith efforts" as it applies to this project shall mean:

a) To offer the Program Manager the first opportunity to provide qualified individuals for employment consideration on apprentice level positions, subject to any collective bargaining agreements, and the standards approved by the Division of Apprenticeship Standards, Department of Industrial Relations, State of California.

b) To interview all qualified candidates referred by the committee and to not reject any of these individuals without reasonable justifications;

c) To request construction trades Unions to dispatch qualified individuals referred by the Committee by name when feasible, as permitted under the appropriate Collective Bargaining Agreement, and rules and regulations of the Division of Apprenticeship Standards, Department of Industrial Relations, State of California.

d) To make best efforts to hire candidates referred by the Committee when they are equally or better qualified than all other job applicants for the particular job opening. Offer the Program Manager the first opportunity to provide qualified individuals for employment.

e) Good faith efforts will have been met if contractor employs one or more qualifying program graduates on this project or a non-District project in an apprentice employment position, or in the alternative, in an employment position which shall be compensated at a taxable wage rate of not less than \$7.00 per hour above the then-current minimum wage, and which shall be intended as an entryway to an apprentice position. At the discretion of the District, good faith efforts can also be met by employing one or more "interns" for the summer internship program for a period of up to 5 weeks at not less than \$2.00 per hour above the then-current minimum wage. In the event that the contractor is unable to hire an intern because the geographical location of the contractor's place of business is not practical for the intern or because the contractor does not have an office trailer on site, the intern will be dispatched to a community organization such as Habitat for Humanity to complete his/her internship program. The community organization will pay the intern the above agreed wages.

The contractor will then reimburse the community organization for the wages paid the intern plus a fee to cover the cost of internship supervision on a weekly basis.

3) Upon notice of failure to employ one or more qualifying program graduates, contractor will be required within thirty (30) days to employ local student(s) from the program that have participated in a construction technology academy by the District in work positions when such student(s) are available for dispatch from the Program Manager.

4) To maintain records that document compliance with this agreement and to provide such records to the General Contractor or the Committee upon request.

5) In the event that my business subcontracts a portion of the work agreed upon in this project's Contract Documents, I agree to be responsible for ensuring that my subcontractors comply with all terms and conditions under this agreement, and the appropriate Union Collective Bargaining Agreement.

6) Nothing in this agreement precludes my business from assigning existing employees to work on this project, consistent with the requirements of the Project Labor Agreement.

Date _____ Company Name _____

Name of Prime Contractor or
Higher Level Subcontractor _____

Signature _____ Print Name _____

Title _____ Contractor's License # _____

Project Name _____ Bid # _____

APPENDIX C - LIST OF SCHEDULE A LABOR AGREEMENTS

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PROJECT LABOR AGREEMENT
FOR ALL MEASURE G, E, I and Z BOND PROJECTS
FOR THE
EAST SIDE UNION HIGH SCHOOL DISTRICT

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