

September 30, 2015

DOCUMENT 000101

CITY OF PINOLE

Project Manual for:

*The
Pinole-Hercules Water Pollution Control
Plant Upgrade*



Mayor, Timothy Banelos
Mayor Pro Tem, Pete Murray
Councilmember Debbie Long
Councilmember Phil Green
Councilmember Roy Swearingen

Approved: September 30, 2015

By Alley H. Petrie
Al Petrie, Interim Director of Public Works / City
Engineer

Final Version

BESC SAMPLE

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September 30, 2015

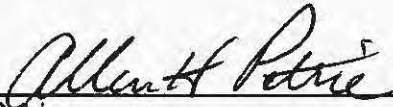
contract documents. No oral interpretation of any provision in the contract documents shall be binding.

- 8.05 **PROJECT LABOR AGREEMENT.** This project is subject to a Project Labor Agreement, located at Document 006230. The successful bidder and all subcontractors must execute an Agreement to Be Bound to the Project Labor Agreement, attached as Addendum A to the Project Labor Agreement.

BY ORDER OF _____

Date: September 30, 2015

CITY OF PINOLE

By 
Al Petrie
Interim Director of Public Works / City Engineer

END OF DOCUMENT

001000-5

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September 30, 2015

DOCUMENT 006230
PROJECT LABOR AGREEMENT

006230-1

BESC SAMPLE

PROJECT LABOR AGREEMENT
FOR THE
PINOLE-HERCULES WASTEWATER TREATMENT PLANT
UPGRADE PROJECT

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RECITALS

WHEREAS, the Pinole-Hercules Wastewater Treatment Plant is an estimated \$48 million public works project that will replace the existing Pinole-Hercules Water Pollution Control Plant (WCPC) with a state-of-the-art wastewater treatment facility; and

WHEREAS, the successful completion of the Pinole-Hercules Wastewater Treatment Plant is of the utmost importance to the general public in the Cities of Pinole and Hercules because the project is needed to provide additional wastewater treatment capacity in order to accommodate the cities' growth and in order to bring treatment operations into compliance with standards set forth by the State Water Resources Control Board; and

WHEREAS, the proposed Pinole-Hercules Wastewater Treatment Plant will provide the region with a modern facility that will be able to process twice as much wastewater as the current plant and do so in a more environmentally sound manner; and

WHEREAS, the Pinole-Hercules Wastewater Treatment Plant will replace the current facility and bring the plant's operations into compliance with the Regional Water Quality Control Board's permit requirement and other applicable state and federal regulations; and

WHEREAS, construction of the plant is expected to begin in January 2016 and take approximately 30 months to complete; and

WHEREAS, the timely and successful completion of the Pinole-Hercules Wastewater Treatment Plant is necessary in order to avoid potential fines by the State Water Resources Control Board if the Project is not completed by September 30, 2017 when the current operating permit expires; and

WHEREAS, the new Pinole-Hercules Wastewater Treatment Plant will be located on the same site as the existing treatment facility, which will continue operations during the project; and

WHEREAS, City workers will continue to be responsible for treatment operations, including, but not limited to routine maintenance and repairs, which will not be covered by the Project Labor Agreement; and

WHEREAS, performing construction in an operational plant presents logistical challenges for the City employees, Unions and Contractors; and

WHEREAS, the parties agree that one of the primary purposes of this agreement is to avoid the tensions that may arise on the Project because Union and nonunion workers may be required to work side by side on the Project, thereby leading to labor disputes that could delay completion of the Project; and

WHEREAS, any work disruptions on this Project could pose significant risk to public health and safety and potentially expose the City to fines; and

WHEREAS, workers of various skills will be required in the performance of the construction work, including those to be represented by the Unions signatory to this Agreement and employed by contractors and subcontractors who are signatory to this Agreement; and

WHEREAS, it is recognized that on a Project 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 interests of the general public, the City, the Unions and the Contractor would be best served if the construction work proceeds in an orderly manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

WHEREAS, the Contractors and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the Project by the Contractors and that a satisfactory, continuous and harmonious relationship will exist among the parties to this Agreement; and

WHEREAS, this 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 Project, 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, contracts for the Project will be awarded in accordance with the applicable provisions of local, state and federal laws, including State Public Contract Code and Davis-Bacon and State Prevailing Wage Requirements, state and federal regulations, as well as the terms of the financing agreement with the State Water Board's Clean Water State Revolving Fund; and

WHEREAS, the City has the absolute right to select the lowest responsive and responsible bidder for the award of construction contracts on the Project; and

WHEREAS, the City places high priority upon the development of comprehensive programs for the recruitment, training and employment of local area residents, and recognizes the potential of local apprenticeship programs to provide meaningful and sustainable careers in the building and construction industry; and

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

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

**ARTICLE 1
PURPOSE**

The purpose of this Agreement is to promote the timely, safe and economical upgrade of the Pinole-Hercules Wastewater Treatment Plant and to provide for the peaceful settlement of labor disputes and grievances without the work disruptions set forth in Article 6, thereby promoting the public interest in assuring the completion of the Project. The City of Pinole (“City”) and the Contra Costa Building & Construction Trades Council (“Council”) may mutually agree in writing to add additional components to the Project’s Scope of Work to be covered under this PLA.

**ARTICLE 2
INITIAL PROVISION**

This Project Labor Agreement is entered into this ___ day of _____, 2015 by and between the City, together with contractors and subcontractors of all tiers, who shall become signatory to this Agreement by signing the "Agreement To Be Bound" (Addendum A) (all of whom are referred to herein as "Contractors "), and the Council and its affiliated local Unions that have executed this Agreement (all of whom are referred to collectively as "Unions").

**ARTICLE 3
DEFINITIONS**

- 3.1 “Agreement” means this Project Labor Agreement.
- 3.2 “City” means the City of Pinole and its public employees, including managerial personnel.
- 3.3 “Construction Contract(s)” or “Contract(s)” means any contract awarded by the City for Project work, and all subcontracts thereunder.

- 3.4 “Contractor(s)” means any individual, firm, partnership or corporation, or combination thereof, including joint ventures, that is an independent business enterprise, including the Prime Contractor, General Contractor, and Construction Manager or equivalent, and their successors and assigns, that enters into a Contract with the City for the construction of any part of the Project under contract terms and conditions approved by the City, and any of its contractors or subcontractors of any tier.
- 3.5 “Council” means the Contra Costa County Building & Construction Trades Council, AFL-CIO.
- 3.6 “Effective Date” means the date that this Agreement is approved and executed by the City Council of Pinole and the Contra Costa County Building & Construction Trades Council.
- 3.7 “Helmets to Hardhats” means a national program that connects National Guard, Reserve and transitioning active-duty military members with career training and employment opportunities within the construction industry. The program is administered by a non-profit Section 501(c)(3) joint labor-management committee established under Section 302(c)(9) of the Labor Management Relations Act.
- 3.8 “Local Area” means the Cities of Pinole and Hercules, West Contra Costa County, and Contra Costa County.
- 3.9 “Master Agreement” or “Schedule A” or “Master Labor Agreement” means the Master Collective Bargaining Agreement of each craft Union signatory to this Agreement. The agreements are listed in Addendum B and posted online at www.ci.pinole.ca.us/publicworks/treat_plant.html.

- 3.10 “Project” means all construction under a specific contract to upgrade the Pinole-Hercules Wastewater Treatment Plant. The elements of the Project, which may be amended at any time and at the sole discretion of the City, are listed in Addendum C. The City and the Council may mutually agree in writing to add additional components to the Project’s Scope of Work to be covered under this PLA.
- 3.11 “Project Manager” means the person or business entity under direct contract with the City of Pinole to support the management and administration of the Project.
- 3.12 “Project Work” means all work that is part of the Project within the craft jurisdiction of the Unions signatory to this Agreement, except as otherwise provided in Articles 4.5 and 4.6.
- 3.13 “Union(s)” means the Contra Costa Building & Construction Trades Council, AFL-CIO (“the Council”) and its affiliated local Unions signatory to this Agreement, acting on their own behalf and on behalf of their respective affiliates and member organizations, who have through their authorized officers executed this Agreement.

ARTICLE 4 SCOPE OF AGREEMENT

- 4.1 Parties: The Agreement shall apply and is limited to the City and all Contractors performing or subcontracting work under Construction Contract(s) on the Project (including subcontractors of any tier), the Council and its affiliated local Unions signatory to this Agreement, acting in their own behalf and on behalf of their respective affiliates and member organizations (“Signatory Unions”).

- 4.2 Applicability: The Agreement shall govern construction of the Pinole-Hercules Wastewater Treatment Plant, located at 11 Tennent Avenue, Pinole, CA 94564. For the purposes of this Agreement, the Project shall be considered completed as provided by Article 20, or otherwise provided by applicable law.
- 4.3 The City of Pinole reserves the right, in its sole discretion, to terminate, delay, suspend, modify, augment and/or expand any and all portions of the Project at any time, including, but not limited to: value engineering, re-packaging, and/or re-bidding any Project Work or otherwise combining, modifying, consolidating, or canceling contracts identified as part of the Project work. However, all such work shall continue to be covered under this Agreement. Further, the City of Pinole may require or prohibit some or all work on certain days or during certain hours of the day and/or require such other operational or schedule changes that it may deem necessary.
- 4.4 There shall be no limitation or restriction upon the City's choice of materials, equipment, machinery, package units, factory pre-cast, prefabricated, or preassembled materials, tools or other labor-savings devices except as set forth in Article 4.5(b). Unions agree to use or install the aforementioned items.
- 4.5 Project Work: As defined in Article 3.12 and except as otherwise provided in this article or in Article 4.6, this Agreement covers without limitation, all on-site site preparation, surveying, construction, alteration, demolition, installation, improvement, painting or repair of buildings, structures and other works, and related activities for the Project, that is within the craft jurisdiction of one of the Unions, 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), installation

of pumps, pump stations, and modular furniture. On-site work includes work done for the Project in temporary yards or areas adjacent to the Project, and at any on-site or off-site batch plant constructed solely to supply materials to the Project. 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.

- (a) This Agreement shall apply to any start-up, calibration, commissioning, performance testing, field revisions, and repairs covered by warranty to systems and/or subsystems related to the Contractor's work under a Construction Contract for this Project unless such work is performed by City employees.
- (b) This Agreement covers all on-site fabrication work over which the City, Contractor(s) or subcontractor(s) possess the right of control (including work done for the Project in any temporary yard or area established for the Project). Additionally, this Agreement covers any off-site work, including fabrication necessary for the Project defined herein, that is covered by a current Schedule A Agreement or local addenda to a National Agreement of the applicable Union(s) that is in effect as of the execution date of this Agreement.
- (c) Construction trucking work, such as the delivery of ready-mix, asphalt, aggregate, sand or other fill material which are incorporated into the construction process shall be covered by this Agreement. The off-hauling of debris and excess fill, material and/or mud, shall be covered by the Agreement to the extent provided by applicable prevailing wage determinations of the California Department of Industrial Relations or by Labor Code Section 1720.3.

- (d) Work covered by this Agreement within the following craft jurisdictions shall be performed under the terms of their National Agreements as follows: the NTL Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, and the National Agreement of Elevator Constructors, and any instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Technicians, with the exception that Articles 6, 13, and 14 of this Agreement shall apply to such work.

4.6 Exclusions

- (a) This Agreement shall not cover the furnishing of supplies, equipment or materials that are stockpiled for later use.
- (b) This Agreement is not intended to, and shall not affect or govern the award of public works contracts by the City which are not included in the Project, including, but not limited to, other scheduled capital improvement projects, regular repairs and maintenance.
- (c) The City shall not be required to comply with this Agreement for any work performed with its own employees, including but not limited to all work necessary for wastewater treatment operations of the Pinole-Hercules Wastewater Treatment Plant;
- (d) This Agreement shall not apply to a Contractor's non-construction craft supervisors, or technical employees, including but not limited to executives, managerial employees, engineering employees and supervisors above the level of General Foreman, staff engineers or other

professional engineers, administrative, management, office and clerical employees.

- (e) Work not referenced in Addendum C that is undertaken by state, county, city or other governmental bodies, or their employees or their contractors, or by public or private utilities or their contractors, shall not be covered by this Agreement.
- (f) This Agreement shall not apply to off-site maintenance of leased equipment and on-site supervision of such work.
- (g) This Agreement shall not apply to any work that would void the warranty of equipment, machinery, or package units. For any work performed pursuant to this provision, the Contractor shall provide copies of the manufacturer's written warranty requirements to the Union and the City's Project Manager prior to the commencement of work by the manufacturer or vendor. In the absence of a written manufacturer's warranty, the Contractor responsible for performing the work will assign the work to the appropriate craft prior to the commencement of work.

4.7 Award of Contracts: It is understood and agreed that the City has the absolute right to select any qualified bidder for the award of contracts under this Agreement. The City in awarding Contracts, has the absolute right to award a Contract to any Contractor notwithstanding the existence or nonexistence of any agreement between such Contractor and any Union party, provided only that such contractor is willing, ready and able to execute and comply with this Agreement. It is further agreed that this Agreement shall be included in all invitations to bid or solicitations for proposals from contractors or subcontractors for work on the Project that are issued on and after the effective date of this

Agreement. Copies of all invitations to bid shall be provided at the time of issuance to the Council.

ARTICLE 5 EFFECT OF AGREEMENT

- 5.1 By executing the Agreement, the Unions and the City agree to be bound by each and all of the provisions of the Agreement.
- 5.2 By accepting the award of work under a Construction Contract for the Project, whether as contractor or subcontractor, the Contractor 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 Addendum A.
- 5.3 At the time that any Contractor enters into a subcontract with any subcontractor providing for the performance of work under a Construction Contract, the Contractor shall provide a copy of this Agreement to said subcontractor and shall require the subcontractor as a precondition of accepting an award of a construction subcontract to agree in writing, by executing the Agreement To Be Bound (Addendum A), to be bound by each and every provision of this Agreement prior to the commencement of work. The obligations of a contractor may not be evaded by subcontracting.
- 5.4 This Agreement shall only be binding on the parties signatory to this Agreement or to an Agreement To Be Bound, as well as to their successors and assigns, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party. Each Contractor shall alone be liable and responsible for its own individual acts and conduct and for any breach or alleged breach of this

Agreement. Any dispute between the Union(s) and the Contractor(s) respecting compliance with the terms of the Agreement, shall not affect the rights, liabilities, obligations and duties between the signatory Union(s) and other Contractor(s) party to this Agreement.

5.5 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(s) and the other Union(s) party to this Agreement.

5.6 The provisions of this Agreement, including Schedules As, which are the local Master Agreements of the Signatory Unions having jurisdiction over the work on the Project, shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement. Where a subject covered by the provisions of this Agreement is also covered by a Schedule A, the provisions of this Agreement shall prevail. Where a subject is covered by the provisions of a Schedule A and is not covered by this Agreement, the provisions of the Schedule A shall prevail.

5.7 This Agreement is subject to the terms and conditions of the financing agreement between the City of Pinole and the State Water Board's Clean Water State Revolving Fund.

ARTICLE 6 WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS

6.1 The Unions, City and Contractors agree that for the duration of the Project:

- (a) 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 on the Project, at the job site of the Project or at any other facility of the City_or Contractors because of a dispute on the Project. Nor shall the Unions or any employees employed on the Project participate in any strikes, sympathy strikes, work stoppages, picketing, hand billing, slowdowns, or otherwise advising the public that a labor dispute exists at the jobsite of the Project because of a dispute between Unions and Contractor on any other project. Withholding employees, but not picketing, for failure of a Contractor(s) to tender trust fund contributions as required in accordance with Article 11 and/or for failure to meet its weekly payroll is not a violation of this Article; however, the Union shall give the affected Contractor, Project Manager and the City written notice no less than five (5) working days prior to the withholding of employees. Should a Contractor performing work on this 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 General Contractor issue joint checks payable to the Contractor and the appropriate employee benefit Trust Fund(s) until such delinquencies are satisfied. Any Trust Fund claiming that a Contractor is delinquent in its fringe benefit contributions to the funds will provide written notice of the alleged delinquency to the affected Contractor, with copies to the General Contractor, Project Manager, and City. The notice will indicate the amount of delinquency asserted and the period that the delinquency covers. It is agreed, however, with respect to contractors delinquent in trust or benefit

contribution payments, that nothing in this Agreement shall affect normal contract remedies available under the local collective bargaining agreements and or Trust Agreements. Nothing stated in this Agreement shall prevent Unions from participating in the actions mentioned in this section on jobsites other than the Project jobsite because of disputes between the Unions and Contractors on projects other than this Project.

- (b) There shall be no lockout of any kind of any employee employed on the Project by a Contactor covered by the Agreement.
- (c) If a Master Agreement expires during the term of this Agreement, it is specifically agreed that there shall be no strike, sympathy strike, work stoppage, picketing, hand billing or otherwise advising the public that a labor dispute exists, or a slowdown of any kind. The wages, benefits, and terms of employment established and set under the initial Master Agreement shall continue in full force until the completion of the Project.
- (d) Notification: If the City, Project Manager or Contractor contends that any Union has violated this Article, it shall notify by phone, email, and overnight mail the Senior Executive of the Council and the Senior Executive of the Union, setting forth the facts alleged to violate the Article, prior to instituting the expedited arbitration procedure set forth below. The Senior Executive of the Council will immediately use his/her best efforts to cause the cessation of any violation of this Article. The leadership of the Union will direct the membership to cease any violation of this Article. A Union complying with this obligation shall not be liable for unauthorized acts of employees it represents.

- 6.2 Expedited Arbitration: Any party to this Agreement shall institute the following procedure, prior to initiating any other action at law or equity, when a breach of this Article is alleged to have occurred:
- (a) A party invoking this procedure shall notify Robert Hirsch, as the permanent arbitrator, or, Barry Winograd, as the alternate under this procedure. In the event that the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, then a selection shall be made from the list of arbitrators in Article 14.2. Notice to the arbitrator shall be by the most expeditious means available, with notices by phone, email, and overnight mail to the party alleged to be in violation and to the Council and involved local Union if a Union is alleged to be in violation.
 - (b) Upon receipt of said notice, the City will contact the designated arbitrator named above or his alternate who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.
 - (c) The arbitrator shall notify the parties by phone, email, and overnight mail 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.
 - (d) The sole issue at the hearing shall be whether or not a violation of Article 6 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. Should a party found in violation of this Article fail to comply with an Arbitrator's award to cease the violation, the party in violation shall pay to the affected party as liquidated damages the sum of ten thousand dollars (\$10,000.00) per shift for which it failed to comply, or portion thereof, until such violation is ceased. The Arbitrator shall retain jurisdiction to resolve any disputes regarding the liquidated damages claimed under this section.

- (e) 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 Section 6.2(d) of this Article, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order 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.

- (f) 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.
- (g) The fees and expenses of the arbitrator shall be divided equally between the party instituting the arbitration proceedings provided in this Article and the party alleged to be in breach of its obligation under this Article.
- (h) Should either the permanent or the alternate arbitrator listed above no longer work as a labor arbitrator, the City and the Council shall mutually agree to a replacement.

**ARTICLE 7
PRE-CONSTRUCTION CONFERENCE**

- 7.1 All efforts will be made to hold pre-construction conferences in sufficient time to ensure all parties the ability to properly raise and resolve any issues that may arise out of such conferences.
- 7.2 The Project Manager shall convene and conduct a pre-job conference with representatives of all involved Contractors, and the Unions. The Contractors shall be prepared to announce craft assignments and to discuss in detail the scope of work and other issues as set forth below, at a location and time mutually agreeable to the Council at least 21 days prior to:
 - (a) The commencement of any Project Work, and
 - (b) The commencement of Project Work on each subsequently awarded construction contract or phase.

- 7.3 Pre-job conferences shall be attended by a representative from each of the participating Contractors and Unions and the Project Manager. The Council and City may, at their discretion, attend any and all pre-construction conferences.
- 7.4 Pre-Job Conference: The pre-job conference shall consist of:
- (a) A listing of each Contractor's scope of work;
 - (b) The proposed craft assignments;
 - (c) The estimated number of craft workers required to perform the work;
 - (d) Transportation arrangements; and
 - (e) The estimated start and completion dates of the work.
- 7.5 Waiver: Any jurisdictional dispute relating to the assignment of work shall be waived if not made within five (5) business days of the pre-job conference or from when the Union becomes aware or should have become aware of the assignment. All Project Work shall proceed without delay as assigned at the pre-job conference notwithstanding any pending disputes about the assignment of any portion of that work.
- 7.6 Progress meetings: In order to ensure the terms of the PLA are being fulfilled and all concerns to the City, Unions, Contractors are addressed, the Project Manager, General Contractor and Senior Executive of the Council or designated representatives thereof shall meet on a periodic basis during the term of the construction. As needed, subcontractors may be required to attend progress meetings.

**ARTICLE 8
NON-DISCRIMINATION**

- 8.1 The Contractor 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 Project.

**ARTICLE 9
UNION SECURITY**

- 9.1 The Contractor recognizes the Union(s) as the sole bargaining representative of all craft employees working within the scope of this Agreement.
- 9.2 All construction persons who are employed by the Contractor(s) shall, as a condition of employment, on or before the eighth (8th) day of consecutive or cumulative employment on the Project, be responsible for the payment of the applicable dues and/or fees uniformly required by the applicable Local union. Individuals are required to pay applicable dues and/or fees only during the term of their work on the Project. Upon paying the applicable dues and/or fees, workers shall enjoy full access to Union hiring halls for as long as such dues and/or fees are paid. Nothing in this Agreement shall prevent non-union employees from joining the local Union.
- 9.3 Authorized representatives of the Unions shall have access to the Projects whenever work covered by this Agreement is being, has been, or will be performed on the Project.

ARTICLE 10 REFERRAL

- 10.1 Contractor/Employers performing construction work on the Project described in the 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 Contractors shall have the right to reject any person referred by the Union(s). This right will be exercised in accordance with the procedures and timelines established by the applicable Master Agreement.
- 10.2 The Contractor(s) shall have the unqualified right to select and hire directly all supervisors above General Foreman it considers necessary and desirable, without such persons being referred by the Union(s). Further, it is understood that all signatory Unions shall permit foremen to be called by name at hiring halls.
- 10.3 In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor for employees within a forty-eight (48) hour period (Saturdays, Sundays and Holidays excluded) after such requisition is made by the Contractor (s), the Contractor (s) shall be free to obtain workers from any source. A Contractor who hires any worker to perform Project Work 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 Article 9 of this Agreement.
- 10.4 Local Hire: It is in the interest of the parties to this Agreement to facilitate employment of Local Area residents and to use Local Area resources in construction of the Project. The objective of the parties is that at least twenty-five percent (25%) of the total work hours for the Project shall be performed by Local Area residents and that a minimum of twenty-five percent (25%) of all new hires

will be from the Local Area. The Unions will exert their utmost efforts to recruit and refer sufficient numbers of skilled craft persons from the Local Area who possess the requisite skills and qualifications to fulfill the needs of the Contractor(s) and the requirements of this Article 10.4. To the fullest extent allowed by law and the Unions' lawful hiring hall provisions, residents of the Local Area, including journeymen and apprentices, shall be referred for Project work covered by this Agreement in the following order: 1) Residents of the cities of Pinole and Hercules; 2) Residents of West Contra Costa County; and 3) Residents of Contra Costa County.

10.5 Monitoring: Contractors and Unions. Unions will work with the City of Pinole's Project Manager when recruiting, referring and selecting employees to perform Project work under this Agreement. The Contractor will forward to the Union and the City a copy of all construction personnel requests made, specifying the personnel requested. Contractors shall utilize the "name-call", "re-hire", "transfer" and or "sponsorship" options, where available under a craft's Master Agreement and the Union hiring hall rules to maximize the participation of Local Area Residents on the Project.

10.6 The Unions and Contractors shall maintain an updated list containing the craft classification of any worker hired for the Project along with that worker's city and zip code. For the purposes of establishing residency, Post Office boxes will not be accepted.

ARTICLE 11 WAGES AND BENEFITS

11.1 For all Project Work, all Contractors agree to pay contributions to the established vacation, pension and other form of deferred compensation plan, apprenticeship,

worker protection and assistance, and health benefit funds established by the applicable Master Agreement for each hour worked on the Project in the amounts designated in the Master Agreements of the appropriate Signatory Unions.

11.2 By signing this Agreement, Contractors adopt and agree to be bound by the written terms of the legally established Trust Agreements, as described in Article 11.1, only for Project Work performed during the Project. The Trust Agreements, which may from time to time be amended, specify the manner in which payments are to be paid into, and benefits paid out of, such Trust Funds. The Contractors 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(s). The Contractors agree to execute a separate Subscription Agreement(s) for Trust Funds applicable solely to Project Work performed during the Project, when such Trust Fund(s) require(s) such document(s).

11.3 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 Master Agreement of the respective crafts, to the extent such Master Agreement is not inconsistent with this Agreement. Where a subject covered by the provisions of this Agreement is also covered by a Schedule A, the provisions of this Agreement shall prevail. Where a subject is covered by the provisions of a Schedule A and is not covered by this Agreement, the provisions of the Schedule A shall prevail.

ARTICLE 12 COMPLIANCE

- 12.1 It shall be the responsibility of the Contractors and Unions to investigate and monitor compliance with the provisions of the Agreement contained in Article 11. 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 on the Project.

ARTICLE 13 GRIEVANCE ARBITRATION PROCEDURE

- 13.1 Project Labor Disputes: All project labor disputes involving the application or interpretation of the Master Agreement to which a signatory Contractor and a signatory Union are parties shall be resolved pursuant to the resolution procedures of that Master Agreement. All disputes relating to the interpretation or application of this Agreement shall be subject to resolution by the Grievance arbitration procedures set forth herein.
- 13.2 No grievance shall be recognized unless the grieving party (Local Union on its own behalf, or on behalf of an employee whom it represents, the City, or a Contractor) provides notice in writing to the party with whom it has a dispute within five (5) business days after becoming aware of the dispute but in no event more than thirty (30) business days after it reasonably should have become aware of the event giving rise to the dispute. Time limits may be extended by mutual written agreement of the parties.

Step 1: Within five (5) 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.

Step 2: In the event that the representatives are unable to resolve the dispute within the five (5) business days of the Step 1 meeting, within five (5) business days thereafter, the alleged grievance may be referred in writing by either involved party to the Business Manager(s) of the affected Union(s) involved and the Manager of Labor Relations of the Contractor or the Manager's designated representative, for discussion and resolution. Regardless of which party has initiated the grievance proceeding, prior to a Step 2 meeting, the Union(s) shall notify its International Union representative(s), which shall advise both parties if it intends on participating in a Step 2 meeting. The Project Manager and the City shall have the right to participate in any efforts to resolve the dispute at Step 2.

Step 3: If the grievance is not settled in Step 2, within five (5) business days of the Step 2 meeting, either party may request the dispute be submitted to arbitration or the time may be extended by mutual consent of both parties. Within five (5) business days after referral of a dispute to Step 3, the representatives shall choose a mutually agreed upon arbitrator for final and binding arbitration. The parties agree that if the permanent arbitrator or his alternate is not available, an arbitrator shall be selected by the alternate striking method from the list of three (3) below. The order of striking names from the list of arbitrators shall be determined by a coin toss, the winner of which shall decide whether they wish to strike first or second.

1. William Riker
2. David Weinberg
3. Katherine Thomson

The decision of the Arbitrator shall be final and 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. The Arbitrator shall arrange for a hearing on the earliest available date from the date of his/her selection. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the presiding arbitrator.

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. However, failure to process a grievance within the time limits provided above, without an agreed upon 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.

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.

- 13.3 Should any of the arbitrators listed in this Article no longer work as a labor arbitrator, the City and the Council shall mutually agree to a replacement.

ARTICLE 14 WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

- 14.1 The assignment of Project 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 the Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

- 14.2 All jurisdictional disputes on this Project between or among the building and construction trades Unions and the Contractors party 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 and Union parties to this Agreement.
- 14.3 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 14 days of the selection of the Arbitrator . All other procedures shall be as specified in the Plan.
- 14.4 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractor's assignment shall be adhered to until the dispute is resolved. Individual employees violating this section shall be subject to immediate discharge. Each Contractor will conduct a pre-job conference with the Council prior to commencing work. The Project Manager and City will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Contractors may be held together.

ARTICLE 15 APPRENTICES

- 15.1 Recognizing the need to develop adequate numbers of competent workers in the construction industry, the Contractor(s) shall employ apprentices of a California State-approved Joint Apprenticeship Training Committee (JATC) Program 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.
- 15.2 The apprentice ratios will be in compliance with the applicable provisions of the California Labor Code, Training Standards and the Master Agreements.
- 15.3 The objective of the parties is that at least twenty-five percent (25%) of the apprentices employed on the Project will be from the Local Area. Apprentices shall be given priority in hiring in the following order: 1) Residents of the cities of Pinole and Hercules; 2) Residents of West Contra Costa County; and 3) Residents of Contra Costa County. The prioritization of apprenticeship hiring shall be consistent with the law, hiring hall procedures of the Unions, and the standards and procedures of the JATC. The Contractors shall reach this goal through utilization of the normal hiring hall procedures. The Unions are committed to working with the Contractors to achieve these goals. All Local Area apprentices referred to Contractors under this Agreement shall be enrolled in State of California approved Joint Apprentice Training Programs. The employment of apprentices shall count toward the 25% local hiring goal in Article 10.4.
- 15.4 Consistent with the Master Agreements and State law, there shall be no restriction on the utilization of apprentices in performing the work of their craft provided they are properly supervised.

**ARTICLE 16
MANAGEMENT RIGHTS**

- 16.1 The Contractor(s) shall retain full and exclusive authority for the management of their operations, including the right to direct their work force in their 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 except that lawful manning provisions in the Master Agreement shall be recognized.

**ARTICLE 17
HELMETS TO HARDHATS**

- 17.1 The Contractors and the Unions 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 Contractor and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center) and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment 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.
- 17.2 The Unions and Contractors agree to coordinate with the Center to participate in an integrated database of veterans interested in working on the Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

**ARTICLE 18
DRUG & ALCOHOL TESTING**

- 18.1 The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms at any time during the work day is prohibited.
- 18.2 The Parties agree to recognize and use the Substance Abuse Prevention Policies contained in each applicable Union's Schedule A.

**ARTICLE 19
SAVINGS CLAUSE**

- 19.1 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. In that event, the parties shall meet and confer and exercise best efforts to reach agreement on acceptable replacement language 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 work in question.
- 19.2 If agreement is reached, the Parties shall substitute in place and stead of the invalidated article, provision, clause, sentence or word another article, provision, clause, sentence or word that will resolve the issues identified by the court and be in accordance with the intent and purpose of the article, provision, clause, sentence or word invalidated.
- 19.3 If the Parties are unable to reach an agreement, then the entire Agreement shall be null and void and the Council and Unions will no longer be bound by the provisions of Article 6 (Work Stoppages, Strikes, Sympathy Strikes and Lockouts).

ARTICLE 20
TERM

20.1 This Agreement shall become effective on the day it is executed and approved by the City Council of Pinole and by the Contra Costa County Building Construction and Trades Council and shall continue in effect until construction of the Project is complete. Construction shall be deemed complete when each item on the punch list is completed, a Notice of Completion has been prepared, the Project has been accepted by City Council resolution and the notice of completion has been filed.

CITY OF PINOLE

By _____

Date _____

**CONTRA COSTA BUILDING AND
CONSTRUCTION TRADES COUNCIL, AFL-CIO (COUNCIL)**

By _____

Date _____

SIGNATURE BLOCK FOR UNIONS

Asbestos Workers Local 16

Hod Carriers Local 166

Boilermakers Local 549

Roofers Local 81

Bricklayers Local 3

Iron Workers Local 378

Northern California Regional
Council of Carpenters for and on
Behalf of Their Affiliated Crafts

Laborers Local Union 324

Laborers Local Union 67

Sheet Metal Workers Local 104

Cement Masons Local 300

Operating Engineers Local 3

Electrical Workers Local 302

Painters District Council 16

Plasterers Local 66

Sprinkler Fitters Local 483

United Association Local 159

United Association Local 342

United Association Local 355

Teamsters Local 315

Elevator Constructors Local 8

**ADDENDUM A
PINOLE WASTE WATER TREATMENT PLANT
PROJECT LABOR AGREEMENT
AGREEMENT TO BE BOUND**

[Addressee]
[Address]
[City and State]

Re: Pinole Waste Water Treatment Plant Project Labor Agreement.

Dear Mr. /Ms. _____:

For the duration of the Project, the undersigned party confirms that it agrees to be a party to and bound by the Pinole-Hercules Wastewater Treatment Plant Project Labor Agreement as such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms.

By executing this Agreement To Be Bound, the undersigned party subscribes to, adopts and agrees to be bound by the written terms of the legally established trust agreements specifying the detailed basis upon which contributions are to be made into, and benefits made out of, such trust funds and ratifies and accepts the trustees appointed by the parties to such trust funds. The Contractors agree to execute a separate Subscription Agreement(s) for Trust Funds when such Trust Fund(s) requires such document(s).

Such obligation to be a party to and bound by this Agreement shall extend to all work covered by the Pinole-Hercules Wastewater Treatment Plant Project Labor Agreement undertaken by the undersigned party for the duration of the Project. The undersigned party shall require all of its subcontractors, of whatever tier, to become similarly bound for all their work within the scope of this Agreement by signing an identical Agreement To Be Bound.

This letter shall constitute a subscription agreement, to the extent of the terms of the letter.

CONTRACTOR/SUBCONTRACTOR: _____

Project Contract Number: _____

California State License Number:
or Motor Carrier (CA) Permit Number _____

Name and Signature of Authorized Person: _____

(Signature)

(Print Name)

(Title)

**ADDENDUM B
PINOLE WASTE WATER TREATMENT PLANT
PROJECT LABOR AGREEMENT
LIST OF MASTER AGREEMENTS**

**ADDENDUM C
PINOLE WASTE WATER TREATMENT PLANT**

**PROJECT LABOR AGREEMENT
CONSTRUCTION PLAN**

**ADDENDUM D
PINOLE WASTE WATER TREATMENT PLANT
PROJECT LABOR AGREEMENT
SUPPLEMENTAL AGREEMENTS**

City of Pinole – Wastewater Treatment Plant Project Labor Agreement

Addendum D: Supplemental Agreement between City and Building Trades Council

This Supplemental Agreement confirms the Parties’ understanding concerning the application of section 4.5(b) of the above-referenced Project Labor Agreement (PLA).

Having reviewed the current Schedule A Agreements, the Parties agree that the only Schedule A Agreements containing provisions relevant to section 4.5(b) are those of the Plumbers and Pipefitters Local Union Nos. 159 and 342 and Sheet Metal Workers’ Local Union No. 104. With respect to these two Unions, the City recognizes that the provisions of their Schedule A Agreements addressing off-site fabrication shall apply to work on the Project.

Should other issues arise relevant to off-site fabrication, the parties agree to work cooperatively to assure that the Project is finished in the most timely and efficient manner possible.

Agreed and accepted this ____ day of _____ 2015

By: _____
[City]

By: _____
[BTC]

By: _____
[Local 159]



**UNITED ASSOCIATION
LOCAL UNION 159**

Comprised of
Plumbers, Steamfitters & Refrigeration
Journeymen & Apprentices

ARAM HODESS
Business Manager

THOMAS LAWSON
President

ROBERT SEWELL
Fin. Sec. Treas.

**SIDE LETTER
MANUFACTURED MECHANICAL EQUIPMENT
PINOLE WWTP PROJECT**

United Association Locals 159 and 342, having reviewed the specifications for the Wastewater Treatment Plant, agree that all manufactured mechanical equipment (EX: boiler, compressor, pumps) to be installed on the Project is not subject to the off-site pre-fabrication provisions of their Schedule "A" Agreements.



Aram Hodess
Business Manager
Plumbers and Steamfitters Local 159