ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT
2930 Gay Avenue, San Jose, CA 95127

Office of Superintendent of Schools

ITEM REQUIRING ATTENTION - BOARD OF EDUCATION

Board of Trustees: Date: June 13, 2013

Subject: REVIEW/DISCUSSION/APPROVAL OF CONSTRUCTION CAREERS AGREEMENT AND SANTA CLARA & SAN BENITO COUNTIES BUILDING & CONSTRUCTION TRADES COUNCIL

The Board will discuss this agreement.

ACTION

Submitted by: Stephen A. Fiss Title: Superintendent

To the Board of Trustees: Meeting: June 20, 2013
Regular Board Meeting

Recommend Approval

10.3

Agenda Placement

Stephen A. Fiss, Superintendent

DISPOSITION BY BOARD OF TRUSTEES

Motion by: Seconded by: Andrea Flores Shetler

Approved: Not Approved: Tabled:
Measure G Construction Careers Agreement
Amendment #1

Whereas, a Construction Careers Agreement was negotiated and entered into on July 15, 2009 (the “Agreement”), between the Alum Rock Union Elementary School District (District) together with other contractors and/or subcontractors (Contractor(s)) who have become signatory to the Agreement by signing the “Agreement to be Bound” (Appendix A), the Santa Clara & San Benito Counties Building & Construction Trades Council (Council) and the Local Unions signatory thereto, all in their behalf and on behalf of the Local Unions involved, (Union(s)) for all projects funded by the 2009 Measure G Bond (Appendix C); and

Whereas, the District has experienced positive benefits with it’s relationship with the Building Trades Council and its affiliated Unions under its Construction Careers Agreement for the 2009 Measure G projects; and

Whereas, these benefits have included but were not limited to increased quality of contractors, increased bidding pool, on time and on budget projects, no labor or other disputes, no work stoppages, reduced litigation and services provided by S4CA that create real world relevance for ARUESD students and teachers in math and science through the construction industry; and

Whereas, on November 6, 2012, the voters passed measure J, a $125,000,000 bond measure to improve neighborhood schools by removing mold and asbestos, fixing leaky, deteriorated roofs, replacing inefficient/aging heating, ventilation, and electrical systems to save money, improving fire safety/security, updating computer technology/science labs for 21st century learning, and repairing aging restrooms; and

Whereas, the parties to the Agreement mutually desire to amend the Agreement and, more specifically, to expand the definition of the “Project” to include additional work and projects to be constructed with Measure J funds; and

Whereas, the Parties desire that for selected projects Contractors shall be bound to provide paid internship opportunities to District teachers as defined in Appendix B.

NOW, THEREFORE, IT IS AGREED BETWEEN AND AMONG THE PARTIES TO AMEND AND EXTEND THE EXISTING AGREEMENT AS FOLLOWS:

1) The Agreement shall hereinafter apply to Measure J funded Projects.

2) The term “Project” in Section 1.4 of the Agreement shall be amended to include all Measure G and Measure J funded new construction, renovation or modernization work. It is the intent of the parties that all Projects currently contemplated by the
District or to be constructed or undertaken by the District with funds other than Measure G or Measure J funds will not be subject to or covered by this Agreement.

3) Section 2.F.6 of the Agreement and extension agreement shall no longer apply to any work funded in part or whole by either the 2009 Measure G Bond or the 2012 Measure J bond and will be replaced with a new section 2(f)(6) that reads as:

2(f)(6) All off-site manufacture and handling of materials, equipment or machinery provided, however, work performed by any of the Unions, including pre-fabrication of materials that are directly part of the Project and are traditionally performed under the provisions of an existing Schedule A agreement of a signatory Union(s) on the effective date of this Agreement, shall be covered by the terms and conditions of this Agreement; provided further, that lay-down or storage areas or equipment or material manufacturing (pre-fabrication) sites dedicated solely to the Project or Project work, and the movement of materials or goods between the Project site and such dedicated site(s), as well as between locations on the Project site, and the delivery and removal of construction materials and supplies, including, but not limited to, ready-mix concrete, asphalt, aggregate, sand or earth that are directly incorporated into a work process or debris, earth or other waste construction materials removed from the Project site, shall be covered by the terms and conditions of this Agreement.

4) Section 9.B, Step 1 of the Agreement and extension agreement shall now provide seven (7) working days after becoming aware of an identified dispute but no longer than thirty (30) days after the disputing party should have become aware of a dispute to provide notice of such dispute. Both the Council and the District shall be notified of any such dispute.

5) Section 10 of the Agreement and extension agreement shall no longer apply to any work funded in part or whole by either the 2009 Measure G Bond or the 2012 Measure J bond and will be replaced with a new section 10 that reads as follows:

Section 10

JURISDICTIONAL DISPUTES

10.(A) 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 the Jurisdictional Disputes in the Construction Industry (the “Plan”) or any successor Plan.

10.(B) All jurisdictional disputes on this Project between or among the building and construction trades Unions and the Employers parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction
10.(B) 1. For the convenience of the parties, and in recognition of the expense of travel between Northern California and Washington, DC, at the request of any party to a jurisdictional dispute under this Agreement an Arbitrator shall be chosen by the procedures specified in Article V, Section 5, of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch, and Thomas Pagan, and the Arbitrator’s hearing on the dispute shall be held at the offices of the applicable Building and Construction Trades Council. All other procedures shall be as specified in the Plan.

10.(C) 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. Each Employer will conduct a pre-job conference with the Local Council prior to commencing work. The Primary Employer and the Owner will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Employers may be held together.

6) The Career Component (Appendix B) of the Agreement shall be modified to meet the current needs of the District and shall be done so through the powers of the Labor Management Committee as detailed in in Section 18 of the Agreement.

7) The Appendix A (Agreement to be Bound) shall be amended to include the following language now enumerated as (5):

5. Employer accepts and understands (per Section 5.A) of the Agreement, that all craft labor including those not members of a union will be dispatched through the appropriate union hiring hall and that local out of work craft workers will be alternately dispatched to employers (not party to a collective bargaining agreement) along with their key workforce as described in Section 5 of this Agreement.

8) Other than as explicitly set forth herein, this Amendment shall make no other changes, amendments, modifications, additions or deletions to the Agreement.
9) This Amendment shall become effective on the day the District’s governing board ratifies this Amendment, provided that all Union signatories have first executed this Amendment.

10) This Amendment shall be included as a condition of the award of all construction contracts on both 2009 Measure G Bond and 2012 Measure J Project(s) and shall continue in full force and effect until the completion of the Project(s).

11) Except as otherwise provided herein, the Agreement shall otherwise remain in full force and effect.

Dated: ________________

SANTA CLARA & SAN BENITO COUNTIES
BUILDING & CONSTRUCTION TRADES COUNCIL

By ________________________________
CEO

Dated: ________________

Alum Rock Unified Elementary School District

By ________________________________
Superintendent

UNION SIGNATORIES

ASBESTOS WORKERS LOCAL 16

BOILERMAKERS LOCAL UNION 549

BAC LOCAL UNION 3

IBEW LOCAL 332
<table>
<thead>
<tr>
<th>Local Union / Affiliation</th>
<th>Local Union / Affiliation</th>
</tr>
</thead>
<tbody>
<tr>
<td>ELEVATOR CONSTRUCTORS LOCAL UNION 8</td>
<td>IUPAT District Council 16 Painters &amp; Allied Crafts</td>
</tr>
<tr>
<td>IRON WORKERS LOCAL UNION 377</td>
<td>LABORERS LOCAL UNION 270</td>
</tr>
<tr>
<td>OPERATING ENGINEERS LOCAL 3</td>
<td>Laborers Local 67</td>
</tr>
<tr>
<td>PLASTERERS LOCAL UNION 300</td>
<td>NORTHERN CALIFORNIA CARPENTERS REGIONAL COUNCIL</td>
</tr>
<tr>
<td>OPERATIVE PLASTERERS AND CEMENT MASON LOCAL UNION 400</td>
<td>UNITED ASSOCIATION, PLUMBERS &amp; FITTERS LOCAL UNION 393</td>
</tr>
<tr>
<td>ROOFERS LOCAL UNION 95</td>
<td>SHEET METAL WORKERS INTERNTIONAL UNION LOCAL 104</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>SIGN &amp; DISPLAY &amp; ALLIED CRAFTS LOCAL UNION 510</td>
<td>UNITED ASSOCIATION, SPRINKLER FITTERS LOCAL UNION 483</td>
</tr>
<tr>
<td>TEAMSTERS LOCAL UNION 287</td>
<td></td>
</tr>
</tbody>
</table>
ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT
CONSTRUCTION CAREERS AGREEMENT

PREAMBLE

This Construction Careers Agreement ("Agreement") is made and entered on this date June 18, 2009, by and between the ALUM ROCK UNION ELEMENTARY SCHOOL District ("District") together with other contractors and/or subcontractors ("Contractor(s)") who shall become signatory to this Agreement by signing the "Agreement to be Bound" (Appendices A&B), the Santa Clara & San Benito Counties Building & Construction Trades Council ("Council") and the Local Unions signatory hereto, all in their behalf and on behalf of the Local Unions involved, ("Union(s)").

INTRODUCTION/FINDINGS

The purpose of this Agreement is to promote efficiency of construction operations during the construction of the ALUM ROCK UNION ELEMENTARY SCHOOL District projects funded by proceeds from the Measure G bonds covered by this Agreement, promote career opportunities and construction knowledge for District students and teachers and provide for peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of the projects.

RECITALS

WHEREAS, the timely and successful completion of the Project is important to the District;

WHEREAS, utilization of this Agreement is intended to enhance compliance with prevailing wage requirements;

WHEREAS, large numbers of workers in the various crafts and trades will be required in the performance of construction work for the Project. Many of the workers will be both represented by the unions affiliated with the Santa Clara and San Benito Counties Building & Construction Trades Council or other labor organization signatory to this Agreement (Unions) and employed by contractors and subcontractors (Contractors) signatory to collective bargaining agreements with the Unions;

WHEREAS, it is recognized that because completion of the project involves multiple contractors and bargaining units on jobsites at the same time over an extended period of time, the potential for work disruption is substantial without an overriding commitment to
maintain continuity of work;

WHEREAS, it is important to the successful completion of the Project that a sufficient supply of skilled craft workers be available;

WHEREAS, the interests of the general public, the District, the Union(s) and their members, and Contractors would be best served if the construction work proceeds continuously in an orderly, safe, efficient and economical manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lobbying slowdowns or other interferences with work;

WHEREAS, the Contractors and Union(s) desire: to mutually establish and stabilize wages, hours, and working conditions for the workers employed on the Project by the Contractors; to encourage close cooperation among the Contractors and the Union(s) to the end that a satisfactory, continuous and harmonious relationship will exist among the parties to this agreement, so that construction of the Project is not delayed, hindered or disrupted by labor disagreements, labor disturbances or other forms of labor picketing, strikes or other similar conduct; to establish effective methods to settle disputes and controversies including jurisdictional disputes that may arise; and to ensure optimum productivity, orderly performance of the work, and that a satisfactory, continuous and harmonious relationship will exist among the parties to this Agreement;

WHEREAS, the District, Contractors and Unions recognize and agree that one of the primary purposes of this Agreement is to avoid the tensions that might arise on the Project if union and non-union workers of different Contractors were to work side by side on the Project thereby creating the potential for labor disputes that could delay completion of the Project;

WHEREAS, the Contractors and Union(s) desire to provide for effective, prompt and fair dispute resolution procedures for all types of disputes that may arise under this Agreement and for the effective enforcement of the rights and understandings set forth in this Agreement;

WHEREAS, the contracts for the construction of the Project shall be awarded by the District in accordance with the state Public Contract Code and the California Education Code;

WHEREAS, the District has the absolute right to select the responsible bidder submitting the lowest responsive bid for the award of each construction contract for the Projects, or to reject all bid proposals;

WHEREAS, the District places high priority upon the development of comprehensive programs for the recruitment, training and employment of Local Area Residents and has identified the need to prepare its students for lifelong careers and continuing education, recognizing the ability of local apprenticeship programs to provide meaningful and sustainable careers in the building and construction industry; and
WHEREAS, by requiring as a condition of performing work on the Project that Contractors provide training and employment opportunities to local residents registered in bona fide apprenticeship programs, the residents within the District's jurisdictional boundaries in the District benefit from said requirement;

WHEREAS, it is the intent of the parties to this Agreement that the obligation of Contractors bound to this Agreement to provide training and paid internship opportunities to District teachers as defined in Appendix B will extend beyond the Project and continue until good faith efforts have been met as defined in Appendix B or until twelve (12) months after the completion of all work under the Scope of this Agreement, whichever comes first;

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

WHEREAS, the interests of the general public, the District, the Union(s) and their members, and Contractors would be best served if workers have access to healthcare benefits that are intended by the prevailing wage statutes and are set forth in the Schedule A agreements discussed here;

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

SECTION 1. DEFINITIONS

1. "Agreement" means this Construction Careers Agreement.

2. "District" means the authorized representative of the Alum Rock Union Elementary School District.

3. "Contractor" means all construction contractors and subcontractors and employers of whatever tier engaged in construction work on any part of the Project according to the contract terms and conditions approved by the District, which incorporate this Agreement.

4. "Project" includes and shall apply to only Measure G funded new construction, renovation or modernization work. It is the intent of the parties that all Projects currently contemplated by the District to be undertaken by funds other than Measure G funds will not be covered by this Agreement.

Although "Project" is used throughout this Agreement in the singular, it applies to all projects as defined in this Section.

5. "Union" or "Unions" means the Santa Clara and San Benito Counties Building and Construction Trades Council, AFL-CIO and its affiliated local unions and any other
labor organization signatory to the agreement, acting on their own behalf and on behalf of their respective affiliates and member organizations, whose names are subscribed hereto and who have through their officers executed this Agreement ("Signatory Unions").

6. "Bona Fide Apprenticeship Program" means a program approved by the California Division of Apprenticeship Standards that has graduated at least an average of ten (10) apprentices annually for at least the past five (5) years.

7. "Projects Manager" means the person or persons or business entity, if any, designated by the District to oversee all phases of construction on the project and to oversee the implementation of this Agreement and who works under the guidance of the District's Authorized Representative.

8. "District's Authorized Representative" is the individual named in the Notice to Bidders whose authority includes, but is not limited to, the authority to approve Addenda, Change Orders, Payment Requests, Milestone and Project Completion date(s).

9. "Master Collective Bargaining Agreement(s)" means the local collective bargaining agreements to which the Union(s) and signatory contractor(s) are bound, copies of which shall be on file with the District Office and are incorporated herein by reference as "Schedule A." The list of Schedule A Agreements is attached as Appendix C.


11. "CCP" means Construction Careers Program, sometimes referred to as "Appendix B / Construction Career Program."

SECTION 2. SCOPE OF AGREEMENT

A. Parties. This Agreement applies and is limited to all Contractors of whatever tier performing construction contracts on the Project; the District; the Council; and Signatory Unions.

B. This Project Agreement applies to all work identified as "The Project" in Section 1.4 above performed by the Contractor(s) of whatever tier, that have been awarded specific contracts for covered construction work on or after the effective date of this Agreement. Covered construction work shall include modular furniture installation, low voltage wiring, and site preparation.

C. It is understood by the parties that the District may, at any time, and at its sole discretion, combine, consolidate or modify and/or not build any one or more of the particular projects covered by this Agreement and, with mutual agreement of the negotiating parties to this Agreement, determine to build additional projects under this Agreement not currently proposed. In addition, the District may, at any time, at its sole discretion...
discretion, terminate, delay and/or suspend any or all portions of work covered by this Agreement.

D. This Agreement shall apply only to work performed with respect to the Project and shall have no application to any other construction work awarded by the District at any other location other than the site of the Project or at the site of the Project at any time prior to the effective date of this Agreement or after the completion of the Project. Nothing contained herein shall be construed to prohibit, restrict or interfere with the performance of any other operation, work, or function which may occur at the Project site or be associated with the development of the Project. Completion of the work under a construction project for the Project shall be deemed complete upon acceptance of the work by the District. Once the work is completed, the work is no longer covered by this Agreement except when the District's Authorized Representative directs the Contractor to engage in repairs, warranty work or modifications required by its construction contract with the District.

E. The District has the absolute right to select any qualified bidder for the award of contracts on this Project without reference to the existence or non-existence of any agreements between such bidder and any party to this Agreement provided, however, only that such bidder must become a party to and comply with this Agreement.

F. Items specifically excluded from the scope of this Agreement include, but are not limited to, the following:

1. Work of non-craft and non-manual employees, including but not limited to, all executives, managers and supervisors above the level of general foreman; superintendents, engineering employees, inspectors (except as provided in paragraph 10 below), quality control personnel, safety personnel, and office and clerical employees.

2. Work that has been historically performed by other entities, such as a public utility, is not intended to be covered by this Agreement even if such work is funded all or in part by Measure G funds.

3. All work, independent of job-site construction work contracts, performed by the District related to the purchase or lease of specialized equipment and work performed by manufacturers' representatives, office equipment vendors, or District personnel.

4. All warranty functions, warranty work, corrective work, or repair and maintenance work on purchased equipment, performed by manufacturers' representatives or vendors after completion of construction and District acceptance.

5. Equipment and machinery owned, controlled, by the District.
6. All off-site manufacture, warehousing and handling of materials, equipment or machinery except when covered by prefabrication provisions included in a Schedule A agreement on the effective date of this Agreement. For purposes of this section only this exclusion of off-site manufacturing does not cover work done off-site that is specifically dedicated to processing of materials that would otherwise be done on site if space was available (e.g. concrete batch plant, form or panel construction)

7. All employees of the design team or other consultants to the District not performing craft or manual labor within the scope of this Agreement.

8. Off-site maintenance of leased equipment and onsite supervision of such work.

9. Work performed by employees of a manufacturer or vendor or other company when required to maintain a manufacturer's or vendor's warranty or guarantee. Should such circumstances arise, the contractor shall advise the District and/or Project Manager and the affected Union(s), including the Council, at least five (5) working days prior to the utilization of such employees, with the reasons therefore, as well as provide a copy of any warranty or guarantee involved. Every effort will be made, consistent with the requirements of the warranty or guarantee to utilize employees working under this Agreement pursuant to the advice and oversight of supervisors and/or technicians from a manufacturer, vendor, or other company, rather than employees not covered by this Agreement.

10. Laboratory for specialty testing or inspections not ordinarily performed by the Unions; provided, however, that employees engaged in testing and inspection functions covered by a prevailing wage determination and normally performed on a construction site and employed by the construction contractor or a subcontractor of the construction contractor or under direct contract with the District, shall be subject to this Agreement.

11. All work by employees of the District.

12. Work covered by this Agreement within the craft jurisdiction of the Elevator Constructors will be performed under the terms of the National Agreement of the International Union of Elevator Constructors, except that Articles 8, 9 and 10 of this Agreement will apply to such work.

G. Notwithstanding any of the exclusions set forth above, it is the intent of the parties to this Agreement that, insofar as this Agreement obligates its signatories to those conditions set forth in Appendix B to this Agreement, those obligations are not limited to the duration of this Agreement or the Contractor’s performance of work on the Project, but shall continue after such Contractor’s work on the Project has been completed and shall apply to subsequent construction projects until the Contractor has fulfilled the good faith efforts in Appendix B or until twelve (12) months after the completion of all work
under the Scope of this Agreement, whichever comes first.

SECTION 3. EFFECT OF AGREEMENT

A. Binding Effect. By executing this Agreement, the Unions and the District agree to be bound by each and every provision of this Agreement.

The provisions of this Agreement, including the Schedule A's, which are the local collective bargaining agreements of the Signatory Unions having jurisdiction over the work on the Project (as may be changed from time to time consistent with Section 20 and are incorporated herein by reference), shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement. Where a subject covered by the provisions of this Agreement is also covered by a Schedule A, the provisions of this Agreement shall prevail. Where a subject is covered by the provisions of a Schedule A and is not covered by this Agreement, the provisions of the Schedule A shall prevail.

It is understood that this Agreement, together with the referenced Schedule A's constitute an integrated, self-contained, stand-alone agreement, and that by virtue of having become bound to this Agreement, the Contractor will not be obligated to sign any other local, area, or national agreement as a condition of performing work within the scope of this Agreement. In addition, it is understood and agreed that all grievances and disputes involving the interpretation or application of this Agreement, including the Schedule A's shall be resolved according to the procedures set forth in Section 9 of this Agreement; provided, however, that should a dispute involve a single Schedule A and a Contractor signatory thereto, and not involve interpretation or application of this Agreement, such dispute shall be processed and resolved pursuant to the grievance provisions of that Schedule A. Nevertheless, should there be a dispute in the first instance as to whether the provisions of Section 9 of this Agreement or the grievance procedures of a Schedule A apply, the dispute shall be presented initially to an arbitrator selected under Section 9 for resolution as to the applicable procedure. Such referral of a dispute as to the applicable procedures shall be done by written submission or conference call among the parties and the arbitrator, and heard and decided within 30 days of the designation of the arbitrator. Should the arbitrator hold that Section 9 applies, the parties may, by mutual agreement, submit the issue to the same arbitrator pursuant to the provisions of Section 9, or, absent mutual agreement, commence processing the dispute at step 1 of that Section. Notwithstanding any of the foregoing, the provisions of this paragraph shall not be applicable to a union’s grievance under its master collective bargaining agreement regarding a dispute not involving the interpretation or application of a provision of this Agreement if the aggrieved union and the employer are signatory to such master collective bargaining agreement independent of this agreement.

By accepting the award of a construction contract for the Project, whether as a contractor or subcontractor, the Contractor agrees to be bound by each and every provision of this Agreement and shall evidence such agreement by executing the Agreement to be Bound form attached hereto as Appendix A prior to receiving a Notice
to Proceed.

B. **Subcontractors.** At the time that any Contractor enters into a subcontract with any subcontractor of any tier for the performance of construction work within the scope of this Agreement, the Contractor shall provide a copy of this Agreement, as it may from time to time be modified by the negotiating parties, to said subcontractor and shall require the subcontractor as a part of accepting an award of a construction subcontract to agree to be bound by each and every provision of the Agreement prior to the commencement of work.

Each subcontractor shall evidence their agreement to be bound by execution of the Agreement to Be Bound form attached hereto as Appendix A. A copy of the Agreement to Be Bound executed by the contractors and subcontractors shall be available for review by the Union(s). If the subcontractor refuses to execute the Agreement to be bound, then such subcontractor shall not be awarded a construction subcontract to perform work on the Project. A subcontractor who executes the Agreement to Be Bound shall be considered a signatory party to this Agreement.

D. **No Application to Non-Parties.** The Agreement shall only be binding on the signatory parties hereto, including any subcontractor who is required to be bound as provided in Section 3B above, and shall not apply to the parents, affiliates, subsidiaries or other ventures of any such party.

E. **Several Liability.** It is understood that the liability of each Contractor and the liability of each Union under this Agreement shall be several and not joint.

**SECTION 4. UNION RECOGNITION**

A. **Union as Sole Bargaining Representative.** The contractors recognize the Unions as the sole and exclusive bargaining representatives of all craft employees within their respective jurisdictions working on the Project within the scope of this Agreement.

B. **Union Membership.** No employee covered by this Agreement can be required to join any Union as a condition of being first employed on Project. Each employee covered by this Agreement shall be subject to the union’s valid union security provisions contained in the Schedule A of the craft in which he is employed; provided however, that “key workforce” employees as defined in Section 5.A. and employees employed pursuant to Section 5.D. may, at their option, refrain from joining a union as may otherwise be required by such union security provision; provided however, that such employees shall nevertheless be required, for the period during which they are performing work under the Agreement, to pay such monthly dues, service dues, "working dues" or administrative dues as are uniformly required of employees working under this Agreement and subject to the full union security provisions of the applicable Schedule A.
SECTION 5.  REFERRAL

A. Union Referral System. The Unions shall be the primary source of all craft labor employed on the Project(s). Contractors shall be bound by and utilize the registration facilities and referral systems established or authorized by the signatory Union(s) when such procedures are not in violation of applicable law. The Contractor shall have the right to determine the competency of all employees and may reject any referral for any reason provided that the Contractor complies with Section 16 (Non-Discrimination).

B. Key Work Force Each Contractor may utilize his/her own key workforce subject to the conditions stated in this sub-section.

1. An employee shall be considered a member of a Contractor's "key workforce" employees if the employee's name appears on the Contractor's active payroll for ninety (90) of the one-hundred twenty (120) working days before the award to the Contractor of any construction contract for the Project. At the request of a signatory union, a contractor employing "key workforce" employees shall be required to demonstrate to the satisfaction of the Project Manager (or authorized representative of the District if there is no Project Manager) that such employees are properly classified as members of its key workforce. Copies of cancelled paychecks, certified payrolls, or official information submitted for withholding tax purposes, covering the relevant dates, shall be presumptive evidence of proper key workforce designation. Key employees shall be referred through the appropriate hiring hall on a call-by-name basis for the purpose of expediting the completion of all necessary dispatch and trust fund forms prior to starting work on the Project.

(1) A Contractor may request by name, and the local will honor, referral of key non-apprentice persons who have applied to the local Union for Project work and who demonstrate to the local union dispatcher and provide satisfactory proof of all of the following qualifications:

(A) possess any and all license(s) required by state or federal law for the Project work to be performed;

(B) have worked a total of at least three thousand (3,000) hours in the appropriate construction craft;

(C) were on the Contractor's active payroll for at least ninety (90) out of the one-hundred twenty (120) calendar days prior to the contract award; and

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

(2) 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 "key" employees as defined above. The process then will be repeated, one and one, until a maximum of five (5) "key" employees have been hired, after which point hiring will be done in accordance to section 5(A) above. Employees shall be laid off in the same one-for-one manner in inverse order of their hiring.
C. **Non-Discrimination.** Selection of applicants for referral to jobs shall be on a non-discriminatory basis and shall not be based on, or in any way affected by, union membership, by-laws, rules, regulations, constitutional provisions, or in any other aspect or obligation of union membership, policies or requirements. There shall be no discrimination against any employee or applicant for employment because of his or her membership or non-membership in the union or based upon race, religious belief, color, national origin, culture, ancestry, sex, age, gender, sexual orientation, gender identity, pregnancy, marital status, disability, medical condition, political belief, organizational affiliation or association with any individual in any of these groups.

D. **Use of Other Sources.** If the Union's referral facilities are unable to fill a Contractor's requisition for employees within a forty-eight (48) hour period (excluding Saturday, Sunday and holidays) after such requisition is made in writing by the Contractor, the Contractor shall be free to obtain work persons from any source. The Contractor shall notify the Union of any person employed from outside the Union's referral system within one working day of employment, and such person shall complete all necessary forms within three (3) working days of this notice. The Union will cooperate in this requirement to avoid interfering with the person's scheduled work hours on the Project.

E. **Referral of Area Residents.** Union(s) will exert their utmost efforts to recruit sufficient numbers of skilled craft-persons to fulfill the requirements of the Contractor(s), including preferential dispatch if permissable under applicable laws and hiring hall policies/bylaws. Additionally the Parties to this Agreement, including the program/construction manager(s), support the development of increased numbers of skilled construction workers from the constituents of the Alum Rock Union Elementary School District to meet the needs of the Project and the requirements of the industry generally. Toward that end, the Unions agree to encourage the referral and utilization, to the extent permitted by law and the hiring hall procedures of the local Unions and the standards of the Apprenticeship programs, of qualified constituents who have successfully completed in partnership with the program/construction manager(s), as journeymen and apprentices on the Project including entrance into such apprenticeship programs as may be operated by the signatory Unions. Additionally, all Contractors and program/construction manager(s) under contract to the District for the Project will sponsor and participate in a Construction Careers Program in conjunction with the parties to this Agreement as outlined in (Appendix B). Such participation in the Construction Careers Program will continue beyond the Contractor performance of work on the Project for so long as it takes to meet the requirements in Appendix B Section 2 (e) or until twelve (12) months after the completion of all work under the Scope of this Agreement, whichever comes first.

F. Each Contractor or subcontractor performing work on the Project shall, for each apprenticeable craft that it employs, employ on its regular workforce the ratio of apprentices as required by Labor Code Section 1777.5 who are enrolled and participating in a Bona Fide Apprentice Program.
G. **Helmets to Hardhats Program.** The Parties recognize the Councils’ participation in the “Helmets-to-Hardhats” program and the District’s 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 the Unions agree to utilize services for the Center for Military Recruitment, Assessment and Veteran’s Employment (hereinafter “Center”) and the orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs of such veterans. The Employers and the Unions agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on the Project. To the extent permitted by law the Unions will give credit to such veterans for bona fide, provable past experience. The experience and practical knowledge of veterans will be reviewed and tested by the applicable Joint Apprenticeship Training Committee. Applicants will be placed at the appropriate stage of apprenticeship or at the journey level as the case may be. Final decision will be the responsibility of the applicable Joint Apprenticeship Training Committee.

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

**SECTION 6. UNION REPRESENTATION AND STEWARDS**

A. Authorized representatives of the Union shall have access to the Project, provided that they do not interfere with the work of the employees and comply with established visitor, security and safety rules of the Project.

B. Each Union which is a party to this Agreement, or its applicable Local Union, shall have the right to designate a working journeyman as a Steward. Such designated Steward shall be a qualified worker performing the work of that craft and shall not exercise any supervisory functions. Each Steward shall be concerned with the employees of his or her employer and not with the employees of any other employer.

C. Where District personnel may be working on a Project in close proximity to the construction activities, the Unions agree that Union representatives, stewards and individual workmen will not interfere in any manner with District personnel or with the work which is being performed by District personnel.

**SECTION 7. MANAGEMENT RIGHTS**

A. **Exclusive Authority.** The Contractor retains full and exclusive authority for the management of its operations. Except as otherwise expressly limited by other provisions of this Agreement, the Contractor retains the right to direct the work force at their prerogative, including but not limited to hiring, promotion, transfer, layoff, discharge or discipline of employees, the selection of foremen; the assignment and schedule of work; the promulgation of reasonable work rules; and, the requirement for overtime work,
determination of when it will be worked and the number and identity of employees to perform the work; provided, however, that the number and classifications of the employee(s) assigned to a particular task shall be undertaken consistent with the assignment/manning provisions of the applicable Schedule A established for the safety of individuals and the maintenance and protection of the equipment they utilize.

B. No Practices That Limit Productivity. No rules, customs, or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees. The Contractor shall utilize the most efficient method or techniques of construction, provided however, that no employee will be required to work in unsafe conditions, hazardous to life or person.

C. No Limits on Choice of Materials/Equipment. There shall be no limitation or restriction by a Union upon a Contractor's choice of materials or design, nor, regardless of source or location, upon the use of equipment, machinery, packaging, pre-cast, pre-fabricated, pre-finish, or pre-assembled materials, tools, or other labor saving devices, nor shall there be any limitation or restriction upon the implementation and use of new technology, equipment, machinery, tools and/or labor saving devices and methods of performing work that may be initiated by the Contractor; provided, however, that nothing in this subsection shall alter the obligations to apply the pre-fabrication terms and conditions included in any Schedule A on the effective date of this Agreement. The onsite installation or application of all items shall be performed by the craft having jurisdiction over such work.

SECTION 8. WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS

A. No Strikes. No Lockouts. The Unions, the District and Contractors agree that for the duration of this Agreement:

1. There shall be no strikes, sympathy strikes, work stoppages, picketing, hand-billing or otherwise advising the public that a labor dispute exists, or slowdowns or other disruptive activity of any kind, for any reason, including disputes relating to the negotiation or renegotiation of any local collective bargaining agreements by the Unions or employees employed on the Project, at the job site of the Project. Neither Unions nor employees will engage in any disruptive activity at any other facility of the District because of a dispute on the Project. The Union(s) shall take all reasonable steps necessary to obtain its/their members’ compliance with this Section.

2. Failure of any employee on work covered by this Agreement to cross any picket line established by any Union, signatory or non-signatory to the Agreement or to any other organization, or failure in connection with any such picket line to undertake covered work as directed by his employer, shall entitle the Contractor employer to terminate such employee immediately for just cause. Disputes arising
between the Unions and Contractors on other District projects or non-District projects, and/or on work excluded from coverage by Section 2, are not governed by the terms of this Agreement; and it is specifically recognized that the signatory unions reserve their right to take all lawful economic action, including picketing, against any contractor on such excluded work; provided however, that such action does not result in the cessation and/or disruption of work by any employee covered by this Agreement for whom work is available under this Agreement or the disruption of covered work as a result of an interference with deliveries, pickups or other transportation of goods and services to or from the Project. It is understood and agreed that this proviso does not include indirect effects on covered work resulting from the normal and expected economic consequences of such lawful action directed against non-covered work.

3. As to employees employed on the Project, there shall be no lockout of any kind by a Contractor covered by this Agreement.

4. The Contractor may discharge any employee violating Section 1 above, and any such employee will not be eligible for rehire under this Agreement for a period of 90 days.

B. Arbitration Procedure. Any party to this Agreement, including the District, may institute the following procedure, in lieu of or in addition to any other action at law or equity, when a violation of this Section is alleged to have occurred:

1. A party invoking this procedure shall notify Thomas Angelo and if he is unavailable, William Riker whom the parties agree shall be the permanent arbitrator under this procedure. In the event that the permanent arbitrator is unavailable at any time, she/he shall appoint an alternate. Notice to the arbitrator shall be by the most expeditious means available, with notices by facsimile or telephone to the party alleged to be in violation and to the Trades Council if a Union is alleged to be in violation.

2. Upon receipt of said notice, the arbitrator named above or her/his alternate shall convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

3. The arbitrator shall notify the parties by facsimile or telephone of the place and time for the hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by the parties. A failure of any party to attend said hearings shall not delay the hearing of evidence or the issuance of any decision by the arbitrator.

4. The sole issue at the hearing shall be whether or not a violation of this Section 8 has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award
damages, which issue is reserved for court proceedings, if any. The decision shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with or enforcement of the decision. The arbitrator may order cessation of the violation of this Section and other appropriate relief and such order shall be served on all parties by hand or registered mail upon issuance.

5. Such decision may be enforced by any Court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the arbitrator's decision all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order or enforcement. The Court's order or orders enforcing the arbitrator's decision shall be served on all parties by hand or delivered by certified mail.

6. Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance are waived by the parties.

7. The fees and expenses of the arbitrator shall be divided equally between the moving party or parties and the party or parties respondent.

C. Liquidated Damages.

1. If the Arbitrator determines that a violation of Section 8A has occurred, the breaching party shall, within eight hours of receipt of the decision take all steps necessary to immediately cease such activities and return to work. If the breaching party involved does not cease such activities by the beginning of the next regularly scheduled shift following the expiration of the eight hour period after receipt of the Arbitrator's decision, then the breaching party shall pay the sum of ten thousand ($10,000) dollars as liquidated damages to the District, and shall pay an additional twenty thousand ($20,000) dollars per shift for each shift thereafter on which the breach has not been remedied.

2. It is understood that it is the obligation of the breaching party to take all reasonable and available steps to cease the activities causing the breach, (which steps, in the case of a Union, may include, but are not limited to, notifying the employees it represents of the arbitrator's decision, making new referrals from the hall, fining members, and/or such other steps as are reasonable under the circumstances to achieve a cessation of the breach). A party meeting this obligation (which continues as long as the breach is continuing) shall not be liable for liquidated damages. The arbitrator shall retain jurisdiction for the sole purpose of determining compliance with this obligation and determining the
amount of liquidated damages, if any; but such retention shall not prevent the
moving party from seeking judicial enforcement of the initial award.

D. The District or its Project Manager, if any, and the Building and Construction
Trades Council shall be a party in interest in all proceedings arising under this Section 8
and Sections 9 and 10 hereof and shall be sent contemporaneous copies of all
notifications required under these Sections, and, at its option, may participate as a full
party in any proceeding initiated under these Sections.

E. The procedures contained in Section 9 shall not apply to any alleged violation of
this Section 8, except that any employee discharged for violation of Section A.1, above,
may use the procedures contained in Section 9 to determine if he or she did, in fact,
engage in that violation.

SECTION 9. DISPUTE AND GRIEVANCE ARBITRATION
PROCEDURE

A. All parties to this Agreement recognize the importance of maintaining continuous
and uninterrupted performance of work on the Project and agree to resolve disputes in
accordance with the grievance-arbitration provisions set forth in this Section 9.

B. The parties agree that any question arising out of and during the term of this
Agreement involving its interpretation or application including any applicable provision
of the Schedule A's incorporated herein by reference, (other than jurisdictional disputes
or alleged violation of Section 8 or disputes requiring only the interpretation or
application of an individual Schedule A as set forth in Section 3.A.) shall be settled
according to the following steps:

STEP 1. a. When any employee subject to the provisions of this
Agreement feels he/she is aggrieved by a violation of this Agreement, he/she
shall, through the local Union business representative or job steward, within five
(5) working days after becoming aware of the dispute but in no event more than
fifteen (15) working days after the Union reasonably should have become aware
of the event giving rise to the dispute the occurrence of the violation, give notices
to the work site representative of the involved Contractor stating the provision(s)
alleged to have been violated. The business representative of the Union or the job
steward and the work site representative of the involved Contractor shall meet and
endeavor to adjust the matter within three (3) working days after timely notice has
been given. If they fail to resolve the matter within the prescribed period, the
grieving party may, within forty-eight (48) hours thereafter, pursue Step 2 of the
grievance procedure, provided the grievance is reduced to a writing setting forth
the relevant information concerning the alleged grievance, including a short
description thereof, the date on which the grievance occurred, and the provision(s)
of the Agreement alleged to have been violated. Grievances and disputes settled
at Step 1 shall be non-precedential, except as to the parties directly involved,
unless endorsed in writing by the Project Manager within five (5) working days after resolution has been reached.

b. Should a Union or Contractor have a dispute with another party, the disputing party shall within five (5) working days after the disputing party knew or should have known of the facts or occurrence giving rise to the dispute, request a meeting with the other party to attempt to settle the dispute. The parties shall meet within three (3) working days after the request to meet is made by the disputing party to attempt to settle the dispute. If after meeting, a settlement is not reached within three (3) working days, the dispute shall be reduced to writing and proceed to Step 2 in the same manner as outlined above for the adjustment of an employee complaint.

STEP 2. Within five (5) working days after the receipt of the written notice of the dispute or grievance, the Business Representative of the involved Local Union or Trades Council, or his/her designee, and the representative of the involved Contractor shall confer and attempt to resolve the dispute or grievance. In the event that the representatives are unable to resolve the dispute or grievance within five (5) working days after its referral to this Step 2, either involved party may submit it in writing within five (5) business days to Step 3.

STEP 3. Within five (5) business days after referral of a dispute to Step 3, the representatives shall submit the matter to an arbitrator for final and binding arbitration. The parties agree that the following named arbitrators shall serve on a rotational basis in the order listed below:

1. Thomas Angelo
2. Gerald McKay
3. William Riker
4. Robert Hirsch
5. Barry Winograd

In the event that any of the above-listed arbitrators are unable or unavailable to serve in turn, the parties agree that the next available arbitrator shall serve and the rotation shall not be disturbed. The rules of the American Arbitration Association shall govern the conduct of the arbitration hearing. The decision of the Arbitrator shall be final and binding on all parties. The Arbitrator shall have the authority to make decisions only on the issues presented and shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement. The expenses of the Arbitrator shall be borne equally by both parties.

The Arbitrator shall arrange for a hearing no later than twenty-eight (28) calendar days from the date of his/her selection. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the presiding Arbitrator.
C. The time limits specified in any step of the procedure set forth above may be extended by mutual agreement of the parties initiated by the written request of one party to the other, at the appropriate step of the procedure. However, failure to process a dispute or grievance, or failure to respond in writing within the time limits provided above, without a request for an extension of time, shall be deemed a waiver of such dispute or grievance without prejudice, or without precedent to the processing of and/or resolution of like or similar grievances or disputes.

D. In order to encourage the resolution of disputes and grievances at Steps 1 and 2 of the procedure, the parties agree that such settlements shall not be precedent-setting; and further, recognizing the unique provisions of this Agreement, any decision issued by an arbitrator pursuant to Step 3 shall be application to work covered by this Agreement only, and may not be used for any purpose regarding works not so covered.

E. No adjustment or decision may provide for retroactive application exceeding sixty (60) days prior to the date of the filing of a written grievance.

F. The District and the Building and Construction Trades Council shall be notified by the involved Contractor of all actions at Steps 2 and 3. Each shall be considered an interested party in any such dispute or grievance and accordingly, may, but shall not be obligated to intervene in the proceedings to resolve the dispute or grievance.

SECTION 10. JURISDICTIONAL DISPUTES

A. 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.

B. All jurisdictional disputes on this Project between or among the Building and Construction Trades Unions and their employers, 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.

C. 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.

SECTION 11. WAGES AND BENEFITS
A. Wages. All employees covered by this Agreement shall be classified in accordance with work performed and paid the hourly wage rates for those classifications in the applicable Schedule A for such craft work and in compliance with the applicable prevailing rate determination.

B. Benefits. Contractor agrees to pay contributions into established appropriate Schedule A employee benefit funds in the amounts designated in the appropriate Schedule A; provided, however, that each Contractor and Union agree that only such bona fide employee benefits as included in the prevailing wage determination shall be included in this requirement and required to be paid by the Contractor under this Agreement; provided further, however, that this provision does not relieve Contractors signatory to a local collective bargaining agreement with a signatory Union which would be applicable to this Project from making any other fund contributions (including, but not limited to, those for contract administration), required by such local agreement. Contractor shall not be required to pay contributions to any other trust funds to satisfy their obligation under this Article. By signing this Agreement, the Contractors adopt and agree to be bound by the written terms of the legally established Trust Agreements, specifying the detailed basis on which the payments are to be made into, and the benefits paid out of, such Trust Funds. If a contractor fails to pay wages or benefits, the District agrees to honor a properly submitted, legally enforceable Stop Notice. Nothing in this Agreement, however, shall be construed to limit or prevent the Unions or Trust Funds from asserting or enforcing legal rights to collect delinquent wages or benefit contributions.

C. Withholding of Work. Nothing in this Agreement shall be construed as prohibiting employees from refusing to work if such refusal is based on that employee’s employer failure to timely pay wages or fringe benefit contributions, if such refusal to work is allowed by the applicable master labor agreement in Schedule A. Prior to withholding of employees for failure to timely pay wages and/or benefits, the Union shall give the District and the affected Contractor seventy-two (72) hours advance written notice.

SECTION 12. HOURS OF WORK, OVERTIME, SHIFTS AND HOLIDAYS

A. Workday and Workweek. Forty (40) hours per week shall constitute a week’s work, Monday through Friday inclusive. The Contractor shall designate the starting and quitting times for all employees in accordance with the applicable Schedule A’s. Any starting time put in effect on Monday shall remain in effect for the workweek unless a change is mutually agreed upon. Nothing herein shall be construed as guaranteeing any employee eight (8) hours per day or forty (40) hours.

It is recognized and acknowledged that the District may prohibit some or all work on certain days or certain times during the day because of traffic, noise, environmental conditions or other conditions which require mitigation procedures. The District will provide reasonable notice to the parties of any changes required under this provision.
B. **Starting Times.** Starting times shall be established by the Contractor in accordance with the applicable Schedule A. Employees shall be at their place of work at the starting time and shall remain at their place of work (as designated by the Contractor) performing their assigned functions until quitting time. There shall be no pay for time not worked unless the employee is otherwise engaged at the direction of the Contractor.

C. **Overtime.** Overtime shall be paid in accordance with the requirements of the applicable Schedule A’s. There will be no restriction on the Contractor’s scheduling of overtime or the non-discriminatory designation of employee who will work the overtime. There shall be no pyramiding of overtime pay under any circumstance.

D. **Holidays.** Holidays shall be recognized and paid (where required) as provided for in the applicable Schedule A’s.

E. **Voluntary Separations/Terminations for Cause.** When an employee leaves the job or work location of his/her own volition or is discharged for cause, the employee shall be paid only for the actual time worked.

**SECTION 13. APPRENTICES**

A. The parties recognize the need to maintain continuing support of programs designed to develop sufficient numbers of skilled workers in the construction industry. The Contractors will employ apprentices in their respective crafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured.

Apprentices from a Bona Fide Apprenticeship Program may comprise up to the percentage of each craft’s workforce at any time as provided in the applicable Schedule A. The Unions agree to cooperate with the contractor in furnishing apprentices as requested up to the maximum percentage, and there shall be no restrictions in the utilization of apprentices in performing the work of their craft, providing they are properly supervised and employed in accordance with the standards of the apprenticeship committee as approved by the California Division of Apprenticeship Standards. The apprentice ratio for each craft shall be in compliance with the applicable Schedule A and approved apprenticeship standards for that craft.

**SECTION 14. SECURITY, SAFETY, PROTECTION OF PERSON AND PROPERTY**

A. It shall be the responsibility of each Contractor to ensure safe working conditions and employee compliance with any safety rules contained herein or established by the District, the Project Manager or the Contractor.
B. Certain rules of conduct and security have or may be established by the District and/or governmental agencies (City, County, State and Federal government) which have jurisdiction and which may be applicable to all employees under the Agreement and which may change from time to time. Employees will be notified of such rules and must observe such rules at all times. Failure to do so may result in discipline up to and including discharge.

C. Employees shall be bound by the safety, security, and visitor rules established by the Contractor, the Project Manager or the District. These rules will be published and posted in conspicuous places throughout the work site. An employee's failure to comply with such safety, security and/or visitor rules shall be cause for discipline, in including discharge.

D. The inspection of incoming shipments of equipment, machinery and construction materials of every kind shall be performed at the discretion of the Contractor by individuals of his/her choice. All employees shall comply with the security procedures established by the District and as otherwise required by the contract documents, Project Manager, and/or contractor.

E. The Contractor shall provide adequate supplies of drinking water and sanitary facilities for all employees.

F. The Contractor(s) and Union(s) agree to abide by the substance abuse policies contained in the applicable craft Schedule A Master Collective Bargaining Agreement(s). The Contractor(s) and Union(s) understand that the District facilities are smoke free sites.

SECTION 15. WORKING CONDITIONS

Rest periods, coffee breaks, or other paid for non-working time during working hours shall be permitted in accordance with applicable statute, regulation or Wage Order.

SECTION 16. NO DISCRIMINATION

Contractors and Union(s) agree not to engage in any form of discrimination on the ground or because of race, color, religion, national origin, culture, ancestry, age, sex, gender, sexual orientation, gender identity, pregnancy, marital status, disability, medical condition, political belief, organizational affiliation, including membership or non-membership in the Union, or any other basis recognized by law, against any employee, or applicant for employment, on the Project.

SECTION 17. COMPLIANCE

The Contractors and Union(s) together with the District shall monitor compliance with the provisions of the Agreement regarding the payment of wages and benefit contributions contained in Section 11.
SECTION 18. LABOR MANAGEMENT COMMITTEE

This Agreement is intended to provide close cooperation between management and labor. To that end, the District and Trades Council shall each designate two (2) representatives to serve on a Project Labor Management Committee. Each representative shall designate an alternate who shall serve in his or her absence for any purpose contemplated by this agreement. The Project Labor Management Committee shall meet as required but no less than once every three months to review implementation of the agreement progress on the Project, and to discuss matters of general concern. The Project Labor Management Committee shall resolve issues by a majority vote, with such resolutions to be binding on all signatories to the agreement. If resolution of the problem brought before the Project Labor Management Committee requires a change, amendment, addition to or deletion from any provision of this Agreement, the Project Labor Management Committee shall have the power to recommend this resolution by majority vote, with such resolution to become effective upon approval of the District and the unions signatory to this agreement. It is intended that the Committee serve as a forum to foster communication between management and labor, and assist the Unions and the Contractors to complete the Project in an economic and efficient manner without interruption, delays or work stoppages. The Committee shall have no authority to review grievances or disputes involving this Agreement. Such grievances and disputes are subject to the procedures set forth in Section 9.

SECTION 19. SAVINGS CLAUSE

The parties agree that in the event any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void as being in contravention of any applicable law, by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect. The parties further agree that if any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void, by a court of competent jurisdiction, the parties shall substitute, by mutual agreement, in its place and stead, an article, provision, clause, sentence or word which will meet the objections to its validity and which will be in accordance with the intent and purpose of the article, provision, clause, sentence or word in question.

Further, if a court of competent jurisdiction determines that all or part of this Agreement is invalid and/or enjoins the District from complying with all or part of the Agreement's provisions, the Agreement shall not be required as part of the bid specification or award of contract for such work, such work shall be "not covered" for purposes of this Agreement and no provisions, or requirements or limitations of this Agreement shall be applicable to such work; but such shall not affect the intent of this Agreement or its application to any other work to which the Agreement has been or subsequently will be applied.

SECTION 20. MODIFIED SCHEDULE A's

A. Schedule A's Shall Continue Until a New or Modified Agreement is in Place. The
Schedule A as incorporated as part of this Agreement shall continue in full force and effect for work covered under this Agreement until such times as the Union and/or Contractor parties to the collective bargaining agreements which are the basis for the Schedule A's notify the District or the Project Manager that a new or modified agreement has been reached. The notice to the District or the Project Manager shall describe the new or revised terms and the effective date(s) of such terms. Such new or revised terms shall be incorporated into this Agreement to the extent not inconsistent with the provisions of this Agreement. The effective date(s) of such new or revised terms shall become the effective date(s) under this Agreement.

B. Retroactive Terms. The Contractor agrees to recognize and implement such new or modified terms on their effective date(s). However, the Contractor shall have seven (7) days to implement any new or modified terms that are retroactive in effect and which are applicable to employees employed on the Project.

1. Certain Provisions Shall Not Apply. Provisions negotiated into the new or modified collective bargaining agreement which are less favorable to the Contractor than those uniformly required of employers for construction work normally covered by those agreements or which may be construed to apply exclusively or predominately to work covered by this Agreement shall not apply to work covered by this Agreement. Any disagreement between the parties regarding the application of the provisions of any new or modified collective bargaining agreement to work covered by this Agreement shall be resolved under the dispute and grievance arbitration procedures set forth in Section 9 hereof.

2. No Strikes, Work Stoppages or Lockouts. The Unions agree that there will be no strikes, sympathy strikes, work stoppages, picketing, hand-billing or activities otherwise advising the public that a labor dispute exists, slowdowns or other disruptive activity of any kind, affecting the Project by any Union involved in the negotiation of such collective bargaining agreements. The Contractors agree that there will be no lockouts affecting the Union(s) during the course of such negotiations.

SECTION 21. TERM OF AGREEMENT

This Agreement shall become effective on the day the District Board ratifies this Agreement and shall continue in full force and effect for so long as projects are undertaken as defined in this Agreement. However, the parties may mutually agree in writing to amend, extend or terminate this Agreement at any time.

Dated: ____________________________ Alum Rock Union Elementary
School District

By:

________________________________________________________________________

Jose L. Manzo

ARUESD.CCA.FINAL.6.18.09.
Superintendent

Dated: ______________________

SANTA CLARA & SAN BENITO COUNTIES BUILDING & CONSTRUCTION TRADES COUNCIL

By:

______________________________

Neil M. Struthers
Chief Executive Officer
UNION SIGNATORIES

ASBESTOS WORKERS LOCAL 16

BOILERMAKERS LOCAL UNION 549

BAC LOCAL UNION 3

IBEW LOCAL 332

ELEVATOR CONSTRUCTORS LOCAL UNION 8

I.U.P.A.T. DISTRICT COUNCIL 16

IRON WORKERS LOCAL UNION 377

LABORERS LOCAL UNION 270

OPERATING ENGINEERS LOCAL 3

OPERATIVE PLASTERERS AND CEMENT MASONS LOCAL UNION 400

PLASTERERS LOCAL UNION 300

ROOFERS LOCAL UNION 95

TEAMSTERS LOCAL UNION 287

UNITED ASSOCIATION, PLUMBERS & FITTERS LOCAL UNION 393

UNITED ASSOCIATION, SPRINKLER FITTERS LOCAL UNION 483

SHEET METAL WORKERS INTERNATIONAL UNION LOCAL 104
SIGN & DISPLAY & ALLIED
CRAFTS LOCAL UNION 510

NORTHERN CALIFORNIA
CARPENTERS REGIONAL COUNCIL

LABORERS LOCAL UNION 67
APPENDIX A

AGREEMENT TO BE BOUND

The undersigned, as a Contractor or Subcontractor ("Employer") on the Alum Rock School District Measure G Bond Project, for and in consideration of the award to it of a contract to perform work on said Project, and in further consideration of the mutual promises made in the Alum Rock Union Elementary School District Construction Careers Agreement ("Agreement"), 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 to said Agreement.

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

3. Agrees to secure from any Contractor (as defined in said Agreement) which is or becomes a subcontractor (of any tier) to it, and from any successors, a duly executed Agreement to be bound in form identical to this document.

4. Employer agrees that it shall be bound by all applicable trust agreements and plans for the provision of such fringe benefits as accrue to the direct benefit of the employees, including Health and Welfare, Pension, Training, Vacation, and/or other direct benefits provided pursuant to the appropriate craft agreement contained in Schedule "A" of the Project Agreement.

Date __________________ Company Name ____________________________________________

Name of Prime Contractor or Higher Level Subcontractor ____________________________________________

Signature __________________ Print Name ________________________________________

Title __________________ Contractor's License # _____________________________

Project Name ____________________________ Bid # __________________________
APPENDIX B

Alum Rock Unified School District Construction Career Program.
The overall objectives of this program are many and will include one, several or all of the following: (a) prepare students for advancement academically by providing relevance to math and science through the application of construction, (b) provide knowledge for future advancement within the construction industry including but not limited to apprenticeship, engineering, architecture and construction management, (c) provide industry exposure and relevance to District teachers through summer internships that will facilitate development of new techniques for delivering relevant math and science curriculum.

Industry Steering Committee. In order to facilitate the goals of this partnership, the District agrees to become a member of the Santa Clara County Construction Careers Association (S4CA). There shall be no fees associated with membership to S4CA. S4CA will provide technical assistance and job/intern placement on behalf of the District for teachers who agree to participate in the program and will act as the Industry Steering Committee. The purpose of the Industry Steering Committee will be to assist and aid in the Program developed and delivered by the District. Additionally S4CA and the Council will actively work to identify sources for educational and financial support including State, Federal and Foundation funding for the program.

Employment of Teachers. The Building Trades Council and the District working through S4CA shall make arrangements for contractors working under this Construction Careers Agreement to employ a mutually agreeable number of teachers selected by the District annually beginning once the program has graduated its first class.

Binding Effect. This Agreement is binding on all contractors performing work on the project of any tier and the District, as per Appendix B to this Construction Careers Agreement, and their successors and assigns. However, nothing in this Appendix B shall supersede the provisions of the Construction Careers Agreement, a schedule “A” labor agreement or the approved standards for any Building Trades apprenticeship program. Further, the obligations contained herein to provide employment opportunities to program teachers shall extend to construction projects other than the duration of this project or the contractor/employer’s performance of work on this project.

AGREEMENT OF CONTRACTORS

I, __________________________, by affixing my signature hereto, understand that with the support of the Building and Construction Trades Council, the Contractor(s) has agreed to work with the District and the Industry Steering Committee to provide construction employment opportunities or summer internships on this project for qualifying District teachers in the District’s Construction Career Program. The Industry Steering Committee will assist in, screening, referring and placing qualified teachers.
selected by the District for paid summer internship opportunities through the building and construction trades unions.

The District will serve as the lead agency for the committee, and as such, will be the agency that contractors will contact to provide appropriate employment information as described below.

2) I understand that as a contractor on this project, my participation in the Committee's employment program is mandatory and is a material term of my contract with the General Contractor. Specifically, I agree to comply with the following requirements:

a) To work cooperatively with the District and make good faith efforts on all projects undertaken by the contractor or employer for so long as this agreement is effective to employ qualified teachers referred by the District.

b) Good faith efforts will have been met if contractor employs one or more qualifying program teachers in a summer internship or provides the resources for at least one summer internship for a qualifying District teacher paid at the customary established rate for such positions. Internships will be a maximum of 4 weeks. The purpose of such internship is to gain experience and relevant exposure to the application of math and science in the construction industry and facilitation for lesson plan development.

3) To maintain records that document compliance with this agreement and to provide such records to the General Contractor or the Committee upon request.

4) In the event that my business subcontracts a portion of the work agreed upon in this project's Contract Documents, I agree to be responsible for ensuring that my subcontractors comply with all terms and conditions under this agreement, and the appropriate union Collective Bargaining Agreement.

5) Nothing in this agreement precludes my business from assigning existing employees to work on this project.
APPENDIX C

CRAFT LOCAL MASTER COLLECTIVE BARGAINING AGREEMENTS
(Schedule A Agreements)