

**PROJECT LABOR AGREEMENT
FOR
THE SOLANO PHASE 3 WIND PROJECT
SOLANO COUNTY, CALIFORNIA**

1. INITIAL PROVISIONS

1.1 This Project Labor Agreement ("Agreement") is entered into by the contractors and subcontractors that have executed this Agreement ("Employers"), and the Napa-Solano Building & Construction Trades Council ("Council") and its affiliated local unions who have executed this Agreement, all of whom are referred to collectively as the "Unions".

1.2 The Solano Phase 3 Wind Project (the "Project") is an approximately 125 MW electric generating facility located in Solano County, California that is owned by the Sacramento Municipal Utility District ("SMUD"). SMUD is a public agency formed pursuant to the laws of the state of California. This Agreement applies to all phases of construction.

1.3 The Employers signatory to this Agreement are contractors and subcontractors primarily engaged in the construction industry. Any Employer directly awarded work by SMUD shall be known as the "Primary Employer."

1.4 As provided below, Employers performing certain construction work on the Project will be subject to this Agreement by executing the attached Employer Agreement to be Bound ("Attachment A").

1.5 The Unions are labor organizations whose members are construction industry employees.

1.6 It is understood and agreed by and between the Parties to this Agreement that the final plans for the Project may be subject to modifications and approval by those public agencies possessing lawful approval authority over the Project and that this Agreement applies to the Project as it is finally approved.

1.7 A construction labor pool will be required to execute the work involved in the Project. Employers wish, and it is the purpose of this Agreement, to ensure that a sufficient

supply of skilled craft workers are available at the Project, that all construction work and related work performed on this Project shall proceed continuously, without interruption, in a safe and efficient manner, economically with due consideration for the protection of labor standards, wages and working conditions.

1.8 In furtherance of these purposes and to secure optimum productivity, harmonious relations between the parties and the orderly performance of the work, the parties to this Agreement agree to establish adequate and fair wage levels and working conditions and to protect the Project against strikes and lockouts and other interference with the process of the work.

1.9 As a public agency, SMUD has a firmly established policy of promoting utilization of Sacramento area businesses through the SMUD Supplier Education and Economic Development Program ("SEED"). The provisions implementing the SEED program is integrated throughout this Agreement and no portions of this Agreement are severable. In particular, the provisions of this Agreement regarding subcontracting and referral of employees are applicable only in the context of a public agency with a SEED program, SMUD would not require Employers to utilize this Agreement if the Agreement did not implement the SEED program as provided in the Agreement, SMUD and the Unions agree that these provisions would not be applicable to a project developed by a private developer and that different subcontracting provisions would instead be applicable. Therefore, by this Agreement pledge to work and cooperate with the management of the Project to produce the most efficient utilization of local labor, and to assist SMUD and the Employers in using SEED Employers on the Project.

2.0 SCOPE OF AGREEMENT

2.1 This Agreement covers all on-site construction and other works and related activities for the Project which is within the craft jurisdiction of one of the Unions and which is directly or indirectly part of the Project, including, without limitation, installation of wind turbines, towers and tower foundations, roads, maintenance building, electrical collection systems, generator tie lines, instrumentation, and a generator step-up transformer complex, start-up, site preparations, survey work and soils and material inspection and testing, demolition related to construction, all on-site fabrication work provided such work is within the fabrication provision of a local master or national agreement of one of the Unions, demolition of existing structures, and all construction, demolition or improvements required to be performed as a condition of approval by any public agency. On-site fabrication work includes work done for the Project in temporary yards near the Project. All fabrication work over which the Owner possesses the right of control, excluding major equipment components such as turbine towers, and which is traditionally claimed as on-site fabrication shall be performed on-site. For the convenience of the Employers, such work may be performed off-site. In that event, such fabrication work shall be performed in accordance with the union standards established by this Agreement for the appropriate craft Union or by a fabrication agreement approved by the craft's International Union. On-site construction shall also include the site of any batch plant constructed solely to supply materials to the Project, or the delivery of concrete on the site. All work within the scope of this Agreement is referred to as "Covered Work" in this Agreement.

2.2 This Agreement applies to all employees performing Covered Work. It does not apply to Employers' supervisors, technical or non-manual employees including, but not limited to, executives, office and clerical employees, drafters, supervisors, engineers not performing

Covered Work described in Section 2.1, timekeepers, messengers, guards, inspectors or any other employees above the classification of general foreman or who perform administrative/clerical functions: A manufacturer or its representatives may perform industry standard work to satisfy its guarantee or warranty prior to start-up of a piece of equipment.

2.3 After construction and installation is completed by the Employers and upon acceptance, it is understood that SMUD and/or its plant operator reserve the right to perform start-up, commissioning and operation not within the scope of this Agreement using persons of its choice. However, commissioning rework and modifications normally provided as a function of the construction effort will be performed by members of the Unions.

2.4 This Agreement is not intended to, and shall not govern any other construction work performed on behalf of SMUD and is not intended to and shall not affect the operation or maintenance of SMUD's other operations.

3. SUBCONTRACTING

3.1 Primary Employer and each other Employer agree that it will subcontract work to be done on the Project only to a person, firm, or corporation who (a) is or becomes party to this Agreement, and (b) participates in an apprentice training program certified by the California Department of Industrial Relations, Division of Apprenticeship Standards.

3.2 Any Employer, including contractors awarded contracts under SEED, may perform Covered Work on the Project provided that, as a condition to working on the Project, it becomes signatory to and performs all work under the terms of this Agreement. Before being authorized to perform any Covered Work, Employers shall become a party to this Agreement by signing an Employer Agreement to be Bound, which is provided as Attachment A to this

Agreement. Every Employer shall notify the Council in writing within three business days after it has subcontracted work, and shall at the same time provide to the Council a copy of the executed Employer Agreement to be Bound.

3.3 Nothing in this Agreement shall in any manner whatsoever limit the rights of any Employer to subcontract work or to select its contractors or subcontractors, provided, however, that all Employers, at all tiers, performing Covered Work shall be required to comply with the provisions of this Agreement. Every Employer shall notify each of its contractors and subcontractors of the provisions of this agreement and require as a condition precedent to the award of any construction contract or subcontract for Covered Work or allowing any subcontracted Covered Work to be performed, that all such contractors and subcontractors at all tiers become signatory to this Agreement. If any Employer fails to provide the Council with the Employer Agreement to be Bound executed by its subcontractor, that Employer shall be liable for any payments for wages, benefits or other required contributions that the subcontractor, or any subcontractor to that subcontractor, fails to make.

4. WAGES AND BENEFITS

4.1 All employees covered by this Agreement (including foreman and general foremen if they are covered by the Master Agreement) shall be classified and paid wages, other compensations including but not limited to travel, subsistence, show up and shift, premium pay, and contributions made on their behalf to multi-employer trust funds, all in accordance with the then current multi-employer master agreement of the applicable Union with traditional and customary building trades jurisdiction over the Covered Work ("Master Agreement").

4.2 Any special interest bargaining that establishes wage rates, classifications, zones, or wage escalations which apply exclusively to the Project will not be recognized.

5. UNION RECOGNITION

The Employers recognize the Unions signatory to this Agreement as the sole and exclusive collective bargaining agents for their respective construction craft employees performing Covered Work for the Project, and further recognize the traditional and customary craft jurisdiction of each Union.

All employees performing Covered Work shall be or shall become and then remain members in good standing of the appropriate Union as a condition of employment on or before the eighth (8th) day of employment, or the eighth (8th) day following the execution of this Agreement, whichever is later. Membership under this Article shall be satisfied by the tendering of periodic dues and periodic fees uniformly required to the extent required by law. Such membership shall be maintained by employee while performing Covered Work.

Except as otherwise provided herein, the Unions shall be the sole source of all craft employees performing Covered Work on the Project. Employers agree to be bound by the hiring practices of the respective Union, including hiring of apprentices, and to utilize its registration facilities and referral systems. Employers retain the right to be the sole judge of an applicant's qualifications and discretion to reject for good cause any job applicant referred by the Union. In the event that a SEED Employer wishes to hire employees not referred by the Unions, it may do so provided that any employee hired in this manner shall be subject to and comply with the requirements of Section 5.2., above. A person shall be considered an employee of a SEED Employer of (a) that employer's name appears on the Employer's active payroll as a full time

employee for 50 of the 100 working days before the award of the construction contract, (b) that employee has worked a total of at least 1,500 hours in the construction craft during the past two years, (c) that employee possesses any license required by state or federal law for the work to be performed, and (d) that employee has the ability to safely perform the basic functions of the applicable trade.

In the event the referral facilities maintained by the Unions do not refer the employees as requested by the Employer within a forty-eight (48) hour period after such requisition is made by the Employer (Saturdays, Sundays and Holidays excepted), the Employer may employ applicants from any source.

The parties to this Agreement support the development of minorities and women to become skilled construction workers. To this end, the Unions actively recruit and train minorities and women to be journey-level workers and apprentices to work on this Project and assist them in participating in apprenticeship and training programs operated by the Unions to the fullest extent permitted by law.

This Agreement is limited to Covered Work and does not require any employer signed to this Agreement to sign or be bound by a local or other master agreement.

6. STRIKES AND LOCKOUTS

During the life of this Agreement, the Unions, their agents, their representatives, their members and their employees agree that they shall not incite, encourage, condone or participate in any strike, walkout, slowdown, sit-down, stay-in, boycott, sympathy strike, picketing or other work stoppage for any cause whatsoever with respect to this Project, and the Employers agree

not to lock out employees; and it is expressly agreed that any such action is in violation of this Agreement.

Upon written facsimile notice of violation to the Local and International Union(s) office, and its officers, members, representatives or employees (the "applicable Unions(s)") shall take immediate action and will use its (their) best efforts to prevent, end or avert any such aforementioned activity or the threat thereof by any of its officers, members, representatives or employees, either individually or collectively, including but not limited to, public disavowing any such action and ordering all such officers, representatives, employees or members who participate in such unauthorized activity to cease and desist from same immediately and to return to work and comply with its orders. In the event of a violation of this provision by employees, if the Union is unable to refer replacement employees within forty-eight (48) hours, the Employer shall be free to obtain employees from any source. In the event of a work stoppage by the Union(s) in violation of this Agreement, the Employer(s) shall have the right to replace the employees represented by the violating Union(s) in any way the Employer(s) chooses. In the event of a violation of this provision, any Employer shall be entitled to seek relief in court, specifically including injunctive relief, to restrain any such action on the part of the Union(s), and/or any of its agents, representatives, members or employees.

Notwithstanding the provisions of Section 6.1 above, it is agreed that a Union, after having given written notice to the Primary Employer and affected Employer(s) of its intent to withhold the services of its members, retains the right to withhold the services of its members from a particular Employer that fails to make timely payments to the Union's benefit plans, or fails to timely pay its weekly payroll, in accordance with the Master Agreement with the Union; provided, however, that the Union shall give ten (10) days notice to the Primary Employer prior

to withholding the services of its members, and in the event the Union or any of its members withholds their services from such Employer, the Primary Employer shall have the right to replace such Employer with any other Employer who executed the Agreement to be Bound and Subscriber Agreement.

In the event that any applicable labor agreement expires and the parties to that agreement fail to reach agreement on a new contract by the date of expiration, a Union shall continue to provide employees to the Employers working on the Project under all the terms of the expired agreement until a new agreement is negotiated, at which time all terms and conditions of that new agreement shall be applied to Covered Work at the Project, except to the extent they conflict with any provision of this Agreement. In addition, if the new labor agreement provides for wage or benefit increases, then any Employer shall pay to its employees who performed Covered Work at the Project during the hiatus between the effective dates of such labor agreements, an amount equal to any such wage and benefit increases established by the new labor agreement for such work performed.

7. SHIFT TIMES AND HOLIDAYS

7.1 The standard work day shall consist of eight (8) hours of work between 7:00 a.m. and 5:30 p.m., with one-half hour designated as an unpaid period for lunch. The standard work week shall be five (5) consecutive days of work commencing on Monday. Nothing herein shall be construed as guaranteeing any employee eight (8) hours of work per day or forty (40) hours of work per week.

7.2 Recognized holidays shall be as follows: New Year's Day, Martin Luther King Jr. Day, President's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving

Day, Day after Thanksgiving and Christmas Day. In the event a holiday falls on Sunday, the following day, Monday, shall be observed as such holiday. In the event a holiday falls on Saturday, the previous day, Friday, shall be observed as such holiday. In no event shall work be performed on Labor Day, except in cases involving an immediate threat to life or property.

8. GRIEVANCE PROCEDURE

8.1 It is mutually agreed that any question arising out of and during the term of this Agreement involving its interpretation and application (other than jurisdictional disputes or successorship) shall be considered a grievance. Questions arising out of or involving the interpretation of a Master Agreement shall be resolved under the grievance procedure provided in that Master Agreement.

8.2 A grievance shall be considered null and void if not brought to the attention of the Employer within five (5) working days after the incident that initiated the alleged grievance occurred or was discovered.

8.3 Grievances shall be settled according to the following procedure:

Step 1

The Steward and the grievant shall attempt to resolve the grievance with the craft supervisor.

Step 2

In the event the matter remains unresolved in Step 1 above, within five (5) working days after notice to the Unions, the alleged grievance in writing may then be referred to the Business Manager of the Craft Union and the Labor Relations representative of the Employer for discussion and resolution. A copy of the written grievance shall also be mailed/faxed to the Primary Employer.

Step 3

In the event the matter remains unresolved in Step 2 above within five (5) working days, the grievance in writing may then be referred to the representative of the Craft Union involved and the Manager of Labor Relations of the Employer or the Manger's designated representative, and the Primary Employer for discussion and resolution.

Step 4

If the grievance is not settled in the preceding steps within five (5) working days, either party may request the dispute be submitted to arbitration or the time may be extended by mutual consent of both parties. The request for arbitration and/or the request for an extension of time must be in writing with a copy to the Primary Employer. An Arbitrator will be selected by the mutual agreement of the parties to the grievance from a Panel of Permanent Arbitrators composed of John Kagel, Gerald McKay, Thomas Angelo, Robert Hirsch and Thomas Pagan. In the event, these Arbitrators are not available in a reasonable time to hear the grievance and the parties have not mutually agreed to extend the time for arbitration, the parties shall select another arbitrator. A reasonable time is defined as fifteen (15) days where the grievance concerns employment discharge and thirty (30) days for all other grievances. Should the parties be unable to mutually agree on the selection of an Arbitrator, selection for that given arbitration shall be made by alternately striking names from the list of names on the Panel until the parties agree on an Arbitrator or until one name remains. The first party to strike a name from the list shall alternate between the party bringing forth the grievance and the party defending the grievance. Primary Employer shall keep a record of the sequence and shall notify the parties to the grievance as to which party has the right to strike a name first.

8.4 The Arbitrator's decision shall be submitted in writing and shall be final and binding on all parties signatory to this Agreement. The expense of arbitration, including the cost of the Arbitrator and the cost of necessary expenses required to pay for facilities for the hearing of cases, shall be borne equally by both parties. The Arbitrator's decisions shall be confined to the question posed by the grievance and the Arbitrator shall not have authority to modify, amend, alter, add to or subtract from, any provision of this Agreement.

8.5 The Primary Employer and other Employers, as well as the Unions, may bring forth grievances under this Article.

8.6 Any award or resolution under Article 9 shall be prospective and shall not require any back pay for work performed unless the assignment is a knowing and intentional violation of a well-established resolution under the Plan.

9. JURISDICTIONAL DISPUTES

9.1 The assignment of work will be solely the responsibility of the Employer performing the work involved and such assignment will be on the basis of traditional craft jurisdictional lines. In the event of a jurisdictional dispute, the assignment of the Employer shall be followed until the dispute is resolved in accordance with this section. It is agreed that the traditional craft jurisdictional lines in relation to the unique work performed on this Project shall be the determining factor for proper wage payment as required under section 4 of this

Agreement.

9.2 There shall be no strikes, picketing, sympathy strikes, leafleting or work disruption or stoppages of any kind because of jurisdictional disputes. Individuals violating this section shall be subject to immediate discharge.

9.3 When conflicting claims for work on the Project are submitted to an employer, the dispute shall be resolved pursuant to agreed upon Jurisdictional Dispute Procedures, as adopted by the National Building & Construction Trades Department, or by the Mechanical Allied Crafts (MAC) (Appendix E), or by the National Construction Alliance (NCA) (Appendix F), incorporated herein respectively. It is understood by the parties that these procedures might be amended from time to time. In the event a jurisdictional dispute arises between two or more unions affiliated with the National Building & Construction Trades Department, such dispute shall be resolved under the MAC Procedure. In the event a jurisdictional dispute arises between

two or more Unions affiliated with the NCA, such dispute shall be resolved under the NCA Procedure. In the event a jurisdictional dispute arises between two or more unions that are not affiliated with the same international group and are not stipulated to the same jurisdictional dispute resolution procedure, the dispute shall be handled in accordance with and resolved as described in Attachment B herein.

9.4 The Primary Employer will conduct a pre-job conference with the Council prior to commencing work. All other employers subject to this Agreement will be advised in advance of such a conference and may participate if they wish. At the request of any signatory union to this Agreement, an Employer will conduct a pre-job conference with the Council prior to commencing work. The parties will attempt to resolve any jurisdictional disputes during these pre-job conferences.

9.5 This Article 9 shall be enforceable in any court of competent jurisdiction, and shall not be subject to the grievance procedure of Article 8.

10. JOINT LABOR/MANAGEMENT MEETINGS

10.1 During the period of any work performed under this Agreement, a joint Labor/Management meeting may be held on an approximately monthly basis or more frequently as needed between the Primary Employer, the other Employers, and the signatory Unions. The purpose of these meetings is to promote harmonious labor/management relations, ensure adequate communications and advance the proficiency and efficiency of the craft workers and Employers performing work at the Project. These monthly (or more frequent) meetings can also include discussion of the scheduling and productivity of work performed at the Project.

10.2 A Pre-Job Conference will be held prior to the commencement of work to establish the scope of work in each Employer's contract. When a contract has been let to an Employer covered by this Agreement, a Pre-Job Conference and/or Mark-Up Meeting shall be required.

10.3 The Primary Employer will schedule and attend all Pre-Job Conference and Mark-Up Meetings.

11. MANAGEMENT RIGHTS

11.1 The Primary Employer and other Employers retain and shall exercise full and exclusive authority and responsibility for the management of its operations, except as expressly limited by the terms of this Agreement. The Primary Employer and other Employers shall have the exclusive right to plan and control the work; to determine the number and types of craft employees (subject to Section 9.1); to discharge, suspend, or discipline employees for just cause; to utilize work methods, procedures, and techniques of their choosing; and to assign, subcontract (subject to Article 3), and schedule work at their discretion.

11.2 The foregoing enumeration of management rights shall not be deemed to exclude other functions not specifically set forth in this Article. The Primary Employer and other Employers shall at all times retain all management rights which may exist at law or by custom and which are not specifically limited or prohibited by the Terms of this Agreement.

12. GENERAL PROVISIONS

12.1 If any article or provision of this Agreement shall be declared invalid, inoperative, or unenforceable by any competent authority of the executive, legislative, judicial or

administrative branch of the federal or state government, the Employers, the Council and the Unions shall suspend the operation of such article or provisions during the period of its invalidity and shall substitute by mutual consent, in its place and stead, an article or provisions which will satisfy the objections to its validity and which, to the greatest extent possible, will be in accord with the intent and purpose of the article or provision in question.

12.2 If any article or provision of this Agreement shall be held invalid, inoperative or unenforceable by operation of law, or by any of the above mentioned tribunals of competent jurisdiction, the remainder of the Agreement or application of such article or provision to persons or circumstances other than to which it has been held invalid, inoperative or unenforceable shall not be affected thereby.

12.3 Except as enumerated in this Agreement, all other terms and conditions of employment described in the applicable Master Agreement shall apply to Covered Work on this Project.

12.4 The provisions of this Agreement shall take precedence over conflicting provisions of any local, area, regional or national agreement with respect to a Union.

12.5 Each person executing this Agreement represents and warrants that he or she is authorized to execute this Agreement on behalf of the party or parties indicated.

12.6 This Agreement may be executed in counterparts.

12.7 Any notices required under this Agreement shall be given as follows:

To Primary Employer:

Lynn Larson, General Manager
EPC Services Company
3521 Gable Road, Suite #2
Billings, MT 59102
Telephone: (406) 294-8544

To the Council:

Louis Franchimon
Building & Construction Trades Council
2540 N. Watney Way Fairfield, California 94533-6732
Telephone: (707) 426-6454

With copies to:

Scott Flake
Sacramento Municipal Utility District
6201 S Street MS B355
Sacramento, CA 95817
Telephone: (916) 732-6174

Bruce M. Notareus
Senior Attorney, Legal Department
Sacramento Municipal Utility District
6201 S Street MS B406
Sacramento, CA 95817
Telephone: (916) 732-6122


Either party may notify the other in writing if its person designated to receive notice is change.

14. TERMS OF AGREEMENT

14.1 The term of this Agreement shall commence on the date indicated below as the date of execution, and shall continue in effect until completion of all Covered Work pursuant to Article 2. Covered Work shall be deemed complete upon "final acceptance" of the Project by the Owner.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and effective as of Sept 17, 2010.

PRIMARY EMPLOYER


By: Lynn Larson
Title: General Manager

BUILDING & CONSTRUCTION
TRADES OF COUNCIL OF NAPA/SOLANO COUNTIES

By: Louis Franchimon
Title: Business Manager

ATTACHMENT A
AGREEMENT TO BE BOUND

PROJECT LABOR AGREEMENT
SOLANO PHASE 3 WIND PROJECT

The undersigned, as a contractor or subcontractor (hereafter "Contractor") on the Solano Phase 3 Wind Project, as defined in Section 1.2 (hereafter "Project"), of the Project Labor Agreement (hereafter "Agreement"), for and in consideration of the award to it of a contract to perform work on said Project, and in further consideration of the promises made in the Agreement and all attachments a copy of which was received and is acknowledged, hereby:

- 1.) Accepts and agrees to be bound by the terms and conditions of the Agreement, together with any and all amendments and supplements now existing or which are later made thereto.
- 2.) The Contractor agrees to be bound by the legally established trust agreements designated in local master collective bargaining agreements. The Contractor authorizes the parties to such local trust agreements to appoint trustees and successor trustee to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor.
- 3.) Certifies that it has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of said Agreement.
- 4.) Agrees to secure from any Contractor(s) (as defined in said Agreement) which are or become a subcontractor (of any tier) to it, a duly executed Agreement to be Bound in form identical to this document.

DATED: _____ Name of Contractor: _____

(Authorized Officer & Title)

(Address)

ATTACHMENT B
JURISDICTION DISPUTE RESOLUTION PROCEDURE

PROJECT LABOR AGREEMENT
SOLANO PHASE 3 WIND PROJECT

In the event of a jurisdictional dispute arises while the parties are attempting to negotiate an alternative resolution mechanism either party may refer the jurisdictional dispute to the General Presidents of the affected unions, and if the General Presidents cannot resolve the dispute within five (5) business days of the dispute being referred to them for resolution, the dispute shall be resolved as follows:

The Panel of Permanent Arbitrators shall be composed of: John Kagel, Gerald McKay, Thomas Angelo, Robert Hirsch and Thomas Pagan. The Arbitrator shall be selected by alternately striking the names of Arbitrators from the list of five (5) permanent Arbitrators. Each craft shall have three (3) days to cross of the names of two Arbitrators. If a party does not respond, this means any Arbitrator is acceptable. The remaining Arbitrator shall serve as the Arbitrator who shall hear the dispute on an expedited basis and resolve the dispute. The Arbitrator shall render his decision within three (3) days of the hearing.

In rendering his decision, the Arbitrator shall determine:

1. First, whether a previous agreement of record that was unabrogated as of January 1, 2007, or applicable agreement, including a disclaimer agreement, between the National or International Unions to the dispute governs;
2. If the Arbitrator cannot resolve the matter based on No. 1 then if the Arbitrator finds that a previous decision of record governs the case, the Arbitrator shall apply the decision of record in rendering his decision except under the following circumstances. After notice to the other parties to the dispute, prior to the hearing, that it intends to challenge the decision of record, if a trade challenging the decision of record is able to demonstrate that the recognized and established prevailing practice in the locality of the work has been contrary to the applicable decision of record, the Arbitrator may rely on such prevailing practice rather than the decision of record. If the craft relying on the decision of record demonstrates that it has performed the work in dispute in the locality of the job as a prevailing practice, then the Arbitrator shall apply the decision of record in rendering his decision. If the Arbitrator finds that a craft has improperly obtained the prevailing practice in the locality through raiding, the undercutting of wages or by the use of vertical agreements, the Arbitrator shall rely on the decision of record rather than the prevailing practice in the locality;
3. If no decision of record is applicable, the Arbitrator shall then consider the established trade practice in the industry and prevailing practice in the locality; and;
4. Only if none of the above criteria is found to exist, the Arbitrator shall then consider that because efficiency, cost or continuity and good management are essential to the

wellbeing of the industry, the interests of the consumer or the past practices of the employer shall not be ignored.

The Arbitrator shall comply with the Code of Professional Responsibility for Arbitrators of Labor Management Disputes jointly adopted by the National Academy of Arbitrators, the American Arbitration Association and the Federal Mediation and Conciliation Service. The Arbitrator shall set forth the basis for his decision and shall explain his findings regarding the applicability of the above criteria. If lower-ranked criteria are relied upon, the Arbitrator shall explain why the highest-ranked criteria were not deemed applicable. The Arbitrator's decision shall only apply to the job in dispute.

5. Unabrogated agreements of record are applicable only to the parties signatory to such agreements. Decisions of record are applicable to all trades.
6. The Arbitrator is not authorized to award back pay or any other damages for a misassignment of work. Nor may any party to this Plan bring an independent action for back pay or any other damages, based upon a decision of an Arbitrator.
7. Each party to the arbitration shall bear its own expense for the arbitration and agrees that the fees and expenses of the Arbitrator shall be borne by the losing party or parties.

8. ENFORCEMENT

(A) If the claims of the challenging trade are upheld in the decision of the Arbitrator, and work onsite is being performed on the eighth calendar day after the issuance of that decision, the assigned trade shall cede the work in question to the challenging trade and withdraw its members from said work, and the effected Employer shall employ members of the challenging trade on said work. This shall be termed the effective date of the decision. If the eighth calendar day after the issuance of said decision falls on a weekend or on a holiday, the effective date shall be the next working day. Holidays shall include and be limited to New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving Day and Christmas Day.

(B) The Arbitrator shall have no authority to undertake any action to enforce its decision after a hearing beyond informing the affected parties of its decision. Rather, it shall be the responsibility of the prevailing party to seek appropriate enforcement of a decision. The prevailing party in any enforcement proceeding shall be entitled to recover its reasonable costs and attorney fees from the non-prevailing party. In the event the Arbitrator is made a party to, or is otherwise required to participate in any such enforcement proceedings for whatever reason, the non-prevailing party shall bear all reasonable costs, attorney fees, and any other expenses incurred by the Arbitrator in those proceedings.