PROJECT LABOR AGREEMENT
FOR THE
PALMDALE HYBRID POWER PROJECT
PALMDALE, CALIFORNIA
1. INITIAL PROVISIONS

1.1. This Project Labor Agreement ("Agreement") is entered into by the City of Palmdale ("Primary Employer"), and the State Building and Construction Trades Council of California ("State Council"), the Los Angeles/Orange Counties Building & Construction Trades Council ("Local Council") and the local unions who have executed this Agreement, all of whom are referred to collectively as the "Unions."

1.2. The Palmdale Hybrid Power Project (the "Project") is a proposed natural gas and solar electric generating facility to be located in Palmdale, California, with a net capacity of approximately 617 MW. The Application for Certification ("AFC") for the Project is currently pending before the California Energy Commission as Docket Number 08-AFC-09. The Primary Employer is also currently the owner of the Project ("Owner"). 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.

1.3. Primary Employer is a municipality. The Primary Employer will construct, operate and maintain the Project through its employees, contractors and agents. Primary Employer controls the site at which the Project will be constructed. Primary Employer performs construction work with its employees and reserves the right to directly perform construction on the Project with its own employees. Subject to the provisions of a Master Agreement (as defined in Section 1.5), 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 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 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 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 who generally work in close proximity to one another at construction job sites and whose jobs are closely related and coordinated. Each of the Unions is a party to a multi-employer collective bargaining agreement (“Master Agreement”) that covers the geographic area of the Project. Where the term Master Agreement is used, it means the existing Master Agreement currently in effect as to each of the Unions.

1.6. 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.
1.7. 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, including interference that could have arisen at a common-situs jobsite if union employees had been required to work along side non-union employees in their own craft or in those other crafts with which they generally work in close proximity performing work that is closely related and coordinated.

1.8. 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 Project to produce the most efficient utilization of labor and equipment in accordance with this Agreement.

2. SCOPE OF AGREEMENT

2.1. This Agreement covers all on-site construction, alteration or repair of buildings, structures and other works and related activities for the Project that is within the craft jurisdiction of one of the Unions and which is directly or indirectly part of the Project, including, without limitation, pipelines (including those in linear corridors built to serve the Project), pumps, pump stations, start-up and commissioning, site preparation, material inspection and testing, all on-site fabrication work provided such work is within the fabrication provision of a local master or national agreement of one of the Unions, demolition of existing structures, and all construction, demolition or improvements required to be performed as a condition of approval by any public agency. On-site fabrication work includes work done for the Project in temporary yards or areas near the Project. All fabrication work over which the Owner possesses the right of control and which is
traditionally claimed as on-site fabrication shall be performed on-site. For the
convenience of the Primary Employer or other Employers, 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 construction shall also include the site of any batch
plant constructed solely to supply materials to the Project. Construction of offsite
utilities, when performed by a utility other than Primary Employer, shall not be
considered Covered Work. All work within the scope of this Agreement is referred
to as "Covered Work" in this Agreement.

2.2. This Agreement covers all physical work typically performed by craft
labor in California that is part of startup and commissioning, including but not
limited to system flushes and testing, loop checks, rework and modifications. It is
understood that Owner, manufacturer's and vendor's representatives, and plant
operating personnel may supervise and direct this activity, and that craft work is
typically performed as part of a joint effort with these representatives and
personnel. A manufacturer or its representatives may perform industry standard
work to satisfy its guarantee or warranty prior to startup of a piece of equipment.
After a system or subsystem becomes operational and after commissioning, Covered
Work on that system or subsystem is completed.

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

2.4. This Agreement applies to all employees performing Covered Work. It
does not apply to Primary Employer's supervisors not covered by a collective
bargaining agreement, technical or non-technical employees including, but not
limited to, executives, office and clerical employees, drafters, engineers, time
keepers, messengers, guards, inspectors, or any other employees above the
classification of general foreman or who perform administrative/clerical functions.

2.5. After construction and installation is completed by the Primary
Employer and upon acceptance, it is understood that the Primary Employer and/or
the plant operator reserve the right to perform industry standard procedures and
operation not within the scope of this Agreement using persons of its choice. Work
performed or contracted by the Primary Employer and/or the plant operator after
the completion of Covered Work is not included within the scope of the Agreement.

3. 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 they will subcontract Covered Work only to a person, firm, corporation or
other entity who is or becomes party to this Agreement and who is or becomes
bound for purposes of performing Covered Work to either a local, area or regional
Master Agreement with the craft Union having traditional and customary building
trades craft jurisdiction over the work or, only in the case of a national contractor, a
national agreement with the International Union(s) of the craft Union(s) having
traditional and customary jurisdiction over the work. Any Employer (including
Primary Employer) performing Covered Work on the Project shall, as a condition to
working on the Project, become signatory to this Agreement, and shall perform all
work under the terms of this Agreement and the applicable Master Agreement (the

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Applicable Agreement). 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 five business days after it has subcontracted work, 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. Any Employer not already bound to an Applicable Agreement, who becomes bound to such a multi-employer, area, regional, or national agreement to perform Covered Work on the Project, shall not be required to apply the terms of that agreement to any other construction project.

3.2.1. All work within the scope of the Joint National Industrial Agreement for Instrument and Control System Technicians or its successor may, at the option of the Employer be performed under the terms of that Agreement or its successor agreement.

3.3. Nothing in this Agreement shall in any manner whatsoever limit the rights of the Primary Employer, or any other Employer, to subcontract Covered Work or to select its contractors or subcontractors, provided, however, that all Employers, at all tiers, assigning, awarding, contracting or performing, or authorizing another to assign, award, contract or perform 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 assigning, awarding or subcontracting of any 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 and bound to the Applicable Agreement for this Project. Any Employer that fails to provide the Local Council and State Council with the Employer Agreement to be Bound executed by its contractor or subcontractor shall be liable for any failure of that contractor or subcontractor, or

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any contractor or subcontractor at a lower tier, to comply with the provisions of this Agreement, including any contributions to any trust funds that the contractor or subcontractor, or any subcontractor to that subcontractor, fails to make.

3.4. Work within the craft jurisdiction of the Elevator Constructors will be performed under the terms of the National Agreements of the International Union of Elevator Constructors.

3.5. The furnishing or delivery of materials, supplies, or equipment is not included in the scope of this Agreement.

4. WAGES AND BENEFITS

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, 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.

4.2. Any special interest bargaining which establishes wage rates, classifications, zones, or wage escalations which apply exclusively to the Project will not be recognized. In addition, there shall be no redlining of the Project in any future multi-employer collective bargaining agreements by singling out, either by name or by effect, the Project or the Employers for less favorable wages, benefits or working conditions than are generally accorded other industrial projects in the same general geographic area.
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 Project, 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. The Unions shall be the source of all craft employees for Covered Work for the Project. Employers agree to be bound by the hiring and layoff practices of the respective Union, including hiring of apprentices, and to utilize its registration facilities and referral systems, provided that such hiring practices and referral systems have not been found to violate State or Federal law by, among other things, discriminating on the basis of union membership or non-membership, or on the basis of race, creed, color, sex, religion, age or national origin. Further, in the event that the Unions' hiring practices or referral systems are found to violate State or Federal law, the Unions hereby agree to indemnify Employers for any damages which Employers become obligated to pay as a result of any judgment or settlement in any action based on such violation(s) and for any expenses, costs and attorney's fees incurred by Employers in defending any action based on such violation(s). In the event that the Employer(s)' hiring practices are found to violate State or Federal law, the Employer(s) hereby agree to indemnify the Unions for any damages which Unions become obligated to pay as a result of any judgment or settlement in any action based on such violation(s) and for any expenses, costs and attorney's fees incurred by the Unions in defending any action based on such violation(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, but shall arrange for a dispatch to be issued for such applicant from the Union within twenty four (24) hours of the commencement of employment and the dispatch shall upon request be issued to the Union to the employee. Employer will notify the Unions of such gate-hires. The Employer(s) shall have the right to reject any applicant referred by the Union(s).

5.5. Each Union shall have the right to designate a working journeyperson as a steward. The steward shall be a qualified employee performing the work of that craft and shall not exercise any supervisory functions. Each steward shall be concerned with the employees of the steward's Employer and not with the employees of any other Employer. A steward shall be allowed sufficient time to perform his duties.

6. WORK STOPPAGES AND LOCKOUTS

6.1. During the term of this Agreement there shall be no strikes, sympathy strikes, picketing, work stoppages, slow downs, interference with the work or other disruptive activity for any reason by the Union or by any employee and there shall be no lockout by the Employer. Failure of any Union or employee to cross any picket line established at the Employer's Project site is a violation of this Article.

6.2. The Union shall not sanction, aid or abet, encourage or continue any work stoppage, strike, picketing or other disruptive activity at the Employer's Project site and shall undertake all reasonable means to prevent or to terminate any such activity. No employee shall engage in activities which violate this Article. Any employee who participates in or encourages any activities which interfere with the normal operation of the Project shall be subject to disciplinary action, including discharge, and if justifiably discharged for the above reasons, shall not be eligible for rehire on the same project for a period of not less than ninety (90) days.
6.3. The Union shall not be liable for acts of employees for which it has no responsibility. The business manager(s) of the respective local union(s) will immediately instruct, order and use the best efforts of his office to cause the local union(s) to cease any violations of this Article. The principal officer or officers of a local union will immediately instruct, order and use the best efforts of his office to cause the employees the local union represents to cease any violations of the Article. A local union complying with this obligation shall not be liable for unauthorized acts of employees it represents. The failure of the Employer to exercise its right in any instance shall not be deemed a waiver of its right in any other instance.

6.4. The Union(s) agrees that if any union or any other persons, whether parties to this Agreement or otherwise, engage in any picketing or work stoppages, the signatory Unions shall consider such work stoppage or picketing to be illegal, and refuse to honor such picket line or work stoppage.

6.5. In the event of any work stoppage, strike, sympathy strike, picketing interference with the work or other disruptive activity in violation of this Article, the Employer may suspend all or any portion of the Project work affected by such activity at the Employer's discretion and without penalty.

6.5.1. There shall be no strikes, sympathy strikes, picketing, work stoppages, slowdowns, interference with the work, or other disruptive activity, affecting the Project site during the term of this Agreement. Any Union which initiates or participates in a work stoppage in violation of this Article, or which recognizes or supports the work stoppage of another Union which is in violation of this Article, agrees as a remedy for said violation, to pay liquidated damages in accordance with Section 6.6.8 of this Article.

6.6. In lieu of, or in addition to, any other action at law or equity, any party may institute the following procedure when a breach of this Article is alleged, after the Union(s) and/or local union(s) has been notified of the fact.
6.6.1. The party invoking this procedure shall notify Joe Gentile, Norman Brand or Joe Grodin, who the parties to this Agreement agree shall be the permanent Arbitrators under this procedure. In the event that either of the permanent Arbitrators is unavailable at any time, the American Arbitration Association shall select an alternative arbitrator within twenty-four (24) hours of notice. Notice to the Arbitrator shall be by the most expeditious means available, with notice by fax or electronic means or any other effective written means, to the party alleged to be in violation and the involved International Union President, and or local union.

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

6.6.3. The Arbitrator shall notify the parties by fax or electronic means or any other effective written means, of the place and time he has chosen for this 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 an Award by the Arbitrator.

6.6.4. The sole issue at the hearing shall be whether or not a violation of this Article has in fact occurred. The Award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without an Opinion. If any party desires an Opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with, or enforcement of, the Award. The Arbitrator may order cessation of the violation of this Article by the Union, and such Award shall be served on all parties by hand or registered mail upon issuance.

6.6.5. Such Award may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to hereinabove in the following manner. The fax or electronic notice of the
filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the Arbitrator's Award as issued under Section 6.6.4 of this Article, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order of enforcement. The Court's order or orders enforcing the Arbitrator's Award shall be served on all parties by hand or by delivery to their last known address or by registered mail.

6.6.6. 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.

6.6.7. The fees and expenses of the Arbitrator shall be borne by the party or parties found in violation, or in the event no violation is found, such fees and expenses shall be borne by the moving party.

6.6.8. If the Arbitrator determines that a violation has occurred in accordance with Section 6.6.4 above, the party or parties found to be in violation shall pay as liquidated damages, the following amounts: for the first shift in which the violation occurred, $25,000; for the second shift, $25,000; for the third shift, $25,000; for each shift thereafter on which the craft has not returned to work, $25,000 per shift. The Arbitrator shall determine whether the specified damages in this Section shall be paid to the Owner or an Employer. The Arbitrator shall retain jurisdiction to determine compliance with this section and this Article.

6.7. The procedures contained in Section 6.6 shall be applicable to alleged violations of this Article. Disputes alleging violation of any other provision of this Agreement, including any underlying disputes alleged to be in justification, explanation or mitigation of any violation of this Article, shall be resolved under the grievance procedures of Article 8.

6.8. Notwithstanding the provisions of Section 6.1 above, it is agreed that, with twenty four (24) hour prior notice to the Primary Employer, 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 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.

6.9. 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 Project 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 Project, 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 Project 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.

7. **HOURS OF WORK, OVERTIME, SHIFTS AND HOLIDAYS**

7.1. The standard work day shall consist of eight (8) hours of work between 6:00 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.

7.2. Common shifts during the standard work day may be established when considered necessary by the Employer. The Employer shall provide at least one week notice to the Local Council and the Unions involved 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 the established work week. If a Local Agreement provides for a different work shift schedule, the Employer may opt for that schedule for that craft.

7.3. It is recognized by the parties to this Agreement that the standard work week may not be desirable or cost effective for some projects, and other arrangements for hours of work will be considered. Such proposed modifications to the standard work week shall be worked out between the Primary Employer and the Union. Project schedule, manpower requirements, the geographic locations of the project and other appropriate factors, will be taken into consideration by the parties in reaching an understanding on work schedules.

7.4. Recognized holidays shall be as follows: New Year's Day, Martin Luther King, Jr. 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 in Saturday, the previous day, Friday, shall be observed as such holiday. In the event a holiday falls on Sunday, the following day, Monday, 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.

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 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.

8.3. 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, whichever is later. 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 be discussed by the Primary Employer, State Council and Local Council and then, if not resolved within 5 working days of written notice unless extended by mutual consent, commence at Step 4:

**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 project manager or Labor Relations representative of the Employer(s) for discussion and resolution. A copy of the written grievance shall also be mailed/faxed/emailed to the Primary Employer.

**Step 3**
In the event the matter remains unresolved in Step 2 above within 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 Step 3 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. The parties agree that Louis Zigman, Douglas Collins, and Howard Block shall be the permanent arbitrators for purposes of this Article 8. Should the permanent arbitrators be unavailable and the parties are 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 Federal Mediation and Conciliation Service and alternately striking names from the list of names on the list 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.

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, except as provided in Section 13.1.1, 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.

9. JURISDICTIONAL DISPUTES

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

9.2. All jurisdictional disputes between or among the 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 Employers 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 Employer's assignment shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

9.4. Each Employer will conduct a pre-job conference with the Local Council prior to commencing work. The Primary Employer and any general contractor will be advised in advance of all such conferences and may participate if they wish.

9.5. 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 knowing violation of a well-established resolution under the Plan and this Agreement.

9.6. This Article 9 shall be enforceable in any court of competent jurisdiction, and shall not be subject to the grievance procedure of Article 8.

10. **GENERAL WORKING CONDITIONS**

10.1. Employment begins and ends at the Project site.

10.2. The selection of craft foremen and/or general foremen shall be entirely the responsibility of the Employer, it being understood that in the selection of such foremen and/or general foremen the Employer will give primary consideration to the qualified individuals available in the local area. After giving such consideration, the Employer may select such individuals from other areas. The number of foremen and general foremen required shall be in accordance with the respective local craft Master Agreements. All foremen shall take orders from the designated Employer representatives. Craft foremen shall be designated working foremen at the request
of the Employer, in accordance with the Master Agreement.

10.3. There shall be no limit on production by employees or restrictions on the full use of tools or equipment. Employees using tools shall perform any of the work of the trade and shall work under the direction of the craft foremen. There shall be no restrictions on efficient use of manpower other than as may be required by safety regulations.

10.4. Employees shall be at their place of work and ready to work at the starting time (which is the gang box, tool box 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. The Employer will provide adequate facilities for checking in and out in an expeditious manner.

10.5. All equipment assigned to a project shall be under the control of the Employer. The Employer shall have the right to determine how many pieces of equipment an individual employee shall operate. In an emergency involving safety or health, foremen shall operate any equipment assigned by the Employer, and there shall be no restriction on foremen in the use of the tools of his craft in such emergency. The foremen shall be from the craft normally operating the equipment. In accordance with currently recognized craft jurisdiction, the Employer shall determine the assignment of employees to start, stop, and maintain small portable construction equipment. Such work may be assigned to craft employees within a reasonable distance of their primary duties or an employee may be assigned full time to start, stop and maintain the Employer's small, portable equipment on the job site. There shall be no over manning of this type of equipment.

10.6. The number of employees assigned to rigging and scaffolding operations shall be at the sole discretion of the Employer other than as may be required by safety regulations.

10.7. The Employer may utilize the most efficient methods or techniques of
construction, tools or other labor saving devices to safely accomplish the work.
Practices not a part of the terms and conditions of this Agreement, stand by crews
and feather bedding practices will not be recognized.

10.8. Individual seniority shall not be recognized or applied to employees
working on projects under this Agreement.

10.9. The Employer shall establish such reasonable Project job site work
rules as the Employer deems appropriate. These rules will be reviewed at the pre-
job conference, distributed to all employees, posted at the project site by the
Employer, and may be amended thereafter as necessary.

10.10. The Primary Employer and Local Council will negotiate a drug and
alcohol screening program consistent with applicable legal requirements.

11. MANAGEMENT RIGHTS

11.1. The Employer retains and shall exercise full, and exclusive authority
and responsibility for the management of its operations and work forces, except as
expressly limited by the terms of this Agreement or the Master 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 type of employees required for the
work.

11.1.3. Hire, promote and layoff employees as deemed appropriate to
meet work requirements and/or skills required.

11.1.4. Require all employees to observe the Employers' and Owner's
reasonable Project Rules, Security, Environmental, and Safety Regulations,
consistent with the provision of this Agreement. These Project Work Rules and
Regulations shall be supplied to the Unions, to all employees and posted on the job
site.
11.1.5. Discharge, suspend or discipline employees for just cause as provided in the work rules.

11.1.6. 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, including overtime work, assigned. Such cases shall be subject to the grievance procedure.

11.1.7. Utilize any safe work methods, procedures or techniques and select and use any type or kind of materials, apparatus or equipment regardless of source, manufacturer or designer, except as limited by Section 2.1.

11.1.8. The foregoing listing of management rights shall not be deemed to exclude other functions not specifically set forth herein. The Employers, therefore, retain all legal rights not specifically enumerated in this Agreement.

12. **JOINT LABOR/MANAGEMENT MEETINGS**

12.1. 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 other Employers, 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 Project. These monthly (or more frequent) meetings will also include discussion of safety, craft resource requirements, scheduling and productivity of work performed at the Project.

12.2. 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.
12.3. The Primary Employer will schedule and attend all Pre-Job Conferences and Mark-Up Meetings.

13. SUCCESSORSHIP

13.1. This Agreement is and shall be binding and legally effective upon (i) any successor to Owner, whether by merger, consolidation, acquisition or otherwise, and (ii) any person or entity that acquires all or any portion of Owner'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 the Owner, or an agreement for a merger or acquisition including ownership or control of Owner, shall include an express assumption of the obligations and undertakings of Owner 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 13.1, Owner 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 Owner from any of its obligations or undertakings under this Agreement.

13.2. The parties agree that: (i) if Owner breaches Section 13.1, and (ii) Covered Work is performed by a contractor or subcontractor that is not in compliance with the provisions of Article 3, then Owner shall pay liquidated damages, as described in Section 13.3, to compensate for the actual damages caused by reason thereof. The parties agree that such damages would be unreasonably difficult, costly, inconvenient or impracticable to calculate and, accordingly, they agree to liquidated damages, which bear a reasonable relationship to the actual harm suffered by the Unions and their members, as provided in Section 13.3 ("Liquidated Damages").
13.3. In that Liquidated Damages are owed as described in Section 13.2, Owner shall pay Thirty Dollars ($30.00) for each hour that work was performed on the Project within the scope of this Agreement by employees of contractors or subcontractors who are not signatory to this Agreement. The liquidated damages shall be paid as follows: Fifteen Dollars ($15.00) per hour to the qualified pension plan and fifteen Dollars ($15.00) per hour to the qualified health and welfare plan of the Union(s) having 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 13 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 13.

13.4. In no event shall the Liquidated Damages payable under this Article exceed a total amount of $10 million. In the event that pending claims would result in a payment in excess of $10 million the total claims be prorated based on the number of hours worked by contractors or subcontractors in violation of Section 3.1 so that the total payment of claims does not exceed $10 million.

13.5. Upon execution and delivery of an agreement assuming all the obligations of this Agreement, and determination by the Unions that the successor is financially responsible, Owner shall be released from liability for the payment of Liquidated Damages under Section 13.3 and Owner shall have no liability for any breach of this Agreement by a successor employer or contractor. A successor shall be considered financially responsible if the Unions, in the exercise of their reasonable judgment, determine that the successor is financially capable of completing the Project and complying with the obligations and undertakings of the Primary Employer under this Agreement, including any obligation to pay Liquidated Damages under Section 13.3.
13.5.1. The Unions authorize the Local Council to execute and deliver a release on their behalf pursuant to a resolution adopted at a duly noticed meeting of the Local Council.

13.6. This Article 13 shall be enforceable in any court of competent jurisdiction, and shall not be subject to the grievance procedure of Article 8.

14. LABOR MANAGEMENT COOPERATION TRUST

14.1. Within 10 days of the first hour of Covered Work being performed on the Project, Primary Employer shall contribute the sum of [$37,500] to the State Building & Construction Trades Council Labor Management Cooperation Trust or its designee. Within 10 days of the 6 month, 12 month and 18 month anniversary of the first hour of Covered Work being performed on the Project, Primary Employer shall contribute the sum of [$37,500] to the State Building & Construction Trades Council Labor Management Cooperation Trust or its designee, for a total contribution of [$150,000]. After such payments are made, there shall be no further obligation by the Primary Employer, Owner or any other Employer(s) to make any contribution to the Trust.

15. GENERAL PROVISIONS

15.1. If any article or provision of this Agreement shall become invalid, inoperative and/or unenforceable by operation of law or by declaration of any competent authority of the executive, legislative, judicial or administrative branches of the federal or state government, the Employers and the State Council shall suspend the operation of such article or provision during the period of its invalidity, and the Primary Employer and the State Council shall negotiate in its place and stead an article or provision that will satisfy the objections to its validity and that, to the greatest extent possible, will be in accord with the intent and purpose of the article or provision in question. The new article or provision
negotiated by the Primary Employer and the State Council shall be binding on all parties signatory to this Agreement.

15.1.1. If the Primary Employer and the State Council are unable within thirty (30) calendar days to negotiate a substitute article or provision, any of them may at any time thereafter submit the matter directly to interest arbitration pursuant to the procedures set forth in Section 8.4, Step 4, and Sections 8.5 through 8.7. The Arbitrator shall have the authority to modify, amend and alter the Agreement by providing a substitute article or provision to replace the one(s) that have become invalid, inoperative or unenforceable. The Arbitrator's decision, and the new article or provision, shall be final and binding on all parties signatory to the 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. Except as enumerated in this Agreement, all other terms and conditions of employment described in the Master Agreement of the Union having traditional and customary jurisdiction over the work shall apply.

15.4. The provisions of this Agreement shall take precedence over conflicting provisions of any Master Agreement, national agreement or any other collective bargaining agreement.

15.5. 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.

15.6. This Agreement may be executed in any number of counterparts, and each counterpart shall be deemed to be an original document. All executed
counterparts together shall constitute one and the same document, and any signature pages may be assembled to form a single original document.

15.7. To the fullest extent consistent with the applicable Master Agreement and trust agreement, it is agreed that any liability under this Agreement by Primary Employer, the Council, the Local Council, a Union, or any other Employer 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.

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

To Primary Employer:

Stephen H. Williams
City Manager
City of Palmdale
38300 Sierra Highway, Suite A
Palmdale, CA 93550
Telephone: 661-267-5100

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:

Richard N. Slawson, Executive Secretary
Los Angeles/Orange Counties Building & Construction Trades Council
1626 Beverly Blvd.
Los Angeles, CA 90026
Telephone: 213-483-4222

With a copy to:

Mark S. Pulliam
Latham & Watkins LLP
600 W. Broadway, Suite 1800
San Diego, CA 92101
Telephone: 619-236-1234

Marc D. Joseph
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
Telephone: 650-589-1660

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

16. WAIVER

16.1. 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 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.

16.2. 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.

16.3. This Article shall be enforced pursuant to Article 8 of this Agreement and any grievance shall commence at Step 3 of Section 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.

17. HELMETS TO HARDHATS

17.1. The Employers and the Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Employers and Unions agree to
utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (the "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and metering, support network, employment opportunities and other needs as identified by the parties.

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

18. **TERM OF AGREEMENT**

18.1. The term of this Agreement shall commence on the date indicated below as the date of execution, and except as set forth in this Article 18 shall continue in effect until completion of all Covered Work pursuant to Article 2.

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, the Primary Employer may notify the State Council and the Local 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, or prior to final expiration, without right to renew, of the authority to construct permit from the Mojave Desert...
Air Quality Management District, the Primary Employer may notify the State Council and the Local Council and terminate this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and effective as of Feb. 4, 2006.

CITY OF PALMDALE
Primary Employer and Owner:

By: Stephen H. Williams, City Manager

STATE BUILDING & CONSTRUCTION TRADES COUNCIL OF CALIFORNIA

By: Robert L. Balgenorth, President

LOS ANGELES/ORANGE COUNTIES BUILDING & CONSTRUCTION TRADES COUNCIL

By: Richard N. Slawson
Executive Secretary

APPROVED AS TO FORM

BY

Wm. M. Ditzhazy
Palmdale City Attorney

Attest:

Victoria L. Hancock, CMC
City Clerk
UNIONS

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

PROJECT LABOR AGREEMENT
PALMDALE HYBRID POWER PROJECT

The undersigned hereby certifies and agrees that:

1) It is an Employer as that term is defined in Section 1.4 of the Palmdale Hybrid Power Project Labor Agreement ("Agreement") because it has been, or will be, awarded a contract or subcontract to assign, award or subcontract Covered Work on the Project (as defined in Sections 1.2 and 2.1 of the Agreement), or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.

2.) In consideration of the award of such contract or subcontract, and in further consideration of the promises made in the Agreement and all attachments thereto (a copy of which was received and is hereby acknowledged), it 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.

3.) If it performs Covered Work, it will be bound by the legally established trust agreements designated in local master collective bargaining agreements, and hereby 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 undersigned.

4.) It has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of the Agreement.

5.) It will secure a duly executed Agreement to be Bound, in form identical to this document, from any Employer(s) at any tier or tiers with which it contracts to assign, award, or subcontract Covered Work, or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.

DATED: ______________ Name of Employer

____________________________________
(Authorized Officer & Title)

____________________________________
(Address)
ATTACHMENT 'B
SUBSCRIBER AGREEMENT.

The undersigned hereby adopt the Trust Agreement known as the State 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.

The employer Subscriber shall pay to the Trust the amount specified by the Agreement 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: ___________________________

By: ___________________________  Date: ___________________________

State Building & Construction Trades Council

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