

PROJECT STABILIZATION AGREEMENT

For The

FREMONT UNIFIED SCHOOL DISTRICT

TABLE OF CONTENTS

Page

PREAMBLE.....	1
RECITALS.....	1
ARTICLE 1: DEFINITIONS	2
ARTICLE 2: PURPOSE	4
ARTICLE 3: SCOPE OF AGREEMENT.....	5
ARTICLE 4: EFFECT OF AGREEMENT	7
ARTICLE 5: RELATIONSHIP BETWEEN PARTIES	9
ARTICLE 6: NO WORK STOPPAGES, STRIKES, SYMPATHY STRIKES OR LOCKOUTS.....	9
ARTICLE 7: WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES	12
ARTICLE 8: PRE-JOB CONFERENCES	13
ARTICLE 9: MANAGEMENT RIGHTS.....	14
ARTICLE 10: WORK RULES	14
ARTICLE 11: JOINT ADMINISTRATIVE COMMITTEE.....	15
ARTICLE 12: GRIEVANCE PROCEDURE.....	15
ARTICLE 13: UNION RECOGNITION AND REPRESENTATIVES	17
ARTICLE 14: REFERRAL.....	17
ARTICLE 15: NON-DISCRIMINATION	18
ARTICLE 16: APPRENTICES	19
ARTICLE 17: WAGE SCALES AND FRINGE BENEFITS	20
ARTICLE 18: LOCAL DISTRICT HIRE REQUIREMENTS.....	21
ARTICLE 19: HOLIDAYS, HOURS OF WORK, OVERTIME AND SHIFTS	22
ARTICLE 20: REPORTING PAY	22
ARTICLE 21: TRAVEL, SUBSISTENCE AND ZONE PAY	22
ARTICLE 22: HEALTH AND SAFETY	23
ARTICLE 23: SECURITY OF MATERIAL, EQUIPMENT AND TOOLS	23
ARTICLE 24: HELMETS TO HARDHATS	24
ARTICLE 25: MISCELLANEOUS PROVISIONS.....	24
ARTICLE 26: ENTIRE AGREEMENT	24
ARTICLE 27: GENERAL SAVINGS CLAUSE.....	25
ARTICLE 28: DURATION OF AGREEMENT	25
EXHIBIT A AGREEMENT TO BE BOUND	29

PROJECT STABILIZATION AGREEMENT

For The
FREMONT UNIFIED SCHOOL DISTRICT

PREAMBLE

This Agreement is made and entered into effective _____, 2016, by and between the Fremont Unified School District ("District"), the Building and Construction Trades Council of Alameda County, AFL-CIO, ("Council") and its affiliated local Unions signatory hereto, acting on their own behalf and on behalf of their respective affiliates and member organizations, ("Union(s)"), and the contractors and/or subcontractors, including construction building material delivery truckers, trucking companies and trucking brokers, who shall become signatory to this Agreement by signing the "Agreement to Be Bound" (Exhibit A), ("Contractor/Employer(s)").

RECITALS

WHEREAS, the purposes of this Agreement include the promotion of efficiency in the construction of District's 2014 Measure E Bond Projects defined herein ("Projects"), the 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 Projects, the increase in training and employment opportunities for the District's students in the construction trades through apprenticeship and pre-apprentice programs as the students graduate from the District's schools, and the community-wide benefits to be achieved through the encouragement of local and skilled labor force participation; and

WHEREAS, the successful completion of the Projects is of the utmost importance to the District to meet the educational needs of the District's students and to avoid increased costs resulting from delays in construction; and

WHEREAS, large numbers of workers of various skills will be required in the performance of the construction work, including those to be represented by the unions affiliated with the Building and Construction Trades Council of Alameda County, AFL-CIO ("Unions") and employed by contractors and subcontractors who are signatory to this Agreement; and

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

WHEREAS, the parties agree that one of the primary purposes of this Agreement is to avoid the tensions that might arise on the Projects if Union and nonunion workers of different employers were to work side by side on the Project, potentially leading to labor disputes that could delay completion of the Project; and

WHEREAS, the interests of the general public, the District, the Unions and Contractor/Employer(s) would be best served if the construction work proceeded in an orderly manner

without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

WHEREAS, the Contractor/Employers and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the Projects by the Contractor/Employer(s), and further, to encourage close cooperation among the Contractor/Employer(s) and the Union(s) to the end that a satisfactory, continuous and harmonious relationship will exist among the parties to this Agreement; and

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

WHEREAS, the Unions and the District wish to insure labor peace at the jobsite devoid of any disruption that could jeopardize the schedule and timeliness of the construction process, where both Contractor/Employer(s) that are signatory to collective bargaining agreements of the Unions are supervising employees that are members of the Unions and where Contractor/Employer(s) that are not signatory to collective bargaining agreements are also supervising employees; and

WHEREAS, the parties to this Agreement mutually agree that safety, quality, productivity and labor harmony are primary goals; and

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

WHEREAS, the contracts for construction work on the Projects will be awarded in accordance with the applicable provisions of the Public Contract Code, Education Code and other applicable California law; and

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

WHEREAS, the District has the absolute right to select the lowest responsive and responsible bidder for the award of the construction contracts on the Projects, or to reject all bid proposals, or to use alternative project delivery methodologies.

NOW THEREFORE, the parties, in consideration of the mutual promises and covenants herein contained, mutually agree as follows:

ARTICLE 1
DEFINITIONS

- 1.1 "Agreement" means this Project Stabilization Agreement.
- 1.2 "Agreement to Be Bound" means the agreement (attached hereto and incorporated herein as Exhibit A) which each and every Contractor(s)/Employer(s) shall execute as a condition of performing Project work.

- 1.3 “Contractor/Employer(s)” or “Contractor(s)” or “Employer(s)” means any individual, firm, partnership or corporation (including the prime contractor, general contractor, construction manager-at-risk, design-build entity, lease-leaseback entity or equivalent entity), or combination thereof, including joint ventures, and their successors and assigns, that is an independent business enterprise and has entered into a contract with the District with respect to the construction of any part of the Projects, under contract terms and conditions approved by the District and which incorporate this Agreement, and all contractors and subcontractors of any tier, (including construction building material delivery truckers, trucking companies and trucking brokers, who agree, under contract with the contractor(s), or a subcontractor of the contractor, to perform on the Projects, any part or portion of the construction work covered by the prime contractor, including the operating of construction equipment, performance of labor and/or installation of materials).
- 1.3.1 “Prime Contractor/Employer” means a “Contractor/Employer” that is the recipient of a contract awarded by the District that includes work covered by this Agreement.
- 1.4 “Construction Contract(s)” means contract(s) for construction of the Projects (including design-bid-build, design-build, lease-leaseback or other contract methodologies under which the Projects are constructed).
- 1.5 “Covered Work” means work to which this Agreement applies.
- 1.6 “District” means the Fremont Unified School District.
- 1.7 “District Graduate” is a person who has graduated from the Fremont Unified School District.
- 1.8 “First Period Apprentice” is a first period apprentice who is enrolled in a State of California approved apprenticeship program that is a joint labor-management apprentice program.
- 1.9 “Local Resident” means an individual meeting at least one of the following criteria:
- 1.9.1 An individual residing in one of the Tier 1 or Tier 2 areas, as defined herein, and who has been resident therein for at least 100 days prior to award of Covered Work to that individual’s employer. “Tier 1 Local Residents” reside within the City of Fremont, CA, or adjacent unincorporated areas. “Tier 2 Local Residents” reside within the City of Hayward, CA, the City of Newark, CA, the City of Union City, CA, or unincorporated areas adjacent to any of them.
- 1.9.2 District Graduates and/or participants in the Mission Valley Regional Occupational Program are deemed to be “Tier 1 Local Residents.”
- 1.10 “MLA” means the Master Collective Bargaining Agreement of each craft Union signatory to this Agreement.
- 1.11 “Project Stabilization Agreement Administrator” or “PSA Administrator” is defined as an individual designated by the District to monitor compliance with this Agreement; assist, as the authorized representative of the District, in developing and implementing the programs referenced herein, all of which are critical to fulfilling the intent and purposes of the

Parties and this Agreement; and to otherwise implement and administer the Agreement.

- 1.12 “Project Manager” means the person or persons or business entity designated by the District to oversee, for the benefit of the District, all phases of construction on the Projects.
- 1.13 “Projects” is defined to include all phases of the construction of new facilities and upgrading and repair to all existing facilities covered in construction contracts executed by the District, for which DSA approval has been granted after the effective date of this Agreement, pursuant to District’s 2014 Measure E Bond only, except that District may, in its sole discretion, designate from time to time that this Agreement shall not apply to any particular Project, provided the contract value of such designated Projects, in the aggregate, shall not exceed five percent (5%) of the construction cost value of the District’s 2014 Measure E Bond projects that do not yet have DSA approval upon the effective date of this Agreement.
- 1.14 “Completion” means that point at which there is Final Acceptance by the District of a Construction Contract. For the purposes of this definition, “Final Acceptance” means that point in time at which the engineer for the District has determined upon final inspection that the work has been completed in all respects and all required contract documents, contract drawings, warranties, certificates, manuals and data have been submitted and training completed in accordance with the contract documents and the District has executed a written acceptance of the work. Work performed by or on behalf of a Contractor/Employer after Final Acceptance to effect warranty repairs, correct errors in the work, and to complete punch list work for the Project shall be covered by this Agreement.
- 1.15 “Union” or “Unions” means the Building and Construction Trades Council of Alameda County, AFL-CIO (“Council”) and any affiliated 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.

ARTICLE 2

PURPOSE

- 2.1 The purposes of this Agreement are to promote efficient construction operations on the Projects, to ensure an adequate supply of skilled craftspeople, to promote local apprenticeship and hiring opportunities, and to provide for peaceful, efficient and binding procedure for settling labor disputes. In so doing, the parties to this Agreement establish the foundation to promote the public interest, to provide a safe work place, to assure high quality construction, to ensure an uninterrupted construction project, and to secure optimum productivity, on-schedule performance and District satisfaction.
- 2.2 It is the intent of the parties to set out uniform and fair working conditions for the efficient completion of the Projects, maintain harmonious labor/management relations and eliminate strikes, lockouts and other delays.

ARTICLE 3
SCOPE OF AGREEMENT

- 3.1 The District will apply this Agreement as a contract specification to the award of those construction contracts for Projects as defined in Article 1.13 to this Agreement. A copy of all invitations to bid shall be provided to the Council at time of issuance.
- 3.2 This Agreement shall apply only to construction/craft employees and shall not apply to a Contractor/Employer's supervisors, technical or non-manual employees including, but not limited to, executives, engineers, office and clerical employees, supervisors, timekeepers, messengers, guards, other employees above the classification of general foreman (except those covered by an MLA) or inspectors, material testers, and/or x-ray technicians, except to the extent that such inspectors, material testers and/or x-ray technicians are customarily covered by the applicable MLA and as to which classification a prevailing wage determination has been published.
- 3.3 This Agreement covers, without limitation, all on-site construction, demolition, alteration, installation, improvement, painting or repair of buildings, structures, and other works and related activities for the Projects that is within the craft jurisdiction of one of the Unions and that is part of the Projects, including, without limitation to the following examples, geotechnical and exploratory drilling, temporary HVAC, landscaping and temporary fencing, pipelines (including those in linear corridors built to serve the Project), pumps, pump stations, start-up, modular furniture installation, site preparation, survey work, demolition of existing structures and all construction, demolition or improvements required to be performed as a condition of approval by any public agency. This scope of work includes all soils and materials testing and inspection where such testing and inspection is a classification in which a prevailing wage determination has been published.
- 3.4 The Projects include work necessary for the Projects and/or in temporary yards or areas dedicated to the Projects, and at any on-site or off-site batch plant(s) constructed solely to supply materials to the Projects, when those sites are dedicated exclusively to the Projects. This Agreement covers all on-site fabrication work over which the District or Contractor/Employer(s) possess the right of control (including work done for the Projects in any temporary yard or area established for the Projects). Additionally, any offsite work, including fabrication, necessary for the Projects defined herein, that is lawfully covered by a current MLA or local addenda to a National Agreement of the applicable Union(s) that is in effect as of the execution of this Agreement shall be considered covered work under this Agreement.
- 3.5 The furnishing of supplies, equipment or materials which are stockpiled for later use shall in no case be considered subcontracting. Construction trucking work, such as the delivery of ready-mix, asphalt, aggregate, sand or other fill or similar material which are directly incorporated into the construction process as well as the off-hauling of debris and excess fill material and/or mud, shall be covered by the terms and conditions of this Agreement, to the fullest extent provided by law and by prevailing wage determinations of the California Department of Industrial Relations. Employers, including brokers, of persons providing construction trucking work shall provide certified payroll records to the District within ten (10) days of written request or as required by bid specifications.
- 3.6 The on-site installation or application of all items shall be performed by the craft having jurisdiction over such work as set forth under the provisions of this Agreement; provided,

however, it is recognized that installation of specialty items which may be furnished by the District for a Project or a Contractor/Employer shall be performed by construction persons employed under this Agreement who may be directed by other personnel in a supervisory role; provided, however, in limited circumstances requiring special knowledge of the particular item(s), may be performed by construction persons of the manufacturer or its subcontractors where necessary to protect a manufacturer's warranty provided the Contractor using the manufacturer can demonstrate by an enumeration of the specific tasks that the work cannot be performed by a construction person employed under this Agreement. All such work to be performed by the employees of an equipment manufacturer or its subcontractors necessary to protect the warranty on such equipment shall be identified and discussed at a Pre-job meeting or at a Joint Administrative Committee meeting prior to the commencement of that work. The issue of whether it is necessary to use construction persons of the manufacturer or its subcontractors to protect the manufacturer's warranty shall be subject to the grievance and arbitration provisions of this Agreement.

- 3.7 There shall be no limitation or restriction upon the choice of materials or upon the full use and installation of equipment, machinery, package units, factory pre-cast, prefabricated or preassembled materials, tools or other labor-saving devices, provided the lawful fabrication provisions of the appropriate MLAs shall be recognized.
- 3.8 This Agreement shall apply to any start-up, calibration, commissioning, performance testing, repair, maintenance, and operational revisions to systems and/or subsystems performed before Final Completion. If required, the service representative may make a final check and may direct employees covered by this agreement on site to make any necessary repairs to protect the terms of a manufacturer's guarantee or warranty prior to start-up of a piece of equipment. After installation by the Contractor/Employer(s) and one year after achieving Final Completion of a portion of a Project or a building system by the District, it is understood the District reserves the right to perform start-up, operation, repair, maintenance or revision of equipment or systems with employees of the District. Any repair, maintenance or revision of equipment or systems required one year after the filing of a Notice of Completion is not covered by this Agreement and how that work is performed is entirely within the discretion of the District.
- 3.9 It is expressly agreed and understood by the parties hereto that the District shall have the right, except as otherwise set forth in this Agreement, to purchase material and equipment from any source, and the Contractor/Employer's craftspersons will handle and install such material and equipment.
- 3.10 Work covered by this Agreement within the following craft jurisdictions shall be performed under the terms of their National Agreements as follows: National Agreement of Elevator Constructors, National Transient Lodge (NTL) Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, and all instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, with the exception that Articles 6, 7, and 12 of this Agreement shall apply to such work.
- 3.11 Without limiting the foregoing, items specifically excluded from the scope of this Agreement include:

- a) The operation of equipment and machinery owned or controlled by the District and not directly related to the construction Project;
 - b) Work that has been historically performed by other entities, such as a public utility, is not intended to be covered under this Agreement even if such work is funded all or in part by the District's 2014 Measure E Bond funds;
 - c) All employees of any Contractor/Employer, design team or any other consultant of the District not performing construction craft labor within the scope of this Agreement;
 - d) Off-site maintenance of leased equipment and on-site supervision of such work;
 - e) All work by employees of the District;
 - f) The operation or maintenance of any other school facilities within the District, and any work performed with the District's own forces as permitted by the Public Contract Code and the Education Code.
- 3.12 It is in the interest of the District to obtain the most competitive bids while maintaining the conditions of this Agreement. To ensure that competitive bids are received from a range of Contractor/Employer(s), the Union(s) shall assist the District in soliciting interested parties in bidding on the Projects. Additionally, the District recognizes that multiple subcontractor quotations of bid ensure the most competitive overall bid. The Union(s) shall assist the District in encouraging and soliciting local and other subcontractors in bidding to interested Contractor/Employer(s). The District reserves the right, without reservation, to reject all bids and re-bid any Project.

ARTICLE 4

EFFECT OF AGREEMENT

- 4.1 By executing the Agreement, the District and the Union(s) agree to be bound by the Agreement. Contractor/Employer(s) shall become signatory to, and agree to comply with, this Agreement by executing the Agreement to Be Bound. The District is the owner of the Projects, but shall not be considered an employer or joint employer for any work covered by this Agreement, and, with regard to its employment practices, is not bound by provisions of this Agreement applicable to Contractor/Employer(s). To promote project stability and economic savings, to ensure that the work on the Projects will not be subject to disruption, and to maintain a spirit of harmony, cooperation and labor-management peace, including establishing an effective and expeditious method for the settlement of all labor misunderstandings, disputes or grievances that may arise, the District shall require that all Contractor/Employer(s) execute the Agreement to Be Bound prior to commencing performance.
- 4.2 By accepting the award of a Construction Contract for the Projects, whether as contractor or subcontractor, the Contractor/Employer agrees to be bound by each and every provision of the Agreement and agrees that it will evidence its acceptance prior to the commencement of work by executing the Agreement to Be Bound in the form attached hereto as Exhibit A. A copy of each executed Agreement to Be Bound shall be provided to

the District. If the Contractor/Employer refuses to execute the Agreement to Be Bound, then such Contractor/Employer shall not be awarded a Construction Contract to perform work on the Projects. A copy of this Agreement and of Exhibit A shall be made available to all contractors, subcontractors, and other persons or entities whose participation in the Projects will require them to execute Exhibit A hereto.

- 4.3 At the time that any Contractor/Employer enters into a subcontract with any subcontractor providing for the performance of the Construction Contract, the Contractor/Employer(s) shall provide a copy of this Agreement, as it may from time to time be modified, to said subcontractor and shall require the subcontractor as a part of accepting an award of a construction subcontract to agree in writing to be bound by each and every provision of this Agreement prior to the commencement of work.
- 4.4 The Contractor/Employer(s) has the primary obligation for performance of all conditions of this Agreement. This obligation cannot be relieved, evaded or diminished by subcontracting. Should the Contractor/Employer(s) elect to subcontract, the Contractor/Employer(s) shall continue to have such primary obligation.
- 4.5 Each Contractor/Employer(s) shall give written notice to the Union(s) of any subcontract involving the performance of work covered by this Agreement within either five (5) business days of entering such subcontract or before the subcontractor commences work on the Projects, whichever occurs first. Such notice shall specify the name, address and the California State License Board license number of the subcontractor. Written notice at a Pre-Job Conference shall be deemed written notice under this provision for those subcontractors listed at the Pre-Job Conference only.
- 4.6
 - a) With regard to any Contractor/Employer that is independently signed to any MLA, this Agreement shall in no way supersede or prevent the enforcement of any subcontracting clause contained in such MLA, except as specifically set forth in subsection (b) of this Article. Any such subcontracting clause in an MLA shall remain and be fully enforceable between each craft union and its signatory Contractor/Employer(s), and no provision of this Agreement shall be interpreted and/or applied in any manner that would give this Agreement precedence over subcontracting obligations and restrictions that exist between craft unions and their respective signatory Contractor/Employer(s) under an MLA, except as specifically set forth in subsection (b) of this Article 4.6.
 - b) If a craft union (hereafter "Aggrieved Union") believes that an assignment of work on a Project has been made improperly by a Contractor/Employer(s) or subcontractor, even if that assignment was as a result of another craft union's successful enforcement of the subcontracting clause in its MLA, as permitted by subsection (a) of this Article 4.6, the Aggrieved Union may submit a claim under the jurisdictional resolution process contained in Article 7 of this Agreement, and the decision rendered as part of that process shall be enforceable to require the Contractor/Employer(s) or subcontractor that made the work assignment to assign that work prospectively to the Aggrieved Union. An award made to a craft union under the subcontracting clause of its MLA, as permitted pursuant to Article 4.6(a), shall be valid and fully enforceable by that craft union unless it conflicts with a

jurisdictional award made pursuant to this Agreement. If the award made under the MLA conflicts with the jurisdictional award made pursuant to this Agreement, the award of any damages under the former shall be null and void ab initio.

- 4.7 The provisions of this Agreement, including the MLAs 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. To the extent a provision of this Agreement is inconsistent with an MLA, the provisions of this Agreement shall prevail.

ARTICLE 5

RELATIONSHIP BETWEEN PARTIES

- 5.1 This Agreement shall apply and is limited to all Contractor/Employer(s) performing construction contracts on the Projects, the District the Council and the Unions. This Agreement shall only be binding on the signatory parties hereto, their successors and assigns, and shall not apply to parents, affiliates, subsidiaries, or other divisions of the entity and signatory Contractor/Employer(s) unless signed by such parent, affiliate, subsidiary, or other division of such entity.
- 5.2 Each Contractor/Employer(s) shall alone be liable and responsible for its own individual acts and conduct and for any breach or alleged breach of this Agreement. Any alleged breach of this Agreement by a Contractor/Employer(s) or any dispute between the signatory Union(s) and the Contractor/Employer(s) respecting compliance with the terms of this Agreement, shall not affect the rights, liabilities, obligations and duties between the signatory Union(s) and other Contractor/Employer(s) party to this Agreement.
- 5.3 It is mutually agreed by the parties that any liability by a signatory Union to this Agreement shall be several and not joint. Any alleged breach of this Agreement by a signatory Union shall not affect the rights, liabilities, obligations and duties between the signatory Contractor/Employers and the other Unions party to this Agreement.

ARTICLE 6

NO WORK STOPPAGES, STRIKES, SYMPATHY STRIKES OR LOCKOUTS

- 6.1 During the life of this Agreement, the Union(s) and its members, agents, representatives and employees shall not incite, encourage, condone or participate in any strike, walkout, slowdown, sit-down, stay-in, boycott, wobble, sympathy strike, picketing, or other work stoppage or handbilling for any cause whatsoever, or any other type of interference, coercive or otherwise, and it is expressly agreed that any such action is a violation of this Agreement. Disputes arising between the Unions and Contractor/Employers on other District projects are not governed by the terms of the Agreement or this Article.
- 6.2 In the case of nonpayment of wages and trust fund contributions on the Projects, the Union shall give the District, and the Prime Contractor/Employer(s) and affected subcontractor(s) three (3) business days' notice of the intent to withhold labor from the Prime Contractor/Employer or their subcontractor's workforce depending on which is delinquent when nonpayment of trust funds has occurred, and three (3) business days' notice when nonpayment of wages has occurred or when paychecks being tendered to a

financial institution normally recognized to honor such paychecks will not honor such paycheck as a result of insufficient funds, of the intent to withhold labor from the Contractor/Employer(s)' or their subcontractor's workforce, during which time the Contractor/Employer or subcontractor shall have the opportunity to correct the default. In this instance, a Union's withholding of labor (but not picketing) from a Prime Contractor/Employer General Contractor or affected subcontractor who has failed to pay his/its fringe benefit contributions or failed to meet his/its weekly payroll shall not be considered a violation of this Article.

- 6.3 Withholding employees for failure of a Contractor/Employer(s) to tender trust fund contributions as required in accordance with Article 17 and/or for failure to meet its weekly payroll is not a violation of this Article 6; however, the Unions shall give the affected Contractor/Employer and the District three (3) business days written notice prior to the withholding of employees when failure to tender trust fund contributions has occurred. There shall be three (3) business days' written notice when failure to meet weekly payroll has occurred or when paychecks are determined to be non-negotiable by a financial institution normally recognized to honor such paychecks.
- 6.4 Should a subcontractor performing work on a Project be delinquent in the payment of Trust Fund contributions required under this Agreement with respect to employees represented by the Union, the Union may request that the Prime Contractor/Employer issue joint checks payable to the Contractor/Employer and the employee(s), or the appropriate employee benefit Trust Fund(s) until such delinquencies are satisfied. Any Trust Fund claiming that a Contractor/Employer is delinquent in its fringe benefit contributions to the funds, will provide written notice of the alleged delinquency to the affected Contractor/Employer, with copies to the Prime Contractor/Employer and the District. The notice will indicate the amount of delinquency asserted and the period that the delinquency covers. It is agreed, however, with respect to Contractor/Employer's delinquent in trust or benefit contribution payments, that nothing in this Agreement shall affect normal contract remedies available under the MLAs. If the Prime Contractor/Employer is delinquent in the payment of Trust Fund(s) contributions for covered work performed on a Project, the Prime Contractor/Employer agrees that the affected Trust Fund(s) may place the District on notice of such delinquencies and the Prime Contractor/Employer further agrees that the District may issue joint checks to the Prime Contractor/Employer and the Trust Fund(s) until the delinquency is satisfied.
- 6.5 If an MLA between a Contractor/Employer and the Union expires before the Contractor/Employer completes the performance of the Construction Contract and the Union or Contractor/Employer gives notice of demands for a new or modified MLA, the Union agrees that it will not strike the Contractor/Employer on said contract for work covered under this Agreement and the Union and the Contractor/Employer agree that the expired MLA shall continue in full force and effect for work covered under this Agreement until a new or modified MLA is reached between the Union and Contractor/Employer. If the new or modified MLA reached between the Union and Contractor/Employer provides that any terms of the MLA shall be retroactive, the Contractor/Employer agrees to comply with any retroactive terms of the new or modified MLA which are applicable to employees who were employed on the Projects during the interim with retroactive payment due within seven (7) days of the effective date of the modified MLA.

- 6.6 In consideration of the foregoing, the Contractor/Employer(s) shall not incite, encourage or participate in any lockout or cause to be locked out any employee covered under the provisions of this Agreement. The term "lockout" does not refer to the discharge, termination or layoff of employees by the Contractor/Employer(s) for any reasons in the exercise of its rights as set forth in any provision of this Agreement, nor does "lockout" include the District's or Contractor/Employers' decision to terminate or suspend work on the site or any portion thereof for any reason.
- 6.7 Any employee or employees inciting, encouraging or participating in any strike, slowdown, picketing, sympathy strike or other activity in violation of this Agreement is subject to immediate discharge and the procedure of Article 12, if invoked.
- 6.8 Upon written notice by any legal method of a violation to the Local and International Union(s) offices, the Union(s) and its officers 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, publicly 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. The Contractor/Employer(s) shall have the right, in the event of a work stoppage by the Union(s) to replace the employees represented by the Union(s) in violation of this Agreement until the Union(s) effects the return to work of such employees. Nothing in this Agreement shall be construed to limit or restrict the right of any of the parties to this Agreement to pursue fully any and all remedies available under law in the event of a violation of this Article 6.
- 6.9 Any party to this Agreement may institute the following binding arbitration procedure when such a breach is alleged. In the event a party institutes this procedure, arbitration shall be mandatory.
- 6.9.1 The party invoking this procedure shall immediately notify Robert Hirsch whom the parties agree shall be the permanent Arbitrator under this procedure. William E. Riker shall serve as the alternate in the event that the permanent Arbitrator is unavailable at any time. Notice to the Arbitrator shall be by the most expeditious means available, with notice by e-mail, or similar means to the party alleged to be in violation and the involved Union General President.
- 6.9.2 Upon receipt of said notice the Arbitrator named above or the alternate shall designate a place for, schedule and hold a hearing within twenty-four (24) hours.
- 6.9.3 The Arbitrator shall notify the parties by e-mail of the place and time chosen for the session. A failure of any party or parties to attend said hearing shall not delay the hearing of evidence or issuance of an award by the Arbitrator.
- 6.9.4 The sole issue at the hearing shall be whether or not a violation of this Article has in fact occurred, and the Arbitrator shall have no authority to consider any matter in justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court or other arbitration 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 shall 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.

- 6.9.5 The award shall be final, binding and non-reviewable as to the merits. A judgment of any court of competent jurisdiction may be entered upon the award, which shall be enforced by any such court, upon the filing of this Agreement and all other relevant documents referred to hereinabove in the following manner. E-mail or similar 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 6.9.4, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order of enforcement. The Court's order or orders enforcing the Arbitrator's award shall be served on all parties by hand or by delivery to their last known address or by registered mail.
- 6.9.6 Any rights created by statute or law governing arbitration or injunction proceedings inconsistent with the above procedure, or which interfere with compliance therewith, are hereby waived by the parties to whom they accrued.
- 6.9.7 The costs of the arbitration, including the fee and expenses of the Arbitrator, shall be borne equally by the parties.
- 6.9.8 The procedures contained in this Article shall be applicable only to alleged violations of this Article. Discharge or discipline of employees for violation of this Article shall be subject to the grievance and arbitration procedures of Article 12.

ARTICLE 7

WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

- 7.1 The assignment of Covered Work will be solely the responsibility of the Contractor/Employer performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.
- 7.2 All jurisdictional disputes on a Project between or among the Building and Construction Trades Unions and the Contractor/Employers, 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 Contractor/Employer and Union parties to this Agreement.
- 7.3 If a dispute arising under this Article involves the Northern California Carpenters Regional Council or any of its subordinate bodies, an Arbitrator shall be chosen by the procedures specified in Article V, Section 5 of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch and Thomas Pagan, and the Arbitrator's hearing on the dispute shall be held at the offices of the California State Building and Construction

Trades Council in Sacramento, California, within fourteen (14) days of the selection of the Arbitrator. All other procedures shall be as specified in the Plan.

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

ARTICLE 8

PRE-JOB CONFERENCES

- 8.1 Each Contractor/Employer shall conduct a mandatory Pre-Job Conference with the Council 5 days prior to commencing Covered Work to establish the scope of work in each Contractor/Employer's contract. The Prime Contractor/Employer, the PSA Administrator, and the District will be advised in advance of all such conferences and may participate if they wish. Pre-job Conferences for different Contractor/Employers may be held together. When a contract has been let to a Contractor/Employer(s) covered hereby, a Pre-Job Conference and/or Mark-Up Meeting shall be required. The meetings shall be held at the offices of the Alameda County Building Trades Council at 7750 Pardee Lane, Oakland, CA, 94621 or at another location, upon the agreement of the District and the Council. The parties may mutually agree to waive the requirement to hold a Pre-Job Conference and/or Mark-Up Meeting for any particular contract.
- 8.2 The Contractor/Employer performing the work shall have the responsibility for making work assignments in accordance with Article 7.1 of this Agreement, and every attempt will be made to have the work assignments in writing. The Contractor/Employer will also be required to bring all relevant plans specifications and blueprints to the meeting.
- 8.3 The pre-construction conference shall include but not be limited to the following subjects:
- a) A listing of each Contractor's scope of work;
 - b) The craft assignments;
 - c) The estimated number of craft workers required to perform the work;
 - d) Transportation arrangements;
 - e) The estimated start and completion dates of the work; and
 - f) Discussion of pre-fabricated materials.
 - g) Discussion of any work to be done by a manufacturer per section 3.6

ARTICLE 9

MANAGEMENT RIGHTS

- 9.1 The Contractor/Employer(s) retains full and exclusive authority, consistent with the applicable MLA, for the management of its work forces for all work performed under this Agreement. This authority includes, but is not limited to the right to:
- a) Plan, direct and control the operation of all the work.
 - b) Decide the number and types of employees required to perform the work safely and efficiently. The lawful manning provisions of the applicable MLA shall be recognized.
 - c) Hire, promote and lay off employees as deemed appropriate to meet work requirements and/or skills required.
 - d) Require all employees to observe the Contractor/Employers' Project Rules, Security and Safety Regulations, consistent with the provisions of this Agreement. These Project Rules and Regulations shall be reviewed and mutually agreed upon at the Pre-Job meeting and supplied to all employees and/or posted on the jobsite.
 - e) Discharge, suspension or discipline will be handled under the applicable craft agreement.
 - f) Assign and schedule work at its sole discretion and determine when overtime will be worked consistent with provisions of this Agreement and the MLA.
 - g) Utilize any work methods, procedures or techniques and select and use any type or kind of materials, apparatus or equipment regardless of source, manufacturer or designator in accordance with the provisions of this Agreement, including the fabrication provisions and any other applicable provisions in this Agreement.
 - h) The foregoing listing of management rights shall not be deemed to exclude other functions not specifically set forth herein. The Contractor/Employers, therefore, retain all legal rights not specifically enumerated in this Agreement consistent with the applicable MLA.

ARTICLE 10 **WORK RULES**

- 10.1 Work Rules shall be governed by the applicable MLA for each craft. The Union shall provide to the District, and to the Contractor/Employer(s) upon request, copies of all relevant MLA's upon execution of this Agreement, and upon request provide updated copies when new MLA's are signed during the term of this Agreement.
- 10.2 Contractor/Employer(s) must comply with the fingerprinting requirements of Education Code section 45125.1 with respect to all Contractor's/Employer's employees and all of its Subcontractors' employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and the California Department of Justice must determine that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of Contractor's/Employer's employees and of all of its subcontractors' employees who may come in contact with District pupils during the course and scope of the work must be supplied prior to commencement of any work.

- 10.3 Contractor/Employer must comply with the requirements of Government Code section 8350 et seq., the Drug-Free Workplace Act of 1990, which are made applicable to all District Projects, and must certify that it will provide a drug-free workplace by doing certain specified acts. Contractor/Employer shall publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace and specifying actions which will be taken against employees for violations of the prohibition, and obtain the agreement of each employee to abide by the terms of the statement. The Union's drug awareness, testing program, and compliance program shall be applicable to this Agreement.

ARTICLE 11
JOINT ADMINISTRATIVE COMMITTEE

- 11.1 The parties to this Agreement shall establish a six (6) person Joint Administrative Committee. This Committee shall be comprised of three (3) representatives selected by the District and three (3) representatives selected by the 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 to review the implementation of the Agreement and the progress of the Projects. In the event a dispute arises between the District and the Unions concerning the interpretation or implementation of this Agreement, the parties will resolve the dispute, utilizing the procedure set forth in Article 12.3, Step 1 of this Agreement. Should any arbitrator identified in Article 6 or 12 no longer work as a labor arbitrator, the JAC shall choose a replacement.

ARTICLE 12
GRIEVANCE PROCEDURE

- 12.1 All Project disputes involving the application or interpretation of the MLA to which a signatory Contractor/Employer and a signatory Union are parties shall be resolved pursuant to the resolution procedures of the MLA. All disputes involving the discipline and/or discharge of an employee working on the Project shall be resolved through the grievance and arbitration provisions contained in the MLA for the craft of the affected employee. All disputes concerning the interpretation and/or application of this Agreement that do not fall within the Article 6 No Work Stoppages, Strikes, Sympathy Strikes Or Lockouts and Article 7 Work Assignments and Jurisdictional Disputes procedures shall be governed by the following grievance and arbitration procedure.
- 12.2 A grievance shall be considered null and void if not brought to the attention of the other party within ten (10) working days after the grievance is alleged to have occurred but in no event more than thirty (30) days after the charging party became aware of the event giving rise to the dispute.

Grievances shall be settled or otherwise resolved according to the following Steps and provisions:

- Step 1: The party's representative and the grievant shall attempt to resolve the grievance with the other party's representative.

Step 2: In the event the matter remains unresolved in Step 1 above, within five (5) working days, the grievance shall be reduced to writing and referred by the grieving party to the District's Project Stabilization Agreement Administrator, who will convene a mediation meeting with both parties within five (5) working days to attempt to resolve the grievance. Regardless of which party has initiated the grievance, the Union shall notify its International Union representative prior to the Step 2 meeting, and the International Union representative shall advise if it intends to participate in the Step 2 meeting.

At the time a grievance is submitted under this PSA or any MLA, a Union(s) may request that the District withhold an amount from what is due and owing to the Contractor/Employer(s) against whom the grievance is filed, sufficient to cover the damages alleged in the grievance, should the Union(s) prevail. The amount shall be withheld by the District until such time as the underlying grievance giving rise to the withholding is withdrawn, settled, or otherwise resolved, and the withheld amount shall be paid to whomever the parties to the grievance shall decide, or to whomever an arbitrator shall so order. The Contractor/Employer may provide a bond or other sufficient security in lieu of withholding.

Step 3: Within fifteen (15) working days of referral of the grievance to Step 2, a Grievance Subcommittee of the Joint Administrative Committee (consisting of one representative selected by the District and one representative selected by the Council) shall meet to confer in an attempt to resolve the grievance. The decision of the Grievance Subcommittee shall be final and binding upon all Parties. If the Grievance Subcommittee does not reach a majority decision within twenty (20) working days of referral to the Grievance Subcommittee, the grieving party may, within thirty (30) working days of referral, refer the dispute through the PLA Administrator for resolution at Step 4.

Step 4: In accordance with the timelines established in Step 3, either Party may request that the dispute be submitted to arbitration. The time limits set out in this procedure may, upon mutual agreement, be extended. Any request for arbitration, request for extension of time limits, and agreement to extend such time limits shall be in writing.

The Parties agree that the Arbitrator shall be determined in accordance with the procedure set forth in Article 6.9.1. Should a Party to the procedure fail or refuse to participate in the hearing, if the Arbitrator determines that proper notice of the hearing has been given, said hearing shall proceed to a default award. The Arbitrator's award shall be final and binding on all Parties to the arbitration. The costs of the arbitration, including the arbitrator's fee and expenses, shall be borne equally by the Parties. The Arbitrator's decision shall be confined to the question(s) posed by the grievance and the Arbitrator shall not have authority to modify amend, alter, add to, or subtract from, any provisions of this Agreement.

ARTICLE 13
UNION RECOGNITION AND REPRESENTATIVES

- 13.1 The Contractor/Employer(s) recognizes the Unions signatory hereto as the sole and exclusive collective bargaining representatives for all craft employees on the Projects.
- 13.2 All employees who are employed by the Contractor/Employer(s) shall, as a condition of employment, on or before the eighth (8) day of consecutive or cumulative employment on a construction contract subject to this Agreement, be responsible for the payment of the applicable monthly working dues and any associated fees uniformly required for Union membership in the local Union which is signatory to this Agreement. Further, there is nothing in this Agreement that would prevent non-union employees from joining the local Union.

Authorized representatives of the Unions shall have access to the site at all times when work is being, has been or will be performed. Such representatives shall comply with reasonable visitor safety and security rules established for the Projects. Access for Union representatives will not be unduly restricted.

The appointment, responsibilities, and treatment of stewards shall be in accordance with the applicable craft MLA.

ARTICLE 14
REFERRAL

14.1 Contractor/Employer(s) performing construction work on the Project described in this Agreement shall, in filling craft job requirements, utilize and be bound by the registration facilities and referral systems established or authorized by the Unions signatory hereto. The Contractor/Employer(s) shall have the right to reject any applicant referred by the Unions, in accordance with the applicable MLA.

- 14.2 Contractor/Employer(s) shall have the unqualified right to select and hire directly all supervisors above the level of general foreman it considers necessary and desirable, without such persons being referred by the Union(s) (unless such craft construction employees are covered by existing MLAs). In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor/Employer for employees within a forty-eight (48) hour period (Saturdays, Sundays and Holidays excluded) after such requisition is made by the Contractor/Employer, the Contractor/Employer shall be free to obtain workers from any source. A Contractor/Employer who hires any worker(s) to perform Covered Work on the Project pursuant to this section shall immediately provide the appropriate Union with the name and address of such employee(s) and shall immediately refer such employee(s) to the appropriate Union to satisfy the requirements of this Agreement.

14.3 The Union(s) shall be the primary source of all craft labor employed on the Projects. However, in the event that a Contractor/Employer that is not directly signed to an MLA of an affiliated Union has its own “core” employees, the Contractor/Employer may request by name, and the local shall honor, referral of persons who have applied to the local union for Project work and who demonstrate the following qualifications:

- a) possess any license and/or certifications required by state or federal law for the Project work to be performed;
- b) have worked a total of at least one thousand (1,000) hours in the construction craft during the prior three (3) years;
- c) were on the Contractor/Employer’s active payroll for at least sixty (60) out of the one hundred (100) calendar days prior to the contract award; and
- d) have the ability to perform safely the basic functions of the applicable trade;

14.4 Hiring Hall Requirement

14.4.1 For all Projects for which the Project budget is fifteen million dollars (\$15,000,000) or less, the Union will refer to such Contractor/Employer one journeyman employee from the hiring hall out-of-work list for the affected trade or craft, and will then refer one of such Contractor/Employer’s “core” employees as a journeyman and shall repeat the process, one for one, until such Contractor/Employer’s crew requirements are met or until such Contractor/Employer has hired five (5) “core” employees, whichever occurs first. Thereafter, all additional employees in the affected trade or craft shall be hired exclusively from the hiring hall out-of-work list(s).

14.4.2 For all Projects for which the Project budget exceeds fifteen million dollars (\$15,000,000) the Union will refer to such Contractor/Employer one journeyman employee from the hiring hall out-of-work list for the affected trade or craft, and will then refer one of such Contractor/Employer’s “core” employees as a journeyman and shall repeat the process, one for one, until such Contractor/Employer’s crew requirements are met or until such Contractor/Employer has hired ten (10) “core” employees, whichever occurs first. Thereafter, all additional employees in the affected trade or craft shall be hired exclusively from the hiring hall out-of-work list(s).

14.4.3 For the duration of the Contractor/Employer’s work the ratios described in this Article 14.2 shall be maintained and when the Contractor/Employer’s workforce is reduced, employees shall be reduced in the same ratio of “core” employees to hiring hall referrals as was applied in the initial hiring. Contractor/Employers signatory to a Local, Regional, and/or National collective bargaining agreements with Union(s) signatory hereto shall be bound to use the hiring hall provisions contained in the MLA of the affected Union(s), and nothing in the referral provisions of this Agreement shall be construed to supersede the local hiring hall provisions of the MLA(s) as they relate to such Contractor/Employers.

All Contractor/Employers shall be bound by and utilize the registration facilities and referral systems established or authorized by the signatory Unions.

- 14.5 The Unions will exert their utmost efforts to recruit sufficient numbers of skilled craft persons to fulfill the requirements of the Contractor/Employer(s). The parties to this Agreement support the development of increased numbers of skilled construction workers who are Local Residents to meet the needs of the Projects and the requirements of the industry generally. To the extent allowed by law, and consistent with the Local Union's hiring hall provisions, and as long as they possess the requisite skills and qualifications, residents within the District shall be first referred for Project work, including journeymen and apprentices covered by this Agreement.

ARTICLE 15

NON-DISCRIMINATION

- 15.1 The Contractors/Employers and Unions agree to comply with all anti-discrimination provisions of federal, state and local law, to protect employees and applicants for employment on the Projects. The parties to this agreement understand and agree that nothing in this agreement shall supersede or take precedence over any board policy or requirement concerning non-discrimination, including, but not limited to, the construction contract and general conditions for the Projects.

ARTICLE 16

APPRENTICES

- 16.1 Recognizing the need to maintain continuing support of programs designed to develop adequate numbers of competent workers in the construction industry, the Contractor/Employer(s) will employ apprentices in the respective crafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured.
- 16.2 Apprentices from a Bona Fide Apprenticeship Program may comprise up to the percentage of each craft's work force at any time as provided in the applicable MLA. The Unions agree to cooperate with the Contractor/Employer 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 parties only recognize the State-approved Apprenticeship training programs administered by the Joint Labor/Management Apprenticeship Training Committees for the purposes of meeting the goals of Article 16.\
- 16.3 If desired by the District, the District and the Building and Construction Trades Council of Alameda County, AFL-CIO ("Council") shall diligently and in good faith, cooperate to establish a District-based pre-apprenticeship/internship program for current and former District high school students to provide these students with opportunity and access to careers in the trades. If desired by the District, the District and Council intend this program to be implemented within six (6) months from the date the District elects to establish this program.

16.4 Recognizing that statutes governing public construction currently and increasingly require contractors, as a condition for eligibility to contract for District Projects, to make enforceable commitments to the school district that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the Projects or contract that falls within an apprenticeable occupation in the building and construction trades, the Unions hereby commit to use good faith efforts to assist contractors and the District to comply with annual percentage requirements of applicable statutes. For purposes of this provision,

- a) “Apprenticeable occupation” means an occupation for which the Chief of the Division of Apprenticeship Standards had approved an apprenticeship program pursuant to Section 3075 of the Labor Code before January 1, 2014.
- b) “Skilled and trained workforce” means a workforce that meets all of the following conditions:
 - i. All the workers are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the Chief of the Division of Apprenticeship Standards.
 - ii. The required percentage of the skilled journeypersons employed to perform work on the contract or project by the entity and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.
 - iii. For an apprenticeable occupation in which no apprenticeship program had been approved by the Chief of the Division of Apprenticeship Standards before January 1, 1995, up to one-half of the graduation percentage requirements of clause (ii) may be satisfied by skilled journeypersons who commenced working in the apprenticeable occupation prior to the chief’s approval of an apprenticeship program for that occupation in the county in which the project is located.
- c) “Skilled journeyperson” means a worker who either:
 - i. Graduated from an apprenticeship program for the applicable occupation that was approved by the Chief of the Division of Apprenticeship Standards or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.
 - ii. Has at least as many hours of on-the-job experience in the applicable occupation as would be required to graduate from an

apprenticeship program for the applicable occupation that is approved by the chief.

ARTICLE 17
WAGE SCALES AND FRINGE BENEFITS

- 17.1 All employees covered by this Agreement shall be classified and paid in accordance with the classification and wage scales contained in the appropriate local collective bargaining agreements which have been negotiated by the historically recognized bargaining parties and in compliance with the applicable general prevailing wage determination made by the Director of Industrial Relations pursuant to the California Labor Code.
- 17.2 During the period of construction on a Project, the Contractor/Employer(s) agree to recognize and put into effect such increases in wages and recognized fringe benefits as shall be negotiated between the various Unions and the historically recognized local bargaining parties on the effective date as set forth in the applicable local collective bargaining agreement. The Unions shall notify the Contractor/Employer(s) in writing of the specific increases in wages and recognized fringe benefits and the date on which they become effective.
- 17.3 The Contractor/Employer(s) hereby adopt and agree to be bound by the written terms of the legally established local trust agreements specifying the detailed basis on which payments are to be made into, and benefits paid out of, such appropriately qualified employee fringe benefit funds established by such appropriate local agreements. The Contractor/Employer(s) authorize the parties to such local trust agreements to appoint Trustees and successor Trustees to administer the trust funds, and hereby ratify and accept the Trustees so appointed as if made by the Contractor/Employer(s). The Contractors/Employer(s) agrees to execute the Subscription Agreement(s) for Trust Funds when such Trust Fund(s) requires such document(s).
Wages, Hours, Terms and Conditions of Employment: The wages, hours and other terms and conditions of employment on the Project shall be governed by the MLA of the respective crafts, to the extent such MLA is not inconsistent with this Agreement. Where a subject is covered by the MLA and not covered by this Agreement, the MLA will prevail. When a subject is covered by both the Master Agreement and this Agreement, to the extent there is any inconsistency, this Agreement will prevail.
- 17.4 Wages due shall be paid to all employees weekly, in accordance with the MLAs.
- 17.5 When an employee is discharged, the employee shall be paid wages due immediately. If an employee is discharged or voluntarily terminates, wages due shall be paid in accordance with California State Law.
- 17.6 Wage rates, fringe benefits or working conditions negotiated in local collective bargaining agreements which are construed to apply exclusively or predominantly to the construction work covered by this Agreement will not be recognized or applied on work covered by this Agreement.
- 17.7 Any party may refer complaints regarding proper payment of wages or fringe benefits to the PSA Administrator, who shall process, investigate, and resolve such complaints. The

complaining party shall be advised in a timely manner as to the status and resolution of any such complaint. This section shall not be construed to limit or restrict the rights established in the California Labor Code or elsewhere in this Agreement, including the right to follow the grievance process (Article 12) or to file a complaint with the California Labor Commissioner.

ARTICLE 18

LOCAL DISTRICT HIRE REQUIREMENTS

- 18.1 In recognition of the District's mission to serve its students, graduates, and residents, the parties agree that, to the extent allowed by law, and as long as they possess the requisite skills and qualifications, Local Residents shall first be referred for Covered Work, including journeypersons, apprentices, and other positions that may be established under an MLA and covered by the applicable prevailing wage for utilization on Covered Work.
- 18.2 The Unions agree that, to the extent allowed by law, and as long as they possess the requisite skills and qualifications, the Unions will exert their best efforts to refer and/or recruit sufficient numbers of qualified craft workers from their referral lists with the goal that: (i) at least 10% of all positions for a particular contract (including Core Employees), by craft, are Tier 1 Local Residents; (ii) at least 15% of all positions for a particular Project (including Core Employees), by craft, are Local Residents. If the Unions have not provided the Contractor/Employers with a sufficient number of District Residents, the Unions will exert their best efforts to recruit and identify for referral qualified Local Residents.
- 18.3 Other qualified craft workers may be referred to Contractors/Employers by the Unions for Covered Work only if these goals are being met for that craft or if workers that satisfy the criteria are unavailable.
- 18.4 Prior to issuance of the Notice to Proceed, the Prime Contractor/Employer shall submit to the District a plan describing how the goals established in Article 18.2 will be achieved. It shall be the responsibility of the Prime Contractor/Employer to ensure that the overall goals established in Article 18.2 goals are met, and, should any particular Contractor/Employer not meet the goals, the Prime Contractor/Employer shall advise the District immediately how the Prime Contractor/Employer will rectify the deficiency.
- 18.5 Should any of the Contractor/Employer(s) performing work on the Projects fail to meet the goals established in Article 18.2 and fail to demonstrate "good faith" efforts to do so, through a specific submittal process to be included in their contractual requirements, the contract's retention may be held until such time that this failure is remedied.
- 18.6 Should any Contractor/Employer performing work on the Projects exceed the Article 18.2 goal % local hire goal as set forth in this Agreement, they shall be acknowledged at the appropriate public, school board meeting for their efforts at the completion of their contract scope.

ARTICLE 19

HOLIDAYS, HOURS OF WORK, OVERTIME AND SHIFTS

- 19.1 The hours of work, establishment of overtime and the establishment of shifts and shift pay shall be governed by the MLA for each craft. It is understood that the District may, at its discretion, establish a uniform starting time and/or ending time that will be specified in the bid announcement for each contract.
- 19.2 Holidays and designated days off will be governed by the MLA for each craft.

ARTICLE 20
REPORTING PAY

- 20.1 Reporting Pay shall be governed by the MLA for each craft.

ARTICLE 21
TRAVEL, SUBSISTENCE AND ZONE PAY

- 21.1 Travel, subsistence and zone pay shall be governed by the MLA for each craft.

ARTICLE 22
HEALTH AND SAFETY

- 22.1 The employees covered by the terms of this Agreement shall at all times, while in the employ of the Contractor/Employer(s), be bound by the safety rules and regulations as established and communicated by the District and Contractor/Employer(s) and in accordance with OSHA/Cal-OSHA. These rules and regulations will be communicated to the Council prior to the performance of Covered Work, and published and posted at conspicuous places throughout the Projects. They shall not be intended to limit or prevent lawful union access to project sites.
- 22.2 The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms at any time at a Project site(s) are prohibited. Drug and alcohol testing shall be conducted in accordance with the Substance Abuse Prevention Policy set forth in each applicable Schedule which is incorporated herein by reference.
- 22.3 In accordance with the requirements of OSHA/Cal-OSHA, it shall be the exclusive responsibility of each Contractor/Employer on a Project to assure safe working conditions for its employees and compliance by them with any safety rules contained herein or established by the Contractor/Employer(s).
- 22.4 A convenient supply of cold and potable drinking water shall be provided by the Contractor/Employer(s).
- 22.5 The Contractor/Employer(s) and Union(s) agree to abide by the District's smoke-free policy which shall be posted at each Project site. The Contractor/Employer(s) and Union(s) understand that the District facilities are smoke-free sites.

ARTICLE 23
SECURITY OF MATERIAL, EQUIPMENT AND TOOLS

23. 1 Security procedures for the control of tools, equipment and materials shall be solely the responsibility of the Contractor/Employer(s).
23. 2 All employees will comply with the reasonable security procedures established and published by the Contractor/Employer(s) and the District.
23. 3 Theft and/or loss of the District's tools and equipment is a major concern on the Projects. The District's Security Regulations will be strictly enforced.
23. 4 Violations or failure to comply with the District's Security Regulations while on a Project jobsite may result in termination and/or exclusion from a Project jobsite.

ARTICLE 24
HELMETS TO HARDHATS

24. 1 The parties recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The parties agree to utilize the services of the Center for Military Recruitment, Assessment and Veteran's Employment (hereinafter "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.
24. 2 The Unions and Contractor/Employer(s) agree to coordinate with the Center to utilize an existing integrated database of veterans interested in working on the Projects and of apprenticeship and employment opportunities for the Projects. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

ARTICLE 25
MISCELLANEOUS PROVISIONS

25. 1 This Agreement may be executed in counterparts, such that original signatures may appear on separate pages, and when bound together all necessary signatures shall constitute an original. Facsimile signature pages transmitted to other parties to this Agreement shall be deemed equivalent to original signatures.
25. 2 Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the party indicated, and each of the parties by signing this Agreement warrants and represents that such party is legally authorized and entitled to enter into this Agreement.

- 25.3 This Agreement shall not be binding on the District until it is ratified by the Governing Board.
- 25.4 It shall be the responsibility of the Contractors/Employers and Unions to investigate and monitor compliance with the provisions of the Agreement contained in Article 17. Nothing in this agreement shall be construed to interfere with or supersede the usual and customary legal remedies available to the Unions and/or employee benefit Trust Funds to collect delinquent Trust Fund contributions from Contractors/Employers on the Project.

ARTICLE 26
ENTIRE AGREEMENT

- 26.1 This Agreement represents the complete understanding of the parties. The provisions of this Agreement shall apply to and control work performed on the site of the Projects and take precedence over conflicting provisions of local, area, regional or national labor agreements.
- 26.2 Unions agree that this Agreement covers all matters affecting wages, hours and other terms and conditions of employment, and that during the terms of this Agreement, neither the Contractor/Employer(s), nor the Union(s) will be required to negotiate on any further matters affecting these or any other subject not specifically set forth in this Agreement except by mutual agreement of the Unions involved and the Contractor/Employer(s).

ARTICLE 27
GENERAL SAVINGS CLAUSE

- 27.1 It is not the intention of either the Contractor/Employer(s) or the Union(s) parties to violate any laws governing the subject matter of this Agreement. 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, state or local government, the parties shall suspend the operation of each such article or provision during the period of invalidity. Such suspension shall not affect the operation of any provision covered in this Agreement to which the law or regulation is not applicable. Further, the Contractor/Employer(s) and Union(s) agree that if and when any or all provisions of this Agreement are finally held or determined to be illegal or void by Court of competent jurisdiction, the parties will promptly enter into negotiations concerning the substance affected by such decision for the purpose of achieving conformity with the requirements of an applicable law and the intent of the parties hereto.

ARTICLE 28
DURATION OF AGREEMENT

- 28.1 This Agreement shall become effective on the day the District signs a Council-signed form of this Agreement. The terms and conditions of this Agreement shall apply to each of the Projects and shall continue in full force and effect until construction of those Projects is completed. The District and the Council may mutually agree in writing to amend, extend or terminate this Agreement at any time.

SIGNATURES

Fremont Unified
School District

James Morris, Ed.D
Superintendent

Alameda County Building
& Construction Trades Council

Andreas Cluver,
Secretary-Treasurer

UNION SIGNATURES

Bricklayers & Allied Craftsmen, Local 3

By: _____

**Northern California Carpenters
Regional Council** (on behalf of Carpenters,
Local 713, Carpenters, Local 2236, Lathers,
Local 68L, Millwrights, Local 102,
Pile Drivers, Local 34)

By: _____

Cement Masons, Local 549

By: _____

Electrical Workers, Local 595

By: _____

Elevator Constructors, Local 8

By: _____

Laborers, Local 886

By: _____

Iron Workers, Local 378

By: _____

Laborers, Local 67

By: _____

Laborers, Local 304

By: _____

Operating Engineers, Local 3

By: _____

Plasterers, Local 66

By: _____

Roofers, Local 81

By: _____

Sheet Metal Workers, Local 104

By: _____

Painters & Allied Trades, District Council 36
(On behalf of Sign Display, Local 510)

By: _____

Sprinkler Fitters, Local 483

By: _____

Teamsters, Local 853

By: _____

**United Association of Journeymen and
Apprentices Fitting Industry, Underground
Utility & Landscape, Local 355**

By: _____

**United Association of Steamfitters,
Pipefitters, Plumbers, & Gas
Fitters, Local 342**

By: _____

**District Council of Plasterers & Cement
Masons of Northern California**

By: _____

**District Council No. 16 Northern
California International Union of
Painters & Allied Trades**

By: _____

**District Council of Iron Workers of the
State of California & Vicinity Trades**

By: _____

Northern California District

By: _____
Council of Laborers

EXHIBIT A

PROJECT STABILIZATION AGREEMENT

FREMONT UNIFIED SCHOOL DISTRICT

CONTRACTOR/EMPLOYER AGREEMENT TO BE BOUND

The undersigned, as a Contractor or Subcontractor (**CONTRACTOR/EMPLOYER**) on the _____ Project, (hereinafter **PROJECT**), for and in consideration of the award to it of a contract to perform work on said **PROJECT**, and in further consideration of the mutual promises made in the "Fremont Unified School District Project Stabilization Agreement" (hereinafter **AGREEMENT**), a copy of which was received and is acknowledged, hereby:

- (1) Accepts and agrees to be bound by the terms and conditions of the **AGREEMENT**, together with any and all amendments and supplements now existing or which are later made thereto:
- (2) The **CONTRACTOR/EMPLOYER** agrees to be bound by the legally established local trust agreements as set forth in Article 17 of this **AGREEMENT**.
- (3) The **CONTRACTOR/EMPLOYER** authorizes the parties to such local trust agreements to appoint trustees and successor trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the **CONTRACTOR/EMPLOYER**, and agrees to execute the Subscription Agreement when such Trust Fund(s) require(s) such document(s).
- (4) **CONTRACTOR/EMPLOYER** certifies that it has no commitments or agreements which would preclude its full and complete compliance with the terms and conditions of said **AGREEMENT**.
- (5) Agrees to secure from any **CONTRACTOR/EMPLOYER(S)** (as defined in said **AGREEMENT**) which is or becomes a subcontractor (of any tier) to it, a duly executed Agreement to be Bound in form identical to this document.

This Agreement to Be Bound constitutes a subscription agreement to the extent of its terms.

Dated: _____

(Name of **Contractor/Employer**)

(Name of Prime Contractor or Higher Level Subcontractor)

(Authorized Officer & Title)

Project: _____

(Address)

Motor Carrier (CA) Permit Number

(Phone)

State Public Works Registration Number

(Fax)