COMMUNITY WORKFORCE AGREEMENT
FOR THE CITY OF FRESNO

INTRODUCTION/FINDINGS

This Community Workforce Agreement is entered into this 29TH day of SEPTEMBER, 2021, by and between the City of Fresno (hereinafter the "City"), and the Fresno, Madera, Kings and Tulare Counties Building and Construction Trades Council (hereinafter the "Trades Council") and its affiliated Unions that have executed this Agreement (referred to collectively herein as the "Union(s)"). Contractors and subcontractors of all tiers who work on City construction projects covered by this Agreement (hereinafter the "Contractor(s)/ Employer(s)"), shall become signatory to this Agreement by signing the **"Agreement to be Bound"** attached hereto as **Addendum A**.

A central purpose of this Agreement is to provide employment and training opportunities that build pathways into high-quality, sustainable construction careers for local workers, to create a pool of skilled construction labor for future City construction projects, to develop the regional workforce and economy, and to combat unemployment and underemployment in the region. Equally important, this Agreement is designed to promote the efficiency of construction operations through the use of skilled labor resulting in quality construction outcomes, and to provide for the peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of City Projects covered by this Agreement.

WHEREAS, this Agreement encourages construction employment and training opportunities in ways calculated to mitigate the harms caused by geographically concentrated poverty, unemployment and underemployment in economically disadvantaged areas and among City residents; and

WHEREAS, this Agreement reflects a commitment by all parties to diversity, workforce equity, and open opportunity in employment and training on City-funded projects; and

WHEREAS, the City places high priority upon the development of comprehensive programs for the recruitment, training and employment of local area residents and military veterans, and recognizes the ability of local pre-apprenticeship and apprenticeship programs to provide meaningful and sustainable career pathways in the construction industry; and

WHEREAS, the timely and successful completion of City Projects is an important fiduciary responsibility of the City of Fresno; and

WHEREAS, large numbers of workers of various skills will be required in the performance of construction work on City Projects and the timely and successful completion of City Projects is of the utmost importance to meet the needs of the City and avoid increased costs from delays in construction; and

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

WHEREAS, it is recognized that on City Projects with multiple contractors and bargaining units on the job site at the same time over an extended period of time, the potential for work disruption may be substantial without an overriding commitment to maintain continuity of work; and

WHEREAS, the interests of the general public, the City, the Unions, and the Contractors/Employers are best served when construction work proceeds in an orderly manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

WHEREAS, the Contractors/Employers and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on City Projects and to encourage close cooperation among the Contractors/Employers and the Unions so that a satisfactory, continuous and harmonious relationship will exist; and

WHEREAS, the parties seek to avoid the tensions that would arise on City Projects if Union and non-union workers of different employers were to work side by side on City Projects, potentially leading to labor disputes that could delay completion of City Projects; 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 City Projects, insofar as a legally binding agreement exists between the Contractors/Employers and the Unions, except to the extent that the provisions of this Agreement are inconsistent with said collective bargaining agreements, in which event the provisions of this Agreement shall prevail; and

WHEREAS, the contract(s) for construction work on City Projects will be awarded in accordance with the applicable provisions of all state, local and federal laws; and

WHEREAS, the parties to this Agreement pledge their full good faith and trust to work toward the mutually satisfactory completion of the City Projects;

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

ARTICLE I
DEFINITIONS

1.1 "Agreement" means this Community Workforce Agreement.

1.2 "Agreement to be Bound" means the agreement (attached hereto as Addendum A) that shall be executed by each and every Contractor/Employer as a condition of working on a Project.

1.3 "City" means the City of Fresno, California and its governing board, officers, agents and employees, including managerial personnel.

1.4 "City Resident" means an individual domiciled in the City. "Domiciled" has the meaning set forth in section 349(b) of the California Election Code, which cannot be a post office box.

1.5 "Completion" means that point at which there is Final Acceptance by the City of a Construction Contract and the City has filed a Notice of Completion. For purposes of this definition, "Final Acceptance" means that point in time at which the City has determined upon final inspection that the work has been completed in all respects and all required contract documents, contract drawings, warranties, certificates, manuals and data have been submitted and training completed in accordance with the contract documents and the City has executed a written acceptance of the work.

1.6 "Construction Contract" means the public works or improvement contract(s) (including design-bid, design-build, lease-leaseback or other contracts under which construction of City Projects is done) awarded by the City that are necessary to complete City Projects.

1.7 "Contractor(s)/Employer(s)" or "Contractor(s)" or "Employer(s)" means any individual, firm, partnership or corporation (including the prime contractor, general contractor, construction manager, project manager, design-build entity, lease-leaseback entity or equivalent entity), or combination thereof, including joint ventures, and their successors and assigns, that is an independent business enterprise and enters into a contract with the City with respect to the construction of any part of City Projects, and all contractors and subcontractors of any tier.

1.8 "Covered Work" means work on a Project that is described in Section 2.3, and not excluded pursuant to Section 2.4.

1.9 "Master Agreement" or "Schedule A" means the Master Collective Bargaining Agreement of each craft Union signatory hereto.

1.10 "New Local Apprentice" means a City Resident who both (i) is enrolled (or can be immediately enrolled) in a state-approved joint labor-management apprenticeship program and has progressed less than halfway toward the work hours needed to graduate from such program; and (ii) is a graduate of a Trades Council-recognized pre-apprenticeship program.

1.11 "Party" means the City, the Trades Council, and the Unions.

1.12 "Project" means a City awarded public works project as defined in California Labor Code Section 1720, where the engineer's estimate of the total cost of the project exceeds one million dollars ($1,000,000). All Construction Contracts required to complete an integrated Project shall be considered in determining whether this threshold is met. For the purpose of application of this threshold to Job Order Contracts, the threshold shall be applied to each job order, rather than to the job order contract aggregate maximum;

any individual job order above the threshold shall require application of this Agreement to such individual job order. The City and the Trades Council may mutually agree in writing to add additional projects or components to be covered by this Agreement.

1.13 "Project Manager" means the person(s) or entity(ies) designated by the City to oversee all phases of construction on a Project and the implementation of this Agreement.

1.14 "Trades Council" means the Fresno, Madera, Kings and Tulare Counties Building and Construction Trades Council.

1.15 "Transitional Housing" means housing the purpose of which is to facilitate the movement of homeless individuals and families into permanent housing within 24 months.

1.16 "Union" or "Unions" means the Trades Council and its affiliated local unions signatory to this Agreement, acting on their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement.

ARTICLE II
SCOPE OF AGREEMENT

2.1 Parties: This Agreement applies to and is limited to all Contractors/Employers performing work under a Construction Contract on a Project (including subcontractors at any tier), and their successors and assigns, the City, the Trades Council, and its affiliated Unions signatory to this Agreement.

2.2 Applicability: This Agreement governs all Construction Contracts awarded on City Projects. For purposes of this Agreement, Construction Contracts shall be considered Completed as set forth in Section 1.5, except when the City directs a Contractor to engage in repairs, warranty work, modifications, or punch list work under a Construction Contract or when a Contractor performs work under a change order for a Construction Contract.

2.2.1 The terms of this Agreement will cover, and will fully apply to, any Contractor performing Project work, without regard to whether that Contractor 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 to become signatory to a Union Schedule A Agreement as a result of performing Project work.

2.3 Covered Work: This Agreement covers, without limitation, all site preparation, surveying, construction, alteration, demolition, installation, improvement, remediation, retrofit, painting or repair of buildings, structures and other works, and related activities for a Project that is within the craft jurisdiction of one of the Unions and that is directly or indirectly part of a Project, including, without limitation to the following examples, landscaping and temporary fencing, temporary HVAC, geotechnical and

exploratory drilling, soils and materials testing and inspection, pipelines (including those in linear corridors built to serve a Project), pumps, pump stations, start-up, modular furniture installation, and final clean-up. This Agreement covers work done for a Project in temporary yards, dedicated sites, or areas adjacent to a Project, and at any on-site or off-site batch plant constructed to supply materials to a Project.

2.3.1 This Agreement applies to any start-up, calibration, commissioning, performance testing, repair, maintenance, and operational revisions to systems and/or subsystems for a Project performed after Completion, unless performed by City employees.

2.3.2 This Agreement covers all on-site fabrication work over which the City, Contractor(s)/Employer(s) or subcontractor(s) possess the right of control (including work done for a Project in any temporary yard or area established for a Project). This Agreement also covers any off-site work, including fabrication, that is traditionally performed by the Unions and is directly or indirectly part of a Project, provided such work is covered by a current Master Agreement or current local addenda to a national agreement of the applicable Union(s).

2.3.3 Except for the delivery of supplies, equipment or materials that are stockpiled for later use, this Agreement covers all construction trucking work, including the hauling and delivery of ready-mix, asphalt, aggregate, sand, soil or other fill or similar material that is directly incorporated into the construction process as well as the off-hauling of soil, sand, gravel, rocks, concrete, asphalt, excavation materials, construction debris and excess fill, material and/or mud. Contractor(s)/Employer(s), including brokers, of persons providing construction trucking work shall provide certified payroll records to the City within ten (10) days of written request or as required by the bid specifications.

2.3.4 Work covered by this Agreement within the following craft jurisdictions shall be performed under the terms of their National Agreements as follows: the National Transient Lodge (NTL) Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, the National Agreement of Elevator Constructors, and any instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, with the exception that Articles IV, XIV and XV of this Agreement shall apply to such work.

2.4 Exclusions: The following shall be excluded from the scope of this Agreement.

2.4.1 This Agreement shall not apply to work performed by the City's own employees as permitted by the Public Contract Code.

2.4.2 This Agreement shall not apply to a Contractor/Employer's non-construction craft employees, managerial employees, administrative personnel, and supervisors above the level of general foreman, unless covered by a Master Agreement.

2.4.3 This Agreement shall not apply to a contract entered into with a professional service provider for a Project, as defined in Section 1.12, unless the professional service provider performs or subcontracts Covered Work, in which event the entity self-performing the Covered Work shall execute an Agreement to be Bound. Where applicable, the City shall include this requirement in the professional services contract.

2.4.4 This Agreement shall not apply to any non-Project work performed on or near or leading to the site of work covered by this Agreement that is undertaken by state, county, city, or other governmental bodies or their contractors. Work performed by public or private utilities including all electrical utility, voice-data-video, and security installation work ahead of and up to the electrical service entry connection or the main point of entry into the building shall be excluded. All electrical utility, voice-data-video, and security installation work performed after the electrical utility service entrance or the main point of entry shall be Covered Work. Additionally, all contracted work performed ahead of the service entrance connection and main point of entry that is inside the property line and provides for access to the building via a conduit or series of conduits shall be Covered Work.

2.4.5 This Agreement shall not apply to the off-site maintenance of leased equipment and on-site supervision of such work.

2.4.6 This Agreement does not apply to work by employees of, or contractors retained by, a manufacturer or vendor necessary to maintain such manufacturer's or vendor's warranty or guaranty, provided the manufacturer or vendor provides documentation showing that the warranty or guarantee specifically requires such employees or contractors to perform the work in order to preserve the warranty or guarantee, or provided the manufacturer or vendor demonstrates by an enumeration of specific tasks that the work cannot be performed by craft workers covered by this Agreement.

2.4.7 In circumstances requiring special knowledge, work may be performed by persons not covered by this Agreement provided that the Contractor/Employer or manufacturer responsible for such work demonstrates by an enumeration of specific tasks that the work cannot be performed by craft workers covered by this Agreement. A Contractor/Employer invoking this provision shall give notice to the Trades Council and the relevant Union(s), and such work shall be identified and discussed by the Contractor/Employer at its Pre-Job Conference, or, if not known at the time of the Pre-Job Conference, shall be identified and discussed with the Trades Council and the relevant Union(s) once the work becomes known, including by holding a Pre-Job Conference if requested by the Trades Council or the relevant Union(s).

2.4.8 This Agreement shall not apply to work substantially funded by any federal, state, other local or public agency that prohibits the use of project labor agreements on projects receiving its funding, or the funding of projects on which such agreements are used. With respect to such work, the City agrees that it will make a reasonable effort to defend the application of this Agreement, including by making a written request to the funding source. Notwithstanding the foregoing, however, should

only a specific provision of the Agreement be prohibited by the funding source, the parties shall modify the requirements of this Agreement accordingly, to advance the purposes of this Agreement to the maximum extent feasible without the loss of funding.

2.4.9 This Agreement shall not apply to work that is jointly performed with another public agency, unless the work is awarded by the City, or unless otherwise agreed to by the Parties on a case by case basis. With respect to such work jointly performed with another public agency, the City will make a request to the other public agency to apply the terms of this Agreement, or in the alternative, request that the other public agency communicate with City representatives and the Trades Council to discuss application of this Agreement.

2.4.10 This Agreement shall not apply to renovation of Transitional housing buildings or units, given the time sensitivity of such work. For the avoidance of doubt, this exclusion does not apply to new construction, nor to a total remodel where residents are not occupying the building or units.

2.5 Award of Contracts: It is understood and agreed that the City has the right to select any qualified bidder for the award of a Construction Contract under this Agreement. The bidder need only be willing, ready and able to execute and comply with this Agreement. It is further agreed that this Agreement shall be included in all invitations to bid or solicitations for proposals from contractors or subcontractors for work on a Project. The City shall provide a copy of all such invitations to bid to the Trades Council at the time of issuance.

ARTICLE III
EFFECT OF AGREEMENT

3.1 By executing this Agreement, the Trades Council, the Unions and the City agree to be bound by each and all of the provisions of the Agreement.

3.2 By accepting the award of work under a Construction Contract for a Project, whether as a Contractor or subcontractor thereunder, all Contractors/Employers agree to be bound by each and every provision of this Agreement and agree to evidence their acceptance prior to the commencement of work by executing the Agreement to be Bound in the form attached hereto as **Addendum A**.

3.3 At the time that any Contractor/Employer enters into a subcontract with any subcontractor providing for the performance of work under a Construction Contract, the Contractor/Employer shall provide a copy of this Agreement to said subcontractor and shall require the subcontractor, as a condition of accepting the award of a construction subcontract, to agree in writing, by executing the Agreement to be Bound, to be bound by each and every provision of this Agreement prior to the commencement of work. The obligations of a Contractor may not be evaded by subcontracting. If the subcontractor refuses to execute the Agreement to be Bound, then such subcontractor shall not be awarded a Construction Contract on a Project.

3.4 This Agreement shall only be binding on the signatory parties hereto, and their successors and assigns, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party. Each Contractor shall alone be liable and responsible for its own individual acts and conduct and for any breach or alleged breach of this Agreement, except as otherwise provided by law or the applicable Master Agreement. Any dispute between the Union(s) and the Contractor(s) with respect to compliance with this Agreement shall not affect the rights, liabilities, obligations and duties between the Union(s) and other Contractor(s) party to this Agreement.

3.5 It is mutually agreed by the parties that any liability by a Union signatory to this Agreement shall be several and not joint. Any alleged breach of this Agreement by a Union shall not affect the rights, liabilities, obligations and duties between the Contractor(s) and the other Union(s) party to this Agreement.

3.6 The provisions of this Agreement, including the Schedule As incorporated herein by reference, shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement. To the extent a provision of this Agreement conflicts with a Schedule A, the provision of this Agreement shall prevail. Where a provision of a Schedule A does not conflict with this Agreement, the provision of the Schedule A shall apply.

ARTICLE IV
WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS

4.1. The Unions, the City, and the Contractor(s)/Employer(s) covered by this Agreement agree that for the duration of a Project:

4.1.1 There shall be no strikes, sympathy strikes, work stoppages, picketing, handbilling or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions or employees employed on a Project, at the job site of a Project or any other City facility because of a dispute on a Project. Disputes arising between the Unions and Contractor(s)/ Employer(s) on other City projects are not governed by the terms of the Agreement or this Article.

4.1.2 There shall be no lockout of any kind by a Contractor/Employer of workers employed on a Project.

4.1.3 If a Master Agreement expires before the Contractor/Employer completes the performance of work under a Construction Contract and the Union or Contractor/Employer gives notice of a demand for a new or modified Master Agreement, the Union agrees that it will not strike on work covered by this Agreement and the Union and the Contractor/Employer agree that the expired Master Agreement will continue in full force and effect for work covered under this Agreement until a new or modified Master Agreement is reached. If the new or modified Master Agreement provides that any terms of the Master Agreement shall be retroactive, the Contractor/ Employer agrees to comply with any retroactive terms of the new or modified Master Agreement that are applicable

to any employee(s) on a Project during the interim, with retroactive payment due within seven (7) calendar days of the effective date of the new or modified Master Agreement.

4.1.4 In the case of nonpayment of wages or trust fund contributions on a Project, the Union shall give the City and the Contractor/Employer three (3) business days' notice when nonpayment of trust fund contributions has occurred, and one (1) business day's notice when nonpayment of wages has occurred or when paychecks being tendered to a financial institution normally recognized to honor such paychecks will not honor such paycheck, of the intent to withhold labor from the Contractor/Employers' or their subcontractor's workforce, during which time the Contractor/Employer may correct the default. In this instance, a Union's withholding of labor (but not picketing) from a Contractor/Employer who has failed to pay its fringe benefit contributions or failed to meet its weekly payroll shall not be considered a violation of this Article.

4.1.5 Notification: If the City or any Contractor contends that any Union has violated this Article, it will so notify in writing the Senior Executive of the Trades Council and the Senior Executive of the Union, setting forth the facts alleged to violate the Article, prior to instituting the expedited arbitration procedure set forth below. The Trades Council will immediately use its best efforts to cause the cessation of any violation of this Article. The leadership of the Union will immediately inform the workers of their obligations under this Article. A Union complying with this obligation shall not be held responsible for the unauthorized acts of employees it represents.

4.2 Expedited Arbitration: Any party to this Agreement shall institute the following procedure, prior to initiating any other action at law or equity, when a breach of this Article is alleged to have occurred.

4.2.1 A party invoking this procedure shall notify Robert Hirsch, as the permanent arbitrator, or Barry Winograd, as the alternate arbitrator, under this procedure. In the event the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, the parties shall select the arbitrator from the list in Section 14.4. Notice to the arbitrator shall be by the most expeditious means available, with notice by email and telephone to the City, the involved Contractor, and the party alleged to be in violation, and to the Trades Council and involved local Union if a Union is alleged to be in violation.

4.2.2 Upon receipt of said notice, the City will contact the permanent arbitrator named above, or the alternate if the permanent arbitrator is not available, who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

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

4.2.4 The sole issue at the hearing shall be whether or not a violation of Section 4.1 of the Agreement has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) calendar days, but the parties shall not delay compliance with or enforcement of the award due to the issuance of a written opinion. The arbitrator may order cessation of the violation of this Article, and the arbitrator's award shall be served on all parties by hand or registered mail upon issuance. Should a party found in violation of this Article fail to comply with the arbitrator's award ordering the party to cease the violation, the party in violation shall pay to the affected party as liquidated damages the sum of ten thousand dollars ($10,000.00) per shift for which it failed to comply, or portion thereof, until such violation is ceased. The arbitrator shall retain jurisdiction to resolve any disputes regarding the liquidated damages claimed under this section.

4.2.5 The arbitrator's award may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. The party filing such enforcement proceedings shall give written notice to the other party. In a proceeding to obtain a temporary order enforcing the arbitrator's award as issued under this Article, all parties waive the right to a hearing and agree that such proceeding may be *ex parte*. However, such agreement does not waive any party's right to seek or participate in a hearing for a final order of enforcement. Any court order enforcing the arbitrator's award shall be served on all parties by hand or delivered by certified mail.

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

4.2.7 The fees and expenses of the arbitrator shall be divided equally between the party instituting the arbitration proceedings provided in this Article and the party alleged to be in breach of its obligation under this Article.

4.2.8 Should either the permanent or the alternate arbitrator identified above no longer work as a labor arbitrator, the City and the Trades Council shall mutually agree to a replacement.

ARTICLE V
PRE-JOB CONFERENCES

5.1 Timing: The Project Manager shall convene and conduct, at a location and time mutually agreeable to the Trades Council, a pre-job conference with the Unions and the representatives of all involved Contractors/Employers, who shall be prepared to announce craft assignments and discuss in detail the scope of work and the other issues set forth below, at least fourteen (14) calendar days prior to:

(a) The commencement of any Project work, and

(b) The commencement of Project work on any subsequently awarded Construction Contract.

5.2 The pre-job conference shall be attended by a representative of each participating Contractor and each affected Union, and the Trades Council and City may attend at their discretion.

5.3 The pre-job conference shall include but not be limited to the following subjects:

(a) A listing of each Contractor and subcontractor and their scope of work;

(b) The craft assignments;

(c) The estimated number of craft workers required to perform the work;

(d) Transportation arrangements;

(e) The estimated start and completion dates of the work; and

(f) Discussion of pre-fabricated materials.

5.4 Joint Administrative Committee: This Agreement is intended to provide close cooperation between management and labor. To that end, the City shall designate two representatives and the Trades Council shall designate two representatives to serve on a Joint Administrative Committee ("JAC"), each of whom may designate an alternate. JAC members may invite participation by a Contractor or Union as needed. The JAC shall meet quarterly and at the request of any member, to review progress of Projects and to discuss matters of general concern, such as safety and security. The JAC shall serve as a forum to foster communication between management and labor, and to assist the Unions and the Contactors to complete Projects in an economically efficient manner without interruption, delays or work stoppages.

5.4.1 The JAC shall participate in the drafting of reports to City Council regarding the status of targeted objectives under this Agreement, including the local hiring and apprenticeship provisions herein.

5.4.2 The JAC shall have no authority to review grievances or disputes involving this Agreement, which are subject to the applicable grievance procedure.

ARTICLE VI
NO DISCRIMINATION

6.1 The Contractors/Employers and the Unions agree to comply with all anti-discrimination provisions of federal, state, and local law, to protect employees and applicants for employment, on a Project.

ARTICLE VII
UNION SECURITY

7.1 The Contractors/Employers recognize the Unions as the sole bargaining representative of all craft employees working within the scope of this Agreement, and all such employees must be represented by a Union for the duration of their employment on a Project.

7.2 The Contractors/Employers shall make and transmit all deductions for Union dues, fees, and assessments that have been authorized by employees in writing in accordance with the applicable Master Agreement. This Agreement does not require any employee of a non-Union Contractor/Employer to join a Union or to pay dues or fees to a Union as a condition of working on a Project; however, nothing in this Article is intended to supersede the independent requirements of the applicable Master Agreements as to Contractors/Employers signatory to such Master Agreements and as to employees of those Contractors/Employers who are performing Covered Work.

7.3 Authorized representatives of the Unions shall have access to a Project whenever work covered by this Agreement is being, has been, or will be performed on a Project.

ARTICLE VIII
REFERRAL

8.1 Contractor(s)/Employer(s) performing construction work on a Project shall, in filling craft job requirements, utilize and be bound by the registration facilities and referral systems established or authorized by the Unions signatory hereto. The Contractor(s)/Employer(s) shall have the right to reject any applicant referred by the Union(s), in accordance with the applicable Master Agreement.

8.2 Contractor(s)/Employer(s) shall have the unqualified right to select and hire directly all supervisors above the level of general foreman it considers necessary and desirable, without such persons being referred by the Union(s), unless such craft construction employee is covered by a Master Agreement.

8.3 Core Workers: Contractor(s)/Employer(s) that are not signatory to a Master Agreement may request by name, and the Union will honor, referral of Core Workers as journeypersons for Project work who have been on the Contractor/Employer's active payroll for at least sixty (60) out of the one hundred (100) working days prior to the request, and who possess all licenses and certifications required to perform the work ("Core Workers").

8.3.1 The Union will refer to the Contractor one journeyperson employee from the hiring hall then one Core Worker for the affected trade or craft. This process shall be repeated, one and one, until the Contractor's workforce has a maximum of five (5) Core Workers. Thereafter, all of the Contractor's additional employees performing Covered Work shall be hired from the Union's hiring hall out-of-work list(s).

8.3.2 When the Contractor's workforce is reduced, employees shall be reduced so as to maintain the same ratio of Core Workers to hiring hall referrals as was applied in the initial hiring.

8.3.3 The Contractor shall provide the appropriate Union with the name and all necessary information for each Core Worker, and each Core Worker shall register with the Union's hiring hall and comply with Article VII before commencing work on a Project. If there is any question regarding an employee's eligibility as a Core Worker under this section, the Contractor shall provide the Union with written records demonstrating eligibility.

8.4 In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor/Employer for employees within a forty-eight (48) hour period (Saturdays, Sundays and Holidays excluded) after such requisition is made by the Contractor/Employer, the Contractor/Employer shall be free to obtain the worker(s) from any source. A Contractor/Employer who hires a worker(s) to perform Covered Work on a Project pursuant to this section shall immediately provide the appropriate Union with the name and address of such worker(s) and shall immediately refer such worker(s) to the appropriate Union to satisfy the requirements of this Agreement.

ARTICLE IX
LOCAL HIRING PROGRAM

9.1 It is in the interest of the parties to this Agreement to facilitate employment of City Residents to construct City Projects. To that end, the Unions agree to exert their utmost efforts to recruit a sufficient number of craft persons to fulfill the referral requests of Contractors/Employers for City Projects, consistent with this Article.

9.2 To the maximum extent allowed by law and consistent with the Unions' hiring hall referral provisions set forth in Master Agreements, City residents shall be requested by the Contractor(s)/Employer(s) and dispatched by the applicable Union(s).

9.3 Each Contractor shall either demonstrate satisfaction of the Percentage Requirements in Section 9.4 below, or demonstrate satisfaction of the good faith efforts set forth in Section 9.5 below.

9.4 Percentage Requirements: For each Project, each Contractor shall make best faith efforts to satisfy the following percentage requirements (the "Percentage Requirements"):

9.4.1 at least 50 percent of all journey-level Project work hours performed by City Residents;

9.4.2 at least 55 percent of all apprentice-level Project work hours performed by City Residents;

9.4.3 at least 30 percent of all apprentice-level Project work hours performed by New Local Apprentices.

9.5 Each Contractor must take the following steps in an attempt to utilize City Residents to satisfy the Percentage Requirements:

9.5.1 City Residents/Journey level Hours. Contractor may assign current crew members who are City Residents to a Project. If staffing with Contractor's current crew members does not enable satisfaction of the Percentage Requirement of Section 9.4.1, the Contractor shall request referral of needed City Residents from the appropriate Union hiring hall, using "name call," "rehire," or other available procedures to satisfy the Percentage Requirement of Section 9.4.1. All requests for referrals under this subsection shall be in writing.

9.5.2 City Residents/Apprentice Hours. Contractor may assign current crew members who are City Residents and apprentices registered in a joint labor-management apprenticeship program to a Project. If staffing with Contractor's current crew members does not enable satisfaction of the Percentage Requirement of Section 9.4.2, the Contractor shall request referral of needed City Resident apprentices from the appropriate Union hiring hall or joint labor-management apprenticeship program, using "name call," "rehire," or other available procedures to satisfy the Percentage Requirement of Section 9.4.2. All requests for referrals under this subsection shall be in writing.

9.5.3 New Local Apprentices. Contractor may assign current crew members who are New Local Apprentices to a Project. If staffing with Contractor's current crew members does not enable satisfaction of the Percentage Requirement of Section 9.4.3, the Contractor shall request referral of New Local Apprentices from the appropriate Union hiring hall or joint labor-management apprenticeship program, using "name call," "rehire," or other available procedures to satisfy the Percentage Requirement of Section 9.4.3. All requests for referrals under this subsection shall be in writing.

9.6 Union hiring halls and, where applicable, joint apprenticeship programs, will refer apprentices to non-signatory Contractors/Employers upon request provided the Contractors/Employers submit the forms required by the Department of Industrial Relations.

9.7 Oversight and Enforcement. Contractor requirements of the Local Hiring Program shall be terms of the prime contracts awarded by the City and subcontracts awarded by Contractors. Enforcement actions shall be pursuant to contract compliance procedures set forth in such contracts. Hours worked by workers who reside in states other than California shall not be considered in compliance determinations regarding the Local Hiring Program. Upon request by the City, Contractors shall submit copies of all information necessary to determine Contractor compliance with the Local Hiring Program, including dispatch requests and responses, records regarding hiring decisions of City Residents and New Local Apprentices who were referred but not hired, and any other relevant information requested by the City.

9.8 Federally-Funded Projects: The requirements of this Article IX shall not apply to Projects for which a federal funding source prohibits such application. However,

if a federal funding source requires alternative hiring goals or requirements (such as in federal Executive Order 11246), then such requirements shall apply, and all requirements and procedures set forth in this Article shall be utilized to implement the alternative hiring goals or requirements imposed by the federal funding source. The City shall notify the Trades Council in the event that federal hiring goals supplant this Article.

ARTICLE X
WAGES AND BENEFITS

10.1 The Contractors/Employers agree to pay contributions to the vacation, pension and/or other deferred compensation plan, apprenticeship, worker protection and assistance, and health benefit funds established by the applicable Master Agreement(s) for each hour worked on a Project, in the amounts designated in the applicable Master Agreement(s).

10.2 By signing this Agreement, the Contractors/Employers adopt and agree to be
bound by the written terms of the legally established Trust Agreements described in Section 10.1, which may from time to time be amended, specifying the detailed basis upon which payments are to be made into, and benefits paid out of, such Trust Funds. The Contractors/Employers authorize the parties to such local Trust Agreements to appoint trustees and successor trustees to administer the Trust Funds and hereby ratify and accept the trustees so appointed as if they were appointed by the Contractors/Employers. The Contractors/Employers agree to execute a separate subscription agreement(s) when such Trust Fund(s) requires such document(s).

10.3 Wages, Hours, Terms and Conditions of Employment: The wages, hours and other terms and conditions of employment on City Projects shall be governed by the Master Agreement of the respective craft, to the extent such Master Agreement is not inconsistent with this Agreement. Where a subject is covered by the Master Agreement and not covered by this Agreement, the Master Agreement will prevail. When a subject is covered by both the Master Agreement and this Agreement, to the extent there is any inconsistency, this Agreement will prevail.

10.4 Holidays: Holidays shall be as set forth in the applicable Master Agreement.

ARTICLE XI
APPRENTICES

11.1 Recognizing the need to develop adequate numbers of competent workers in the construction industry, including on public works projects, the Contractors/Employers shall employ apprentices from a California state-approved Joint Apprenticeship Training Program in their respective crafts, to perform such work as is within their capabilities and that is customarily performed by the craft in which they are indentured.

11.2 Apprentice ratios will be in compliance with the provisions of the California Labor Code and the applicable state prevailing wage determination.

11.3 Consistent with the Master Agreements, there shall be no restriction on the utilization of apprentices in performing the work of their craft provided they are properly indentured and supervised.

ARTICLE XII
HELMETS TO HARDHATS

12.1 The Contractors/Employers and Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Contractors/Employers 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.

12.2 The Unions and Contractors/Employers agree to coordinate with the Center to participate in an integrated database of veterans interested in working on Projects and of apprenticeship and employment opportunities for Projects. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

ARTICLE XIII
COMPLIANCE

13.1 It shall be the responsibility of the Contractors/Employers and Unions to investigate and monitor compliance with the provisions of Article IX of this Agreement. Nothing in this Agreement shall be construed to interfere with or supersede the usual and customary legal remedies available to the Unions and/or employee benefit Trust Funds to collect delinquent wages or Trust Fund contributions from Contractors/Employers on the Projects. Because the Projects are public works subject to the California Labor Code, the City shall monitor and enforce the Contractors/Employers' compliance with state prevailing wage requirements as well as this Agreement.

ARTICLE XIV
GRIEVANCE ARBITRATION PROCEDURE

14.1 Project Labor Disputes: All disputes involving the application or interpretation of a Master Agreement to which a Contractor/Employer and a Union are parties shall be resolved pursuant to the resolution procedures of the Master Agreement. All disputes relating to the interpretation or application of this Agreement, other than disputes under Article IV and Article XV, shall be subject to resolution by the grievance arbitration procedures set forth in this Article.

14.2 Employee Discipline: All disputes involving the discipline and/or discharge of an employee working on a Project shall be resolved through the grievance and arbitration provisions contained in the Master Agreement for the craft of the affected

employee. No employee working on a Project shall be disciplined or discharged without just cause.

14.3 No grievance shall be recognized unless the grieving party (Union or District Council on its own behalf, or on behalf of an employee whom it represents, or a Contractor/Employer 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 thirty (30) business days after it reasonably should have become aware of the event giving rise to the dispute. Time limits may be extended by mutual agreement of the parties.

14.4 Grievances shall be settled according to the following procedures:

Step 1: Within five (5) business days after the receipt of the written notice of the grievance, the representative of the involved Union or District Council, or his/her designee, and the representative of the involved Contractor/Employer, shall confer and attempt to resolve the grievance.

Step 2: If the grievance is not resolved at Step 1, within five (5) business days of the Step 1 meeting or the conclusion of efforts to resolve the grievance at Step 1, the alleged grievance may be referred in writing by either involved party to the Business Manager(s) of the affected Union(s) involved and the Labor Relations Manager of the Contractor/Employer, or the Contractor/Employer's designated representative, for discussion and resolution. This time limit may be extended by mutual consent of both parties. 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 Project Manager and the Trades Council shall have the right to participate in any efforts to resolve the dispute at Step 2.

Step 3: If the grievance is not resolved at Step 2, either party may request the dispute be submitted to arbitration within five (5) business days of the Step 2 meeting or the conclusion of efforts to resolve the grievance at Step 2. This time limit may be extended by mutual consent of both parties. Within five (5) business days after referral of a dispute to arbitration, the representatives shall notify the permanent arbitrator designated in Article IV, or if not available, the alternate arbitrator designated in Article IV, for final and binding arbitration. If the permanent arbitrator or the alternate is not available, an arbitrator shall be selected by the alternate striking method from the list of three (3) below. 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.

1. Carol Vendrillo
2. David Weinberg
3. Mark Keppler

14.5 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 his/her selection. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the presiding arbitrator.

14.6 The time limits specified at any step of the grievance procedure may be extended by mutual agreement of the parties. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without an agreed upon extension of time, shall be deemed a waiver of such grievance without prejudice, or without precedent to the processing and/or resolution of like or similar grievances or disputes.

14.7 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.

14.8 Should any of the arbitrators listed in this Article or Article IV no longer work as a labor arbitrator, the City and the Trades Council shall mutually agree to a replacement.

ARTICLE XV
WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

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

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

15.3 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 California State Building and Construction Trades Council in Sacramento, California within fourteen (14) calendar days of the selection of the arbitrator. All other procedures shall be as specified in the Plan.

15.4 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Employer's assignment shall

be adhered to until the dispute is resolved. Individual employees violating this section shall be subject to immediate discharge.

15.5 Each Employer will conduct a pre-job conference with the Trades Council prior to commencing work. The City and the Project Manager will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Employers may be held together.

ARTICLE XVI
MANAGEMENT RIGHTS

16.1 Consistent with the Schedule A agreements, the Contractor(s)/Employer(s) shall retain full and exclusive authority for the management of their operations, including the right to direct their work force in their sole discretion. No rules, customs or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees, except that all lawful manning provisions in the Master Agreement shall be recognized.

ARTICLE XVII
DRUG AND ALCOHOL TESTING

17.1 The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms at any time during the work day is prohibited.

17.2 Drug and alcohol testing shall be conducted in accordance with the substance abuse prevention policies set forth in the applicable Schedule A.

ARTICLE XVIII
SAVINGS CLAUSE

18.1 If any article, provision, clause, sentence or word of this Agreement is determined to be illegal or void as being in contravention of any applicable law, by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect. The parties further agree that if any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void, by a court of competent jurisdiction, the parties shall substitute, by mutual agreement, in its place and stead, an article, provision, clause, sentence or word that will meet the objections to its validity and will be in accordance with its original intent. If the parties are unable to agree on substitute language, then the entire Agreement shall be null and void.

18.2 If a court of competent jurisdiction determines that all or part of the Agreement is invalid and/or enjoins the City from complying with all or part of the Agreement's provisions, and the City accordingly determines that compliance with this Agreement will not be required in order to perform work under a Construction Contract, the Unions will no longer be bound by the provisions of Article IV.

ARTICLE XIX
TERM

19.1 This Agreement shall be included in all bid documents, requests for proposals, or other equivalent Project solicitations, which shall indicate that entering into this Agreement is a condition of the award of a Construction Contract(s) for each Project.

19.2 This Agreement shall apply until the Completion of each Project in accordance with Sections 1.5 and 2.2.

19.3 This Agreement shall become effective 120 days after it is executed by the City and the Trades Council and shall remain in effect until the five (5) year anniversary of the effective date. During this term, the City administration shall prepare annual reports to the City Council on Agreement implementation and results of the Local Hiring Program, which reports shall be provided to the JAC for review and comment prior to submission to the City Council. The Unions, Trades Council, and Contractors shall provide to the administration requested information relevant to such reports, including information regarding referrals from hiring halls for Covered Work on Projects. Upon the two-year anniversary of the effective date, if the Percentage Requirements set forth in the Local Hiring Program are not being met on all Projects in aggregate, the City shall provide the Trades Council with written notice. Upon receipt of such notice, the Trades Council and the City shall meet and confer regarding whether to modify the Local Hiring Program in order to improve outcomes and meet the Percentage Requirements, with any such modifications made upon mutual agreement by the Trades Council and the City. A similar process will take place on the third and fourth anniversaries of the effective date.

19.4 Approximately ninety (90) days prior to the five (5) year anniversary of the effective date of this Agreement, at the request of either party, the City and Trades Council shall meet to discuss whether to extend this Agreement, and, if so, the proposed terms of such extension including any proposed changes to the Agreement.

ARTICLE XX
MISCELLANEOUS PROVISIONS

20.1 The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement. All defined terms used in this Agreement shall be deemed to refer to the singular and/or plural, in each instance as the context and/or particular facts may require.

20.2 This Agreement may be executed in counterparts, such that original signatures may appear on separate pages and when bound together all necessary signatures shall constitute an original. Faxed or emailed signature pages transmitted to other parties to this Agreement shall be deemed the equivalent of original signatures.

20.3 Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the party

indicated, and each of the parties signing this Agreement warrants and represents that such party is legally authorized and entitled to enter into this Agreement.

20.4 The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

20.5 All defined terms used in this Agreement shall be deemed to refer to the singular and/or plural, in each instance as the context and/or particular facts may require.

[SIGNATURES TO FOLLOW]

CITY OF FRESNO

By: _____ Date: 9/29/2021

Name/Title: Thomas Esqueda
City Manager

FRESNO, MADERA, KINGS AND TULARE COUNTIES BUILDING AND CONSTRUCTION TRADES COUNCIL

By: _____ Date: 9.29.21

Name/Title: Chuck Riojas

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE
BY: _____
SR DEP CITY ATTORNEY
Brandon M Edlef

ATTEST:
BRIANA PARRA, CMC
INTERIM CITY CLERK
BY: _____ 9/29/21
Deputy
BERNARD CAMEZ

[UNION SIGNATURES]

Addendum A
AGREEMENT TO BE BOUND

[Date]
[Addressee]
[Address]

Re: City of Fresno Community Workforce Agreement
Agreement to be Bound

Dear _____:

The undersigned confirms that it agrees to be a party to and bound by the City of Fresno Community Workforce Agreement ("Agreement") as such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms.

By executing this Agreement to be Bound, the undersigned subscribes to, adopts and agrees to be bound by the written terms of the legally established trust fund documents as set forth in Section 10.1 of the Agreement, as they may from time to time be amended, specifying the detailed basis upon which contributions are to be made into, and benefits made out of, such trust funds, and ratifies and accepts the trustees appointed by the parties to such trust funds. The undersigned agrees to execute a separate subscription agreement(s) for such trust funds when such trust fund(s) require(s) such document(s).

The obligation to be a party to and bound by the Agreement shall extend to all work covered by the Agreement undertaken by the undersigned. The undersigned shall require all of its subcontractors, of whatever tier, to become similarly bound for all their work within the scope of the Agreement by signing an identical Agreement to be Bound.

This letter shall constitute a subscription agreement, to the extent of the terms of the letter.

CONTRACTOR/SUBCONTRACTOR:_____

_____

California Contractor State License No. or Motor Carrier (CA) Permit No.:

_____

Name of Authorized Person (print):

_____

Signature of Authorized Person:

_____

Title of Authorized Person:

_____

Telephone Number of Authorized
Person:_____

Address of Authorized
Person:_____

State Public Works Registration Number:

_____

Addendum B
SIDE LETTER

The parties recognize that the capacity to perform slurry seal maintenance work may not exist locally. Their mutual intent is to facilitate the creation of such capacity locally over time. Accordingly, the parties agree that with respect to slurry seal maintenance work that may otherwise be covered by this agreement, in the event the City receives no responsive bids, the parties agree to meet and confer. The parties may mutually agree to exclude such projects from coverage under this Agreement, or agree to modify the terms of this Agreement for the purpose of such projects. If the parties cannot agree, the City Manager may recommend to the City Council the exclusion of such projects from PLA coverage.

The parties further recognize that significant, new federal resources may become available after the effective date of this Agreement, and that such resources may require changes to this Agreement in order to ensure that the City can take full advantage of such resources. The parties' mutual goal is to ensure that nothing in this Agreement will impair the City's ability to apply for and receive such new funding, and that they will endeavor to agree on any necessary changes to ensure compliance with any new federal regulations governing such funding.