

PROJECT LABOR AGREEMENT

INTRODUCTION/FINDINGS

The purpose of this Agreement is to promote efficiency of construction operations during the County's construction of the Valley Specialty Center Bid Package #2 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.

RECITALS

1. The timely and successful completion of the Project is important to permit the County to provide necessary services to individuals and businesses located in the County as well as to other governmental agencies.
2. Large numbers of workers in the various crafts and trades will be required in the performance of construction work for the Project. Many of the workers will be both represented by the unions affiliated with the Santa Clara and San Benito Counties Building & Construction Trades Council or other labor organization signatory to this Agreement (Unions) and employed by contractors and subcontractors (Contractors) signatory to collective bargaining agreements with the Unions.
3. It is important to the successful completion of the Project that a sufficient supply of skilled craft workers be available.
4. The interests of the general public, the County of Santa Clara, the Union(s) and their members, and Contractors would be best served if the construction work proceeds continuously in an orderly, safe, efficient and economical manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lobbying slowdowns or other interferences with work.
5. The Contractors and Union(s) desire: to mutually establish and stabilize wages, hours, and working conditions for the workers employed on the Project by the Contractors; to encourage close cooperation among the Contractors and the Union(s); to establish effective methods to settle disputes and controversies including jurisdictional disputes that may arise; and to ensure optimum productivity, orderly performance of the work, and that a satisfactory, continuous and harmonious relationship will exist among the parties to this Agreement.
6. The Contractors and Union(s) desire to provide for effective, prompt and fair dispute resolution procedures for all types of disputes that may arise under this Agreement and for the effective enforcement of the rights and understandings set forth in this Agreement.

7. The contracts for the construction of the Project shall be awarded in accordance with the applicable provisions of state law, the Santa Clara County Charter, and the Santa Clara County Ordinance Code.
8. The Board of Supervisors has the absolute right to select the responsible bidder submitting the lowest responsive bid for the award of each construction contract for the Projects.
9. The parties hereto pledge their full good faith and trust to work together towards satisfactory completion of the Project.
10. The interests of the general public, the County of Santa Clara, the Union(s) and their members, and Contractors would be best served if workers have access to healthcare benefits that are intended by the prevailing wage statutes and are set forth in the Schedule A agreements discussed herein.

AGREEMENT

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

SECTION 1. DEFINITIONS

1. "Agreement" means this Project Labor Agreement.
2. "County" means the County of Santa Clara acting through its Board of Supervisors, County Executive, Agency and Department heads and administrative staff.
3. "Contractor" means all construction contractors and subcontractors of whatever tier engaged in construction work on any part of the Project according to the contract terms and conditions approved by the County, which incorporate this Agreement.
4. "Project" refers to the construction of the Valley Speciality Center Bid Package #2 project and related work identified by the County as subject to this Agreement and as described in Section 2, "Project Description."
5. "Union" or "Unions" means the Santa Clara and San Benito Counties Building and Construction Trades Council ("Trades Council") and its affiliated local unions and any other labor organization signatory to the agreement, acting on their own behalf and on behalf of their respective affiliates and member organizations, whose names are subscribed hereto and who have through their officers executed this Agreement ("Signatory Unions").
6. "Projects Manager" means the person or persons or business entity, if any, designated by the County to oversee all phases of construction on the project and to oversee the implementation of this Agreement and who works under the guidance of the Owner's Authorized Representative.

7. "Owner's Authorized Representative" is the individual named in the Notice to Bidders whose authority includes, but is not limited to, the authority to approve Addenda, Change Orders, Payment Requests, Milestone and Project Completion date(s).

SECTION 2. SCOPE OF AGREEMENT

A. Parties. This Agreement applies and is limited to all Contractors of whatever tier performing construction contracts on the Project; the County; and Signatory Unions.

B. This Project Agreement applies only to new construction work under the direction of and to be performed by the Contractor(s) of whatever tier, that have been awarded specific contracts for covered construction work on or after the effective date of this Agreement. Covered construction work shall include site preparation and dedicated off site work on the following project:

The "Valley Specialty Center Bid Package 2" project which includes all construction work including modular furniture installation performed in the construction of a medical office building located at the corner of Moorpark Avenue and South Bascom Avenue in San Jose, California except as otherwise excluded by this Agreement. The building consists of basement, five upper floors, and penthouse totaling 247,000 square feet with associated site improvements.

C. It is understood by the parties that the County may, at any time, and at its sole discretion, combine, consolidate or modify and/or not build any one or more of the particular projects covered by this Agreement and, with mutual agreement of the negotiating parties to this Agreement, determine to build additional projects under this Agreement not currently proposed. In addition, the County may, at any time, at its sole discretion, terminate, delay and/or suspend any or all portions of work covered by this Agreement.

D. This Agreement shall apply only to work performed with respect to the Project and shall have no application to any other construction work awarded by the County at any other location other than the site of the Project or at the site of the project at any time prior to the effective date of this Agreement or after the completion of the Project. Nothing contained herein shall be construed to prohibit, restrict or interfere with the performance of any other operation, work, or function which may occur at the Project site or be associated with the development of the Project. Completion of the work under a construction project for the Project shall be deemed complete upon acceptance of the work by the Santa Clara County Board of Supervisors. Once the work is completed, the work is no longer covered by this Agreement except when the Owner's Authorized Representative directs the Contractor to engage in repairs, warranty work or modifications required by its construction contract with the County.

E. The County has the absolute right to select any qualified bidder for the award of contracts on this Project without reference to the existence or non-existence of any agreements between such bidder and any party to this Agreement provided, however, only that such bidder must become a party to and comply with this Project Labor Agreement.

F. Items specifically excluded from the scope of this Agreement include but are not limited to the following:

1. Work of non-craft and non-manual employees, including but not limited to, all executives, managers and supervisors above the level of general foreman; superintendents, engineering employees, inspectors (except as provided in paragraph 10 below), quality control personnel, safety personnel, and office and clerical employees.
2. Any work performed on or near or leading to the site of work covered by this Agreement and undertaken by state, county or other governmental bodies, or their contractors; or by public utilities or their contractors; and/or by the County or its contractors (for work not a part of this Agreement).
3. All work, independent of job-site construction work contracts, performed by the County related to the purchase or lease of specialized equipment including but not limited to medical equipment and computers and work performed by manufacturers' representatives, office equipment vendors, or County personnel.
4. All warranty functions, warranty work, corrective work, repair and maintenance work on purchased equipment, performed by manufacturers' representatives or vendors after completion of construction and County acceptance.
5. Equipment and machinery owned or controlled by the County.
6. All off-site manufacture, warehousing and handling of materials, equipment or machinery except when covered by a Schedule A agreement.
7. All employees of the design team or other consultants to the County not performing craft or manual labor within the scope of this Agreement.
8. Off-site maintenance of leased equipment and onsite supervision of such work.
9. Work performed by employees of a manufacturer or vendor or other company when required to maintain a manufacturer's or vendor's warranty or guarantee or, as necessary, in limited circumstances, because of specialized knowledge required for installation of a particular item where employees working under this Agreement lack the necessary skills. Should such circumstances arise, the contractor shall advise the County and/or Project Manager and the affected Union(s), including the Council, at least five (5) working days prior to the utilization of such employees, with the reasons therefore, as well as provide a copy of any warranty or guarantee involved. Every effort will be made, consistent with the requirements of the warranty or guarantee, or the need for specialized knowledge or skills for installation to utilize employees working under this Agreement pursuant to the advice and oversight of supervisors and/or technicians from a manufacturer, vendor, or other company, rather than employees not covered in the Agreement.

10. Laboratory for specialty testing or inspections not ordinarily performed by the Unions; provided, however, that employees engaged in testing and inspection functions normally performed on a construction site and employed by the construction contractor or a subcontractor of the construction contractor or under direct contract with the County, shall be subject to this Agreement.

11. All work by employees of the County.

12. Work covered by the Project Labor Agreement within the craft jurisdiction of the Elevator Constructors will be performed under the terms of the National Agreement of the International Union of Elevator Constructors, except that Articles 8, 9 and 10 of the Project Labor Agreement will apply to such work.

SECTION 3. EFFECT OF AGREEMENT

A. Binding Effect. By executing this Agreement, the Unions and the County agree to be bound by each and every provision of this Agreement.

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 may be changed from time to time consistent with Section 20 and 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 agreements 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 prevail. Where a subject is covered by the provisions of a Schedule A and is not covered by this Agreement, the provisions of the Schedule A shall prevail.

It is understood that this Agreement, together with the referenced Schedule A's constitute an integrated, self-contained, stand-alone agreement, and that by virtue of having become bound to this Agreement, the Contractor will not be obligated to sign any other local, area, or national agreement as a condition of performing work within the scope of this Agreement. In addition, it is understood and agreed that all grievances and disputes involving the interpretation or application of this Agreement, including the Schedule A's shall be resolved according to the procedures set forth in Section 9 of this Agreement; provided, however, that should a dispute involve a single Schedule A and a Contractor signatory thereto, and not involve interpretation or application of this Project Labor Agreement, such dispute shall be processed and resolved pursuant to the grievance provisions of that Schedule A. Nevertheless, should there be a dispute in the first instance as to whether the provisions of Section 9 of this Agreement or the grievance procedures of a Schedule A apply, the dispute shall be presented initially to an arbitrator selected under Section 9 for resolution as to the applicable procedure. Such referral of a dispute as to the applicable procedures shall be done by written submission or conference call among the parties and the arbitrator, and heard and decided within 30 days of the designation of the arbitrator. Should the arbitrator hold that Section 9 applies, the parties may, by mutual agreement, submit

the issue to the same arbitrator pursuant to the provisions of Section 9, or, absent mutual agreement, commence processing the dispute at step 1 of that Section.

By accepting the award of a construction contract for the Project, whether as a contractor or subcontractor, the Contractor agrees to be bound by each and every provision of this Agreement and shall evidence such agreement by executing the Agreement to be Bound form attached hereto as Appendix A prior to receiving a Notice to Proceed.

B. Subcontractors. At the time that any Contractor enters into a subcontract with any subcontractor of any tier for the performance of construction work within the scope of this Agreement, the Contractor shall provide a copy of this Agreement, as it may from time to time be modified by the negotiating parties, to said subcontractor and shall require the subcontractor as a part of accepting an award of a construction subcontract to agree to be bound by each and every provision of the Agreement prior to the commencement of work.

Each subcontractor shall evidence their agreement to be bound by execution of the Agreement to Be Bound form attached hereto as Appendix A. A copy of the Agreement To Be Bound executed by the contractors and subcontractors shall be available for review by the Union(s). If the subcontractor refuses to execute the Agreement to be Bound, then such subcontractor shall not be awarded a construction subcontract to perform work on the Project. A subcontractor who executes the Agreement to Be Bound shall be considered a signatory party to this Agreement.

C. No Application to Non-Parties. The Agreement shall only be binding on the signatory parties hereto, including any subcontractor who agrees to be bound as provided in Section 3B above.

D. Several Liability. It is understood that the liability of each Contractor and the liability of each Union under this Agreement shall be several and not joint.

SECTION 4. UNION RECOGNITION

A. Union as Sole Bargaining Representative. The contractors recognize the Unions as the sole and exclusive bargaining representatives of all craft employees within their respective jurisdictions working on the Project within the scope of this Agreement.

B. Union Membership. No employee covered by this Agreement can be required to join any Union as a condition of being first employed on Project. Each employee covered by this Agreement shall be subject to the valid union's security provisions contained in the Schedule A of the craft in which he is employed; provided however, that "core workforce" employees as defined in Section 5.A. and employees employed pursuant to Section 5.D. may, at their option, refrain from joining a union as may otherwise be required by such union security provision; provided however, that such employees shall nevertheless be required, for the period during which they are performing work under the Agreement, to pay such monthly dues, service dues, "working dues" or administrative dues (whichever shall be the lesser) as are uniformly required

of employees working under this Agreement and subject to the full union security provisions of the applicable Schedule A.

SECTION 5. REFERRAL

A. Union Referral/Core Workforce. The Unions shall be the primary source of all craft labor employed on the Project(s). However, each Contractor may utilize his/her own core workforce. When the Contractor requires employees for the Project in addition to his/her core workforce it shall utilize the Union referral system. An employee shall be considered a member of a Contractor's "core workforce" employees if the employee's name appears on the Contractor's active payroll for 90 of the 120 working days before the award to the Contractor of any construction contract for the Project. At the request of a signatory union, a contractor employing "core workforce" employees shall be required to demonstrate to the satisfaction of the Project Manager (or authorized representative of the County if there is no Project Manager) that such employees are properly classified as members of its core workforce. Copies of cancelled paychecks, certified payrolls, or official information submitted for withholding tax purposes, covering the relevant dates, shall be presumptive evidence of proper core workforce designation. Core employees shall be referred through the appropriate hiring hall on a call-by-name basis for the purpose of expediting the completion of all necessary dispatch and trust fund forms prior to starting work on the Project.

B. Union Referral System. Contractors shall be bound by and utilize the registration facilities and referral systems established or authorized by the signatory Union(s) when such procedures are not in violation of applicable law. The Contractor shall have the right to determine the competency of all employees and may reject any referral for any reason provided that the Contractor complies with Section 15 (Non- Discrimination).

C. Non-Discrimination. Selection of applicants for referral to jobs shall be on a non-discriminatory basis and shall not be based on, or in any way affected by, union membership, by-laws, rules, regulations, constitutional provisions, or in any other aspect or obligation of union membership, policies or requirements. There shall be no discrimination against any employee or applicant for employment because of his or her membership or non-membership in the union or based upon race, religious belief, color, national origin, culture, ancestry, sex, age, gender, sexual orientation, gender identity, pregnancy, marital status, disability, medical condition, political belief, organizational affiliation or association with any individual in any of these groups.

D. Use of Other Sources. If the Union's referral facilities are unable to fill a Contractor's requisition for employees within a forty-eight (48) hour period (excluding Saturday, Sunday and holidays) after such requisition is made in writing by the Contractor, the Contractor shall be free to obtain work persons from any source. The Contractor shall notify the Union of any person employed from outside the Union's referral system within one working day of employment, and such person shall complete all necessary forms within three (3) working days of this notice. The Union will cooperate in this requirement to avoid interfering with the person's scheduled work hours on the Project.

E. Referral of Area Residents. Union(s) will exert their utmost efforts to recruit sufficient numbers of skilled craft-persons to fulfill the requirements of the Contractor. The parties to the Agreement support the development of increased numbers of skilled construction workers from the residents of Santa Clara County to meet the needs of the Projects and the requirements of the industry generally. Accordingly, Union(s) agree to encourage the referral and utilization, to the extent permitted by law and the hiring hall procedures, of qualified Santa Clara County residents as journeyman and apprentices on the Projects and entrance into such apprenticeships and training programs as may be operated by the signatory Union(s).

F. Craft Foremen/General Foremen. The selection of craft foremen and/or general foremen shall be the responsibility of the Contractor. All foremen shall take orders exclusively from the designated Contractor representatives. Craft foremen shall be designated as working foremen at the request of the Contractor.

SECTION 6. UNION REPRESENTATION AND STEWARDS

A. Authorized representatives of the Union shall have access to the Project, provided that they do not interfere with the work of the employees and comply with established visitor, security and safety rules of the Project.

B. Each Union which is a party to this Agreement, or its applicable Local Union, shall have the right to designate a working journeyman as a Steward. Such designated Steward shall be a qualified worker performing the work of that craft and shall not exercise any supervisory functions. Each Steward shall be concerned with the employees of his or her employer and not with the employees of any other employer.

C. Where County personnel may be working on a Project in close proximity to the construction activities, the Unions agree that Union representatives, stewards and individual workmen will not interfere in any manner with County personnel or with the work which is being performed by County personnel.

SECTION 7. MANAGEMENT RIGHTS

A. Exclusive Authority. The Contractor retains full and exclusive authority for the management of its operations. Except as otherwise expressly limited by other provisions of this Agreement, the Contractor retains the right to direct the work force at their prerogative,

including but not limited to hiring, promotion, transfer, layoff, discharge or discipline of employees, the selection of foremen; the assignment and schedule of work; the promulgation of reasonable work rules; and, the requirement for overtime work, determination of when it will be worked and the number and identity of employees to perform the work; provided, however, that the number and classifications of the employee(s) assigned to a particular task shall be undertaken consistent with the assignment/manning provisions of the applicable Schedule A established for the safety of individuals and the maintenance and protection of the equipment they utilize.

B. No Practices That Limit Productivity. No rules, customs, or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees. The Contractor shall utilize the most efficient method or techniques of construction, provided however, that no employee will be required to work in unsafe conditions, hazardous to life or person.

C. No Limits on Choice of Materials/Equipment. There shall be no limitation or restriction by a Union upon a Contractor's choice of materials or design, nor, regardless of source or location, upon the use of equipment, machinery, packaging, pre-cast, pre-fabricated, pre-finish, or pre-assembled materials, tools, or other labor saving devices. Nor shall there be any limitation or restriction upon the implementation and use of new technology, equipment, machinery, tools and/or labor saving devices and methods of performing work that may be initiated by the Contractor. The onsite installation or application of all items shall be performed by the craft having jurisdiction over such work.

SECTION 8. WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS

A. No Strikes, No Lockouts. The Unions, the County and Contractors agree that for the duration of the Project Labor Agreement:

1. There shall be no strikes, sympathy strikes, work stoppages, picketing, hand-billing or otherwise advising the public that a labor dispute exists, or slowdowns or other disruptive activity of any kind, for any reason, including disputes relating to the negotiation or renegotiation of any local collective bargaining agreements by the Unions or employees employed on the Project, at the job site of the Project. Neither Unions nor employees will engage in any disruptive activity at any other facility of the County of Santa Clara because of a dispute on the Project. Failure of any employee on work covered by this Agreement to cross any picket line established by any Union, signatory or non-signatory to the Agreement or to any other organization, to undertake covered work as directed by his employer, is a violation of this Section.

2. The Union(s) shall take all steps necessary to obtain compliance with this Section and shall direct and/or instruct any covered employee to cross any picket line which otherwise interferes with such employee carrying out covered work as directed by his/her employer. Disputes arising between the Unions and Contractors on other County projects or non-County projects, and/or on work excluded from coverage by Section 2, are not governed by the terms of this Agreement; and it is specifically recognized that the signatory unions reserve their right to take all lawful economic action, including picketing, against any contractor on such excluded work; provided however, that such action does not result in the cessation and/or disruption of work by any employee covered by this Agreement for whom work is available under this Agreement or the disruption of covered work as a result of an interference with deliveries, pickups or other transportation of goods and services necessary for the continuance of covered work. It is understood and agreed that this proviso does not include indirect effects on covered work resulting from the normal and expected economic consequences of such lawful action directed against non-covered work.

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

4. The Contractor may discharge any employee violating Section 1 above, and any such employee will not be eligible for rehire under this Agreement for a period of 90 days.

B. Arbitration Procedure. Any party to this Agreement, including the County, may institute the following procedure, in lieu of or in addition to any other action at law or equity, when a violation of this Section is alleged to have occurred:

1. A party invoking this procedure shall notify John Kagel, Esq. (and if he is unavailable, Gerald McKay) whom the parties agree shall be the permanent arbitrator under this procedure. In the event that the permanent arbitrator is unavailable at any time, she/he shall appoint an alternate. Notice to the arbitrator shall be by the most expeditious means available, with notices by facsimile or telephone to the party alleged to be in violation and to the Trades Council if a Union is alleged to be in violation.

2. Upon receipt of said notice, the arbitrator named above or her/his alternate shall convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

3. The arbitrator shall notify the parties by facsimile or telephone 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 the parties. A failure of any party to attend said hearings shall not delay the hearing of evidence or the issuance of any decision by the arbitrator.

4. The sole issue at the hearing shall be whether or not a violation of this Section 8 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 decision 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 decision. The arbitrator may order cessation of the violation of this Section and other appropriate relief and such order shall be served on all parties by hand or registered mail upon issuance.

5. Such decision 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 decision 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 or enforcement. The Court's order or orders enforcing the arbitrator's decision shall be served on all parties by hand or delivered by certified mail.

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.

7. The fees and expenses of the arbitrator shall be divided equally between the moving party or parties and the party or parties respondent.

C. Liquidated Damages.

1. If the Arbitrator determines that a violation of Section 8A has occurred, the breaching party shall, within eight hours of receipt of the decision take all steps necessary to immediately cease such activities and return to work. If the breaching party involved does not cease such activities by the beginning of the next regularly scheduled shift following the expiration of the eight hour period after receipt of the Arbitrator's decision, then the breaching party shall pay the sum of five thousand (\$5,000) dollars as liquidated damages to the County, and shall pay an additional ten thousand (\$10,000) dollars per shift for each shift thereafter on which the breach has not been remedied.

2. It is understood that it is the obligation of the breaching party to take all reasonable and available steps to cease the activities causing the breach, (which steps, in the case of a Union, may include, but are not limited to, notifying the employees it represents of the arbitrator's decision, making new referrals from the hall, fining members, and/or such other steps as are reasonable under the circumstances to achieve a cessation of the breach). A party meeting this obligation (which continues as long as the breach is continuing) shall not be liable for liquidated damages. The arbitrator shall retain jurisdiction for the sole purpose of determining compliance with this obligation and determining the amount of liquidated damages, if any; but such retention shall not prevent the moving party from seeking judicial enforcement of the initial award.

D. The County or its Project Manager, if any, and the Building and Construction Trades Council shall be a party in interest in all proceedings arising under this Section 8 and Sections 9 and 10 hereof and shall be sent contemporaneous copies of all notifications required under these Sections, and, at its option, may participate as a full party in any proceeding initiated under these Sections.

E. The procedures contained in Section 9 shall not apply to any alleged violation of this Section 8, except that any employee discharged for violation of Section A.1, above, may use the procedures contained in Section 9 to determine if he or she did, in fact, engage in that violation.

SECTION 9. DISPUTE AND GRIEVANCE ARBITRATION PROCEDURE

A. All parties to this Agreement recognize the importance of maintaining continuous and uninterrupted performance of work on the Project and agree to resolve disputes in accordance with the grievance-arbitration provisions set forth in this Section 9.

B. The parties agree that any question arising out of and during the term of this Agreement involving its interpretation or application including any applicable provision of the Schedule A's incorporated herein by reference, (other than jurisdictional disputes or alleged violation of Section 8 or disputes requiring only the interpretation or application of an individual Schedule A as set forth in Section 3.A. shall be settled according to the following steps:

STEP 1. a. When any employee subject to the provisions of this Agreement feels he/she is aggrieved by a violation of this Agreement, he/she shall, through the local Union business representative or job steward, within five (5) working days after the occurrence of the violation, give notices to the work site representative of the involved Contractor stating the provision(s) alleged to have been violated. The business representative of the Union or the job steward and the work site representative of the involved Contractor shall meet and endeavor to adjust the matter within three (3) working days after timely notice has been given. If they fail to resolve the matter within the prescribed period, the grieving party may, within forty-eight (48) hours thereafter, pursue Step 2 of the grievance procedure, provided the grievance is reduced to a writing setting forth the relevant information concerning the alleged grievance, including a short description thereof, the date on which the grievance 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, unless endorsed in writing by the Project Manager within five (5) working days after resolution has been reached.

b. Should a Union or Contractor have a dispute with another party, the disputing party shall within five (5) working days after the disputing party knew or should have known of the facts or occurrence giving rise to the dispute, request a meeting with the other party to attempt to settle the dispute. The parties shall meet within three (3) working days after the request to meet is made by the disputing party to attempt to settle the dispute. If after meeting, a settlement is not reached within three (3) working days, the dispute shall be reduced to writing and proceed to Step 2 in the same manner as outlined above for the adjustment of an employee complaint.

~~STEP 2. Within five (5) working days after the receipt of the written notice of the dispute or grievance, the Business Representative of the involved Local Union or Trades Council, or his/her designee, and the representative of the involved Contractor shall confer and attempt to resolve the dispute or grievance. In the event that the representatives are unable to resolve the dispute or grievance within five (5) working days after its referral to this Step 2, either involved party may submit it in writing within five (5) business days to Step 3.~~

STEP 3. Within five (5) business days after referral of a dispute to Step 3, the representatives shall submit the matter to an arbitrator for final and binding arbitration. The parties agree that the following named arbitrators shall serve on a rotational basis in the order listed below:

1. Alexander Cohn
2. Herbert S. Oestreich
3. Donald H. Wollett
4. Matt Goldberg
5. David C. Nevins
6. Barbara Kong-Brown

In the event that any of the above-listed arbitrators are unable or unavailable to serve in turn, the parties agree that the next available arbitrator shall serve and the rotation shall not be disturbed. The rules of the American Arbitration Association shall govern the conduct of the arbitration hearing. The decision of the Arbitrator shall be final and binding on all parties. The Arbitrator shall have the authority to make decisions only on the issues presented and shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement. The expenses of the Arbitrator shall be borne equally by both parties.

The Arbitrator shall arrange for a hearing no later than twenty-eight (28) calendar days from the date of his/her selection. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the presiding Arbitrator.

C. The time limits specified in any step of the procedure set forth above 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 procedure. However, failure to process a dispute or 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 dispute or grievance without prejudice, or without precedent to the processing of and/or resolution of like or similar grievances or disputes.

D. In order to encourage the resolution of disputes and grievances at Steps 1 and 2 of the procedure, the parties agree that such settlements shall not be precedent-setting; and further, recognizing the unique provisions

~~of this Agreement, any decision issued by an arbitrator pursuant to Step 3 shall be application to work covered by this Agreement only, and may not be used for any purpose regarding works not so covered.~~

E. No adjustment or decision may provide for retroactive application exceeding sixty (60) days prior to the date of the filing of a written grievance.

F. The County and the Building and Construction Trades Council shall be notified by the involved Contractor of all actions at Steps 2 and 3. Each shall be considered an interested party in any such dispute or grievance and accordingly, may, but shall not be obligated to intervene in the proceedings to resolve the dispute or grievance.

SECTION 10. JURISDICTIONAL DISPUTES

A. Assignment of Work/Pre-Job Conference. Work shall be assigned by the Contractor in accordance with the Procedural Rules of the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry ("Plan"), and shall be based upon the appropriate agreements of record, decisions of record and previously provided local written agreements between and/or among the Unions. Such assignments must be disclosed by the Contractor at a pre-job conference held in accordance with industry practice prior to commencing work on the job. A representative from the Council, the participating Union(s) and the County will be invited to attend this conference.

B. Settlement of Jurisdictional Disputes. All jurisdictional disputes between the Signatory Unions over the Contractor's assignment of work will be settled in accordance with the procedural rules and regulations of the Plan, effective June 1, 1984 as amended, or any successor Plan. All Contractors on the Project agree to assign work and be bound to the terms and conditions of the Plan, and all Signatory Unions agree that the assignments of the Contractors shall be followed until the dispute is resolved in accordance with this section.

C. Effect of Decision. Any award or resolution made pursuant to this procedure shall be final and binding on the disputing Unions and the involved Contractor under this Agreement only, and may be enforced in any court of competent jurisdiction in accordance with the Plan. Such award or resolution shall not establish a precedent on any construction work not covered by this Agreement. In all disputes under this Section, the County shall be considered a party in interest, with a full right of participation.

D. No Strikes Pending or Due to Resolution of Dispute. There will be no strikes, work stoppages, slow downs, or other disruptive activity arising out of any jurisdictional dispute. Pending resolution of the dispute, the work shall proceed uninterrupted as assigned by the Contractor. The award or resolution shall be confirmed in writing to the involved parties. There shall be no strike, work stoppage, slowdown or other disruptive activity in protest of any such award or any resolution.

SECTION 11. WAGES AND BENEFITS

A. Wages. All employees covered by this Agreement shall be classified in accordance with work performed and paid the hourly wage rates for those classifications in compliance with the applicable prevailing rate determination.

B. Benefits. Contractor agrees to pay contributions into established appropriate Schedule A employee benefit funds in the amounts designated in the appropriate Schedule A; provided, however, that each Contractor and Union agree that only such bona fide employee benefits as included in the prevailing wage determination shall be included in this requirement and required to be paid by the Contractor under this Agreement; provided further, however, that this provision does not relieve Contractors signatory to a local collective bargaining agreement with a signatory Union which would be applicable to this Project from making any other fund

contributions (including, but not limited to those for contract administration), required by such local agreement. Contractor shall not be required to pay contributions to any other trust funds to satisfy their obligation under this Article. By signing this Agreement, the Contractors adopt and agree to be bound by the written terms of the legally established Trust Agreements, specifying the detailed basis on which the payments are to be made into, and the benefits paid out of, such Trust Funds. If a contractor fails to pay wages or benefits, the County agrees to honor a properly submitted, legally enforceable Stop Notice. Nothing in this Agreement, however, 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.

SECTION 12. HOURS OF WORK, OVERTIME, SHIFTS AND HOLIDAYS

A. Workday and Workweek. Forty (40) hours per week shall constitute a week's work, Monday through Friday inclusive. The Contractor shall designate the starting and quitting times for all employees in accordance with the applicable Schedule A's. Any starting time put in effect on Monday shall remain in effect for the workweek unless a change is mutually agreed upon. Nothing herein shall be construed as guaranteeing any employee eight (8) hours per day or forty (40) hours.

It is recognized and acknowledged that the County may prohibit some or all work on certain days or certain times during the day because of traffic, noise, environmental conditions or other conditions which require mitigation procedures. The County will provide reasonable notice to the parties of any changes required under this provision.

B. Starting Times. Starting times shall be established by the Contractor in accordance with the applicable Schedule A. Employees shall be at their place of work at the starting time and shall remain at their place of work (as designated by the Contractor) performing their assigned functions until quitting time. There shall be no pay for time not worked unless the employee is otherwise engaged at the direction of the Contractor.

C. Overtime. Overtime shall be paid in accordance with the requirements of the general prevailing wage determination applicable to the Project. There will be no restriction on the Contractor's scheduling of overtime or the non-discriminatory designation of employee who will work the overtime. There shall be no pyramiding of overtime pay under any circumstance.

D. Holidays. Holidays shall be recognized and paid (where required) as provided for in the applicable prevailing wage determination.

E. Voluntary Separations/Terminations for Cause. When an employee leaves the job or work location of his/her own volition or is discharged for cause, the employee shall be paid only for the actual time worked.

SECTION 13. APPRENTICES

A. The parties recognize the need to maintain continuing support of programs designed to develop sufficient numbers of skilled workers in the construction industry. The Contractors will employ apprentices in their respective crafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured.

Apprentices may comprise up to the percentage of each craft's workforce at any time as provided in the applicable Schedule A. The Unions agree to cooperate with the contractor in furnishing apprentices as requested up to the maximum percentage, and there shall be no restrictions in the utilization of apprentices in performing the work of their craft, providing they are properly supervised and employed in accordance with the standards of the apprenticeship committee as approved by the California Division of Apprenticeship Standards. The apprentice ratio for each craft shall be in compliance with the applicable Schedule A and approved apprenticeship standards for that craft.

SECTION 14. SECURITY, SAFETY, PROTECTION OF PERSON AND PROPERTY

A. It shall be the responsibility of each Contractor to ensure safe working conditions and employee compliance with any safety rules contained herein or established by the County, the Project Manager or the Contractor.

B. Certain rules of conduct and security have or may be established by governmental agencies (County, State and/Federal government) which have jurisdiction and which may be applicable to all employees under the Agreement and which may change from time to time. Employees will be notified of such rules and must observe such rules at all times. Failure to do so may result in discipline up to and including discharge.

~~C. Employees shall be bound by the safety, security, and visitor rules established by the Contractor, the Project Manager or the County. These rules will be published and posted in conspicuous places throughout the work site. An employee's failure to comply with such safety, security and/or visitor rules shall be cause for discipline, in including discharge.~~

D. The inspection of incoming shipments of equipment, machinery and construction materials of every kind shall be performed at the discretion of the Contractor by individuals of his/her choice. All employees shall comply with the security procedures established by the County and as otherwise required by the contract documents, Project Manager, and/or contractor.

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

SECTION 15. WORKING CONDITIONS

Rest periods, coffee breaks, or other paid for non-working time during working hours shall be permitted in accordance with applicable statute, regulation or Wage Order.

SECTION 16. NO DISCRIMINATION

Contractors 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, organizational affiliation, including membership or non-membership in the Union, or any other basis recognized by law, against any employee, or applicant for employment, on the Project.

SECTION 17. COMPLIANCE

The Contractors and Union(s) together with the County of Santa Clara shall monitor compliance with the provisions of the Agreement regarding the payment of wages and benefit contributions contained in Section 11.

SECTION 18. LABOR MANAGEMENT COMMITTEE

This Agreement is intended to provide close cooperation between management and labor. To that end, the County and Trades Council shall each designate three representatives to serve on a Project Labor Management Committee. At least one of the County's representatives shall be a Contractor actively employed on the Project. The Committee shall meet periodically to review progress on the Project, and to discuss matters of general concern, such as safety and security. It is intended that the Committee serve as a forum to foster

communication between management and labor, and assist the Unions and the Contractors to complete the Project in an economic and efficient manner without interruption, delays or work stoppages. The Committee shall have no authority to review grievances or disputes involving this Agreement. Such grievances and disputes are subject to the procedures set forth in Section 9.

SECTION 19. SAVINGS CLAUSE

The parties agree that in the event any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void as being in contravention of any applicable law, by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect. 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.

Further, if a court of competent jurisdiction determines that all or part of this Agreement is invalid and/or enjoins the County from complying with all or part of the Agreement's provisions, the Agreement shall not be required as part of the bid specification or award of contract for such work, such work shall be "not covered" for purposes of this Agreement and no provisions, or requirements or limitations of this Agreement shall be applicable to such work; but such shall not affect the intent of this Agreement or its application to any other work to which the Agreement has been or subsequently will be applied.

SECTION 20. MODIFIED SCHEDULE A's

A. Schedule A's Shall Continue Until a New or Modified Agreement is in Place. The Schedule A's incorporated as part of this Agreement shall continue in full force and effect for work covered under this Agreement until such times as the Union and/or Contractor parties to the collective bargaining agreements which are the basis for the Schedule A's notify the County or the Project Manager that a new or modified agreement has been reached. The notice to the County or the Project Manager shall describe the new or revised terms and the effective date(s) of such terms. Such new or revised terms shall be incorporated into this Agreement to the extent not inconsistent with the provisions of this Agreement. The effective date(s) of such new or revised terms shall become the effective date(s) under this Agreement.

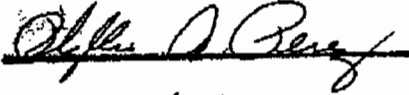
B. Retroactive Terms. The Contractor agrees to recognize and implement such new or modified terms on their effective date(s). However, the Contractor shall have seven (7) days to implement any new or modified terms that are retroactive in effect and which are applicable to employees employed on the Project.

1. Certain Provisions Shall Not Apply. Provisions negotiated into the new or modified collective bargaining agreement which are less favorable to the Contractor than those uniformly required of employers for construction work normally covered by those agreements or which may be construed to apply exclusively or predominately to work covered by this Agreement shall not apply to work covered by this Agreement. Any disagreement between the parties regarding the application of the provisions of any new or modified collective bargaining agreement to work covered by this Agreement shall be resolved under the dispute and grievance arbitration procedures set forth in Section 9 hereof.

2. No Strikes, Work Stoppages or Lockouts. The Unions agree that there will be no strikes, sympathy strikes, work stoppages, picketing, hand-billing or activities otherwise advising the public that a labor dispute exists, slowdowns or other disruptive activity of any kind, affecting the Project by any Union involved in the negotiation of such collective bargaining agreements. The Contractors agree that there will be no lockouts affecting the Union(s) during the course of such negotiations.

Dated: NOV 23 2004


ATTEST: Phyllis A. Perez, Clerk
Board of Supervisors



Dated: 11/5/04

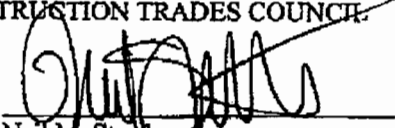
COUNTY OF SANTA CLARA

By:

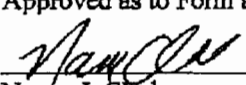

Pete McHugh, Chair
Board of Supervisors

SANTA CLARA AND SAN BENITO
COUNTIES BUILDING AND
CONSTRUCTION TRADES COUNCIL

By:

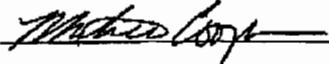

Neil M. Struthers
Chief Executive Officer

Approved as to Form and Legality:


Nancy J. Clark
Assistant County Counsel

UNION SIGNATORIES

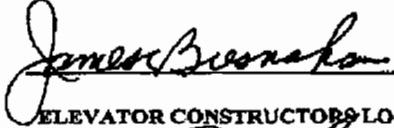
ASBESTOS WORKERS LOCAL 16



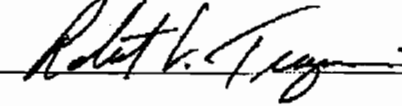
BOILERMAKERS LOCAL UNION 549



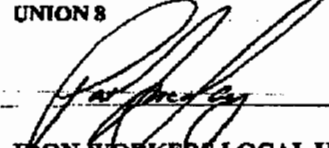
BAG LOCAL UNION 3



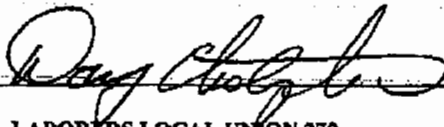
IBEW LOCAL 332



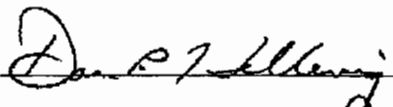
ELEVATOR CONSTRUCTORS LOCAL UNION 8



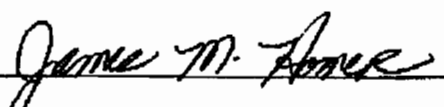
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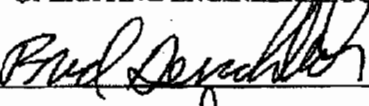
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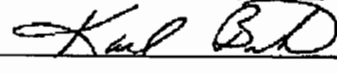
LABORERS LOCAL UNION 270



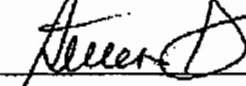
OPERATING ENGINEERS LOCAL 3



OPERATIVE PLASTERERS AND CEMENT MASONS LOCAL UNION 400



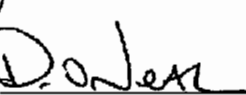
PLASTERERS LOCAL UNION 300



ROOFERS LOCAL UNION 95



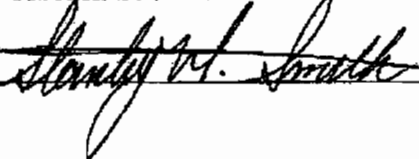
TEAMSTERS LOCAL UNION 287



UNITED ASSOCIATION, PLUMBERS & FITTERS LOCAL UNION 393



UNITED ASSOCIATION, SPRINKLER FITTERS LOCAL UNION 483



SHEET METAL WORKERS INTERNATIONAL UNION LOCAL 104

