

**PROJECT LABOR AGREEMENT FOR ALL MEASURE G, E, & I
BOND PROJECTS FOR THE
EAST SIDE UNION HIGH SCHOOL DISTRICT**

INTRODUCTION/FINDINGS

The purpose of this Agreement is to promote efficiency of construction operations during the **East Side Union High School District Measure G, E, and I Bond Projects** (“**the Project**”) and provide for peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of the Project.

WHEREAS, the successful completion of the Project is of the utmost importance to the East Side Union High School District (“the District”); and

WHEREAS, the Project Labor Agreement for the District’s Measure G and E Bond Projects has proven to be successful; and

WHEREAS, the Project Labor Agreement provides a level of accountability that greatly reduces if not eliminates the exploitation of workers and circumvention of the Labor Code as it applies to the payment of prevailing wages and has saved and continues to save the District financial and human resources in prevailing wage enforcement; and

WHEREAS, large numbers of workers of various skills will be required in the performance of the construction work, including those to be represented by the Unions affiliated with the Santa Clara & San Benito County Building and Construction Trades Council and any other labor organization which are signatory to this Agreement employed by contractors and subcontractors who are signatory to agreements with said labor organizations; and

WHEREAS, it is recognized that on a project of this magnitude with multiple contractors and bargaining units on job sites 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 general public, the School District and its students, the Unions and Contractor/Employers would be best served if the construction

work proceeded in an orderly manner without disruption because of strikes, picketing or other legal and recognizable rights of workers; and

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

WHEREAS, the Agreement is not intended to replace, interfere, 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/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 contract for the Project will be awarded in accordance with the applicable provisions of the California State Public Contract Code; and

WHEREAS, the District has the absolute right to select the lowest reliable and responsible bidder for the award of the Construction Contract on the Project; and

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

WHEREAS, the East Side Union High School District places high priority upon the development of comprehensive programs for the recruitment, training and employment of Local Area Residents (LAR, defined in Appendix B) and has identified the need to prepare their students for lifelong careers and continuing education, recognizing the ability of local apprenticeship programs to provide meaningful and sustainable careers in the building and construction industry; and

WHEREAS, by requiring, as a condition of performing work on the Project, contractors are to provide training and employment opportunities to local residents

registered in (bona fide) apprenticeship programs, the residents of the District, the School District and the district residents desiring training all benefit.

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

ARTICLE I
DEFINITIONS

- 1.1** **Agreement**” means this Project Labor Agreement plus Appendices A, B and C.
- 1.2** **District**” means the East Side Union High School District and the administrative staff under its Superintendent.
- 1.3** **“Contractor/Employer(s)”** means any individual, firm, partnership or corporation, or combination thereof, including joint ventures, which is an independent business enterprise and enters into a contract with the District or any of its contractors or subcontractors of any tier, with respect to the construction of any part of the Project under contract terms and conditions approved by the District and which incorporate this Agreement.
- 1.4** **“Construction Contract”** means the public works contract which will include but not be limited to the School District, the Program/Construction Manger(s), and all Contractor/Employer(s) performing covered work which is necessary to complete the Project.
- 1.5** **“Project”** includes and shall apply to all Measure G, E, and I funded work, including State matching funds for new school site construction, or school site modernizations performed by those contractors of whatever tier that are awarded contracts by the District done in full or in part with Measure G, E, and I Bond monies, including any State matching money, as is described in Section (2) of Article II
- 1.6** **“Union”** or **“Unions”** means the Santa Clara & San Benito Counties Building and Construction Trades Council, AFL-CIO (“Council”) and any other labor organization signatory to this Agreement, acting in their own behalf and on behalf

of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement (“Signatory Unions”).

- 1.7 “Program/Construction Manager”** means the person or persons or business entity(ies) if so chosen and designated by the District to oversee all or select phases of construction on the Project.
- 1.8 “Master Collective Bargaining Agreement(s)”** means the local collective bargaining agreements to which the Union(s) and signatory contractor(s) are bound, copies of which shall be on file with the District Office and are incorporated herein by reference as “Schedule A’s.” The list of Schedule A Agreements is attached as Appendix C.
- 1.9 “Bona Fide Apprenticeship Program”** means a program approved by the State Division of Apprenticeship Standards that has graduated apprentices annually for at least the past five (5) years. The graduation requirement for each of the preceding five (5) years shall not apply to any trade or craft not recognized by the Department of Labor and/or the Division of Apprenticeship Standards as an apprenticeable occupation for more than nine (9) years immediately prior to the effective date of this Agreement.

ARTICLE II

SCOPE OF AGREEMENT

- 2.1 Parties:** The Agreement shall apply and is limited to all Contractors/Employer(s) performing Construction Contracts on the Project, the District and the Santa Clara & San Benito Counties Building and Construction Trades Council, AFL-CIO (“Council”) and any other labor organization signatory to this Agreement, acting in their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement (“Signatory Unions”).

2.2 Project Description: the Project will include all new school site construction and the modernization of school site buildings, and their related facilities; and the improvement of current or to-be-acquired real property to relieve overcrowding of the facilities on these campuses.

2.3 Project Labor Disputes: All Project labor disputes involving the application or interpretation of a collective bargaining agreement (“Schedule A”) to which a signatory Contractor/Employer and a signatory Union are parties shall be resolved pursuant to the resolution procedures of the applicable “Schedule A.” All disputes relating to the interpretation or application of the Project Labor Agreement shall be subject to resolution by the Joint Administrative Committee, as described in paragraph 11.1, and the grievance arbitration procedure set forth herein.

2.4 Exclusions:

- 1) The Agreement shall be limited to only construction work paid for in full or in part with Measure G, E, and I Bond monies as outlined in 1.5 and 2.2 above.
- 2) The Agreement is not intended to, and shall not affect or govern the award of public works contracts by the District, which are outside the approved scope of the Project.
- 3) Unless covered by a Schedule A collective bargaining agreement, this Agreement shall not apply to a Contractor/Employer’s executives, managerial employees, engineering employees, supervisors, office and clerical employees.
- 4) All off-site manufacture and handling of materials, equipment or machinery shall not be covered by this Agreement; provided, however, prefabrication of materials that are directly part of the Project and are traditionally performed under the provisions of an existing Schedule A Agreement of a signatory Union(s), shall be covered by the terms and conditions of this Agreement.
- 5) This Agreement shall not apply to employees of the School District.
- 6) At the sole option of the District, this Agreement shall not apply to contracts awarded under Public Contract Code 22032(a), or any emergency public works resolutions.

- 7) For work for which special certification or licensing is required by project specification and/or law, the District shall not be limited to the relevant hiring hall for the source of labor for such work if the District provides five (5) working days' notice and the hiring hall is unable to supply worker(s) with such certification or licensing.
- 8) This Agreement shall not apply to work performed by employees of a manufacturer or vendor or other company when required to maintain a manufacturer's or vendor's warranty or guarantee, provided that the warranty or guarantee is consistent with the manufacturer's or vendor's standard warranty or guarantee. The Contractor/Employer must also notify the Union thirty (30) days prior to exercising this provision and certification of specialty products shall not be unreasonably withheld from any party signatory to this Agreement.
- 9) Work covered by the Project Labor Agreement within the craft jurisdiction of the Elevator Constructors will be performed under the terms of the National Agreement of the International Union of Elevator Constructors, except that Articles IV, XII, and XIII of the Project Labor Agreement will apply to such work.
- 10) It is recognized that the delivery of asphalt, cement, ready-mix, aggregate, sand or other fill material which are directly incorporated into the construction process shall be covered by the terms and conditions of this Agreement.

ARTICLE III

EFFECT OF AGREEMENT

- 3.1 By executing the Agreement, the Unions and the Contractors agree to be bound by each and all of the provisions of the Agreement.
- 3.2 By accepting the award of a Construction Contract for the Project, whether as contractor or subcontractor, the Contractor/Employer agrees to be bound by each and every provision of the Agreement.

- 3.3 At the time that any Contractor/Employer enters into a subcontract with any subcontractor providing for the performance of the Construction Contract, the Contractor/Employer(s) shall provide a copy of this Agreement, as it may from time to time be modified, to said subcontractor and shall require the subcontractor as a part of accepting an award of a construction subcontract to agree in writing to be bound by each and every provision of this Agreement prior to the commencement of work.
- 3.4 This Agreement shall only be binding on the signatory parties hereto and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party.

ARTICLE IV

WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS

- 4.1 The Unions, District and Contractor/Employers agree that for the duration of the Project:
- 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 the Project, at the job site of the Project or at any other facility of the District because of a dispute on the Project. Disputes arising between the Unions and Contractor/Employers on other District projects or work specifically excluded under Section 2.4(5) are not governed by the terms of this Section 4.1(1)
 - 2) As to employees employed on the Project, there shall be no lockout of any kind by a Contractor/Employer covered by the Agreement.
 - 3) If a collective bargaining agreement between a Contractor/Employer and the Union expires before the Contractor/Employer completes the performance of the Construction Contract, and the Union or Contractor/Employer gives notice of demands for a new or modified collective bargaining agreement, the Union agrees that it will not strike the Contractor/Employer on said contract for work covered

under this Agreement and the Union and the Contractor/Employer agree that the expired collective bargaining agreement shall continue in full force and effect for work covered under this Agreement until a new or modified collective bargaining agreement is reached between the Union and Employer. If the new or modified collective bargaining agreement reached between the Union and Employer provides that any terms of the collective bargaining agreement shall be retroactive, the Contractor/Employer agrees to comply with any retroactive terms of the new or modified collective bargaining agreement that are applicable to employees employed on the Project within seven (7) days of execution of the new or modified collective bargaining agreement.

4.2 Any party to this Agreement may institute the following procedure, in lieu of or in addition to any other action at law or equity, when a breach of this Article is alleged to have occurred:

- 1) A party invoking this procedure shall notify, by facsimile or telephone, the party alleged to be in violation, the District representative, and the Santa Clara & San Benito Counties Building and Construction Trades Council and the involved Local Union if a Union is alleged to be in violation of this Article.
- 2) Upon receipt of a notice alleging that a party has breached Article IV, the District shall serve the notice by mail on all other parties to this Agreement and request that the party filing the grievance advise the District of its arbitrator selection preference from the following sources:
 1. American Arbitration Association – Labor Arbitration Rules: Panel of 5 Labor Arbitrators who have experience with labor management disputes involving construction project labor agreements.
 2. JAMS – Employment Practice: Panel of 5 Labor Arbitrators who have experience with labor management disputes involving construction project labor agreements.
 3. Arbitrator John Kagel
 4. Arbitrator Barry Winograd

5. Arbitrator Robert Hirsch

If AAA or JAMS is selected as the source of securing the arbitrator, then the District will arrange with AAA or JAMS to provide the parties to the dispute with a list of five potential arbitrators, all of whom agree to and can hear the dispute within 24 hours. The parties will alternately strike names from the list, with the party filing the grievance striking first, until one name remains from the panel. The District will arrange with AAA or JAMS for the arbitration to take place according to the procedures and rules of AAA or JAMS for labor disputes. If any of the named arbitrators are selected, the District will contact the arbitrator and arrange for the arbitration to be held within twenty-four (24) hours of the Notice being served on the parties by the District. The costs of the arbitration shall be borne equally by the party filing the grievance and the party or parties against which the grievance has been filed, with each party bearing their own attorneys fees and costs.

- 3) The District shall notify the parties by facsimile or telephone of the place and time for the hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party to attend said hearings shall not delay the hearing of evidence or the issuance of any award by the arbitrator.
- 4) The sole issue at the hearing shall be whether or not a violation of Article IV, 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, but its issuance shall not delay compliance with or enforcement of the award. 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.

- 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. Written notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the arbitrator's award as issued under Section 4.2(4) of this Article, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order or 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.
- 6) Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance are waived by the parties.
- 7) The fees and expenses of the arbitrator shall be divided equally between the parties.
- 8) Withholding employees, but not picketing, for failure of a Contractor/Employer to tender trust fund contributions as required in Article IX and/or for failure to meet its weekly payroll is not a violation of this Article; *provided* the applicable Union provides written notice to the affected Contractor/Employer, the Program/Construction Manager, and the District seventy-two (72) hours prior to exercising its rights under this provision and an opportunity to cure the delinquency by rendering payment to the applicable employees or Trust Funds.

ARTICLE V

PRE-CONSTRUCTION CONFERENCE

- 5.1** A pre-construction conference shall be held when requested by any party to this Agreement prior to the commencement of the Construction Contract. Such conference shall be attended by a representative each from the participating Contractor/Employer(s) and Union(s), and the Program/Construction Manager.

ARTICLE VI

NO DISCRIMINATION

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

ARTICLE VII

UNION RECOGNITION

- 7.1** The Contractor/Employer(s) recognize the Union(s) as the sole and exclusive bargaining representative of all craft employees working within the scope of this Agreement.
- 7.2** No employee covered by this Agreement can be required to join any Union as a condition of being first employed on the Project; provided, however, that an employee who is a member of the referring Union at the time of the referral shall maintain that membership while employed under the Agreement. All employees shall, however, comply with the union security provision of the applicable Schedule A Agreement for the period during which they are performing on-site Project work, except as modified by this Agreement. All such employees shall be

required to pay such monthly dues, or service dues, “working dues” or administrative dues as are uniformly required of employees working under this Agreement and subject to the full security provisions of the applicable Schedule A.

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

ARTICLE VIII

REFERRAL

- 8.1** The Union(s) shall be the primary source of all craft labor employed on the Project. Contractor/Employer(s) shall be bound by and utilize the registration facilities and referral systems established or authorized by the signatory Unions when such procedures are not in violation of federal or state law. The Contractor shall have the right to determine the competency of all employees and may reject any referral for any reason provided that the Contractor complies with Section 6.1 (No Discrimination) hereof, and the applicable Schedule A
- 8.2** The Parties recognize the Owner’s commitment to provide opportunities to participate on the Project to emerging business enterprises as well as other enterprises that may not have previously had a relationship with the Unions signatory to this Agreement. To ensure that such enterprises will have an opportunity to employ their “core” employees on this Project, the parties agree that in those situations where a Contractor not a party to a current collective bargaining agreement with the signatory Union having jurisdiction over the affected work is a successful bidder, the Contractor may request by name, and the local will honor, referral of core non-apprentice persons who have applied to the Local Union for Project work and who demonstrate to the Local Union dispatcher and provide satisfactory proof of all of the following qualifications:

- (1) possess any and all license(s) required by state or federal law for the Project work to be performed;
- (2) have worked a total of at least five thousand (5,000) hours in the appropriate construction craft ;
- (3) were on the Contractor's active payroll for at least ninety (90) out of the one-hundred twenty (120) calendar days prior to the contract award; and
- (4) have the ability to perform safely the basic functions of the applicable trade.

As its first employee for work on the Project, the Union shall refer a worker pursuant to the referral procedures referenced in Section 8.1, above. The Contractor may then directly employ one (1) of its qualified "core employees" that is referred pursuant to the referral procedures referenced in Section 8.1. This alternating procedure of referral shall continue until a maximum of five (5) qualified "core employees" have been referred to the Contractor. The maximum number of "core employees" employed by a Contractor under this procedure shall be five (5). All additional employees shall be requested and referred pursuant to Section 8.1, above. On layoffs, the Contractor shall reverse the alternating process with respect to the employment of "core employees" on the Project such that with the employment of ten (10) or fewer employees, there is an equal number or fewer "core employees" in relation to those workers referred by the Union employed on construction work under the Scope of this Agreement. The Contractor shall notify the appropriate Union of the name and Social Security number of each regular, experienced employee to work on the Project and each such employee shall register with the Union's hiring hall before commencing work on the Project. If there is any question regarding an employee's eligibility under this Subsection 8.1, the Contractor shall provide satisfactory proof of such at a Union's request.

8.3 In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor/Employer(s) for employees within a forty eight (48) hour period after such requisition is made in writing by the

Contractor/Employer(s), the Contractor/Employer(s) shall be free to obtain work persons from any source.

- 8.4** Unions will exert their utmost efforts to recruit sufficient numbers of skilled craftpersons to fulfill the requirements of the Contractor/Employer(s). Additionally the parties to this Agreement, including the Program/Construction Manager(s), support the development of increased numbers of skilled construction workers from the residents of the East San Jose Area to meeting the needs of the Project and the requirements of the industry generally. Toward that end, the Unions agree to encourage the referral and utilization, to the extent permitted by law and the hiring hall procedures of the Local Unions and the standards of the Apprenticeship programs, of qualified residents residing in the following zip codes listed in (Appendix B) in partnership with the Program/Construction Manager(s), as journeymen and apprentices on this Project including entrance into such apprenticeship programs as may be operated by the signatory Unions. Additionally the Program/Construction Manager(s) under contract to the District for the Project will sponsor and participate in an apprenticeship awareness program and summer internship in conjunction with the parties to this Agreement as outlined in (Appendix B).
- 8.5** Each contractor or subcontractor performing work on the Project shall, for each apprenticeable craft that it employs, employ on its regular workforce the ratio of apprentices as required by Labor Code Section 1777.5 who are enrolled and participating in a “Bona Fide Apprenticeship Program.”
- 8.6** Helmets to Hardhats Program. The Parties recognize the Unions’ participation in the “Helmets-to-Hardhats” program and the District’s desire to facilitate the entry into the Building and Construction Trades of veterans who are interested in careers in the building and construction industry. The Employers and the Unions agree to utilize services for the Center for Military Recruitment, Assessment and Veteran’s Employment (hereinafter “Center”) and the orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls,

counseling and mentoring, support network, employment opportunities and other needs of such veterans. The Employers and the Unions agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on the Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience. The experience and practical knowledge of veterans will be reviewed and tested by the applicable Joint Apprenticeship Training Committee. Applicants will be placed at the appropriate stage of apprenticeship or at the journey level as the case may be. Final decision will be the responsibility of the applicable Joint Apprenticeship Training Committee.

ARTICLE IX

WAGES, HOURS AND FRINGE BENEFITS

- 9.1** The wages, hours, fringe benefits and terms and conditions of employment on the Project shall be governed by California prevailing wages and the applicable “Schedule A” of the affected craft(s) as listed in Appendix C.
- 9.2** All Contractor/Employer(s) agree to pay contributions to the established vacation, pension or other form of deferred compensation plan, apprenticeship, and health benefit funds in the amounts designated in the Master Agreements of the appropriate Local Unions for those employees so defined in Section 7.2. The Contractor/Employers shall not be required to pay contributions to any other trust funds to satisfy their obligation under this Article except that Contractor/Employers who are signatory to collective bargaining agreements with the respective trades shall continue to pay all trust fund contributions as outlined in such collective bargaining agreements.
- 9.3** By signing this Agreement, the Contractor/Employers adopt and agree to be bound by the written terms of the legally established Trust Agreements, as described in 9.1, specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds.

- 9.4** If a contractor fails to pay wages or benefits, the District agrees to honor a properly submitted, legally enforceable Stop Notice. Nothing in this Agreement, however, shall be construed to limit or prevent the Unions or Trust Funds from asserting or enforcing legal rights to collect delinquent wages or benefit contributions.
- 9.5** Nothing in this Agreement shall be construed as prohibiting employees from refusing to work if such refusal is based on the failure of his or her employer to timely pay wages or fringe benefit contributions, if such refusal to work is allowed by the applicable Schedule A. Prior to withholding employees for failure to timely pay wages and/or benefits, the Union shall give the affected Contractor/Employer, Program/Construction Manager, and the District seventy-two (72) hours advance written notice.

ARTICLE X

COMPLIANCE

- 10.1** It shall be the responsibility of the Contractor/Employers and Unions to investigate and monitor compliance with the provisions of the Agreement contained in Article IX. The District through the services of the Program/Construction Manager(s) shall monitor compliance with the prevailing wage and public works requirements of the State, and institute compliance enforcement measures to ensure the Contractor/Employer's compliance with the contract conditions of the Construction Contract.

ARTICLE XI

JOINT ADMINISTRATIVE COMMITTEE

- 11.1** The parties to this Agreement shall establish a four (4) person Joint Administrative Committee. This Committee shall be comprised of two (2) representatives selected by the District and two (2) representatives of the signatory Unions. Each representative shall designate an alternate who shall serve

in his or her absence for any purpose contemplated by this Agreement. The Joint Administrative Committee shall meet as required but not less than once each 3-months to review the implementation of the Agreement and the progress of the Project and resolve problems and/or grievances by majority vote, with such resolutions to be binding on all signatories of the Agreement as provided herein. Any question regarding the meaning, interpretation, or application of the provisions of this Agreement shall be referred directly to the Joint Administrative Committee for resolution.

ARTICLE XII

GRIEVANCE ARBITRATION PROCEDURE

12.1 The parties understand and agree that in the event any dispute arises out of the meaning, interpretation or application of the provisions of this Agreement, the same shall be settled by means of the procedures set out herein. No grievance shall be recognized unless the grieving party (Local Union or District Council on its own behalf, or on behalf of an employee whom it represents, or a contractor on its own behalf) provides notice in writing to the signatory party with whom it has a dispute within ten (10) days after becoming aware of the dispute but in no event more than thirty (30) days after it reasonably should have become aware of the event giving rise to the dispute. The time limits may be extended by mutual written agreement of the parties.

12.2 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 Business Representative of the involved Local Union or District Council, or his/her designee, or the representative of the employee, and the representative of the involved Contractor/Employer shall confer and attempt to resolve the grievance.

Step 2: In the event that the representatives are unable to resolve the dispute within the five (5) business days after its referral to Step 1, either involved party may submit

it within three (3) business days to the Joint Administrative Committee, which shall meet within five (5) business days after such referral (or such longer time as is mutually agreed upon by all representatives on the Joint Administrative Committee), to confer in an attempt to resolve the grievance. If the dispute is not resolved within such time (five (5) business days after its referral or such longer time as mutually agreed upon) it may be referred within five (5) business days by either party to Step 3.

Step 3: Within five (5) business days after referral of a dispute to Step 3, the party filing the grievance will advise the District of its arbitrator selection preference from the following sources:

1. American Arbitration Association – Labor Arbitration Rules: Panel of 5 Labor Arbitrators who have experience with labor management disputes involving construction project labor agreements.
2. JAMS – Employment Practice: Panel of 5 Labor Arbitrators who have experience with labor management disputes involving construction project labor agreements.
3. Arbitrator John Kagel
4. Arbitrator Barry Winograd
5. Arbitrator Robert Hirsch

If AAA or JAMS is selected as the source of securing the arbitrator, then the District will arrange with AAA or JAMS to provide the parties to the dispute with a list of five potential arbitrators. The parties will alternately strike names from the list, with the party filing the grievance striking first, until one name remains from the panel. The District will arrange with AAA or JAMS for the arbitration to take place according to the procedures and rules of AAA or JAMS for labor disputes. If any of the named arbitrators are selected, the District will contact the arbitrator and arrange for the arbitration to be held as soon as possible. The costs of the arbitration shall be borne equally by the party filing the grievance and the

party or parties against which the grievance has been filed, with each party bearing their own attorneys fees and costs. It is understood that this grievance arbitration procedure will be used to resolve disputes regarding the language of the Project Labor Agreement, but will not be used to resolve disputes over language of Schedule A contract. Those disputes will be resolved under the dispute resolution procedures contained in the Schedule A contract. The decision of the Arbitrator shall be 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 as soon as practicable from the date of his/her selection. A written opinion may be requested by a party from the presiding Arbitrator.

The time limits specified in any step of the Grievance Procedure set forth in Section 12.2 may be extended by mutual agreement of the parties initiated by the written request of one party to the other, at the appropriate step of the Grievance Procedure. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without a request for an extension of time, shall be deemed a waiver of such grievance without prejudice, or without precedent to the processing of and/or resolution of like or similar grievances or disputes.

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.

ARTICLE XIII

JURISDICTIONAL DISPUTES

- 13.1** The assignment of Covered Work will be solely the responsibility of the Contractor/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.

13.2 All jurisdictional disputes on this Project between or among the building and construction trades Unions and the Contractor/Employers party 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 Contractor/Employer and Unions party to this Agreement.

13.2.1 For the convenience of the parties, and in recognition of the expense of travel between Northern California and Washington, DC, at the request of any party to a jurisdictional dispute under this Agreement an Arbitrator shall be chosen by the procedures specified in Article V, Section 5, of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch, and Thomas Pagan, and the Arbitrator’s hearing on the dispute shall be held at the offices of the applicable Building and Construction Trades Council. All other procedures shall be as specified in the Plan.

13.3 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractor/Employer’s assignment shall be adhered to until the dispute is resolved. Individuals violating this Section shall be subject to immediate discharge.

ARTICLE XIV

MANAGEMENT RIGHTS

14.1 The Contractor/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, however, the lawful manning provisions of the applicable Schedule A's shall be recognized on the Project.

ARTICLE XV

SAVINGS CLAUSE

15.1 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.

The parties also agree that in the event that 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.

ARTICLE XVI

TERM

16.1 The Agreement shall be included as a condition of the award of all Construction Contracts on the Project.

16.2 The Agreement shall continue in full force and effect until the completion of the Project.

Dated: _____

SANTA CLARA & SAN BENITO COUNTIES
BUILDING & CONSTRUCTION TRADES
COUNCIL

By _____
CEO

Dated: _____

EAST SIDE UNION HIGH SCHOOL DISTRICT
(DISTRICT)

By _____

UNION SIGNATORIES

ASBESTOS WORKERS LOCAL 16

BOILERMAKERS LOCAL UNION 549

BAC LOCAL UNION 3

IBEW LOCAL 332

**ELEVATOR CONSTRUCTORS
LOCAL UNION 8**

**ARCHITECTURAL METAL & GLASS
WORKERS LOCAL UNION 1621**

IRON WORKERS LOCAL UNION 377

LABORERS LOCAL UNION 270

OPERATING ENGINEERS LOCAL 3

PAINTERS LOCAL UNION 507

PLASTERERS LOCAL UNION 300

**CARPET, LINEOLEUM & SOFT TILE
WORKERS LOCAL 12**

**OPERATIVE PLASTERERS AND
CEMENT MASONS LOCAL UNION 400**

**UNITED ASSOCIATION, PLUMBERS
& FITTERS LOCAL UNION 393**

ROOFERS LOCAL UNION 95

**SHEET METAL WORKERS
INTERNATIONAL UNION LOCAL 104**

**SIGN & DISPLAY & ALLIED
CRAFTS LOCAL UNION 510**

**UNITED ASSOCIATION, SPRINKLER
FITTERS LOCAL UNION 483**

TEAMSTERS LOCAL UNION 287

**NORTHERN CALIFORNIA
CARPENTERS REGIONAL COUNCIL**

LABORERS LOCAL 67

APPENDIX A. AGREEMENT TO BE BOUND

The undersigned, as a Contractor or Subcontractor ("Employer") performing work for the East Side Union High School District which are paid for in full or in part with Measure G, E, and I Bond monies, including State matching monies, (hereinafter "Project"), for and in consideration of the award to it of a contract to perform work on said Project, and in further consideration of the mutual promises made in the Project Labor Agreement for the Project (hereinafter "Agreement"), a copy of which was received and is acknowledged, hereby:

1. Accepts and agrees to be bound by the terms and conditions of this Agreement and all Appendices, together with any and all amendments and supplements now existing or which are later made to said Agreement.
2. Certifies that it has no commitments or agreements which would preclude its full and complete compliance with the terms and conditions of said Agreement;
3. Agrees to secure from any Contractor (as defined in said Agreement) which is or becomes a subcontractor (of any tier) to it, and from any successors, a duly executed Agreement To Be Bound in form identical to this document.
4. Has read and understands Article VIII (Referral) of this Agreement and accepts that the Unions are the primary source of all craft labor employed on the Project and that Contractor/Employers shall be bound by and utilize the registration facilities and referral systems of the signatory Unions.
5. Employer agrees that it shall be bound by all applicable trust agreements and plans for the provision of such fringe benefits as accrue to the direct benefit of the employees including, but not limited to, Health and Welfare, Pension, Training, Vacation and/or other direct benefits provided pursuant to the appropriate craft agreement contained in Schedule "A" of the Project Agreement.

Date _____ Company Name _____

Name of Prime Contractor or
Higher Level Subcontractor _____

Signature _____ Print Name _____

Title _____ Contractor's License # _____

Project Name _____ Bid # _____

APPENDIX B

Construction Technology Academy. The Parties have agreed to participate in the District's Construction Technology Academy ("Academy"), funded by the District, to carry out the training and employment objectives of Appendix B. The overall objectives are to (a) offer opportunities and skills necessary to enter post-secondary study and to pursue lifelong learning within the broader context of the building trades industry; and (b) develop and reinforce academic course content standards in order to maximize career opportunities and technical competency.

Industry Steering Committee. In order to facilitate the goals of the Academy, the District and Council agree to continue as members of the Santa Clara County Construction Careers Association (S4CA). S4CA will provide technical assistance and job placement and tracking services on behalf of the District for students who enter and graduate the Construction Technology program and will act as the Industry Steering Committee. The purpose of the Industry Steering Committee will be to assist and aid in the Program/Class delivered by the District. Additionally S4CA and the Council will actively work to identify sources for educational and financial support including State and Federal funding for the program.

1) Annual Training Summer Sessions. Annual summer intern training sessions developed by the Industry Steering Committee shall be made available for qualified District students nominated by the District.

a) Purpose of Summer Training Sessions. The purpose of the summer intern training sessions is to teach the interns employable skills in the construction trades. The skill sets to be taught by the District shall, in part, include materials taken from a curriculum known as "SCANS" which identifies and teaches such general employability skills as dependability, responsibility, working with other people, active listening (i.e., receiving and responding to instruction), organizing work tasks, and utilizing technology. The other skill sets shall include the proper use of tools of the construction trades in addition to practical application of skills in the construction trades. The sessions shall include classroom and job visit components.

2) ***Employment of Interns/Graduates.*** The Building Trades Council and the District working through S4CA shall make arrangements for contractors working under this Construction Careers Agreement to employ both interns and graduates selected by the District. Up to twenty (20) interns annually shall be paid no less than \$10.00 per hour for on the job training, but not for periods of time attending the classroom training sessions. The sessions shall occur over a minimum of four and a maximum of five weeks for summer internship positions. Due to safety, prevailing wage, and related issues, the interns shall not be employed directly on the public works projects that are the subject of the Construction Careers Agreement and this Appendix B. Up to twenty (20) graduates selected by the District annually shall be paid no less than fifteen collars (\$15.00) per hour for work in job classifications unless employed as an apprentice, and then the appropriate hourly rate determined by the appropriate apprentice program will apply.

3) ***Intern Program and Priority on California Apprenticeship Council Approved Program Apprenticeship Lists.***

a) ***Priority on Apprenticeship List.*** The training and employment program of the interns has been developed by the Academy Steering Committee such that graduating interns shall possess the skills, training, and educational background to help the graduate achieve priority on the lists of the Building Trades Apprenticeship Programs for those which maintain a list and direct entry for those programs where direct entry is possible. It is recognized that the Apprenticeship Programs operate according to existing Standards approved by the Division of Apprenticeship Standards of the State of California Department of Industrial Relations and the standards set forth in the collective bargaining agreements for each building trade. Therefore, in order to maximize the opportunity that graduates may achieve a priority standing on an apprenticeship list or direct entry to an apprenticeship program, the Industry Steering Committee shall develop a plan for an annual assessment of the goals and objectives set out in this Appendix B and in so doing, shall coordinate with the District's Career Services representative. The annual program assessment by the Industry Steering Committee shall follow the completion of each summer internship program.

4) **Binding Effect.** This Agreement is binding on the parties, as per Appendix A to this Construction Careers Agreement, and their successors and assigns. However, nothing in this Appendix B shall supersede the provisions of the Construction Careers Agreement, a Schedule A labor agreement or the approved standards for any Building Trades apprenticeship program.

AGREEMENT OF CONTRACTOR

I, _____, by affixing my signature hereto, understand that with the support of the Building and Construction Trades Council, the General Contractor and all subcontractors have agreed to work with the Program Manager and the Industry Steering Committee to provide construction employment opportunities on this project, for qualifying participants (interns/graduates) in the District's Construction Technology Academy program.

The Industry Steering Committee will recruit, screen, and refer qualified individuals for employment opportunities through the building and construction trades unions.

The Committee will also provide retention services to individuals referred to this project for employment. Program Manager will serve as the lead agency for the committee, and as such, will be the agency that contractors will contact to provide appropriate employment information as described below.

I understand that as a contractor on this project, my participation in the Committee's employment program is mandatory and by execution of this Construction Careers Agreement, the obligations contained herein are incorporated by reference into and acknowledged as a material term of the existing agreement the undersigned has with the general contractor and/or the District for work on the Project.. Specifically, I agree to comply with the following requirements:

- 1) To contact and provide the following information to Program Manager of all apprentice level job openings on this project in a timely manner *when requested*:
 - a) description of the job, including the trade;
 - b) specific qualifications, skills, and any other job requirements;

- c) person's name and telephone number at my business who will be responsible for answering questions regarding the job opening; and
- d) description of how applicants should apply for the job.

2) To work cooperatively with the Program Manager and make good faith efforts to employ qualified individuals referred by the Program Manager. "Good faith efforts" as it applies to this project shall mean:

a) To offer the Program Manager the first opportunity to provide qualified individuals for employment consideration on apprentice level positions, subject to any collective bargaining agreements, and the standards approved by the Division of Apprenticeship Standards, Department of Industrial Relations, State of California.

b) To interview all qualified candidates referred by the committee and to not reject any of these individuals without reasonable justifications;

c) To request construction trades unions to dispatch qualified individuals referred by the Committee by name when feasible, as permitted under the appropriate Collective Bargaining Agreement, and rules and regulations of the Division of Apprenticeship Standards, Department of Industrial Relations, State of California.

d) To make best efforts to hire candidates referred by the Committee when they are equally or better qualified than all other job applicants for the particular job opening. Offer the Program Manager the first opportunity to provide qualified individuals for employment.

e) Good faith efforts will have been met if contractor employs one or more qualifying program graduates on this project or a non-District project in an apprentice employment position, or in the alternative, in an employment position which shall be compensated at a taxable wage rate of not less than \$15.00 per hour and which shall be intended as an entryway to an apprentice position. At the discretion of the District, good faith efforts can also be met by employing one or more "interns" for the summer internship program for a period of up to 5 weeks at non less than \$10.00 per hour. In the event that the contractor is unable to hire an intern because the geographical location of the contractor's place of business is not practical for the intern or because the

contractor does not have an office trailer on site, the intern will be dispatched to a community organization such as Habitat for Humanity to complete his/her internship program. The community organization will pay the intern the above agreed wages. The contractor will then reimburse the community organization for the wages paid the intern plus a fee to cover the cost of internship supervision on a weekly basis.

3) Upon notice of failure to employ one or more qualifying program graduates, contractor will be required within thirty (30) days to employ local student(s) from the program that have participated in a construction technology academy by the District in work positions when such student(s) are available for dispatch from the Program Manager.

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

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

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

Date _____ Company Name _____

Name of Prime Contractor or
Higher Level Subcontractor _____

Signature _____ Print Name _____

Title _____ Contractor's License # _____

Project Name _____ Bid # _____

APPENDIX C - LIST OF SCHEDULE A LABOR AGREEMENTS

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**PROJECT LABOR AGREEMENT
FOR ALL MEASURE G, E, AND I BOND PROJECTS
FOR THE
EAST SIDE UNION HIGH SCHOOL DISTRICT**