PUBLIC WORKS DEPARTMENT

MEMORANDUM

TO: Mayor Mario F. Hernández and Councilmembers

FROM: Al Hernández, Interim City Administrator
       By: Ron Ruiz, Public Works Director

DATE: October 4, 2010

SUBJECT: First Amendment to Project Labor Agreement (Contract No. 1533)

RECOMMENDATION:

It is recommended that the City Council approve the Amendment (Attachment “A”) to Project Labor Agreement (PLA) (Contract No. 1533), extending the duration to September 15, 2015.

BACKGROUND:

1. On September 19, 2005, the City Council approved PLA (Attachment “B”).

2. On September 3, 2010, Mayor Mario E. Hernández met with Richard Slawson, Executive Secretary of the Los Angeles/Orange Counties Building and Construction Trades Council to discuss the PLA.

3. On September 20, 2010, Mayor Hernández directed staff to agendize the extension of the PLA for a City Council Meeting.

ANALYSIS:

The PLA establishes the labor relations policies and procedures for City and contractor awarded Public Works contracts for project work for craft employees represented by the labor unions engaged in project work. The PLA defines “project work” as all construction, rehabilitation and maintenance work performed pursuant to a Public Works contract, which contract is either a prime contract with a contract price exceeding $150,000, or a specialty contract with a contract price exceeding $25,000.

Pursuant to the terms of the PLA, the agreement will terminate in September 2010. An extension of the PLA will allow the established labor relations policies and procedures to remain in effect. The Amendment of the PLA will extend the term of the Agreement for an additional five years (through September 18, 2015). The Amendment will not affect the City’s right to conduct a
review of the effectiveness of the PLA in achieving the City’s objectives. Additionally, the Amendment will not affect the City’s and the Unions’ abilities to mutually consent to future extensions of the PLA.

Since going into effect September 19, 2005, the PLA has been applied to Public Works projects seamlessly, with minimal or no impact to project budgets or timelines.

CONCLUSION:

It is anticipated that City Council’s approval of the PLA extension will continue to provide a number of positive benefits to the community such as: job training opportunities as apprentices; employment opportunities for local labor union employees; and opportunities for local small businesses to work with the City as contractors or suppliers.

BUDGET IMPACT:

None.

ATTACHMENTS:

A. Amendment to Project Labor Agreement (Contract No. 1533a)
B. Project Labor Agreement No. 1533 (dated 9/15/05)
AMENDMENT TO PROJECT LABOR AGREEMENT CONTRACT NO. 1533
CITY PUBLIC WORKS CONTRACTS

This amendment to Project Labor Agreement Contract No. 1533 (“First Amendment”), is dated as of October 4, 2010, and is between the City of San Fernando, a California municipal corporation (the “City”), the Los Angeles/Orange Counties Building and Construction Trades Council (the "Council"), and the signatory Craft Unions (hereinafter, together with the Council, collectively, the “Union” or “Unions”).

RECITALS:

A. The City, the Council, and Unions entered into Project Labor Agreement Contract No. 1533 dated September 19, 2005 (the "Agreement").

B. The Agreement establishes the labor relation policies and procedures for City and Contractors awarded Public Works Contracts for the craft employees represented by the Unions engaged in Project Work.

C. The parties desire to amend duration of the Agreement.

The parties therefore agreement as follows:

2. Subparagraph (a) of Section 19.1 of Article XIX of the Agreement is hereby amended to read as follows:

(a) This Agreement shall be effective on the Effective Date. Final termination of all obligations, rights, and liabilities, and disagreements shall occur upon receipt by the Council of a Notice from the City saying that no work remains within the scope of the Agreement; or September 18, 2015, whichever occurs first, unless there is a mutually agreed upon extension.

Except as otherwise specifically provided in this First Amendment, all other terms and provisions of the Agreement remain in full force and effect.
The parties are signing this First Amendment on the date stated in the introductory clause.

CITY OF SAN FERNANDO  

Mario F. Hernández, Mayor

LOS ANGELES/ORANGE COUNTIES BUILDING AND CONSTRUCTION TRADE COUNCIL  

Richard Slawson, Executive Secretary

ATTEST:

Elena G. Chávez, City Clerk

APPROVED AS TO FORM:

By: Michael Estrada, City Attorney

LOS ANGELES/ORANGE COUNTIES BUILDING AND CONSTRUCTION TRADES COUNCIL’S AFFILIATED CRAFTS

Heat & Frost Insulators Local #5  
Boilermakers Local #92

Bricklayers Local #4  
Tile Layers Local #18

Electrical Workers Local #11  
Elevator Constructors Local #18

Operating Engineers Local #12  
Operating Engineers Local #12

Operating Engineers Local #12  
Gunite #345

Iron Workers Local #416  
Iron Workers Local #433

Laborers Local #300  
Painters District Council #36 & Allied Trades (Glaziers, Resilient Floor & Drywall Taping & Fin.)
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CITY OF SAN FERNANDO

PROJECT LABOR AGREEMENT -

CITY PUBLIC WORKS CONTRACTS
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CITY OF SAN FERNANDO
PROJECT LABOR AGREEMENT -
CITY PUBLIC WORKS CONTRACTS

This Project Labor Agreement (hereinafter, "Agreement") is entered into this September 19, 2005, by and between the City of San Fernando, a California municipal corporation (hereinafter, "City") and the Los Angeles/Orange Counties Building and Construction Trades Council (hereinafter, "Council"), and the signatory Craft Unions (hereinafter, together with the Council, collectively, the "Union" or "Unions").

DEFINITIONS

A. "Applicable Prevailing Wage Determination" as used in this Agreement means the determination of the Prevailing Wage applicable to the particular craft at issue, issued by the Director of the Department of Industrial Relations pursuant to the Prevailing Wage Law.

B. "Contractor" as used in this Agreement means any contractor to whom the City awards a Public Works Contract for Project Work through its public bidding process, and also to subcontractors of whatever tier utilized by such Contractors for Project Work. The term "Contractor" includes any individual, firm, partnership, or corporation, or combination thereof, including joint ventures, which as an independent contractor has entered into such a Public Works Contract with the City, or with another Contractor as a subcontractor under such a Public Works Contract.

C. "Effective Date" as used in this Agreement means the date set forth in the introductory paragraph of this Agreement.

D. "Labor/Management Apprenticeship Program" as used in this Agreement means a joint union and Contractor administered apprenticeship program certified by the State of California.

E. "Letter of Assent" as used in this Agreement means the letter by which a Contractor agrees to comply with the provisions of this Agreement, in the form attached hereto as Attachment A.
F. “Prevailing Wage” as used in this Agreement means the general prevailing rate of per diem wages, established in accordance with Sections 1770 and 1773 of the California Labor Code and related provisions of the Prevailing Wage Law.

G. “Prevailing Wage Law” as used in this Agreement means Sections 1770-1780 of the California Labor Code, and all orders and regulations of the California Department of Industrial Relations issued pursuant to those statutes.

H. “Project Labor Coordinator” as used in this Agreement means the person designated by City to implement and administer this Agreement as the authorized representative of the City, as more particularly set forth in Section 1.2.

I. “Project Work” is defined in Section 2.2.

J. “Public Works Contract” as used in this Agreement has the meaning set forth in Public Contracts Code Section 1101, as it now exists or may subsequently be amended.

K. “Public Works Project” as used in this Agreement means a construction or other project that is the subject of a Public Works Contract.

L. “Schedule A” as used in this Agreement means the local collective bargaining agreements of the signatory unions having jurisdiction over the Project Work, as more particularly described in Section 2.7.

M. “Specialty Contract” as used in this Agreement means a Public Works Contract between the City and no more than one Specialty Contractor.

N. “Specialty Contractor” as used in this Agreement means one of the contractors classified in Section 832 of Title 16 of the California Code of Regulations.
ARTICLE I
INTENT AND PURPOSE

Section 1.1 Purpose Generally. The City, wishing to utilize the most modern, efficient and effective procedures for Public Works Projects, including assurances of a sufficient supply of skilled craft persons, and the elimination of disruptions or interference with Project Work, adopts this Agreement in the best interest of the residents and taxpayers of the City to assist in meeting the goal that the Project Work be completed on time and within budget. This Agreement establishes the labor relations policies and procedures for the City and Contractors awarded Public Works Contracts for Project Work for the craft employees represented by the Unions engaged in Project Work, as more specifically defined in Article II, Section 2.2.

(b) Pursuant to this Agreement, it is the policy of the City that the Project Work be contracted exclusively to Contractors who agree to execute and be bound by the terms of this Agreement, directly or through the Letter of Assent (Attachment A), and to require each of its subcontractors, of whatever tier, to become similarly bound. The City shall include, directly or by incorporation by reference, the requirement of this Agreement in the advertisement of and/or specifications for each and every contract for Project Work to be awarded by the City.

(c) In recognition of the special needs of the Project Work and to maintain a spirit of harmony, labor-management peace and stability during the term of the Project Labor Agreement the parties agree to establish effective and binding methods for the settlement of all misunderstandings, disputes and grievances, and in recognition of such methods and procedures, the Unions agree not to engage in any strike, slowdowns, or interruption or disruption of Project Work, and the Contractors agree not to engage in any lockout, all as more particularly set forth in this Agreement.

Section 1.2 Project Labor Coordinator. The City agrees that it shall actively administer and enforce the obligations of this Agreement to ensure that the benefits envisioned from it flow to all signatory parties, the Contractors and craft persons working under it, and the residents and taxpayers of the City. The City shall, therefore, designate a “Project Labor Coordinator,” either from its own staff or an independent contractor acting on behalf of the City, to monitor compliance with this Agreement; assist, as the authorized representative of the City,
in developing and implementing the programs referenced herein, all of which or critical to fulfilling the intent and purposes of the Parties and this Agreement; and to otherwise implement and administer the Agreement. For such purposes, each Contractor recognizes and designates the Project Labor Coordinator as its agent.

Section 1.3 Identification and Retention of Skilled Labor and Employment of City Residents. The Project Work scheduled to be performed over the term of this Agreement will require large numbers of craft personnel and other supporting workers. It is a fundamental objective of the parties in entering into this Agreement to use the opportunities provided by the extensive amount of work to be covered by this Agreement, through cooperative efforts, programs and procedures, to identify, promote, and facilitate the interest and involvement of City residents in the construction industry, assist them in entering the construction trades, and through utilization of the joint Labor/Management sponsored apprenticeship programs, provide training opportunities for those residents and other individuals wishing to pursue a career in construction, all as more particularly set forth in Sections 3.3 and 3.5 of this Agreement.

Section 1.4 Community Outreach. The Project Work will provide many opportunities for local small business enterprises to participate as Contractors or suppliers, and the parties therefore agree that they will cooperate with all efforts of the City, the Project Labor Coordinator, and other organizations retained by the City for the purpose of encouraging and assisting the participation of local small businesses in Project Work. Each party agrees that it shall employ demonstrable efforts to encourage participation in an effort to achieve such goals. This may include, for example, participation in outreach programs, education and assistance to businesses not familiar with working on Public Works Projects, and the encouragement of local residents to participate in Project Work through programs and procedures jointly developed to prepare and encourage such local residents for apprenticeship programs and formal employment on the Project through the referral programs sponsored and/or supported by the parties to this Agreement.

Section 1.5 Project Cooperation. The smooth operation and successful and timely completion of the Project Work is vitally important to the City of San Fernando and its residents. The parties therefore agree that maximum cooperation among all parties involved is required;
and that with various construction projects involved, with multiple Contractors and crafts performing work on multiple sites of over an extended period of time, it is essential that all parties work in a spirit of harmony and cooperation and with an overriding commitment to maintain the continuity of Project Work.

Further, the parties recognize that an act of god or an act of war could require the City to partially or fully suspend Project Work. The parties shall fully cooperate with any request by the City to redirect their equipment, skills and expertise to support the City's efforts necessitated by such events.

**Section 1.6 Binding Agreement on Parties and Inclusion of City Residents and Business.** By executing this Agreement (or the Letter of Assent), the City, Council, Unions and Contractors agree to be bound by each and all of the provisions of this Agreement and pledge that they will work together to adopt, develop and implement processes and procedures which are inclusive of the residents and businesses of the City.

**ARTICLE II SCOPE OF THE AGREEMENT**

**Section 2.1 General.** This Agreement shall apply and is limited to all new construction, rehabilitation and maintenance work as described in Section 2.2 of this Article, performed by those Contractor(s) of whatever tier that have contracts awarded for such work.

**Section 2.2 Specific.** Except for the exclusions in Sections 2.3 and 2.4, the Project Work that is subject to this Agreement is defined as, and limited to, all construction, rehabilitation and maintenance work performed pursuant to a Public Works Contract awarded by the City more than 30 days after the Effective Date, but at least 30 days prior to the expiration or earlier termination of this Agreement, and which contract is one of the following:

(a) a prime contract for which the contract price exceeds $150,000.00; or

(b) a Specialty Contract for which the contract price exceeds $25,000.
The Project Work also includes all construction, rehabilitation and maintenance work performed pursuant to a subcontract that flows from any such Public Works Contract.

Section 2.3 Exclusions. Items specifically excluded from the scope of this Agreement include the following:

(a) Work of non-manual employees, including but not limited to superintendents; supervisors; staff engineers; quality control and quality assurance personnel; time keepers, mail carriers, clerk, officer workers, messengers, guards, safety personnel, emergency medical and first aid technicians, and other professional, engineering, administrative, supervisory and management employees;

(b) Equipment and machinery owned or controlled and operated by the City;

(c) All off-site manufacture and handling or materials, equipment or machinery; provided, however, that lay down or storage areas for equipment or material and manufacturing (prefabrication) sites, dedicated solely to the Project Work, and the movement of materials or goods between locations on a Project Work site are within the scope of this Agreement;

(d) All employees of the City, Project Labor Coordinator, design teams (including, but not limited to architects, engineers, and master planners), or any other consultants for the City (including, but not limited to, project managers and construction managers and their employees where not engaged in Project Work) and their sub-consultants, and other employees of professional service organizations, not performing manual labor within the scope of this Agreement. Notwithstanding the foregoing, it is understood and agreed that Building/Construction Inspector and Field Soils and Material Testers (inspectors) are a covered craft under this Agreement. This inclusion applies to the scope of work defined in the State of California Wage Determination for that Craft. Every Inspector performing under the Wage classification of Building/Construction Inspector and Field Soils and Material Tester under a professional services agreement of a construction contract shall be bound to all applicable requirements of this Agreement. Nothing in this section will be construed to include Department of State Architects-certified inspectors under the scope of this Agreement;
(e) Any work performed on or near or leading to or into a site of work covered by this Agreement and undertaken by state, county, or other governmental bodies, or their contractors, or by public utilities, or their contractors; and/or by the City or its contractors (for work for which is not within the scope of this Agreement);

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

(g) Supervisory work by employees of a manufacturer or vendor necessary to maintain such manufacturer’s or vendor’s warranties or guaranty;

(h) Non-construction support services contracted by the City Project Labor Coordinator, or by a Contractor in connection with the Project Work;

(i) Laboratory work for testing.

Section 2.4 Coverage Exception. The parties agree and understand that this Agreement shall not apply to any work that would otherwise be covered Project Work except when a governmental agency or granting authority partially or fully funding such work determines that it will not fund if such work is covered by this Agreement; or a law regulation, proposition or measure prohibits such coverage or the use by the City or for its benefit, of particular funds if such coverage exists.

Section 2.5 No Splitting of Project Work. City agrees that, consistent with goals of the City to (i) utilize this Agreement as the labor relations Policy for its construction, rehabilitation and maintenance projects, (ii) promote the employment of City residents on the Project Work and in the construction industry generally, and (iii) fully utilize the services of local small business enterprises for such construction and rehabilitation work, Project Work will not be split, divided or otherwise separated for contract award purposes to avoid application of this Agreement.

Section 2.6 Awarding of Contracts

(a) The City and/or the Contractors, as appropriate, have the absolute right to award contracts or subcontracts for Project Work to any contractor notwithstanding the existence
or non-existence of any agreements between such contractor and any Union parties, provided only that such contractor is willing, ready and able to execute and comply with this Project Labor Agreement should such contractor be awarded work covered by this Agreement.

(b) It is agreed that all Contractors who have been awarded contracts for work covered by this Agreement shall be required to accept and be bound by the terms and conditions of this Project Labor Agreement, and shall evidence their acceptance by the execution of the Letter of Assent in the form set forth in Attachment A hereto, prior to the commencement of work. No Contractor (including subcontractors) shall commence Project Work without having first provided a copy of the Letter of Assent executed by it to the Project Labor Coordinator and to the Council 48 hours before the commencement of Project Work, or within 48 hours after the award of the Project Work to that Contractor (or subcontractor), whichever occurs later.

(c) The City agrees that, to the extent permitted by law and consistent with the economy and efficiency of construction operation, it will use reasonable efforts to purchase materials, equipment and supplies that will not create labor strife. Under all circumstances, however, the City shall retain the absolute right (subject to applicable law) to determine who is to be awarded contracts, including Public Works Contracts.

(d) The Parties agree that this Agreement will be made available to, and will fully apply to, any successful bidder for Project Work, without regard to whether that successful bidder performs work at other sites on either a union or non-union basis. This Agreement shall not apply to any work of any Contractor other than that on Project Work specifically covered by this Agreement.

**Section 2.7 Schedule A’s**

(a) The provisions of this Agreement, including the Schedule A’s, which are the local collective bargaining agreements of the signatory unions having jurisdiction over the work on the Project, as such may be changed from time-to-time consistent with Article XIX, Section 19.3, and which are incorporated herein by reference shall apply to the work covered by this Agreement, notwithstanding the provision of any other local, area and/or national agreement which may conflict with or differ from the terms of this Agreement; provided, however, that
such does not apply to work performed under the National Cooling Tower Agreement, the National Stack Agreement, the National Transit Division Agreement (NTD), or within the jurisdiction of the International Union of Elevator Constructors, except that Articles dealing with Work Stoppages and Lock-Outs, Work Assignments and Jurisdictional Disputes, and Settlement of Grievances and Disputes shall apply to such work. Where a subject covered by the provision of this Agreement is also covered by a Schedule A, the provision of this Agreement shall apply. Where a subject is covered by a provision of the Schedule A and not covered by this Agreement, the provision of the Schedule A shall prevail. Any dispute as to the applicable source between this Agreement and any Schedule A for determining the wages, hours of working conditions of employees on this Project shall be resolved under the procedures established in Article X.

(b) It is understood that this Agreement, together with the referenced Schedule A’s constitutes a self-contained, stand-alone agreement and by virtue of having become bound to this Project Labor Agreement, the Contractor will not be obligated to sign any other local, and/or national collective bargaining agreement as a condition of performing work within the scope of this Agreement (provided, however, that the Contractor may be required to sign an uniformly applied, non-discriminatory Participation Agreement at the request of the trustees or administrator of a trust fund established pursuant to Section 302 of the Labor Management Relations Act, and to which such Contractor is bound to make contribution under this Agreement, provided that such Participation Agreement does not purport to bind the Contractor beyond the terms and condition of this Agreement and/or expand its obligation to make contributions pursuant thereto). It shall be the responsibility of the prime Contractor to have each of its subcontractors sign the Letter of Assent prior to the subcontractor beginning Project Work.

Section 2.8 Binding Signatories Only. This Agreement shall only be binding on the signatory parties hereto, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party.

Section 2.9 Other City Work. This Agreement shall be limited to the Project Work described in Section 2.2 above. Nothing contained herein shall be interpreted to prohibit, restrict or interfere with the performance of any other operation, work or function not covered by this
Agreement, which may be performed by City employees or contracted for by the City for its own account, on its property or in and around a Project site.

Section 2.10 Separate Liability. Is understood that the liability of the Contractor(s) and the liability of the separate Unions under this Agreement shall be several and not joint. The Unions agree that this Agreement does not have the effect of creating any joint employment status between or among the City or Project Labor Coordinator and/or any Contractor.

Section 2.11 Completed Project Work. As areas of covered work are accepted by the City, this Agreement shall have no further force or affect on such items or areas except where the Contractor is directed by the City or its representatives to engage in repairs, modification, checkout and/or warranties functions required by its contract(s) with the City.

ARTICLE III
UNION RECOGNITION AND EMPLOYMENT

Section 3.1 Recognition. The Contractor recognizes the Council and the signatory local Unions as the exclusive bargaining representative for the employees engaged in Project Work. Such recognition does not extend beyond the period when the employee is engaged in Project Work.

Section 3.2 Selection of Employees. The Contractor shall have the right to determine the competency of all employees, the number of employees required, the duties of such employees within their craft jurisdiction, and shall have the sole responsibility for selecting employees to be laid off, consistent with Section 3.6 and with Article IV, Section 4.3 below. The Contractor shall also have the right to reject any applicant referred by a Union for any reason, subject to any reporting pay required by Article VI, Section 6.6; provided, however, that such right is exercised in good faith and not for the purpose of avoiding the Contractor’s commitment to employ qualified workers through the procedures endorsed in this Agreement.

Section 3.3 Referral Procedures.

(a) For signatory Unions now having a job referral system contained in a Schedule A, the Contractor agrees to comply with such system and it shall be used exclusively by such Contractor, except as modified by this Agreement. Such job referral system will be
operated in a nondiscriminatory manner and in full compliance with federal, state, and local laws and regulations which require equal employment opportunities and non-discrimination. All of the foregoing hiring procedures, including related practices affecting apprenticeship, shall be operated so as to consider the goals of the City to encourage employment of City residents and utilization of small local businesses on the Project, and to facilitate the ability of all Contractors to meet their employment needs.

(b) The local Unions will exert their best efforts to recruit and refer sufficient numbers of skilled craft workers to fulfill the labor requirements of the Contractor, including specific employment obligations to which the Contractor may be legally and/or contractually obligated; and to refer apprentices as requested to develop a larger, skilled workforce. The local Unions will work with their affiliated regional and national unions, and jointly with the Project Labor Coordinator and others designated by the City, to identify and refer competent craftpersons as needed for Project Work, and to identify individuals, particularly residents of the City, for entrance into joint labor/management apprenticeship programs, or to participation in other identified programs and procedures to assist individuals in qualifying and becoming eligible for such apprenticeship programs, all maintained to increase the available supply of skilled craft personnel for Project Work and future construction, rehabilitation or maintenance work to be undertaken by the City.

(c) The Unions shall not knowingly refer an employee currently employed by a Contractor on Project Work to any other Contractor.

Section 3.4 Non-Discrimination in Referral, Employment, and Contracting. The Unions and Contractors agree that they will not discriminate against any employee or applicant for employment on the basis of race, color, religion, gender, national origin, age, sexual orientation, marital status or disability.

Section 3.5 Employment of City residents. In recognition of the City’s mission to serve the City and its residents, the Unions and Contractors agree that, to the extent allowed by law, and as long as they possess the requisite skills and qualifications, the Unions shall first refer residents of the City for Project Work, including journeyperson, apprentice, or other positions which may be established under a Schedule A and covered by the Applicable Prevailing Wage
Determination for utilization on Project Work, until at least 30 percent of the positions for a particular Public Works Project that is part of the Project Work (including the Contractor's "core workforce"), by individual craft, have been filled with City residents. The Unions may refer non-City Residents to the Contractor(s) for Project Work on a particular Public Works Project only if:

(a) at least 30 percent of the positions for the Public Works Project, by individual craft, are filled by City residents; or

(b) qualified City residents are not available.

For purposes of this Section 3.5, the words "by individual craft" in reference to determining that 30 percent of the positions for the Public Works Project are filled by City residents, mean that within each craft, 30% of the positions are filled by City residents, such that the 30% goal is not achieved by concentrating City residents all in one or in only a few crafts.

The Project Labor Coordinator shall work with the Unions and Contractors in the administration of this local residency preference; and the Contractors and Unions shall cooperate by maintaining adequate records to demonstrate to the Project Labor Coordinator that such preferences have been pursued. As part of this process, the Unions shall develop programs to prepare persons for entrance into formal apprenticeship programs, and outreach programs to the community describing opportunities available as a result of the Project Work. Further, with the assistance of the Project Labor Coordinator, the City, the Contractors and the Unions will work jointly to promptly develop and implement procedures for the identification of craft needs, the scheduling of work to facilitate the utilization of available craft workers, and the securing of services of craft workers in sufficient numbers to meet the demand of the Project Work to be undertaken.

Section 3.6 Core Employees.

(a) Except as otherwise provided in separate collective bargaining agreement(s) to which the Contractor is signatory, a Contractor or sub-contractor may employ, as needed, first, a member of his core workforce, then an employee through a referral from the appropriate union hiring hall, then a second core employee, then a second employee through the
referral system, and so on until a maximum of five core employees are employed, after which all further employees shall be employed pursuant to the other provisions of this Article, starting with Section 3.3. In laying off, the number of core employees shall not exceed one-half plus one of the workforce for an employer with 10 or less employees, assuming the remaining employees are qualified to undertake the work available.

(b) The core work force is comprised of those employees:

(i) whose names appeared on the Contractor's active payroll for fifty of the one hundred days before award of Project Work to the Contractor;

(ii) who possess any license required by state or federal law for the Project Work to be performed; and

(iii) who have the ability to safely perform the basic functions of the applicable trade.

If there are any questions regarding a core employee's eligibility under this provision, the Project Labor Coordinator, at the Councils request, shall obtain appropriate proof of such from the Contractor. For proof of employment eligibility, quarterly tax records or payroll records normally maintained by the Contractor (or officially recognized substitutes) shall be utilized; and for residency, adequate proof thereof through driver's license, voter registration, postal address, or other official acknowledgments.

Section 3.7 Time for Referral. If any Union's registration and referral system does not fulfill the requirements for specific classifications of covered employees (including residency standards) requested by any Contractor within forty-eight (48) hours (excluding Saturdays, Sundays and holidays), that Contractor may use employment sources other than the union registration and referral services, and may employ applicants meeting such requirements from any other available source. The Contractor should promptly inform the Union of any applicants hired from other sources, and such applicants shall register with the appropriate hiring hall, if any.
Section 3.8  **Lack of Referral Procedure.** If a signatory local Union does not have a job referral system as set forth in Section 3.3 above, the Contractors shall give the Union equal opportunity to refer applicants.

Section 3.9  **Union Membership.** No employee covered by this Agreement shall be required to join any union as a condition of being employed, or remaining employed, for the completion of Project Work; provided, however, that any employee who is a member of the referring Union at the time of referral shall maintain that membership in good standing while employed under this Agreement. All employees shall, however, be required to comply with the union security provisions of the applicable Schedule A for the period during which they are performing on-site Project Work to the extent, as permitted by law, of rendering payment of the applicable monthly working dues and any non-initiation or application fees uniformly required for membership in the Union.

Section 3.10  **Individual Seniority.** Except as provided in Article IV, Section 4.3, individual seniority shall not be recognized or applied to employees working on the Project; provided, however, that group and/or classification seniority in a Union’s Schedule A as of the Effective Date of this Agreement shall be recognized for purposes of hiring and layoffs.

Section 3.11  **Foremen.** The selection and number of craft foremen and/or general foreman shall be the responsibility of the Contractor. All foremen shall take orders exclusively from the designated Contractor representatives. Craft foreman shall be designated as working foreman at the request of the Contractors.

**ARTICLE IV**
**UNION ACCESS AND STEWARDS**

Section 4.1  **Access to Project Sites.** Authorized representatives of the Union shall have access to Project Work sites, provided that they do not interfere with the work of employees and further provided that such representatives fully comply with posted visitor, security and safety rules.
Section 4.2 Stewards.

(a) Each signatory local Union shall have the right to dispatch a working journey person as a steward for each shift, and shall notify the Contractor in writing of the identity of the designated steward or stewards prior to the assumption of such person’s duties as steward. Such designated steward or stewards shall not exercise any supervisory functions. There will be no non-working stewards. Stewards will receive the regular rate of pay for the respective crafts.

(b) In addition to his/her work as an employee, the steward should have the right to receive but not to solicit, complaints or grievances and to discuss and assist in the adjustment of the same with the employee’s appropriate supervisor. Each steward should be concerned only with the employees of the steward’s Contractor and, if applicable, subcontractor(s), and not with the employees of any other Contractor. The Contractor will not discriminate against the steward in the proper performance of his/her union duties.

(c) When a Contractor has multiple, non-contiguous work locations at one site, the Contractor may request and the Union shall appoint such additional working steward(s) as the Contractor requests to provide independent coverage of one or more such locations. In such cases, a steward may not service more than one work location without the approval of the Contractor.

(d) The stewards shall not have the right to determine when overtime shall be worked or who shall work overtime.

Section 4.3 Steward Layoff/Discharge. The relevant Contractor agrees to notify the appropriate Union twenty-four (24) hours before the layoff of a steward, except in the case of disciplinary discharge of just cause. If the steward is protected against such layoff by the provisions of the applicable Schedule A, such provisions shall be recognized when the steward possesses the necessary qualifications to perform the remaining work. In any case in which the steward is discharged or disciplined for just cause, the appropriate Union will be notified immediately by the Contractor, and such discharge or discipline shall not become final (subject to any later filed grievance) until twenty-four (24) hours after such notice have been given.
Section 4.4  Employees on Non-Project Work. On work where the personnel of the City may be working in close proximity to the construction activities covered by this Agreement, the Union agrees that the Union representatives, stewards, and individual workers will not interfere with the City personnel, or with personnel employed by the any other employer not a party to this Agreement.

ARTICLE V
WAGES AND BENEFITS

Section 5.1  Wages. All employees covered by this Agreement shall be classified in accordance with work performed and paid the hourly wage rates for those classifications in compliance with the Applicable Prevailing Wage Determination. If the prevailing wage laws are repealed during the term of this Agreement, the Contractor shall pay the wage rates established under the Schedule A’s, except as otherwise provided in this Agreement.

Section 5.2  Benefits

(a)  Contractors shall pay contributions to the established employee benefit funds in the amounts designated in the appropriate Schedule A and make all employee-authorized deductions in the amounts designated in the appropriate Schedule A. The Contractor and Union agree that only such bonafide employee benefits as accrue to the direct benefit of the employees (such as pension and annuity, health and welfare, vacation, apprenticeship, training funds, etc.) shall be included in this requirement and required to be paid by the Contractor on the Project; such contributions shall not exceed the contribution amounts set forth in the Applicable Prevailing Wage Determination. Contractors directly signatory to one or more of the Schedule A’s are required to make all contributions set forth in those Schedule A’s without reference to the forgoing. Bonafide jointly-trusteed benefit plans or authorized employee deductions programs established or negotiated under the applicable Schedule A or by the parties to this Agreement during the life of this Agreement may be added, subject to the limitations upon such negotiated changes contained in Article XIX, Section 19.3, and provided that the contributions do not exceed the amounts set forth in the Applicable Prevailing Wage Determination.

(b)  The Contractor adopts and agrees to be bound by the written terms of the applicable, legally established, trust agreement(s) specifying the detailed basis on which
payments are to made into, and benefits paid out of, such trust funds for its employees. The Contractor authorized the parties to such trust funds to appoint trustees and successors trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor.

(c) Each Contractor and subcontractor is required to certify to the Project Labor Coordinator that it has paid all benefit contributions due and owing to the appropriate Trust(s) prior to the receipt of its final payment and/or retention. Further, upon timely notification by a Union to the Project Labor Coordinator, the Project Labor Coordinator shall work with any prime Contractor or subcontractor who is delinquent in payments to assure that proper benefit contributions are made, to the extent of requesting the City or the prime Contractor to withhold payments otherwise due such Contractor, until such contributions have been made or otherwise guaranteed.

Section 5.3 Wage Premiums. Wage premiums, including but not limited to pay based on height of work, hazard pay, scaffold pay and special skills are not applicable to work under this Agreement, except to the extent provided for in any Applicable Prevailing Wage Determination.

Section 5.4 Compliance with Prevailing Wage Laws. All complaints regarding possible prevailing wage violations shall be referred to the Project Labor Coordinator for processing, investigation and resolution, and if not resolved within thirty calendar days, may be referred by any party to the state labor commissioner.

ARTICLE VI
HOURS OF WORK, OVERTIME, SHIFTS AND HOLIDAYS

Section 6.1 Hours of Work. Eight (8) hours per day between the hours of 6:00 a.m. and 5:30 p.m., plus one-half (½) hour unpaid lunch approximately mid-way through the shift, shall constitute the standard work day. Forty (40) hours per week shall constitute a regular week’s work. The work week will start on Sunday and conclude on Saturday. The foregoing provisions of this Article are applicable unless otherwise provided in the Applicable Prevailing Wage Determination, or unless changes are permitted by law and such are agreed upon by the
parties. Nothing herein shall be construed as guaranteeing any employee eight (8) hours per day or forty (40) hours per week, or a Monday through Friday work standard work schedule.

Section 6.2  Place of Work. Employees shall be at their place of work (as designated by the Contractor), at the starting time and shall remain at their place of work, performing their assigned functions, until quitting time. The place of work is defined as the gang or tool box or equipment at the employees’ assigned work location or the place where the foremen gives instructions. The parties reaffirm their policy of a fair day’s work for a fair day’s wage. There shall be no pay for time not worked unless the employee is otherwise engaged at the direction of the Contractor.

Section 6.3  Overtime. Overtime shall be paid in accordance with the requirements of the Applicable Prevailing Wage Determination. There shall be no restriction on the Contractor’s scheduling of overtime or the nondiscriminatory designation of employees who will work overtime. There shall be no pyramiding of overtime (payment of more than one form of overtime compensation for the same hour) under any circumstances.

Section 6.4  Shifts and Alternate Work Schedules. In accordance with the requirements of the Applicable Prevailing Wage Determination an alternate starting and quitting time and/or shift work may be performed at the option of the Contractor upon three (3) day’s prior notice to the affected Union(s), unless a shorter notice period is provided for in the applicable Schedule A, and shall continue for a prior of not less that five (5) Working Days. Saturdays and Sundays, if worked, may be used for establishing the five (5) day minimum work shift.

Section 6.5  Holidays. Recognized holidays on the Project Work shall be those set forth and governed by the Applicable Prevailing Wage Determination(s), unless or until such may be, and are, revised by mutual agreement of the parties to this Agreement.

Section 6.6  Show-up Pay. Show-up pay under this Agreement shall be as determined and governed by the Applicable Prevailing Wage Determination(s).
Section 6.7  "Brassing". The Contractor may utilize "brassing" (or similar system) to check employees in and out. Each employee must check himself/herself in and out. The Contractor will provide adequate facilities for checking in and out in an expeditious manner.

Section 6.8  Meal periods. The Contractor will schedule a meal period of no more than one-half hour duration at the work location at approximately mid-point of the schedule shift; provided, however, that the Contractor may, for efficiency of the operation, establish a schedule which coordinates the meal periods of two or more crafts. An employee may be required to work through his meal period because of an emergency or a threat to life or property, or for such other reason as are in the applicable Schedule A, and if he is so required, he shall be compensated in the manner established in the applicable Schedule A.

ARTICLE VII
WORK STOPPAGES AND LOCK-OUTS

Section 7.1  No Work Stoppages or Disruptive Activity. The Council and the Unions signatory hereto agree that neither they, and each of them, nor their respective officers, agents, representatives, or members, shall incite or encourage, condone, or participate in any strike, walk-out, slow-down, picketing, observing picket lines or other activity of any nature or kind whatsoever, for any cause or dispute whatsoever, with respect to or any way related to Project Work, or which interferes with or otherwise disrupts, Project Work, or with respect to or related to the City or Contractors or subcontractors, including, but not limited to, economic strikes, unfair labor practice strikes, safety strikes, sympathy strikes and jurisdictional strikes. Any such actions by the Council, or Unions, or their officers, agents, representatives, or members (or the employees they represent), shall constitute a violation of this Agreement. The Council and the Union shall take all steps necessary to obtain compliance with this Article and neither should be held liable for conduct for which it is not responsible.

Section 7.2  Employee Violations. The Contractor may discharge any employee who violates Section 7.1 above and any such employee will not be eligible for rehire under this Agreement.
Section 7.3  Standing to Enforce. The City or any Contractor affected by an alleged violation of Section 7.1 shall have standing and the right to enforce the obligations established in this Article VII.

Section 7.4  Expiration of Schedule A’s. All employees shall continue to work and to perform all their obligations with respect to Project Work despite the expiration of any Schedule A or other collective bargaining agreement.

Section 7.5  No Lockouts. Contractors shall not cause, incite, encourage, condone or participate in any lock-out of employees with respect to Project Work during the term of this Agreement. The term “lock-out” refers only to a Contractor’s exclusion of employees in order to secure collective bargaining advantage, and does not refer to the discharge, termination or layoff of employees by the Contractor for any reason in the exercise of rights pursuant to any provisions of this Agreement, or any other agreement, nor does “lock-out” include the City’s decision to stop, suspend or discontinue Project Work or any portion thereof for any reason.

Section 7.6  Best Efforts to End Violations. If a Contractor contends that there is any violation of this Article, or of Section 8.3 of Article VIII, it shall notify, in writing, the Executive Secretary of the Council, the Senior Executive of the involved Union(s) and the Project Labor Coordinator. The Executive Secretary and the leadership of the involved Union(s) will immediately instruct, order and use their best efforts to cause the cessation of any violation of the relevant Article.

If the Union contends that any Contractor has violated this Article, it will notify that the Contractor and the Project Labor Coordinator, setting forth the facts which the Union contends violate the Agreement, at least twenty-four (24) hours prior to invoking the procedures of Section 7.7. If the Project Labor Coordinator concurs that a violation has occurred, the Project Labor Coordinator shall promptly order the involved Contractor(s) to cease any violation of this Article.

Section 7.7  Expedited Enforcement Procedure. Any party to this Agreement or the Project Labor Coordinator, may institute the following procedures, in lieu of or in addition to any
other action at law or equity, when breach of Section 7.1 or 7.5, above, or Section 8.3 of Article VIII, is alleged, and not resolved pursuant to Section 7.6.

(a) The party invoking this procedure shall notify John Kagel, who has been selected by the negotiating parties, and whom the parties agree shall be the permanent arbitrator under this procedure. If the permanent arbitrator is unavailable at any time, the party invoking this procedure shall notify one of the alternates selected by the negotiating parties, Joseph Gentile or Chester Briscoe, in that order on an alternating basis. If none of the foregoing arbitrators are available, the party invoking this procedure shall notify one of the arbitrators listed in Section 10.2 of this Agreement. Notice to the arbitrator shall be by the most expeditious means available, with notices to the parties alleged to be in violation, and to the Council if it is a union alleged to be in violation. For purposes of this Article, written notice may be given by facsimile, hand delivery or overnight mail and will be deemed effective upon receipt.

(b) Upon receipt of the notice, the arbitrator named above shall sit and hold a hearing within twenty-four (24) hours if it is contended that the violation still exists, but not sooner than twenty-four (24) hours after notice has been dispatched to the Executive Secretary and the Senior Official(s) as required by Section 7.6.

(c) The arbitrator shall notify the parties of the place and time chosen for this hearing. The hearing shall be completed in one session, which, with appropriate recesses at the arbitrator’s discretion, shall not exceed 24 hours unless otherwise agreed upon by all parties. A failure of any party or parties to attend the hearings shall not delay the hearing of evidence or issuance of any award by the arbitrator.

(d) The sole issue at the hearing shall be whether or not a violation of Sections 7.1 or 7.5 above, or of Section 8.3 of Article VIII, has in fact occurred. The arbitrator shall have no authority to consider any matter in justification, explanation or mitigation of such violation or to award damages (except for liquidated damages as set forth in 7.8 below), 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 an 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 arbitrator’s award. The arbitrator may order cessation
of the violation of the Article and other appropriate relief, and such award shall be served on all parties by hand or registered mail upon issuance.

(e) Such arbitrator’s award shall be final and binding on all parties and may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to herein above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other party. In any judicial proceeding to obtain a temporary order enforcing the arbitrator’s award as issued under Section 7.4(d) of this Article, all parties waive the right to hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party’s right to participate in the hearing for 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 address as shown on this Agreement (for a Union and the City), as shown on their contract for work under this Agreement (for a Contractor), and to the representing Union (for an employee), by certified mail by the party or parties first alleging the violation.

(f) Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance hereto are hereby waived by the parties to whom they accrue.

(g) The fees and expenses of the arbitrator shall be paid by the party or parties initiating this procedure and the respondent party or parties.

Section 7.8 Liquidated Damages

(a) If the Arbitrator determines in accordance with Section 7.7 above that a work stoppage has occurred, the respondent Union(s) shall, within eight (8) hours of receipt of the award, direct all the employees they represent on the Project to immediately return to work. If the craft(s) involved do not return the work by the beginning of the next regularly scheduled shift following such eight (8) hour period after receipt of the arbitrator’s award, and the respondents Union(s) have not complied with their obligations to immediately instruct, order and use their best efforts to cause a cessation of the violation and return the employees they represent to work, then the non-complying respondent Union(s) shall each pay a sum as liquidated
damages to the City, and each will pay an additional sum per shift, as set forth in (c), below, for each shift thereafter on which the craft(s) has not returned to work.

(b) If the arbitrator determines in accordance with Section 7.7 above that a lock-out has occurred, the respondent Contractor(s) shall, within eight (8) hours after receipt of the award, return all the affected employees to work on the Project, or otherwise correct the violation found by the arbitrator. If the respondent Contractor(s) do not take such action by the beginning of the next regularly scheduled shift following the eight (8) hour period, each non-complying respondent Contractor shall pay or give as liquidated damages, to the affected Union(s) (to be apportioned among the affected employees and the benefit funds to which contributions are made on their behalf, as designated by the arbitrator) and each shall pay an additional sum per shift, as set forth in (c), below, for each shift thereafter in which compliance by the respondent Contractor(s) has not been completed.

(c) The arbitrator shall retain jurisdiction to determine compliance with this Section and to establish the appropriate sum of liquidated damages, which shall not be less than $1,000 (one thousand dollars) and no more than $10,000.00 (ten thousand dollars) per shift for each non-complying entity.

ARTICLE VIII
WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

Section 8.1 Assignments of Work. The assignment of work will be solely the responsibility of the Contractor performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the “Plan”) currently in effect, or any successor plan.

Section 8.2 The Plan. All Jurisdictional disputes between or among Building and Construction Trades Unions party to the Plan shall be resolved in accordance with the Plan, or any other plan or method of procedures that may be adopted in the future by the Building and Construction Trades Department of the AFL-CIO. Decisions rendered shall be final, binding and conclusive on the Contractors and Union parties to this Agreement.
Section 8.3  No Work Disruption Over Jurisdiction. All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, disruption, or slow down of any nature and the Contractor’s assignments shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

Section 8.4 Pre-Job Conference. Each Contractor will conduct a pre-job conference with the appropriate affected Union(s) prior to commencing work. The Council and the Project Labor Coordinator shall be advised in advance of all such conferences and may participate if they wish. All work assignments should be disclosed by the Contractor at a pre-job conference held in accordance with industry practice. Should there be any formal jurisdictional dispute raised under Article VIII, the Project Labor Coordinator shall be promptly notified. At the pre-job conference, the Project Labor Coordinator shall review the City’s employment and contracting programs and goals with the participants.

ARTICLE IX
MANAGEMENT RIGHTS

Section 9.1 Contractor and City Rights. The Contractors and the City have the sole and exclusive right and authority to oversee and manage construction operations on Project Work without any limitations unless expressly limited by a specific provision of this Agreement.

In addition to the following and other rights of the Contractors enumerated in this Agreement, the Contractors expressly reserve their management rights and all the rights conferred upon them by law. The Contractor’s rights include but are not limited to, the right to:

(a) Plan, direct and control operations of all work;

(b) Hire, promote, transfer and layoff their own employees respectively as deemed appropriate to satisfy work and/or skill requirements;

(c) Promulgate and require all employees to observe reasonable job rules and security and safety regulation;

(d) Discharge, suspend or discipline their own employees for just cause;
(e) Utilize, in accordance with City approval any work methods, procedures or techniques, and select, use and install any types or kinds of materials, apparatus or equipment, regardless of source of manufacture or construction; assign and schedule work at their discretion; and

(f) assign overtime, determine when it will be worked and the number and identity of employees engaged in such work, subject to such provisions in the applicable Schedule A(s) requiring such assignments be equalized or otherwise made in a non-discriminatory manner.

Section 9.2 Specific City Rights. In addition to the following and other rights of the City enumerated in this Agreement, the City expressly reserves its management rights and all the rights conferred on it by law. The City’s rights (and those of the Contractor Administrator on its behalf) include but are not limited to the right to:

(a) Inspect any construction site or facility or project to ensure that the Contractor follows the applicable safety and other work requirement;

(b) Require Contractors to establish a different work week or shift schedule for particular employees as required to meet the operational needs of the Project Work at a particular locations or in order to accommodate the problems at various project sites where schedules may interfere with City or residents requirements during construction activity;

(c) At its sole option, terminate, delay and/or suspend any and all portions of the covered work at any time; prohibit some or all work on certain days or during certain hours of the day to accommodate the ongoing operations of the City’s facilities and/or to mitigate the effect of ongoing Project Work on businesses and residents in the neighborhood of the project site; and/or require such other operational or schedule changes it deems necessary, in its sole judgment, to effectively maintain its primary mission and remain a good neighbor to those in the area of its facilities. In order to permit the Contractors and unions to make appropriate scheduling plans, the City will provide the Project Labor Coordinator, and the affected Contractor(s) and Union(s) with reasonable notice of any changes it requires pursuant to this
section; provided, however, that if notice is not provided in time to advise employees not to report for work, show-up pay shall be due pursuant to the provision of Article VI, Section 6.6;

(d) Approve any work methods, procedures and techniques used by Contractors whether or not these methods, procedures or techniques are part of industry practices or custom; and

(e) Investigate and process complaints, through its Project Labor Coordinator, in the matter set forth in Articles VII and X.

Section 9.3 Use of Materials. There shall be no limitations or restriction by Union upon a Contractor's choice of materials or design, nor, regardless of source or location, upon the full use and utilization, of equipment, machinery, packaging, precast, prefabricated, prefinished, or pre-assembled materials, tools or other labor saving devices, subject to the applicable provisions of the State Public Contract and Labor Codes. Generally, the onsite installation or application of such items shall be performed by the craft having jurisdiction over such work.

Section 9.4 Special Equipment, Warranties and Guaranties

(a) The parties recognize that certain equipment of highly technical and specialized nature may be installed at Project Work sites. The nature of the equipment, together with the requirements for manufacturer’s warranties, may dictate that it be prefabricated, pre-piped and/or pre-wired and that it be installed under the supervision and direction of the City’s and/or manufacturer’s personnel. The Unions agree that such equipment is to be installed without incident.

(b) The parties recognized that the Contractor will initiate from time to time the use of new technology, equipment, machinery, tools, and other labor-savings devices and methods of performing Project Work. The Union agrees that they will not restrict the implementation of such devices or work methods. The Unions will accept and will not refuse to handle, install or work with any standardized and/or catalogue parts, assemblies, accessories, prefabricated items, pre-assembled items, partially assembled items, or materials whatever their source of manufacture or construction.
(c) If any disagreement between the Contractor and the Unions concerning the methods of implementation or installation of any equipment, or device or item, or method of work, arises, or whether a particular part or pre-assembled item is standardized or catalog part or item, the work will proceed as directed by the Contractor and the parties shall immediately consult over the matter. If the disagreement is not resolved, the affected Union(s) shall have the right to proceed through the procedures set forth in Article X.

Section 9.5 No Less Favorable Treatment. The parties expressly agree that Project Work will not receive less favorable treatment than that on any other project which the Unions, Contractors and employees work.

ARTICLE X
SETTLEMENT OF GRIEVANCES AND DISPUTES

Section 10.1 Cooperation and Harmony on Site.

(a) This Agreement is intended to establish and foster continued close cooperation between management and labor. The Council shall assign a representative to the Project Work for the purpose of assisting the local Unions, and working with the Project Labor Coordinator, together with the Contractors, to complete the Project Work economically, efficiently, continuously and without any interruption, delays or work stoppages.

(b) The Project Labor Coordinator, the Contractors, Unions, and employees collectively and individually, realize the importance to all parties of maintaining continuous and uninterrupted performance of Project Work, and agree to resolve disputes in accordance with the grievance provisions set forth in this Article or, as appropriate, those of Articles VII or VIII.

(c) The Project Labor Coordinator shall oversee the processing of grievances under this Article and Articles VII and VIII, including the scheduling and arrangements of facilities for meetings, selection of the arbitrator from the agreed - upon panel to hear the case, and any other administrative matters necessary to facilitate the timely resolution of any dispute; provided, however, it is the responsibility of the principal parties to any pending grievance to insure the time limits and deadlines are met.
Section 10.2 Processing Grievances. Any questions arising out of and during the term of this Agreement involving its interpretation and application, which includes applicable provisions of the Schedule A's, but not jurisdictional disputes or alleged violations of the Article VII Section 7.1 and 7.4 or similar provisions, shall be considered a grievance and subject to resolution under the following procedures.

Step 1.- Employee Grievances. When any employee subject to the provisions of this Agreement feels aggrieved by an alleged violation of this Agreement, the employee shall, through his local Union business representative or job steward, within ten (10) Working Days after the occurrence or knowledge of the violation, give notice to the work site representative of the involved Contractor stating the provision(s) alleged to have been violated. A business representative of the local Union or the job steward and the work site representative of the involved Contractor shall meet and endeavor to adjust the matter within ten (10) Working Days after timely notice has been given. If they fail to resolve the matter within the prescribed period, the grieving party may, within ten (10) Working Days thereafter, pursue Step 2 of this grievance procedure provided the grievance is reduced to writing, setting forth the relevant information, including a short description thereof, the date on which the alleged violation occurred, and the provision(s) of the Agreement alleged to have been violated. Grievances and disputes settled at Step 1 shall be non-precedent except as to the parties directly involved.

Union or Contractor Grievances. Should the Unions(s) or any Contractor have a dispute with the other party(ies) and, if after conferring within ten (10) Working Days after disputing party knew or should have known of the facts or occurrence rise to the dispute, a settlement is not reached within five (5) Working Days, the dispute shall be reduced to writing and processed to Step 2 in the same matter as outlined above for the adjustment of an employee complaint.

Step 2. The business manager of the involved local Union or his designee, together with the site representative of the involved Contractor, and the labor relations representative of the Project Labor Coordinator, shall meet within seven (7) Working Days of the referral of the dispute to this second step to arrive at a satisfactory settlement thereof. If the parties fail to reach an agreement, the dispute may be appealed in writing in accordance with the provisions of Step 3 within seven (7) calendar days after the initial meeting at Step 2.
Step 3. (a) If the grievances shall have been submitted but not resolved under Step 2, either the Union or Contractor party may request in writing to the Project Labor Coordinator (with copy(ies) to other party(ies)) within seven (7) calendar days after the initial Step 2 meeting, that the grievance be submitted to an arbitrator selected from the agreed upon list below, on a rotating basis in the order listed. Those arbitrators are: (1) Joseph Gentile; (2) Michael Prihar; (3) Chester Brisco; and (4) Wayne Estes. The decision of the arbitrator shall be final and binding on all parties and the fee and expenses of such arbitrations shall be borne equally by the involved Contractors(s) and the involved union(s).

(b) Failure of the grieving party to adhere to the time limits established herein shall render the grievance null and void. The time limits establish herein may be extended only by written consent of the parties involved at the particular step where the extension in agreed upon. The arbitrators shall have the authority to make decisions only on issues presented and shall not have the authority to change, amend, add to or detract from any of the provisions of this Agreement.

Section 10.3 Limit on Use of Procedures. Procedures contained in this Article shall not be applicable to any alleged violation of Article VII or VIII, with a single exception that any employee discharged for violation of Article VII, Section 7.2, or Article VIII, Section 8.3, may resort to the procedures of this Article to determine only if he/she was, in fact engaged in that violation.

Section 10.4 Notice. The Project Labor Coordinator (and the City, in case of any grievance regarding the Scope of this Agreement), shall be notified by the involved Contractor of all actions at Steps 2 and 3, and further, the Project Labor Coordinator shall, upon its own request, be permitted to participate fully as a party in all proceedings at such steps.

ARTICLE XI
REGULATORY COMPLIANCE

Section 11.1 Compliance with All Laws. The Council and all Unions, Contractors, subcontractors and their employees shall comply with all applicable federal and state laws,
ordinances and regulations including, but limited to, those relating to safety and health, employment and applications for employment. All employees shall comply with the safety regulations established by the City, the Project Labor Coordinator or the Contractor. Employees must promptly report any injuries or accidents to a supervisor.

**Section 11.2 Monitoring Compliance.** The parties agree that the City shall require, and that the Project Labor Coordinator and Council shall monitor, compliance by all Contractors and subcontractors with all federal and state laws and regulation that, from time to time may apply to Project Work. It shall be the responsibility of both the Council and the Project Labor Coordinator (on behalf of the City) to investigate or monitor compliance with these various laws and regulations. The Council may recommend to the Project Labor Coordinator and/or the City procedures to encourage and enforce compliance with these laws and regulations.

**Section 11.3 Prevailing Wage Compliance.** The Council or Union shall refer all complaints regarding any potential prevailing wage violation to the Project Labor Coordinator, who on its own, or with the assistance of the City’s labor compliance program, shall process, investigate and resolve such complaints, consistent with Article V, Section 5.4. The Council or Union, as appropriate, shall be advised in a timely manner with regard to the facts and resolution, if any, of any complaint. It is understood that this Section does not restrict any individual rights as established under the State Labor Code, including the rights of an individual to file a complaint with the State Labor Commissioner.

**Section 11.4 Violations of Law.** Based upon a finding by the City of a violation of federal or state law, and upon notice to the Contractor that it or its subcontractors is in such violation, the City, in the absence of the Contractor or subcontractor remedying such violation, shall take such action as it is permitted by law or contract to encourage that Contractor to come into compliance, including, but not limited to, assessing fines and penalties and/or removing the offending Contractor from Project Work. Additionally, in accordance with the agreement between the City and the Contractor, the City may cause the Contractor to remove from Project Work any subcontractor who is in violation of state or federal law.
ARTICLE XII
SAFETY AND PROTECTION OF PERSON AND PROPERTY

Section 12.1 Safety

(a) It shall be the responsibility of each Contractor to ensure safe working conditions and employee compliance with any safety rules contained herein or established by the City, the Project Labor Coordinator or the Contractor. It is understood that employees have an individual obligation to use diligent care to perform their work in a safe manner and to protect themselves and the property of the Contractor and the City.

(b) Employees shall be bound by the safety, security and visitor rules established by the Contractor, the Project Labor Coordinator and/or the City. These rules will be published and posted. An employee’s failure to satisfy his/her obligations under this section will subject him/her to discipline, up to and including discharge.

Section 12.2 Suspension of Work for Safety. A Contractor may suspend all or a portion of the job to protect the life and safety of the employees. In such cases, employees shall be compensated only for the actual time worked; provided, however, that where the Contractor requests employees to remain at the site and be available for work, the employees will be compensated for stand-by time at their basic hourly rate of pay.

Section 12.3 Water and Sanitary Facilities. The Contractor shall provide adequate supplies of drinking water and sanitary facilities for all employees as required by state law or regulation.

ARTICLE XIII
TRAVEL AND SUBSISTENCE

Travel expenses, travel time, subsistence allowances and/or zone rates and parking reimbursements shall not be applicable to work under this Agreement, except to the extent provided for in any Applicable Prevailing Wage Determination. Parking for employees covered by this Agreement shall be provided by the Contractor(s) according to the provision of the Schedule A(s) existing on the Effective Date of this Agreement.
ARTICLE XIV
APPRENTICES

Section 14.1  Training. The parties recognize the need to maintain continuing support of the programs designed to develop adequate numbers of competent workers in the construction industry, the obligation to capitalize on the availability of the local work force in the City, and the opportunities to provide continuing work under the construction program funded by the City and other public agencies. To these ends, the parties will facilitate, encourage, and assist local residents to commence and progress in Labor/Management Apprenticeship and/or training Programs in the construction industry leading to full participation in the construction industry. The City, Project Labor Coordinator, other City consultants, and the Council, will work cooperatively to identify, or establish and maintain, effective programs and procedures for persons interested in entering the construction industry and which will help prepare them for the formal joint labor-management apprenticeship programs maintained jointly by the signatory unions and Contractors. The Unions acknowledge that it is of particular importance to the City that these efforts be directed towards City residents and towards local schools. The Council shall designate someone to be available (both in person and via telephone) at the Council office during business hours who shall be knowledgeable about the above referenced Labor/Management Apprenticeship and/or training Programs.

Section 14.2  Use of Apprentices.

(a)  Apprentices may comprise up to thirty (30) percent of each craft’s work force at any time, unless the standards of the applicable joint apprenticeship committee confirmed by the State Labor Commissioner establish a lower maximum percentage, and where such in the case, the applicable unions should use its best efforts with the committee and, if necessary, the Commissioner to permit up to permit up to thirty percent apprentices on the project.

(b)  The Unions agree to cooperate with the Contractor in furnishing apprentices as requested up to the maximum percentage. The apprentices ratio for each craft shall be in compliance, at a minimum, with the applicable provisions of the Labor Code relating to utilization of apprentices. The City shall encourage such utilization, and, both as to
apprentices and the overall supply of experienced workers, the Project Labor Coordinator will work with the Council to assure appropriate and maximum utilization of apprentices and the continuing availability of both apprentices and journey persons.

(c) The parties agree that apprentices will not be dispatched to Contractors working under this Agreement unless there is a journeymen or other Contractor employee working on the Project where the apprentice is to be employed who is qualified to assist and oversee the apprentice’s progress through the program in which he is participating.

Section 14.3 Joint Subcommittee on Training and Apprenticeship. To carry out the intent an purpose of this Article, a subcommittee of the Labor Management Committee established pursuant to Article XVII shall be established, jointly chaired by a designee of the City and a designee of the Council, to oversee the identification and/or effective development of procedures and programs leading to the full utilization of apprenticeship programs, and to work with representatives of each signatory craft’s joint apprenticeship committee (“JAC”) and representatives of the City’s area technical schools to establish appropriate criteria for recognition by such JACs of the educational and work experience possessed by City residents toward qualifying for entry or advanced level in the apprenticeship programs under the direction under such JACs. The Subcommittee will meet as necessary at the call of the joint chairs to promptly to facilitate its purposes in an expeditious manner as soon as this Agreement becomes effective. In addition to the joint chairs, the membership of the committee will consist of at least three representatives of the signatory local Unions and representatives of the Joint Apprenticeship Committees.

ARTICLE XV
WORKING CONDITIONS

Section 15.1 Rest Periods. There will be no non-working times established during working hours except as may be required by applicable state law or regulations. Rest period as provided in IWC Order No. 16 (currently ten (10) minutes in each four hours worked) shall apply to all Project Work, consistent with its terms as in effect.

Section 15.2 Work Rules. The City, the Project Labor Coordinator, and/or relevant Contractor shall establish such reasonable work rules as they deem appropriate and not
inconsistent with this Agreement. These rules will be posted at the work sites by the Contractor and may be amended thereafter as necessary. Failure to observe these rules and regulations by employees may be grounds for discipline up to and including discharge.

Section 15.3 Emergency Use of Tools and Equipment. There should be no restrictions on the emergency use of any tools by any qualified employee or supervisor, or on the use of any tools or equipment for the performance of work within the jurisdiction, provided the employee can safely use the tools and/or equipment involved and in compliance applicable governmental rules and regulations.

Section 15.4 Access Restrictions for Cars. Recognizing the nature of the work being conducted on the site, employee access by a private automobile may be limited to certain roads and/or parking areas.

ARTICLE XVI

[INTENTIONALLY LEFT BLANK]

ARTICLE XVII
LABOR/MANAGEMENT AND COOPERATION

Section 17.1 Joint Committee. The parties to this Agreement will form a joint committee consisting of representatives selected by the Council and Project Labor Coordinator, to be chaired jointly by a representative of the Project Labor Coordinator and the Council. The purpose of the Committee shall be to promote harmonious and stable labor management relations on this Project, to ensure affective and constructive communication between labor and management parties, to advance the proficiency of work in the industry, and evaluate and ensure an adequate supply of skilled labor for all Project Work. Representatives of the City may participate upon its request.

Section 17.2 Functions of Joint Committee. The Committee shall meet on a schedule to be determined by the Committee or at the call of joint chairs to discuss the administration of the Agreement, the progress of the Project, general labor management problems that may arise, and
any other matters consistent with this Agreement. Substantive grievances or disputes arising under Articles VII, VIII or X shall not be reviewed or discussed by this Committee, but shall be processed pursuant to the provisions of the appropriate Article.

The Project Labor Coordinator shall be responsible for the scheduling of the meetings, the preparation of the agenda topics for the meetings, with input from the Unions the Contractors and the City. Notice of the date, time and place of meetings, shall be given to the Committee members at least seven (7) days prior to the meeting. The City should be notified of the meetings and invited to send a representative(s) to participate.

The Project Labor Coordinator may prepare quarterly reports on the overall goals of the Project Labor Agreement. The Committee, or an appropriate subcommittee, may review such reports and make any recommendations for improvement, if necessary.

Section 17.3 Subcommittees. The Committee may form subcommittees to consider and advise the full Committee with regard to safety and health issues effecting the Project and other similar issues affecting the overall Project, including any workers compensation program initiated under this Agreement.

ARTICLE XVIII
GENERAL PROVISIONS

Section 18.1 Savings Clause. It is not the intention of the City, the Project Labor Coordinator, Contractor or the Union parties to violate any laws governing the subject matter of this Agreement. The parties hereto agree that in the event any provision of this Agreement is finally held or determined to be illegal or void, as being in contravention of any applicable law or regulation, the remainder of the Agreement shall remain in full force and effect unless the part or parts to be void are wholly inseparable from the remaining portions of this Agreement. Further, the parties agree that if and when any provision(s) of this Agreement is finally held or determined to be illegal or void by a court of competent jurisdiction, the parties will promptly enter into negotiations concerning the substantive affect of such decision for the purpose of achieving conformity with the requirements of any applicable laws and the intent of the parties hereto. If the legality of this Agreement is challenged and any form of injunctive relief is granted by any court, suspending temporarily or permanently the implementation of this
Agreement, then the parties agree that all Project Work that would otherwise be covered by this Agreement should be continued to be bid and constructed without application of this Agreement so that there is no delay or interference with the ongoing planning, bidding and construction of any Project Work.

**Section 18.2  Effect of Injunctions or Other Court Orders.** The parties recognize the right of the City to withdraw, at its absolute discretion, the utilization of the Agreement as part of any bid specification should a Court of competent jurisdiction issue any other order, or any applicable statute which could result, temporarily or permanently in delay of the bidding, awarding and/or construction of the Project. Notwithstanding such an action by the City, or such court order or statutory provision, the parties agree that the Agreement shall remain in full force and effect on covered Project Work to the maximum extent legally possible.

**Section 18.3  Waiver.** A waiver of or a failure to assert any provisions of this Agreement by any or all of the parties hereto shall not constitute a waiver of such provision for the future. Any such waiver shall not constitute a modification of the Agreement or change in the terms and conditions of the Agreement and shall not relieve, excuse or release any of the parties from any of their rights, duties or obligations hereunder.

**Section 18.4  Amendment.** The provisions of this Agreement can be negotiated, supplemented, rescinded or otherwise altered only by mutual agreement in writing, hereafter signed by the parties hereto.

**Section 18.5  Interpretation.** The use of masculine or feminine gender or titles in this Agreement should be construed as including both genders and not as gender limitations unless the Agreement clearly requires a different construction. Further, the use of Article titles and or Section headings are for information only, and carry no legal significance.

**Section 18.6  Days.**

(a) All references in this Agreement to a number of days in which either party shall have to consent, approve or perform shall mean calendar days unless specifically stated to be Working Days.
(b) "Working Day" means a day on which any Project Work is performed.

Section 18.7 Entire Agreement.

(a) This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties regarding all or any part of the subject matter hereof.

(b) The Union and all Contractors agree to abide by the terms and conditions of this Agreement and that this Agreement represents the complete understanding of the parties. No Contractor is or will be required to sign or otherwise become a party to any other collective bargaining agreement with a signatory union as a condition of performing work within the scope of this Agreement. No practice, understanding or agreement between a Contractor and a Union party which is not specifically set forth in this Agreement shall be binding on any third party Contractor or union on Project Work unless endorsed in writing by the Project Labor Coordinator.

Section 18.8 Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which together shall constitute one and the same agreement.

ARTICLE XIX
DURATION OF THE AGREEMENT

Section 19.1 Duration

(a) This Agreement shall be effective on the Effective Date. Final termination of all obligations, rights, and liabilities, and disagreements shall occur upon receipt by the Council of a Notice from the City saying that no work remains within the scope of the Agreement; or September 18, 2010, whichever occurs first, unless there is a mutually agreed upon extension.

(b) Notwithstanding paragraph (a) of this Section 19.1, City reserves the right to conduct a review of the effectiveness of this Agreement in achieving the City's objectives as set forth in Article I. Any such review may be conducted at any time after the expiration of three
years after the Effective Date. The Unions (including the Council) shall cooperate fully with the performance review, and provide within fifteen (15) days of request, all employment records and other information deemed reasonable or convenient by City for purposes of conducting the performance review. The Union’s failure to cooperate or provide all requested information shall be considered an event of default. If, as a result of the performance review and in the exercise of its reasonable discretion, the City determines that implementation of this Agreement is not satisfactorily achieving the City’s objectives as set forth in Article I, the City may terminate this Agreement upon twenty-one days written notice to the Unions.

(c) This Agreement may be extended by mutual consent of the City and the Unions.

Section 19.2 Turnover and Final Acceptance of Complete Work. Construction of any phase, portion, section, or segment of Project Work shall be deemed complete when such phase, portion, section or segment has been turned over to the City by the Contractor and the City has accepted such phase, portion, section, or segment. As areas and systems of the Project and inspected and construction-tested and/or approved and accepted by the City or third parties with the approval of the City, the Agreement shall have no further force or effect on such items or areas, except when the Contractor is directed by the City to engage and repairs or modifications required by its contract(s) with the City.

Section 19.3 Continuation of Schedule A’s. Schedule A’s incorporated as part of this Agreement shall continue in full force and effect, as previously stated, until the contractor and union parties to the collective bargaining agreement(s) which are the basis for such Schedule A’s notify the Project Labor Coordinator of the mutually agreed upon changes in such agreements and their effective date(s).

The parties agree to recognize and implement all applicable changes on their effective dates, except as otherwise provided by this Agreement; provided, however, that any such provisions negotiated in such collective bargaining agreements will not apply to work covered by this Agreement if such provisions are less favorable to the Contractor under the Agreement than those uniformly required of Contractors for construction work normally covered by those agreements; nor shall any provision be recognized or applied if it may be construed to apply
exclusively or predominately to work covered by this Agreement. Any disagreement between the parties over the incorporation into a Schedule A of any such provision agreed upon in an negotiation of the Local Collective Bargaining Agreement which is the basis for a Schedule A, shall be resolved under the procedures established in Article X.

In witness whereof the parties have caused this Project Labor Agreement for City of San Fernando Public Works Projects to be executed as of the date and year above stated.

CITY OF SAN FERNANDO

By: ___________________________
    Nury Martinez, Mayor

LOS ANGELES ORANGE COUNTIES
BUILDING AND CONSTRUCTION
TRADES COUNCIL

By: ___________________________
    Richard Slawson, Executive Secretary

Project Name: CITY OF SAN FERNANDO PUBLIC WORKS CONTRACTS

LOS ANGELES/ORANGE COUNTIES BUILDING AND CONSTRUCTION TRADES COUNCIL'S AFFILIATED CRAFTS:

-42-
LOS ANGELES/ORANGE COUNTIES BUILDING AND CONSTRUCTION TRADES COUNCIL’S AFFILIATED CRAFTS:

Heat & Frost Insulators Local #5
Rafael Martinez

Bricklayers Local #4
Bernie Perez

Electrical Workers Local #11
Pat Barger

Operating Engineers Local #12
Robert N. Burns

Operating Engineers Local #12
John D. Clark

Iron Workers Local #416
Dennis R. Walker

Laborers Local #300
George J. V. Rez

U.A. Steamfitters Local #250
Bernie Perez

U.A. Irrigation & Landscape Local #345
John Wann

Plasterers Local #200
Daniel C. Shanahan

Roofers Local #36
Clay Brown

Teamsters Local #986
Edward J. Maquieira

Boilermakers Local #92
Charles Sena

Tile Layers Local #18
Eddie Smith

Elevator Constructors Local #18
Steve A. Miller

Operating Engineers Local #12
Guy C. Alphonso

Guinne #345
Michael Williams

Iron Workers Local #433
Tim D. Lewis

Painters District Council #36 & Allied Trades
(Glaziers, Re cartel Floor & Drywall Taping & Fin.)

Mike Ayre

U.A. Plumbers Local #761
Michael P. Funk

U.A., Fire Protection Fitters Local #709
Carl C. Clark

Cement Masons Local #500
James Cohn

Sheet Metal Workers Local #105


PROJECT LABOR AGREEMENT
LETTER OF ASSENT

A  To be considered for award, bidders must agree to abide and be bound by the Project Labor Agreement (PLA) between the City of San Fernando and the Los Angeles and Orange Counties Building and Construction Trades Council, (The Building Trades Council) and Signatory Craft Unions:

B  Bidders must complete this form in its entirety and submit this documents as part of their bid.

C  Failure to submit this form in its entirety will render the bid non-responsive.

This Certifies and confirms that ________________________________

COMPANY NAME

has read and agrees to abide and be bound by the Project Labor Agreement (PLA) as entered into and between the City of San Fernando and the Building Trades Council executed on September 19, 2005 as such Project Labor Agreement may be amended from time to time by the parties or interpreted pursuant to its terms. A copy of the PLA is attached hereto and made a part hereof.

The obligation to abide and be bound by the Project Labor Agreement shall extend to all work covered by said Agreement undertaken by Bidder on the ________________________________ project, pursuant to Bid No. or Contract No. _____________________. Bidder shall require all its subcontractors of whatever tier to become similarly bound for all their work within the scope of the Project Labor Agreement by executing a certification or letter of assent in terms substantially identical to this document.

DATE: ________________

BY: ____________________________

SIGNATURE AND TITLE OF BIDDER

END OF DOCUMENT