Agenda Item: 2-M (File ID 16-1519)
Date: 12/15/2016

FRESNO CITY COUNCIL

City of FRESNO

Supplemental Information Packet

Agenda Related Items – 2-M (File ID 16-1519)

Contents of Supplement: Project Labor Agreement

Item(s)

Approve Transformative Climate Communities Project Labor Agreement

Supplemental Information:

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PROJECT LABOR AGREEMENT

BY AND BETWEEN

THE CITY OF FRESNO

AND

FRESNO, MADERA, TULARE, KINGS

BUILDING AND CONSTRUCTION TRADES COUNCIL

AND THE SIGNATORY CRAFT COUNCILS AND UNIONS

COVERING PROJECTS FUNDED BY THE

TRANSFORMATIVE CLIMATE COMMUNITIES PROGRAM

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CITY OF FRESNO
PROJECT LABOR AGREEMENT
COVERING PROJECTS FUNDED BY THE
TRANSFORMATIVE CLIMATE COMMUNITIES PROGRAM

This Project Labor Agreement ("Agreement" or "PLA") shall be effective upon adoption by the City Council of the City of Fresno ("City") and execution by the Fresno, Madera, Tulare, Kings Building and Construction Trades Council ("Council") and all of its affiliate signatory craft councils and unions (collectively, "Union" or "Unions").

This Agreement establishes labor relations policies and procedures for Project Work performed by Contractors and crafts persons employed by the Contractors who are represented by the Unions. The City, Contractors, and Unions are referred to herein as "Parties." It is understood by the Parties that, for the duration of this Agreement, it shall be the policy of the City for Project Work to be contracted exclusively to Contractors who agree to be bound by the terms of this Agreement, directly or through the Letter of Assent (a form of which is attached as "Attachment A"), and to require each of the subcontractors, of whatever tier, become bound. The City shall include, directly or by incorporation by reference, the requirements of this Agreement in the advertisement of and/or specifications for each and every contract for Project Work to be awarded by the City.

The City shall designate a PLA Administrator, either from its own staff or an independent contractor, to: (1) serve as the City's liaison for Contractors and other persons; (2) monitor compliance with this Agreement; (3) assist, as the authorized representative of the City, in developing and implementing the programs referenced herein, all of which are critical to fulfilling the intent and purposes of the Parties and this Agreement; and (4) otherwise implement and administer this Agreement. For such purposes, the Unions and Contractors recognize the PLA Administrator, its successors or assigns, as the City's agent.

PURPOSE

The purpose of this Agreement is to establish and foster continued cooperation between management and labor in order to complete the construction of Project Work economically, efficiently, continuously and without any interruption, delays or work stoppages, thereby promoting the public interest. The purpose is also to increase employment opportunities for individuals who reside in the City and other local areas, and to provide expanded training opportunities through apprenticeship and pre-apprenticeship programs for the City's disadvantaged communities.

RECITALS

WHEREAS, AB 2722 created the Transformative Climate Communities ("TCC") Program and directed the Strategic Growth Council and the California Environmental Protection Agency to fund the implementation of new or existing neighborhood level plans that include integrated and

innovative projects to address climate change in ways that deliver multiple benefits to disadvantaged communities; and

WHEREAS, The City, which has and will continue to partner with community and labor organizations, was selected by the Strategic Growth Council to receive $70 million from the TCC Program to complete certain public works projects supporting the development of the high-speed rail station area, which will help to reduce carbon emissions while providing the City's disadvantaged communities with employment and job training opportunities; and

WHEREAS, The City will use TCC Program funds to complete certain public works construction projects related to pedestrian walkways, bike lanes, trails, parks and other projects, within one mile of the new high-speed rail station located in the block bounded by Tulare, H, Fresno and G streets; and

WHEREAS, Public works construction projects funded through the TCC Program will support strategies that increase multimodal connectivity to high-speed rail and downtown Fresno, the San Joaquin Valley's largest job center; and

WHEREAS, Public works construction projects funded through the TCC Program may also include urban greening projects that provide pollutant absorption, open space, and storm water management benefits to communities in and around the high-speed rail station; and

WHEREAS, Over one half of the City's greenhouse gas emissions derive from the transportation sector, and over one-third of the City resides within the top 5% most environmentally burdened census tracts in the state according to CalEnviroScreen 2.0; and

WHEREAS, Providing jobs in the construction industry to residents of the City will decrease traffic congestion and reduce pollution; and

WHEREAS, Unemployment rates in the City have been and continue to be substantially higher than in California as a whole, and those rates are significantly higher for certain communities within the City; and

WHEREAS, The City places a high priority on providing better paying jobs to its residents, and a pathway out of poverty to individuals from its most disadvantaged communities; and

WHEREAS, Many residents of the City, particularly those in disadvantaged communities, face significant obstacles to employment in the construction industry where lack of education and/or technical skills may prevent employment or even participation in apprenticeship programs; and

WHEREAS, The City recognizes the barriers to employment in the construction industry begin with basic education and training and acknowledges the ability of apprenticeship and pre-apprenticeship programs to break down these barriers and provide individuals with meaningful and sustainable careers in the building and construction industry; and

WHEREAS, The adoption of a PLA will increase job training opportunities through apprenticeship and pre-apprenticeship programs to individuals from the City's most disadvantaged communities; and

WHEREAS, All Parties view the development of comprehensive programs for the recruitment, training and employment of City residents as critical to the local economy and recognize the ability of apprenticeship and pre-apprenticeship programs to provide meaningful and sustainable careers in the building and construction industry; and

WHEREAS, It is also the goal of the City to encourage and ensure opportunities for veterans to pursue careers in the trades; and

WHEREAS, The use of skilled labor on construction work increases the safety of construction projects as well as the quality of the completed work; and

WHEREAS, Workers of various skills will be required in the performance of construction work, including those represented by the Unions signatory to this Agreement and employed by contractors and subcontractors who are signatory to this Agreement; and

WHEREAS, The timely and successful completion of the TCC Program funded projects is of the utmost importance to the State and the City in order to avoid the increased costs resulting from delays in construction; and

WHEREAS, While the specific projects that will be funded by the TCC Program in the City have yet to be selected, they will involve large numbers of workers from across a number of crafts and trades and will have non-union employees who will be working side-by-side with union labor, creating a substantial potential for disruption from work stoppages over labor disputes and jurisdictional disputes between the crafts and trades; and

WHEREAS, Given the uncertainty about which projects will be funded, entering into a PLA between the City and the Fresno, Madera, Tulare, Kings Building and Construction Trades Council will advance the City's goals by providing for peaceful settlement of labor disputes and grievances without strikes or lockouts, controlling costs, increasing efficiency, providing safe working conditions, and maintaining the highest quality of construction work; and

WHEREAS, Given the location of the Project Work in downtown Fresno, the successful completion of the TCC Program funded projects without disruption is of the utmost importance to City residents who may be adversely affected by traffic issues caused by any such disruption on or near Project sites; and

WHEREAS, The interests of the City, its residents, the Unions and the Contractors will be best served if the construction work proceeds in an orderly manner without disruption due to strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns, or other interference with work; and

WHEREAS, The Contractor(s) and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on Project Work subject to this Agreement in order to promote a satisfactory, continuous and harmonious relationship among the Parties to the PLA; and

WHEREAS, The Parties wish to establish effective, prompt, and binding procedures for the resolution of all labor disputes and provide mechanisms for labor-management cooperation on matters of mutual interest and concern; and

WHEREAS, This Agreement is not intended to replace, interfere with, abrogate, diminish or modify existing local or national collective bargaining agreements in effect during the duration of the Project, insofar as a legally binding agreement exists between the Contractors and the affected Unions, except to the extent that the provisions of this Agreement are inconsistent with said collective bargaining agreements, in which case, the provisions of this Agreement shall prevail; and

WHEREAS, The contracts for the construction of the Project Work will be awarded in accordance with the applicable provisions of local, state and federal laws; and

WHEREAS, The City has the absolute right to select the lowest responsive and responsible bidder for the award of construction contracts on the Project; and

WHEREAS, The parties signatory to this PLA pledge their full good faith and trust to work towards mutually satisfactory completion of the TCC Program projects that will be subject to the PLA;

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

ARTICLE 1
DEFINITIONS

Section 1.1 “Agreement” or “PLA” means this Project Labor Agreement.

Section 1.2 “Apprentice” means those employees indentured and participating in a Joint Labor/Management Apprenticeship Program approved by the State of California, Department of Industrial Relations, Division of Apprenticeship Standards.

Section 1.3 “City” means the City of Fresno.

Section 1.4 “Completed” or “Completion” means, with respect to Construction Contracts, that point the City of Fresno finally accepts control of covered work as more fully described in Article 20.

Section 1.5 “Construction Contract” or “Construction Contracts” means any contract entered into by the City or Contractors for Project Work, as more fully described in Article 2.

Section 1.6 "Contractor" means any individual firm, partnership or corporation, or combination thereof, including joint ventures, which is an independent business enterprise and which has entered into a Construction Contract with the City or any of its contractors or any of the City's or the contractor's subcontractors of any tier, with respect to the construction of any part of a Project under contract terms and conditions approved by the City and which incorporate this Agreement.

Section 1.7 "Core Worker" means an employee: (1) who appears on a Contractor's active payroll for sixty (60) of the one hundred (100) working days immediately before the award of Project Work to the Contractor; (2) who possesses all licenses required by state or federal law for the Project Work to be performed; (3) who has the ability to safely perform the basic functions of the applicable trade; and (4) is a Target Area Resident.

Section 1.8 "Council" means Fresno, Madera, Tulare, Kings Building and Construction Trades Council.

Section 1.9 "Joint Labor/Management Apprenticeship Program" means a joint Union and Contractor administered apprenticeship program certified by the State of California, Department of Industrial Relations, Division of Apprenticeship Standards.

Section 1.10 "Letter of Assent" means the document that each Contractor (of any tier) must sign and submit to the City before beginning any Project Work, which formally binds such Contractor(s) to adherence to all the terms, requirements and conditions of this Agreement in the form (attached as "Attachment A").

Section 1.11 "Pre-Apprenticeship Program" means a program that teaches basic technical and job readiness skills for a designated apprenticeable occupation or occupation sector in order to prepare participants for apprenticeship training.

Section 1.12 "Project" "Project Work" or "City Project" means the demolition and construction work to be performed on City property or within easements secured by the City, consisting of demolition and construction funded by the TCC program, pursuant to a Construction Contract entered into by the City, as provided and limited by Sections 2.2 and 2.4. 4

Section 1.13 "Project Site" means any property or area made available to a Contractor by the City for the sole purpose of Project Work.

Section 1.14 "Schedule A Agreements" means the local collective bargaining agreements (Master Labor Agreements) of the signatory Unions having jurisdiction over the Project Work and which have signed this Agreement. Unions shall provide the City all Schedule A Agreements prior to the issuance of any call for bids on Project Work.

Section 1.15 "Subscription Agreement" means the contract between a Contractor and a Union's Labor/Management Trust Fund(s) that allows the Contractor to make the appropriate fringe benefit contributions in accordance with the terms of a Schedule A Agreement while the Contractor is performing Project Work.

Section 1.16 "Target Area 1" means persons residing in the City who reside in the Top 5% of

disadvantaged communities per CalEnviroScreen 2.0 (as attached as "Attachment B").

Section 1.17 "Target Area 2" means persons residing within the City.

Section 1.18 "Target Area 3" means persons residing within Fresno County who reside in the Top 5% of disadvantaged communities per CalEnviroScreen 2.0 (as attached as "Attachment C").

Section 1.19 "Target Area Residents" means persons residing within Target Areas 1, 2, or 3.

Section 1.20 "Union" or "Unions" means the Council and any other craft labor organization signatory to this Agreement, acting in 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.

Section 1.21 The use of masculine or feminine gender or titles in this Agreement shall be construed as including both genders and not as gender limitations. Further, the use of Article titles and/or Section headings are for information only, and carry no legal significance.

ARTICLE 2
SCOPE OF THE AGREEMENT

Section 2.1 General This Agreement shall apply and is limited to all of the City's Project Work, as specified in Sections 2.2 and 2.4 of this Article, performed by those Contractor(s) of whatever tier that have contracts awarded for such work, for the development of the City's facilities which, jointly, constitute the Project, and have been designated by the City for construction or rehabilitation.

Section 2.2 Specific

(a) The work covered by this Agreement shall be limited to any and all demolition, and construction work that is:

(1) At least 75 percent funded by the Transformative Climate Communities Program; and

(2) Located within one-mile of the high-speed rail station located on the block bounded by Tulare, H, Fresno and G Streets; and

(3) In excess of the formal bid limit (currently one hundred and thirty three thousand dollars ($133,000) in Fresno City Charter section 1208(a).

(b) This Agreement shall not apply to any work performed using TCC Program funds or any other funds on the following:

(1) Housing construction and rehabilitation;

(2) Residential solar construction or weatherization; and

(3) The Public Market (former Gottschalks Building).

This Agreement will not be adhered to at any time prior to the effective date, or after its expiration or termination, except as provided herein, or on other City projects. This Agreement shall in no way limit the City's right to terminate, modify or rescind any construction contract and/or any related subcontract or agreement. Should the City remove or terminate any contract or agreement for construction that does not fall within the scope of this Agreement and thereafter authorize that work be commenced on any contract for such construction, the contract for construction may, at the sole election of the City, be performed under the terms of this Agreement.

Section 2.3 Applicability This Agreement will be made available to, and will fully apply to, any successful bidder for Project Work, without regard to whether that successful bidder performs work at other sites on either a union or non-union basis. This Agreement shall not apply to any work of any Contractor other than the Project Work specifically covered by this Agreement. No contractor shall be required become signatory to a union Master Agreement as a result of performing work on this Project.

Section 2.4 Exclusions Items specifically excluded from the scope of this Agreement include the following:

(a) Work of non-manual employees, including but not limited to: superintendents; teachers; supervisors (except those covered by Schedule A Agreements at or below the level of general foreman); staff engineers; time keepers; mail carriers; clerks; office workers; messengers; guards; safety personnel; emergency medical and first aid technicians; and other professional, engineering, executive, administrative, supervisory and management employees;

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

(c) All off-site manufacture and handling of materials, equipment or machinery unless otherwise provided for in a side letter (attached as "Attachment D"). Work performed at lay down or storage areas for equipment or material and manufacturing (prefabrication) sites, dedicated solely to the Project, and the movement of materials or goods between such locations and a Project site are within the scope of this Agreement;

(d) All work performed by City employees, the PLA Administrator, design teams (including, but not limited to, architects, engineers and master planners), any other consultants for the City (including, but not limited to, project managers and construction managers and their employees not engaged in Project Work) and their sub-consultants, and other employees of professional service organizations not performing manual labor within the scope of this Agreement;

(e) Any work performed on, near, or leading to a site of work covered by this Agreement and undertaken by state, county or other governmental bodies, or their contractors; and/or by public utilities, or their contractors; and/or by adjacent third party landowners; and/or by the City or its contractors (for work which is not within the scope of this Agreement);

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

(g) Work by employees of a manufacturer or vendor supervising the work of craft employees under this Agreement, necessary to maintain such manufacturer's or vendor's warranties or guaranty;

(h) Non-construction support services contracted by the City, City consultants, the PLA Administrator, or Contractor in connection with a Project;

(i) Laboratory work for testing;

(j) All work by employees of the City or its contractors involving services, operation and/or general maintenance and/or repair and/or cleaning work;

(k) All work pursuant to "as-needed" contracts with the City, including but not limited to individual projects performed under job order contracts (JOCs) that are below the dollar threshold specified in Section 2.2(a), notwithstanding a total not-to-exceed amount on a JOC above such dollar threshold;

(l) All transportation of goods and materials to and from the project site. Where it is necessary to set up a work area adjacent to the project site, the transportation of goods and materials from the ancillary site to the project site will be covered under this Agreement;

(m) Housing-related construction or rehabilitation funded by the TCC Program;

(n) Residential solar construction or weatherization funded by the TCC Program; and

(o) Any work related to the demolition, rehabilitation or construction of the Public Market project.

Section 2.5 Awarding of Contracts

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

(b) All Contractors and subcontractors of whatever tier who have been awarded contracts for work covered by this Agreement shall be required to accept and be bound to the terms and conditions of this Agreement, and shall evidence their acceptance by the execution of the Letter of Assent set forth in "Attachment A", prior to the commencement of work. At the time that any Contractor enters into a subcontract with any subcontractor of any tier providing for the performance of the Construction Contract, the Contractor shall provide a copy of this Agreement to said subcontractor and shall require the subcontractor, as a part of accepting the award of a construction subcontract, to agree in writing to the Letter of Assent prior to the commencement of work on the Project. No Contractor or subcontractor shall commence Project Work without having first provided a copy of the Letter of Assent executed by it to the PLA Administrator and to the Council.

Section 2.6 Coverage Exception

(a) This Agreement shall not apply if the City receives funding or assistance from any federal, state, local or other public entity for the Construction Contract if a requirement, condition or other term of receiving that funding or assistance, at the time of the awarding of the contract, is that the City not require bidders, contractors, subcontractors or other persons or entities to enter into a PLA or other similar agreement with one or more labor organizations. The City agrees that it will make every effort to defend the terms of this Agreement with any governmental agency or granting authority.

(b) In cases of conflict other than those addressed in Section 2.6(a), where particular provisions of this Agreement would be prohibited by federal or state law, or where the application of this Agreement would violate or be inconsistent with the terms, conditions or contingencies of a grant or a contract with an agency of the United States or the State of California, then the Fresno City Manager shall be authorized to modify the requirements of this Agreement to advance the purposes of this Agreement to the maximum extent feasible without conflicting with federal or state law or with terms, conditions or contingencies of the state or federal grant or contract in question. The City shall include these revised provisions in the Construction Contract with regard to the project or portions of the project for which this Agreement would conflict with federal or state requirements.

(c) Should the City partner with another public agency to jointly fund or construct a Project which would otherwise be considered a Project Work under the terms of this Agreement, the Unions agree to meet and discuss the application of the terms and conditions of this Agreement to such Project with such other public agency. In the event the public agency partner does not agree to be bound by the terms of this Agreement, the project shall be exempt from this Agreement.

Section 2.7 Schedule A Agreements

(a) The provisions of this Agreement, include the Schedule A Agreements (which are the local Master Labor Agreements of the signatory Unions having jurisdiction over the work on the Project, and may be changed from time to time. Schedule A Agreements (which 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 agreement which may conflict with or differ from the terms of this Agreement.

(b) This Agreement does not apply to work performed under the National Cooling Tower Agreement, the National Stack Agreement, the National Transit Division Agreement (NTD), or within the jurisdiction of the International Union of Elevator Constructors and all instrument calibration and loop checking work performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, except that the Articles of this PLA dealing with Work Stoppages and Lock-Outs, Work Assignments and Jurisdictional Disputes, and Settlement of Grievances and Disputes shall apply to such work.

(c) It is specifically agreed that no later agreement shall be deemed to have precedence over this Agreement unless signed by all Parties signatory hereto who are then

currently employed or represented at the Project.

(d) Where a subject covered by the provisions of this Agreement is also covered by a Schedule A, the provisions of this Agreement shall apply. Where a subject is covered by a provision of a Schedule A and not covered by this Agreement, the provisions of the Schedule A Agreement shall prevail. Any dispute as to the applicable source between this Agreement and any Schedule A Agreement for determining the wages, hours of working conditions of employees on this Project shall be resolved under the procedures established in Article 10.

(e) It is understood that this Agreement, together with the referenced Schedule A Agreements, constitutes a self-contained, stand-alone agreement and by virtue of having become bound to this Agreement, the Contractor will not be obligated to sign any other local, area or national collective bargaining agreement as a condition of performing work within the scope of this Agreement. A Contractor may be required to sign a uniformly applied, non-discriminatory Participation or Subscription Agreement at the request of the trustees or administrator of a trust fund established pursuant to Section 302 of the Labor Management Relations Act, and to which such Contractor is bound to make contributions under this Agreement, provided that such Participation Agreement does not purport to bind the Contractor beyond the terms and conditions of this Agreement and/or expand its obligation to make contributions beyond contributions based on Project Work performed. It shall be the responsibility of the prime Contractor to have each of its subcontractors sign the documents described herein, with the appropriate craft Union prior to the subcontractor beginning work on covered Projects.

Section 2.8 Workers' Compensation Carve-out The Parties recognize the potential that Project Work may provide for the implementation of a cost effective workers' compensation system, as permitted by revised California Labor Code Section 3201.5, and it is understood that the City is in an ongoing review of the value of such a program. Should the City request, the Union parties agree to meet and negotiate in good faith with representatives of the City for the development and subsequent implementation of an effective program involving improved and revised dispute resolution and medical care procedures for the delivery of workers' compensation benefits and medical coverage as permitted by the California Labor Code.

Section 2.9 Binding Signatories Only This Agreement shall only be binding on the signatory Parties hereto, including through a Letter of Assent, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such Party not performing Project Work.

Section 2.10 Other City Work This Agreement shall be limited to construction work within the scope of this Agreement referenced in Article 2. Nothing contained herein shall be interpreted to prohibit, restrict, or interfere with the performance of any other operation, work or function not covered by this Agreement, which may be performed by City employees or contracted for by the City, on its property or in and around a Project site.

Section 2.11 Separate Liability It is understood that the liability of the Contractor(s) and the liability of the separate Unions under this Agreement shall be several and not joint. The Unions agree that this Agreement does not have the effect of creating any joint employment status between or among the City and/or any Contractor.

Section 2.12 Completed Project Work As areas of covered work are accepted by the City, this Agreement shall have no further force or effect on such items or areas except where the Contractor is directed by the City or its representatives to engage in repairs, modification, check-out and/or warranties functions required by the Construction Contract.

ARTICLE 3
UNION RECOGNITION AND EMPLOYMENT

Section 3.1 Recognition Contractors shall recognize the Council and the Unions as the sole and exclusive bargaining representative for the employees engaged in Project Work. Contractors shall further agree that the Unions shall be the primary source of all craft labor employed on the Projects. In the event that a Contractor has its own core workforce, the Contractor shall follow the procedures outlined below.

Section 3.2 Union Membership No employee covered by this Agreement shall be required to join any Union as a condition of being employed, or remaining employed, for the completion of Project Work; provided, however, that any employee who is a member of the referring Union at the time of referral shall maintain that membership in good standing while employed under this Agreement. All employees shall, however, be required to tender dues and fees uniformly required to be paid by members to the appropriate Union on or before the eighth [8th] consecutive or cumulative day of employment on a Construction Contract subject to this Agreement.

Section 3.3 Contractor Selection of Employees The Contractor shall have the right to determine the competency of all employees, the number of employees required, the duties of such employees within their craft jurisdiction, and shall have the sole responsibility for selecting employees to be laid off, consistent with Section 3.4 and Section 4.2, below. The Contractor shall also have the right to reject any applicant referred by a Union for any reason; provided, however, that such right is exercised in good faith and not for the purpose of avoiding the Contractor's commitment to employ qualified workers through the procedures endorsed in this Agreement.

Section 3.4 Referral Procedures

(a) For signatory Unions now having a job referral system contained in a Schedule A, the Contractor agrees to comply with such system and it shall be used exclusively by such Contractor, except as modified by this Agreement. Such job referral system will be operated in a nondiscriminatory manner and in full compliance with federal, state, and local laws and regulations which require equal employment opportunities and non-discrimination. All of the foregoing hiring procedures, including related practices affecting apprenticeship, shall be operated so as to consider the goals of the City to employ Target Area Residents and others as set forth in section 3.6 and to facilitate the ability of all Contractors to meet their employment needs.

(b) Recruitment The Unions will exert their best efforts to recruit sufficient numbers of skilled craft workers to fulfill the labor requirements of the Contractor, including specific employment obligations to which the Contractor may be legally and/or contractually obligated; and to refer apprentices as requested to develop a larger, skilled workforce. The Unions will

work with their affiliated regional and national unions, and jointly with the PLA Administrator and others designated by the City, to identify and refer competent craft persons as needed for Project Work, and to identify and hire individuals, particularly Target Area Residents, for entrance into joint labor/management apprenticeship programs, or to participate in other identified programs and procedures to assist individuals in qualifying and becoming eligible for such apprenticeship programs, all maintained to increase the available supply of skilled craft personnel. The Union shall not knowingly refer an employee currently employed by a Contractor on a covered Project to any other Contractor.

Section 3.5 Non-Discrimination in Referral, Employment, and Contracting The Unions and Contractors agree that they will not discriminate against any employee or applicant for employment in hiring and dispatching on the basis of race, color, religion, sex, gender, national origin, age, membership in a labor organization, sexual orientation, political affiliation, marital status, disability, or any other basis prohibited by federal, state or local law.

Section 3.6 Employment of City Residents

(a) The Unions and Contractors agree that, to the extent allowed by law, and as long as they possess the requisite skills and qualifications, the Unions will exert their best efforts to refer and/or recruit sufficient numbers of skilled craft Target Area Residents as defined herein, to fulfill the requirements of the Contractors. In recognition of the fact that the City and the communities surrounding Project Work will be impacted by the construction of the Project Work, the parties agree to support the hiring of workers from the residents of these surrounding areas. Towards that end, the Unions shall exert their best efforts to encourage and provide referrals and utilization of qualified workers who reside within Target Area 1. If the Unions cannot provide the Contractors a sufficient number of persons from within Target Area 1, the Unions shall then exert their best efforts to recruit and identify for referral persons residing within Target Area 2. If the Unions cannot provide the Contractors in the attainment of a sufficient number of persons from within Target Area 2, the Unions shall then exert their best efforts to recruit and identify for referral persons residing within Target Area 3.

(b) A minimum of 50% of the total work hours shall be performed by workers residing within Target Areas 1, 2, and 3, using the process described in Section 3.6(a) above.

(c) A minimum of 30% of the total Apprentice work hours shall be performed by graduates of pre-apprenticeship programs residing in Target Areas 1 and 2. At least half of those work hours shall be performed by graduates of pre-apprenticeship programs residing in Target Area 1.

(d) The Council agrees to support the operation of pre-apprentice referral programs in Fresno. This shall include, but not limited to, those individuals who have successfully completed Jumpstart, Central Valley Mandela Training Center, Fresno, Madera, Tulare, Kings Building and Construction Trades Council, or Slingshot. Such individuals, however, must meet the qualifications and minimum requirements for the respective craft Union, or their respective apprentice or training programs, in order to be placed on the referral roles or placed into such apprenticeship or training programs. Such placement is subject to the individuals' compliance

with Section 3.2, above.

(e) Each Contractor agrees to sign a Division of Apprenticeship Standards ("DAS") 7 form (attached as "Attachment E"), to receive apprentices from an apprenticeship program affiliated with the Council.

(f) Contractors shall diligently carry out and adhere to the requirements of this section. The failure of a Contractor to comply with the requirements of this section shall be deemed a material breach of contract. The City may use any lawful corrective action against a Contractor that fails to comply with this section, which may include any of the remedies provided for in Fresno Municipal Code Section 4-117.

Section 3.7 Reports

The PLA Administrator shall prepare quarterly reports on apprentice utilization and the training and employment of Target Area Residents, and a schedule of Project Work and estimated number of craft workers needed. The City and Union shall review such reports and may agree upon additional or revised terms and/or procedures in order to attain the employment of Target Area Residents or other individuals identified in Section 3.6.

Section 3.8 Helmets to Hardhats

(a) The City and the Unions wish to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The City and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the Parties. For purposes of this Agreement the term "Eligible Veteran" shall have the same meaning as the term "veteran" as defined under Title 5, Section 2108(1) of the United States Code as it may be amended or re-codified from time to time. It shall be the responsibility of each qualified applicant to provide the Unions with proof of his/her status as an Eligible Veteran.

(b) The Unions and City 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 TCC Program Projects. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

Section 3.9 Requirements on Contractors

To facilitate the dispatch of Target Area Residents and veterans, all Contractors will be required to utilize the Craft Employee Request Form (Attached as "Attachment F") whenever they are requesting the referral of any employee from a Union referral list for any Project Work. When Target Area Residents and veterans are requested by the Contractors, the Unions will refer such workers regardless of their place in the Unions' hiring hall list and normal referral procedures.

Section 3.10 Core Employees

(a) Except as otherwise provided in separate collective bargaining agreement(s) to which the Contractor is signatory, Contractors may employ, as needed, first, a member of their core workforce, then an employee through a referral from the appropriate Union hiring hall, then a second core employee, then a second employee through the referral system, and so on until a maximum of five (5) core employees are employed. Thereafter, all additional employees in the affected trade or craft shall be requisitioned from the craft hiring hall in accordance with Section 3.3. In the laying off of employees, the number of core employees shall not exceed one- half plus one of the workforce for an employer with ten (10) or fewer employees, assuming the remaining employees are qualified to undertake the work available. This provision applies only to employees not currently working under a current Schedule A Agreement and is not intended to limit the transfer provisions of the Schedule A Agreement of any trade. As part of this process, and in order to facilitate the contract administration procedures, as well as appropriate fringe benefit fund coverage, all Contractors shall require their core employees and any other persons employed other than through the referral process, to register with the appropriate Union hiring hall, on or before the eighth [8th] day of consecutive or cumulative employment..

(b) The core work force is comprised of those employees whose names appeared on the Contractor's active payroll for sixty (60) of the one hundred (100) working days immediately before award of Project Work to the Contractor; who possess any license required by state or federal law for the Project Work to be performed; who have the ability to safely perform the basic functions of the applicable trade and who are Target Area Residents.

(c) Prior to each Contractor or Subcontractor performing any work on the Project, such Contractor or Subcontractor shall provide a list of its core employees to the PLA Administrator and the Council. Failure of such a Contractor or Subcontractor to do so will result in that Contractor or Subcontractor being prohibited from using any core employees. Upon request by any Party to this Agreement, the Contractor hiring any core employee shall provide satisfactory proof (i.e., payroll records, quarterly tax records, driver's license, voter registration, postal address and such other documentation) evidencing the core employee's qualification as a core employee to the PLA Administrator and the Council.

(d) The provisions of this Section shall only apply to employees who are not working under the terms of a Schedule A Agreement at the time of their transfer to work covered under this Agreement and is not intended to limit the transfer provisions of the Schedule A Agreements of any of the Unions signatory hereto.

Section 3.11 Time for Referral If any Union's registration and referral system does not fulfill the requirements for specific classifications requested by any Contractor within forty-eight (48) hours (excluding Saturdays, Sundays and holidays), that Contractor may use employment sources other than the Union registration and referral services, and may employ applicants meeting such standards from any other available source. The Contractors shall inform the Union of any applicants hired from other sources within forty-eight (48) hours of such applicant being hired, and such applicants shall register with the appropriate hiring hall, on or before the eighth [8th] day of consecutive or cumulative employment.

Section 3.12 Lack of Referral Procedure If a signatory Union does not have a job referral system as set forth in Section 3.4 above, Contractors shall give the Union equal opportunity to refer applicants. Contractors shall notify the Union of employees so hired, as set forth in Section 3.11.

Section 3.13 Individual Seniority Except as provided in Section 4.3, individual seniority shall not be recognized or applied to employees working on the Project; provided, however, that group and/or classification seniority in a Union's Schedule A Agreement as of the effective date of this Agreement shall be recognized for purposes of layoffs.

Section 3.14 Foremen The selection of craft foremen and/or general foremen shall be the responsibility of the Contractor. The number of craft foremen shall also be the responsibility of the Contractor unless otherwise provided for by the express terms of a Schedule A. All foremen shall take orders exclusively from the Contractor's designated representatives unless a General Foreman is on the Project in which case the General Foreman shall take orders exclusively from the Contractor's designated representatives. Craft foremen shall be designated as working foremen at the request of Contractors.

Section 3.15 Out of State Workers In determining compliance with the targeted hiring goals of Section 3.6 above, hours of Project Work performed by residents of states other than California will be excluded from the calculation.

ARTICLE 4
UNION ACCESS AND STEWARDS

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

Section 4.2 Stewards

(a) Each Union shall have the right to appoint a working steward for each shift. There will be no non-working stewards. Written notification shall be given to the Contractor within twenty-four (24) hours after such assignment. Steward overtime shall be provided per the applicable Schedule A agreement, provided the steward is qualified to perform the work available. Such designated steward shall not perform any supervisory functions. Stewards shall not have the right to determine when overtime shall be worked or who shall work overtime.

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

(c) Where City personnel may be working in close proximity to the construction activities covered by this Agreement, the Union agrees that the Union representatives, stewards, and individual workers will not interfere with the City personnel, or with personnel employed by

any other employer not a Party to this Agreement.

Contractors agree to notify the appropriate Union twenty-four (24) hours before the layoff of a steward, except in the case of disciplinary discharge for just cause. If the steward is protected against such layoff by the provisions of the applicable Schedule A, such provisions shall be recognized when the steward possesses the necessary qualifications to perform the remaining work. In any case in which the steward is discharged or disciplined for just cause, the appropriate Union will be notified immediately by the Contractor, and such discharge or discipline shall not become final (subject to any later filed grievance) until twenty-four (24) hours after such notice has been given.

ARTICLE 5
WAGES AND BENEFITS

Section 5.1 Wages All employees covered by this Agreement shall be classified in accordance with the work performed and paid by Contractors and the hourly wage rates for those classifications in compliance with the applicable prevailing wage rate determination. If a prevailing wage rate increases under law, the Contractor shall pay that rate as of its effective date. This Agreement does not relieve Contractors from any independent contractual or other obligation they may have to pay wages in excess of the prevailing wage rate as required.

Section 5.2 Benefits

(a) Contractors shall pay contributions to the established employee benefit funds in the amounts designated in the appropriate Schedule A Agreement and make all employee-authorized deductions in the amounts designated in the appropriate Schedule A Agreement, however, such contributions shall not exceed the contribution amounts set forth in the applicable prevailing wage determination. Notwithstanding Section 2.7(a), Contractors directly signatory to one or more of the Schedule A Agreements are required to make all contributions set forth in those Schedule A Agreements without reference to the foregoing.

(b) The Contractor shall agree to be bound by the written terms of the applicable, legally established, trust agreement(s) specifying the detailed basis on which payments are to be made into, and benefits paid out of, such trust funds for its employees while performing Project Work. The Contractor authorizes the Parties to such trust funds to appoint trustees and successor trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor.

Section 5.3 Wage Premiums Wage premiums, including but not limited to pay based on height of work, hazard pay, scaffold pay and special skills shall not be applicable to work under this Agreement, except to the extent provided for in any applicable prevailing wage determination.

ARTICLE 6
HOURS OF WORK, OVERTIME, SHIFTS AND HOLIDAYS

Section 6.1 Hours of Work Forty (40) hours per week shall constitute a regular week's work unless otherwise provided in the applicable prevailing wage determination, or unless

changes are permitted by law and are agreed upon by the Parties. Nothing herein shall be construed as guaranteeing any employee eight (8) hours per day or forty hours per week, or a Monday through Friday standard work schedule.

Section 6.2 Place of Work Employees shall be at their place of work (as designated by the Contractor) at the starting time and shall remain at their place of work and shall perform their assigned functions until quitting time. The place of work is defined as the gang, tool box, or equipment at the employee's assigned work location or the place where the foreman gives instructions. The Parties reaffirm their policy of a fair day's work for a fair day's wage. Except as provided in applicable Schedule A Agreements, there shall be no pay for time not worked unless the employee is otherwise engaged at the direction of the Contractor.

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

Section 6.4 Work Schedules

(a) At the City's direction, because of operational necessities, a second shift may be scheduled without the preceding shift having been worked. It is recognized that the City's operations and/or mitigation obligations may require the restructuring of normal work schedules. Except in an emergency or when specified in the City's bid specification, the Contractor shall give affected Union(s) at least three (3) days' notice of such schedule changes.

Section 6.5 Holidays Recognized holidays on this Project shall be those set forth and governed by the prevailing wage determination(s) applicable to this Project.

Section 6.6 Meal Periods The Contractor will schedule a meal period of no more than one-half hour duration at the work location at approximately mid-point of the schedule shift, provided, however, that the Contractor may, for efficiency of the operation, establish a schedule which coordinates the meal periods of two or more crafts. An employee may be required to work through their meal period because of an emergency or a threat to life or property, or for such other reasons as are identified in the applicable Schedule A. If they are so required, they shall be compensated in the manner established in the applicable Schedule A.

ARTICLE 7
WORK STOPPAGES AND LOCK-OUTS

Section 7.1 No Work Stoppages or Disruptive Activity The Council and the Unions signatory hereto agree that neither they, nor their respective officers or agents or representatives, shall incite or encourage, condone or participate in any strike, sympathy strike, work stoppage, picketing, walk-out, hand-billing, or otherwise advising the public that a labor dispute exists, or a slowdown of any kind for any cause or dispute whatsoever with respect to or in any way related to Project Work, or which interferes with or otherwise disrupts Project Work, or with respect to or related to the City or Contractors or subcontractors, including, but not limited to, economic strikes, unfair labor practice strikes, safety strikes, sympathy strikes and jurisdictional strikes

whether or not the underlying dispute is arbitrable. Any such actions by the Council, or Unions, or their members, agents, representatives or the employees they represent shall constitute a violation of this Agreement. The Council and the Union shall take all reasonable means to prevent or terminate any such activity. No employee shall engage in any strike, sympathy strike, work stoppage, picketing, walk-out, hand-billing, or otherwise advising the public that a labor dispute exists, or a slowdown of any kind. Any employee who participates in or encourages any activities which interfere with the normal operations 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.

Section 7.2 Standing to Enforce The City, the PLA Administrator, or any Contractor affected by an alleged violation of Section 7.1 shall have standing and the right to enforce the obligations established therein.

Section 7.3 Expiration of Schedule A Agreements

If a Schedule A Agreement expires during the term of this Agreement, it is specifically agreed that there shall be no strikes, sympathy strikes, work stoppages, picketing, walk-outs, hand-billing, or otherwise advising the public that a labor dispute exists, or slowdowns of any kind. The wages, benefits and terms of employment established and set under the initial Schedule A Agreement shall continue in full force and effect until the completion of the Project.

Section 7.4 No Lockouts Contractors shall not cause, incite, encourage, condone or participate in any lock-out of employees with respect to Project Work during the term of this Agreement. The term "lock-out" refers only to a Contractor's exclusion of employees in order to secure collective bargaining advantage, and does not refer to the discharge, termination or layoff of employees by the Contractor for any reason in the exercise of rights pursuant to any provision of this Agreement, or any other agreement, nor does "lock-out" include the City's decision to stop, suspend or discontinue any Project Work or any portion thereof for any reason.

Section 7.5 Best Efforts to End Violations

(a) If a Contractor contends that there is any violation of this Article or Section 8.3, it shall notify, in writing, the Executive Secretary of the Council, the Senior Executive of the involved Union(s) and the PLA Administrator. The Executive Secretary and the leadership of the involved Union(s) will immediately instruct, order and use their best efforts to cause the cessation of any violation of the relevant Article or section.

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

Section 7.6 Withholding of services for failure to pay wages and fringe benefits

Notwithstanding any provision of this Agreement to the contrary, it shall not be a violation of this Agreement for any Union to withhold the services of its members from a

particular Contractor who:

(a) fails to timely pay its weekly payroll; or

(b) fails to make timely payments to the Union's Joint Labor/Management Trust Funds in accordance with the provisions of the applicable Schedule A Agreements. Prior to withholding its members' services for the Contractor's failure to make timely payments to the Union's Joint Labor/Management Trust Funds, the Union shall give at least ten (10) days (unless a lesser period of time is provided in the Union's Schedule A Agreement, but, in no event, less than forty-eight (48) hours) written notice of such failure to pay by registered or certified mail, hand delivery, and by facsimile transmission to the involved Contractor and to the City. The Union will meet within the ten (10) day period to attempt to resolve the dispute.

(c) Upon payment by the delinquent Contractor or General Contractor of all monies due and then owing for wages and/or fringe benefit contributions, the Union shall direct its members to return to work and the Contractor shall return all such members to work.

(d) Apart from the withholding of services, this section shall not authorize any Unions or its represented employees to engage in picketing or other concerted activities which would violate Section 7.1.

Section 7.7 Expedited Enforcement Procedure Any party, including the City, Contractors or Unions may institute the following procedures in lieu of, or in addition to, any other action at law or equity when a breach of Sections 7.1,7.4, 8.3 is alleged.

(a) Within ninety (90) days of the execution of this Agreement, the Parties shall agree on a permanent arbitrator and alternate arbitrators whose names shall then be set forth in Attachment H this Agreement. If the permanent arbitrator is unavailable at any time, the party invoking this procedure shall notify one of the alternate arbitrators selected by the Parties, as set forth under section 10.2, Step 3 (a), in that order on an alternating basis. Expenses incurred in arbitration shall be borne equally by the Parties involved in the arbitration. The decision of the arbitrator shall be final and binding on the Parties, provided, however, that the arbitrator shall not have the authority to alter or amend or add to or delete from the provisions of this Agreement in any way. Notice to the arbitrator shall be by the most expeditious means available, with notices to the Parties alleged to be in violation, and to the Council if it is a Union alleged to be in violation. For purposes of this Article, written notice may be given by facsimile, hand delivery or overnight mail and will be deemed effective upon receipt.

(b) The permanent arbitrator or the alternate shall hold a hearing within twenty-four (24) hours of receipt of said notice if it is contended that the violation still exists, but not sooner than twenty-four (24) hours after notice has been dispatched to the Executive Secretary and the Senior Official(s) as required by Section 7.5, as above.

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

(d) The sole issue at the hearing shall be whether or not a violation of Sections 7.1, 7.3, 7.4 or 7.5, above, or Section 8.3 has in fact occurred. The arbitrator shall have no authority to consider any matter in justification, explanation or mitigation of such violation or to award damages which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without an opinion. If any Party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with, or enforcement of the Award. The arbitrator may order cessation of the violation of the Article and other appropriate relief, and such award shall be served on all Parties by email, hand or registered mail upon issuance.

(e) Such award shall be final and binding on all Parties and may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to herein above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other Party. In any judicial proceeding to obtain a temporary order enforcing the arbitrator's award as issued under Section 7.7(d) 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 Party or Parties first alleging the violation shall serve the court's order or orders enforcing the arbitrator's award on all Parties by hand, certified mail, or by overnight delivery to their address on file with the City (for a Union), as shown on their business contract for work under this Agreement (for a Contractor) and to the representing Union (for an employee).

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

(g) The fees and expenses of the arbitrator shall be equally divided between the Party or Parties initiating this procedure and the respondent Party or Parties.

ARTICLE 8
WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

Section 8.1 Assignment of Work The assignment of Project Work will be solely the responsibility of the Contractor performing the work involved. 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.

Section 8.2 The Plan All jurisdictional disputes on this Project between or among the building and construction trades Unions and the Contractors parties to this Agreement shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Contractors and Unions party to this Agreement.

(a) If a dispute arising under this Article involves the Northern California Carpenters Regional Council or any of its subordinate bodies, 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 Council within fourteen (14) days of the selection of the arbitrator. All other procedures shall be as specified in the Plan.

Section 8.3 No Work Disruption Over Jurisdiction 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 8.4 Pre-Job Conferences As provided in Article 15, each Contractor will conduct a pre-job conference with the appropriate affected Union(s) prior to commencing work. The Council and the PLA Administrator shall be advised in advance of all such conferences and may participate if they wish.

Section 8.5 Resolution of Jurisdictional Disputes If any actual or threatened strike, sympathy strike, work stoppage, picketing, hand-billing or otherwise advising the public that a labor dispute exists, or a slowdown of any kind on Project Work by reason of a jurisdictional dispute or disputes occurs, the Parties may utilize the expedited procedures set forth in the Plan, provided, however, that nothing in this section shall interfere with the right of the City or Contractors to enjoin activities prohibited in Section 7.1 using procedures set forth in Article 7.

ARTICLE 9
MANAGEMENT RIGHTS

Section 9.1 Contractor and City Rights The Contractors and the City have the sole and exclusive right and authority to oversee and manage construction operations on Project Work without any limitations unless expressly limited by a specific provision of this Agreement. In addition to the following and other rights of the Contractors enumerated in this Agreement, the Contractors expressly reserve their management rights and all the rights conferred upon them by law. The Contractor's rights include, but are not limited to, the right to:

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

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

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

(d) Discharge, suspend or discipline their own employees for just cause; and

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

(f) Assign overtime, determine when it will be worked and the number and identity

of employees engaged in such work, subject to such provisions in the applicable Schedule A(s) requiring such assignments be equalized or otherwise made in a nondiscriminatory manner.

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

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

(b) Require Contractors to establish a different work week or shift schedule for particular employees as required to meet the operational needs of the Project Work at a particular location; and

(c) At its sole option, terminate, delay and/or suspend any and all portions of the covered work at any time; prohibit some or all work on certain days or during certain hours of the day to accommodate the ongoing operations of the City's facilities and/or to mitigate the effect of ongoing Project Work on businesses and residents in the neighborhood of the Project site; and/or require such other operational or schedule changes it deems necessary, in its sole judgment, to effectively maintain its primary mission and remain a good neighbor to those in the area of its facilities. (In order to permit the Contractors and Unions to make appropriate scheduling plans, the City will provide the PLA Administrator, and the affected Contractor(s) and Union(s) with reasonable notice of any changes it requires pursuant to this section.; and

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

(e) Investigate and process complaints, through the PLA Administrator, in the manner set forth in Articles 7 and 10.

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

Section 9.4 Special Equipment, Warranties and Guaranties

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

(b) The Parties recognize that the Contractor will initiate from time to time the use of new technology, equipment, machinery, tools, and other labor-savings devices and methods of performing Project Work. The Unions agree that they will not restrict the implementation of such devices or work methods. The Unions will accept and will not refuse to handle, install or work with any standardized and/or catalogue parts, assemblies, accessories, prefabricated items, preassembled items, partially assembled items, or materials whatever their source of manufacture or construction.

(c) If there is any disagreement between the Contractor and the Unions concerning the methods of implementation or installation of any equipment, device or item, or method of work, or whether a particular part or pre-assembled item is a standardized or catalog part or item, the work will proceed as directed by the Contractor and the Parties shall immediately consult over the matter. If the disagreement is not resolved, the affected Union(s) shall have the right to use the procedures set forth in Article 10.

Section 9.5 No Less Favorable Treatment The Unions agree that Project Work will not be treated less favorably than other work performed by the Unions.

ARTICLE 10
SETTLEMENT OF GRIEVANCES AND DISPUTES

Section 10.1 Cooperation and Harmony on Site

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

(b) The City, the Contractors, Unions, and employees collectively and individually recognize the importance to all Parties of maintaining continuous and uninterrupted performance of Project Work, and agree to resolve disputes in accordance with the grievance provisions set forth in this Article or, as appropriate, those of Article 7 or 8.

Section 10.2 Processing Grievances Any questions arising out of and during the term of this Agreement that involve its interpretation and application, including applicable provisions of the Schedule A Agreements, but not jurisdictional disputes or alleged violations of Section 7.1 and 7.4 and similar provisions, shall be considered a grievance and subject to resolution under the following procedures.

Section 10.3 All Project disputes involving the application or interpretation of the Master Agreement involving the parties signatory hereto shall be resolved pursuant to the resolution procedures of that Master Agreement. All disputes relating to the interpretation or application of this Agreement, other than disputes under Article 7 (Work Stoppages and Lock Outs) and Article 8 (Work Assignments and Jurisdictional Disputes), shall be subject to resolution by the grievance and arbitration procedures set forth below.

Section 10.4 Employee Discipline: All disputes involving the discipline and/or discharge of an

employee working on the Project shall be resolved through the grievance and arbitration provisions contained in the Master Agreement for the craft of the affected employee.

Section 10.5 No grievance shall be recognized unless the grieving party (Local Union or District Council on its own behalf, or on behalf of an employee whom it represents, or a Contractor on its own behalf) provides notice in writing to the party with whom it has a dispute within five (5) business days after becoming aware of the dispute, but, in no event, more than twenty (20) business days after it reasonably should have become aware of the event giving rise to the dispute. Time limits may be extended by mutual written agreement of the parties.

Section 10.6 Grievances shall be settled according to the following procedures:

Step 1: Within ten (10) business days after the receipt of the written notice of the grievance, the representative of the involved Local Union or District Council, or their designee, or the representative of the employee, and the representative of the involved Contractor, shall confer and attempt to resolve the grievance.

Step 2: In the event that the representatives are unable to resolve the dispute within five (5) business days of the Step 1 meeting, the grievance may be referred in writing by either Party involved to the Business Manager of the Union involved and the Labor Relations Manager of the Contractor or the Contractor's designated representative, for discussion and resolution. Regardless of which party has initiated the grievance, the Union shall notify its International Union representative prior to the Step 2 meeting, and the International Union representative shall advise if it intends to participate in the Step 2 meeting. The City and the Council shall have the right to participate in any efforts to resolve the dispute at Step 2.

Step 3: If the grievance is not settled in Step 2, within seven (7) calendar days of the Step 2 meeting, either party may request the dispute be submitted to arbitration or the time may be extended by mutual consent of both parties. Within seven (7) calendar days after referral of a dispute to Step 3, the representatives shall notify the permanent arbitrator, or if not available, the alternate, for final and binding arbitration. The parties agree that if the permanent arbitrator or their alternate is not available, an arbitrator shall be selected by the alternate striking method from the list of alternate arbitrators set forth in Appendix H. The order of striking names from the list of arbitrators shall be determined by a coin toss, the winner of which shall decide whether they wish to strike first or second.

Section 10.7 The decision of the arbitrator shall be final and binding on all parties. The arbitrator shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement. The expense of the arbitrator shall be borne equally by both parties. The arbitrator shall arrange for a hearing on the earliest available date from the date of their 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.

Section 10.8 Failure of the grieving Party to adhere to the time limits established herein shall render the grievance null and void. The time limits established herein may be extended only by

written consent of the parties involved at the particular step where the extension is agreed upon. The arbitrator shall have the authority to make decisions only on issues presented and shall not have the authority to change, amend, add to or detract from any of the provisions of this Agreement.

Section 10.9 In order to encourage the resolution of disputes and grievances at Steps 1 and 2 of this Grievance Procedure, the parties agree that such settlements shall not be precedent setting.

Section 10.10 Should any of the arbitrators listed in Appendix H no longer work as a labor arbitrator, the City and the Council shall mutually agree to a replacement.

Section 10.11 Limit on Use of Procedures The procedures contained in this Article shall not be applicable to any alleged violation of Articles 7 or 8, with a single exception that any employee discharged for violation of Section 7.2 or Section 8.3, may resort to the procedures of this Article to determine only if they were, in fact, engaged in such a violation.

Section 10.12 Notice The PLA Administrator (and the City, in the case of any grievance regarding the Scope of this Agreement), shall be notified by the involved Contractor of all actions at Steps 2 and 3. Further, the PLA Administrator shall, upon its own request, be permitted to participate fully as a party in all proceedings at such steps.

ARTICLE 11
REGULATORY COMPLIANCE

Section 11.1 Compliance with All Laws The Council and all Unions, Contractors, subcontractors and their employees shall comply with all applicable federal and state laws, ordinances and regulations including, but not limited to, those relating to safety and health, employment and applications for employment. All employees shall comply with the safety regulations established by the City, the PLA Administrator or the Contractor. Employees must promptly report any injuries or accidents to a supervisor.

Section 11.2 Prevailing Wage Compliance All Contractors shall comply with state laws and regulations on prevailing wages. Compliance with this obligation may be enforced by the appropriate parties through Article 10, or by pursing the remedies available under state law through the Labor Commissioner or the Department of Industrial Relations.

Section 11.3 Violations of Law Should there be a finding by a Court or administrative tribunal of competent jurisdiction that a Contractor has violated federal and/or state law or regulation, the City, upon notice to the Contractor that it or its subcontractors is in violation (including any finding of non-compliance with the California prevailing wage obligations as enforced pursuant to DIR regulations), the City may take any action permitted by law or contract to encourage the Contractor's compliance, including, but not limited to, assessing fines and penalties and/or removing the offending Contractor from Project Work.

ARTICLE 12
SAFETY AND PROTECTION OF PERSON AND PROPERTY

Section 12.1 Safety

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

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

(c) California Public Contract Code Section 2500(a)(3) requires that any Project Labor Agreement include an agreed-upon protocol concerning drug testing for the workers who will be employed on the project. For the purposes of this Agreement, all Parties agree that the Joint Labor Management Substance Abuse Policy negotiated with the various General Contractor Associations and the Basic Trades' Unions (Joint Labor Management Substance Abuse Policy; International Union of Operating Engineers Local Union No. 3 (attached as "Attachment G")) shall be the policy and procedure utilized for work performed under this Agreement. In addition, the Parties shall comply with all applicable federal and state drug and alcohol testing requirements and prohibitions.

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

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

ARTICLE 13
TRAVEL AND SUBSISTENCE

Travel expenses, travel time, subsistence allowances, zone rates and parking reimbursements shall be paid in accordance with the applicable Schedule A Agreement unless superseded by the applicable prevailing wage determination.

ARTICLE 14
APPRENTICES

Section 14.1 Use of Apprentices

(a) Apprentices used on Projects covered under this Agreement shall be registered in

Joint Labor Management Apprenticeship Programs approved by the State of California. Apprentices may comprise up to thirty percent (30%) of each craft's workforce (calculated by hours worked) at any time, unless the standards of the applicable joint apprenticeship committee, confirmed by the DAS, establish a lower or higher maximum percentage. Where the standards permit a higher percentage, that percentage shall apply on Project Work. Where the applicable standards establish a lower percentage, the applicable Union will use its best efforts with the Joint Labor Management apprenticeship committee and, if necessary, the DAS, to permit up to thirty percent (30%) of the total hours worked to be performed by apprentices.

(b) The Unions agree to cooperate with the Contractor in referring apprentices as requested up to the maximum percentage. The apprentice ratio for each craft shall be in compliance, at a minimum, with the applicable provisions of the California Labor Code relating to utilization of apprentices. The City shall encourage such utilization both as to apprentices and the overall supply of experienced workers. The PLA Administrator will work with the Council to assure the appropriate utilization of apprentices and ensure that the Unions are meeting their obligation to maximize the use of apprentices consistent with this section.

(c) The Parties agree that apprentices will not be dispatched to Contractors working under this Agreement unless there is a journeyman working on the Project Site where the apprentice is to be employed who is qualified to assist and oversee the apprentice's progress through the program in which he is participating.

(d) All apprentices shall work under the direct supervision of a journeyman from the trade in which the apprentice is indentured. A journeyman shall be defined as set forth in the California Code of Regulations, Title 8 [apprenticeship] section 205, which defines a journeymen as a person who has either completed an accredited apprenticeship in their craft, or has completed the equivalent of an apprenticeship in length and content of work experience and all other requirements in the craft which has workers classified as journeymen in the apprenticeable occupation. Should a question arise as to a journeyman's qualification under this subsection, the Contractor shall provide adequate proof evidencing the worker's qualification as a journeyman to the Council.

ARTICLE 15
PRE-JOB CONFERENCES

Section 15.1 Each prime Contractor awarded a Construction Contract by the City for Project Work shall conduct a Pre-Job conference with the appropriate affected Union(s) prior to commencing work. All Contractors who have been awarded contracts by the prime Contractor shall attend the Pre-Job conference. The Council and the PLA Administrator shall be advised in advance of all such conferences and may participate if they wish. All work assignments shall be disclosed by the prime Contractor and all Contractors at the Pre-Job conference in accordance with industry practice. Should there be any formal jurisdictional dispute raised under Article 8, the PLA Administrator shall be promptly notified. The prime Contractor shall have available at the Pre-Job conference the plans and drawing for the work to be performed on the Project.

ARTICLE 16
LABOR/MANAGEMENT COOPERATION

Section 16.1 Joint Committee The Parties to this Agreement may establish a four (4) person Joint Administrative Committee (JAC). This JAC shall be comprised of two (2) representatives selected by the City and two (2) representatives selected by the Council to monitor compliance with the terms and conditions of this Agreement and to recommend amendments to this Agreement, with the exception of the dollar threshold specified in Section 2.2(a) and the term of this Agreement under Section 20.1, when doing so would be to the mutual benefit of the Parties. Each representative shall designate an alternate who shall serve in his or her absence for any purpose contemplated by this Agreement. A quorum will consist of at least one (1) representative selected by the City and at least one (1) representative selected by the Council. For voting purposes, only an equal number of City and Union representatives present may constitute a voting quorum.

Section 16.2 Functions of Joint Committee The Committee shall meet as determined by the Committee or at the call of the joint chairs, to discuss the administration of the Agreement, the progress of the Project, general labor management problems that may arise, and any other matters consistent with this Agreement. Substantive grievances or disputes arising under Articles 7, 8 or 10 shall not be reviewed or discussed by this Committee, but shall be processed pursuant to the provisions of the appropriate Article. The PLA Administrator shall be responsible for the scheduling of the meetings, the preparation of the agenda topics for the meetings, with input from the Unions the Contractors and the City. Notice of the date, time and place of meetings, shall be given to the Committee members at least three (3) days prior to the meeting.

ARTICLE 17
SAVINGS AND SEPARABILITY

Section 17.1 In the event any article, provision, clause, sentence or word of this Agreement is determined to be illegal or void by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect. To the extent possible under such circumstances, the parties shall substitute, by mutual agreement, in place and stead of the invalidated article, provision, clause, sentence or word, another article, provision, clause, sentence or word that will resolve the issues identified by the court and be in accordance with the intent and purpose of the article, provision, clause, sentence or word invalidated. The City Manager shall be authorized to agree to appropriate modifications on behalf of the City.

Section 17.2 If the Parties are unable to reach an agreement, then the entire Agreement shall be null and void and the Council and Unions will no longer be bound by the provisions of Article 7 (Work Stoppages and Lock Outs).

ARTICLE 18
WAIVER

A waiver of or a failure to assert any provisions of this Agreement by any or all of the Parties hereto shall not constitute a waiver of such provision for the future. Any such waiver

shall not constitute a modification of the Agreement or change in the terms and conditions of the Agreement and shall not relieve, excuse or release any of the Parties from any of their rights, duties or obligations hereunder.

ARTICLE 19
AMENDMENTS AND AMBIGUITY

(a) It is understood that the list of Projects to be covered by this Agreement has not been finalized prior to the execution of this Agreement. Accordingly, upon the request of either party, this agreement may be reopened. The parties agree to reopen this Agreement for the purpose of negotiating additional provisions or modifications to existing provisions to effectuate the purpose of the Agreement and the intent of the parties.

(b) The parties further agree that the requirements set forth in Section 3.6 are of critical importance. To achieve the goals set forth in Article 3, the parties agree that further refinement of Section 3.6 may be necessary and appropriate. Accordingly, upon the request of either party, Article 3 may be reopened to assure the achievement of its requirements and/or to maximize its effectiveness.

(c) The provisions of this Agreement can be changed only by mutual agreement in writing, hereafter signed by the negotiating Parties hereto. In the event of any conflict or ambiguity between this Agreement and any Attachment or exhibit, the provisions of this Agreement shall govern. The Fresno City Manager shall be authorized to agree to revisions to this Agreement on behalf of the City.

ARTICLE 20
EFFECTIVENESS AND DURATION OF THE AGREEMENT

Section 20.1 Duration

(a) This Agreement shall be effective from the date signed by all Parties, including affiliates to the Fresno, Madera, Tulare, Kings Building and Construction Trades Council, and shall remain in effect for an initial period of five (5) years. Any covered Project awarded during the term of this Agreement shall continue to be covered hereunder, until completion of the Project, notwithstanding the expiration date of this Agreement.

(b) This Agreement shall expire if and when TCC Program funds provided to the City are expended or at such time as the Project Work described in Article 2 is completed.

(c) This Agreement may be extended by written mutual consent of the City and the signatory Unions for such further periods as the Parties shall agree.

Section 20.2 Turnover and Final Acceptance of Completed Work

(a) Construction of any phase, portion, section, or segment of Project Work shall be deemed complete when such phase, portion, section or segment has been turned over to the City by the Contractor and the City has accepted such phase, portion, section, or segment. As areas and systems of the Project are inspected and construction-tested and/or approved and accepted

by the City or third parties with the approval of the City, the Agreement shall have no further force or effect on such items or areas, except when the Contractor is directed by the City to engage and repairs or modifications required by its contract(s) with the City.

(b) The Notice of Completion received by the Contractor will be provided to the Council with the description of what portion, segment, etc., has been accepted. Final acceptance may be subject to a "punch" list, and in such case, the Agreement will continue to apply to each such item on the list until it is completed to the satisfaction of the City and Notice of Completion is issued by the City or its representative to the Contractor. At the request of the Union, complete information describing any "punch" list work, as well as any additional work required of a Contractor at the direction of the City pursuant to (a) above, involving otherwise turned-over and completed facilities which have been accepted by the City, will be available from the PLA Administrator.

IN WITNESS whereof the Parties have caused this Project Labor Agreement to be executed as of the date and year above stated.

CITY OF FRESNO,
A California municipal corporation

By:_____

Name:_____

Title:_____

FRESNO, MADERA, TULARE, KINGS BUILDING & CONSTRUCTION TRADES COUNCIL

By:_____

Name:_____

Title:_____

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: _____
Date
Deputy City Attorney

FRESNO, MADERA, TULARE, KINGS BUILDING AND CONSTRUCTION TRADES COUNCIL CRAFT UNIONS AND DISTRICT COUNCILS

FRESNO, MADERA, TULARE, KINGS BUILDING AND CONSTRUCTION TRADES COUNCIL CRAFT UNIONS AND DISTRICT COUNCILS

ATTACHMENT A

ATTACHMENT A
LETTER OF ASSENT

To be signed by all contractors awarded work covered by the City of Fresno Project Labor Agreement Covering Projects Funded By The Transformative Climate Communities Program prior to commencing work.

[Contractor's Letterhead] PLA Administrator
City of Fresno1234 address
City, state, zip code
Attn:_____

Re: Project Labor Agreement Covering Projects Funded By The Transformative Climate Communities Program - Letter of Assent

Dear Sir:

This is to confirm that [name of company] agrees to be party to and bound by the City of Fresno Project Labor Agreement Covering Projects Funded By The Transformative Climate Communities Program effective , 2016, as such Agreement may, from time to time, be amended by the negotiating parties or interpreted pursuant to its terms. Such obligation to be a party and bound by this Agreement shall extend to all work covered by the agreement undertaken by this Company on the project and this Company shall require all of its contractors and subcontractors of whatever tier to be similarly bound for all work within the scope of the Agreement by signing and furnishing to you an identical letter of assent prior to their commencement of work.

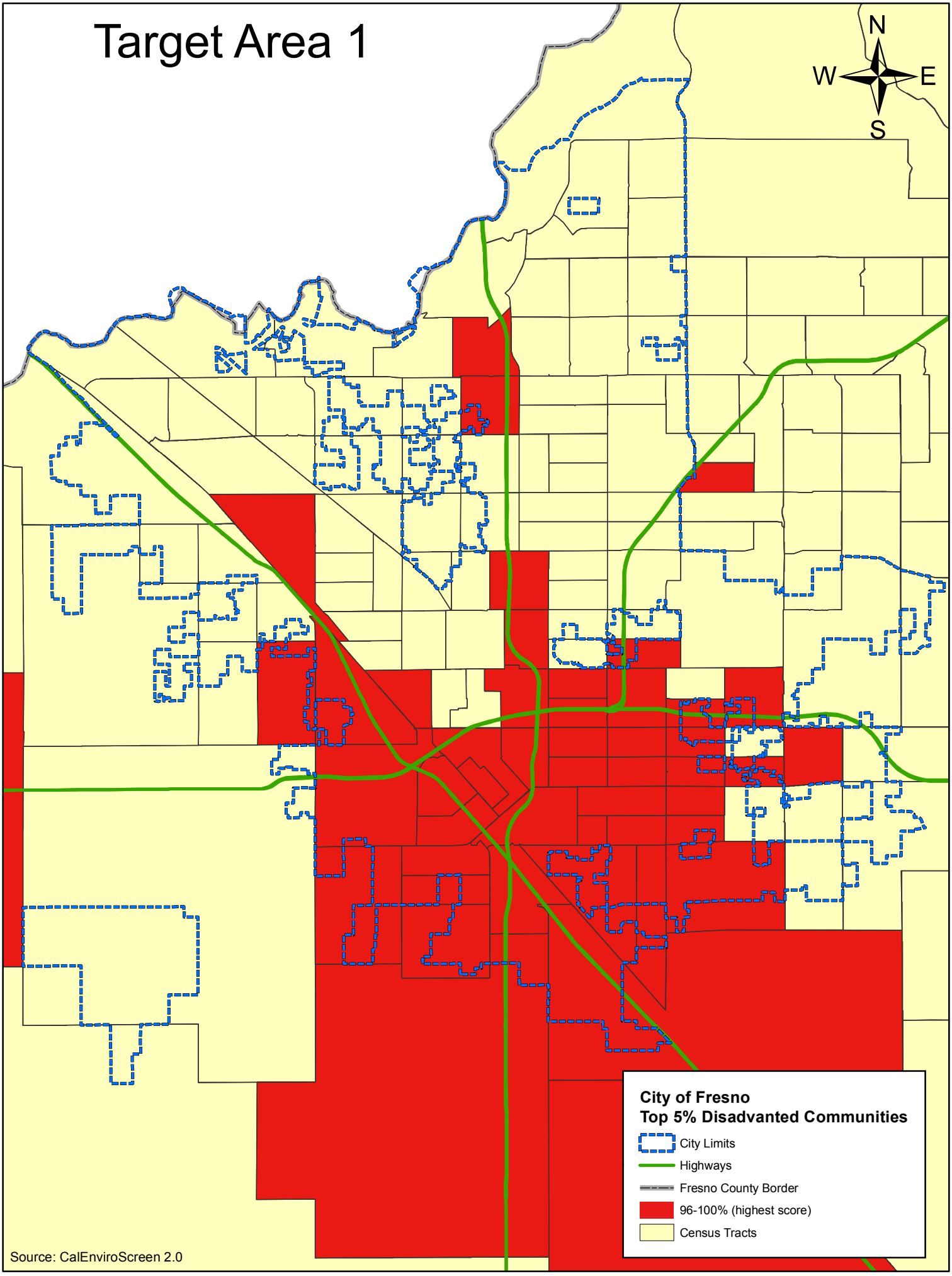
Sincerely.

[Name of Construction Company]

By:_____ Name and Title of Authorized Executive

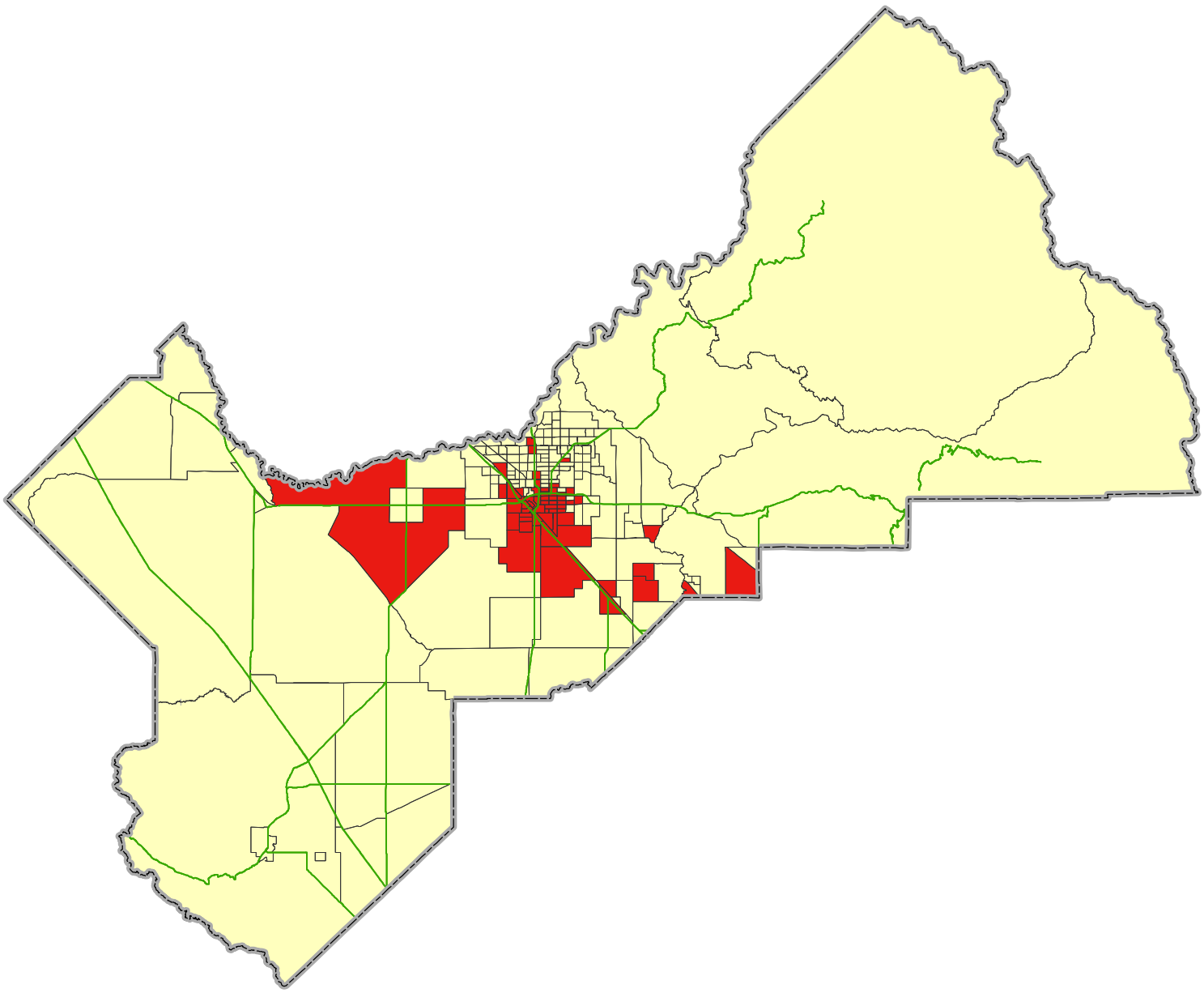
[Copies of this letter must be submitted to the PLA Administrator and to the Council consistent with Article 2, Section 2.5 (b).]

ATTACHMENT


Target Area 1
N
W
E
S
City of Fresno
Top 5% Disadvanted Communities
City Limits
Highways
Fresno County Border
96-100% (highest score)
Census Tracts
Source: CalEnviroScreen 2.0

ATTACHMENT C

Target Area 3



Fresno County
Top 5% Disadvanted Communities

- Fresno County Border
- Highways
- 96-100% (highest score)
- Census Tracts

Source: CalEnviroScreen 2.0

ATTACHMENT

City of FRESNO

Side Letter to the Project Labor Agreement Covering Projects Funded By The Transformative Climate Communities Program

Notwithstanding Section 2.4 (c) of this Project Labor Agreement between the City of Fresno and Fresno, Madera, Tulare, Kings Building and Construction Trades Council and the Signatory Craft Councils and Unions Covering Projects Funded by the Transformative Climate Communities Program, the City and all Contractors shall be bound by the provisions relating to off-site fabrication as provided in the LABOR AGREEMENT BETWEEN SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION, LOCAL UNION NO. 162 AND SHEET METAL AND AIR CONDITIONING CONTRACTORS NATIONAL ASSOCIATION'S SACRAMENTO VALLEY CHAPTER, NORTHERN SAN JOAQUIN CHAPTER AND CENTRAL VALLEY CHAPTER.

Dated: _____

_____

City of Fresno

ATTACHMENT E

AGREEMENT TO TRAIN APPRENTICES

District No. .....

DAS File No. .....

NAME OF EMPLOYER				
MAILING ADDRESS (STREET AND NUMBER)	CITY	STATE	ZIP CODE	TELEPHONE NUMBER
ADDRESS OF TRAINING LOCATION (IF DIFFERENT)				
OCCUPATION(S)				O*Net Code
NAME OF APPRENTICESHIP COMMITTEE AND STANDARDS				
AREA COVERED BY APPRENTICESHIP STANDARDS or NAME AND ADDRESS OF PROJECT				

THE OFFICIAL, whose signature follows, agrees on behalf of the above named employer to train apprentices in the designated occupation in accordance with the apprenticeship standards and apprentice agreement and to comply with the provisions thereof.

[SIGNED] **By** .....

Printed name .....

Title ..... **Date** .....

THE APPRENTICESHIP COMMITTEE accepts and approves the employer as qualified to train apprentices under its standards in the designated occupation.

[SIGNED] **By** .....

Printed name .....

Title ..... **Date** .....

Accepted:
DIVISION OF APPRENTICESHIP STANDARDS

Effective until:

☐ **Revoked**

☐ **End of Project** (Enter project name and address in Area Covered above)

☐ **Date** .....
Date

☐ **Other** .....
Specify

EFFECTIVE DATE

[SIGNED] **By** ..... **Date** .....
Apprenticeship Consultant

REMARKS:

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF APPRENTICESHIP STANDARDS

ATTACHMENT

CRAFT EMPLOYEE REQUEST FORM

TO THE CONTRACTOR: Please complete and fax this form to the applicable union to request craft workers that fulfill the hiring requirements for this project. After faxing your request, please call the Local to verify receipt and substantiate their capacity to furnish workers as specified below. Please print your Fax Transmission Verification Reports and keep copies for your records.

The City of Fresno Project Labor Agreement establishes a requirement that 50% of the total work hours shall be from workers residing: first, in the City of Fresno in the Top 5% of disadvantaged communities per CalEnviroScreen 2.0, as attached hereto, second, in the City of Fresno, and third, in Fresno County in the Top 5% of disadvantaged communities per CalEnviroScreen 2.0, as attached hereto.

For Dispatch purposes, employees residing within any of these three (3) areas shall be referred to as Target Area Residents.

TO TH E UNION: Please complete the "Union Use Only" section on the next page and fax this fom back to the requesting Contractor. Be sure to retain a copy of this form for your records.

CONTRACTOR USE ONLY

To: Union Local #_____ Fax# _____ Date: _____
Cc: PLA Administrator
From: Company:_____ Issued By_____
Contact Phone :_____ Contact Fax: _____

PLEASE PROVIDE ME WITH THE FOLLOWING UNION CRAFT WORKERS.

Craft Classification (i.e., plumber, painter, etc.)	Journeyman or Apprentice	Target Area Resident or veteran.	Number of workers needed	Report Date	Report Time
TOTAL WORKERS REQUESTED = _____					

Please have worker(s) report to the following work address indicated below :
Project Name:_____ Site:_____ Address: _____
Report to :_____ On-site Tel:_____ On-site Fax:_____
Comment or Special Instructions: _____

UNION USE ONLY

Date dispatch request received:
Dispatch received by:
Classification of worker requested:
Classification of worker dispatched:

WORKER REFERRED

Name:
Date worker was dispatched:
Is the worker referred a: (check all that apply)

JOURNEYMAN	Yes --	No - -
APPRENTICE	Yes --	No - -
TARGET AREA RESIDENT	Yes --	No - -
VETERAN	Yes --	No- -
GENERAL DISPATCH FROM OUT OF WORK LIST	Yes --	No - -

ATTACHMENT

ADDENDUM "C"

JOINT LABOR MANAGEMENT

SUBSTANCE ABUSE POLICY

I. INTRODUCTION

The Union and the Employer establish this Policy in order to provide the Individual Employer with a comprehensive substance abuse program, to provide Employees who abuse and/or are addicted to drugs, including alcohol, a means to receive treatment for their abuse and/or addiction, and to provide for a safe workplace. An Individual Employer is not obligated by this Agreement to have a substance abuse policy. Implementation of this Policy is not mandatory by any Individual Employer, but this Policy is the only policy the Individual Employer may implement for Employees. Once implemented, the Policy shall remain in effect unless otherwise agreed to by the Union and the Individual Employer.

An Individual Employer which is regulated by the United States Department of Transportation ("DOT") Code of Federal Regulation CFR 382 and 49 may elect not to implement the testing provisions of this Policy for its Employees who are not regulated by DOT.

II. NOTICE

A. An Individual Employer must give written notice to the Union that it is implementing this Policy. The notice must be delivered in person, by certified mail or by FAX before it implements the Policy. A DOT regulated Individual Employer shall specifically notify the Union whether it is implementing the testing provisions of this Policy for its Employees who are not subject to DOT regulations. The notice shall be delivered to the Union at the following address:

Operating Engineers Local Union No. 3
1620 South Loop Road
Alameda, CA94502
(FAX: [510] 748-7401)

B. The Individual Employer may not implement this Policy unless it subjects all management and supervisory employees to the same type of testing which is provided herein.

C. An Individual Employer who has implemented this Policy shall advise the Union dispatchers with whom it places an order for Employees that it intends to drug test dispatched Employees. A test result shall not be set aside because an Individual Employer does not give such notice.

D. An Individual Employer who implements this Policy shall provide written notice of this Policy to all Employees including those dispatched to it by the Union and shall provide each Employee with a copy of the Policy.

E. Failure to give a form of notice as set forth in this section shall make any drug testing engaged in by the Individual Employer a violation of the Master Agreement and no results of any such test shall be relied upon to deny employment or pay or to discipline any Employee.

III. PURPOSE OF POLICY

A. The Individual Employer and the Union are committed to providing a safe and productive work environment for Employees. The Employer, Individual Employer and the Union recognize the valuable resource we have in our Employees and recognize that the state of an Employee's health affects attitude, effort, and job performance. The parties recognize that substance abuse is a behavioral, medical and social problem that causes decreased efficiency and increased risk of accidents and of injury.

The Individual Employer and the Union therefore adopts this Policy. The intent of the Policy is threefold:

1. To maintain a safe, drug and alcohol free workplace;
2. To maintain our work force at its maximum effectiveness; and
3. To provide confidential referral to the Addiction Recovery Program ("ARP") and to provide confidential treatment to those Employees who recognize they have a substance abuse problem and voluntarily seek treatment for it.

B. In order to achieve these purposes, it is our primary goal to identify those Employees and refer them to professional counseling, and treatment *before* job performance has become a disciplinary problem. Employees are urged to use the services available through ARP. ARP will assist them and refer them to the appropriate treatment program.

1. Treatment for substance abuse and chemical dependency is provided under the Health and Welfare Plan, up to the limits described in the plans.
2. An Employee shall be granted necessary leave of absence for treatment ARP recommends contingent upon signing a return-to-work agreement as provided for in Section XI.

IV. EDUCATION PROGRAM

The Individual Employer will implement a comprehensive drug awareness and education program which shall be in conformance with the DOT regulations. The program shall include educating Employees and management/supervisory personnel about substance abuse and chemical dependency, the adverse affect they have on Employees and the Individual Employer, and the treatment available to Employees who abuse substances and/or are chemically dependent, and the penalties that may be imposed upon Employees who violate this Policy. The Individual Employer shall consult with ARP before it implements this policy so that ARP can provide education to the Individual Employer and its Employees. ARP shall continue to provide an educational program for the Individual Employer for their Employees and shall, to the maximum extent possible, train the Employees of Individual Employer who implement this Policy.

V. CONFIDENTIALITY

The Individual Employer will abide by all applicable State and Federal laws and regulations regarding confidentiality of medical records in any matter related to this Policy. The Individual Employer shall designate one of its management, supervisory or confidential employees to be its custodian of records and contact person for all matters related to this Policy. All such records shall be kept in a locked file which shall be labeled "confidential." Employee records related to this Policy shall not be kept in the Employee's personnel file.

All information from an Employee's drug and alcohol test is confidential for purposes other than determining whether this Policy has been violated. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the Employee. The results of a positive drug test shall not be released until the results are confirmed. Every effort will be made to insure that all Employee issues related to this Policy will be discussed in private and actions taken will not be made known to anyone other than those directly involved in taking the action, or who are required to be involved in the disciplinary procedure.

VI. TESTING

Testing for the presence of alcohol or controlled substances and/or their by-products in one's body may only be performed under the conditions set forth herein. All testing shall be done in accordance with the standards established by the Substance Abuse and Mental Health Services Administration ("SAMHSA"), any successor agency, or any other agency of the federal government which has responsibility for establishing standards for drug testing. All such agencies shall be collectively referred to as "SAMHSA."

Chain of Custody. All SAMHSA standards for Chain of Custody will be adhered to. A specimen for which the SAMHSA standards are not complied with shall not be considered for any purpose under this Policy.

Laboratories. All laboratories which perform tests under this Policy shall be SAMHSA certified.

Testing Procedures and Protocols. All SAMHSA standards for testing standards and protocols shall be followed. All specimens which are determined to be positive by the SAMHSA approved screening test shall be subject to a SAMHSA certified confirmatory test (gas chromatography/mass spectrometry).

Second Test. The laboratory shall save a sufficient portion of each specimen in a manner approved by SAMHSA so that an Employee may have a second test performed. Immediately after the specimen is collected, it will be labeled and then initialed by the Employee and a witness. If the sample must be collected at a site other than the drug and/or alcohol testing laboratory, the specimen shall then be placed in a transportation container. The container shall be sealed in the Employee's presence and the Employee shall be asked to initial or sign the container. The container shall be sent to the designated testing laboratory on that day or the earliest business day by the fastest available method. Any Employee whose specimen is tested positive and who challenges a test result may have the second portion of the sample tested at his/her expense and at a laboratory agreed upon by the Employee and the MRO so long as that laboratory is SAMHSA certified and has been or is approved by the parties and the Employee requests the second test within seventy-two (72) hours of notice of a positive result. If the second test is negative, the Employee will be considered to have been tested negative.

Cut-Off Levels. SAMHSA standards for cut-off levels will be complied with when applicable. The cut-off levels for both the screening and confirmatory tests shall be per Federal standards as determined by the U. S. Department of Health and Human Services ("DHHS").Only tests which are positive pursuant to the SAMHSA standards shall be reported to the Medical Review Officer as positive. A .04 blood/alcohol level or above shall be considered to be positive.

Medical Review Officer. A Medical Review Officer ("MRO") shall verify all positive test results. The MRO must be a licensed physician. The MRO shall be a member of the American Society of Addictive Medicine ("ASAM") if available. If no ASAM members are available, the MRO shall be certified by the Medical Review Officers' Certification Council. The Union shall approve all MRO's. Upon verification of a positive test result, the MRO shall refer the affected Employee to ARP for assessment and referral to treatment, if appropriate.

Consent Form. Any Employee directed to submit to a test in accordance with this Policy will sign a consent and release form, a copy of which is attached hereto (Form "A"). The consent and release form will only authorize (1) the facility where the specimen is collected to collect the specimen, (2) the laboratory which performs the test to perform the test and to provide the results to the MRO, and, if negative, to the Individual Employer, and (3) the MRO to verify tests and report to the Individual Employer whether the test is positive or negative. The consent and release form shall notify the Employee that he/she may have a Union representative present if available.

The Employee may be disciplined if he/she refuses to sign the authorization if the Individual Employer has advised the Employee (1) he/she must sign it or he/she will be disciplined up to and including termination, (2) the release is limited as provided herein, (3) the Employee has a right to consult with a Union representative before signing the release and before submitting to the test. An Employee who believes the Individual Employer is improperly directing him/her to submit to a test may file a grievance under the Master Agreement. The test results will be disregarded if the Board of Adjustment or Arbitrator determines the Individual Employer was not authorized by this Policy to direct the Employee to submit to the test.

Substances to be Tested For. A specimen may be tested for alcohol, cannabinoids (THC), barbiturates, opiates, cocaine, phencyclidines (PCP), amphetamines, and methaqualone or the by-products of these substances. A specimen shall not be tested for anything else. If DOT revises its list of substances for which it requires Individual Employer to test, this Section will be revised to include those substances. The laboratory will report positive test results to the MRO. The MRO will verify whether the test is positive or negative. The MRO shall report to the

Individual Employer whether the Employee tested positive or negative for one of these substances. The MRO will not identify the substance(s) for which the Employee tested positive unless specifically required to do so by DOT regulations.

Urine, Blood, or Breath Test. The Individual Employer may direct the Employee to submit to a urine test or at the Employee's request, a blood test for alcohol and/or other drugs, or a breath test for alcohol. An Employee who is unable to provide a urine sample within one (1) hour of being directed to do so, will submit to a blood test.

Notification to Employer of Test Results. The laboratory shall report negative test results to the Individual Employer. The laboratory will report positive test results to the MRO. The MRO will verify whether the test was positive or negative and will report the final results to the Individual Employer.

VII. TYPES OF PERMISSIVE TESTING

A. TIME OF DISPATCH TESTING

An Individual Employer may require an Employee to be tested for the presence in the Employee's body of one of the drugs or by-products thereof set forth above at the time the Employee is dispatched (on one of the first three (3) days of employment). It must test all Employees at the time they are dispatched if it tests any Employee. The Individual Employer shall put the Employee to work or pay the Employee pending the test results unless the Employee has been dispatched to a DOT regulated assignment and the Individual Employer does not have any work for the Employee to perform which is not subject to the DOT regulations or if it has probable cause to believe the Employee is impaired, intoxicated, or under the influence of a drug. The standards for probable cause are set forth below in Section B. If the Individual Employer does not allow an Employee to work pending the test results because it believes it has probable cause, it shall make the Employee whole for all lost wages and benefits if the Employee tests negative. Employees who test positive will be referred to ARP. The Individual Employer shall not be obligated to employ any such Employee after ARP releases the Employee to return to work but may employ such Employee under the terms of a return-to-work agreement. An Employee who refuses to submit to a drug/alcohol test when dispatched shall not be paid show-up time.

An Individual Employer may test Employees who are recalled from layoff as provided for in the Job Placement Regulations who have not worked for thirty (30) days. If the Individual Employer tests any Employee who is recalled, it must test all such Employees. An Individual Employer may test all Employees at the time they are dispatched under this Section except for those who are recalled.

Time of Dispatch Screening by the Job Placement Center: The parties shall establish a joint committee to determine whether there is a feasible means by which the Job Placement Centers can conduct the drug/alcohol screen before dispatching an Employee so that only Employees with a negative test will be referred.

B. PROBABLE CAUSE TESTING

An Individual Employer may require an Employee to submit to a drug test as provided for in this Policy if it has probable cause that the Employee is impaired, intoxicated, and/or under the influence of a drug. Probable cause must be based on a trained Management Representative's (preferably not in the bargaining unit) objective observations and must be based upon abnormal coordination, appearance, behavior, absenteeism, speech or odor. The indicators shall be recognized and accepted symptoms of intoxication or impairment caused by drugs or alcohol and shall be indicators not reasonably explained as resulting from causes other than the use of such controlled substance and/or alcohol (such as, but not by way of limitation, fatigue, lack of sleep, side effects of proper use of prescription drugs, reaction to noxious fumes or smoke, etc.). Probable cause may not be established, and thus not a basis for testing, if it is based solely on the observations and reports of third parties. The trained Management Representative's observations and conclusions must be confirmed by another trained Management Representative. The grounds for probable cause must be

documented by the use of an Incident Report Form (see Form "B" attached). The Management Representative shall give the Employee a completed copy of this Incident Report Form and shall give the Union Representative, if present, a copy of the Incident Report Form before the Employee is required to be tested. After being given a copy of the Incident Report Form, the Employee shall be allowed enough time to read the entire document and to understand the reasons for the test.

The Management Representative also shall provide the Employee with an opportunity to give an explanation of his/her condition, such as reaction to a prescribed drug, fatigue, lack of sleep, exposure to noxious fumes, reaction to over-the-counter medication or illness. If available, the Union Representative shall be present during such explanation and shall be entitled to confer with the Employee before the explanation is required. If the Management Representative(s), after observing the Employee, and hearing any explanation, concludes that there is in fact probable cause to believe that the Employee is under the influence of or impaired by, drugs or alcohol, the Employee may be ordered to submit to a drug test.

The Individual Employer shall advise the Employee of his/her right to consult with a Union Representative (including a Steward) and allow the Employee to consult with a Union Representative before the Employee submits to the test, if the Union Representative is available.

Employees required to submit to a test under Section B will be paid for all time related to the test including the time the Employee is transported to and from the collection site, all time spent at the collection site, and all time involved completing the consent and release form if the test results are negative.

C. ACCIDENT TESTING

An Individual Employer shall require Employees who are directly, or indirectly, involved in work-related accidents involving property damage or bodily injury that requires medical care or work-related accidents which would likely result in property damage or bodily injury be subject to a test as provided herein. The innocent victims of an accident will not be subject to a test unless probable cause exists. The Individual Employer shall complete an Incident Report Form (see Form B attached) whenever it tests an Employee under this Section.

D. UNANNOUNCED RANDOM TESTING

An Individual Employer may initiate unannounced random testing, a selection process where affected Employees are selected for testing and each Employee has an equal chance of being selected for testing. If an Individual Employer initiates such testing, all Employees shall be subjected to such testing. The Individual Employer may establish two random testing pools; one for DOT regulated Employees and one for all others. An Individual Employer who initiates random testing shall specifically state in its notice to the Union and its notice to Employees that Employees will be subject to random testing. The Individual Employer shall give thirty (30) days notice to the Union and Employees prior to implementing a random drug testing program.

E. DOT REGULATED EMPLOYEES

Notwithstanding any other provision of this Policy, the Individual Employer may require its Employees who are covered by the DOT drug and alcohol testing regulations to submit to testing as required by those regulations. Such testing will be conducted in strict accordance with the Regulations. The Individual Employer may discipline an Employee who tests positive as defined by the Regulations subject to Section XI, REHABILITATION/DISCIPLINE, of the Policy. ARP shall be the Substance Abuse Professional for all Employees. ARP, to the maximum extent possible, shall provide the mandated training to all Employees. Employees who are subject to DOT regulations who have a positive "pre-employment" test (as defined by the DOT regulations) will be paid show-up time only if the Individual Employer does not have any work for the Employee to perform which is not subject to the DOT regulations pending the test result. Employees who are tested under the DOT Regulations who are not allowed by those Regulations to continue to perform safety sensitive functions, as defined by the Regulations, shall be paid for hours worked.

F. OWNER/AWARDING AGENCY REQUIREMENTS

Whenever owner or awarding agency specifications require the Individual Employer to provide a drug-free workplace, the Union and the Employer or the Individual Employer shall incorporate such additional requirements herein. This Policy shall apply to all such testing.

G. QUICK TESTS

The parties agree to allow the Employers to use, on an individual basis, an oral or urine quick test approved by the bargaining parties as an effective low-cost tool for substance abuse screening for pre-hire, time of dispatch screening only. Testing procedures for the oral test (including the oral screen – OSR device) and the urine test shall be conducted in a manner consistent with the product manufacturer's specifications; in an effort to produce the most consistent and accurate results possible. Dispatched members who fail this saliva or urine test will be sent for standard urine testing. When the Individual Employer conducts the oral screen, a negative result may be accepted and the applicant may be put to work with no further testing required. A non-negative (inconclusive) result will subject the applicant to the Standard Procedures in this Agreement.

VIII. EMPLOYER REFERRALS

A decline in an Employee's job performance is often the first sign of a personal problem which may include substance abuse or chemical dependency. Supervisory personnel will be trained to identify signs of substance abuse, chemical dependency, and declining job performance. The Individual Employer may formally refer an Employee to ARP based upon documented declining job performance or other observations prior to testing under Section VII and/or disciplining the Employee.

IX. EMPLOYEE VOLUNTARY SELF-HELP PROGRAM

An Employee who has a chemical dependency and/or abuses drugs and/or alcohol is encouraged to participate in an Employee Voluntary Self-Help Program. Any such Employee shall be referred to ARP. Employees who seek voluntary assistance for alcohol and/or substance abuse may not be disciplined for seeking such assistance. Request by Employees for such assistance shall remain confidential and shall not be revealed to other Employees or management personnel without the Employee's consent. ARP shall not disclose information on drug/alcohol use received from an Employee for any purpose or under any circumstances, unless specifically authorized in writing by the Employee.

The Individual Employer shall offer an Employee affected by alcohol or drug dependence an unpaid medical Leave of Absence for the purpose of enrolling and participating in a drug or alcohol rehabilitation program.

X. PROHIBITEDACTIVITIES/DISCIPLINE

An Employee shall not possess, use, provide, dispense, receive, sell, offer to sell, or manufacture alcohol and/or any controlled substances as defined by law or have any measurable amount of any such substance or by-product thereof as defined in Section VI while on the Individual Employer's property or jobsite and/or while working for the Individual Employer unless the Employee has the Individual Employer's express permission to do so. An Employee shall not work while impaired, intoxicated or under the influence of alcohol and/or any controlled substance. An Employee who uses medication prescribed by a physician will not violate these rules by using such medication as prescribed if the Employee's physician has released the Employee to work. An Employee who uses over-the-counter medication in accordance with the manufacturer's and/or doctor's recommendation shall not violate the rules by using such medication. Impairment caused by prescribed medication and/or over-the-counter medication does not constitute a violation. The Individual Employer may prohibit an Employee who is impaired as a result of proper use of prescription or over-the-counter medication from working while the Employee is impaired but may not discipline such an Employee. An Employee who is impaired by misuse of prescription or over-the-counter medication violates the Policy and is subject to discipline as provided herein.

XI. REHABILITATION/DISCIPLINE

The Individual Employer may discipline an Employee who violates any provision of Section X. Such Employee is subject to disciplinary action up to and including termination. Among the factors to be considered in determining the appropriate disciplinary response are the nature and requirements of the Employee's work, length of employment, current job performance, the specific results of the test, and the history of past discipline.

The Individual Employer is not required to refer to ARP any Employee who violates any provision of Section X which prohibits the sale of, attempted sale of or manufacture of prohibited substances before it disciplines the Employee. The Individual Employer may not discipline any Employee who violates any other provisions of Section X until such Employee has been offered an opportunity to receive treatment and/or counseling.

Any Employee who fails to come forward to receive treatment and/or counseling prior to an accident, drug screen, for cause or random test shall not be eligible for the reemployment provisions of this Section XI.

Any Employee who comes forward to receive treatment and/or counseling prior to an accident, drug screen, for cause or random test shall be subject to reemployment as follows. The Employee will not be discharged if he/she agrees in writing to undergo the counseling/treatment ARP prescribes. The Individual Employer shall re-employ the Employee when ARP releases him/her to return to work if it has work available. It will not be required to lay-off any current Employee in order to re-employ the Employee. If it does not have any work available when ARP releases the Employee, it shall re-employ the Employee as soon as it has work available. The Employee will be subject to a return-to-work agreement. The Individual Employer, the Union and the Employee will enter into a return-to-work agreement. The return-to-work agreement will require the Employee to comply with and complete all treatment ARP, or the treatment provider, as the case may be, determines is appropriate. It will also provide a monitoring of the Employee's compliance with the treatment plan ARP, or the treatment provider, develops and will allow the Individual Employer to require the Employee to submit to unannounced testing. The Individual Employer may discipline the Employee for not complying with the return-to-work agreement. A positive test on an unannounced test will be considered a violation of the return-to-work agreement. Any unannounced testing shall be performed in accordance with this Policy. The Union and the Individual Employer will attempt to meet with any Employee who violates the return-to-work agreement and attempt to persuade the Employee to comply with the return-to-work agreement. This procedure shall be followed on a consistent basis. Employees who are working under a return-to-work agreement shall be subject to all of the Individual Employer's rules to the same extent as all other Employees are required to comply with them.

The parties agree to establish a Substance Abuse Testing Procedures Committee who shall be empowered to periodically review and update testing procedures. Either party may request a meeting under this section and such meeting shall be convened within thirty (30) days.

The Substance Abuse Procedures Committee composed of Jim Murray, Steve Clark, Jack Estill, Tim Conway, Mark Breslin, Carl Goff, Russ Burns, Mark Reynosa and Byron Loney.

XII. NON-DISCRIMINATION

The Individual Employer shall not discriminate against any Employee who is receiving treatment for substance abuse and/or chemical dependency. All Employees who participate in ARP and/or are undergoing or have undergone treatment and rehabilitation pursuant to this Policy shall be subject to the same rules, working conditions, and discipline procedures in effect for all Employees. Employees cannot escape discipline for future infractions by participating in ARP and/or undergoing treatment and rehabilitation.

XIII. COST OF PROGRAM

Evaluation and treatment for substance abuse and chemical addiction are provided for through the Health and Welfare Plan. An Individual Employer who adopts this Policy will not incur any additional cost for assessment, referral and treatment beyond that which is incorporated into its Health and Welfare contribution rate. ARP is

funded through the Health and Welfare Trust to provide its current level of service which includes performing assessments of Employees and their covered dependents, referral of Employees and covered dependents who are undergoing rehabilitation and providing limited education and training programs to Individual Employer. The Individual Employer will pay all costs for testing.

XIV. GRIEVANCE PROCEDURE

All disputes concerning the interpretation or application of this Policy shall be subject to the grievance and arbitration procedures of the Master Labor Agreement.

XV. SAVINGS CLAUSE

The establishment or operation of this Policy shall not curtail any right of any Employee found in any law, rule or regulation. Should any part of this Policy be determined contrary to law, such invalidation of that part or portion of this Policy shall not invalidate the remaining portions. In the event of such determination, the collective bargaining parties will immediately bargain in good faith in an attempt to agree upon a provision in place of the invalidated portion.

ATTACHMENT H

Designated Arbitrators

Permanent Arbitrator: 1._____

Alternate Arbitrators: 1._____

2._____

3._____

4._____