AGENDA
Tuesday, March 22, 2005

Mayor
Irma L. Anderson

Vice Mayor
Jim Rogers

Councilmembers
Nathaniel Bates
Thomas K. Butt
Richard Griffin
John E. Marquez
Gayle McLaughlin
Mindell L. Penn
Maria T. Viramontes

The Richmond City Council also serves as Board Members and Commission Members for the following:

Redevelopment Agency
Housing Authority*
Joint Powers Financing Authority
Surplus Property Authority
Local Reuse Authority

* To comply with federal regulations, the Housing Authority is required to have two Tenant Commissioners. The Tenant Commissioners are:

Anntheia Y. Farr
Helen Hall
I. PUBLIC HEARINGS

I-1. Accept the Planning Commission’s recommendation and submittal of the City of Richmond Draft Housing Element to the State Department of Housing and Community Development (HCD) – Planning. **Staff Recommendation:** Accept Planning Commission recommendation and direct staff to submit Draft Housing Element (Barry Cromartie 620-6706).

J. AGREEMENTS

K. RESOLUTIONS

L. ORDINANCES

L-1. **ADOPT** – amending Ordinance No. 13-05 N.S. pertaining to Conditional Use Permits for alcoholic beverage sales – **First Reading** – **Staff Recommendation:** Adopt the ordinance (Barry Cromartie 620-6706).

M. COUNCIL AS A WHOLE

M-1. Consider approving the Mayor’s recommendation to reappoint and appoint the following to Boards and Commissions: (1) **Human Relations Commission:** Elmina Green and Harpreet Sandhu, Incumbents, terms expiring March 30, 2007; (2) **Economic Development Commission:** John Lopez and Katriinka Ruk, Incumbents, terms expiring March 30, 2008; and (3) **Arts and Culture Commission:** Tony Caparelli, term expiring January 31, 2008 – Mayor Anderson (620-6503).

M-2. Consider a status report on unforeseen impacts from the operations of Auto Warehousing Company (AWC) at Point Potrero Terminal – Councilmember Butt (620-6512).

M-3. **Consider requiring the developer of the proposed Civic Center Master Plan and Reuse Project to have a Project Labor Agreement as a requirement of a Development Agreement being approved by the City – Councilmember Marquez (620-6512).**

M-4. Discussion to consider only allowing comments from speakers opposing items on the Consent Calendar – Vice Mayor Rogers (620-6512).
DATE: June 5, 2007

TO: Honorable Mayor and Members of the City Council

FROM: Steve Duran, Community & Economic Development Agency Director

SUBJECT: PROJECT LABOR AGREEMENT FOR THE CIVIC CENTER PROJECT

STATEMENT OF THE ISSUE:

At the direction of the City Council, staff and the Developer of Civic Center Project have negotiated a Project Labor Agreement with the Contra Costa Building & Construction Trades Council and staff is recommending approval of the Project Labor Agreement and an accompanying Memorandum of Understanding.

RECOMMENDED ACTION:

Adopt a resolution approving and authorizing the City Manager to execute the Project Labor Agreement (PLA) and the accompanying Memorandum of Understanding (MOU) for the Civic Center Project, which are by and between: the City of Richmond; Richmond Civic Center Partners, LLC; Charles Pankow Builders, Ltd.; Contra Costa Building & Construction Trade Council; Employer’s Advocates, Inc.; together with “Contractors” and “Unions” (as defined in the PLA) that may sign an “Agreement to be Bound” in the future.

FINANCIAL IMPACT OF RECOMMENDATION:

The financial impact of this action is not determinable or considered to be significant. A PLA may prevent work stoppages that could cause project delays and potentially increase project costs.

DISCUSSION:

Prior to the selection of the Developer for the Civic Center Project, the City Council discussed the pros and cons of requiring a PLA and determined that it would be best to
require the Developer to enter into a PLA with the Contra Costa Building & Construction Trades Council.

Since the Developer and the City do not have a master development contract for the entire Civic Center Project site (bounded by Macdonald Avenue, 24th Street, Barrett Avenue and 27th Street), but rather have an "Agreement to Negotiate Exclusively" for each phase of the Project, the Developer can only ensure that the PLA is in effect for the Phase of the Project that it has under a construction contract at any given time. Therefore, the Trades Council requested that the City be a signatory to the PLA in order to ensure that there is a PLA for every phase of the Civic Center Project. Staff believes that this is a reasonable request.

Legal counsel has cautioned that, if federal funds were used on a future phase on the Project, federal law would preclude the use of a PLA. In light of this potential funding restriction, the Trade Council has agreed to a MOU that would preclude a PLA for any phase of the Project that uses federal funds, provided that the parties work together to ensure harmonious labor relations.

DOCUMENTS ATTACHED:

Attachment 1 - Resolution
I. RESOLUTIONS

I-1. **ADOPT A RESOLUTION** - approving and authorizing the City Manager to execute the Project Labor Agreement (PLA) and the accompanying Memorandum of Understanding (MOU) for the Civic Center Project, which are by and between: the City of Richmond; Richmond Civic Center Partners, LLC; Charles Pankow Builders, Ltd.; Contra Costa Building & Construction Trade Council; Employer’s Advocates, Inc; together with “Contractors” and “Unions” (as defined in the PLA) that may sign an “Agreement to be Bound” in the future - Community Economic Development (Steve Duran 307-8140).

I-2. **ADOPT A RESOLUTION** - authorizing the City Manager to execute an agreement with Richmond Civic Center Partners, LLC. for Phase 1B of the Civic Center Revitalization Project in an amount not to exceed $80 million and approving a budget not to exceed $94 million, including Furniture Fixtures and Equipment, Project Management and an Owner-controlled contingency for unforeseeable Owner-initiated changes or unforeseeable field conditions – Community and Economic Development Agency (Steve Duran 307-8140)

J. ORDINANCES

K. COUNCIL AS A WHOLE

K-1. Authorize the execution of a contract with Mack5 for Civic Center Phase 1B Project Management Services in an amount not to exceed $1,715,864. The Finance Standing Committee reviewed this item on May 14, 2007, and recommended approval - Community and Economic Development (Steve Duran 307-8140)

L. COMMUNICATIONS

M. REPORTS OF OFFICERS: STANDING COMMITTEE REPORTS, REFERRALS TO STAFF, AND GENERAL REPORTS (INCLUDING AB 1234 REPORTS)

N. ADJOURNMENT

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This agenda may be previewed on KCRT – Channel 28,
Richmond Television, City website ci.richmond.ca.us
and is also posted at the Civic
Center Library and in the lobby of City Hall South

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EXHIBIT A

PROJECT LABOR AGREEMENT
FOR THE
RICHMOND CIVIC CENTER PROJECT,
RICHMOND, CA

PREAMBLE

This Agreement is made and entered into the ___ day of __________, 2007, by and between the City of Richmond, the Richmond Civic Center Partners, LLC (hereinafter referred to as “Developer”) and Charles Pankow Builders, Ltd., on behalf of itself, together with other contractors and/or subcontractors who shall become signatory to this Agreement by signing the “Agreement To Be Bound” (Attachment A), (hereinafter referred to as “Contractor(s)”), the Local Unions signatory hereto and those affiliated with the Building & Construction Trades Department of the American Federation of Labor Congress of Industrial Organizations and the Contra Costa County Building & Construction Trades Council, all on their behalf and on behalf of the various Local Unions involved, (hereinafter referred to as “Union(s)”; and Employer’s Advocate, Inc. (hereinafter referred to as “Coordinator”).

WHEREAS, the successful completion of the Project is of the utmost importance to the City of Richmond (hereinafter referred to as “Public Agency” or “Owner”); and

WHEREAS, a skilled labor pool represented by Building Trades Unions will be required to complete the work involved; and

WHEREAS, the Building Trades Unions agree to cooperate in every way possible with employees of the Contractors; and

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

WHEREAS, the parties recognize the need for safe, efficient and speedy construction in order to reduce unnecessary delays and result in timely completion of the Project; 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 interests of the general public, the Public Agency, the Unions and Contractors would be best served if the construction work proceeded in an orderly manner without disruption caused by strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and
WHEREAS, the parties desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the Project, and further, to encourage close cooperation among the Contractors and the Unions 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, 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(s) and the affected Union(s) except to the extent 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 City, the Developer and the General Contractor have the right to select the lowest responsive and responsible bidder for the award of the construction contract, or to reject all bids, on the Project; and

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

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

**PURPOSE**

The purposes of this Agreement are to promote efficient construction operations on the Project, to insure an adequate supply of skilled craftspeople 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 Public Agency’s satisfaction.

It is the intent of the parties to set out uniform and fair working conditions for the efficient completion of the Project, maintain harmonious labor/management relations and eliminate strikes, lockouts and other delays.

It is in the interest of the parties to this Agreement to utilize resources available in the local area, including those provided by minority-owned, women-owned, small, disadvantaged and other businesses and to encourage the employment of qualified residents of the City of Richmond as apprentices and journeymen on the Project, and to encourage the admission of Richmond residents into the joint labor-management apprenticeship programs administered by the Unions consistent with the admission criteria contained in the Standards of the apprenticeship programs as approved by the Division of Apprenticeship Standards, State of California.
ARTICLE 1

DEFINITIONS

“Public Agency” or “Owner” means the City of Richmond;

“Coordinator” means the individual, company or entity responsible for the administration and application of this Agreement.

“Developer” means Richmond Civic Center Partners, LLC, or any successor Developer for successive phases of the Project.

“Contractor” means Charles Pankow Builders, Ltd. as general contractor, for all Phases of the Project as to which it is awarded a contract, or any successor general contractor that may be awarded contracts on successive phases of the Project, and all subcontractors, at any tier, performing covered construction work on the Project and who shall become signatory to this agreement by signing the “Agreement to be Bound” (Attachment A);

“Project” refers to all Phases of the Project known as the Richmond Civic Center Project, as more particularly described in Exhibit 1 hereto. If the City decides to add additional work to the Project as described in Exhibit 1, such work will be covered by this PLA;

“Building Trades Council” or “Council” means the Contra Costa County Building and Construction Trades Council;

“Union” means the Unions (singularly or collectively) that are signatory to this Agreement;

“Master Collective Bargaining Agreement” or “Local Collective Bargaining Agreement” means the local collective bargaining agreements for the affected crafts negotiated by the historically recognized collective bargaining parties in the area. Copies of all such collective bargaining agreements shall be on file with the Building Trades Council and are incorporated herein by reference, and shall be referred to herein as the “Schedule As”.

ARTICLE 2

SCOPE OF AGREEMENT

2.1 This Agreement shall apply to all construction work including demolition, site preparation, surveying, alteration and repair on the above-described Project awarded by the City, Developer or General Contractor, and any related change order(s). The delivery of ready-mix, asphalt, aggregate, sand or other fill material
which are directly incorporated from the delivery vehicle into the construction work, shall be covered by the terms and conditions of this Agreement.

2.2 This Agreement shall be binding on Pankow only for work which it is awarded and controls on the Project. The City agrees that it will require that all contractors at all tiers on the current and future phases of the Project must agree to be bound to this PLA. If Pankow is not awarded future work on the current or future phases of the Project, Pankow's obligations under this PLA shall cease when it ceases to perform and/or control covered work on the Project.

2.3 This Agreement shall apply only to construction/craft employees working on this Project represented by the Unions signatory hereto, and shall not apply to Contractors’ technical or non-manual employees including, but not limited to, executives, engineers, office and clerical employees, drafters, supervisors above the classification of general foreman, timekeepers, messengers, 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 Local Collective Bargaining Agreement and as to which classification a prevailing wage determination has been published.

2.4 Except as required otherwise by the Project documents or accepted construction practices, 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. Lawful fabrication provisions of the appropriate national or local collective bargaining agreements shall be applicable.

2.5 It is recognized by the parties to this Agreement that the signatory Coordinator and Contractor(s) are acting only on behalf of said Coordinator and Contractor(s), and said Coordinator and Contractor(s) have no authority, either expressed, implied, actual, apparent or ostensible, to speak for or bind the Owner.

2.6 It is expressly agreed and understood by the parties hereto that the Owner shall retain the right at all times to perform and/or subcontract all portions of the construction and related work on the Project site not covered by this Agreement.

2.7 The working conditions and hours of employment herein provided have been negotiated between the parties signatory to this agreement.

2.8 Without limiting the foregoing, items specifically excluded from the scope of this Agreement include the following:

(a) Equipment and machinery owned or controlled and operated by the Owner;

(b) All employees of any Contractor, design team or any other consultant of the Owner not performing manual labor within the scope of this Agreement;
(c) Any work performed on or near or leading to the site of work covered by this Agreement and undertaken by state, county, city or other governmental bodies, or their contractors, or by public utilities or their contractors, and/or by the Owner or its contractors (for work which is not part of the scope of this Agreement);

(d) Off-site maintenance of leased equipment and on-site supervision of such work;

(e) Laboratory or specialty testing or inspection not ordinarily performed by the signatory local union(s);

(f) Non-construction support services contracted by the Owner or any Contractor in connection with this Project; and

(g) All work by employees of the Owner.

(h) All artisan work covered by the City of Richmond Public Art Program, dated April 13, 1999.

2.9 Work covered by the Project Labor Agreement within the craft jurisdiction of the Elevator Constructors will be performed under the terms of the National Agreement of the International Union of Elevator Constructors, except that Articles 5, 6 and 11 of the Project Labor Agreement will apply to such work.

ARTICLE 3

CONTRACT AWARDS & SUBCONTRACTS

3.1 The City agrees this Project Labor Agreement will be included in all calls for bids and will be incorporated into all awards for work, including but not limited to awards to the Developer and/or Successor Developers and to the General Contractor and/or Successor General Contractors, for all covered work on all Phases of the Project.

3.2 The Developer and each Contractor(s) agrees that neither it nor any of its subcontractors will subcontract any work to be done on the Project except to a person, firm, or corporation who is or becomes party to this Agreement. Any Contractor(s) or subcontractor working on the Project shall, as a condition of working on the Project, become signatory to and perform all work under the terms of this Agreement.

3.3 A subcontractor is defined as any person, firm or corporation who agrees under contract with the Contractor(s), or a subcontractor of the Contractor, at any tier, to perform on the Project, any part or portion of the construction work covered by
the prime contract, including the operating of construction equipment, performance of labor and/or installation of materials.

3.4 The Contractor(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(s) elect to subcontract, the Contractor(s) shall continue to have such primary obligation.

3.5 The Contractor shall provide in the subcontract that the subcontractor will pay the wages and benefits and will observe the hours and all other terms and conditions of this Agreement. The Contractor shall remain liable for any delinquency by such subcontractor in the payment of any wages or fringe benefits provided herein, including payments to Health & Welfare, Pension, Vacation/Holiday, Dues and Training & Retraining Funds to the extent provided by law.

3.5.1 The contractor(s) will give written notice to the Union(s) of any subcontract involving the performance of work covered by this Agreement within either five (5) days of entering such subcontract or before the subcontractor commences work on the Project, whichever occurs first, and shall specify the name and address 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 only.

3.5.2 The provisions of this Section 3.5 shall be applied only to the extent permitted by law and, notwithstanding any other provision of this Agreement, no aspect of the subcontractors’ clause, including its enforcement, may be enforced by or subject to strike action or any other labor disruption.

ARTICLE 4

RELATIONSHIP BETWEEN PARTIES

4.1 This Agreement shall only be binding on the signatory parties hereto, and shall not apply to parents, affiliates, subsidiaries, or other divisions of the Developer, Coordinator, and signatory Contractor(s) unless signed by such parent, affiliate, subsidiary, or other division of such company.

4.2 Each Contractor(s) shall alone be liable and responsible for its own individual acts and conduct and for any breach or alleged breach of this Agreement except as modified by Article 3. Any alleged breach of this Agreement by a Contractor(s) or any dispute between the signatory Union(s) and the Contractor(s) respecting compliance with the terms of this Agreement, shall not affect the rights, liabilities, obligations and duties between the signatory Union(s) and each other Contractor(s) party to this Agreement.
4.3 It is mutually agreed by the parties that any liability by a signatory Union(s) to this Agreement shall be several and not joint. Any alleged breach of this Agreement by a signatory Union(s) shall not affect the rights, liabilities, obligations and duties between the signatory Contractors and the other Unions party to this Agreement.

ARTICLE 5

NO STRIKES - NO LOCKOUTS

5.1.1 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, boycott, sympathy strike, picketing or other work stoppage of any nature whatsoever, for any cause whatsoever, or any other type of interference of any kind, coercive or otherwise, and it is expressly agreed that any such action is a violation of this Agreement.

5.1.2 Withholding employees for failure of a Contractor(s) to tender trust fund contributions as required in accordance with Article 16 or failure to meet its weekly payroll obligations after forty-eight (48) hours advanced written notice, by facsimile to the General Contractor and the Coordinator is not a violation of this Article 5.

Should a Contractor performing work on the 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 and or the Developer. 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. If the general contractor is delinquent in the payment of Trust Fund(s) contributions for covered work performed on this project, then the general contractor agrees that the affected Trust Fund(s) may place the Developer on notice of such delinquencies and the general contractor further agrees that the Developer may issue joint checks to the general contractor and the Trust Fund(s) until the delinquency is satisfied.

5.1.3 Expiration of Local and Other Applicable Agreements. It is specifically agreed that there shall be no strike, sympathy strike, picketing, lockout, slowdown, withholding of work, refusal to work, walk-off, boycott or other work stoppage of any kind as a result of the expiration of any local, regional or other applicable
labor agreement having application at the Project and/or failure of the parties to that agreement to reach a new contract. In the event that such a local, regional, or other applicable labor agreement does expire and the parties to that agreement have failed to reach agreement on a new contract, work will continue to the Project on one of the following two bases, both of which will be offered by the Union(s) involved to the general contractor and the Contractors affected:

(a) Each of the Union(s) working with a contract expiring must offer to continue working on the Project under interim agreements that retain all the terms of the expiring contract, except that the Union(s) involved in such expiring contract(s) may each propose wage rates and Contractor contribution rates to employee benefits funds different from what those rates were under the expiring contract(s). Said interim agreement(s) would be superseded by any subsequently reached industry agreement(s) as of the date the industry agreement is reached. The terms of the Union’s interim agreement offered to the Contractor will be no less favorable than the terms offered by the Union to any other Contractor or group of Contractors covering commercial construction work in Contra Costa County; or

(b) Each of the Union(s) with a contract expiring must offer to continue working on the Project under all the terms of the expiring contract, including the wage rates and Contractor contribution rates to the employee benefit funds, if the Contractor(s) affected by that contract agree to the following retroactivity provisions; if a new local, regional or other applicable labor agreement for the industry having application at the Project is ratified and signed during the term of this Agreement and if such new labor agreement provides for retroactive wage increases, then each affected Contractor shall pay to its employees who performed work covered by this Agreement at the Project during the period between the effective dates of such labor agreements, an amount equal to any such retroactive wage and benefit increases established by such new labor agreement, retroactive to whatever dates are provided by the new local, regional or other applicable agreement for such increase to go into effect, for each employee’s hours of work on the Project during the retroactivity period. All parties agree that such affected Contractor shall be solely responsible for any retroactive payments to its employees and trust funds and that neither the General Contractor nor the District has any obligations, responsibility or liability whatsoever for any such retroactive payments or collection of any such retroactive payments from any other Contractor.

The General Contractor and the affected Union will mutually decide for each affected subcontractor (after consultation with each such subcontractor) between the above two options of having its subcontractor continue to work on the Project under the terms of the interim agreement offered under paragraph (a) above by the Union, or having its subcontractor continue to work on the Project on the retroactivity basis established under
paragraph (b) above. The General Contractor and the affected Union may mutually decide upon the interim agreement option for some subcontractors and the retroactivity option for other subcontractor(s). To decide between the two options, the General Contractor will be given one week after the particular labor agreement has expired or one week after the Union has personally delivered to the General Contractor in writing its specific offer of terms of the interim agreement pursuant to paragraph (a) above, whichever is the later date.

5.2 If a violation of this Article occurs, upon written facsimile or telegraphic notice of such violation to the Local and International Union(s) offices, the Union(s) and its officers shall take immediate action and will 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(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 in any way the Contractor(s) chooses, 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 5.

5.3 In consideration of the foregoing, the Contractor(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(s) for any reasons in the exercise of its rights as set forth in any provision of this Agreement, nor does “lockout” include the Owner’s, Developer’s, or Contractors’ decision to terminate or suspend work on the site or any portion thereof for any reason.

5.4 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 11, if invoked.

5.5 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.

5.6.1 The party invoking this procedure shall immediately notify Gerald McKay, who the parties agree shall be the permanent Arbitrator under this procedure. In the event that the permanent Arbitrator is unavailable at any time, the alternate permanent arbitrator, Thomas Angelo, shall be immediately contacted. Notice to
the Arbitrator shall be by the most expeditious means available, with notice by facsimile, telegraph or similar means to the party alleged to be in violation and the involved Union General President.

Gerald McKay’s address, phone number and fax number, are:
P.O. Box 406
Burlingame, CA 94011-0406
Phone: (650) 588-6655
Fax: (650) 340-1511

5.6.2 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.

5.6.3 The Arbitrator shall notify the parties by facsimile, telegram or similar means 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.

5.6.4 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.

5.6.5 The award shall be final, binding and non-reviewable as to the merits, and may be enforced by any court of competent jurisdiction, upon the filing of this Agreement and all other relevant documents referred to hereinabove in the following manner. Facsimile, telegraphic 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 Section 5.6.4 of the 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 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.

5.6.6 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.
5.6.7 The costs of the arbitration, including the fee and expenses of the Arbitrator, shall be divided equally between the parties to the arbitration.

5.6.8 The procedures contained in Section 5.6 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 11.

ARTICLE 6

WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

6.1 The contractor shall assign work on the basis of traditional craft jurisdictional lines.

6.2 There shall be no strikes, picketing, sympathy strikes, leafleting or work disruption or stoppages of any kind because of jurisdictional disputes.

6.3 When conflicting claims for work on the Project are submitted to a Contractor, the dispute shall be resolved pursuant to agreed upon Jurisdictional Dispute Procedures, as adopted by the National Building & Construction Trades Department, or by the Mechanical Allied Crafts (MAC) (Appendix A), or by the National Construction Alliance (NCA) (Appendix B), incorporated herein respectively. It is understood by the parties that these Procedures might be amended from time to time. In the event a jurisdictional dispute arises between two or more Unions affiliated with the National Building & Construction Trades Department, such dispute shall be resolved by the procedures set forth in the Plan for the Settlement of Jurisdiction Disputes in the Construction Industry. In the event a jurisdictional dispute arises between two or more Unions affiliated with the MAC, such dispute may be resolved under the MAC Procedure. In the event a jurisdictional dispute arises between two or more Unions affiliated with the NCA, such dispute shall be resolved under the NCA Procedure. In the event a jurisdictional dispute arises between two or more Unions that are not affiliated with the same International group and are not stipulated to the same jurisdictional dispute resolution procedure, the dispute shall be handled in accordance with and resolved as described in Appendix C hereto.

ARTICLE 7

COORDINATOR

7.1 Employers’ Advocate, Inc., as the above-named Coordinator, is responsible for the administration and application of this Agreement, but neither the Coordinator, Contractor, or Developer shall incur any liability as a consequence of such administration or application.
7.2 The Coordinator shall endeavor to facilitate harmonious relations between the Contractors and Unions signatory hereto and will conduct the monthly joint Labor/Management meeting referred to in Article 8 below. The Coordinator shall not be responsible for the acts of the Contractors or Unions signatory hereto, and will not be a party to any arbitration or litigation arising out of this Agreement.

**ARTICLE 8**

**JOINT LABOR/MANAGEMENT MEETINGS**

8.1 A joint Labor/Management meeting will be held on a monthly basis between the Coordinator, the Contractors and the signatory Unions. The purpose of these meetings is to promote harmonious labor-management relations, ensure adequate communications and advance the proficiency and efficiency of the Craftspersons and the Contractors on the Project. These monthly meetings will also include discussion of the scheduling and productivity on work performed on the Project.

8.2 A Pre-Job Conference will be held prior to the commencement of work to establish the scope of work in each Contractor’s contract. When a contract has been let to a Contractor(s) covered hereby, a Pre-Job Conference and/or Mark-Up Meeting shall be required upon request of any Union(s), Contractor(s) or the Coordinator.

8.3 The Contractor performing the work shall have the responsibility for making work assignments in accordance with Section 6.1 of this Agreement. The work assignments shall be made in writing. Any craft objecting to the Contractor’s proposed assignment of work shall have ten (10) working days from the date of the mark-up meeting to submit written objections to the Contractor before the Contractor makes the work assignments final.

8.4 The Coordinator will schedule and attend all Pre-Job and Mark-Up Meetings and participate in discussions as they pertain to the terms and conditions of this Agreement.

**ARTICLE 9**

**MANAGEMENT RIGHTS**

9.1 The Contractor(s) retains full and exclusive authority for the management of their 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.
C. Hire, promote and layoff employees as deemed appropriate to meet work requirements and/or skills required.

D. Require all employees to observe the General Contractor’s 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. The Contractor may implement drug testing on the job consistent with the drug testing procedures contained in the applicable craft agreement.

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. There shall be no refusal by a craft to perform work assigned, including overtime work, however, individual craftspeople shall not be required to work overtime unless specifically dispatched for overtime work. Any cases of a craft’s refusal to work overtime shall be subject to the grievance procedure.

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 designor (in accordance with Article 21), except as required otherwise by the Project documents or accepted construction practices.

H. The foregoing listing of management rights shall not be deemed to exclude other legal rights and functions not specifically set forth herein.

ARTICLE 10

WORK RULES

10.1 The selection of craft foremen and general foremen shall be entirely the responsibility of the Contractor(s), it being understood that in the selection of such foremen, the Contractor(s) will give first consideration to the qualified individuals available in the local area and in accordance with the Craft’s local Collective Bargaining Agreement. Foremen and general foremen shall take orders from the designated Contractor(s) representatives.

10.2 There shall be no limit on production by employees nor restrictions on the full use of tools or equipment. Craftpersons using tools shall perform any of the work of the trade and shall work under the supervision of the craft foremen.
10.3 Security procedures for control of tools, equipment and materials are solely the responsibility of Contractor(s).

10.4 A badge system may be used to check in and out. Each employee must personally check in and out. The Contractor(s) will provide adequate facilities for check in and out in an expeditious manner.

10.5 Employees shall be at their place of work (as designated by the Contractor at the pre-job meeting) and ready to work at the starting time and shall remain at their place of work performing their assigned functions until quitting time. A reasonable time will be allowed for employees to put company and personal tools in secured storage and return to the parking lot by quitting time. The parties reaffirm their policy of a fair day’s work for a fair day’s wage.

10.6 Slowdowns, standby crews and featherbedding practices will not be tolerated.

10.7 It is understood by the Contractor(s) and agreed to by the Union(s), that the employees of the Contractor(s) will perform the work requested by the Contractor(s) without having any concern or interference with any other work performed by any employees of the Owner or others who are not covered by this Agreement including, but not limited to, maintenance and operations.

10.8 Rest periods shall be provided in accordance with Industrial Welfare Commission Wage Order 16. Employees will be permitted to have personal thermos bottles, the contents of which may be consumed during working hours at their assigned work locations.

10.9 All foremen will remain with their crews and supervise such crews in the performance of their duties.

10.10 There shall be no interference with vendor or supplier deliveries of equipment, apparatus, machinery and construction materials to the jobsite since such deliveries shall not fall under this Agreement. Unloading of the above will be performed by signatory Contractors’ employees.

10.11 The Contractor(s) will furnish facilities for storage of tools and adequate sanitary facilities. However, Contractor(s) will incur no liability for loss, theft, or damage to personal tools left in tool storage not provided by the Contractor(s). The Contractor(s) has the right to take any reasonable action deemed necessary to control tool losses. Personal tools when brought onto the jobsite at time of employment may be inventoried as to type and number of tools and condition. Tool provision and losses will be handled according to the individual craft local agreements.

10.12 The Contractor(s) and the Unions recognize the necessity for promoting efficiency and agree that no rules, customs or practices shall be permitted that
cause overmanning, limit production or increase the time required to do the work, and no limitation shall be placed upon the amount of work which an employee shall perform, nor shall there be any restrictions against the use of any kind of machinery, tools or labor-saving devices, except as required by the Project documents or accepted construction practices. However, the lawful manning provisions of the Craft local agreements shall be recognized.

10.13 Employees shall receive a one-half hour lunch period with pay and meals at the expense of the Contractor(s) if the employee is required to work beyond ten (10) consecutive hours (not including the regular one-half hour lunch period), and after working each additional four (4) hours. If meals are not provided, a meal allowance of $10.00 will be paid in lieu thereof.

ARTICLE 11

GRIEVANCE PROCEDURE

11.1 All disputes concerning the interpretation and/or application of this Agreement which do not fall within the Article 5 No-Strike No-Lockout procedure or Article 6 Jurisdictional Disputes shall be governed by the following grievance and arbitration procedures. All other disputes shall be governed by the grievance and arbitration procedures contained in the applicable local collective bargaining agreement.

11.2 A grievance shall be considered null and void if not brought to the attention of the Contractor(s) within five (5) working days after the grievance is alleged to have occurred or within five (5) working days after the Union’s first knowledge of the grievance. Similarly, a grievance shall be considered null and void if not brought to the attention of the Union(s) within five (5) working days after the grievance is alleged to have occurred or within five (5) working days after the Contractors(s)’ first knowledge of the grievance.

11.3 Grievances shall be settled according to the following Steps:

Step 1: The steward or business representative and the grievant shall attempt to resolve the grievance with the craft supervisor.

Step 2: In the event the matter remains unresolved for five (5) working days in Step 1 above, within five (5) working days thereafter, the grievance shall be reduced to writing and may then be referred by the Union to the Contractor(s) for discussion and resolution.

Step 3: In the event the matter remains unresolved for five (5) working days in Step 2, either Party may request, within five (5) working days thereafter, that the dispute be submitted to arbitration.
Step 4: The Parties agree that the Arbitrator who will hear the grievance shall be selected from among the following: Gerald McKay, Thomas Angelo, Morris Davis, William Riker, and Barry Winograd. The Arbitrator shall be selected on a rotating basis and the Coordinator shall be responsible for advising the parties as to which Arbitrator is next in line to resolve the dispute. If the Arbitrator next in line is unavailable to hear the dispute within a reasonable time period in the opinion of the parties, the next Arbitrator in line shall serve as the Arbitrator of the dispute.

11.4 The arbitration procedure contained herein, once invoked, shall be mandatory. 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 in 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.

11.5 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.

11.6 The Contractor(s), as well as the Union, may bring forth grievances under this Article.

ARTICLE 12

UNION RECOGNITION AND REPRESENTATION

12.1 All employees working on the project shall be governed by the applicable union security clause of the applicable craft’s Schedule A Agreement.

Employees hired by the Contractor(s) shall, as a condition of employment, be responsible for the payment of the applicable monthly dues, 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.

12.2 The Contractor(s) recognizes the Unions signatory hereto as the sole and exclusive collective bargaining representatives for its craft employees on the Project.
12.3 Authorized representatives of the Unions shall have access to the site during established working hours, provided they do not unduly interfere with the work of the employees.

12.4 A Steward shall be a working journeyman appointed by the authorized union representative of the Local Union(s) who shall, in addition to work as a journeyman, be permitted to perform during working hours such Union(s) duties as cannot be performed at other times which consists of those duties assigned by the Business Manager or Business Agent. The Union(s) agrees that such duties shall be performed as expeditiously as possible and the Contractor(s) agrees to allow the Steward a reasonable amount of time for the performance of such duties. It is understood and agreed that the Steward’s duties do not include any matters relating to referral or hiring. The Steward shall not leave the work area without notifying the appropriate supervisor.

12.5 The Steward will be paid at the journeyman wage for the job classification in which the Steward is employed.

12.6 The treatment of stewards shall be in accordance with the applicable craft agreement.

ARTICLE 13

REFERRAL

13.1 Contractors performing construction work on the Project described in the Agreement shall, in filling craft job vacancies, utilize and be bound by the registration facilities and referral systems established or authorized by the Unions signatory hereto when such procedures are not in violation of Federal law. The Contractor(s) shall have the right to reject any applicant referred by the Union(s), in accordance with Article 19.

13.2 Contractor(s) and Union(s) hereby recognize and agree to be bound by Richmond City Ordinance No. 52-06, Chapter 2.56 of the Municipal Code of the City of Richmond (Attachment C).

13.3 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).

13.4 In the event referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor(s) for employees within a forty-eight (48) hour period after such requisition is made by the Contractor(s) (Saturday, Sunday and holidays excluded), the Contractor(s) shall be free to obtain employees from any source.
13.5 The Unions shall exert their utmost efforts, including requesting assistance from other Local Unions, to recruit sufficient number of skilled Craftpersons to fulfill the labor requirements of the Contractors.

13.6 Recognizing the special needs of this Project and the acute shortage of skilled craftspeople, the Unions shall consider a Contractor’s request to transfer key employees to work on this Project in a manner consistent with the Union’s referral procedures.

**ARTICLE 14**

**NON-DISCRIMINATION**

14.1 The Unions and Contractors shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, religion, Vietnam veteran or Vietnam Era status, disability as identified in the Americans with Disabilities Act or any other basis recognized by law.

**ARTICLE 15**

**APPRENTICES**

15.1 Recognizing the need to maintain continuing support of programs designed to develop adequate numbers of competent workers in the construction industry, the Contractor(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.

15.2 The apprentice ratios will be in compliance with the applicable provisions of the California Labor Code and Prevailing Wage Rate Determination.

15.3 There shall be no restrictions on the utilization of apprentices in performing the work of their craft provided they are properly supervised.

15.4 The Employers 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 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.

15.5 The Unions agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on this Project and of
apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit for bona fide, provable past experience

ARTICLE 16

WAGE SCALES and FRINGE BENEFITS

16.1 All employees covered by this Agreement shall be classified and paid in accordance with the classification and wage scales contained in the appropriate local 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 California Labor Code.

16.2 During the period of construction on this Project, the Contractors 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 collective bargaining agreement. The Unions shall notify the Contractors in writing of the specific increases in wages and recognized fringe benefits and the date on which they become effective.

16.3 The Contractors 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 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 Contractors.

16.4 Wages due shall be paid to all employees weekly, not later than on Friday, and not more than five (5) days’ wages may be withheld or consistent with the Master Labor Agreement of the craft in question, whichever is less, and shall be paid before the end of the work shift. Payment shall be made by check with detachable stub.

16.5 When an employee is discharged, the employee shall be paid wages due immediately. If an employee voluntarily terminates, wages due shall be paid in accordance with California State Law.

ARTICLE 17

HOURS OF WORK, OVERTIME ANDhifts
17.1 Hours of Work: The work week will start on Monday and conclude on Sunday. Eight (8) hours per day shall constitute a standard work day between the hours of 6:00 a.m. and 5:30 p.m. with one-half (1/2) hours designated for lunch midway through the shift. Forty (40) hours per week, Monday through Friday, shall constitute a regular week’s work. The foregoing provisions of this Article are applicable unless otherwise provided in the General Prevailing Wage Determinations made by the Director of Industrial Relations pursuant to California Labor Code. Nothing herein shall be construed as guaranteeing any employee eight (8) hours per day or forty (40) hours per week.

17.2 Overtime: Overtime will be in compliance with the applicable General Prevailing Wage Determination made by the Director of Industrial Relations pursuant to California Labor Code.

17.3 Shifts: The Contractor(s) shall have the right to establish shifts for any portion of the work in accordance with this Section.

17.3.1 If two (2) or three (3) shifts are worked, the first shift shall consist of eight (8) hours of continuous work exclusive of a one-half (1/2) hour non-paid lunch period, the second shift shall consist of seven and one-half (7 ½) hours of continuous work exclusive of a one-half (1/2) hour non-paid lunch period and the third shift shall consist of seven (7) hours of continuous work exclusive of a one-half (1/2) non-paid lunch period for eight (8) hours pay.

17.3.2 Shift work may be performed at the option of the Contractor(s), but, when performed, it must continue for a period of not less than five (5) consecutive working days. The straight time work week shall be considered to start with the day shift on Monday and end with the conclusion of the second or third shift on the fifth consecutive day.

ARTICLE 18

HOLIDAYS

18.1 Holidays will be in compliance with the applicable General Prevailing Wage Determination made by the Director of Industrial Relations pursuant to California Labor Code.

ARTICLE 19

REPORTING PAY

19.1 Any employee reporting for work and for whom no work is provided, except when given prior notification not to report to work, shall receive two (2) hours
pay at the regular straight time hourly rate. Any employee who starts work shall receive at least four (4) hours pay at the regular straight time hourly rate. Any employee who works beyond four (4) hours shall be paid for actual hours worked.

19.1.1 Whenever minimum reporting pay is provided for employees, they will be required to remain at the project site available for work for such time as they receive pay, unless released sooner by the principal supervisor of the Contractor(s) or its designated representative.

19.1.2 The provisions of this Section are not applicable where the employee voluntarily quits, in which case the employee shall be paid for the actual time worked.

19.2 It will not be a violation of this Agreement when the Owner, Developer, or Contractor(s) consider it necessary to shut down because of an emergency situation that could endanger life or property. In such cases, employees will be compensated only for the actual time worked. In the case of a situation described above whereby the Owner or Contractor(s) request employees to wait in a designated area available for work, the employees will be compensated for the waiting time.

**ARTICLE 20**

**TRAVEL, SUBSISTENCE and ZONE PAY**

20.1 Travel, subsistence and zone pay will be in compliance with the applicable General Prevailing Wage Determination made by the Director of Industrial Relations pursuant to California Labor Code.

**ARTICLE 21**

**HEALTH AND SAFETY**

21.1 The employees covered by the terms of this Agreement shall at all times, while in the employ of the Contractor(s), be bound by the safety rules and regulations as established by the District and Contractor(s) and in accordance with OSHA/Cal-OSHA. These rules and regulations will be published and posted at conspicuous places throughout the Project.

21.2 In accordance with the requirements of OSHA/Cal-OSHA, it shall be the exclusive responsibility of each Contractor(s) on the Project to assure safe working conditions for its employees and compliance by them with any safety rules contained herein or established by the contractor(s). Nothing in this Agreement will make the Union(s) or District liable to any employee or to other persons in the event that injury or accident occurs.
21.3 A convenient supply of cold and potable drinking water shall be provided by the Contractor(s).

21.4 The Contractor(s) and Union(s) agree to abide by the substance abuse policy contained in the respective Master Collective Bargaining Agreements for the affected crafts. The Contractor(s) and Union(s) agree to abide by any no smoking policy applicable to Owner property.

ARTICLE 22

SECURITY OF MATERIAL, EQUIPMENT and TOOLS

22.1 Security procedures for the control of tools, equipment and materials shall be solely the responsibility of the Contractor(s).

22.2 All employees will comply with the security procedures established by the Contractor(s) and the Owner.

22.3 Theft and/or loss of the Owner’s tools and equipment is a major concern on the Project. The Owner’s Security Regulations will be strictly enforced.

22.4 Violations or failure to comply with the Owner’s Security Regulations while on the Project jobsite may result in termination and/or exclusion from the Project jobsite.

ARTICLE 23

CALL INS

23.1 Call-ins will be governed by the applicable craft collective bargaining agreement.

ARTICLE 24

ENTIRE AGREEMENT

24.1 The Unions agree that this Agreement covers all matters affecting wages, hours and other terms and conditions of employment, and that during the term of this Agreement, neither the Contractor(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 City of Richmond.

24.2 Any other agreement or modification of this Agreement must be reduced to writing and signed by the City of Richmond and the Unions involved.
ARTICLE 25

GENERAL SAVINGS CLAUSE

25.1 It is not the intention of either the Contractor(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(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 a 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.

25.2 In the event that a decision of a Court of competent jurisdiction materially alters the terms of the Agreement such that the intent of the parties is defeated, then the entire Agreement shall be null and void.

ARTICLE 26

DURATION OF AGREEMENT

26.1 This Project Labor Agreement shall become effective on the day the Owner awards the first contract covered by the scope of this Agreement for the Project and shall continue in full force and effect until completion of all work within the scope of the Project. The parties may mutually agree in writing to amend or extend this Agreement at any time.

DATE: April _____, 2007

City of Richmond

By:________________________________________

Title
Contra Costa Building & Construction Trades Council

By: ____________________________
   Greg Feere, Executive Officer

Developer
Richmond Civic Center Partners, LLC

By: ____________________________
   Harley Searcy

General Contractor
Charles Pankow Builders, Lt.

By: ____________________________
   Kim Lum

Coordinator
Employer’s Advocate, Inc.

By: ____________________________
   Michael Walton
PROJECT LABOR AGREEMENT

SIGNATURES (continued)

Signatory Unions:

________________________________ _____________________________
Asbestos Workers Local #16                          Hod Carriers Local #166

________________________________ _____________________________
Bricklayers # & Allied Craft Workers Local #3          Iron Workers Local #378

________________________________ _____________________________
Northern California Carpenters Region Council         Northern California District Council
                                          of Laborers

________________________________
Laborers Local #67

________________________________ _____________________________
District Council of Plasterers & # Cement Masons        Operating Engineers Local #3

________________________________
Electricians Local #302                          Painters & Allied Trades District Council #16

________________________________
Plasterers Local #66                          Pile Drivers Local #34

________________________________
Plumbers Local #159                          Sheet Metal Workers Local #104

________________________________
Roofers Local #81                          Sprinkler Fitters Local #483

________________________________
Teamsters Local #315                           Steamfitters Local #342
Boilermakers Local 549

Laborers Local #324

Lathers Local #68L

Underground Utility/Landscape #355

Elevator Constructors Local #8
EXHIBIT 1
Phase 1 Project Description

1. Existing City Hall

The work on the existing City Hall includes a complete renovation. Generally, the work includes the demolition and replacement of the existing interiors, windows, roofing, and MEP systems, plus a seismic retrofit to essential services building standards, exterior brick cladding upgrade, building water-proofing (to correct all existing water intrusion problems budgeted and identified in site investigations) inclusive of the basement, a 1st floor enclosure, renovation and tenant improvements of the existing 71,000 sq. ft. building.

2. Existing Hall of Justice

The work at the existing 53,600 sq. ft. Hall of Justice is limited. The interiors will be demolished and the building will be seismically retrofitted to meet current codes, and waterproofed (to correct all existing water intrusion problems budgeted and identified in site investigations), but will not necessarily meet essential facility requirements. The scope of work includes new windows, exterior brick cladding upgrade, roofing, and includes the interior construction of Employment and Training and a Senior Center on the first floor and the Redevelopment Agency on the third floor. The basement and second floor will be left as a shell space. The boiler room will remain in operation to service the existing Hall of Justice, City Hall and Auditorium, with only MEP modifications as required for new construction.

3. Existing Auditorium and Bermuda Room

The existing Auditorium, which houses the Bermuda Room, will be seismically retrofitted to meet current codes, but will not necessarily be an essential services facility. The work includes limited demolition and repair of finishes as required to match existing finishes. Also included are limited internal improvements to the Auditorium building consisting of renovation of the Bermuda Room and other existing conference spaces for use as City Council Chambers and community meeting facilities, upgrades to the Level 1 southeast and southwest restrooms, new paint and flooring in corridors and lobby of the Auditorium, required ADA upgrades to the lobby and corridors. Concrete and rail replacement at patio along Nevin Street is included.

4. Existing Civic Center Plaza and Sitework

The work on the Existing Civic Center Plaza and site area as shown on the included plans and specifications will include demolition and renovation. Sitework includes seismic upgrade to existing Plaza canopies, utilities, and other
budgeted miscellaneous site upgrades as shown on the included plans and specifications.

5. Existing Arts Center Building

The work on the existing 24,600 sq. ft. Arts Center building shall include a seismic upgrade that supports the auditorium retrofit (non-essential facility) and limited renovation work to be determined.

6. Existing Human Services Building

The work on the existing Human Services Building includes limited demolition, air conditioning equipment installation, and patching as required to cool three equipment rooms being used by KCRT to meet existing equipment cooling requirements.
ATTACHMENT “A”

PROJECT LABOR AGREEMENT
FOR
THE RICHMOND CIVIC CENTER PROJECT

AGREEMENT TO BE BOUND

The undersigned, as a Contractor or Subcontractor (CONTRACTOR) on _______________ (hereafter 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 “Project Labor Agreement” (hereinafter AGREEMENT), a copy of which was received and is acknowledged, hereby:

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:

The CONTRACTOR agrees to be bound by the legally established local trust agreements as set forth in Article 16 of this AGREEMENT.

The CONTRACTOR 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;

Certifies that it has no commitments or agreements which would preclude its full and complete compliance with the terms and conditions of said AGREEMENT.

Agrees to secure from any CONTRACTOR(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.

Dated: ____________________________ ____________________________
(Name of Contractor) (Name of Prime Contractor or Higher Level Subcontractor)

__________________________________ ______________________________________
(Authorized Officer & Title) (Address)

__________________________________ ______________________________________
(Phone) (Fax)
ATTACHMENT “B”

ARBITRATORS

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Appendix A

Mechanical Allied Crafts Work Assignment Procedures

The Mechanical Allied Crafts (MAC) Unions are committed to the principle that there shall be no work disruptions on any MAC designated project and that any disputes involving work assignments among MAC Unions will be resolved expeditiously and, if possible, before the work begins. To this end, MAC Unions have formed Joint Jurisdictional Committees to resolve any outstanding issues and update, if necessary, existing jurisdictional agreements. MAC Local Unions are also engaging in direct and continuing consultations to resolve jurisdictional issues at the local level. The goal is to alleviate work assignment issues among the MAC Unions by having MAC Local Unions establish written work assignment practices within their geographic region that can serve as a roadmap for contractors on MAC designated projects.

The MAC Unions recognize the need for a mechanism to expeditiously resolve jurisdictional issues in the event that two or more MAC Unions are unable to resolve a particular matter. The MAC Unions have adopted the following procedures that will only apply to jurisdictional disputes between or among MAC Unions and their Local Unions on MAC designated projects where the contractor responsible for the work in question has agreed to be bound by these procedures by signing below indicating agreement and acceptance of these procedures. Work assignment disputes involving Unions not part of MAC or on projects not designated as MAC projects may not be resolved through these procedures.

1. Work assignments are the sole responsibility of the contractor that directly hires the craft workers and is responsible for the performance of the work.

2. For each MAC designated project, the contractor(s) shall conduct a pre-job meeting. At the pre-job meeting, each contractor will present their intended work assignments. In the event that a contractor makes a work assignment that is contrary to an established local area assignment practice that has been agreed to in writing by the MAC Local Unions, the contractor’s assignment shall be changed to the agreed upon local area assignment practice provided that:

   (a) Any Local Union to which an assignment change is made must demonstrate that it can refer in a timely manner, competent craft workers who can safely and efficiently perform the work tasks in question. The Local Union may be required to
provide proof of necessary journeyperson certifications, safety training and similar qualifications.

(b) In the event that a work assignment change is implemented, the contractor shall not be required to become a signatory to an area-wide collective bargaining agreement to which the contractor is not currently a party. The MAC Local Unions agree that in such instance the Local Unions will supply the required craft workers to the contractor provided the contractor agrees in writing to abide by the terms of the applicable collective bargaining agreement but only for the MAC project.

(c) Any arrangements agreed upon to allow for inter-union supply of workers during periods of worker shortages affecting some of the MAC Local Unions will not be precedent setting for future work assignments.

3. Any disagreement regarding a work assignment may be submitted for resolution to the MAC permanent Mediator/Arbitrator by any MAC Local Union or contractor. The MAC Mediator/Arbitrator will schedule a hearing in the location of the disagreement within three working days of receipt of the request. The hearing process shall be as follows:

(a) The parties in disagreement will have an opportunity to present their respective positions. Each party will complete its presentation within one half-hour. Each party will have fifteen minutes for rebuttal.

(b) Upon conclusion of the presentations and rebuttals, the Mediator/Arbitrator will conduct a mediation conference with the parties in an attempt to arrive at a mutually satisfactory resolution. The mediation effort will not exceed two hours.

(c) In the event that mediation is not successful, the Mediator/Arbitrator shall have full authority as Arbitrator to render a final and binding decision. In rendering his decision, the Arbitrator shall apply the criteria set forth in Article V, Section 8, of the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry or the criteria set forth in any successor plan adopted in the future by the Building and Construction Trades Department. The decision will be in writing and served upon the parties via e-mail within three working days from the close of the hearing. The decision will not require an opinion.

(d) The fees and expenses of the Mediator/Arbitrator shall be borne equally by the parties if the matter is resolved during mediation or by the losing party or parties, as designated by the Mediator/Arbitrator, if the matter is decided by the Mediator/Arbitrator. To ensure prompt payment, MAC will pay the Mediator/Arbitrator directly but the responsibility to pay the fees and expenses will remain the responsibility of the applicable MAC Local Union(s) and/or contractor, which will reimburse MAC within ten days of receipt of the request for reimbursement.
4. Agreements reached during mediation and decisions of the Mediator/Arbitrator shall be final, binding and conclusive on the MAC Local Unions and contractors involved on the particular MAC project where the disagreement arose and neither the MAC Unions nor the contractor may seek to resolve the matter in any other forum.

Signed this 9th day of January 2007

[Signatures]

United Association of Plumbers, Pipefitters & Sprinklerfitters

International Association of Sheet Metal Workers

International Association of Heat and Frost Insulators & Asbestos Workers

International Brotherhood of Electrical Workers

International Association of Bridge, Structural, Ornamental & Reinforcing Iron Workers

International Union of Elevator Constructors
Agreed to and accepted by: __________________________ for the
(Name of Contractor)

______________________________ (Name of MAC project)

___ day of ____________, 20__.

__________________________________________
Signature of Contractor
Appendix B

National Construction Alliance
Jurisdictional Policy

The jurisdictional boundaries of basic trade and building trade unions are relatively well defined. The vast majority of work task assignments are undisputed. The three basic trades forming the National Construction Alliance have set forth their respective core jurisdictions. The basic trades are committed to honoring their respective, well-established core jurisdictions.

However, when jurisdictional disputes arise, they frequently dominate not only the relationship between the disputing labor organizations but also the relationship between those organizations and the contractor or owner. It is vital to the interests of those working in the construction industry that jurisdictional questions be resolved efficiently and without disruption to the construction process. The NCA is committed to working with owners and contractors to establish a more modern system reflecting the current reality within the construction industry for the resolution of jurisdictional disputes. Accordingly, the NCA will work to facilitate the informal resolution of jurisdictional issues where owners or contractors so desire. Alternatively, the NCA endorses the Jurisdictional Disputes Resolution Procedure, attached hereto, for use on a project-by-project or agreement basis where an owner seeks a formal jurisdictional dispute resolution procedure.

Terrence M. O’Sullivan
General President
Laborers International Union of North America

Vincent J. Cibin
General President
International Union of Operating Engineers

Douglas J. McCarron
General President
United Brotherhood of Carpenters and Joiners of

November 20, 2006
Attachment

Jurisdiction Dispute Resolution Procedure

All questions, complaints or disputes dealing with a determination of craft jurisdiction shall be resolved through the application of the following jurisdictional criteria and procedures.

Work assignments should be made by the contractor and jurisdictional questions, complaints or disputes should be resolved on the basis of the following jurisdictional criteria. In the first instance, questions, complaints or disputes should be resolved on the basis of agreements between the unions, including both international and local area agreements. Where there is no such agreement or the agreement is insufficient to resolve the particular question or dispute, consideration should then be given to both contractor preference and to local area practice. The relative weight to be given to contractor preference as compared to local area practice will vary depending on the circumstances, for example, the inherent weight of reasons advanced by a contractor justifying its preference versus the quality and uniformity of the local area practice.

Jurisdictional disputes shall be resolved through the following procedure:

1. Disputes shall be referred initially to the business representatives of the unions involved in the dispute and to the contractor’s authorized representative, who shall then meet at a location acceptable to all parties. Normally, a jurisdictional dispute will be identified and the meeting between the disputing unions and the contractor’s authorized representative will occur at the pre-job conference. If identification and discussion of the dispute does not occur at the pre-job conference, identification and discussion shall occur as promptly as circumstances permit.

2. Jurisdictional disputes which cannot be resolved at the local level within seven days of being identified may be referred to the international unions involved within five days thereafter. This step shall be deemed exhausted seven days after referral.

3. Jurisdictional disputes not resolved at the local or international union levels may be referred by any party to arbitration within five days of exhaustion of step 2. Referral to arbitration shall be accomplished by submission of a written request for referral to arbitration to Raymond J. Poupart, Executive Vice President of the NCA, at ray@ncabuild.org or (fax) (202) 347-1661, who shall be responsible for administration of the arbitral process. The parties will choose a permanent
arbitrator and an alternate to hear disputes arising under this procedure. The Executive Vice President of the NCA will make arrangements for the timely hearing of the dispute by the permanent arbitrator, or the alternate if the permanent arbitrator is not available.

There shall be no strikes or work stoppages because of any jurisdictional dispute. Pending the resolution of any jurisdictional dispute, the work will continue as originally assigned by the contractor. Illegal strikes or work stoppages because of jurisdictional dispute shall be subject to a fine of up to $50,000 per shift where deemed appropriate by the permanent arbitrator. Claims of the illegal strike or work stoppage subject to such fine may be filed by the contractor directly at Step 3 of this procedure for hearing by the permanent arbitrator. Any determination or resolution made pursuant to this procedure, including determination or resolution by arbitration or mediation, shall be final and binding on the disputing unions and the contractor on this project only and shall not establish a precedent on other project sites.

The following rules shall apply in any arbitration conducted under this procedure:

(a) The jurisdictional dispute or question shall be determined or mediated based upon the jurisdictional criteria, including the priority of the criteria, set forth above.

(b) The hearing will be conducted in the geographical area where the jurisdictional dispute has occurred. Each of the parties' (Employer/Union(s)) cases shall be presented by a representative of their respective organizations. No party will be represented by legal counsel nor will any legal counsel make an appearance at the hearing proceedings.

(c) Each party to the dispute will have one-half hour to present its case. Witnesses may appear but will not be placed under oath. The introduction of any witnesses shall not extend the one-half hour time period. There shall be no objections made during the presentation of cases.

(d) Upon the completion of the one-half hour initial presentations each party will be entitled to a fifteen minute rebuttal period. Such rebuttals will be heard in the same order as the initial presentations. There shall be no objections made during the rebuttal period. Witnesses may be recalled.
(e) At the conclusion of presentations and rebuttals, the Arbitrator will conduct a mediation conference between the parties in an attempt to arrive at a satisfactory resolution to the dispute. This mediation shall not exceed two hours in duration. In the event that mediation resolves the dispute, such resolution will be reduced to writing and signed by the parties and the Arbitrator.

(f) In the event that mediation is not successful, the Arbitrator will close the proceedings and shall have full authority to render a final and binding decision in resolution of the jurisdictional dispute. The decision will be in writing and served upon the parties via e-mail within three working days from the day following the hearing. The decision will not require an opinion.

(g) The losing party(s) as determined by the Arbitrator shall be responsible for the fee and expenses of the Arbitrator. Said fee and expenses will be invoiced to the losing party(s) by the office of the National Construction Alliance.
Appendix C

Jurisdictional Dispute Resolution Procedure

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

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

In rendering his decision, the Arbitrator shall determine:

18 First, whether a previous unabrogated agreement of record or applicable agreement, including a disclaimer agreement, between the National or International Unions to the dispute governs;

19 If the Arbitrator cannot resolve the matter based on No. 1 then if the Arbitrator finds that a previous decision of record governs the case, the Arbitrator shall apply the decision of record in rendering his decision except under the following circumstances. After notice to the other parties to the dispute, prior to the hearing, that it intends to challenge the decision of record, if a trade challenging the decision of record is able to demonstrate that the recognized and established prevailing practice in the locality of the work has been contrary to the applicable decision of record, the Arbitrator may rely on such prevailing practice rather than the decision of record. If the craft relying on the decision of record demonstrates that it has performed the work in dispute in the locality of the job as a prevailing practice, then the Arbitrator shall apply the decision of record in rendering his decision. If the Arbitrator finds that a craft has improperly obtained the prevailing practice in the locality through raiding, the undercutting of wages or by the use of vertical agreements, the Arbitrator shall rely on the decision of record rather than the prevailing practice in the locality;

20 If no decision of record is applicable, the Arbitrator shall then consider the established trade practice in the industry and prevailing practice in the locality; and

21 Only if none of the above criteria is found to exist, the Arbitrator shall then consider that because efficiency, cost or continuity and good management are essential to the wellbeing of the industry, the interests of the consumer or the past practices of the employer shall not be ignored.

   The Arbitrator shall set forth the basis for his decision and shall explain his findings regarding the applicability of the above criteria. If lower-ranked criteria are relied upon, the Arbitrator shall explain why the higher-ranked criteria were not deemed applicable. The Arbitrator’s decision shall only apply to the job in dispute.

7. Unabrogated agreements of record are applicable only to the parties signatory to such agreements. Decisions of record are applicable to all trades.
8. The Arbitrator is not authorized to award back pay or any other damages for a misassignment of work. Nor may any party to this Plan bring an independent action for back pay or any other damages, based upon a decision of an Arbitrator.

9. Each party to the arbitration shall bear its own expense for the arbitration and agrees that the fees and expenses of the Arbitrator shall be borne by the losing party or parties.

10. **ENFORCEMENT**

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

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