

**THE PRESERVE AT TORREY HIGHLANDS, CITY OF SAN DIEGO
PROJECT LABOR AGREEMENT BETWEEN
CONTRACTOR, SAN DIEGO BUILDING CONSTRUCTION TRADES COUNCIL
AND ITS AFFILIATED CONSTITUENT LOCAL UNIONS, AND THE
SOUTHERN CALIFORNIA DISTRICT COUNCIL OF CARPENTERS**

This Project Labor Agreement (hereinafter, "Agreement") is entered into this _____ day of _____, 20__, by and between *Contractor* its successors or assigns, (hereinafter "*Contractor*" or "Prime Contractor") and the San Diego Building and Construction Trades Council (hereinafter "Council"), and its affiliated constituent Local Unions, and the Southern California Regional Council of Carpenters ("Carpenters") (hereinafter, Council, its constituent Local Unions and Carpenters shall be referred to individually and collectively as the "Union" or "Unions").

RECITALS

WHEREAS, the successful completion of The Preserve at Torrey Highlands, the "Project", is of the utmost importance to Prime Contractor; and

WHEREAS large numbers of workers of various skills will be required in the performance of the construction work on the Project; and

WHEREAS, it is recognized that on construction projects with multiple Contractors and bargaining units on the job site, at the same time over an extended period of time, the potential for work disruption exists without an overriding commitment to maintain continuity of work; and

WHEREAS, the Parties agree that by establishing wages, working conditions, and other terms of employment for the workers employed on the Project, a satisfactory continuous and harmonious relationship will exist among labor and management that will lead to the efficient and economical completion of said projects; and

WHEREAS, the Parties believe that this Agreement provides mutual benefits including: project cost containment, the efficient and economical completion of projects to secure optimum productivity, and a process for the peaceful settlement of labor disputes and grievances without work interruptions such as strikes, slowdowns or lockouts, thereby promoting the timely and economical completion of the Project; and

WHEREAS, it is understood that, except as provided for herein, Prime Contractor shall subcontract Covered Work only to Contractors which are signatory to the Schedule A applicable to the Covered Work the Contractor performs; and

WHEREAS, All Parties understand that the City of San Diego has established Equal Opportunity Policy and Equal Employment Opportunity Program requirements and goals for this Project which in order to use best efforts achieve those requirements and goals will require mutual cooperation and assistance;

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

The above Recitals are a part of the terms of the Agreement and are incorporated herein by reference.

DEFINITIONS. Capitalized terms utilized in this Agreement which are not otherwise defined herein shall have the meanings ascribed to said terms below. To the extent of any conflict between the definition of a term in this Article and the meaning ascribed to said term in the Recital paragraphs hereof, the definition of said term in this Article shall prevail.

The term "Prime Contractor" shall mean *Contractor*.

The term "Contractor" as used in this Agreement includes Prime Contractor and Contractor to whom the Prime Contractor awards a construction contract for Covered Work, and also to Subcontractors utilized by such Contractors to perform Covered Work. The term "Contractor" includes any individual, firm, partnership, or corporation, or combination thereof, including joint ventures, which as an independent contractor has entered into a contract, which employs trade employees to perform Covered Work.

"Covered Work" means work defined in Section 1.1.

"Schedule A" shall mean the signatory Local Union's current collective bargaining agreement applicable to the Project which is attached hereto as Schedule A and incorporated by reference herein except as modified in this Agreement.

"Union" or "Unions" means any labor organization signatory to this Agreement acting in their own behalf and on behalf of their respective affiliates, member organizations and/or individual trade employee members whose names are subscribed hereto and who have, through their officers, executed this Agreement.

The term "Apprenticeship Program" as used in this Agreement shall be defined as a joint labor management apprenticeship program certified by the State of California.

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

ARTICLE I

SCOPE OF THE AGREEMENT

Section 1.1 Covered Work. (a) This Agreement shall apply to all construction work performed pursuant to and within the scope of Prime Contractor's contract with The Preserve at Torrey Highlands, LLC, on the Project ("Contract"), other than work excluded in Section 1.2 below

(b) Any Contractor, other than Prime Contractor, performing Covered Work on the Project shall, as a condition to working on the Project, be signatory to the Schedule A

Master Agreement of the Union having trade jurisdiction over the work to be performed by that Contractor, except as provided for in Section 1.2 below. Prime Contractor agrees that, to the extent that it directly employs workers to perform Covered Work it will do so in accordance with this Agreement and the applicable Master Agreement.

(c) The Agreement shall be limited to Covered Work on the Project, undertaken pursuant to Contracts which are awarded by the Prime Contractor on or after the Effective Date, and is not intended to, and shall not govern, any construction contracts entered into prior to the Effective Date of this Agreement, or after the expiration or termination of the Agreement and expressly limited to the Project.

(d) The Parties agree that this Agreement will be made available to, and will fully apply to any bidder for Covered Work.

(e) The Unions and all Contractors agree to abide by the terms and conditions of this Agreement and that this Agreement represents the complete understanding of the Parties. No practice, understanding or agreement between a Contractor and a Union party which is not specifically set forth in this Agreement shall be binding on any Contractor or Union on this Project.

Section 1.2 Contractor Exclusions

The requirements of Section 1.1(b) of this Agreement shall not apply under the following circumstances:

(a). Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Disadvantaged Business Enterprise (DBE), Disabled Veteran Business Enterprise (DVBE), Small Business Enterprise (SBE) and/or Other Business Enterprise (OBE) (collectively referred to herein as EO Contractor).

The Unions understand that a 20% EO contracting commitment applies to the Project. In furtherance of that goal, Prime Contractor shall endeavor to award Covered Work to EO Contractors which are signatory to Schedule A agreements applicable to the Covered Work they may be selected to perform, however, until the 20% goal has been met, it is understood that Prime Contractor may award work to any EO Contractors without regard to whether that Contractor is signatory to a Schedule A but such Contractors must Assent and be bound by this Agreement. If the value of any contract to be awarded to such EO Contractor is two hundred fifty thousand dollars (\$250,000) or less, such EO Contractor need not be signatory to a Schedule A agreement. Such Contractor may elect to execute and Assent, but absent such Assent, shall not be bound by this Agreement.

(b). Non EO Contractors:

For contractors other than EO contractors as referenced in subparagraph (a) above and small contracts referenced in subparagraph b below, there must be a minimum of 3 such bids from Contractors which are signatory to the applicable Schedule A Agreement. In the event that Prime Contractor does not receive a minimum of 3 "Qualified" and Competitive bids from contractors which are signatory to a Schedule A Agreement, Prime Contractor may contract such work to a Contractor which is not signatory to a Schedule A agreement,

however, such Contractor shall be required to sign this Agreement and shall be bound to it for Covered Work for the duration of this Agreement. For the purpose of this Subsection, the term Qualified shall mean that such contractor is suitable to the Prime Contractor in the Prime Contractor's sole discretion. Such qualifications shall include, but not be limited to project specific experience, minimum safety and financial metrics, bonding capacity and qualified management experience.

This exclusion shall only be applicable if the Unions are given notice and a copy of the request to bid when the request to bid is sent to contractors and is further given notice at least ten (10) calendar days prior to the close of the bid date that there are fewer than the minimum number of required bids.

(c). Miscellaneous. In addition to the exceptions set forth in Sections 1.2(a) and 1.2(b) above, Prime Contractor is permitted to award up to 3% of the overall value of work to Contractors which are not signatory to any Schedule A Agreement. Such Contractors shall be required to Assent to and be bound by this Agreement for Covered Work for the duration of this Agreement.

(d) Dispute Resolution. The parties agree that any disputes arising under Section 1.2 or 1.3 shall be resolved through the expedited process set forth in Section 5.7 subsections (a) through (g).

Section 1.3 Other Exclusions. Items specifically excluded from the Scope of this Agreement include the following:

(a) This Agreement is not intended to, and shall not effect or govern the award of contracts which are outside the approved scope of Covered Work, including tenant/user interior work;

(b) Work of non-manual employees, including but not limited to: superintendents, supervisors staff engineers, quality control and quality assurance personnel, time keepers, mail carriers, clerks, office workers, messengers, guards, safety personnel, emergency medical and first aid technicians, and other professional, engineering, administrative, estimating, supervisory and management employees;

(c) Equipment and machinery owned or controlled and operated by the Owner;

(d) Unless specifically included by a Schedule A agreement, All off-site fabrication, manufacture, assembly and handling of materials, equipment or machinery including fabrication of bathroom "pods", millwork, door frames and hardware, curtainwall assemblies; provided, however, that lay down or storage areas for equipment or material and manufacturing (prefabrication) sites, dedicated solely to the Project, and the movement of materials or goods between locations on a Project site are within the scope of this Agreement;

(e) All employees of the Prime Contractor, design teams (including, but not limited to architects, engineers and master planners), or any other consultants (including, but not limited to, project managers and construction managers and their employees) and their sub-consultants, and other employees of professional service organizations, not performing

manual labor within the scope of this Agreement; provided, however, that it is understood and agreed that Building/Construction Inspector and Field Soils and Material Testers (Inspectors) are a covered craft under the Agreement (This inclusion applies to the scope of work defined in the State of California Wage Determination for said Craft. Every Inspector performing under the Wage classification of Building/Construction Inspector and Filed Soils Material Testers under a professional services agreement of a construction contract shall be bound to all applicable requirements of the Agreement);

(f) Any work performed on or near or leading to or into a 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;

(g) On-site or off-site maintenance of leased equipment and supervision of such work;

(h) Work by employees of a manufacturer or vendor that is not deemed to be covered work under the Schedule A's and that is necessary to maintain such manufacturer's or vendor's warranties or guaranty;

(i) Non-construction support services;

(j) Laboratory work for testing.

Section 1.4 Awarding of Contracts. (a) Except as otherwise provided in this Agreement, the Prime Contractor has the absolute right to award contracts or subcontracts on this Project to any Contractor notwithstanding the existence or nonexistence of any agreements between such Contractor and any Union Parties, provided only that such Contractor is willing, ready and able to execute and comply with this Agreement.

(b) It is agreed that all Contractors and Subcontractors of whatever tier, who have been awarded contracts for Covered Work by this Agreement, shall be required to accept and be bound by the terms and conditions of this Agreement, and shall evidence their acceptance by the execution of the Agreement or of the Letter of Assent as set forth in Attachment A hereto, prior to the commencement of work. No Contractor or Subcontractor shall commence Covered Work without first providing a copy of the Agreement or Letter of Assent as executed by it to the Prime Contractor and to the Council forty-eight (48) hours before the commencement of Project Work, or within forty-eight (48) hours after the award of Project Work to that Contractor (or Subcontractor), whichever occurs later.

Section 1.5 Schedule A's. The provisions of this Agreement, including the Schedule A's, (which are the local collective bargaining agreements of the signatory Unions having jurisdiction over the work on the Project, as such may be changed from time-to-time consistent with Article XVII, Section 18.3, and which are incorporated herein by reference) shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreement which may conflict with or differ from the terms of this Agreement. Where a subject covered by the provisions of this Agreement is also covered by a Schedule A, the provisions of this Agreement shall apply. Where a subject is covered by a provision of a Schedule A and not covered by this Agreement, the provisions of the Schedule A shall prevail. Any dispute as to the applicable source between this Agreement and any Schedule A for determining the wages,

hours of working conditions of employees on this Project shall be resolved under the procedures established in Article VIII.

(b) It is understood that this Agreement, together with the referenced Schedule A's, constitutes a self-contained, stand-alone agreement and by virtue of having become bound to this Agreement and, except as provided for in Section 1.1(b) (unless exempted under Section 1.2 or 1.3) the Contractor will not be obligated to sign any other local, area or national collective bargaining agreement as a condition of performing work within the scope of this Agreement.

Section 1.6 Binding Signatories Only. This Agreement and Letter of Assent shall only be binding on the signatory Parties hereto, and shall not apply to the parents, affiliates, subsidiaries, business units or other ventures of any such party.

Section 1.7 Other Work. This Agreement shall be limited to the construction work within the Scope of this Agreement referenced in Section 1.1(a) above. Nothing contained herein shall be interpreted to prohibit, restrict, or interfere with the performance of any other operation, work or function not covered by this Agreement, which may be performed by Prime Contractor or any other Contractor.

Section 1.8 Separate Liability. It is understood that the liability of the Prime Contractor, Contractor(s) 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 or joint liability between or among the Prime Contractor and/or any Contractor or Subcontractor.

Section 1.9 Completed Covered Work. As areas of Covered Work are accepted by the Owner, this Agreement shall have no further force or effect on such items or areas except where the Contractor is directed by the Owner or its representatives to engage in repairs, modification, check-out and/or warranties functions required by the Contract referenced in Section 1.1(a) above, but in no case to exceed 12 months from Substantial Completion as defined in the Contract.

Section 1.10 Except for all work performed under the NTL Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, all instrument calibrations work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, and the National Agreement of the International Union of Elevator Constructors, with the exception of Article VIII (Settlement of Grievances and Disputes) and Article VI (Work Assignments and Jurisdictional Disputes) of this Agreement, which shall apply to such work.

ARTICLE II

UNION RECOGNITION AND EMPLOYMENT

Section 2.1 Recognition. The Contractor recognizes the Unions as the exclusive bargaining representative for the employees engaged in Covered Work performed by employees of the Contractor. For Contractors not signatory to a Schedule A Agreement, such recognition does not extend beyond the period when the employee is engaged in Covered Work.

Section 2.2 Contractor Selection of Employees. The Contractor shall have the right to determine the competency of all employees, the number of employees required, the duties of such employees within their craft jurisdiction, and shall have the sole responsibility for selecting employees to be laid off, consistent with Section 3.3, below. The Contractor shall also have the right to reject any applicant referred by a Union for any reason, subject to any reporting time requirements of the applicable Schedule A; provided, however, that such right is exercised in good faith and not for the purpose of avoiding the Contractor's commitment to employ qualified workers through the procedures endorsed in this Agreement

Section 2.3 Referral Procedures. (a) For signatory Unions having a job referral system contained in a Schedule A, the Contractor agrees to comply with such system and it shall be used exclusively by such Contractor, except as modified by this Agreement. Such job referral system will be operated in a nondiscriminatory manner and in full compliance with federal, state, and local laws and regulations which require equal employment opportunities and nondiscrimination. All of the foregoing hiring procedures, including related practices affecting apprenticeship, shall be operated so as to consider the hiring needs equal employment opportunity and minority utilization goals or other requirements applicable to the Project.

(b) The local Unions will exert their best efforts to recruit and refer sufficient numbers of skilled craft workers to fulfill the labor requirements of the Contractor, including specific employment obligations to which the Contractor may be legally and/or contractually obligated; and to refer apprentices as requested to develop a larger, skilled workforce. The Unions will work with Prime Contractor and Contractor(s) to identify and refer competent craftpersons as needed for Covered Work, and to identify individuals for entrance into apprenticeship programs, or to participation in other identified programs and procedures to assist individuals in qualifying and becoming eligible for such apprenticeship programs, all maintained to increase the available supply of skilled craft personnel for Covered Work.

(c) The Union shall not knowingly refer an employee currently employed by a Contractor on Covered Work to any other Contractor.

Section 2.4 Non-Discrimination in Referral, Employment, and Contracting. The Unions and Contractors agree that they will not discriminate against any employee or applicant for employment on the basis of race, color, religion, gender, national origin, age, union status, sexual orientation, marital status or disability, Further, it is recognized that the certain policies, programs and goals for the utilization of local Small Business Enterprises and Equal Employment Opportunities requirements may apply to the Project. The Parties shall jointly endeavor to assure that these commitments are fully met, and that any provisions of this Agreement which may appear to interfere with such requirements shall be modified to ensure full compliance with such requirements.

Section 2.5 Time for Referral. If any Union's registration and referral system does not fulfill the requirements for specific classifications of covered employees (including residency standards) requested by any Contractor within forty-eight (48) hours (excluding Saturdays, Sundays and holidays), that Contractor may employ employees without reference to the hiring hall requirements of this Agreement or use employment sources other than the Union registration and referral services, and may employ applicants meeting such standards from any other available source. The Contractor should promptly inform the Union of any applicants hired from other sources, and such applicants shall register with the appropriate hiring hall, if any.

Section 2.6 Lack of Referral Procedure. If a signatory local Union does not have a job referral system as set forth in Section 2.3 above, the Contractors shall give the union equal opportunity to refer applicants. The Contractors shall notify the Union of employees so hired.

Section 2.7 Union Membership. No employee covered by this Agreement shall be required to join any Union as a condition of being employed, or remaining employed, for the completion of Project Work; provided, however, that any employee who is a member of the referring Union at the time of referral shall maintain that membership in good standing while employed under this Agreement. All employees shall, however, be required to comply with the union security provisions of the applicable Schedule A for the period during which they are performing on-site Project Work.

Section 2.8 Foremen. The selection and number of craft foreman and/or general foreman shall be the responsibility of the Contractor. All foremen shall take orders exclusively from the designated Contractor representatives, Craft foreman shall be designated as working foreman at the request of the Contractors.

Section 2.9 Core Employees for Schedule A Non-Signatory Contractors. The parties further recognize that any Contractor which must assent to this Agreement, or any Contractor that elects to assent to this Agreement, either of which are not required to be signatory to a Schedule A Agreement as set forth in Sections 1.2(a), 1.2(b) or 1.2(c), may employ, as needed, first a member of its core workforce, then an employee through a referral from the appropriate Union hiring hall utilizing the Referral Procedures in Section 2.3(a), then a second core employee, and a second employee through the referral system, and so on until up to three (3) members of Contractor's core work force are employed on Covered Work. Once a maximum of three (3) core employees are employed, all further employees shall be employed pursuant to the dispatch provisions of this Article. In laying off, the number of core employees shall not exceed one-half plus one of the workforce of a Contractor with six (6) or fewer employees, assuming the remaining employees are qualified to undertake the work available. Core Employees shall meet the following minimum qualifications:

- (a) Possess any license required by state or federal law for the work to be performed;
- (b) Have worked a total of at least 1,000 hours in the construction craft during the prior three years;
- (c) Been on the Contractor's active payroll for at least 60 out of the 180 calendar days prior to the Contract award; and,
- (d) Have the ability to perform safely the basic functions of the applicable trade.

With respect to the utilization of Core Employees, Contractor must, at least two weeks prior to commencing any work on the project, provide Prime Contractor and the business agent for the Union having jurisdiction over the craft the names and social security numbers of the individual employees Contractor will utilize on the Project. Following Contractor's commencement of work on the Project, any further employees Contractor requires to perform work on the Project shall be obtained in accordance with the Referral Procedures in Section 2.3(a) of this article. All core employees shall register with the appropriate hiring hall, if any.

ARTICLE III

UNION ACCESS AND STEWARDS

Section 3.1 Access to Project Sites. Authorized representatives of the Union shall have access to Project Work, provided that they do not interfere with the work of employees and further provided that such representatives fully comply with posted visitor, security and safety rules.

Section 3.2 Stewards. (a) Each signatory local Union shall have the right to dispatch a working journeyman as a steward for each shift, and shall notify the Contractor in writing of the identity of the designated steward or stewards prior to the assumption of such person's duties as steward. Such designated steward or stewards shall not exercise any supervisory functions. There will be no non-working stewards. Stewards will receive the regular rate of pay for their respective crafts.

(b) In addition to his/her work as an employee, the steward will have the right to receive, but not to solicit, complaints or grievances and to discuss and assist in the adjustment of the same with the employee's appropriate supervisor so long as such activities do not unreasonably interfere with the work of the steward or other employees. Each steward should be concerned only with the employees of the steward's Contractor and, if applicable, Subcontractor(s), and not with the employees of any other Contractor. The Contractor will not discriminate against the steward in the proper performance of his/her union duties.

(c) When a Contractor has multiple, non-contiguous work locations at one site, the Contractor may request and the Union shall appoint such additional working stewards as

the Contractor requests to provide independent coverage of one or more such locations. In such cases, a steward may not service more than one work location without the approval of the Contractor.

(d) The stewards shall not have the right to determine when overtime shall be worked or who shall work overtime.

Section 3.3 Steward Layoff/Discharge. The Contractor agrees to notify the appropriate Union twenty-four (24) hours before the layoff of a steward, except in the case of disciplinary discharge for just cause. If the steward is protected against such layoff by the provisions of the applicable Schedule A, such provisions shall be recognized when the steward possesses the necessary qualifications to perform the remaining work. In any case in which the steward is discharged or disciplined for just cause, the appropriate Union will be notified immediately by the Contractor, and such discharge or discipline shall not become final (subject to any later filed grievance) until twenty-four (24) hours after such notice have been given.

Section 3.4 Employees on Non-Covered Work. The Union agrees that the Union representatives, stewards, and individual workers will not interfere with the personnel employed by any other employer not a party to this Agreement.

ARTICLE IV

WAGES AND BENEFITS

Section 4.1 Wages, fringe benefits and all Trust Fund contributions shall be determined by the applicable Schedule "A" agreements for those Contractors signatory to an applicable Schedule "A" for Covered Work. Non-signatory Contractors shall also be required to pay wages, fringe benefits and Trust Fund contributions, which benefits and contributions accrue directly to the benefit of employees (e.g., health and welfare, vacation, holidays, pensions, apprenticeship, training funds), pursuant to the attached Schedule "A" agreements for Covered Work; however, any Contractor or Subcontractor, who for at least ninety (90) days prior to its execution of a contract to perform work on the Project has provided benefits through plans which are equal to or better than those designated in the Schedule A Agreements may, at the discretion of the Contractor or Subcontractor, continue to contribute to such plans on behalf of its non-union Core Employees in lieu of payments to the plans in the applicable Schedule A Agreements. The parties agree that, to qualify as "equal to or better than," each and all of the Contractor's benefit plans must be equal to or better than those in the applicable Schedule A Agreements. The parties further agree that, to qualify as "equal to or better than," any Contractor retirement plan must be a "defined benefit plan" rather than a "defined contribution plan." Contractors who believe their benefit plans are equal to or better than those designated in the Schedule A Agreements must submit their fringe benefit packages to the Prime Contractor and the Council for evaluation at least fourteen (14) days prior to bidding. The Prime Contractor and the Council will be responsible for determining whether the benefits are equal to or better than those designated in the Schedule A's. If the Prime Contractor and the Council are unable to agree, the dispute shall be resolved through the expedited process set forth in Section 5.7 subsections (a) through (g). Contractors may only take credit against the prevailing wage for its core work force in accordance with the Prevailing Wage Statute and the difference between the hourly

cost, if any, of the fringe benefit provided and the hourly cost of the applicable fringe benefit portion of the wage determination must be paid to the worker as wages. Project Contractor and the business agent of the Union having jurisdiction over the craft shall, upon giving at least seventy-two (72) hours written notice to a Contractor or Subcontractor, have the right to audit the Contractor or Subcontractor's payroll records to ensure compliance with these provisions.

Where applicable, the Contractor adopts and agrees to be bound by the written terms of the applicable, legally established, trust agreement(s) specifying the detailed basis on which payments are to be made into, and benefits paid out of, such trust funds for its employees. The Contractor authorizes the Parties to such trust funds to appoint trustees and successors' trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor.

Section 4.2 Wage Premiums. Wage premiums, including but not limited to pay based on height of work, shift premiums, hazard pay scaffold pay and special skills shall not be applicable to work under this Agreement, except to the extent provided for in any applicable prevailing wage determination or Schedule A agreement.

ARTICLE V

WORK STOPPAGES AND LOCKOUTS

Section 5.1 No Work Stoppages or Disruptive Activity. The Council and the Unions signatory hereto agree that neither they, and each of them, nor their respective officers or agents or representatives, shall incite or encourage, condone or participate in any strike, walk-out, slowdown, picketing, observing picket lines or other activity of any nature or kind whatsoever, for any cause or dispute whatsoever with respect to or in any way related to Covered Work, or which interferes with or otherwise disrupts Covered Work, or with respect to or related to the Prime Contractor or other Contractors or Subcontractors, including, but not limited to, economic strikes, unfair labor practice strikes, safety strikes, sympathy strikes and jurisdictional strikes whether or not the underlying dispute is arbitrable. Any such actions by the Council, or Unions, or their members, agents, representatives or the employees they represent shall constitute a material violation of this Agreement. The Council and the Union shall take all steps necessary to obtain compliance with this Article.

Section 5.2 Employee Violations. The Contractor may discharge any employee violating Section 5.1 above and any such employee will not be eligible for rehire under this Agreement.

Section 5.3 Standing to Enforce. The Prime Contractor or any Contractor affected by an alleged violation of Section 5.1 shall have standing and the right to enforce the obligations established therein.

Section 5.4 Expiration of Schedule A's. If a collective bargaining agreement between a Contractor and one or more of the Union(s) expires before the Contractor completes the performance of a Covered Contract for a Covered Project, and the Union or the Contractor gives notice of demand for a new or modified collective bargaining agreement, the Unions

agree that they will not strike the Contractor on any Covered Project and the Union and the Contractor agree that the expired collective bargaining agreement will continue in full force and effect for the Covered Work under the Agreement until a new or modified collective bargaining agreement is reached between the Union and the Contractor. If the new or modified collective bargaining agreement reached between the Union and the Contractor provides that any terms of the collective bargaining agreement shall be retroactive, the Contractor agrees to comply, consistent with the terms of this Agreement with any retroactive terms of the new or modified collective bargaining agreement which are applicable to employees of said Contractor that are employed on a Covered Project within seven (7) days at no cost to the Prime Contractor. All employees shall continue to work and to perform all their obligations with respect to Covered Work despite the expiration of a Schedule A agreement. Should a Contractor engaged in Covered Work, enter into an interim agreement with the Unions for work being performed elsewhere after the expiration, and before the renewal of a local collective bargaining agreement forming the basis for Schedule A, such interim agreement shall be utilized by that Contractor for Covered Work, subject to the provisions of Article XVIII, Section 18.3.

Section 5.5 No Lockouts. Contractors shall not cause, incite, encourage, condone or participate in any lock-out of employees with respect to Project Work during the term of this Agreement. The term "lock-out" refers only to a Contractor's exclusion of employees in order to secure collective bargaining advantage, and does not refer to the discharge, termination or layoff of employees by the Contractor for any reason in the exercise of rights pursuant to any provision of this Agreement, or any other agreement, nor does "lock-out" include the Owner's or Prime Contractor's decision to stop, suspend or discontinue any Covered Work or any portion thereof for any reason.

Section 5.6 Best Efforts To End Violations. (a) If a Prime Contractor or any other Contractor contends that there is any violation of this Article, Section 6.3 of Article VI, or the provisions of Article XVII, Section 17.1, it shall notify, in writing, the Council and the involved Union(s). The Council and the leadership of the involved Union(s) will immediately instruct, order and use their best efforts to cause the cessation of any violation of the relevant Article.

(b) If the Union contends that any Contractor has violated this Article, it will notify that the Contractor and the Prime Contractor, setting forth the facts which the Union contends violate the Agreement, at least twenty-four (24) hours prior to invoking the procedures of Section 5.7.

Section 5.7 Expedited Enforcement Procedure. Prime Contractor or any other Contractor may institute the following procedures, in lieu of or in addition to any other action at law or equity, when a breach of Section 5.1, 5.4 or 5.5, above, or Section 6.3 of Article VI, or Section 18.3 of Article XVIII, is alleged.

(a) The party invoking this procedure shall notify _____, who has been selected by the negotiating Parties, and whom the Parties agree shall be the permanent arbitrator under this procedure. If the permanent arbitrator is unavailable at any time, the party invoking this procedure shall notify one of the alternates selected by the Parties, in that order on an alternating basis. Notice to the arbitrator shall be by the most expeditious means available,

with notices to the Parties alleged to be in violation, and to the Council if it is a union alleged to be in violation. For purposes of this Article, written notice may be given by telegram, facsimile, hand delivery or overnight mail and will be deemed effective upon receipt.

(b) Upon receipt of said notice, the arbitrator named above or his/her alternate shall sit and hold a hearing within twenty-four (24) hours if it is contended that the violation still exists, but not sooner than twenty-four (24) hours after notice has been dispatched to the Council of the involved Union(s) and/or Contractor as required by Section 5.6, as above.

(c) The arbitrator shall notify the Parties of the place and time chosen for this hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed 24 hours unless otherwise agreed upon by all Parties. A failure of any party or Parties to attend said hearings shall not delay the hearing of evidence or the issuance of any award by the arbitrator.

(d) The sole issue at the hearing shall be whether or not a violation of Sections 5.1, 5.4 or 5.5, above, of Section 6.3 of Article VI, or Section 17.1 of Article XVII, has in fact occurred. The arbitrator shall have no authority to consider any matter in justification, explanation or mitigation of such violation or to award damages, (except for damages as set forth in Section 5.8 below) 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 an 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 the Article and other appropriate relief, and such Award shall be served on all Parties by hand or registered mail upon issuance.

(e) Such Award shall be final and binding on all Parties and may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to herein above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other party. In any judicial proceeding to obtain a temporary order enforcing the arbitrator's Award as issued under Section 5.7(d) 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 by delivery to their address as shown on this Agreement (for a Union), as shown on their business contract for work under this Agreement (for a Contractor) and to the representing Union (for an employee), by certified mail by the party or Parties first alleging the violation.

(f) Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance hereto are hereby waived by the Parties to whom they accrue.

(g) The fees and expenses of the arbitrator shall be equally divided between the party or Parties initiating this procedure and the respondent party or Parties.

Section 5.8 Liquidated Damages. (a) If the arbitrator determines in accordance with Section 5.7 above that a work stoppage has occurred, the respondent Union(s) shall, within eight (8) hours of receipt of the Award, direct all the employees they represent on the Project to immediately return to work. If the craft(s) involved do not return to work by the beginning of the next regularly scheduled shift following such eight (8) hour period after receipt of the arbitrator's Award, and the respondent Union(s) have not complied with their obligations to immediately instruct, order and use their best efforts to cause a cessation of the violation and return the employees they represent to work, then the non-complying Union(s) shall each pay a sum as liquidated damages to the Prime Contractor and each will pay an additional sum per shift, as set forth in (b), below, for each shift thereafter on which the craft(s) has not returned to work.

(b) If the arbitrator determines in accordance with Section 6.7 above that a lock-out has occurred, the respondent Contractor(s) shall, within eight (8) hours after receipt of the award, return all the affected employees to work on the Project, or otherwise correct the violations found by the arbitrator. If the respondent Contractor(s) do not take such action by the beginning of the next regular scheduled shift following the eight (8) hour period, each non-complying respondent Contractor shall pay or give as liquidated damages, to the affected Union(s) (to be apportioned among the affected employees and the benefit funds to which contributions are made on their behalf, as designated by the arbitrator) and each shall pay an additional sum per shift, as set forth in (c), below, for each shift thereafter in which compliance by the respondent Contractor(s) has not been completed.

(c) The Parties agree that project delays caused by violations of this Article will cause the Prime Contractor to sustain damages. They agree that it would be impractical or extremely difficult to fix the amount of such damages. Therefore, the Parties agree that, in the event of a breach of either of these provisions, the party in breach shall pay to the Prime Contractor the sum of \$20,000.00 per shift from the time the arbitrator determines that a delay has occurred until the arbitrator determines that the project is again on construction schedule. The payment, when made, shall constitute a damages remedy of the Prime Contractor for the delay specified, but shall not prevent the Prime Contractor from seeking an injunctive or other monetary relief, including termination of this Agreement. Payment of these sums as liquidated damages is not intended as a forfeiture or penalty within the meaning of California Civil Code §§3275 or 3369, but instead, is intended to constitute liquidated damages to the Prime Contractor pursuant to §§1671, 1676 and 1677 of the California Civil Code.

(d) Prime Contractor shall not be liable to any Union, worker of benefit fund for any incorrect assignment of work.

ARTICLE VI

WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

Section 6.1 No Jobsite Disruption. There will be no strikes, work stoppages, picketing, sympathy strikes, slow downs or other interferences with the work because of jurisdictional disputes between Unions. The assignment of work will be solely the responsibility of the Contractor performing the work involved; and such work assignments

will be in accordance with the Plan for Settlement of Jurisdictional Disputes in the Construction Industry (the “Plan”) or any successor Plan.

Section 6.2 All jurisdictional disputes on this Project 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 by the Building and Construction Trades Department. Decisions rendered shall be final and binding and conclusive on the Contractors and Unions parties to this CBA.

All jurisdictional disputes shall be resolved without the occurrence of any of the activities prohibited in Article V (Work Stoppages and Lock-outs), and the Contractor’s assignment shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

Section 6.2.1 If a dispute arising under this Article involves the Southwest Regional Council of Carpenters 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 Council within 14 days of the selection of the Arbitrator. All other procedures shall be as specified in the Plan.

Section 6.3 Failure to Comply. If any Union or Contractor fails to immediately and fully comply with the final decision rendered by the Plan, affected Union(s) or Contractor(s) may seek legal redress for such conduct, including, but not limited to, injunctive relief and/or damages.

Section 6.4 Pre-job Conference. In order to avoid jurisdictional disputes, it is required that a pre-job conference be held fourteen (14) days prior to the start of work by the Contractor for the Covered Project covered by this CBA. The Subcontractors and Owner Operators will be advised in advance of such conferences and may participate if they wish. The purpose of the conference will be to, among other things, determine craft and manpower needs, schedule of work and assignment of work for the Contract and Project Work rules/owner rules.

ARTICLE VII

MANAGEMENT RIGHTS

Section 7.1 Contractor Rights. The Contractors have the sole and exclusive right and authority to oversee and manage construction operations on Covered Work without any limitations unless expressly limited by a specific provision of this Agreement. In addition to the following and other rights of the Contractors enumerated in this Agreement, the Contractors expressly reserve their management rights and all the rights conferred upon them by law. The Contractor's rights include, but are not limited to, the right to:

- (a) Plan, direct and control operations of all work;
- (b) Hire, promote, transfer and layoff their own employees, respectively, as deemed appropriate to satisfy work and/or skill requirements;
- (c) Promulgate and require all employees to observe reasonable job rules and security and safety regulations;
- (d) Discharge, suspend or discipline their own employees for just cause;
- (e) Utilize any work methods, procedures or techniques, and select, use and install any types or kinds of materials, apparatus or equipment, regardless of source of manufacture or construction; assign and schedule work at their discretion; and
- (f) Assign overtime, determine when it will be worked and the number and identity of employees engaged in such work, subject to such provisions in the applicable Schedule A(s) requiring such assignments be equalized or otherwise made in a nondiscriminatory manner.

Section 7.2 Specific Prime Contractor Rights. In addition to the following and other rights of the Prime Contractor enumerated in this Agreement, the Prime Contractor expressly reserves its management rights and all the rights conferred on it by law and contract. The Prime Contractor's rights include but are not limited to the right to:

- (a) Inspect any area to ensure that workers follow the applicable safety and other work requirements;
- (b) Require Contractors to establish a different work week or shift schedule for particular employees as required to meet the operational needs of the Project;
- (c) At its sole option, terminate, delay and/or suspend any and all portions of the Covered Work at any time;
- (d) Approve any work methods, procedures and techniques used by Contractors whether or not these methods, procedures or techniques are part of industry practices or customs; and
- (e) Investigate and process complaints in the matter set forth in Article VII.

Section 7.3 Use of Materials. There should be no limitations or restriction by Union upon a Contractor's choice of materials or design, nor, regardless of source or location, upon the full use and utilization, of equipment, machinery, packaging, precast, prefabricated, prefinished, or preassembled materials, tools or other labor saving devices.

Section 7.4 Special Equipment, Warranties and Guaranties. (a) It is recognized that certain equipment of a highly technical and specialized nature may be installed at the Project. The nature of the equipment, together with the requirements for manufacturer's warranties, may dictate that it be prefabricated, pre-piped and/or pre-wired and that it be installed under the supervision and direction of the Prime Contractor and/or manufacturer's personnel. The

Unions agree that such equipment is to be installed without incident and that such work shall not be covered by this Agreement.

(b) The Parties recognized that the Contractor will initiate from time to time the use of new technology, equipment, machinery, tools, and other labor-savings devices and methods of performing Covered Work. The Union agrees that they will not restrict the implementation of such devices or work methods. The Unions will accept and will not refuse to handle, install or work with any standardized and/or catalogue parts, assemblies, accessories, prefabricated items, preassembled items, partially assembled items, or materials whatever their source of manufacture or construction.

(c) If any disagreement between the Contractor and the Unions concerning the methods of implementation or installation of any equipment, or device or item, or method of work, arises, or whether a particular part or pre-assembled item is a standardized or catalog part or item, the work will precede as directed by the Contractor and the Parties shall immediately consult over the matter. If the disagreement is not resolved, the affected Union(s) shall have the right to proceed through the procedures set forth in Article VIII.

Section 7.5 No Less Favorable Treatment. The Parties expressly agree that Covered Work will not receive less favorable treatment than that on any other project which the Unions, Contractors and employees work.

ARTICLE VIII

SETTLEMENT OF GRIEVANCES AND DISPUTES

Section 8.1 Cooperation and Harmony on Site. (a) This Agreement is intended to establish and foster continued close cooperation between management and labor. The Council shall assign a representative to this Project for the purpose of assisting the local Unions, and working with the Prime Contractor, together with other Contractors, to complete the construction of the Covered Work economically, efficiently, continuously and without any interruption, delays or work stoppages.

(b) The Prime Contractor, other Contractors, Unions, and employees collectively and individually, realize the importance to all Parties of maintaining continuous and uninterrupted performance of Covered Work, and agree to resolve disputes in accordance with the grievance provisions set forth in this Article or, as appropriate, those of Article V or VI.

(e) The Prime Contractor shall observe the processing of grievances under this Article and Articles V and VI, including the scheduling and arrangements of facilities for meetings, selection of the arbitrator from the agreed-upon panel to hear the case, and any other administrative matters necessary to facilitate the timely resolution of any dispute; provided, however, it is the responsibility of the principal Parties to any pending grievance to insure the time limits and deadlines are met.

Section 8.2 Processing Grievances. Any questions arising out of and during the term of this Agreement involving interpretation or application of this Agreement, which includes applicable provisions of the Schedule A's, but not jurisdictional disputes or

alleged violations of Article VI Section 6.1 and 6.4 and similar provisions, shall be considered a grievance and subject to resolution under the following procedures.

Step 1. - Employee Grievances. When any employee subject to the provisions of this Agreement feels aggrieved by an alleged violation of this Agreement, the employee shall, through his local Union business representative or job steward, within ten (10) working days after the occurrence of the violation, give notice to the work site representative of the involved Contractor stating the provision(s) alleged to have been violated. A grievance should be considered null and void if notice of the grievance is not given within the ten (10) day period. A business representative of the local Union or the job steward and the work site representative of the involved Contractor shall meet and endeavor to adjust the matter within ten (10) working days after timely notice has been given. If they fail to resolve the matter within the prescribed period, the grieving party may, within ten (10) working days thereafter, pursue Step 2 of this grievance procedure provided the grievance is reduced to writing, setting forth the relevant information, including a short description thereof, the date on which the alleged violation occurred, and the provision(s) of the Agreement alleged to have been violated. Grievances and disputes settled at Step 1 shall be non-precedential except as to the Parties directly involved.

Union or Contractor Grievances. Should the Union(s) or any Contractor have a dispute with the other party(ies) and, if after conferring within ten (10) working days after the disputing party knew or should have known of the facts or occurrence giving rise to the dispute, a settlement is not reached within five (5) working days, the dispute shall be reduced to writing and processed to Step 2 in the same manner as outlined in 1 (a) above for the adjustment of an employee complaint.

Step 2. The business manager of the involved local Union or his designee, together with the site representative of the involved Contractor, and the Prime Contractor shall meet within seven (7) working days of the referral of the dispute to this second step to arrive at a satisfactory settlement thereof. If the Parties fail to reach an agreement, the dispute may be appealed in writing in accordance with the provisions of Step 3 within seven (7) calendar days after the initial meeting at Step 2.

Step 3. (a) If the grievance shall have been submitted but not resolved under Step 2, either the Union or Contractor party may request in writing to the Prime Contractor (with copy(ies) to the other party(ies)) within seven (7) calendar days after the initial Step 2 meeting, that the grievance be submitted to [INSERT NAME OF ARBITRATOR SELECTED BY THE PARTIES IN ADVANCE OF SIGNING THIS AGREEMENT.

. The decision of the arbitrator shall be final and binding on all Parties and the decision of the Arbitrator shall be enforceable in any federal court of competent jurisdiction. The Arbitrator's fee shall be borne equally by the involved Contractor(s) and the involved union(s). Each party shall be responsible for their own costs and expenses.

(b) Failure of the grieving party to adhere to the time limits established herein shall render the grievance null and void. The time limits established herein may be extended only by written consent of the Parties involved at the particular step where the extension is agreed upon. The arbitrator shall have the authority to make decisions only on issues presented and shall not have the authority to change, amend, add to or detract from any of

the provisions of this Agreement. The decision of the Arbitrator shall be final and binding upon the parties to that proceeding.

Section 8.3 Limit on Use of Procedures. Procedures contained in this Article shall not be applicable to any alleged violation of Article V or VI, with a single exception that any employee discharged for violation of Article V, Section 5.2, or Article VI, Section 6.3, may resort to the procedures of this Article to determine only if he/she was, in fact, engaged in that violation.

Section 8.4 Notice. The Prime Contractor shall be notified by the involved Contractor of all actions at Steps 2 and 3, and further, the Prime Contractor shall, upon its own request, be permitted to participate fully as a party in all proceedings at such steps.

ARTICLE IX

REGULATORY COMPLIANCE

Section 9.1 Compliance with All Laws. The Council and all Unions, Contractors, Subcontractors and their employed shall comply with all federal and state laws, ordinances and regulations including, but not limited to, those relating to safety and health, employment and applications for employment applicable to the Covered Work.

Section 9.2 Monitoring Compliance. The Parties agree that the Prime Contractor may monitor, compliance by all Unions, Contractors and Subcontractors with all federal and state law's regulation that, from time to time may apply to Covered Work. The Parties shall cooperate with such efforts by Prime Contractor to the maximum extent feasible.

ARTICLE X

SAFETY AND PROTECTION OF PERSON AND PROPERTY

Section 10.1 Safety. (a) It is understood that employees have an individual obligation to use diligent care to perform their work in a safe manner and to protect themselves and the property of the Contractors. Contractors must ensure each and every employee has current licenses or certifications necessary to perform work in his or her craft. The employer and employee must have proof of such license or certification for presentation and inspection.

(b) Employees shall be bound by the safety, security and visitor rules established by the Prime Contractor or other Contractors. An employee's failure to satisfy his/her obligations under this section will subject him/her to discipline, up to and including discharge.

(c) The Prime Contractor may implement reasonable substance abuse testing procedures and regulations, which may include pre-hire, reasonable cause, random and post-accident testing to the extent permitted by federal and state law.

(d) All Employees shall be subject to the Prime Contractor's Worksite Rules as they may be implemented or modified from time to time including policies concerning badging, tobacco use and other workplace rules.

Section 10.2 Inspection. The inspection of shipments of equipment, machinery, and construction materials of every kind shall be performed at the discretion of the Contractor by individuals of its choice.

ARTICLE XI

Section 11.1 Use of Apprentices.

(a) The Unions agree to cooperate with the Contractor in furnishing apprentices as requested up to the maximum percentage permitted by law. The apprentice ratio for each craft shall be in compliance, at a minimum, with the applicable provisions of the Labor Code relating to utilization of apprentices. In the event the Union or Apprenticeship Program is unable or unwilling to dispatch a sufficient number of apprentices, other non-journeyman classifications may be utilized at the Contractor's discretion as part of the ratio of apprentices, to the extent that the applicable Schedule A and applicable law permits.

(b) The Parties agree that all Contractors will comply with all applicable laws and regulations in the request for dispatch and employment of apprentices.

(c) The Parties agree that apprentices will not be dispatched to Contractors working under this Agreement unless there is a journeyman or other Contractor employee working on the Project where the apprentice is to be employed who is qualified to assist and oversee the apprentice's progress through the program in which he is participating.

ARTICLE XII

PRE-JOB CONFERENCE

Section 12.1 Work Assignments. Consistent with Article VI, Section 6.5, all work assignments should be disclosed by the Contractor at a pre job conference held in accordance with industry practice. The Contractor shall notify the Prime Contractor at least two weeks before starting work under this Agreement, and the Prime Contractor shall coordinate the scheduling of a pre job conference with the Council, the Contractor(s) and the affected Union(s). Should there be any formal jurisdictional dispute raised under Article VI, the Prime Contractor shall be promptly notified. Any jurisdictional disputes settled at the pre job conference shall be binding upon the Unions for the duration of the Project.

ARTICLE XIII

LABOR/MANAGEMENT AND COOPERATION

Section 13.1 Joint Committee. The Parties to this Agreement will form a joint committee consisting of representatives selected by the Council and the Prime Contractor.

The purpose of the Committee shall be to promote harmonious and stable labor management relations on this Project, to ensure effective and constructive communication between labor and management Parties, to advance the proficiency of work in the industry, and evaluate and ensure an adequate supply of skilled labor for all Project Work.

Section 13.2 Functions of Joint Committee. The Committee shall meet on a schedule to be determined by the Committee or at the call of the joint chairs, to discuss the administration of the Agreement the progress of the Project, general labor management problems that may arise, and any other matters consistent with this Agreement.

Project Contractor shall be responsible for the scheduling of the meetings, the preparation of the agenda topics for the meetings, with input from the Unions and the Contractors.

ARTICLE XIV

SAVINGS AND SEPARABILITY

Section 14.1 Savings Clause. It is not the intention of the Prime Contractor, Contractors or the Union Parties to violate any laws governing the subject matter of this Agreement. The Parties hereto agree that in the event any provision of this Agreement is finally held or determined to be illegal or void as being in contravention of any applicable law or regulation, the remainder of the Agreement shall remain in full force and effect unless the part or parts so found to be void are wholly inseparable from the remaining portions of this Agreement. Further, the Parties agree that if and when any provision(s) of this Agreement is finally held or determined to be illegal or void by a court of competent jurisdiction, the Parties will promptly enter into negotiations concerning the substantive effect of such decision for the purposes of achieving conformity with the requirements of any applicable laws and the intent of the Parties hereto. If the legality of this Agreement is challenged and any form of injunctive relief is granted by any court, suspending temporarily or permanently the implementation of this Agreement, then the Parties agree that all Covered Work that would otherwise be covered by this Agreement should be continued to be bid and constructed without application of this Agreement so that there is no delay or interference with the ongoing planning, bidding and construction of any Covered Work.

Section 14.2 Effect of Injunctions or Other court Orders. The Parties recognize the right of the Owner or Prime Contractor to withdraw, at its absolute discretion, the utilization of the Agreement as part of any bid specification should a Court of competent jurisdiction issue any order, or any applicable statute which could result, temporarily or permanently in delay of the bidding, awarding and/or construction on the Project.

ARTICLE XV

WAIVER

Section 15.1 Waiver. A waiver of or a failure to assert any provisions of this

Agreement by any or all of the Parties hereto shall not constitute a waiver of such provision for the future. Any such waiver shall not constitute a modification of the Agreement or change in the terms and conditions of the Agreement and shall not relieve, excuse or release any of the Parties from any of their rights, duties or obligations hereunder.

ARTICLE XVI

AMENDMENTS

Section 16.1 The provisions of this Agreement can be renegotiated, supplemented, rescinded or otherwise altered only by mutual agreement in writing, hereafter signed by the Parties.

ARTICLE XVII

SUCCESSORSHIP AND SURVIVABILITY

Section 17.1. The subcontracting obligations described in Article 1 are independent obligations of Primary Employer which shall survive any full or partial termination of Primary Employer's involvement in the Project for any reason, including: (i) any full or partial termination or transfer of Primary Employer's right to control and coordinate construction work on the Project; (ii) any full or partial termination or transfer of a contract, if any, between Primary Employer and Developer for any Covered Work; (iii) the sale, lease or other transfer of all or any portion of the Project Real Property or any interest in the Project Real Property by any Project owner; or (iv) any other event that results in the replacement of Primary Employer with another contractor. Provided, however, Primary Employer shall be released from all obligations under this Agreement with respect to all or any portion of the Project, including liability for the payment of damages, and shall have no liability for any breach of this Agreement by a successor, upon Primary Employer's receipt of a fully executed release by the Unions substantially in the form of the release attached to either a "Full Assumption Agreement" (attached hereto as Attachment __) or "Partial Assumption Agreement" (attached hereto as Attachment __) (each, a "Release"). A successor that is able to purchase the Project, or a portion of the Project, as applicable, shall be conclusively presumed to have the legal capacity and financial means to complete the Project if, as of the closing of the purchase, either: (i) such purchaser does not encumber the Project with a deed of trust or lien securing payment of money; or (ii) the purchaser is an arms-length third party, unaffiliated with its seller, and the purchaser encumbers the Project with one or more deeds of trust or other liens in favor of a federal or state bank, life insurance company, federal or state savings and loan association, or other institutional lender regulated by federal or state authority securing loan(s) to provide funds for the purchase and/or construction.

ARTICLE XVIII

DURATION OF THE AGREEMENT

Section 18.1 Duration. This Agreement shall be effective as of the date that Primary Employer executes a Contract with the Owner ("Effective Date") and shall be continued in effect until Turnover as defined in Section 1.82 below_ (provided, however, it shall continue in effect for all work awarded prior to such termination date until the completion of such Covered Work).

Section 18.2 Turnover and Final Acceptance of Completed Work. (a) Construction of any phase, portion, section, or segment of Covered Work shall be deemed complete when such phase, portion, section or segment 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 and accepted by the Owner, the Agreement shall have no further force or effect on such items or areas, except when the Prime Contractor is directed by the Owner to engage and repairs or modifications required by its contract(s) with the Owner, but in no case to exceed 12 months from Substantial Completion as defined in the Contract.

(b) Notice of each final acceptance received by the Prime Contractor will be provided to the Council with the description of what portion, segment, etc. has been accepted, Final acceptance may be subject to a 'punch" list, and in such case, the Agreement will continue to apply to each such item on the list until it is completed to the satisfaction of the Owner and Notice of Acceptance is given by the Owner or its representative to the Prime Contractor.

Section 18.3 Continuation of Schedule A's. Schedule A's incorporated as part of this Agreement shall continue in full force and effect, as previously stated, until the Contractor and Unions Parties to the collective bargaining agreement(s), which are the basis for such Schedule

A's, notify the Prime Contractor and all other Contractors of the mutually agreed upon changes in such agreements and their effective date(s).

The Parties agree to recognize and implement all applicable changes on their effective dates, except as otherwise provided by this Agreement; provided; however, that any such provisions negotiated in said collective bargaining agreements will not apply to work covered by this Agreement if such provisions are less favorable to the Contractor under the Agreement than those uniformly required of Contractors for construction work normally covered by those agreements; nor shall any provision be recognized or applied if it may be construed to apply exclusively or predominately to work covered by this Agreement. Any disagreement between the Parties over the incorporation into a Schedule A of any such provision agreed upon in a negotiation of the local collective bargaining agreement which is the basis for a Schedule A shall be resolved under the procedures established in Article VIII.

Section 18.4 Final Termination. Final termination of all obligations, rights, and liabilities, and disagreements shall occur upon receipt by the Council of a Notice from the Prime Contractor saying that no work remains within the scope of the Agreement;

ARTICLE XIX

HELMETS TO HARDHATS

Section 19.1 Veterans Entry into Building and Construction Trades. The Parties recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry, The Contractors 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 and 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 19.2 Integrated Database. The Unions and Contractors agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on this Project and of apprenticeship and employment opportunities for this Project.

Dated: _____ *Contractor*

By:

Dated: _____ SAN DIEGO BUILDING AND
CONSTRUCTION
TRADES COUNCIL

By:
Business Manager

Dated: _____ SOUTHERN CALIFORNIA REGIONAL
COUNCIL OF CARPENTERS

By:
[Insert Name and Title]

SIGNATORY UNIONS
(See Attached)

The Preserve PROJECT LABOR
AGREEMENT

LOCAL UNIONS

_____ By: _____

_____ By: _____

_____ By: _____

_____ By: _____

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ATTACHMENT A - LETTER OF ASSENT

To be signed by all Contractors awarded work covered by the Project Labor Agreement prior to commencing work.

[CONTRACTOR'S LETTERHEAD]

DATE

Contractor.

Address

Address

Address

Attention: _____

Re: The Preserve Project Labor Agreement

Dear Sir:

This is to confirm [Name of Company] agrees to be party to and bound by the The Preserve Project Labor Agreement, as such Agreement may from time to time be amended by the negotiating parties or interpreted pursuant to its terms. Such obligation to be a party and bound by this Agreement shall extend only to all work covered by the Agreement undertaken by this Company on the Project pursuant to [Contract No.

_____ and Name of Project], and this Company shall require all of its subcontractors of whatever tier to be similarly bound for all work within the scope of the Agreement by signing and furnishing to you an identical Letter of Assent prior to their commencement of work on the Project.

Sincerely,

[Name of Construction Company]

By:

[Name and Title of Authorized Executive]

[Copies of this Letter must be submitted to the Prime Contractor]

