

PROJECT LABOR AGREEMENT FOR WEST VALLEY-MISSION
COMMUNITY COLLEGE DISTRICT

This Project Labor Agreement for West Valley-Mission Community College District (“Agreement”) is entered into this ___ day of _____, 2013 by and between West Valley-Mission Community College District (“District”), Santa Clara & San Benito Counties Building and Construction Trades Council, AFL-CIO (“Council”), Signatory Unions (as defined herein below) and the Contractor (as defined herein below). The District, Council, Signatory Unions and Contractor are collectively referred to herein as “the Parties” and each individually as a “Party.” This Agreement is entered into with reference to the following Recitals, all of which are incorporated herein by this reference.

RECITALS

WHEREAS, the purpose of this Agreement is to achieve the objectives described in this Agreement for a pilot project situated on the District’s West Valley College campus commonly referred to as the Applied Arts and Sciences Building (“the Project”).

WHEREAS, funds for construction of the Project are derived exclusively from proceeds of the District’s Measure C General Obligation Bonds.

WHEREAS, in connection with construction of the Project, the District intends to retain Gilbane Building Co. as the Construction Manager for the Project.

WHEREAS, completing Project construction within the time and the budget established by the District is of the utmost importance to the District and the students served by the District.

WHEREAS, a large numbers of workers of various skills are required to complete Project construction.

WHEREAS, the interests of the general public, the District and its students, the Signatory Unions, the Council and the Contractor are best served by completing construction of the Project in an orderly manner without delay, hindrance or disruption due to strikes, picketing or other labor disturbances.

NOW THEREFORE, the Parties hereto agree as follows.

Article 1. Definitions.

- 1.1. Agreement. “Agreement” means this Project Labor Agreement for West Valley-Mission Community College District along with Appendixes A (Agreement to be Bound), and B (Schedule A Master Collective Bargaining Agreements) attached hereto (collectively hereinafter referred to as “Appendices”) and modifications thereto mutually agreed to by the Parties in accordance with the provisions of this Agreement. Appendixes A and B are incorporated herein by this reference.
- 1.2. District. “District” is West Valley-Mission Community College District.
- 1.3. District Representative. The District Representative is the District’s Vice Chancellor, Administrative Services or such employee of the District as she/he may designate. The District Representative is an employee or officer of the District who is authorized to act on behalf of the District under this Agreement and to enforce the rights of the District under this Agreement.
- 1.4. Contractor. “Contractor” means any individual, firm, partnership, corporation, or combination thereof,

including joint ventures, which are independent business enterprises under contract with the District for construction of the Project or portions thereof. The term "Contractor" includes Subcontractors of any tier, as required by the context of usage.

- 1.5. Subcontractor. A "Subcontractor" is any individual, firm, partnership, corporation or combination thereof, including joint ventures, under direct contract with the Contractor for construction of a portion of the Project. The term "Subcontractor" includes Sub-Subcontractors who are any individual, firm, partnership, corporation or combination thereof, including joint ventures, under direct contract with a Subcontractor for construction of a portion of the Project.
- 1.6. Construction Contract. "Construction Contract" means the public works contract awarded by the District to the Contractor for construction of the Project or portions thereof and/or a Subcontract awarded by the Contractor to a Subcontractor for construction of a portion of the Project. As required by the context of usage, references to the Construction Contract include Subcontracts.
- 1.7. Project. The "Project" is the West Valley College Applied Arts and Sciences Building. No other work of improvement, construction, construction services, or construction activities by the District, District employees or contractors to the District are subject to this Agreement.
- 1.8. Union. "Union" or "Unions" means the Santa Clara & San Benito Counties Building and Construction Trades Council, AFL-CIO and any other labor organization signatory to this 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. The terms "Union" and "Signatory Union" or the plurals thereof are used interchangeably in this Agreement.
- 1.9. Construction Manager. The "Construction Manager" is an independent contractor to the District responsible for management and oversight of Project construction on behalf of the District as an agent of the District. The Construction Manager for the Project subject to this Agreement is Gilbane Building Co.
- 1.10. Master Collective Bargaining Agreements. "Master Collective Bargaining Agreement(s)" means the local collective bargaining agreements to which the Union(s) and Contractor are bound, copies of which shall be on file at the District's administrative office and are incorporated herein by reference as "Schedule A." The list of Schedule A Master Collective Bargaining Agreements is attached hereto as Appendix B.
- 1.11. Council. "Council" means the Santa Clara & San Benito Counties Building & Construction Trades Council.
- 1.12. Site. The "Site" is the physical location for construction of the Project, as established by the limits of construction described in the Design Documents for construction of the Project.
- 1.13. Bona Fide Apprenticeship Program. A "Bona Fide Apprenticeship Program" is an apprenticeship program approved by the California Division of Apprenticeship Standards which has annually graduated apprentices for at least the past five (5) years. The foregoing graduation rate requirement shall not be applicable to any trade or craft not recognized by the California Department of Industrial Relations and/or the California Division of Apprenticeship Standards as an apprenticeable occupation for more than nine (9) years prior to the date of this Agreement.

Article 2. Scope of Agreement.

- 2.1. Agreement Objectives. The Parties hereto acknowledge and agree that each and all of the following are the objectives of this Agreement:
- 2.1.1. Project Completion. Completing construction of the Project within the budget and the time established by the District.
 - 2.1.2. District Compliance With Public Works Contract Procurement Requirements. Bidding and award of the Construction Contract for the Project by the District shall be in accordance with: (i) applicable California law, including without limitation, applicable provisions of the California Public Contract Code and the California Education Code; and (ii) the District's policies and practices for procurement of construction services for construction of District works of improvement.
 - 2.1.3. Sufficient Labor Force. At all times during construction of the Project, a sufficient supply of labor resources, with necessary skills and training, are available to maintain progress of Project construction as reflected in the then current District approved Construction Schedule for the Project.
 - 2.1.4. Worker Residency Data. Collection of demographic data for all contractors engaged in construction of the Project which identifies the residence city and zip code of each contractor.
 - 2.1.5. Elimination of Labor Disturbances. Prohibition on labor disturbances affecting completion of Project construction, including without limitation, work stoppages, strikes, sympathy strikes and lockouts.
 - 2.1.6. Consistency of Labor Code Compliance. Uniformity in the monitoring of Contractor compliance with Labor Code requirements during Project construction and uniform enforcement of Labor Code obligations of the Contractor during Project construction.
 - 2.1.7. Resolution of Labor Grievances. Establishment of a neutral arbitration procedures as an alternative dispute resolution process for resolving labor grievances arising during Project construction.
 - 2.1.8. Equal Bidding Opportunities. Equal opportunity for all qualified Contractors to submit a Bid Proposal to the District for construction of the Project, whether or not at the time of submitting a Bid Proposal, the Contractor is a signatory to a collective bargaining agreement. Equal opportunity for all qualified Subcontractors to submit sub-bids to prospective bidders for the Construction Contract, whether or not the Subcontractor is a signatory to a collective bargaining agreement at the time of submitting its sub-bid proposal. The foregoing is subject to compliance by the Contractor or Subcontractor, as applicable, with the terms of this Agreement and execution of the Agreement To Be Bound set forth in Appendix A to this Agreement.
- 2.2. Parties. The Parties to this Agreement are the Contractor, Subcontractors, the District, the Council and the Signatory Unions acting on their own behalf and on behalf of the respective affiliates and member organizations of the Council or Signatory Unions whose names are subscribed hereto and who have through their officers executed this Agreement. Subcontractors shall become a party to this Agreement by signing Appendix A, Agreement To Be Bound. The foregoing notwithstanding, by signing Appendix A, no contractual relationship between the District and such Subcontractor shall exist, except for this Agreement, and the District shall not become party to nor become responsible for the performance of any Subcontract between the Contractor and its Subcontractors.
- 2.3. Excluded Items/Activities. The following items/activities are specifically excluded from the scope of this Agreement and not subject to the terms hereof:
- 2.3.1. Non-Manual Labor Employees. Work of non-manual employees, including without limitation, superintendents (unless covered by a collective bargaining agreement), supervisors and other

supervisory personnel, staff engineers, timekeepers, clerical/office workers, messengers, guard/security services, safety personnel, emergency medical and first aid technicians, and other professional, design professional, engineering, administrative, supervisory and management personnel.

- 2.3.2. District Equipment. Equipment or machinery owned, rented, leased or otherwise controlled by the District and operated by the District's employees.
- 2.3.3. Off-Site Activities. Manufacture, fabrication and handling of materials or equipment not occurring at the Site. The foregoing notwithstanding, this Agreement shall apply to off-site work if the off-site work is covered by the scope of a Master Collective Bargaining Agreement in effect as of the date of this Agreement.
- 2.3.4. District Employees and Professional Service Providers. All employees of the District, the Construction Manager, design professionals retained by the District in connection with design or construction of the Project (including without limitation, the architect, engineers and other professional services consultants and their respective sub-consultants) and employees of other professional service providers not performing manual labor subject to this Agreement.
- 2.3.5. Leased/Rented Equipment Maintenance and Supervision. Maintenance of leased or rented equipment used for Project construction away from the Site and supervision of leased/rented equipment at the Site.
- 2.3.6. Construction By Others. Work performed on, adjacent to, or leading to the Site by state, regional or local governmental or quasi-governmental entities, public utility service providers, or the District and/or contractors to the District which is not within the scope of the work of the Project, as established by the Design Documents for the Project.
- 2.3.7. Warranty Work of Equipment or Materials Manufacturers. Work by employees of any manufacturer or fabricator of materials or equipment pursuant to warranty obligations of such manufacturer or fabricator. Should such circumstances arise, the contractor shall advise the District and/or Construction 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 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 by this Agreement.
- 2.3.8. Post Occupancy Work. Work to any Portion of the interior or exterior of the Project after a certificate authorizing occupancy is issued.
- 2.3.9. Non-Construction Services. All non-construction support services in connection with construction of the Project which are contracted for by the District, the Construction Manager and/or the Contractor.
- 2.3.10. Emergency/Maintenance. Work by employees of the District or employees of contractors to the District relating to emergencies or maintenance activities.
- 2.3.11. Specialty Testing Laboratory. Laboratory work for specialty testing of materials or equipment not ordinarily performed by the Signatory Unions; provided, however, that employees engaged in testing and inspection functions covered by a prevailing wage determination and 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 District, shall be subject to this Agreement.

2.4. Project Labor Disputes. All Project labor disputes involving the application or interpretation of a Master Collective Bargaining Agreement (as identified in "Schedule A" to Appendix B hereto) to which the Contractor and a Signatory Union are parties shall be resolved pursuant to the resolution procedures of

the applicable Schedule A Master Collective Bargaining Agreement. All disputes relating to the interpretation or application of this Agreement shall be subject to resolution by the Joint Administrative Committee, as described in Article 11, and the grievance arbitration procedure set forth herein.

2.5. Limitations to Application of Agreement to Project.

- 2.5.1. Project and Measure C Funds. This Agreement shall be limited to construction work necessary to construct the Project and paid for with Measure C bond funds. The Project does not include furnishing or installation of movable items of furniture, furnishings or equipment not incorporated into construction of the Project.
- 2.5.2. Application Only to the Project. The Agreement is not intended to, and shall not affect or govern the award of public works contracts by the District, except for the Project.
- 2.5.3. Non-Manual Labor Employees. Unless covered by a Master Collective Bargaining Agreement identified in Schedule A of Appendix B hereto, this Agreement shall not apply to a Contractor's executives, managerial employees, engineering employees, supervisors, office or clerical employees.
- 2.5.4. District Employees. This Agreement shall not apply to employees of the District.
- 2.5.5. Elevator Work. Work of the Project 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 4, 8, 12, and 13 of this Agreement will apply to such work.

Article 3. Effect of Agreement.

- 3.1. Binding on Parties. By executing the Agreement, all Parties hereto agree to be bound by each and all of the provisions of the Agreement.
- 3.2. Construction Contract and Agreement Terms. By accepting the award of a Construction Contract for the Project, whether as Contractor or Subcontractor, the Contractor or Subcontractor, as applicable, agrees to be bound by the provisions of this Agreement. Except for being bound by the terms of this Agreement, nothing in this Agreement shall be construed to require a Contractor to be a signatory or otherwise bound by a collective bargaining agreement with any Union.
- 3.3. Subcontractors. At the time that the Contractor enters into a Subcontract with any Subcontractor providing for the performance of any portion of the Construction Contract for the Project subject to this Agreement, the Contractor shall provide a copy of this Agreement, as it may from time to time be modified, to said Subcontractor and shall require the Subcontractor, as a part of its acceptance of an award of a Subcontract to construct a portion of the Project, to agree in writing to be bound by each and every provision of this Agreement prior to the commencement of work.
- 3.4. Limitation to Parties and Project. This Agreement shall only be binding on the Parties hereto relating to the Project and shall not apply to: (i) the parents, affiliates, subsidiaries, or other ventures of any such Party; (ii) the Excluded Items/Activities and Limitations on Application of Agreement to Project, set forth in Articles 2.3 and 2.5 above; or (iii) any District work of improvement except the Project.

Article 4. Work Stoppages, Strikes, Sympathy Strikes and Lockouts

- 4.1. Agreement to Not Engage in Work Stoppages or Lockouts. The Parties agree to all of the following for the duration of Project construction:
 - 4.1.1. Prohibition on Work Stoppages, Strikes, etc. There shall be no strikes, sympathy strikes, work stoppages, picketing, handbilling or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions or employees employed by the Contractor on the Project, at the Site or at any other facility owned, leased, rented or otherwise occupied

by the District because of a labor-related dispute on the Project. Disputes arising between the Unions and Contractor on construction projects excluded from the definition of "Project," or activities specifically excluded under Article 2.3 of this Agreement are not governed by the terms of this Article 4.1.1.

4.1.2. Prohibition on Lockouts. As to employees of the Contractor employed on the Project, there shall be no lockout of any kind by the Contractor.

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

4.2. Grievance Procedures. Any Party to this Agreement may institute the following procedure, in lieu of or in addition to any other action at law or equity, when a breach of this Article is alleged to have occurred:

4.2.1. Notice. A Party invoking this procedure shall notify, by facsimile or telephone, the Party alleged to be in violation, the District Representative, the Council and the involved local Union if a Union is alleged to be in violation of this Article 4 ("Grievance Notice").

4.2.2. Council Notice to Parties. Upon receipt of a Grievance Notice alleging that a Party has breached Article 4, the Council shall serve the Grievance Notice by mail on all other Parties to this Agreement and request that the Party filing the grievance advise the Council of its arbitrator selection preference from the following sources: (i) Arbitrator John Kagel; or (ii) Arbitrator Barry Winograd.

4.2.3. Council Arbitrator Contact; Arbitration Cost Allocations. The Council will contact the arbitrator and arrange for the arbitration to be held within twenty-four (24) hours of the Grievance Notice being served on the Parties by the Council. The costs of the arbitration shall be borne equally by the Party filing the Grievance Notice and the Party or Parties against which the Grievance Notice has been filed, with each Party bearing their own attorneys' fees and costs.

4.2.4. Council Notice of Arbitration; Conduct of Arbitration Hearing. The Council 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 all Parties. A failure of any Party to attend said hearings shall not delay the hearing of evidence or the issuance of any award by the arbitrator.

4.2.5. Limits to Scope of Arbitration; Arbitration Award. The sole issue at the hearing shall be whether or not a violation of Article 4.1 of the Agreement has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any Party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with or enforcement of the award. The

arbitrator may order cessation of the violation of this Article and other appropriate relief and such award shall be served on all Parties by hand or registered mail upon issuance.

- 4.2.6. Enforcement of Arbitration Award. Such award may be enforced by any Court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other Party. In the proceeding to obtain a temporary order enforcing the arbitrator's award as issued under Article 4.2.5, all Parties waive the right to a noticed hearing and agree that such proceedings may be conducted on an ex parte basis. 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 award shall be served on all Parties by hand or delivered by certified mail.
- 4.2.7. Waiver of Other Arbitration Rights. Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance are waived by the Parties.
- 4.2.8. Arbitration Costs; Arbitrator's Fees. The fees and expenses of the arbitrator shall be divided equally between the Parties to the arbitration.

Article 5. Pre-Construction Conference. A pre-construction conference shall be held when requested by any Party to this Agreement prior to the commencement of work under the Construction Contract for the Project. Such conference shall be attended by a representative each from the District, the Contractor, the Unions and the Construction Manager.

Article 6. No Discriminatory Employment Practices. In connection with Project construction, the Contractor and Unions agree not to engage in any form of discrimination in hiring or dispatch of laborers because of race, national origin, religion, sex, sexual orientation, age, sex, disability, Acquired Immune Deficiency Syndrome or AIDS Related Condition (AIDS/ARC), political affiliation or membership in a labor organization.

Article 7. Union Security.

- 7.1. Union Exclusive Bargaining Representative. The Contractor recognizes the Unions as the sole bargaining representatives of all craft employees working on the Project who are covered by the scope of this Agreement.
- 7.2. Prohibition on Compulsory Employee Union Membership. No employee covered by this Agreement can be required to join any Union as a condition of being employed on the Project; provided, however, that an employee who is a member of the referring Union at the time of the referral shall maintain that membership while employed on the Project subject to this Agreement. All employees shall, however, comply with the Union security provision of the applicable Schedule A Local Collective Bargaining Agreement for the period during which they are performing Project construction work at the Site, except as modified by this Agreement. The Contractor agrees to deduct initiation fees, Union dues or representation fees from the pay of any employee who executes a voluntary authorization for such deductions and to remit the dues and fees to the applicable Union or Council. The foregoing notwithstanding, any employee who is not a member of a Union at the time of his/her dispatch to the Project shall not be directly or indirectly coerced or compelled by a Party hereto to authorize payroll deductions for initiation fees, Union dues or representation fees.

Article 8. Referral.

- 8.1. Union Craft Labor Referrals. Except as otherwise provided in this Agreement, the Signatory Unions shall be the primary source of all craft labor of the Contractor employed on the Project. The Contractor

shall be bound by and utilize the registration facilities and referral systems established or authorized by the Signatory Unions when such procedures are not in violation of Federal or state law.

- 8.2. Exclusion of Key Employees from Union Craft Labor Referrals. The Parties recognize the District's commitment to provide opportunities to participate on the Project to emerging business enterprises as well as other enterprises that may not have previously had a relationship with the Signatory Unions. To ensure that such enterprises will have an opportunity to employ their "key" employees on the Project, the Parties agree that in those situations where the Contractor who is not a party to a current collective bargaining agreement with the Signatory Union having jurisdiction over Project construction work to be performed by the Contractor, the Contractor may request by name, and the referring Signatory Union will honor, referral of core non-apprentice persons who have applied to the local Union for Project work and who demonstrate to the local union dispatcher and provide satisfactory proof of all of the following qualifications.
- 8.2.1. Licensing. Possess any and all licenses required by state or federal law for the Project work to be performed, if required by the nature of the work to be performed.
- 8.2.2. Experience. Have worked a total of at least five thousand (5,000) hours in the appropriate construction craft.
- 8.2.3. Contractor Employment. Were on the Contractor's active payroll for at least ninety (90) out of the one-hundred twenty (120) calendar days prior to the date of the District's award of the Construction Contract.
- 8.2.4. Safety. Have the ability to perform safely the basic functions of the applicable trade.
- 8.3. Referrals of Contractor Key Employees and Union Craft Labor. The Unions will refer to the Contractor one employee from the hiring hall out of work list for each affected craft, and will then refer one of the Contractor's "key" employees as defined above. The process then will be repeated, one and one, until a maximum of five (5) "key" employees have been hired, after which point hiring will be done in accordance to Article 8.1 above.
- 8.4. Union Inability to Refer Craft Labor; Contractor Utilization of Alternative Labor Sources. In the event that referral facilities maintained by the Unions are unable to fill the requisition of the Contractor for employees within a forty eight (48) hour period after such requisition is made in writing by the Contractor, the Contractor shall be free to obtain labor resources from any available 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.
- 8.5. Workers' Residency Data. The Unions shall collect and provide to the District data identifying the residence city and zip code of each contractor engaged in Project construction.
- 8.6. Local Craft Labor Resources. Unions will exert their utmost efforts to recruit sufficient numbers of skilled craftpersons to fulfill the requirements of the Contractor, including preferential dispatch if permissible under applicable laws and hiring hall policies/bylaws. The Unions agree to encourage the referral and utilization, to the extent permitted by law and the hiring hall procedures of the local Unions and the standards of the Apprenticeship programs, of qualified residents residing in the zip codes listed in (Appendix B) in partnership with the program/construction manager(s), as journeymen and apprentices on the Project including entrance into such apprenticeship programs as may be operated by the Signatory Unions.

8.7. Apprenticeship Programs. The Contractor or Subcontractor performing work on the Project shall, for each apprenticeable craft that it employs, employ on its regular workforce the ratio of apprentices as required by Labor Code Section 1777.5 who are enrolled and participating in a Bona Fide Apprenticeship Program. Prior to commencing work on the Project, the Contractor or Subcontractor must file with the District a certification of its compliance with this requirement and disclosing the identity of the Bona Fide Apprenticeship Program(s) from which it will obtain apprentices for work on the Project.

8.8. Drug Testing. Workers engaged in construction of the Project shall be subject to drug and substance abuse testing in accordance with the applicable Master Collective Bargaining Agreement.

Article 9. Wages, Hours and Fringe Benefits

9.1. Wages, Hours and Fringe Benefits Established by Schedule A Agreements. The wages, hours, fringe benefits and terms and conditions of employment on the Project shall be governed by the applicable Schedule A Master Collective Bargaining Agreement of the affected craft(s) as listed in Appendix B.

9.2. Contractor Contributions. The Contractor agrees to pay contributions to the established vacation, pension or other form of "deferred compensation plan," apprenticeship, and health benefit funds in the amounts designated in the Master Collective Bargaining Agreements of the appropriate local Unions for those employees so defined in Article 7.2. The Contractor shall not be required to pay contributions to any other trust funds to satisfy their obligation under this Article except that Contractors who are signatory to collective bargaining agreements with the respective trades shall continue to pay all trust fund contributions required by such collective bargaining agreements.

9.3. Binding Effect of Schedule A Agreements. By signing this Agreement, the Contractors adopt and agree to be bound by the written terms of the legally established Trust Agreements, as described in Article 9.1, specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds.

Article 10. Compliance With Wages, Hours and Fringe Benefit Requirements. It shall be the responsibility of the Contractor and Unions to investigate and monitor compliance with the provisions of the Agreement contained in Article 9. The District shall, in accordance with applicable law, monitor the Contractor's compliance with the prevailing wage rate requirements, fringe benefits requirements imposed by law, and limitations on hours of work per day/per week.

Article 11. Joint Administrative Committee. The Parties to this Agreement shall establish a four (4) person Joint Administrative Committee. The Joint Administrative Committee shall be comprised of two (2) representatives selected by the District and two (2) representatives selected by the Signatory Unions. Each representative shall designate an alternate who shall serve in his or her absence for any purpose contemplated by this Agreement. The Joint Administrative Committee shall meet as required but not less than once each 3-months during Project construction to review the implementation of the Agreement and the progress of the Project and resolve problems by majority vote, with such resolutions to be binding on all Parties to this Agreement. If the resolution to the problem brought before the Joint Administrative Committee requires a change, amendment, addition to or detracting from any provision of this Agreement, the Joint Administrative Committee shall have the power to make this resolution by majority vote, such resolution to become effective upon approval of the District and the Unions signatory to this Agreement. If the problem arises out of the meaning, interpretation or application of the provisions of this Agreement, and the Committee is unable to resolve the matter by majority vote, the problem will be referred to the procedures set forth in Article 12 for final and binding resolution.

Article 12. Grievance Arbitration Procedure.

- 12.1. Agreement Procedures Exclusive. The Parties understand and agree that in the event any dispute arises out of the meaning, interpretation or application of the provisions of this Agreement, the same shall be settled by means of the procedures set out herein. No grievance shall be recognized unless the grieving party (Local Union or District Council on its own behalf, or on behalf of an employee whom it represents, or a Contractor on its own behalf) provides notice in writing to the Party with whom it has a dispute within five (5) days after becoming aware of the dispute but in no event more than thirty (30) days after it reasonably should have become aware of the event giving rise to the dispute. The time limits may be extended by mutual written agreement of the Parties.
- 12.2. Grievance Procedures. Grievances shall be settled according to the following procedures:
- 12.2.1. Meet and Confer (Step 1). Within seven(7) business days after the receipt of the written notice of the grievance, the Business Representative of the involved Local Union or District Council, or his/her designee, or the representative of the employee, and the representative of the involved Contractor shall confer and attempt to resolve the grievance.
- 12.2.2. Referral to Joint Administrative Committee (Step 2). In the event that the representatives are unable to resolve the dispute within the seven (7) business days after its referral to Step 1, either involved Party may submit it within five (5) business days to the Joint Administrative Committee, which shall meet within five (5) business days after such referral (or such longer time as is mutually agreed upon by all representatives on the Joint Administrative Committee), to confer in an attempt to resolve the grievance. If the dispute is not resolved within such time (five (5) business days after its referral or such longer time as mutually agreed upon), it may be referred within five (5) business days by either Party to Step 3.
- 12.2.3. Referral to Arbitrator (Step 3). Within five (5) business days after referral of a dispute to Step 3, the Party filing the grievance will advise the District of its arbitrator selection preference from the following sources: (i) Arbitrator John Kagel; or (ii) Arbitrator Barry Winograd.
- 12.3. Hearing Process. The Council will contact the arbitrator and arrange for the arbitration to be held as soon as possible. The costs of the arbitration shall be borne equally by the Party filing the grievance and the Party or Parties against which the grievance has been filed, with each Party bearing their own attorneys' fees and costs. It is understood that this grievance arbitration procedure will be used to resolve disputes regarding the language of this Agreement, but will not be used to resolve disputes over language of any Schedule A Master Collective Bargaining Agreement. Those disputes will be resolved under the dispute resolution procedures contained in the applicable Schedule A Master Collective Bargaining Agreement. The decision of the Arbitrator shall be binding on all Parties. The Arbitrator shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement. The expense of the Arbitrator shall be borne equally by both Parties.
- 12.4. Hearing. The Arbitrator shall arrange for a hearing as soon as practicable from the date of his/her selection. A written opinion may be requested by a Party from the presiding Arbitrator.
- 12.5. Time. The time limits specified in any step of the Grievance Procedure set forth in Section 12.2 may be extended by mutual agreement of the parties initiated by the written request of one party to the other, at the appropriate step of the Grievance Procedure. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without a request for an extension of time, shall be deemed a waiver of such grievance without prejudice, or without precedent to the processing of and/or resolution of like or similar grievances or disputes.

12.6. Limitations. In order to encourage the resolution of disputes and grievances at Steps 1 and 2 of this Grievance Procedure, the Parties agree that such settlements shall not be precedent setting.

Article 13. Work Assignments and Jurisdictional Disputes—Northern California Plan.

13.1. Work Assignments. The assignment of work will be solely the responsibility of the Contractor performing the work involved and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the “Plan”) or any successor Plan.

13.2. Jurisdictional Disputes. All jurisdictional disputes between or among Unions, parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding, and conclusive on the Contractors and Unions parties to this Agreement.

13.3. Arbitration. For the convenience of the Parties, and in recognition of the expense of travel between Northern California and Washington, DC, at the request of any Party to a jurisdictional dispute under this Agreement an Arbitrator shall be chosen by the procedures specified in Article V, Section 5 of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch, and Thomas Pagan, and the Arbitrator’s hearing on the dispute shall be held at the offices of the Santa Clara & San Benito Counties Building and Construction Trades Council. All other procedures shall be as specified in the Plan.

13.4. Prohibition on Work Stoppages. All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, sitdown, boycott, sympathy strike, picketing, handbilling, work interruption, slow-down or other work stoppage of any nature, and the Employer’s assignment shall be adhered to until the dispute is resolved. Individual employees violating this section shall be subject to immediate discharge.

13.5. Remedies for Work Stoppage. If there is a strike, sympathy strike, work stoppage, slowdown, picketing or otherwise advising the public that a labor dispute exists or interference with the progress of Project construction by reason of a jurisdictional dispute, the District and/or the Contractor affected by said Union conduct, shall have the right to seek full legal redress in the Courts of California, including injunctive relief and damages.

Article 14. Contractor Management Rights. The Contractor shall retain full and exclusive authority for the management of its business operations, including the right to direct its labor force in its sole discretion. No rules, customs or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees, however, the lawful manning provisions of the applicable Schedule A shall be recognized on the Project.

Article 15. Incorporation of Agreement Into Construction Contract and Subcontracts. The District shall cause this Agreement to be incorporated into the terms and conditions of the Construction Contract awarded by the District for Project construction. The Contractor shall cause this Agreement to be incorporated into the terms and conditions of each Subcontract awarded by the Contractor to a Subcontractor.

Article 16. Term. The Term of this Agreement shall commence upon the District’s commencement of the bidding process for the Project Construction Contract and shall terminate as of the date of Final Completion of the Project, as certified by the Construction Manager and Architect for the Project.

Article 17. 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. The Parties also agree that in the event that a decision of a court of competent jurisdiction materially alters the terms of the Agreement such that the intent of the Parties is defeated, then the entire Agreement shall be null and void.

Dated: _____

SANTA CLARA & SAN BENITO COUNTIES BUILDING & CONSTRUCTION TRADES COUNCIL

By: _____

Dated: _____

CONSTRUCTION MANAGER

By: _____

Dated: _____

WEST VALLEY-MISSION COMMUNITY COLLEGE DISTRICT

By: _____

UNION SIGNATORIES

ASBESTOS WORKERS LOCAL 16 _____
BAC LOCAL UNION 3 _____
ELEVATOR CONSTRUCTORS LOCAL UNION 8 _____
IRON WORKERS LOCAL UNION 377 _____
OPERATING ENGINEERS LOCAL 3 _____

BOILMAKERS LOCAL UNION 549 _____
IBEW LOCAL 332 _____
PAINTERS DISTRICT COUNCIL 16 (Painters Local 507/Glaziers Local 1621/Carpet & Soft Tile Local 12) _____
LABORERS LOCAL UNION 270 _____
NORTHERN CALIFORNIA CARPENTERS REGIONAL COUNCIL _____

PLASTERERS LOCAL UNION 300

OPERATIVE PLASTERERS AND CEMENT MASONS LOCAL UNION 400

ROOFERS LOCAL UNION 95

SIGN & DISPLAY & ALLIED CRAFTS LOCAL UNION 510

TEAMSTERS LOCAL UNION 287

UNITED ASSOCIATION, PLUMBERS & FITTERS LOCAL UNION 393

SHEET METAL WORKERS INTERNATIONAL UNION LOCAL 104

UNITED ASSOCIATION, SPRINKLER FITTERS LOCAL UNION 483

APPENDIX A
AGREEMENT TO BE BOUND

The undersigned, _____, [*Name of Contractor/Subcontractor*] as the Contractor or a Subcontractor (“Employer”) performing Work on the West Valley-Mission Community College District project commonly known as the West Valley College Applied Arts and Sciences Building (“Project”), agree as follows:

For and in consideration of the award to it of a contract to perform work on said Project, and in further consideration of the mutual promises made in the Project Labor Agreement for West Valley-Mission Community College District (hereinafter “Agreement”), a copy of which was received and is acknowledged, we hereby:

1. Accept and agree to be bound by the terms and conditions of the Agreement and all appendixes, together with any and all amendments and supplements now existing or made subsequent to our execution of this Agreement;
2. Certify that we have no commitments or agreements which would preclude our full and complete compliance with the terms and conditions of said Agreement;
3. Agree to secure from any Contractor (as defined in said Agreement) which is or becomes our subcontractor (of any tier), and from any successor therefor, a duly executed Agreement to be Bound in form identical to this document.
4. The Contractor agrees that it shall be bound by all applicable trust agreements and plans for the provision of such fringe benefits as accrue to the direct benefit of the employees including, but not limited to, Health and Welfare, Pension, Training, Vacation and/or other direct benefits provided pursuant to the appropriate craft agreement contained in Schedule “A” of this Agreement.

Dated: _____

_____ (Print Name of Contractor/Subcontractor)

By _____

Title _____

Contractors’ State License # _____

APPENDIX B
MASTER COLLECTIVE BARGAINING AGREEMENTS