SUMMARY RECOMMENDATION
Staff recommends City Council adopt a resolution authorizing the City Manager to execute a series of related agreements for the provision of labor to the Roseville Energy Park (REP):
- Project Labor Agreement (PLA)
- Maintenance Agreement (MA)
- Neutrality Agreement
- Transmission Construction Agreement
- Lead Agreement

BACKGROUND
Overall Objective
The City of Roseville and Roseville Electric (RE) are committed to providing the most reliable and affordable cost of electric power to its ratepayers and at the same time to do so in an environmentally responsible manner. The changes underway and anticipated within the California electric power industry make it essential for RE to look forward and position itself to maintain its competitive and reliable position. To that end, given the uncertainty of future supplies to meet load growth within the state and other regulatory changes, the REP is expected to be a cornerstone of giving RE the ability to meet the challenges of providing reliable and affordable power to its customers.

Status of REP Permitting
The REP is in the middle of a permit review process under the California Energy Commission (CEC) which has the sole authority to license power projects the size of REP. An organization called California Unions for Reliable Energy (CURE) has in the past intervened on most power projects in the CEC process. On those projects that agree to a PLA and the related other agreements, CURE’s involvement has been light and supportive. On those projects that do not sign PLA’s, CURE’s involvement has been heavy and adverse to the interests of the project sponsor. CURE is the only intervenor on the REP permit before the CEC and is in position to adversely influence the REP under the CEC permitting process. The liberal CEC procedures maximize public access to the process, thus providing an effective format for opposing a permit application. To prevent
disruption and delay of the REP permitting process due to actions by CURE, a PLA and associated other agreements (together, the Project Agreements, or PA’s) have been negotiated with CURE. These agreements are essentially the same as similar agreements entered for the City of Santa Clara’s power project now under construction. These agreements would remove CURE as an adverse intervenor against the project and place them in a position of supporting the project permitting process. However, as with any business decision, there are pros and cons of taking any course of action. The key question for the City and RE is what is the cost of proceeding under a PLA vs resisting a PLA. These points are addressed in more detail below.

Cost of a PLA
Unfortunately, no hard facts or data exist to estimate the cost of implementing a PLA for a power project.

The following are known facts that relate to this issue:

- Virtually all power plant construction in CA has been performed under a PLA and has used union craft labor. Thus, the skilled craft laborers with experience on power plants are nearly all union. This pool of experienced craft labor could offset any potential higher costs associated with union work rules that may affect productivity.
- The City must require its contractors to use, as a minimum, prevailing wages, which are close to or the same as union wages.
- The PLA will require a 25 cent payment (for each hour of construction labor worked) to the union trust fund, totaling about $100,000 during the construction phase.

The following are best characterized as anecdotal, as no known data exists to support either position:

- The anti-union lobby claims a 20% labor cost premium under a PLA. Because union and non-union labor rates are essentially the same, if this is true, it must be based on less efficient union work rules and resulting lower productivity. For REP, if this is true, it would result in approximately a $6 million additional cost for the project, which is estimated to cost in the $150 million range. However, the REP cost estimate already assumes a PLA and union labor.
- The unions and CURE claim there is no cost premium under a PLA.

Bottom line for a PLA: anywhere from zero to $6 million cost impact plus no loss of schedule and less risk.
Cost of Resisting a PLA:
Based on actual power plant experiences in California, the potential costs of resisting a PLA for REP are estimated below:

- Extra consultant and legal costs to respond to permitting challenges: $3 to $5 million. This results from responding to extra data requests, preparing additional technical and environmental impact data, hiring expert witnesses to testify at formal hearings, possibly defending legal challenges to the permit, etc.
- Additional environmental mitigation costs as a result of challenges under the permitting process: difficult to predict, but could range from zero to $10 million or more for the REP
- Project schedule delay of ~18 months due to permitting challenges, both at the CEC, other agencies, and in court. This would result in a delay of REP commercial operation from January, 2007 to July, 2008.
- REP would provide over half of the City's electricity; if REP is delayed the City will be forced to enter the marketplace to purchase replacement power. The normal cost of this 18 month supply of replacement power, if purchased under long term contracts, would be about $70 million. However, this price would be subject to uncertainty and market pricing risks that could increase this cost. (For example, if the replacement power cost were to increase by 10% due to a rise in market prices, the cost would increase by $7 million and would require a rate increase.) Because of the uncertainty of any REP permitting schedule delay, this replacement power may need to be purchased under short term contracts, which carry additional price volatility and supply risk.
- A rebound in power plant construction is expected to meet forecasted energy shortages in the State in 2007 and beyond. An 18-month delay in constructing REP will expose the project to higher equipment and construction costs resulting from this increased demand.
- An 18 month delay would continue the City's exposure to bottlenecks in the state's transmission infrastructure and the risk of interruptions of power.

Bottom line to resist a PLA: anywhere from $3 million to $15 million or more cost impact, not including the risk of higher replacement power costs and rate increases, 18 month delay, plus greater risk and uncertainty.

Scope of the PA's:
It is the intent for the City to hire a contractor to perform the construction for the REP. The PLA in effect requires all covered construction laborers to be union members. For operation and maintenance (O&M), staff is evaluating whether to self-perform the work or hire an O&M contractor for an initial term of at least 5 years. In the case of self-perform, it is expected that the manual workers would
fall under the existing IBEW 1245 organization that represents covered RE employees. In the case of hiring an O&M contractor, the Neutrality Agreement would require the City to not intervene in the worker's attempts to organize under union representation. Additionally, the MA would require any major maintenance work to be performed by union contractors, unless the work is performed by City employees, the plant operator or by the Northern California Power Agency (NCPA). The Cooperation Agreement provides the City certain assurances that CURE and the unions will cooperate with the process of permitting the project. The Transmission Construction Agreement assures that the construction of the transmission interconnection and electrical switchyard will be performed in accordance with the Collective Bargaining Agreement with IBEW 1245 and would not be subject to the PLA.

While the City will sign the PLA, the City has no intention of ever directly performing work covered by the PLA with City forces (employees), rather this work will be performed by a contractor(s) hired by the City. Moreover, since the terms of the PLA differ from City's existing MOU's with its employee unions, the work covered by the PLA will NOT be performed by City forces. Under the terms of the PLA, the City's obligations will be shifted and assigned to the contractor at the moment the City awards the project and enters into a project construction agreement with the contractor. Accordingly, City's existing MOU's are respected and will not be violated. Under the MLA and Neutrality agreements, work by City forces is exempt from the agreement.

**FISCAL IMPACT**
The agreements are not expected to increase cost due to wage rates, as the City is already obligated to use prevailing wage rates in all contracts. The PLA requires payment by the construction contractor (thus a cost to the City) of a supplemental 25 cent per hour contribution to a union trust fund. The total payment under this contribution for the construction phase is estimated to be less than $100,000.00. It is not possible to assess labor productivity differentials between union and non-union contractors, but the existing experienced union labor pool would help to mitigate any possible increases due to union work rules.

**ENVIRONMENTAL REVIEW**
Entering into these agreements is not considered a "project" as defined by the California Environmental Quality Act (CEQA) (CEQA Guidelines §15378). Consequently no CEQA action is required by the City. The CEC is the lead CEQA agency under the permitting process for the REP project.

**RECOMMENDATION**
All business decisions are a balance of weighing the pros and cons. In this instance, there are also fundamental philosophical issues to weigh. An agreement for exclusively union labor on a City construction project is a different approach
than previous City practice. However, at risk is the City's ability to serve its customers in the best manner. This is not a pro- or anti-union decision, it is a decision on how to best protect the interests of the City and the ratepayers. From a business decision basis and given the pros and cons of the two options, the staff's recommendation is to proceed with the PLA.

This recommends City Council adopt a resolution authorizing the City Manager to execute amendments to the five listed agreements.

Submitted by:

[Signature]
Tom Habashi
Electric Utility Director

APPROVED:

[Signature]
W. Craig Robinson
City Manager
RESOLUTION NO. 04-275


WHEREAS, a Project Labor Agreement for the Roseville Energy Park, between the City of Roseville, the State Building and Construction Trades Council of California and the Sacramento-Sierra Building and Construction Trades Council, has been reviewed by the Council; and

WHEREAS, covered work under the Project Labor Agreement will not be performed by City employees;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Roseville that said agreement is approved and that the City Manager is authorized to execute it on behalf of the City of Roseville.

PASSED AND ADOPTED by the Council of the City of Roseville this ___ day of _____________, 20__, by the following vote on roll call:

AYES COUNCILMEMBERS:

NOES COUNCILMEMBERS:

ABSENT COUNCILMEMBERS:

______________________________
MAYOR

ATTEST:

______________________________
City Clerk
PROJECT LABOR AGREEMENT

FOR

THE ROSEVILLE ENERGY PARK

ROSEVILLE, CALIFORNIA
INITIAL PROVISIONS

1.1 This Project Labor Agreement ("Agreement") is entered into by the City of Roseville dba Roseville Electric ("RE"), and the State Building and Construction Trades Council of California ("State Building Trades Council") and the Sacramento-Sierra Building & Construction Trades Council ("Local Building Trades Council") and its affiliated local unions who have executed this Agreement, all of whom are referred to collectively as the "Unions."

1.2 The Roseville Energy Park (the "Project") is an approximately 160 MW electric generating facility to be located in Roseville, California which is currently being considered by the California Energy Commission, CEC docket #03-AFC-01. The Project is owned by the City of Roseville.

1.3 The City of Roseville is a municipality that, through RE, has been providing electrical power to its residents, businesses, and the City's street lighting system since 1912. RE will construct, operate and maintain the Project through its employees, contractors or agents. RE directly employs construction industry employees. RE intends to select and hire one or more engineering, procurement and construction contractor(s) in the business of constructing power plants to construct all or part of the Project ("EPC Contractor"). Following such selection and hiring by RE, the EPC Contractor(s) shall sign and become a party to this Agreement.

1.4 Primary Employer (as defined in Section 1.5) will control the activities at the site at which the Project will be constructed. Primary Employer will directly employ construction industry employees and reserves the right to directly perform construction on the Project with its own employees. Subject to the provisions of this Agreement, Primary Employer shall retain the right to control and coordinate all Project construction work by determining work scheduling, including uniform start times, the necessity for and the times of shift work, by directly enforcing any drug
and alcohol abuse policy which is agreed to by any contractor or subcontractor and
the Local Building Trades Council, and otherwise directly removing any employee
whether employed directly or by any contractor or subcontractor for breach of
reasonable rules promulgated by Primary Employer governing conduct on the job.
Primary Employer shall have the right upon receipt of the written complaint of any
employee to order corrective action necessary to maintain reasonable and lawful
standards for workplace health and safety. Primary Employer shall act as the
“Coordinator”, participate in monthly labor/management meetings, participate in
pre-job conferences and mark-up meetings, and participate in the resolution of any
grievances in accordance with the provisions of Article 8.

1.5 For purposes of this Agreement, “Contractor” means any EPC
Contractor and any other contractor or subcontractor at any tier who performs work
on the Project covered by this Agreement as defined by Article 2. For purposes of
this Agreement, “Primary Employer” means RE until RE selects and hires a EPC
Contractor to perform Covered Work (as defined in Article 2 below) and such EPC
Contractor signs and becomes a party to this Agreement; thereafter, Primary
Employer means EPC Contractor with respect to the Covered Work performed by
such EPC Contractor.

1.6 The Unions are labor organizations whose members are construction
industry employees. Each Union represents that the individual executing this
Agreement on its behalf has the authority to enter into this Agreement on behalf of
that Union.

1.7 It is understood and agreed by and between the Parties to this
Agreement that the final plans for the Project may be subject to modifications and
approval by those public agencies possessing lawful approval authority over the
Project and that this Agreement applies to the Project as it is finally approved by
such entities and agencies.
1.8 A large labor pool represented by the Unions will be required to execute the work involved in the Project. Employers wish, and it is the purpose of this Agreement, to ensure that a sufficient supply of skilled craft workers are available at the Project, that all construction work and related work performed by the members of the Unions on this Project shall proceed continuously, without interruption, in a safe and efficient manner, economically with due consideration for the protection of labor standards, wages and working conditions.

1.9 In furtherance of these purposes and to secure optimum productivity, harmonious relations between the parties and the orderly performance of the work, the parties to this Agreement agree to establish adequate and fair wage levels and working conditions and to protect the Project against strikes and lockouts and other interference with the process of the work.

1.10 This Agreement has no force or effect, its provisions shall not be operative, and it shall not apply to any project without the express approval of the Roseville City Council. Upon approval and designation by the Roseville City Council, this Agreement will be included as a requirement of contracts to perform Covered Work (as defined in Article 2). This Agreement applies only to Covered Work on the Project.

1.11 The parties agree that upon RE's execution of an agreement with an EPC Contractor to perform Covered Work (as defined in Article 2 below), and upon such EPC Contractor signing and becoming a party to this Agreement, EPC Contractor shall become the Primary Employer hereunder with respect to the Covered Work performed by such EPC Contractor, and all rights, interests and obligations that RE possesses in this Agreement shall be assigned and transferred to such EPC Contractor, except for the obligations of Article 12, Successorship, which shall remain the obligation of RE, and except for the rights to seek injunctive relief under Section 7.1 and to receive liquidated damages under Section 7.6.9, both
of which shall remain the rights of RE. Once the EPC Contractor signs and becomes a party to this Agreement, and an original executed copy is delivered to the Local Building Trades Council, RE shall be released from any further liability or obligation under the terms of this Agreement with respect to the Covered Work performed by such EPC Contractor, except for the obligations of Article 12, which shall remain the obligation of RE, and except for the rights under Section 7.1 and Section 7.6.9, both of which shall remain the rights of RE.

2    **SCOPE OF AGREEMENT**

2.1    This Agreement applies to the Project and covers all on-site construction, alteration, painting or repair of buildings, structures and other works and related activities for the Project which are within the craft jurisdiction of one of the Unions and which is directly or indirectly part of the Project including, without limitation, pipelines, pumps, pump stations, tanks and storage vessels, site preparation, on-site survey work and soils and material inspection and testing (excluding work performed by a civil, mechanical, geotechnical or other licensed engineer whose scope of work is not covered by a collective bargaining agreement of a union signatory to this Agreement), demolition, startup (as described in Section 2.5), all on-site fabrication work provided that such work is within the fabrication provision of a local, area, regional or national agreement under Article 3, and all construction, demolition and/or improvements required to be performed as a condition of approval by any public agency. On-site fabrication work includes work done specifically for the Project in temporary yards or areas at or near the Project. All fabrication work over which Primary Employer possesses the right of control, including without limitation, the fabrication of air-handling systems, ducts, and HVAC sheet metal work, and work which is typically performed as on-site fabrication for power plant projects, shall be performed on-site. For the convenience
of Primary Employer and/or Contractors, such work may be performed off-site. In
that event, such fabrication work shall be performed in accordance with the union
standards established by this Agreement for the appropriate craft union or by a
fabrication agreement approved by the craft's International Union. On-site
fabrication work as defined in this Article does not include manufactured piping
and equipment, including but not limited to, pumps, compressors, combustion and
steam turbines, boilers, heat recovery steam generators, once through steam
generators, skid-mounted equipment, heat exchangers, condensers, fans, valves,
actuators, control panels and devices, and motor control centers. On-site
construction shall also include the site of any batch plant constructed solely to
supply materials to the Project. This Agreement shall only apply to work performed
with respect to the Project and shall have no application to any work performed
unrelated to the Project or to any work performed after completion of the
construction of the Project. All work to which this Agreement is applied by this
Article 2 is referred to as "Covered Work," unless expressly excluded by another
provision of this Agreement.

2.2 This Agreement shall not apply to any work performed to provide
infrastructure or services for development of the West Roseville Specific Plan,
whether or not such work is performed by the City of Roseville or a private
developer; provided however Covered Work includes that portion of any natural gas
pipeline and water pipeline which is built exclusively to serve the Project.

2.3 This Agreement shall not apply and Covered Work as defined in this
Article 2 does not include any work performed by supervisors, technical or non-
manual employees of Contractors and/or the Primary Employer, including, but not
limited to, executives, office and clerical employees, supervisors, timekeepers,
messengers, guards; or any civil, mechanical or other professional engineers,
drafters and inspectors not covered by a collective bargaining agreement of a union
signatory to this Agreement; or staff employees, and operators and personnel of vendors or their agents or subsidiaries performing warranty work; or any other employees above the classification of general foreman or who perform administrative/clerical functions.

2.4 Work performed by a public utility not under the control of Primary Employer, such as work performed by Pacific Gas & Electric Company, is not Covered Work and is excluded from the scope of this Agreement.

2.5 After construction and installation of any system is completed by Contractors and upon acceptance by RE, Primary Employer reserves the right to perform startup, commissioning and operation using persons of its choice. However, system flushes and testing as well as commissioning rework and modifications normally provided as a function of the construction effort, and other related work normally provided by members of the Unions, will be performed by members of the Unions.

2.6 Work performed by a manufacturer or its representatives or subsidiaries required to satisfy guarantees or warranties is excluded from the scope of this Agreement.

2.7 Specialized or technical work requiring specialized training, unique skills, or a level of specific technical experience which employees represented by the Union do not traditionally and customarily possess is excluded from this Agreement. At least ten (10) working days notice shall be given to the Local Building Trades Council before any work is performed pursuant to this Section 2.7.

2.8 Each signatory Contractor and any EPC Contractor are acting solely on their own behalf, and have no authority, either expressed, implied, actual, apparent or ostensible, to speak for or bind each other or RE.
3. **CONTRACTING AND SUBCONTRACTING**

3.1 Primary Employer and each signatory Contractor agrees that it will subcontract Covered Work only to a person, firm, or corporation who is or becomes party to this Agreement and who is or agrees to become bound for purposes of performing Covered Work, and who performs Covered Work pursuant to: (1) a local multi-employer collective bargaining agreement with the craft Union having traditional and customary jurisdiction over the work, (2) an area agreement with the craft Union having traditional and customary jurisdiction over the work, (3) a regional agreement with the craft Union having traditional and customary jurisdiction over the work, (collectively the local, area or regional agreement is referred to as the "Master Agreement") or (4) only in the case of a contractor signatory to a national agreement, a national agreement with the International Union of the craft Union having traditional and customary jurisdiction over the work (collectively "Applicable Agreement(s)"). Examples of national agreements are the National Construction Agreement or any successor, the National Tank Erection Agreement (which may be used solely for on-site tank erection), UBCJA Standard Construction Agreement (SCA #1), or the Cooling Tower Agreement. Any Contractor performingCovered Work on the Project shall, as a condition to working on the Project, become bound by and perform all work under the terms of this Agreement and the Master Agreement. Except as provided in this Agreement, the terms of the Master Agreement shall apply to the Project. Contractors shall become a party to this Agreement by signing an Employer Agreement to be Bound, which is provided as Appendix A to this Agreement. Primary Employer and/or any Contractor who subcontracts Covered Work shall notify the Local Building Trades Council in writing within seven (7) days after it has subcontracted work, and shall at the same time provide to the State Building Trades Council and Local Building Trades Council a copy of the executed Employer Agreement to be Bound (Appendix
A). Any Contractor not already bound to an Applicable Agreement, who signs or becomes bound to such a multi-employer, area, regional, or national agreement to participate on this Project, shall not be required to apply the terms of that agreement to any other construction project.

3.2 Nothing in this Agreement shall in any manner whatsoever limit the rights of Primary Employer or any Contractor to subcontract work or to select its contractors or subcontractors, provided, however, that all Contractors, at all tiers, performing Covered Work shall be required to comply with the provisions of this Agreement. Primary Employer and every Contractor shall notify each of its contractors and subcontractors of the provisions of this Agreement and require as a condition precedent to the award of any construction contract or subcontract for Covered Work or allowing any subcontracted Covered Work to be performed, that all such contractors and subcontractors at all tiers become signatory to this Agreement through execution of the Agreement to be Bound. If Primary Employer or any Contractor fails to provide the State Building Trades Council and Local Building Trades Council with the Employer Agreement to be Bound executed by its subcontractor, that party shall be liable for any contributions to any trust funds that the subcontractor, or any subcontractor to that subcontractor, fails to make.

4. WAGES, BENEFITS AND HOURS OF WORK

4.1 Except as provided in this Agreement, all employees covered by this Agreement (including foremen and general foremen) shall be classified and paid wages, other compensation and contributions made on their behalf to multi-employer trust funds, all in accordance with the appropriate Master Agreement as it may be amended, modified or renewed from time to time. No labor agreement for the work covered by this Agreement will apply to employees above the level of General Foreman.
4.2 The parties agree that due to the scope and nature of the Project there is a legitimate business justification to establish uniform work schedules and working conditions for the Project, which are set forth below.

4.2.1 Show-up pay shall be paid in accordance with the Master Agreement. If a system of advance notice, subject to approval of the Unions (which approval shall not be unreasonable withheld), is provided to call off the employee, no show-up pay must be provided by the Contractor. It is within the sole discretion of the Contractor whether to cease work at any time.

4.2.2 Subsistence, travel expenses and travel time shall be paid in accordance with any Master Agreement that provides for them at the time this Agreement is executed. No increases to any such amounts will be effective for the term of this Agreement. Premium pay for welding shall be paid where called for by the Master Agreement.

4.2.3 The standard work day shall consist of eight (8) hours of work between 7:00 a.m. and 5:30 p.m. with one-half hour designated as an unpaid period for lunch. The standard work week shall be five (5) consecutive days of work commencing on Monday. Nothing herein shall be construed as guaranteeing any employee eight (8) hours of work per day or forty (40) hours of work per week.

4.2.4 It is recognized by the parties to this Agreement that the standard work week may not be desirable or cost effective, and other arrangements for hours of work will be considered. Such proposed modifications to the standard work week shall be worked out between Primary Employer, Contractors and the Local Building Trades Council.

4.2.5 The first two (2) hours performed in excess of the standard work day Monday through Friday shall be paid at the rate of time and one-half. Compensation for Saturday will be paid in accordance with the appropriate Master Agreement. There shall be no pyramiding of overtime pay. All work performed on
Sundays and in excess of ten (10) hours a day shall be paid the overtime rate as stated in the appropriate Master Agreement but not to exceed double the straight time rate of pay.

4.2.6 It will not be a violation of this Agreement when Primary Employer considers it necessary to shut down to avoid the possible loss of human life because of an emergency situation that could endanger the life and safety of an employee. In such cases, employees will be compensated only for the actual time worked. In the case of a situation described above whereby Primary Employer and/or Contractors request an employee to wait in a designated area available for work, the employee will be compensated for the waiting time. Employees who are not asked to wait in a designated area, but are called back after clocking out, will be paid call back pay in accordance with the Master Agreement.

4.2.7 When shifts are required, compensation for shifts will be paid in accordance with the appropriate Master Agreement. If only two shifts are to be worked, Primary Employer and/or Contractors may regulate starting times of the two shift operation to permit the maximum utilization of daylight hours. Shifts shall be established and continued for a minimum of three (3) consecutive work days.

4.2.8 Recognized holidays shall be as follows: New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Fourth of July, Labor Day, Veterans' Day, Thanksgiving Day, Day after Thanksgiving and Christmas Day. Under no circumstances shall any work be performed on Labor Day except in cases of emergency involving life or property. In the event a holiday falls on Sunday, the following day, Monday, shall be observed as such holiday. In the event a holiday falls on Saturday, the previous day, Friday, shall be observed as such holiday. There shall be no paid holidays. If employees are required to work on a
holiday, they shall receive the appropriate rate; but in no case shall such overtime
rate be more than double the straight time rate.

4.3 The Parties agree that this Agreement provides for wages and benefits
consistent with California prevailing wage law. The Unions agree that any dispute
concerning the appropriate wage rate for Covered Work under this Agreement
should be resolved solely under the grievance procedure provided in Section 8.3 of
this Agreement, and that the Unions, and each of them, will not seek to resolve any
issue over the applicable wage rate in any other forum, including but not limited to
the California Department of Industrial Relations.

5. PAYMENT OF WAGES – CHECKING IN AND OUT

5.1 Wages will be paid weekly on a designated day during working hours
and in no case shall more than five (5) days pay be held back in any payroll week.

5.2 Employees shall be at their place of work and ready to work at the
starting time (which is the gang box, toolbox or place where the foreman gives
instructions to employees). A reasonable time will be allowed for employees to put
company and personal tools in secured storage and return to the parking lot by
quitting time. Primary Employer may utilize brassing, time clocks or other systems
to check employees in and out. Each employee must check himself in and out.
Primary Employer will provide adequate facilities for checking in and out in an
expeditious manner.

5.3 There will be no organized rest periods, coffee breaks, or other
non-working time established during working hours on the Project. Employees
shall be afforded time to take rest periods for food and drink. Time at a rate of ten
(10) minutes net rest time for every four (4) hours worked, or a major fraction
thereof will be provided. Rest periods shall not interfere with the normal flow of
work, and shall be taken in the employee’s immediate work area. Primary
Employer and the Unions agree that this paragraph provides equivalent protection to that afforded by California Wage Order No. 16.

6. **UNION RECOGNITION**

   6.1 The Contractors recognize the Unions signatory to this Agreement as the sole and exclusive collective bargaining agents for their respective construction craft employees performing Covered Work for the Project, and further recognize the traditional and customary craft jurisdiction of each Union.

   6.2 All employees performing Covered Work shall be or shall become and then remain members in good standing of the appropriate Union as a condition of employment on or before the eighth (8th) day of employment, or the eighth (8th) day following the execution of this Agreement, whichever is later. Nothing in this Agreement shall in any manner whatsoever limit the rights of Primary Employer or any Contractor to select any contractors to perform portions of the Covered Work on the Project, whether or not such contractors are signatories to any Applicable Agreement, or employ members of any signatory Union. Any Contractor performing Covered Work on the Project shall, as a condition to working on the Project, become bound by and perform all work under the terms of this Agreement and the Master Agreement.

   6.3 The Unions shall be the primary source of all craft employees for Covered Work on the Project. Except as provided in Section 11.1.2, Contractors agree to be bound by the hiring practices of the respective Unions, including the hiring of apprentices, and to utilize their registration facilities and referral systems. The Contractor(s) shall have the right to reject any applicant referred by the Union(s).

   6.4 In the event the referral facilities maintained by the Unions do not refer the employees as requested by a Contractor within a forty eight (48) hour
period after such request is made by Contractor (Saturdays, Sundays and Holidays excepted), Contractor may employ applicants from any source.

6.5 The Unions shall exert their utmost efforts, including requesting assistance from other local unions, to recruit a sufficient number of skilled craft workers to fulfill the labor requirements of the Contractors. The State Building Trades Council and the Local Building Trades Council agree that if Primary Employer or any Contractor determines that it cannot obtain sufficient qualified employees from the appropriate hiring hall, that they will meet and confer with Primary Employer and/or Contractor upon request to resolve this issue. Such meeting will occur within five (5) working days of any written request.

6.6 Each Union shall use its best efforts to supply employees from all job classifications for the Project.

6.7 The parties recognize the Owner's interest in providing opportunities to participate on the Project to entities that may not have previously had a relationship with the Union(s) signatory to this Agreement. To ensure that such entities will have an opportunity to employ their "core" employees on this Project, the parties agree that in those situations where a Contractor not a party to an Applicable Agreement with a signatory Union having jurisdiction over Covered Work is a successful bidder, that Contractor may request by name, and the local Union(s) will honor, referral of persons who have applied to the local Union(s) for Project work and who meet the following qualifications:

1. Possess any license required by State or Federal law for the Covered Work to be performed;

2. have a total of at least 1,000 hours of construction craft experience during the prior three (3) years;

3. were on the Contractor's active payroll for at least 90 of 120 calendar days prior to the contract award; and
(4) have the ability to perform safely the functions of the applicable trade.

The Unions will refer to such Contractor one employee from the hiring hall out of work list for each affected craft, and will then refer one of the Contractor’s “core” employees as defined above. The process then will be repeated, one and one, until the Contractor has hired the greater of the following: three (3) “core” employees or 15% of the employees per Contractor, by craft, employed by the Contractor to perform work on the Project. Any fraction shall be rounded to the next highest whole number.

7. **STRIKES AND LOCKOUTS**

7.1 During the term of this Agreement, the Unions, their agents, representatives, employees and persons acting in concert with them agree that they shall not incite, encourage, condone or participate in any strikes, walkouts, slowdowns, sit-downs, stay-ins, boycotts, sympathy strikes, sick outs, refusals to refer employees, picketing, hand billing where the hand billing relates to Contractors or Primary Employer and their activities or operations at the Project, work stoppages or other disruptive activity regarding the Project, and it is expressly agreed that any such action is in violation of this Agreement. For purposes of the no strike provisions of this Agreement, Primary Employer shall be read to include RE, each Contractor and each Contractor’s partners, parent entities, subsidiaries and affiliates. Neither Primary Employer nor any Contractor shall incite, encourage or participate in any lockout or cause to be locked out any employee covered under the provisions of this Agreement. In the event of a violation of this provision, RE, Primary Employer or any Contractor, or any Union, shall be entitled to seek relief in court, specifically including injunctive relief, to restrain any such action on the
part of the Union(s), Primary employer, and/or any of its agents, representatives or employees.

7.2 Upon written facsimile notice of a violation to the local Union(s) and their officers, and their agents, representatives, employees and persons acting in concert with them, the local Union(s) shall take immediate action and will use their best efforts to prevent, end or avert any such aforementioned activity or the threat thereof by any of its officers, members, representatives or employees, either individually or collectively, including but not limited to, publicly disavowing any such action and ordering all such officers, representatives, employees or members who participate in such unauthorized activity to cease and desist from same immediately and to return to work and comply with its orders. Nothing in this Agreement shall be construed to limit or restrict the right of any of the parties to this Agreement to pursue fully any and all remedies available under law in the event of a violation of this Article 7.

7.3 Neither Primary Employer nor any Contractor shall incite, encourage or participate in any lockout or cause to be locked out any employee covered under the provisions of this Agreement. The term “lockout” does not refer to the discharge, termination or layoff of employees by any Contractor for any reasons in the exercise of its rights as set forth in any provision of this Agreement, nor does “lockout” include a decision by Primary Employer or any Contractor to terminate or suspend work on the site or any portion thereof for any reason other than a labor dispute.

7.4 Any employees violating Section 7.1 above are subject to discipline up to and including discharge. Employees discharged for violation of this Article 7 will not be referred by a Union for work on the Project. Such employees may invoke the grievance procedures of the Applicable Agreement.
7.5 Notwithstanding the provisions of Section 7.1, it is agreed that a Union retains the right to withhold the services of its members from a particular Contractor or subcontractor who fails to make timely payments to the Union's benefit plans, or fails to timely pay its weekly payroll, in accordance with the Master Agreements; provided, in the event the Union or any of its members withholds their services from such Contractor or subcontractor, Primary Employer shall have the right to replace such Contractor or subcontractor with any other Contractor or subcontractor who executes the Agreement To Be Bound. No Union(s) shall withhold the services of its members under this provision without first giving Primary Employer and the individual Contractor alleged to be delinquent in its payments at least five (5) business days' notice, in the case of payroll delinquencies, and ten (10) business days' notice, in the case of benefit fund delinquencies, and an opportunity to cure the delinquency by tendering payment to the relevant employees or trust funds.

7.6 In lieu of, or in addition to, any other action at law or equity, any party may institute the following non-binding arbitration procedure when a breach of Article 7 is alleged, after the Union(s) and local union(s), or Primary Employer and Contractor, as appropriate, have been notified of the fact.

7.6.1 The party invoking this non-binding arbitration procedure shall, at their option, notify the permanent Arbitrator under this non-binding arbitration procedure, Gerald McKay. In the event that the permanent Arbitrator is not available, the American Arbitration Association shall select an alternative Arbitrator within twenty-four (24) hours of notice. Notice to the Arbitrator and other parties shall be by the most expeditious means available, with notice by facsimile or any other effective written means, including electronic mail if available. Such notice shall be provided to the party alleged to be in violation, and to the
involved International Union President and local union or Primary Employer and Contractor, as appropriate.

7.6.2 Upon receipt of said notice the Arbitrator named above shall set and hold a hearing within twenty-four (24) hours if it is contended that the violation still exists.

7.6.3 The Arbitrator shall notify the parties by facsimile or any other effective written means, including electronic mail if available, of the place and time chosen for the hearing. Said hearing shall be completed in one session. A failure of any party or parties to attend said hearing shall not delay the hearing of evidence or issuance of a decision by the Arbitrator.

7.6.4 The sole issue at the hearing shall be whether or not the Arbitrator believes a violation of Article 7 has occurred. The Arbitrator shall not consider any matter in justification, explanation or mitigation of such violation. The decision shall be issued in writing within three (3) hours after close of the hearing, and may be issued without an opinion. If any party desires an opinion, one shall be issued within fifteen (15) days.

7.6.5 At any time before the matter is submitted for a decision, the grieving party has the right to withdraw the grievance without prejudice.

7.6.6 The decision shall be non-binding.

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

7.6.8 The expense of arbitration, including the cost of the Arbitrator and the cost of necessary expenses required to pay for facilities for the hearing of cases, shall be borne equally by both parties.

7.6.9 If a court or other tribunal of competent jurisdiction determines that a work stoppage has occurred in violation of Section 7.1, the Union(s) and its
applicable local union shall, within four (4) hours of receipt of the court decision, direct all of the employees it represents on the Project to immediately return to work. The applicable local union shall provide the Contractor with copies of any written material it provides to employees it represents directing employees to return to work or, if such direction is provided orally, shall provide the Contractor with a faxed notice describing the direction given to employees and a description of how that direction was provided. If the Union(s) are found to have violated Section 7.1 or Section 7.2, then that Union(s) shall pay the sum of ten thousand dollars ($10,000.00) as liquidated damages to RE for each shift for which a violation has occurred, and for which the employee has not returned to work following the initial violation. For subsequent violations by the same Union, said Union shall pay the sum of fifteen thousand dollars ($15,000.00) as liquidated damages to RE for each shift for which the employee has not returned to work as a result of that subsequent violation. The applicable court or tribunal shall retain jurisdiction to determine compliance with Section 7.1 and 7.2.

7.7 In the event that any Applicable Agreement expires and the parties to that Agreement fail to reach agreement on a new contract by the date of expiration, the Union(s) shall continue to provide employees to the Contractors working on the Project under all the terms of the expired Applicable Agreement until a new Applicable Agreement is negotiated, at which time all terms and conditions of that new Applicable Agreement shall be applied to Covered Work at the Project, except to the extent they conflict with any provision of this Agreement or other agreement applicable to the Project under Section 3.1. In addition, if employees continued working on the Project under the expired labor agreement during the hiatus, and the new labor agreement provides for retroactive wage or benefit increases, then any Contractor shall pay to its employees who performed Covered Work at the Project during the hiatus between the effective dates of such labor agreements an
amount equal to any such retroactive wage and benefit increases established by the new labor agreement for such work.

8. GRIEVANCE PROCEDURE

8.1 It is mutually agreed that any question arising out of and during the term of this Agreement involving its interpretation and application (other than jurisdictional disputes or certain safety disputes) as defined below shall be considered a grievance. Except as provided herein, any grievances involving interpretation and application of the Agreement will be governed by the Agreement’s grievance procedure as set forth below. Where a grievance against a contractor is solely under one Master Agreement or national agreement, the procedure for that agreement will apply. In cases where the procedures of more than one agreement are triggered for the same dispute by grieving trades, the Agreement grievance procedure will preempt all others for resolution of the dispute.

8.2 A grievance shall be considered null and void if not brought to the attention of the Contractor within five (5) working days after the incident, which initiated the alleged grievance occurred or was discovered, whichever is later.

8.3 Grievances shall be settled according to the following procedure:

- **Step 1.** The steward and the grievant shall attempt to resolve the grievance with the Contractor’s supervisor within five (5) working days after the grievance has been brought to the attention of the Contractor.

- **Step 2.** In the event the matter remains unresolved in Step 1 above after five (5) working days, within five (5) working days after notice to the Union(s), the alleged grievance, in writing, may then be referred to the Business Manager(s) of the Craft Union and the Labor Relations representative of the Contractor for discussion and resolution. A copy
of the written grievance shall also be mailed/faxed to Primary
Employer as identified in Section 14.8.

• **Step 3.** In the event the matter remains unresolved in Step 2 above
after five (5) working days, within five (5) working days, the alleged
grievance, in writing, may then be referred to the Business Manager(s)
of the Craft Union involved and the Manager of Labor Relations of the
Contractor or the Manager's designated representative and Primary
Employer as identified in Section 14.8 for discussion and resolution.

• **Step 4.** If the grievance is not settled in the preceding steps within five
(5) working days, either party may request the dispute be submitted to
arbitration or the time may be extended by mutual consent of both
parties. The request for arbitration and/or the request for an extension
of time must be in writing with a copy to Primary Employer. An
Arbitrator selected from a permanent panel of Arbitrators consisting of
Barbara Chvany, Gerald McKay, Joseph Grodin and Thomas Angelo
will hear grievances filed pursuant to this Article. Should the parties
be unable to mutually agree on the selection of an Arbitrator from
among those on the panel, selection for that given arbitration shall be
made by alternately striking names from the list of names on the panel
until the parties agree on an Arbitrator or until one name remains.
The first party to strike a name from the list shall alternate between
the party bringing forth the grievance and the party defending the
grievance. Primary Employer shall keep a record of the sequence and
shall notify the parties to the grievance as to which party has the right
to strike a name first. In the event the last remaining Arbitrator is not
available in a reasonable time to hear the grievance and the parties
have not mutually agreed to extend the time for arbitration, the last
stricken Arbitrator will be selected. A reasonable time is defined as thirty (30) days.

8.4 The Arbitrator shall conduct a hearing at which the parties to the grievance shall be entitled to present testimonial and documentary evidence. Hearings will be transcribed by a certified court reporter. The parties shall be entitled to file written briefs after the close of the hearing and receipt of the transcript.

8.5 Upon expiration of the time for the parties to file briefs, the Arbitrator shall issue a written decision that will be served on all parties and on the Primary Employer. The Arbitrator’s decision shall be confined to the issue(s) posed by the grievance and the Arbitrator shall not have the authority to modify, amend, alter, add to or subtract from, any provision of this Agreement. The Arbitrator shall have the authority to utilize any equitable or legal remedy to prevent and/or cure any breach or threatened breach of this Agreement. The Arbitrator's decision shall be final and binding as to all parties signatory to this Agreement.

8.6 The cost of the Arbitrator and the court reporter, and any cost to pay for facilities for the hearing, shall be borne equally by the parties to the grievance. All other costs and expenses in connection with the grievance hearing shall be borne by the party who incurs them.

8.7 When RE is not the Primary Employer, RE may, at its own initiative, participate in Steps 1 through 3 of the grievance procedure. If RE is not the Primary Employer, any party to a grievance may invite RE to participate in resolution of a grievance.

8.8 In determining whether the time limits of Steps 2-4 of the grievance procedure have been met, a written referral or request shall be considered timely if it is personally delivered, faxed or postmarked within the five (5) working day
period. Any of the time periods set forth in this Article 8 may be extended in writing by mutual consent of the parties to the grievance, and any written referral or request shall be considered timely if it is personally delivered, faxed or postmarked during the extended time period.

9. **JURISDICTIONAL DISPUTES**

9.1 The assignment of work will be solely the responsibility of the Contractor performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

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

9.3 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractor's assignment shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

9.4 Each Contractor, upon award of a contract, shall conduct a pre-job conference with the Local Building Trades Council prior to commencing work. The Contractor shall notify the Local Building Trades Council of the contract award and to schedule a pre-job conference with the signatory Unions. At the pre-job conference, the Contractor shall outline and discuss, in detail, the scope of work in the contract and the specific jurisdictional assignments of work designating the
craft(s) to be used to perform the work, as required by the Plan. Primary Employer will be advised in advance of all such conferences and may participate if they wish.

9.5 In case of a jurisdictional dispute involving a Union or Unions not party to the Plan or this Agreement, such dispute will be referred to the General Presidents of the Unions involved and Primary Employer for resolution.

9.6 Any award or resolution under Article 9 shall be prospective and shall not require any back pay or other relief for work performed unless the assignment is a willful violation of a well-established resolution under the Plan.

9.7 This Article 9 shall be enforceable in any court of competent jurisdiction, and shall not be subject to any grievance procedure of this Agreement or any other agreement.

10. **JOINT LABOR/MANAGEMENT MEETINGS**

10.1 During the period of any work performed under this Agreement, a joint labor/management meeting will be held between Primary Employer, the Local Building Trades Council, and Contractors on a monthly basis or more frequently as needed. The purpose of these meetings is to promote harmonious labor/management relations, ensure adequate communications and advance the proficiency and efficiency of the craft workers and Contractors performing work on the Project. These monthly (or more frequent) meetings will also include discussion of the scheduling and productivity of work performed on the Project.

10.2 Prior to commencement of the Covered Work, Primary Employer, in coordination with the Local Building Trades Council and signatory Unions, will conduct a meeting and provide an overview of the project, introduce key Project personnel, review anticipated contract packages, anticipated work schedule, estimated manpower requirements, safety and security regulations as well as other pertinent project information.
11. MANAGEMENT RIGHTS

11.1 Primary Employer and Contractors retain full and exclusive authority for the management of their work forces for all work performed under this Agreement. This authority includes, but is not limited to, the right to:

11.1.1 Plan, direct and control the operation of all the work.

11.1.2 Decide the number and types of employees required for the work in accordance with the Master Agreement, provided, however, that Contractors shall have the right to assign key employees to the Project in accordance with the appropriate local, area or regional Agreement or local customs or practices, whichever afford the greatest flexibility. Key employees are defined as craft employees who possess special skills or abilities.

11.1.3 Hire, promote and layoff employees as deemed appropriate to meet work requirements and/or skills required, and to select and hire directly all supervisory personnel above the classification of general foreman it considers necessary and desirable, without such persons being referred by the Union(s).

11.1.4 Contractors and Primary Employer have the right to implement reasonable Project Rules and Security, Environmental and Safety Regulations consistent with the provisions of this Agreement, to implement Conditions of Certification imposed by the California Energy Commission, and to require all employees to observe said Project Rules and Regulations and Conditions of Certification. These Rules and Regulations and Conditions of Certification shall be supplied to the Unions, to all employees, and posted on the job site. A violation of the Project Rules and Regulations is just cause for disciplinary action up to and including termination, subject to the applicable grievance procedure.

11.1.5 Determine the work methods and procedures.

11.1.6 Determine the competency of all employees.
11.1.7 Assign and schedule work at its sole discretion and determine when overtime will be worked. There shall be no refusal by a craft to perform work assigned, including overtime work.

11.1.8 All parties agree that chronic and/or unexcused absenteeism is undesirable and must be controlled. As such, any employee terminated for such absenteeism shall not be eligible for rehire on the Project for a period of no less than ninety (90) days.

11.1.9 Utilize any work methods, procedures or techniques and select and use any type or kind of materials, apparatus or equipment regardless of source, manufacturer or designer (subject to Article 2), and to assign, subcontract (subject to Article 3) and schedule work at its discretion.

11.1.10 The Unions understand the extreme importance of maintaining construction quality and maintaining the construction schedule. The Unions also understand that construction errors or delays in construction result in the loss of production, which creates a great loss to Primary Employer. Therefore, the Unions will encourage and advise the employees to exhaust every effort, ways and means to perform work of good quality and quantity. The parties recognize the necessity for eliminating restrictions and promoting efficiency and agree that no rules, customs or practices, other than those provided in the Master Agreement, shall be permitted that limit production or increase the time required to do the work, and no limitation shall be placed upon the amount of work which an employee shall perform, nor shall there be any restrictions against the use of any kinds of machinery, tools or labor-saving devices. No rule or regulation shall be adopted that compromises employee safety. Nothing in this Agreement shall require any employee to engage in an unsafe work practice. The Contractor may utilize the most efficient methods or techniques of construction, tools or other labor saving devices to accomplish the work.
11.2 There shall be no limit by the Unions as to the ratio of journeyman to welders.

11.3 The employees covered by the terms of this Agreement shall at all times while in the employ of Primary Employer and/or Contractors be bound by the safety rules and regulations as established by Primary Employer, Contractors and applicable Safety Laws. The parties to this Agreement do hereby recognize the need to provide a drug-free and alcohol-free workplace. The parties to the Agreement agree to comply with any agreed upon substance abuse program. In order to produce as safe a workplace as possible, it is understood and agreed that Primary Employer, Contractors and employees shall abide by the rules and provisions of the implemented substance abuse program which may include the following types of testing: pre-employment, reasonable suspicion, and post accident. Any alleged discriminatory practice under this Article 11 shall be subject to the grievance procedure. All substance abuse programs shall be agreed upon by the Local Building Trades Council prior to implementation.

11.4 Primary Employer and/or Contractors shall have the right to implement bonus or incentive programs approved by the Local Building Trades Council, which approval shall not be unreasonably withheld.

11.5 The foregoing enumeration of management rights shall not be deemed to exclude other functions not specifically set forth herein. Primary Employer and Contractors shall at all times retain all management rights which may exist at law or by custom and which are not specifically limited or prohibited by the terms of this Agreement.

12. SUCCESSORSHIP

12.1 This Agreement is and shall be binding and legally effective upon (i) any successor to RE, and (ii) any person or entity that acquires all or any portion of
RE's right, title or interest in the Project whether by sale, lease, or other transfer, or contribution to partnership, joint venture or other entity. Any agreement for a sale, lease, contribution or other transfer of the Project by RE shall include an express assumption of the obligations and undertakings of RE under this Agreement, including this successorship provision. Within five (5) days following the close of any sale, acquisition, merger, lease or other transfer covered by this Section 12.1, RE shall provide the State Building Trades Council and the Local Building Trades Council with written notice thereof and an original, executed assumption of this Agreement. Any sham transfer is a breach of this clause and shall not release RE from any of its obligations or undertakings under this Agreement.

12.2 This Article 12 shall be enforceable in any court of competent jurisdiction, and shall not be subject to the grievance procedure of Article 8.

13. LABOR MANAGEMENT COOPERATION TRUST

13.1 Each Employer at every tier who performs work within the scope of this Agreement shall contribute the sum of twenty-five cents ($0.25) per hour for each hour paid for or worked by employees, and shall remit that sum by payment postmarked no later than the 15th of the month following the month in which those hours were paid for or worked, directly to the Sacramento-Sierra Building & Construction Trades Council Labor Management Cooperation Trust or its designee, sanctioned by the Labor-Management Cooperation Act of 1978, 29 U.S.C. section 186. Each Employer shall execute a Subscriber Agreement covering these contributions, a copy of which is attached as Appendix B.
14. **WAIVER**

14.1 The parties hereby acknowledge that this Agreement is a lawful pre-hire agreement within the meaning of Section 8(f) of the National Labor Relations Act; and RE and each other Contractor hereby expressly waives its right to contest, challenge, repudiate or void (hereinafter collective "challenge") this Agreement, directly or indirectly, on any basis, in any proceeding before any federal, state or local court, agency or other tribunal, including the National Labor Relations Board, or before any arbitrator or hearing officer, including any challenge to the validity of this Agreement that is raised as a defense to any action or claim brought by the Unions. This Agreement shall be a complete defense to any such challenge.

14.2 RE and each other Contractor further agrees that it shall not solicit, finance or participate in any challenge to this Agreement by any other person or entity. Payment of regular annual dues to an organization or association does not constitute "solicitation," "financing" or "participation in" a challenge as those terms are used in this Agreement.

14.3 This Article shall be enforced pursuant to Article 8 of this Agreement and any grievance shall commence at Step 3 of Article 8.4. The parties agree that the economic damages to the Unions from a breach of this Article include the reasonable fees and costs of defense.

15. **GENERAL PROVISIONS**

15.1 If any article or provision of this Agreement shall be declared invalid, inoperative, or unenforceable by any competent authority of the executive, legislative, judicial or administrative branch of the federal, state or local government, Primary Employer and its Contractors, the Councils and the Unions shall suspend the operation of such article or provisions during the period of its invalidity and shall substitute by mutual consent, in its place and stead, an article
or provision which will satisfy the objections to its validity and which, to the
greatest extent possible, will be in accord with the intent and purpose of the article
or provision in question. The provisions of Article 7, Strikes and Lockouts, shall be
in full force and effect during negotiation of any such language and for the full term
of this Agreement.

15.2 If any article or provision of this Agreement shall be held invalid,
inoperative or unenforceable by operation of law, or by any of the above mentioned
tribunals of competent jurisdiction, the remainder of the Agreement or application
of such article or provision to persons or circumstances other than to which it has
been held invalid, inoperative or unenforceable shall not be affected thereby.

15.3 It is mutually agreed that any liability under this Agreement by
Primary Employer, any Contractor, the State Building Trades Council or Local
Building Trades Council, or any Union shall be several and not joint. Any alleged
breach of this Agreement by a party shall not affect the rights, liabilities,
obligations and duties among the other parties or between that party and any other
party.

15.4 This Agreement is formed and shall be construed under the laws of the
United States and the State of California. Any disputes arising under this
Agreement shall be brought and heard in Placer County, California or in the
Sacramento division of the United States District Court for the Eastern District of
California or administrative tribunal with jurisdiction over Placer County, unless
the parties otherwise agree in writing.

15.5 Wherever there is a conflict between this Agreement and any
Applicable Agreement, the provisions of this Agreement supersede any contrary
provisions in such Applicable Agreement.
15.6 Each person executing this Agreement represents and warrants that he or she is authorized to execute this Agreement on behalf of the party or parties indicated.

15.7 This Agreement may be executed in counterparts.

15.8 Any notices required under this Agreement shall be given as indicated below. Either party may, in its sole discretion, designate in writing any new persons to receive said notices during the term of this Agreement.

To EPC Contractor:

Robert L. Balgenorth, President
State Building and Construction Trades Council of California
1225 8th Street, Suite 375
Sacramento, CA 95814
Telephone: 916-443-3302

To the RE:

Tom Habashi
Director
Roseville Electric
2090 Hilltop Circle
Roseville, CA 95747
Telephone: 916-774-5697

To the State Building Trades Council:

Sacramento, Yolo, Amador, Nevada,
Placer, El Dorado, Sierra Building and Construction Trades Council
2840 El Centro Road, #107
Sacramento, CA 95843
Telephone: (916) 924-0424

With copies to:

Mark J. Doane
City Attorney
City of Roseville
311 Vernon Street
Roseville, CA 95678

With copies to:

Marc D. Joseph, Esq.
Adams Broadwell Joseph & Cardozo
651 Gateway Boulevard, Suite 900
South San Francisco, CA 94080
Telephone: 650-589-1660

Scott W. Blek
Galati & Blek, LLP
100 North Brand Boulevard, Suite 618
Glendale, CA 91203
Telephone: 818-476-0063
16. NON-DISCRIMINATION

16.1 Contractor shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, disability, national origin, age, religion, Vietnam veteran, or Vietnam era status, or any other basis prohibited by law. The parties also agree that no person shall be subject to unlawful harassment on any basis prohibited by law, including sexual or racial harassment.

16.2 The responsible Union(s) will indemnify and hold harmless RE and all Contractors on the Project for any liability attributed to that Union(s) for violating the laws, regulations and policies that prohibit discrimination or harassment. Likewise, RE, if it is held responsible, or the responsible Contractor(s) on the Project will indemnify and hold harmless the affected Union(s) for any liability attributed to RE or a Contractor(s) for violating the laws, regulations and policies that prohibit discrimination or harassment.

16.3 Where adherence to a provision of a collectively bargained agreement would conflict with any order, regulation or law enforcing discrimination laws from any competent authority of the executive, legislative, judicial or administrative branch of the federal, state or local government, this said order, regulation or law will supersede the conflicting provision of this Agreement.

16.4 The Unions and Primary Employer agree that nothing in this Agreement or any Applicable Agreement will prevent the reasonable accommodation of a person with a disability, and that Primary Employer and any of its Contractors, in their sole discretion, may provide any such accommodation required by law. Such accommodations include, but are not limited to, providing light duty assignments to employees even though such positions may be generally reserved for an employee with greater seniority.
17. ANTI-REDLINING

17.1 There shall be no redlining of the Project in any multi-employer collective bargaining agreement by singling out, either by name or by effect, this Project for more onerous wages, benefits or working conditions than are generally accorded other industrial projects in the same general geographic area.

18. TERM OF AGREEMENT

18.1 The term of this Agreement shall commence on the date indicated below as the date of execution, and shall continue in effect until completion of all Covered Work pursuant to Article 2. Covered Work shall be deemed completed upon “final acceptance” of the Project by RE.

18.2 In the event that the Application for Certification submitted to the California Energy Commission for the Project is withdrawn and the Application proceeding is terminated pursuant to 20 CCR § 1709.8, or the Application is denied by the California Energy Commission and the time periods for reconsideration under Public Resources Code § 25530 and appeal of the denial under Public Resources Code § 25531 have expired with no reconsideration granted or appeal sought, RE may notify the State Building Trades Council and the Local Building Trades Council and terminate this Agreement.

18.3 In the event construction of the Project is not commenced prior to the final deadline, without right of extension, for the commencement of construction established by the California Energy Commission, and prior to final expiration, without right to renew, of the authority to construct permit from the Placer County Air Pollution Control District, RE may notify the State Building Trades Council and the Local Building Trades Council and terminate this Agreement.
IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and effective as of _________________, 2004.

CITY OF ROSEVILLE

By: W. Craig Robinson
    City Manager

STATE BUILDING & CONSTRUCTION TRADES COUNCIL OF CALIFORNIA

By: Robert L. Balgenorth
    President

SACRAMENTO, YOLO, AMADOR,
NEVADA, PLACER, EL DORADO,
SIERRA BUILDING & CONSTRUCTION TRADES COUNCIL

By:
EPC CONTRACTORS
INSERT NAMES OF CONTRACTORS

UNIONS
INSERT NAMES OF UNIONS
APPENDIX A
AGREEMENT TO BE BOUND
PROJECT LABOR AGREEMENT

The undersigned, as a contractor or subcontractor (hereafter “Contractor”) on the Roseville Energy Park, (hereafter “Project”), subject to the Project Labor Agreement (hereafter “Agreement”), for and in consideration of the award to it of a contract to perform work on said Project, and in further consideration of the promises made in the Agreement and all attachments a copy of which was received and is acknowledged, hereby:

1.) Accepts and agrees to be bound by the terms and conditions of the Agreement, together with any and all amendments and supplements now existing or which are later made thereto only for the duration and scope of the Contractor’s work on the Project.

2.) The Contractor agrees to be bound by the legally established trust agreements designated in local master collective bargaining agreements. The Contractor authorizes the parties to such local trust agreements to appoint trustees and successor trustee to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor.

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

4.) Agrees to secure from any Contractor(s) (as defined in said Agreement) which are or become a subcontractor (of any tier) to it, a duly executed Agreement to be Bound in a form identical to this document.

DATED: _______________ Name of Contractor ________________________________

(Authorized Officer & Title) ________________________________

1506-016a
APPENDIX B
SUBSCRIBER AGREEMENT

The undersigned hereby adopt the Trust Agreement known as the Sacramento-Sierra Building & Construction Trades Council Labor-Management Cooperation Trust Agreement, hereinafter referred to as "Trust" and agree to be bound by the terms thereof. The undersigned employer Subscriber and Union hereby grant Powers of Attorney to the Board of Trustees now holding office, or to the successors, to administer the Trust as representatives of the employer and Union respectively, with full power and authority to act for the employer and Union in all matters of administration of the Trust. In no event shall the Union or employer be responsible for any act or omission of the Trustees nor shall the Union or employer have any liability for any debt or liability of the Trust or its Trustees.

Commencing on the first day of work under the attached agreement, and payable not later than the 15th day of each month thereafter, the employer Subscriber shall pay to the Trust the amount specified by the Agreement for all hours worked under the Agreement by the employees of the employer Subscriber for which contributions to the Trust are required by the Agreement. The undersigned employer Subscriber acknowledges that the failure by the employer to timely remit required contributions will result in liquidated damages being payable under the Trust Agreement to which the employer Subscriber is hereby bound.

The undersigned represent and warrant that they are authorized to execute this Agreement on behalf of their respective organizations and that by their respective execution of this Subscriber Agreement their respective organizations are fully bound hereto and the provisions of the Trust Agreement.

By: _______________________________ Date
Employer/Subscriber

By: _______________________________ Date
Sacramento-Sierra Building & Construction Trades Council
RESOLUTION NO. 04-276

APPROVING AN AGREEMENT BETWEEN THE CITY OF ROSEVILLE, THE STATE BUILDING AND CONSTRUCTION TRADES COUNCIL OF CALIFORNIA AND THE SACRAMENTO, YOLO, AMADOR, NEVADA, PLACER, EL DORADO, SIERRA BUILDING AND CONSTRUCTION TRADES COUNCIL, AND AUTHORIZING THE CITY MANAGER TO EXECUTE IT ON BEHALF OF THE CITY OF ROSEVILLE

WHEREAS, a Maintenance Agreement for the Roseville Energy Park, between the City of Roseville, the State Building and Construction Trades Council of California and the Sacramento, Yolo, Amador, Nevada, Placer, El Dorado, Sierra Building and Construction Trades Council, has been reviewed by the Council; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Roseville that said agreement is approved and that the City Manager is authorized to execute it on behalf of the City of Roseville.

PASSED AND ADOPTED by the Council of the City of Roseville this ___ day of __________, 20___, by the following vote on roll call:

AYES COUNCILMEMBERS:
NOES COUNCILMEMBERS:
ABSENT COUNCILMEMBERS:

________________________
MAYOR

ATTEST:

________________________
City Clerk
MAINTENANCE AGREEMENT

FOR

THE ROSEVILLE ENERGY PARK FACILITY

ROSEVILLE, CALIFORNIA
1. PARTIES

1.1. This Maintenance Agreement ("Agreement") is entered into by the City of Roseville ("Primary Employer"), and the State Building and Construction Trades Council of California ("State Council") and Sacramento, Yolo, Amador, Nevada, Placer, El Dorado, Sierra Building & Construction Trades Council ("Local Council") and its affiliated local unions who have executed this Agreement, all of whom are referred to collectively as the "Unions."

1.2. Primary Employer will own the Roseville Energy Park, a 160 MW electrical generating plant located in Roseville, California (the "Facility"). Primary Employer will operate and maintain the Facility either directly, or under contract with the Northern California Power Agency or a plant operator ("Plant Operator").

1.3. Primary Employer is a municipality that, through Roseville Electric, has been providing electrical power to its residents, businesses, and the City's street lighting system since 1912. Primary Employer will construct, operate and maintain the Facility through its employees, contractors or agents. Primary Employer controls the site at which the Facility will be constructed. Primary Employer directly employs construction industry employees and reserves the right to directly perform construction maintenance on the Facility with its own employees. Subject to the provisions of an Applicable Agreement (as defined in Article 3), Primary Employer shall retain the right to control and coordinate all Facility construction maintenance work by determining work scheduling, including uniform start times,
the necessity for and the times of shift work, by directly enforcing any drug and
alcohol abuse policy which is agreed to by any contractor or subcontractor and the
Local Council, and otherwise directly removing any employee whether employed
directly or by any contractor or subcontractor for breach of reasonable rules
promulgated by Primary Employer governing conduct on the job. Primary
Employer shall have the right upon receipt of the written complaint of any
employee to order corrective action necessary to maintain reasonable and lawful
standards for work place health and safety. Primary Employer shall act as the
Coordinator, participate in any monthly labor/management meetings, participate in
pre-job conferences and mark-up meetings, and, at its option, participate in the
resolution of any grievances.

1.4. As provided below, all project managers, construction managers,
contractors, subcontractors, the Northern California Power Agency, any contract
Plant Operator or other persons or entities assigning, awarding or subcontracting
Covered Work (as defined in Article 2), or authorizing another party to assign,
award or subcontract Covered Work, or performing Covered Work will be subject to
this Agreement by executing Attachment A, the Employer Agreement to be Bound
(all of whom, including the Primary Employer, are individually and collectively
referred to as “Employer” or “Employers”).

1.5. The Unions are labor organizations whose members are construction
industry employees.
1.6. It is understood and agreed by and between the parties to this Agreement that the final plans for the Facility may be subject to modifications and approval by those public agencies possessing lawful approval authority over the Facility and that this Agreement applies to the Facility as it is finally approved by such entities and agencies.

1.7. A large labor pool represented by the Unions will be required to execute the maintenance work involved in the Facility. Employers wish, and it is the purpose of this Agreement, to ensure that a sufficient supply of skilled craft workers are available at the Facility, that all construction work and related work performed by the members of the Unions on this Facility shall proceed continuously, without interruption, in a safe and efficient manner, economically with due consideration for the protection of labor standards, wages and working conditions.

1.8. The parties acknowledge that plant maintenance, repair and renovation involves units that must keep operating or, if shut down, must be brought up as soon as practicable. This means that some of the work will be urgent or emergency in nature and, therefore, will require at times the acceptance of extreme fluctuations in labor demand. The Unions completely understand the necessity of these demands and will make every effort, including requesting assistance from other local Unions, to fulfill the labor requirements of the Employers under this Agreement.
1.9. In furtherance of these purposes and to secure optimum productivity, harmonious relations between the parties and the orderly performance of the work, the parties to this Agreement agree to establish adequate and fair wage levels and working conditions and to protect the Facility against strikes and lockouts and other interference with the process of the work.

1.10. In the interest of the future of the construction industry in the local area, of which the Unions are a vital part, and to maintain the most efficient and competitive posture possible, the Unions pledge to work and cooperate with the management of the Facility to produce the most efficient utilization of labor and equipment in accordance with this Agreement.

2. SCOPE OF AGREEMENT

2.1. This Agreement applies to the Facility and includes all planned outage maintenance, major overhauls, and other maintenance work performed on the Facility that is contracted out to a contractor in the construction industry. Work within the scope of this agreement is known as “Covered Work.”

2.2. The following work is excluded from the scope of this Agreement:

2.2.1. Work performed by Primary Employer’s regular workforce, the Northern California Power Agency or the Primary Employer’s Plant Operator.

2.2.2. Work which is performed by an Original Equipment Manufacturer’s (“OEM”) employees for warranty, repair or maintenance on the
vendor's equipment if required by the OEM's warranty agreement between the
OEM and Primary Employer, provided those labor forces are paid a total wage and
benefit package no less than the total wage and benefit package of the craft union
affiliated with the Local Council which would normally and customarily have craft
jurisdiction over that work.

2.2.3. Construction or repair work performed by any Contractor under
the Project Labor Agreement for construction of the Facility, its forces or
subcontractors, provided Primary Employer gives the Local Council reasonable
prior notice which shall include a description of the work to be performed.

2.2.4. Work performed by technical representatives or technicians
performing specialized work on equipment where such employees have special or
unique skills or experience on that equipment which employees represented by the
Unions do not possess. Where practicable, prior notice shall be given to the Local
Council before technical representatives or technicians perform any work.

2.2.5. Work performed by supervisors, technical or non-manual
employees of Primary Employer, and each other Employer, including, but not
limited to, executives, office and clerical employees, supervisors, timekeepers,
messengers, guards; or any civil, mechanical or other professional engineers,
drafters and inspectors not covered by a collective bargaining agreement of a Union
signatory to this Agreement; or staff employees, and operators and personnel of
vendors or their agents or subsidiaries performing warranty work; or any other
employees above the classification of general foreman or who perform
administrative/clerical functions.

2.2.6. Work which is immediately necessary to repair the Facility as
the result of an emergency, provided that the Primary Employer makes reasonable
efforts to locate a union contractor and the union contractor or its employee(s)
cannot perform the work within the time frame required by the Primary Employer.

2.2.7. Work if, at the time the work is to be performed, union signatory
contractors are not reasonably available to bid the work.

3. CONTRACTING AND SUBCONTRACTING

3.1. Primary Employer, and each other Employer, as defined in Section 1.4,
agree that they will contract for the assignment, awarding or subcontracting of
Covered Work, or authorize another party to assign, award or subcontract Covered
Work, only to a person, firm, corporation or other entity that, at the time the
contract is executed, has become a party to this Agreement by executing
Attachment A, the Employer Agreement to be Bound.

3.2. Primary Employer and each other Employer, as defined in Section 1.4,
agree that it will award or subcontract work to be done on the Facility only to a
person, firm, or corporation who is or becomes party to this Agreement and who is
or agrees to become bound for purposes of performing Covered Work, and who
performs Covered Work, pursuant to either: (1) a local multi-employer collective
bargaining agreement with the craft Union having traditional and customary building trades craft jurisdiction over the work, (2) an area agreement with the craft Union having traditional and customary building trades craft jurisdiction over the work, (3) a regional agreement with the craft Union having traditional and customary building trades craft jurisdiction over the work (collectively the local, area or regional agreement is referred to as the "Master Agreement"), or, only in the case of a national contractor, (4) a national agreement with the International Union of the craft Union having traditional and customary building trades craft jurisdiction over the work. Any Employer (including Primary Employer) performing Covered Work on the Facility shall, as a condition to working on the Facility, become bound by and perform all work under the terms of this Agreement and the Master Agreement. Except as provided in this Agreement, the terms of the Master Agreement shall apply to the Project. Before being authorized to perform any Covered Work, Employers (other than Primary Employer) shall become a party to this Agreement by signing Attachment A, the Employer Agreement to be Bound. Every Employer shall notify the Local Council and the State Council in writing within seven (7) business days after it has assigned, awarded or subcontracted work, or authorized another party to do so, and shall at the same time provide to the Local Council and the State Council a copy of the executed Employer Agreement to be Bound and Subscriber Agreement (Attachment B).
3.3. Nothing in this Agreement shall in any manner whatsoever limit the rights of the Primary Employer, or any other Employer, to subcontract work or to select its contractors or subcontractors, provided, however, that all Employers, at all tiers, performing Covered Work shall be required to comply with the provisions of this Agreement. Primary Employer and every other Employer shall notify each of its contractors and subcontractors of the provisions of this Agreement and require as a condition precedent to the award of any construction contract or subcontract for Covered Work or allowing any subcontracted Covered Work to be performed, that all such contractors and subcontractors at all tiers become signatory to this Agreement, the Master Agreement and the Subscriber Agreement (Attachment B). If any Employer fails to provide the Local Council and State Council with the Employer Agreement to be Bound and Subscriber Agreement executed by its subcontractor, that Employer shall be liable for any contributions to any trust funds that the subcontractor, or any subcontractor to that subcontractor, fails to make. Provided that any Employer provides such executed agreements to the Local Council, and notwithstanding any provision to the contrary contained in any other agreement or trust fund document, then the Employer shall not have any liability to any party to this Agreement for any breach or delinquency by its subcontractor under this Agreement, or under any agreement described or incorporated herein, or to any trust fund either incorporated herein by reference or maintained under the agreements described herein, or to any employee.
3.4. Primary Employer or the Plant Operator may choose to directly purchase any parts or materials for the work necessary on the Facility.

4. **WAGES**

4.1. All employees covered by this Agreement (including foremen and general foremen if they are covered by the Master Agreement) shall be classified and paid wages, other compensation including but not limited to travel, subsistence, show up and shift premium pay, and contributions made on their behalf to multi-employer trust funds, all in accordance with the then current multi-employer Master Agreement of the applicable Union. No labor agreement for the work covered by this Agreement will apply to employees above the level of General Foreman.

4.2. Any special interest bargaining which establishes wage rates, classifications, zones, or wage escalations which apply exclusively to the Facility will not be recognized. In addition, there shall be no redlining of the Facility in any future multi-employer collective bargaining agreements by singling out, either by name or by effect, the Facility or the Employers for less favorable wages, benefits or working conditions than are generally accorded other industrial Facilities in the same general geographic area.

4.3. The first two (2) hours performed in excess of the standard work day Monday through Friday shall be paid at the rate of time and one-half.
Compensation for Saturday will be paid in accordance with the appropriate Master Agreement. There shall be no pyramiding of overtime pay. All work performed on Sundays and in excess of ten (10) hours a day shall be paid the overtime rate as stated in the appropriate Master Agreement but not to exceed double the straight time rate of pay.

4.4. The Parties agree that this Agreement provides for wages and benefits consistent with California prevailing wage law. The Unions agree that any dispute concerning the appropriate wage rate for Covered Work under this Agreement should be resolved solely under the grievance procedure provided in Section 8.3 of this Agreement, and that the Unions, and each of them, will not seek to resolve any issue over the applicable wage rate in any other forum, including but not limited to the California Department of Industrial Relations.

5. UNION RECOGNITION

5.1. The Employers recognize the Unions signatory to this Agreement as the sole and exclusive collective bargaining agents for their respective construction craft employees performing Covered Work for the Facility, and further recognize the traditional and customary craft jurisdiction of each Union.

5.2. All employees performing Covered Work shall be or shall become and then remain members in good standing of the appropriate Union as a condition of
employment on or before the eighth (8th) day of employment, or the eighth (8th) day following the execution of this Agreement, whichever is later.

5.3. It is agreed that the Unions shall be the source of all craft employees for Covered Work for the Facility. Employers agree to be bound by the hiring practices of the respective Union, including the hiring of apprentices, and to utilize its registration facilities and referral systems. The Employer(s) shall have the right to reject any applicant referred by the Union(s).

5.4. In the event the referral facilities maintained by the Unions do not refer the employees as requested by the Employer within a forty eight (48) hour period after such requisition is made by the Employer (Saturdays, Sundays and Holidays excepted), the Employer may employ applicants from any source. When, in order to maintain the continuous generation of electricity, the Primary Employer or Employer(s) must begin work within 48 hours of learning of the necessity of the work, the Unions must use their best efforts to refer employees. If the Unions cannot refer sufficient qualified employees within the timeframe required, the Primary Employer or Employer(s) may employ applicants from any source until such time that the Unions refer qualified employees.

6. STRIKES AND LOCKOUTS

6.1. During the term of this Agreement, the Unions, their agents, their representatives and their employees agree that they shall not incite, encourage,
condone or participate in any strike, walkout, slowdown, sit-down, stay-in, boycott, sympathy strike, picketing or other work stoppage for any cause whatsoever with respect to this Facility; and there shall be no lockout by Primary Employer or any other Employer; and it is expressly agreed that any such action is in violation of this Agreement. In the event of a violation of this provision, any Employer shall be entitled to seek relief in court, specifically including injunctive relief, to restrain any such action on the part of the Union(s), and/or any of its agents, representatives or employees.

6.2. Notwithstanding the provisions of Section 6.1 above, it is agreed that a Union retains the right to withhold the services of its members from a particular contractor or subcontractor who fails to make timely payments to the Union’s benefit plans, or fails to timely pay its weekly payroll, in accordance with its agreements with the Union: provided, however, that the Union must give Primary Employer five (5) business days’ prior notice, in the case of payroll delinquencies, and ten (10) business days’ prior notice, in the case of benefit fund delinquencies, that it intends to withhold the services of its members, and that in the event the Union or any of its members withholds their services from such contractor or subcontractor, Primary Employer shall have the right to replace such contractor or subcontractor with any other contractor or subcontractor who executes the Agreement to be Bound.
6.3. In lieu of, or in addition to, any other action at law or equity, any party may institute the following non-binding arbitration procedure when a breach of Article 6 is alleged, after the Union(s) and local union(s), or Primary Employer and Employer(s), as appropriate, have been notified of the fact.

6.3.1. The party invoking this non-binding arbitration procedure shall, at their option, notify the permanent Arbitrator under this non-binding arbitration procedure, Gerald McKay. In the event that the permanent Arbitrator is not available, the American Arbitration Association shall select an alternative Arbitrator within twenty-four (24) hours of notice. Notice to the Arbitrator and other parties shall be by the most expeditious means available, with notice by facsimile or any other effective written means, including electronic mail if available. Such notice shall be provided to the party alleged to be in violation, and to the involved International Union President and local union or Primary Employer and Employer(s), as appropriate.

6.3.2. Upon receipt of said notice the Arbitrator named above shall set and hold a hearing within twenty-four (24) hours if it is contended that the violation still exists.

6.3.3. The Arbitrator shall notify the parties by facsimile or any other effective written means, including electronic mail if available, of the place and time chosen for the hearing. Said hearing shall be completed in one session. A failure of
any party or parties to attend said hearing shall not delay the hearing of evidence or issuance of a decision by the Arbitrator.

6.3.4. The sole issue at the hearing shall be whether or not the Arbitrator believes a violation of Article 6 has occurred. The Arbitrator shall not consider any matter in justification, explanation or mitigation of such violation. The decision shall be issued in writing within three (3) hours after close of the hearing, and may be issued without an opinion. If any party desires an opinion, one shall be issued within fifteen (15) days.

6.3.5. At any time before the matter is submitted for a decision, the grieving party has the right to withdraw the grievance without prejudice.

6.3.6. The decision shall be non-binding.

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

6.3.8. The expense of arbitration, including the cost of the Arbitrator and the cost of necessary expenses required to pay for facilities for the hearing of cases, shall be borne equally by both parties.

6.3.9. If a court or other tribunal of competent jurisdiction determines that a work stoppage has occurred in violation of Section 6.1, the Union(s) and its applicable local union shall, within four (4) hours of receipt of the court decision, direct all of the employees it represents on the Facility to immediately return to
work. The applicable local union shall provide the Primary Employer or Employer(s), as appropriate, with copies of any written material it provides to employees it represents directing employees to return to work or, if such direction is provided orally, shall provide the Primary Employer or Employers(s), as appropriate, with a faxed notice describing the direction given to employees and a description of how that direction was provided. If the Union(s) are found to have violated Section 6.1 or Section 6.2, then that Union(s) shall pay the sum of ten thousand dollars ($10,000.00) as liquidated damages to Primary Employer for each shift for which a violation has occurred, and for which the trade has not returned to work following the initial violation. For subsequent violations by the same Union, said Union shall pay the sum of fifteen thousand dollars ($15,000.00) as liquidated damages to Primary Employer for each shift for which the trade has not returned to work as a result of that subsequent violation. The applicable court or tribunal shall retain jurisdiction to determine compliance with Section 6.1 and 6.2.

6.4. In the event that any applicable labor agreement expires and the parties to that agreement fail to reach agreement on a new contract by the date of expiration, a Union shall continue to provide employees to the Employers working on the Facility under all the terms of the expired agreement until a new agreement is negotiated, at which time all terms and conditions of that new agreement shall be applied to Covered Work at the Facility, except to the extent they conflict with any provision of this Agreement. In addition, if the new labor agreement provides for
wage or benefit increases, then any Employer shall pay to its employees who
performed Covered Work at the Facility during the hiatus between the effective
dates of such labor agreements, an amount equal to any such wage and benefit
increases established by the new labor agreement for such work performed. If
employees to whom the expired labor agreement applied did not continue working
at job sites other than the site of the Facility during the hiatus, retroactive wage
and benefit increases shall be limited to a maximum of thirty (30) days.

7. SHIFT TIMES

7.1. Common shifts may be established when considered necessary by the
Employer. For planned maintenance work longer than one week in duration, the
Employer shall provide at least one week notice to the Local Council and any
affected Union prior to any change in shift time except in unforeseen circumstances,
in which case notice shall be given as soon as practicable. Any shifts established
shall continue for at least five (5) consecutive days of work, or the duration of the
job, whichever is shorter.

7.2. Recognized holidays shall be as follows: New Year's Day, Martin
Luther King Day, Presidents' Day, Memorial Day, Fourth of July, Labor Day,
Under no circumstances shall any work be performed on Labor Day except in cases
of emergency involving life or property. In the event a holiday falls on Sunday, the
following day, Monday, shall be observed as such holiday. In the event a holiday falls on Saturday, the previous day, Friday, shall be observed as such holiday.

There shall be no paid holidays. If employees are required to work on a holiday, they shall receive the appropriate rate; but in no case shall such overtime rate be more than double the straight time rate.

7.3. It will not be a violation of this Agreement when Primary Employer considers it necessary to shut down to avoid the possible loss of human life because of an emergency situation that could endanger the life and safety of an employee. In such cases, employees will be compensated only for the actual time worked. In the case of a situation described above whereby Primary Employer and/or the contractor requests an employee to wait in a designated area available for work, the employee will be compensated for the waiting time. Employees who are not asked to wait in a designated area, but are called back after clocking out, will be paid call back pay in accordance with the Master Agreement.

8. GRIEVANCE PROCEDURE

8.1. It is mutually agreed that any question arising out of and during the term of this Agreement involving its interpretation and application (other than questions concerning strikes or lockouts, jurisdictional disputes or successorship) shall be considered a grievance. Questions between or among parties signatory to a Master Agreement arising out of or involving the interpretation of a Master
Agreement shall be resolved under the grievance procedure provided in that Master Agreement.

8.2. The Primary Employer and other Employers, as well as the Unions, may bring forth grievances under this Article 8.

8.3. A grievance shall be considered null and void if not brought to the attention of the Employer(s) within five (5) working days after the incident that initiated the alleged grievance occurred or was discovered. The term “working days” as used in this Article shall exclude Saturdays, Sundays or holidays regardless of whether any work is actually performed on such days.

8.4. Grievances shall be settled according to the following procedure except that grievances that do not involve an individual grievant shall commence at Step 2:

**Step 1**
The Steward and the grievant shall attempt to resolve the grievance with the craft supervisor within five (5) working days after the Grievance has been brought to the attention of the Employer.

**Step 2**
In the event the matter remains unresolved in Step 1 above after five (5) working days, within five (5) working days thereafter, the alleged grievance may be referred in writing to the Business Manager(s) of the Union(s) affected and the Labor Relations representative of the Employer(s) for discussion and resolution. A copy of the written grievance shall also be mailed/faxed to the Primary Employer.

**Step 3**
In the event the matter remains unresolved in Step 2 above after five (5) working days, within five (5) working
days thereafter, the grievance may be referred in writing
to the Business Manager(s) of the affected Union(s)
involved and the Manager of Labor Relations of the
Employer(s) or the Manager's designated representative,
and the Primary Employer for discussion and resolution.

Step 4
If the grievance is not settled in the preceding steps
within five (5) working days, either party may request the
dispute be submitted to arbitration or the time may be
extended by mutual consent of both parties. The request
for arbitration and/or the request for an extension of time
must be in writing with a copy to the Primary Employer.
Should the parties be unable to mutually agree on the
selection of an Arbitrator, selection for that given
arbitration shall be made by seeking a list of seven (7)
arbitrators from the American Arbitration Association
and alternately striking names from the list of names on
the panel until the parties agree on an Arbitrator or until
one name remains. The first party to strike a name from
the panel shall alternate between the party bringing forth
the grievance and the party defending the grievance.
Primary Employer shall keep a record of the sequence and
shall notify the parties to the grievance as to which party
has the right to strike a name first.

8.5. The Arbitrator shall conduct a hearing at which the parties to the
grievance shall be entitled to present testimonial and documentary evidence.
Hearings will be transcribed by a certified court reporter. The parties shall be
entitled to file written briefs after the close of the hearing and receipt of the
transcript.

8.6. Upon expiration of the time for the parties to file briefs, the Arbitrator
shall issue a written decision that will be served on all parties and on the Primary
Employer. The Arbitrator's decision shall be confined to the issue(s) posed by the
grievance and the Arbitrator shall not have the authority to modify, amend, alter, add to or subtract from, any provision of this Agreement. The Arbitrator shall have the authority to utilize any equitable or legal remedy to prevent and/or cure any breach or threatened breach of this Agreement. The Arbitrator's decision shall be final and binding as to all parties signatory to this Agreement.

8.7. The cost of the Arbitrator and the court reporter, and any cost to pay for facilities for the hearing, shall be borne equally by the parties to the grievance. All other costs and expenses in connection with the grievance hearing shall be borne by the party who incurs them.

8.8. Any party to a grievance may invite the Primary Employer to participate in resolution of a grievance. The Primary Employer may, at its own initiative, participate in Steps 1 through 3 of the grievance procedure.

8.9. In determining whether the time limits of Steps 2-4 of the grievance procedure have been met, a written referral or request shall be considered timely if it is personally delivered, faxed or postmarked within the five (5) working day period. Any of the time periods set forth in this Article may be extended in writing by mutual consent of the parties to the grievance, and any written referral or request shall be considered timely if it is personally delivered, faxed or postmarked during the extended time period.
8.10. Any award or resolution under Article 9 shall be prospective and shall not require any back pay for work performed unless the assignment is a willful violation of a well-established jurisdiction.

9. JURISDICTIONAL DISPUTES

9.1. The assignment of work will be solely the responsibility of the Employer performing the work involved, and work shall be assigned based on traditional building trades craft jurisdiction. All jurisdictional disputes between or among the Unions and their employees, parties to this Agreement, shall be settled and adjusted according to the plan described in this Article 9. Decisions rendered shall be final, binding and conclusive on the Employers involved and the Unions that are parties to this Agreement.

9.2. A party challenging an assignment shall notify all affected Unions, the Employer and the Local Council, by facsimile, within two (2) days of the time that a dispute occurs. All disputes involving craft work assignments shall be referred to the Local Council which shall convene a meeting with the affected Unions and Employer within two (2) days. Should the Local Council, the affected Unions and the Employer fail to resolve the dispute within five (5) working days from the date they were notified of the dispute, then the matter shall be immediately referred to the affected International Unions with which the local unions are affiliated and they and the Employer shall have the opportunity to resolve the dispute.
9.3. Should the International Unions and the Employer fail to resolve the dispute within five (5) work days from the date they were notified of the dispute, then the matter shall be referred by facsimile by any International Union or Employer directly involved in the dispute for arbitration to the arbitrator, chosen by the International Unions from the Federal Mediation and Conciliation Service, to resolve jurisdictional disputes under this procedure.

9.4. The arbitrator will set and hold a hearing within seven (7) days of the referral to him or her. The arbitrator shall notify the Employer and the appropriate International Unions by facsimile of the place and time chosen for the hearing. A failure of any party or parties to attend said hearing without good cause, as determined by the arbitrator, shall not delay the hearing of evidence or issuance of a decision by the arbitrator. The time period set forth herein can be extended by mutual agreement of the parties in writing.

9.5. The arbitrator shall issue a decision within three (3) days after the case has been closed. The decision of the arbitrator shall be final and binding on all parties to the dispute. This action of the arbitrator shall be predicated upon the particular facts and evidence presented regarding this dispute and shall be effective only on this particular job.

9.6. In rendering the decision, the arbitrator shall determine first, whether a previous decision or agreement of record between the parties to the dispute governs. If the arbitrator finds that the dispute is not covered by an appropriate or
applicable decision or agreement of record, the arbitrator shall then consider whether there is an applicable agreement between the crafts governing the case. If no such agreement is in effect, the arbitrator shall then consider the established trade practice and prevailing practice in the locality.

9.7. Any award or resolution under Article 9 shall be prospective and shall not require any back pay for work performed unless the assignment is a willful violation of a well-established jurisdiction.

9.8. Each party to the arbitration shall bear its own expense for the arbitration. The fees and expenses of the arbitrator will be shared equally by the affected International Unions and the Employer.

9.9. The Employer shall not be subject to disputes regarding work assignments made by its subcontractors. However, the Employer must ensure that its subcontractors, performing work under the terms and conditions of this Agreement, follow the procedures of this Article.

10. **JOINT LABOR/MANAGEMENT MEETINGS**

10.1. During the period of any work performed under this Agreement, a joint Labor/Management meeting will be held on an approximately monthly basis or more frequently as needed between the Primary Employer, the contractors and subcontractors, and the signatory Unions. The purpose of these meetings is to promote harmonious labor/management relations, ensure adequate communications
and advance the proficiency and efficiency of the craft workers and contractors
performing work at the Facility. These monthly (or more frequent) meetings will
also include discussion of the scheduling and productivity of work performed at the
Facility.

10.2. A Pre-Job Conference will be held prior to the commencement of work
to establish the scope of work in each Employer’s contract. When a contract has
been let to an Employer(s) covered by this Agreement, a Pre-Job Conference and/or
Mark-Up Meeting shall be required upon request of any Union, Employer or the
Primary Employer.

10.3. The Primary Employer or its agent will schedule and attend all Pre-
Job Conferences and Mark-Up Meetings, and may participate in discussions.

11. SUCCESSORSHIP

11.1. This Agreement is and shall be binding and legally effective upon (i)
any successor to Primary Employer, and (ii) any person or entity that acquires all or
any portion of Primary Employer’s right, title or interest in the Facility whether by
sale, lease, or other transfer, or contribution to partnership, joint venture or other
entity. Any agreement for a sale, lease, contribution or other transfer of the Facility
by the Primary Employer shall include an express assumption of the obligations
and undertakings of Primary Employer under this Agreement, including this
successorship provision. Within five (5) days following the close of any sale,
acquisition, merger, lease or other transfer covered by this Section 11.1, Primary Employer shall provide the State Council and the Local Council with written notice thereof and an original, executed assumption of this Agreement. Any sham transfer is a breach of this clause and shall not release Primary Employer from any of its obligations or undertakings under this Agreement.

11.2. The parties hereto agree that in the event Primary Employer breaches Section 11.1 above, the actual damages to the Unions or their members would be unreasonably difficult, costly, inconvenient, or impracticable to calculate. Accordingly, the parties agree to liquidated damages which bear a reasonable relationship to the actual harm suffered.

11.3. In the event of a breach of Section 11.1 above, Primary Employer shall pay Twenty Dollars ($20.00) for each hour that work was performed within the scope of this Agreement by employees of contractors or subcontractors who are not in compliance with the provisions of Section 3.2. The liquidated damages shall be paid as follows: Ten Dollars ($10.00) per hour to the qualified pension plan and Ten Dollars ($10.00) per hour to the qualified health and welfare plan of the Union(s) having craft and geographic jurisdiction over the work performed by the contractor(s) or subcontractor(s) not signatory to this Agreement. The parties agree that a Union shall enforce, collect and receive liquidated damages pursuant to Article 11 on behalf of its qualified pension plan and its qualified health and welfare plan. The qualified pension plans and the qualified health and welfare plans shall
have no right to independently enforce the provisions, including but not limited to, the liquidated damage provisions contained in Article 11.

11.4. In no event shall the liquidated damages payable under Section 11.3 exceed a total amount of $5,000,000 for the Facility (the "Cap"). In the event that pending claims would result in a payment in excess of the Cap, the total claims shall be prorated based on the number of hours worked by contractors or subcontractors in violation of Section 3.2 so that the total payment of claims does not exceed the Cap.

11.5. Upon execution and delivery of an agreement assuming all the obligations of this Agreement by a financially responsible successor pursuant to the requirements of Section 11.1, Primary Employer shall be released from liability for the payment of liquidated damages under Section 11.3 and Primary Employer shall have no liability for any breach of this Agreement by a successor employer or contractor.

11.6. This Article 11 shall be enforceable in any court of competent jurisdiction, and shall not be subject to the grievance procedure of Article 8.

12. LABOR MANAGEMENT COOPERATION TRUST

12.1. Each Employer at every tier who performs work within the scope of this Agreement shall contribute the sum of twenty-five cents ($0.25) per hour for each hour paid for or worked by employees, and shall remit that sum by payment
postmarked no later than the 15th of the month following the month in which those hours were paid for or worked, directly to the Sacramento-Sierra Building & Construction Trades Council Labor Management Cooperation Trust or its designee. Each Employer shall execute a Subscriber Agreement covering these contributions, a copy of which is attached as Attachment B.

13. GENERAL

13.1. If any article or provision of this Agreement shall be declared invalid, inoperative, or unenforceable by any competent authority of the executive legislative, judicial or administrative branch of the federal or state government, Primary Employer, the State Council, the Local Council and the Unions shall suspend the operation of such article or provisions during the period of its invalidity and shall substitute by mutual consent, in its place and stead, an article or provision which will satisfy the objections to its validity and which, to the greatest extent possible, will be in accord with the intent and purpose of the article or provision in question.

13.2. If any article or provision of this Agreement shall be held invalid, inoperative or unenforceable by operation of law, or by any of the above mentioned tribunals of competent jurisdiction, the remainder of the Agreement or application of such article or provision to persons or circumstances other than to which it has been held invalid, inoperative or unenforceable shall not be affected thereby.
13.3. It is mutually agreed that any liability under this Agreement by Primary Employer, any Employer, the State or Local Council, or a Union shall be several and not joint. Any alleged breach of this Agreement by a party shall not affect the rights, liabilities, obligations and duties among the other parties or between that party and any other party.

13.4. Except as enumerated in this Agreement, all other terms and conditions of employment described in the Master Agreement of the craft Union having traditional and customary building trades craft jurisdiction over the work shall apply.

13.5. The parties agree that employees are entitled to equal employment opportunity and the parties will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, disability, national origin, age, religion, Vietnam veteran, or Vietnam era status, or any other basis prohibited by law. The parties also agree that no person shall be subject to unlawful harassment on any basis prohibited by law, including sexual or racial harassment.

13.6. This Agreement supersedes any contrary provisions in local, area, regional or national collective bargaining agreements.

13.7. Each person executing this Agreement represents and warrants that he or she is authorized to execute this Agreement on behalf of the party or parties indicated.
13.8. This Agreement may be executed in counterparts.

13.9. Any notices required under this Agreement shall be given as follows:

To Primary Employer:

Tom Habashi
Director
Roseville Electric
2090 Hilltop Circle
Roseville, CA 95747
Telephone: 916-774-5697

To the State Council:

Robert L. Balgenorth, President
State Building and Construction Trades Council of California
1225 8th Street, Suite 375
Sacramento, CA 95814
Telephone: 916-443-3302

To the Local Council:

Sacramento, Yolo, Amador, Nevada, Placer, El Dorado, Sierra Building and Construction Trades Council
2840 El Centro Rd, #107
Sacramento, CA 95833
Telephone: (916) 924-0424

With a copy to:

Mark J. Doane
City Attorney
City of Roseville
311 Vernon Street
Roseville, CA 95678

Marc D. Joseph
Adams Broadwell Joseph & Cardozo
651 Gateway Boulevard, Suite 900
South San Francisco, CA 94080
Telephone: 650-589-1660

Scott W. Blek
Galati & Blek LLP
100 North Brand Boulevard, Suite 618
Glendale, CA 91203
Telephone: 818-476-0063

Either party may notify the other in writing if its person designated to receive notice is changed.
14. WAIVER

14.1. The parties hereby acknowledge that this Agreement is a lawful pre-hire agreement within the meaning of Section 8(d) of the National Labor Relations Act; and the Primary Employer and each other Employer hereby expressly waives its right to contest, challenge, repudiate or void (hereinafter collective "challenge") this Agreement, directly or indirectly, on any basis, in any proceeding before any federal, state or local court, agency or other tribunal, including the National Labor Relations Board, or before any arbitrator or hearing officer, including any challenge to the validity of this Agreement that is raised as a defense to any action or claim brought by the Unions. This Agreement shall be a complete defense to any such challenge.

14.2. Each Employer further agrees that it shall not solicit, finance or participate in any challenge to this Agreement by any other person or entity. Payment of regular annual dues to an organization or association does not constitute "solicitation," "financing" or "participation in" a challenge as those terms are used in this Agreement.

14.3. This Article shall be enforced pursuant to Article 8 of this Agreement and any grievance shall commence at Step 3 of Article 8.4. The parties agree that the economic damages to the Unions from a breach of this Article include the reasonable fees and costs of defense.
15. TERM

15.1 This Maintenance Agreement shall be effective upon completion of pre-operational testing of any portion of the Facility, and shall continue for thirty (30) years thereafter.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and effective as of __________________, 2004.

CITY OF ROSEVILLE

By: W. Craig Robinson
City Manager

STATE BUILDING & CONSTRUCTION TRADES COUNCIL OF CALIFORNIA

By: Robert L. Balgenorth
President

SACRAMENTO, YOLO, AMADOR,
NEVADA, PLACER, EL DORADO, SIERRA
BUILDING & CONSTRUCTION TRADES COUNCIL

By: ____________________________
Business Manager
UNIONS

[insert names of local unions]
ATTACHMENT A
AGREEMENT TO BE BOUND

MAINTENANCE AGREEMENT
ROSEVILLE ENERGY PARK FACILITY

The undersigned, as a contractor or subcontractor (hereafter “Contractor”) on the Facility, as defined in Article 1 (hereafter “Facility”) of the Maintenance Agreement (hereafter “Agreement”), for and in consideration of the award to it of a contract to perform work on said Facility, and in further consideration of the promises made in the Agreement and all attachments a copy of which was received and is acknowledged, hereby:

1.) Accepts and agrees to be bound by the terms and conditions of the Agreement, together with any and all amendments and supplements now existing or which are later made thereto.

2.) The Contractor agrees to be bound by the legally established trust agreements designated in local master collective bargaining agreements. The Contractor authorizes the parties to such local trust agreements to appoint trustees and successor trustee to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor.

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

4.) Agrees to secure from any Contractor(s) (as defined in said Agreement) which are or become a subcontractor (of any tier) to it, a duly executed Agreement to be Bound in form identical to this document.

DATED: __________ Name of Contractor

__________________________
(Authorized Officer & Title)

__________________________
(Address)

1506-014a
ATTACHMENT B
SUBSCRIBER AGREEMENT

The undersigned hereby adopt the Trust Agreement known as the Sacramento-Sierra Building & Construction Trades Council Labor-Management Cooperation Trust Agreement, hereinafter referred to as "Trust" and agree to be bound by the terms thereof. The undersigned employer Subscriber and Union hereby grant Powers of Attorney to the Board of Trustees now holding office, or to the successors, to administer the Trust as representatives of the employer and Union respectively, with full power and authority to act for the employer and Union in all matters of administration of the Trust. In no event shall the Union or employer be responsible for any act or omission of the Trustees nor shall the Union or employer have any liability for any debt or liability of the Trust or its Trustees.

Commencing on the first day of work under the attached Agreement, and payable not later than the 15th day of each month thereafter, the employer Subscriber shall pay to the Trust the amount specified by the Agreement for all hours worked under the Agreement by the employees of the employer Subscriber for which contributions to the Trust are required by the Agreement. The undersigned employer Subscriber acknowledges that the failure by the employer to timely remit required contributions will result in liquidated damages being payable under the Trust Agreement to which the employer Subscriber is hereby bound.

The undersigned represent and warrant that they are authorized to execute this Agreement on behalf of their respective organizations and that by their respective execution of this Subscriber Agreement their respective organizations are fully bound hereto and the provisions of the Trust Agreement.

By: ___________________ Date
Employer/Subscriber

By: ___________________ Date
Sacramento-Sierra Building & Construction Trades Council
RESOLUTION NO. 04-277

APPROVING AN AGREEMENT BETWEEN THE CITY OF ROSEVILLE
AND LOCAL 1245, INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE IT ON
BEHALF OF THE CITY OF ROSEVILLE

WHEREAS, a Neutrality Agreement for the Roseville Energy Park, between the
City of Roseville and Local 1245, International Brotherhood of Electrical Workers, has
been reviewed by the Council; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Roseville
that said agreement is approved and that the City Manager is authorized to execute it on
behalf of the City of Roseville.

PASSED AND ADOPTED by the Council of the City of Roseville this ___ day
of ____________, 20__, by the following vote on roll call:

AYES COUNCILMEMBERS:

NOES COUNCILMEMBERS:

ABSENT COUNCILMEMBERS:

__________________________________________
MAYOR

ATTEST:

__________________________________________
City Clerk
NEUTRALITY AGREEMENT

This Agreement is entered into by and between Local 1245, International Brotherhood of Electrical Workers ("the Union") and the City of Roseville ("Roseville") effective as of ___ July, 2004, and shall cover the Roseville Energy Park Project generating facilities to be constructed by or for Roseville at its Roseville, California facility site (the "Facility").

Roseville agrees that it shall require any operator of the Facility ("the Employer") to comply with the terms of this Agreement. If the Facility is operated by Roseville's workforce, this Agreement shall have no force or effect.

This Agreement shall remain in full force and effect with respect to the Facility until the earliest of the conditions set forth in paragraph 10 shall have occurred with respect thereto.

1. Except as hereinafter provided, the Employer shall appoint the Union as its exclusive source for the referral of applicants for non-supervisory maintenance and operation positions of the Facility on the following basis:

   a. As soon as practicable, the Employer will provide the Union with its staffing plan in connection with the Facility. Thereafter, when the Employer is prepared to commence the hiring process for operations and maintenance positions, pursuant to the operation plan, it shall notify the Union in writing of its personnel requirements. The notice shall be given to the Union at its business office, and shall specify the qualifications for each position to be filled, in as much detail as practical.
b. The Union shall promptly respond to the notice of the Employer's requirements by referring qualified applicants for interviews by the Employer at the place designated by the Employer. While the Employer shall give first consideration to applicants referred by the Union, the Employer shall have the sole right to determine whether the applicants should be hired and may reject any applicant referred by the Union. It is also within the Employer's management right to determine the size and composition of the required jobs needed for the Facility, including the right to determine the skills and qualifications for each job.

c. In evaluating applicants for employment the Employer may utilize its normal standardized applications, interview, testing and evaluation processes, which may include written tests and aptitude tests, as well as drug testing. The Employer is solely responsible for these testing and evaluation procedures and the Union assumes no liability.

d. During the staffing of the Employer's generating facility, if the Union fails to refer a sufficient number of individuals who, in the opinion of the Employer, are qualified to meet the Employer's hiring standards, the Employer shall have the right to hire personnel that are not referred by the Union; provided, however, that prior to interviewing any such applicants for employment, the Employer shall give the Union twenty one (21) days written notice of its intent to hire personnel who are not referred by the Union. At the expiration of the twenty one (21) day period, the Employer shall be free to
hire employees who are not referred by the Union. Nothing herein contained shall reduce or eliminate the Employer's continuing obligations under the terms of this Agreement to notify the Union of vacancies during the initial staffing phase and to continue to give applicants referred by the Union first consideration for employment.

e. Neither the Employer nor the Union shall discriminate against any person on the basis of race, creed, color, national origin, religion, sex, physical disability, age, sexual orientation, or union membership.

f. The staffing plan shall describe all non-management operations and maintenance positions.

2. Pursuant to the staffing plan described in paragraph 1(a) above, the parties will agree upon a projected time period within which a number constituting fifty percent (50%) of the employees meeting the description in paragraph 1(f) above will be achieved. At any time after such complement of employees is hired, the Employer shall, upon request by the Union:

a. Allow up to three (3) representatives of the Union reasonable access to the Facility for the purpose of informing employees of their rights to form and join organizations of their own choosing for the purpose of representation with their Employer with respect to wages, hours, and other terms and conditions of employment; and to explain the benefits of membership in and representation for such purposes by the Union.
b. “Reasonable access” shall mean the right to meet with employees on at least three (3) occasions at the Facility on non-work time (e.g., lunch hour) during normal business hours.

c. The Employer shall supply the Union with a list of employees meeting the description of paragraph 1(f) hired to operate and maintain the Facility. Such list shall contain the names, home addresses and home phone numbers of such employees. The Union shall at all times maintain the confidentiality of any such list supplied to it by the Employer.

3. The Employer shall remain “neutral” with regard to any question concerning the representation of its employees by the Union. “Neutral” shall mean that the Employer shall take no official position, nor shall it direct or condone any of its agents or representatives, including any attorneys or consultants to the Employer, to take any position against the exercise by the employees of their right to select the Union as their collective bargaining representative or to oppose the selection of the Union as the employees' collective bargaining representative. The Employer retains the rights subject to the foregoing provisions and in response to questions or statements from employees to (a) inform employees in a neutral manner of their legal rights, (b) explain in a neutral manner any and all Employer operations and terms and conditions of employment, and (c) respect the rights of any individual employee to exercise his/her common law, statutory or constitutional rights.
4. At any time after the projected employee complement described in paragraph 1(f) has been employed at the Facility, and upon reasonable notice and request by the Union, the Employer shall submit to a card check election to determine the desires of its employees to be represented for the purposes of collective bargaining by the Union. In the event that a majority of the employees then employed by the Employer in maintenance and operation positions described in paragraph 1(f) have signed cards authorizing the Union to act as their collective bargaining representative, and such authorization card majority is verified by the California Mediation and Conciliation Service, the Employer shall recognize the Union as the exclusive bargaining representative of such employees.

5. If the Union is selected by a majority of employees as their collective bargaining representative, the Employer shall, immediately upon the request by the Union, bargain in good faith with the Union for the purposes of concluding a collective bargaining agreement.

6. If after a reasonable period of time for negotiation in good faith the parties are unable to conclude a collective bargaining agreement, either party may request that any unresolved issues be submitted to interest arbitration for resolution. Any such arbitration shall be conducted under the auspices of, and in accordance with, the rules and regulations of the American Arbitration Association. The decision of the arbitrator with respect to any matter submitted to arbitration will be final and binding upon the parties. The arbitrator may not consider any matter beyond relevant evidence and arguments proffered by the parties in any hearing conducted under this paragraph.
7. Should any court or administrative agency of competent jurisdiction find that any provision of this agreement is unlawful, that provision and only that provision deemed to be unlawful shall be void and all other provisions of this Agreement shall remain in full force and effect. With respect to any provision deemed unlawful, the parties will meet and conclude an alternate provision to the same or similar effect that comports with law.

8. This Agreement is and will be binding and legally effective upon any entity which acquires title to the Facility whether by sale, lease or other transfer, or contribution to partnership or joint venture or any other entity. Any agreement for a sale, lease, or other transfer, or contribution of the Facility or any agreement for a merger or acquisition of the Facility, shall include an express assumption of the obligations of this Agreement, including this successorship provision. Roseville will provide the Union with written notice at the close of any sale, acquisition, merger, lease, other transfer or contribution covered by this Agreement and an original executed assumption of this Agreement.

9. This Agreement may be specifically enforced upon the application of either party hereto in any court of competent jurisdiction and shall be specifically enforced without a showing of irreparable harm and without the posting of a bond.

10. This agreement shall terminate with regard to the Facility upon the earliest of the following events:
a. The Parties hereto mutually agree in writing to terminate the Agreement.

b. The date upon which it is certified that the Union has failed to be selected by a majority of employees in accordance with Paragraph 4 hereof.

c. The effective date of any collective bargaining agreement reached between the parties with respect to the Facility pursuant to Paragraph 5.

Dated: ___________________________  Dated: ___________________________

Perry Zimmerman  W. Craig Robinson
For Local 1245, IBEW  For City of Roseville
RESOLUTION NO. 04-278

APPROVING AN AGREEMENT BETWEEN THE CITY OF ROSEVILLE, AND LOCAL 1245, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE IT ON BEHALF OF THE CITY OF ROSEVILLE

WHEREAS, a Transmission Construction Agreement for the Roseville Energy Park, between the City of Roseville and Local 1245, International Brotherhood of Electrical Workers; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Roseville that said agreement is approved and that the City Manager is authorized to execute it on behalf of the City of Roseville.

PASSED AND ADOPTED by the Council of the City of Roseville this ___ day of _____________, 20__, by the following vote on roll call:

AYES COUNCILMEMBERS:

NOES COUNCILMEMBERS:

ABSENT COUNCILMEMBERS:

__________________________
MAYOR

ATTEST:

__________________________
City Clerk
[date]

Perry Zimmerman
Business Manager
I.B.E.W. Local #1245
PO Box 2547
Vacaville CA 95696

Dear Mr. Zimmerman:

This Transmission Construction Agreement accompanies the Project Labor Agreement between the City of Roseville and the State Building and Construction Trades Council of California ("Agreement").

The construction of transmission and distribution lines, outside substations, switchyards, and ground grids for the Roseville Energy Park Project that are not constructed by Roseville Electric will be performed by contractors who are signatory to or who agree to be bound by a collective bargaining agreement with I.B.E.W. Local #1245 for this work. The provisions of Article 12, Successorship, of the Agreement govern and apply to this Transmission Construction Agreement with respect to any work which is not performed in accordance with this Transmission Construction Agreement. Any jurisdictional dispute between Local #1245 and a Union who is party to the Agreement will be referred to the General Presidents of the Unions involved and the employer for resolution.

Please indicate your concurrence with the foregoing by executing this Transmission Construction Agreement below.

City of Roseville

By: ____________________
    W. Craig Robinson
    City Manager

AGREED

I.B.E.W. Local #1245

By: ____________________
Perry Zimmerman
    Business Manager
RESOLUTION NO. 04-279

APPROVING AN AGREEMENT BETWEEN THE CITY OF ROSEVILLE, THE CALIFORNIA UNIONS FOR RELIABLE ENERGY, AND AUTHORIZING THE CITY MANAGER TO EXECUTE IT ON BEHALF OF THE CITY OF ROSEVILLE

WHEREAS, a Lead Agreement for the Roseville Energy Park, between the City of Roseville and the California Unions for Reliable Energy, has been reviewed by the Council; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Roseville that said agreement is approved and that the City Manager is authorized to execute it on behalf of the City of Roseville.

PASSED AND ADOPTED by the Council of the City of Roseville this ___ day of ____________, 20___, by the following vote on roll call:

AYES COUNCILMEMBERS:

NOES COUNCILMEMBERS:

ABSENT COUNCILMEMBERS:

__________________________
MAYOR

ATTEST:

__________________________
City Clerk
LEAD AGREEMENT

This Lead Agreement ("Agreement") is made effective as of this _day of July, 2004 ("Effective Date") by the City of Roseville ("Roseville") and the California Unions for Reliable Energy ("CURE").

POWER PLANT BENEFITS

Roseville and CURE agree that the timely and efficient completion of the Roseville Energy Park Project ("Project") is essential to the continued economic vitality of Roseville and to the health and well-being of its citizens. The Project must be completed on schedule to provide needed replacement power as current power purchase contracts are reduced or expire. Through efficient and timely construction of generation resources for its operation and under its control, Roseville will be protected from the uncertainties of the wholesale electric market, thus assuring an adequate supply of reliable, less-costly electricity.

LABOR AND ECONOMIC ISSUES

Roseville and CURE also agree that the Project will benefit from assurance that there will be an adequate supply of skilled craft workers to construct, maintain and operate the Project, the Project will benefit from assurance that there will be no labor disputes, strikes or grievances that could disrupt the timely construction or maintenance of the Project and the Project will benefit from standardized rules and regulations governing the workforce. Roseville and its citizens will also benefit from using local workers to build the Project, so that the economic benefits from construction stay in the community, and by supporting California certified apprentice training programs that produce workers that are necessary for future economic development.

For each of these reasons, Roseville agrees to enter into a Project Labor Agreement, Maintenance Agreement, Neutrality Agreement, Transmission Construction Agreement, and this Agreement for the Project.

ENVIRONMENTAL ISSUES

Roseville and CURE also agree that the Project should meet all applicable environmental standards to protect the workforce, community and the environment. Roseville's Application for Certification submitted to the California Energy Commission ("Commission") was designed to meet all applicable environmental standards. During the course of the Commission’s review of that Application, CURE participated in workshops and requested data to assure that the Project would meet all applicable standards. Roseville and CURE agree that the following responds to the substance of CURE’s requests:

1. During construction of the Project, Roseville (or a contractor hired by Roseville) will install gravel pads at all access points to unpaved construction areas to prevent trackout.

2. During construction of the Project, all storage piles and disturbed areas that remain inactive for longer than ten (10) consecutive days will be covered, or be treated with appropriate dust suppressant compounds.
3. During construction of the Project, all vehicles used to transport solid bulk material and that have potential to cause significant emissions resulting from the materials transported will be provided with a cover.

4. For backfilling during earthmoving operations during construction of the Project, Roseville (or a contractor hired by Roseville) will water backfill material or apply dust palliative to maintain material moisture or to form crust when not actively handling; cover or enclose backfill material when not actively handling.

5. Roseville (or a contractor hired by Roseville) will lay building pads and foundations as soon as practicable after grading, unless seeding or soil binders are used, or the areas are routinely watered to suppress dust generation.

6. Roseville (or a contractor hired by Roseville) will implement the Cooling Tower Institute and/or Commission guidelines regarding the prevention of Legionella bacteria from cooling towers.

7. Roseville agrees to perform representative testing of the salt cake generated from the operation of the zero liquid discharge system prior to disposal to determine the appropriate waste classification for proper handling and disposal. Roseville will properly dispose of the salt cake in accordance with California Law relating to the disposal of waste streams.

8. Roseville will periodically clean the paved surfaces in and around the cooling tower to remove excessive fugitive dust materials that may become entrained in the cooling tower intake.

9. Roseville (or a contractor hired by Roseville) will avoid permanent impacts to Swainson Hawk foraging habitat located in the northern portion of the site by relocating that portion of the construction laydown area proposed in said northern portion of the site to an off-site location that has already been proposed for development and has an approved mitigation plan.

**ACTIONS BY CURE**

Because of the community and environmental benefits of the Project, CURE, its agents, representatives and persons acting in concert with it, agree to support the successful permitting of the Project, and it will not engage in any actions before any administrative agency or other entity in proceedings considering permitting the Project that may adversely affect the successful permitting of the Project. CURE further agrees not to assist, support or collaborate with any entity engaged in such conduct.

**DOCUMENTS TO BE FILED OR EXECUTED**

Roseville and CURE will jointly file a jointly prepared document that describes the resolution of environmental issues and, consequently, that Roseville need not further respond to CURE's pending data requests. Roseville and CURE will cooperate to execute any other documents reasonably required to effectuate the intent of this Agreement.
MUTUAL RELEASES

Except for the obligations provided herein, Roseville and each of its representatives, agents, attorneys, successors and assigns hereby unconditionally release, acquit and forever discharge CURE and each of its member unions, representatives, agents, attorneys, successors and assigns from any and all claims, demands, injuries, actions, causes of action, either at law or in equity or of any kind, nature or description, known or unknown, which any of them has had or now has against CURE or its member unions arising out of, based upon or relating directly or indirectly to CURE’s participation in the Commission process with respect to the Project.

Except for the obligations provided herein, CURE and each of its member unions, representatives, agents, attorneys, successors and assigns hereby unconditionally release, acquit and forever discharge Roseville, and each of its representatives, attorneys, agents, partners, successors and assigns from any and all claims, demands, injuries, actions, causes of action, either at law or in equity or of any kind, nature or description, known or unknown, which CURE or its member unions has had or now has against them arising out of, based upon or relating directly or indirectly to the Project.

ENFORCEMENT

In the event of a violation of this Agreement, Roseville or CURE shall be entitled to seek relief in court, specifically including injunctive relief, to restrain any such action or may seek relief under the expedited arbitration provisions contained in Section 7.6 of the Project Labor Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed one or more copies of this Agreement as of the Effective Date.

CITY OF ROSEVILLE

W. Craig Robinson
City Manager

CALIFORNIA UNIONS FOR RELIABLE ENERGY

Robert L. Balgenorth
Chair