

**SAN FRANCISCO BAY RESTORATION AUTHORITY  
MEASURE AA MODEL PROJECT LABOR AGREEMENT**

This Agreement is entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the [NAME OF AWARDING BODY] (hereinafter, the "[AWARDING BODY]"), together with the Prime Contractor and contractors and subcontractors of all tiers, who shall become signatory to this Agreement by signing the "**Agreement To Be Bound**" (**Addendum A**) (referred to collectively herein as "Contractor(s)/Employer(s)"), and the [NAME OF] Building & Construction Trades Council ("Council") and its affiliated local Unions that have executed this Agreement (referred to collectively herein as "Union" or "Unions").

The purpose of this Agreement is to promote the efficiency of construction operations during the [AWARDING BODY]'s Bay Restoration Shoreline Protection Construction Project ("Project") 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 San Francisco Bay Restoration Authority's and the [AWARDING BODY]'s interest in assuring the timely and economical completion of the Project.

WHEREAS, the timely and successful completion of the Project is of the utmost importance to the San Francisco Bay Restoration Authority and the [AWARDING BODY] to meet the needs of the [AWARDING BODY] and to avoid increased costs resulting from delays in construction; and

WHEREAS, large numbers of workers of various skills will be required in the performance of the construction work, and will be represented by the Unions signatory to this Agreement and employed by contractors and subcontractors who are also signatory to this Agreement; 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 a Project of this magnitude 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 is substantial, without an overriding commitment to maintain continuity of work; and

WHEREAS, the interests of the San Francisco Bay Restoration Authority, the [AWARDING BODY], the Unions, the Contractor(s)/ Employer(s) and the public would be best served if the construction work proceeded in an orderly manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

WHEREAS, the Contractor(s)/Employer(s) and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the Project and to encourage close cooperation among the Contractor/Employer(s) and the Union(s) so that a satisfactory, continuous and harmonious relationship will exist among the parties to this Agreement; and

WHEREAS, the [AWARDING BODY] places high priority upon the development of comprehensive programs for the recruitment, training and employment of local area residents, and recognizing the ability of local apprenticeship programs to provide

meaningful and sustainable careers in the building and construction industry; and

WHEREAS, the parties agree that one of the primary purposes of this Agreement is to avoid the tensions that might arise on the Project if Union and non-union workers of different employers were to work side by side on the Project, potentially leading to labor disputes that could delay completion of the Project; 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 Contractor(s)/Employer(s) and the affected Union(s), 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 contracts for construction work on the Project will be awarded in accordance with the applicable provisions of the California State Public Contract Code and all state, local, and federal laws; and

WHEREAS, the [AWARDING BODY] has the right to select the lowest responsive and responsible bidder for the award of the Construction Contract(s) on the Project; and

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

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

## **ARTICLE I DEFINITIONS**

1.1 "Agreement" means this Project Labor Agreement.

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

1.3 "Completion" means that point at which there is Final Acceptance by the [AWARDING BODY] of a Construction Contract and the Notice of Completion has been filed. For the purposes of this definition, "Final Acceptance" means that point in time at which the [AWARDING BODY] 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 [AWARDING BODY] has executed a written acceptance of the work.

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

1.5 "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 other contracting entity), or combination thereof, including joint ventures, and their successors and assigns, that is an independent business enterprise that enters into a contract with the [AWARDING BODY] with respect to the construction of any part of the Project, under contract terms and conditions approved by the [AWARDING BODY] that incorporate this Agreement, and all contractors and subcontractors of any tier.

1.6 "Council" means the [NAME OF] Building & Construction Trades Council.

1.7 "[AWARDING BODY]" means the [NAME OF], its governing board, officers, agents and public employees, including managerial personnel.

1.8 "Master Agreement" or "Schedule A" means the Master Collective Bargaining Agreement(s) of each craft Union signatory hereto.

1.9 "Project" means the [NAME OF] Bay Restoration Shoreline Protection construction project. The [AWARDING BODY] and the Council may mutually agree in writing to add additional components to the Project's scope of work to be covered by this Agreement.

1.10 "Project Manager" means the person(s) or entity(ies) designated by the [AWARDING BODY] to oversee all phases of construction on the Project and the implementation of this Agreement and who works under the guidance of the [AWARDING BODY]'s authorized representative.

1.11 "Union" or "Unions" means the [NAME OF] Building and Construction Trades Council, AFL-CIO, 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: The Agreement applies to and is limited to all Contractor(s)/ Employer(s) performing Construction Contract(s) on the Project (including subcontractors at any tier), and their successors and assigns, the [AWARDING BODY], the Council and its affiliated Unions signatory to this Agreement.

2.2 Applicability: The Agreement governs all Construction Contract(s) awarded on the [NAME OF] Bay Restoration Shoreline Protection Project. For purposes of this Agreement, Construction Contracts shall be considered completed as set forth in Section 1.3, except when the [AWARDING BODY]'s authorized representative directs a Contractor to engage in repairs, warranty work, punch list work, or modifications as required under a Construction Contract with the [AWARDING BODY], or when a

Contractor performs work under change orders for a Construction Contract.

2.3 Covered Work: This Agreement covers, without limitation, all on-site site preparation, surveying, construction, alteration, demolition, installation, improvement, remediation, retrofit, painting or repair of buildings, structures and other works, and related activities for the Project that is within the craft jurisdiction of one of the Unions and which is directly or indirectly part of the Project, including, without limitation to the following examples, geotechnical and exploratory drilling, temporary HVAC, landscaping and temporary fencing, pipelines (including those in linear corridors built to serve the Project), pumps, pump stations, start-up, modular furniture installation, and final clean-up. On-site work includes work done for the Project in temporary yards, dedicated sites, or areas adjacent to the Project, and at any on-site or off-site batch plant constructed solely to supply materials to the Project. This scope of work includes all soils and materials testing and inspection where such testing and inspection is a classification in which a prevailing wage determination has been published. Covered Work also includes all construction, demolition or improvements required to be performed as a condition of approval by any public agency.

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 the Project performed after Completion unless it is performed by [AWARDING BODY] employees.

2.3.2 This Agreement covers all on-site fabrication work over which the [AWARDING BODY], Contractor(s)/Employer(s) or subcontractor(s) possess the right of control (including work done for the Project in any temporary yard or area established for the Project). Additionally, this Agreement covers any off-site work, including fabrication necessary for the Project defined herein, that is covered by a current Schedule A Agreement or local addenda to a National Agreement of the applicable Union(s) that is in effect as of the execution date of this Agreement.

2.3.3 The furnishing of supplies, equipment or materials which are stockpiled for later use shall not be covered by this Agreement. However, construction trucking work, such as the hauling and delivery of ready-mix, asphalt, aggregate, sand, or other fill or similar material which is incorporated into the construction process as well as the off-hauling of debris and excess fill, material and/or mud, shall be covered by the terms and conditions of this Agreement to the fullest extent allowed by law and the prevailing wage determinations of the California Department of Industrial Relations. Contractor(s)/ Employer(s), including brokers, of persons providing construction trucking work shall provide certified payroll records to the [AWARDING BODY] within ten (10) days of written request or as required by 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 Agreement of Elevator Constructors, National Transient Lodge (NTL) Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, and all 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, XIII and XIV 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 The Agreement shall not apply to a Contractor/Employer's non-construction craft executives, managerial employees, engineering employees, other professional engineers, supervisors above the level of general foreman (except those covered by existing Master Agreements), and administrative and management personnel.

2.4.2 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, or by public utilities.

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

2.4.4 The [AWARDING BODY] shall not be required to comply with this Agreement for any work performed with its own forces as permitted by the Public Contract Code.

2.5 Award of Contracts: It is understood and agreed that the [AWARDING BODY] has the right to select any qualified bidder for the award of the Construction Contract(s) 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 the Project that are issued on and after the effective date of this Agreement. A copy of all invitations to bid shall be provided at time of issuance to the Council.

### **ARTICLE III EFFECT OF AGREEMENT**

3.1 By executing this Agreement, the Unions and the [AWARDING BODY] 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 the Project, whether as Contractor or subcontractor thereunder, the Contractor/Employer agrees to be bound by each and every provision of the Agreement and agrees that it will evidence its 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 subcontract to perform work on the 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/Employer 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 Schedule A. Any dispute between the Union(s) and the Contractor(s)/Employer(s) respecting compliance with the terms of the Agreement shall not affect the rights, liabilities, obligations and duties between the Union(s) and other Contractor(s)/Employer(s) party to this Agreement.

3.5 It is mutually agreed by the parties that any liability by a signatory Union 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)/Employer(s) and the other Union(s) party to this Agreement.

3.6 The provisions of this Agreement, including the Schedule A's 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 is inconsistent with the Schedule A, the provisions of this Agreement shall prevail. Where the provision of a Schedule A is not inconsistent with this Agreement, the provision of the Schedule A shall apply.

#### **ARTICLE IV WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS**

4.1 The Union(s), [AWARDING BODY] and Contractor(s)/Employer(s) covered by the Agreement agree that for the duration of the Project:

4.1.1 There shall be no strikes, sympathy strikes, work stoppages, picketing, hand billing or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions or employees employed on the Project, at the job site of the Project or at any other facility of [AWARDING BODY] because of a dispute on the Project. Disputes arising between the Union(s) and Contractor(s)/Employer(s) on other [AWARDING BODY] 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 the Project.

4.1.3 If a Master Agreement expires before the Contractor/Employer completes the performance of work under the Construction Contract and the Union or

Contractor/Employer gives notice of demands 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 employee(s) on the 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 the Project, the Union shall give the [AWARDING BODY] 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 as a result of insufficient funds, of the intent to withhold labor from the Contractor/Employer's 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 If the [AWARDING BODY] contends that any Union has violated this Article, it will so notify in writing the Senior Executive of the 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 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 unauthorized acts of workers 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 [ARBITRATOR/S] under this procedure. In the event the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, then the parties shall select the arbitrator from the list in Section 13.4. Notice to the arbitrator shall be by the most expeditious means available, with notices by email or telephone to the [AWARDING BODY] and the party alleged to be in violation, and to the Council and involved local Union if a Union is alleged to be in violation.

4.2.2 Upon receipt of said notice, the [AWARDING BODY] will contact the permanent arbitrator named above, or his alternate, 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 hearing 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) days after the close of the hearing, 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 other appropriate relief and such 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 an arbitrator's award 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 Such 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 the 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 proceedings may be *ex parte*. Such agreement does not waive any party's right to participate in a hearing for a final order of enforcement. The Court's order or orders enforcing the arbitrator's award shall be served on all parties by hand or 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, 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 [AWARDING BODY] and the Council shall mutually agree to a replacement.

## **ARTICLE V PRE-CONSTRUCTION CONFERENCE**

5.1 Timing: The Prime Contractor or its Project Manager shall convene and conduct, in accordance with the practice of the applicable Council, a Pre-Construction Conference at a time and location mutually agreeable to the Council, with the Unions and with representatives of all involved Contractor(s)/Employer(s), who shall be prepared to announce craft assignments and to discuss in detail the scope of work and the other issues as 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 each subsequently awarded Construction Contract.

5.2 The Pre-Construction Conference shall be attended by a representative of each participating Contractor and each affected Union. The Council and [AWARDING BODY] may attend at their discretion.

5.3 The Pre-Construction Conference shall include but not be limited to the following subjects:

- (a) A listing of each Contractor's 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 Review Meetings: In order to ensure the terms of this Agreement are being fulfilled and all concerns of the [AWARDING BODY], the Unions, and the Contractors/Employers are addressed, the Prime Contractor and Senior Executive of the Council or designated representatives thereof shall meet on a periodic basis during the term of construction. The [AWARDING BODY] and the Council shall have the right to call a Review Meeting or a Pre-Construction Conference, as needed, pursuant to this Article, with the participation of all necessary and appropriate parties. The San Francisco Bay Restoration Authority shall have the right to attend Pre-Construction Conferences and Review Meetings.

## **ARTICLE VI NO DISCRIMINATION**

6.1 The Contractor(s)/Employer(s) and Unions agree to comply with all non-discrimination provisions of federal, state and local law, to protect employees and

applicants for employment, on the Project.

## **ARTICLE VII UNION SECURITY**

7.1 The Contractor(s)/Employer(s) recognize the Union(s) as the sole bargaining representative of all craft employees working within the scope of this Agreement.

7.2 All employees who are employed by Contractor(s)/Employer(s) to work on the Project will be required to become members and maintain membership in the appropriate Union on or before eight (8) days of consecutive or cumulative employment on the Project. Membership under this section shall be satisfied by the tendering of periodic dues and fees uniformly required to the extent allowed by the law.

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

## **ARTICLE VIII REFERRAL**

8.1. Contractor(s)/Employer(s) performing construction work on the 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 employees are covered by existing Master Agreements).

8.3. In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor/Employer for worker(s) 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 any worker(s) to perform Covered Work on the 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 Article VII of this Agreement.

8.4 Local Hire: It is in the interest of the parties to this Agreement to facilitate employment of San Francisco Bay Restoration Authority and [AWARDING BODY] residents and to use resources in the Local Area in construction of the Project. The "Local Area" shall be defined as the Counties of Alameda, Contra Costa, Marin, Napa, San

Francisco (City and County), San Mateo, Santa Clara, Solano and Sonoma. The Parties to this Agreement support the development of increased numbers of skilled construction workers from the Local Area. It is the objective of the parties that not less than twenty-five percent (25%) of all hours worked on the Project, on a craft by craft basis, be worked by residents of the Local Area. The Unions will exert good faith efforts to recruit sufficient numbers of skilled craft persons to fulfill the requirements of the Contractor(s)/Employer(s). To the extent allowed by law, consistent with the applicable Union's hiring hall provisions, and as long as they possess the requisite skills and qualifications, residents of the Local Area, including journeymen and apprentices, shall be referred for Project work covered by this Agreement.

## **ARTICLE IX WAGES AND BENEFITS**

9.1 The Contractor(s)/Employer(s) agree to pay contributions to the vacation, pension and other form of deferred compensation plan, apprenticeship, worker protection and assistance, and health benefit funds established by the applicable Master Agreement(s) for each hour worked on the Project in the amounts designated in the Master Agreement(s) of the appropriate local Union(s).

9.2 By signing this Agreement, the Contractor(s)/Employer(s) adopt and agree to be bound by the written terms of the legally established Trust Agreements, as described in Section 9.1, and which may from time to time be amended, specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds. The Contractor(s)/Employer(s) 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 made by the Contractor(s)/Employer(s). The Contractor(s)/Employer(s) agree(s) to execute a separate Subscription Agreement(s) when required by such Trust Fund(s).

9.3 Wages, Hours, Terms and Conditions of Employment: The wages, hours and other terms and conditions of employment on the Project 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.

9.4 Holidays: The holidays shall be in compliance with the applicable Schedule A.

## **ARTICLE X APPRENTICES**

10.1 Recognizing the need to develop adequate numbers of competent workers in the construction industry, the Contractor/Employer(s) shall employ apprentices from a California state-approved Joint Apprenticeship Training Program in the respective crafts

to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured.

10.2 The apprentice ratios will be in compliance with the applicable provisions of the California Labor Code and Prevailing Wage Rate Determinations.

10.3 Local Hire: It is an objective of the parties to the Agreement that twenty-five percent (25%) of craftworkers, including apprentices, shall be Local Area residents. The Contractors shall reach this goal through utilization of the normal hiring hall procedures. The Unions are committed to working with the Contractors to achieve these goals. All apprentices referred to Contractors under this Agreement shall be emolled in State of California approved Joint Apprenticeship Training Programs.

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

## **ARTICLE XI HELMETS TO HARDHATS**

11.1 The Contractor(s)/Employer(s) 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 Contractor(s)/Employer(s) 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.

11.2 The Unions and Contractor(s)/Employer(s) agree to coordinate with the Center to participate in an integrated database of veterans interested in working on the Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

## **ARTICLE XII COMPLIANCE**

12.1 It shall be the responsibility of the Contractor(s)/Employer(s) and Unions to investigate and monitor compliance with the provisions of the Agreement contained in Article IX. 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 Trust Fund contributions from Contractor(s)/Employer(s) on the Project. The [AWARDING BODY] shall monitor and enforce compliance with the prevailing wage requirements of the state, and the compliance of the Contractor(s)/Employer(s) with this Agreement.

**ARTICLE XIII**  
**GRIEVANCE ARBITRATION PROCEDURE**

13.1 Project Labor Disputes: All Project disputes involving the application or interpretation of the Master Agreement to which a signatory Contractor/Employer and a signatory 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 (Work Stoppages, Strikes, Sympathy Strikes, and Lockouts) and Article XIV (Work Assignments and Jurisdictional Disputes), shall be subject to resolution by the grievance arbitration procedures set forth below.

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

13.3 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 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.

13.4 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 after of the Step 1 meeting, the grievance may be referred in writing by either involved party to the Business Manager of the affected Union involved and the Labor Relations Manager of the Employer, or the Employer'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 Project Manager 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 resolved in Step 2, within five (5) business 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 five (5) business days after referral of a dispute to Step 3, the representatives shall notify the permanent arbitrator, or if he is not available, his alternate, as set forth in Article IV, for

final and binding arbitration. The parties agree that if the permanent arbitrator or his 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.

[LIST OF ARBITRATORS]

13.5 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.

13.6 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 of and/or resolution of like or similar grievances or disputes.

13.7 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.

13.8 Retention: At the time a grievance is submitted under this Agreement or any Master Agreement, the Union(s) may request that the [AWARDING BODY] withhold and retain an amount from what is due and owing to the Contractor(s) against whom the grievance is filed, sufficient to cover the damages alleged in the grievance, should the Union(s) prevail. The amount shall be retained by the [AWARDING BODY] until such time as the underlying grievance giving rise to the retention is withdrawn, settled, or otherwise resolved, and the retained amount shall be paid to whomever the parties to the grievance shall decide, or to whomever an arbitrator shall so order.

13.9 Should any of the arbitrators listed in this Article or Article IV no longer work as a labor arbitrator, the [AWARDING BODY] and the Council shall mutually agree to a replacement.

**ARTICLE XIV**  
**WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES**

14.1 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.

14.2 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.

14.3 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 14 days of the selection of the arbitrator. All other procedures shall be as specified in the Plan.

14.4 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. Each Employer will conduct a pre-job conference with the Council prior to commencing work. The Prime Contractor and the [AWARDING BODY] 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 XV**  
**MANAGEMENT RIGHTS**

15.1 Consistent with the Master Agreements, the Contractor/Employer(s) shall retain full and exclusive authority for the management of their operations, including the right to direct their workforce 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 lawful manning provisions in the Master Agreement shall be recognized.

**ARTICLE XVI  
DRUG & ALCOHOL TESTING**

16.1 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.

16.2 Drug and alcohol testing shall be conducted in accordance with the Substance Abuse Prevention Policies contained in the applicable Schedule A.

**ARTICLE XVII  
SAVINGS CLAUSE**

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

17.2 The parties agree that in the event a decision of a court of competent jurisdiction materially alters the terms of the Agreement such that the intent of the parties is defeated, then the entire Agreement shall be null and void.

17.3 If a court of competent jurisdiction determines that all or part of the Agreement is invalid and/or enjoins the [AWARDING BODY] from complying with all or part of its provisions and the [AWARDING BODY] accordingly determines that the Agreement will not be required as part of an award to a Contractor/Employer, the Unions will no longer be bound by the provisions of Article IV.

**ARTICLE XVIII  
TERM**

18.1 The Agreement shall be included in the bid documents, requests for proposals, or other equivalent Project solicitation(s), which shall indicate that entering into this Agreement is a condition of the award of Construction Contracts for the Project.

18.2 This Agreement shall become effective on the day it is executed by the [AWARDING BODY] and by the Council.

18.3 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 PDF signature pages transmitted to other parties to this Agreement shall be deemed the equivalent of original signatures.

18.4 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 refer to the singular and/or plural, in each instance as the context and/or particular facts may require.

[NAME OF AWARDING BODY]

By: — — — — —

Date: \_\_\_\_\_

[NAME OF]  
BUILDING & CONSTRUCTION TRADES COUNCIL

By: \_\_\_\_\_

Date: — — — — —

[SIGNATURE BLOCKS FOR UNIONS]

**Addendum A: Agreement to be Bound**

[Addressee]  
[Address]  
[City and State]

Re: Bay Restoration Shoreline Protection Project Labor Agreement -  
Agreement To Be Bound

Dear Mr./Ms. \_\_\_\_\_

The undersigned confirms that it agrees to be a party to and bound by the Bay Restoration Shoreline Protection Project Labor 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 agreements as set forth in Section 9.1, 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, and agrees to execute a separate Subscription Agreement when such Trust Fund(s) require(s) such document(s).

The obligation to be a party to and bound by this 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 this 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: \_\_\_\_\_

CA Contractor State License No. or  
Motor Carrier 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: \_\_\_\_\_

