



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: 1st District Supervisor
Department No.: 064
For Agenda Of: 2/9/2010
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Board Member Salud Carbajal, First District Supervisor
Director(s)
Contact Info: Susan Paul, Assistant CEO/HR Director 568-2817
**SUBJECT: Policy Direction – Establishment of A Local Jobs Capital Project
Construction Stabilization Agreement**

County Counsel Concurrence

As to form: Select_Concurrence

Other Concurrence: Select_Other

As to form: Select_Concurrence

Auditor-Controller Concurrence

As to form: Select_Concurrence

Recommended Actions:

That the Board of Supervisors set a hearing for February 16, 2010 to consider:

- 1) Adoption of policy direction to establish a Local Jobs Construction Stabilization Agreement for certain County government capital projects,
- 2) Direct staff to proceed with the necessary coordination, negotiation, and preparation of documents needed to establish such an agreement; and
- 3) Return to the Board within 45 days with an agreement for adoption.

Summary:

A Local Jobs Construction Stabilization Agreement is a contractually binding agreement negotiated between the County and the Building and Construction Trade Unions. It is a form of pre-hire agreement that guarantees local jobs, uniform wages, benefits, and work rules across multiple crafts employed on certain construction projects. Such an agreement guarantees skilled labor on the project and the development of learning and career opportunities through established apprenticeship programs. Once negotiated the Agreement becomes part of the bid specification for certain construction projects and remains in effect for the duration of the project.

Background:

Construction Stabilization Agreements (CSA's) have been used in the construction industry since the 1930s on large public and private sector projects. For public construction projects there are economic benefits from systematizing and formalizing the labor terms under which construction projects are completed. These types of agreements promote efficiency and can lower costs on large construction projects. Wages, benefits, work rules, and grievance procedures are spelled out for all contractors and subcontractors. Following are key facts about CSAs:

- Achieves economic benefits related to streamlining and formalizing labor terms under which projects are completed
- Saves time and money in renegotiating terms for each subcontractor
- Controls project cost overruns
- Reduces risk of construction delays from worker shortages or labor disputes
- Streamlines and promotes efficiency and lower costs, particularly for larger projects
- Uses local/skilled labor
- Allows contractors to know their project employment costs before they submit bids on a project
- Fosters cooperation between the construction workforce and management
- Provides for apprenticeship training programs to ensure a future pipeline of expert trades workers
- Gives the public authority significant control over a project
- Ensures labor harmony if pre-existing collective bargaining agreements expire during the project (i.e. no-strike/no lock-out provisions)
- All contractors – unionized and non-unionized can bid on projects
- Ensures a steady supply of trained and qualified workers
- Has a history of being successfully used

The current economic downturn has caused vast unemployment in California's construction industry. In the year ending in June 2009, the State lost almost a fifth (18.6%) of its construction jobs, the greatest percentage among all major industries¹. CSAs can promote economic opportunity in the community through apprenticeship programs and local hire policies. Apprenticeship is a combination of on-the-job training and related instruction in which workers learn the practical and theoretical aspects of a highly skilled occupation². Apprenticeships are time intensive and require high standards of performance.

Local hire policies provide local jobs and incentivize the creation of career ladders by moving community members into apprenticeship programs and into mid-class careers. Such policies, which are part of a CSA, can include provisions that provide opportunities for "at-risk" residents and are a concrete way to ensure the investment of public funds to help low income residents. With the construction industry shifting to a green economy, there is a focus on new skills needed to respond to climate change and high energy costs. These changes will create new construction job opportunities.

Establishing a Local Jobs Construction Stabilization Agreement will require discussion with stakeholders and negotiation with the Building and Construction Trade Unions. It is recommended that the Board of Supervisors adopt policy direction to establish such an agreement and direct staff to proceed with the necessary coordination and negotiation and return to the Board within 45 days with an Agreement for adoption.

Fiscal and Facilities Impacts:

Special Instructions:

Attachments:

Authored by: Susan Paul

cc:

¹ California Employment Department Labor Market Division 2009. California Employment Highlight for July 2009. Current Employment Statistics (CES) Program.

² U.S. Department of Labor Apprenticeship www.dol.gov/dol/topic/traning/apprenticeship

COUNTY OF SANTA BARBARA PILOT PROJECT
-- LOCAL CONSTRUCTION WORKFORCE AGREEMENT --
(APPLICABLE TO NEW CONSTRUCTION AND CAPITAL
PROJECTS AS DESIGNATED BY THE BOARD OF SUPERVISORS)

Effective Date:

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COUNTY OF SANTA BARBARA PILOT PROGRAM
-- LOCAL CONSTRUCTION WORKFORCE AGREEMENT --
(APPLICABLE TO NEW CONSTRUCTION AND CAPITAL IMPROVEMENT
PROJECTS AS DESIGNATED BY THE BOARD OF SUPERVISORS)

This Local Construction Workforce Agreement (hereinafter, "AGREEMENT") is entered into, and effective as of, the date executed by the Chair of the Board of Supervisors, by and between the County of Santa Barbara, a political subdivision of the State of California, and its successors or assigns, (hereinafter the "County"), the Tri-Counties Building and Construction Trades Council (hereinafter the "Council"), and the signatory Craft Unions (hereinafter, collectively, the "Union" or "Unions"). This Agreement establishes the labor relations Policies and Procedures for the County and for the craft employees represented by the Unions engaged in the County's designated building construction and capital improvement program projects (hereinafter the "Project" or "Project Work"), provided that those projects have been designated by the Board of Supervisors ("Board") as set forth below.

Eric 2/15/11 1:21 PM

Comment [1]: Why are only unions allowed to "negotiate"?!

It is understood and agreed by the Parties to this Agreement that this Agreement will become the policy of the County for designated Pilot Program Project Work to be awarded to and performed by contractors who agree to execute and be bound by the terms of this Agreement, directly or through the Letter of Assent (a form of which is attached as "Attachment A"), and to require each of its subcontractors, of whatever tier, to become bound. The County may include, directly or by incorporation by reference, the requirements of this Agreement in the advertisement of and/or specifications for Project Work to be awarded by the County.

Eric 2/15/11 1:22 PM

Comment [2]: So this is a PLA by another name

It is further understood and agreed that the County shall actively administer and enforce the obligations of this Agreement to ensure that the benefits envisioned from it flow to all signatory parties, the contractors and crafts persons working under it, and the residents and students of the County. The County shall therefore designate a "Project Labor Coordinator," either from its own staff or an independent contractor acting on behalf of the County, to monitor compliance with this Agreement; assist, as the authorized representative of the County, in developing and implementing the programs referenced herein, all of which or critical to fulfilling the intent and purposes of the Parties and this Agreement; and to otherwise implement and administer the Agreement. For such purposes, each contractor recognizes and appoints the Project Labor Coordinator, its successors or assigns, as its agent.

Eric 2/15/11 2:46 PM

Comment [3]: How much will taxpayers have to pay this "Project Labor Coordinator"?

The County Board of Supervisors shall designate the next capital improvement project ready to bid after this Agreement is approved, that is over \$1,000,000 as the Pilot Program Project. Following this project, the County's Board of Supervisors shall have discretion to review this Agreement, renegotiate terms as appropriate, and designate additional construction and capital improvement projects, to abide by this Agreement so long as they are over \$1,000,000. The term "Contractor" as used in this Agreement includes any contractor to whom the County awards a construction contract through its public bidding process for Project Work, and also to subcontractors of whatever tier utilized by such contractors for Project Work. The term "Contractor" includes any individual, firm, partnership, or corporation, or combination thereof, including joint ventures, which as an independent contractor has entered into a contract with the County with respect to the Project Work, or with another contractor as a subcontractor for Project Work.

Eric 2/15/11 1:23 PM

Comment [4]: The county will now have to assume all of this work and monitoring!

Eric 2/15/11 1:24 PM

Comment [5]: So this will not just be for the "pilot project" but all projects.

The term "designated," as used herein, shall be defined as an express designation by the Santa Barbara County Board of Supervisors that certain new construction or capital improvement

program work is subject to the terms of this Agreement.

The term "Responsible Contractor" as used in this Agreement shall be defined as one that has a record of complying with federal, state and local government requirements for the determination of workplace wages, hours and conditions, including prevailing wages, apprenticeship, safety, workers' compensation and contract code and contractor licensing. A Contractor shall be presumed to be responsible hereunder if it has no record of prevailing wage violations in the last five years. The term "Labor/Management Apprenticeship Program" as used in this Agreement shall be defined as a jointly administered apprenticeship program certified by the State of California. County reserves the right to determine whether any Contractor is not a Responsible Contractor within the meaning of the Public Contract Code.

As to project work designated by the Board of Supervisors as subject to this Agreement, the Union and all contractors agree to abide by the terms and conditions of this Agreement and agree that this Agreement represents the complete understanding of the parties. No contractor is or will be required to sign or otherwise become a party to any other collective bargaining agreement with a signatory union as a condition of performing work within the scope of this Agreement. No practice, understanding or agreement between a contractor and a Union party which is not specifically set forth in this Agreement shall be binding on any third party contractor or union on designated Project Work unless endorsed in writing by the Project Labor Coordinator.

The Parties agree that this Agreement will be made available to, and will fully apply to, any successful bidder for designated Project Work, without regard to whether that successful bidder performs work at other sites on either a union or non-union basis. This Agreement shall not apply to any work of any contractor other than that on Project Work specifically covered by this Agreement.

The use of masculine or feminine gender or titles in this Agreement should be construed as including both genders and not as gender limitations unless the Agreement clearly requires a different construction. Further, the use of Article titles and/or Section headings is for information only, and carries no legal significance.

ARTICLE 1 INTENT AND PURPOSE

Section 1.1 Background. The County's new construction projects will affect the buildings and offices that are owned, leased or controlled by the County. The goal of this Project is to provide new construction of the County's facilities so as to provide sufficient facilities and technologies to properly serve the public within the County's boundaries. The County, therefore, wishing to utilize the most modern, efficient and effective procedures for construction, including assurances of a sufficient supply of skilled craft persons, and the elimination of disruptions or interference with designated Project Work, adopts this Agreement in the best interests of the County and the taxpayers of the County, to meet the County's goal that designated Project work be completed on time and within budget.

Section 1.2 Identification and Retention of Skilled Labor and Employment. The vast amount of designated new construction and capital improvement work to be performed will require large numbers of craft personnel and other supporting workers. It is therefore the explicit understanding and intention of the parties to this Agreement to use the opportunities provided by the extensive amount of work to be covered by this Agreement to identify and promote, through

Eric 2/15/11 1:27 PM

Comment [6]: Has any of this been a problem in the past? Any of it? What are the FACTS?

cooperative efforts, programs and procedures (which may include, for example, programs to prepare persons for entrance into formal apprenticeship programs, or outreach programs to the community describing opportunities available as a result of the Project), the interest and involvement of County residents in the construction industry; assist them in entering the construction trades, and through utilization of the joint labor/management sponsored apprenticeship programs, provide training opportunities for those County residents and other individuals wishing to pursue a career in construction. Further, with assistance of the Project Labor Coordinator, the County, the contractors, the Unions and their affiliated regional and national organizations, will work jointly to promptly develop and implement procedures for the identification of craft needs, the scheduling of work to facilitate the utilization of available craft workers, and the securing of services of craft workers in sufficient numbers to meet the high demands of the Project Work to be undertaken.

Eric 2/15/11 1:28 PM

Comment [7]: This happens every day in Santa Barbara and California without a PLA.

Section 1.3 Encouragement of Small Local Business. The designated Projects will provide many opportunities for local small business enterprises to participate as contractors or suppliers, and the parties therefore agree that they will cooperate with all efforts of the County, the Project Labor Coordinator, and other organizations retained by the County for the purpose, to encourage and assist the participation of local small businesses in Project Work. Specifically, all parties understand that the County's goals place a strong emphasis on the utilization of small, local business on the Project. Each party agrees that it shall employ good faith efforts to obtain maximum local small business participation in an effort to achieve such goals. This may include, for example, participation in outreach programs, education and assistance to businesses not familiar with working on a project of this scope, and the encouragement of local residents to participate in designated Project Work through programs and procedures jointly developed to prepare and encourage such local residents for apprenticeship programs and formal employment on designated Projects through the referral programs sponsored and/or supported by the parties to this Agreement. Further, the parties shall ensure that the provisions of this Agreement do not inadvertently establish impediments to participation of such small local businesses and residents of the County.

Eric 2/15/11 1:30 PM

Comment [8]: Were small businesses asked their opinions on this? What are the facts with regards to small business participation on past projects?

Section 1.4 Project Cooperation. The parties recognize that the construction designated to take place under this Agreement involves unique and special circumstances which dictate the need for the parties to develop specific procedures to promote high quality, rapid and uninterrupted construction methods and practices. The smooth operation and successful and timely completion of the work is vitally important to the residents of the County. The parties therefore agree that maximum cooperation among all parties involved is required; and that with construction work of this magnitude, with multiple contractors and crafts performing work on multiple sites of over an extended period of time, it is essential that all parties work in a spirit of harmony and cooperation, and with an overriding commitment to maintain the continuity of designated Project Work. Further, the parties recognize that an Act of God or on Act of War could require the County to partially or fully suspend Project Work. The parties shall fully cooperate with any request by the County to suspend Project Work or redirect their equipment, skills and expertise to support the County's efforts necessitated by such events.

Eric 2/15/11 1:31 PM

Comment [9]: What does this even mean? Has this EVER been a problem in the past? Again, we have a solution in search of a problem.

Section 1.5 Resolution of All Disputes Independent of Project Work. In recognition of the special needs of the Project and to maintain a spirit of harmony, labor-management peace and stability during the term of this Agreement, the parties agree to establish effective and binding methods for the settlement of all misunderstandings, disputes and grievances; and in recognition of such methods and procedures, the unions agree not to engage in any strike, slowdowns or interruptions or disruption of Project work, and the contractors agree not to engage in any lockout.

Eric 2/15/11 1:32 PM

Comment [10]: So in exchange for a monopoly agreement unions promise to not strike. Really?

Section 1.6 Binding Agreement on Parties and Inclusion of County Residents and Business. By executing this Agreement, the County, Council, Unions and contractors agree to be bound by each and all of the provisions of this Agreement, and pledge that they will work together in good faith to adopt, develop and implement processes and procedures which are inclusive of the residents and businesses of the County.

ARTICLE 2 SCOPE OF THE AGREEMENT

Section 2.1 General. This Agreement shall apply and is limited to designated new construction, and capital improvement work as described in Section 2.2 of this Article, performed by those contractor(s) of whatever tier that have contracts awarded for such work, for the development of the County's facilities which, jointly, constitute the Project, and have been designated by the County for new construction or major rehabilitation, the prime contract for which is awarded more than 30 days after the effective date of this Agreement, all of which are hereinafter referred to as the "Project" or "Project Work". This Agreement shall not apply to construction projects or major rehabilitation projects approved and funded prior to the Effective Date of this Agreement, or any Project Work not specifically designated for inclusion under this Agreement.

Section 2.2 Specific. The Project is defined and limited to designated construction and major rehabilitation work pursuant to prime multitrade construction contracts that exceed One Million Dollars (\$1,000,000).

Section 2.3 Exclusions. Items specifically excluded from the Scope of this Agreement include the following:

- (a) Work of non-manual employees, including but not limited to: Superintendents; supervisors; staff engineers; quality control and quality assurance personnel; time keepers, mail carriers, clerks, office workers, messengers; guards, safety personnel, emergency medical and first aid technicians; and other professional, engineering, administrative, supervisory and management employees;
- (b) Equipment and machinery owned or controlled and operated by the County;
- (c) All off-site manufacture and handling of materials, equipment or machinery except for items to be fabricated by the Sheet Metal, Electrical and Pipe Fitting Trades; provided, however, that lay down or storage areas for equipment or material and manufacturing (prefabrication) sites, dedicated solely to the Project or Project Work, and the movement of materials or goods between locations on a Project site are within the scope of this Agreement;
- (d) All employees of the County, Project Labor Coordinator, design teams (including, but not limited to architects engineers and master planners), or any other consultants for the County (including, but not limited to, project managers and construction managers and their employees were not engaged in Project Work) and their sub-consultants, and other employees of professional service organizations, not performing manual labor within the scope of this Agreement; provided, however, that it is understood and agreed that Surveyor, Building/Construction Inspector and Field Soils and Materials Testers (Inspectors) are a covered craft under this Agreement. (This inclusion applies to the scope of work defined in the State of California Wage Determination for said Craft. Every Inspector performing under the Wage classification of Building/Construction Inspector and Field Soils and Material Testers under a professional services agreement of a construction contract shall be bound to all applicable requirements of this Agreement.) Nothing in this section will be construed to include Department

- of State Architects-certified inspectors as included under the scope of this Agreement;
- (e) Any work performed on or near or leading to or into a site of work covered by this Agreement and undertaken by state, county, city or other governmental bodies, or their contractors; or by public utilities, or their contractors; and/or by the County or its contractors (for work for which is not within the scope of this Agreement);
 - (f) Off-site maintenance of leased equipment and on-site supervision of such work;
 - (g) Work by employees of a manufacturer or vendor necessary to maintain such manufacturer's or vendor's warranties or guaranty;
 - (h) Non-construction support services contracted by the County, Project Labor Coordinator, or contractor in connection with this Project;
 - (i) Laboratory work for testing;

Section 2.4 Awarding of Contracts.

- (a) The County and/or the contractors, as appropriate, have the absolute right to award contracts or subcontracts on this Project to any contractor notwithstanding the existence or non-existence of any agreements between such contractor and any union parties, provided only that such contractor is willing, ready and able to execute and comply with this Agreement should such contractor be awarded work covered by this Agreement.
- (b) It is agreed that all contractors and subcontractors of whatever tier, who have been awarded contracts for work covered by this Agreement, shall be required to accept and be bound the terms and conditions of this Agreement, and shall evidence their acceptance by the execution of the Agreement or of the Letter of Assent as set forth in Attachment A hereto, prior to the commencement of work. No contractor or subcontractor shall commence Project Work without having first provided a copy of the Agreement or Letter of Assent as executed by it to the Project Labor Coordinator and to the Council 48 hours before the commencement of Project Work, or within 48 hours after the award of Project Work to that contractor (or subcontractor), whichever occurs later.
- (c) The County agrees that to the extent permitted by law and consistent with the economy and efficiency of construction and operation, it will use its best efforts to purchase materials, equipment and supplies which will not create labor strife. Under all circumstances, however, the County shall retain the absolute right to select the lowest reliable and responsible bidder for the award of contracts on all projects.

Section 2.5 Coverage Exception. The Parties agree and understand that this Agreement shall not apply to any work that would otherwise be covered Project Work except when a governmental agency or granting authority partially or fully funding such Project Work determines that it will not find if such Project Work is covered by this Agreement; or a law regulation, proposition or measure prohibits such coverage or the use by the County, or for its benefit, of particular funds if such coverage exists.

Section 2.7 Schedule A's.

(a) The provisions of this Agreement, including the Schedule A's, (which are the local collective bargaining agreements of the signatory unions having jurisdiction over the work on the Project, as such may be changed from time-to-time consistent with Article 21, Section 21.3, and which are incorporated herein by reference) shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreement which may conflict with or differ from the terms of this Agreement. However, such does not apply to work performed under the National Cooling Tower Agreement, the National Stack Agreement, the National Transit Division Agreement (NTD), or within the jurisdiction of the International Union of Elevator Constructors, except that Articles dealing with Work Stoppages ad Lock-Outs, Work Assignments and Jurisdictional Disputes, and Settlement of Grievances and Disputes shall apply

Eric 2/15/11 1:34 PM

Comment [11]: What happened to section 2.6?

to such work. It is specifically agreed that no later agreement shall be deemed to have precedence over this Agreement unless signed by all parties signatory hereto who are then currently employed or represented at the Project. Where a subject covered by the provisions of this Agreement is also covered by a Schedule A, the provisions of this Agreement shall apply. Where a subject is covered by a provision of a Schedule A and not covered by this Agreement, the provisions of the Schedule A shall prevail. Any dispute as to the applicable source between this Agreement and any Schedule A for determining the wages, hours of working conditions of employees on this Project shall be resolved under the procedures established in Article 10.

(b) The parties intend and agree that wages for all Project Work shall be those wages specified in the applicable prevailing wage determinations of the Director of Industrial Relations. Those determinations shall supersede any pay provisions in Schedule A's, including but not limited to special, bonus, scaffold, hazard or overtime pay.

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

Section 2.8 Binding Signatories Only. 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.

Section 2.9 Other County Work. This Agreement shall be limited to the construction work within the Scope of this Agreement including, specifically, site preparation and related demolition work, and new construction and major rehabilitation work for projects designated by the Board of Supervisors as provided for in Section 2.2 above. Nothing contained herein shall be interpreted to prohibit, restrict, or interfere with the performance of any other operation, work or function not covered by this Agreement, which may be performed by County Employees or contracted for by the County for its own account, on its property or on property under its control.

Section 2.10 Separate Liability. It is understood that the liability of the contractor(s) and the liability of the separate unions under this Agreement shall be several and not joint. This Agreement shall not create or be deemed to create any joint employment status between or among the County or Project Labor Coordinator and/or any contractor.

Section 2.11 Completed Project Work. As areas of covered work are accepted by the County, this Agreement shall have no further force or affect on such items or areas except where the contractor is directed by the County or its representatives to engage in repairs, modification, check-out and/or warranties functions required by its contract(s) with the County.

ARTICLE 3 UNION RECOGNITION AND EMPLOYMENT

Section 3.1 Recognition. The Contractor recognizes the Council and the signatory local

Eric 2/15/11 1:37 PM

Comment [12]: So a non-union contractor must now become familiar with a union's collective bargaining agreement? What small business has staff that can read through such a massive document let alone be expected to understand it?

Unions as the exclusive bargaining representative for the employees engaged in Project Work. Such recognition does not extend beyond the period when the employee is engaged in Project Work.

Section 3.2 Contractor Selection of Employees. The Contractor shall have the right to determine the competency of all employees, the number of employees required, the duties of such employees within their craft jurisdiction, and shall have the sole responsibility for selecting employees to be laid off, consistent with Section 3.3 and with Article 4, Section 4.3, below. The contractor shall also have the right to reject any applicant referred by a Union for any reason, subject to any reporting pay required by Article 6, Section 6.6; provided, however, that such right is exercised in good faith and not for the purpose of avoiding the Contractor's commitment to employ qualified workers through the procedures endorsed in this Agreement.

Section 3.3 Referral Procedures

(a) For signatory unions now having a job referral system contained in a Schedule A, the contractor agrees to comply with such system and it shall be used exclusively by such contractor, except as modified by this Agreement. Such job referral system will be operated in a nondiscriminatory manner and in full compliance with federal, state, and local laws and regulations which require equal employment opportunities and non-discrimination. All of the foregoing hiring procedures, including related practices affecting apprenticeship, shall be operated so as to consider the goals of the County to encourage employment of County residents and utilization of small local businesses on the Project, and to facilitate the ability of all contractors to meet their employment needs. The local unions will exert their best efforts to recruit and refer sufficient numbers of skilled craft workers to fulfill the labor requirements of the contractor, including specific employment obligations to which the contractor may be legally and/or contractually obligated; and to refer apprentices as requested to develop a larger, skilled workforce. The local Unions will work with their affiliated regional and national unions, and jointly with the Project Labor Coordinator and others designated by the County, to identify and refer competent craft persons as needed for Project Work, and to identify and hire individuals, particularly residents of the County, for entrance into joint labor/management apprenticeship programs, or to participation in other identified programs and procedures to assist individuals in qualifying and becoming eligible for such apprenticeship programs, all maintained to increase the available supply of skilled craft personnel for Project Work and future construction of maintenance work to be undertaken by the County.

(b) The Union shall not knowingly refer an employee currently employed by a contractor on Project Work to any other contractor.

Section 3.4 Non-Discrimination in Referral, Employment, and Contracting

The Unions and contractors agree that they will not discriminate against any employee or applicant for employment on the basis of race, color, religion, gender, national origin, age, union status, sexual orientation, marital status or disability. Further, it is recognized that the County has certain policies, programs, and goals for the utilization of local small business enterprises. The parties shall jointly endeavor to assure that these commitments are fully met, and that any provisions of this Agreement which may appear to interfere within a local small business enterprises successfully bidding for work within the scope of this Agreement shall be carefully reviewed, and adjustments made as may be appropriate and agreed upon among the parties, to ensure full compliance with the spirit and letter of the County's policies and commitment to its goals for the significant utilization of local small businesses as direct contractors or suppliers.

Section 3.5 Employment of County Residents.

(a) In recognition of the County's mission to serve the County and its residents, the Unions and

Eric 2/15/11 1:38 PM

Comment [13]: Why should a contractor lose control of his workforce?

Eric 2/15/11 1:46 PM

Comment [14]: So a non-union contractor must now send his workers through a union hiring hall in the hope of getting them back for this job. Akin to forcing the L.A. Lakers to swap half their team with the Denver Nuggets and be expected to play cohesively. Cannot be done.

Eric 2/15/11 1:47 PM

Comment [15]: Ironic in that this entire agreement exists to discriminate against a whole class of people.

contractors agree that, to the extent allowed by law, and as long as they possess the requisites skills and qualifications, residents of the County shall be first referred for Project Work, including journey person, apprentice, or other positions which may be established under a Schedule A and covered by the applicable prevailing wage for utilization on Project Work, until at least 50% of the positions for Project Work for a particular contractor (including the contractor's "core workforce"), by craft, have been filled with County residents; provided, however, that in circumstances determined by the County, the Project Labor Coordinator shall furnish a contractor and the affected Union(s) with a designated list of zip codes for which employment preference shall be given in lieu of general County residency, up to a minimum of 50 percent of such contractor's work force, by craft, where available); and (b) only if (1) at least 50% of the positions for any one contractor, by individual craft, are filled by County residents; or (2) such individuals are not available, may others be referred to that contractor for Project Work.

(c) The Project Labor Coordinator shall work with the Unions and contractors in the administration of this local residency preference; and the contractors and Unions shall cooperate by maintaining adequate records to demonstrate to the Project Labor Coordinator that such preferences have been pursued. As part of this process, and in order to facilitate the contract administration procedures, as well as appropriate benefit fund coverage, all contractors shall require their "core work force" and any other persons employed other than through the referral process, to register with the appropriate hiring hall, if any.

Section 3.5.1 Reduction of Workforce/Layoff.

In the event of a reduction in force of layoff, such will take place in a manner to assure that residents of County are the last to be laid off or displaced and that the number of non-resident employees in the affected craft does not exceed the number of employees who reside in Santa Barbara County. This provision is not intended to limit transfer provisions of any current labor agreement of any trade or Schedule "A" incorporated herein.

Section 3.6 Helmets to Hardhats. The employers and the 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 employers and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center") and the Center's "Helmets to hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the Parties. The Unions and Employers agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on this Project and of apprenticeship and employment opportunities for this project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

Section 3.7 Core Employees. Except as otherwise provided in separate collective bargaining agreement(s) to which the contractor is signatory, (a) A contractor may employ, as needed, first, a member of his core workforce, then an employee through a referral from the appropriate union hiring hall, then a second core employee, and a second employee through the referral system, and so on until a maximum of three (3) core employees are employed, after which all further employees shall be employed pursuant to the other provisions of this Article, starting with Section 3.3. In laying off, an employer with six (6) or less employees, the number of core employees shall not exceed one-half plus one of the workforce, assuming the remaining employees are qualified to undertake the work available.

(b) A general and/or multi-trade contractor (not engaged in specialty work) may first employ his core workforce prior to utilizing the referral procedures.

Eric 2/15/11 1:50 PM

Comment [16]: So the local hire provision is only a goal that can be gotten out in many ways. Question: What have been the results of PLAs when it comes to employing "local workers"? What is the County's history regarding local hire? Have less than 50% of the workforce on past projects been done with workers who are not county residents? What are the FACTS?

Eric 2/15/11 1:52 PM

Comment [17]: What this means is that union "travelers" (workers from out of state who have more seniority than local workers) still get preference.

Eric 2/15/11 1:54 PM

Comment [18]: We always enjoy the union movement taking time to recognize our brave men and women in uniform. What is disgusting is when such service is used to justify anti-freedom initiatives like a PLA. Helmets to Hardhats does not require a PLA to utilize, it should also be pointed out.

Eric 2/15/11 1:55 PM

Comment [19]: So a non-union contractor can use THREE of his employees maximum!

- (c) The core work force is comprised of those employees:
- (1) whose names appeared on the contractor's active payroll for fifty (50) of the one hundred (100) working days before award of Project Work to the contractor;
 - (2) who possess any license required by state or federal law for the Project Work to be performed; and
 - (3) who have the ability to safely perform the basic functions of the applicable trade.
- (d) If there are any questions regarding a core employee's eligibility under this provision, the Project Labor Coordinator, at the Council's request, shall obtain appropriate proof of such from the contractor. For proof of employment eligibility, quarterly tax records or payroll records normally maintained by the contractor (or officially recognized substitutes) shall be utilized; and for residency, adequate proof thereof through drivers license, voter registration, postal address, or other official acknowledgements.
- (e) In making referrals pursuant to this section, the Union shall first refer workers residing in Santa Barbara County whenever such workers are available. If no such workers are available, the Union may refer other workers.

Section 3.8 Time for Referral. If any Union's registration and referral system does not fulfill the requirements for specific classifications of covered employees (including residency standards) requested by any contractor within forty-eight (48) hours (excluding Saturdays, Sundays and holidays), that contractor may use employment sources other than the union registration and referral services, and may employ applicants meeting such standards from any other available source. The contractor should promptly inform the Union of any applicants hired from other sources, and such applicants shall register with the appropriate hiring hall, if any.

Section 3.9 Lack of Referral Procedure. If a signatory local Union does not have a job referral system as set forth in Section 3.3 above, the contractors shall give the union equal opportunity to refer applicants. The contractors shall notify the union of employees so hired, as set forth in Section 3.5.

Section 3.10 Union Membership. No employee covered by this Agreement shall be required to join any union as a condition of being employed, or remaining employed, for the completion of Project Work; provided, however, that any employee who is a member of the referring union at the time of referral shall maintain that membership in good standing while employed under this Agreement. All employees shall, however, be required to comply with the union security provisions of the applicable Schedule A for the period during which they are performing on-site Project Work to the extent, as permitted by law, of rendering payment of the applicable monthly working dues and any non-initiation or application fees uniformly required for membership in the Union.

Section 3.11 Individual Seniority. Except as provided in Article 4, Section 4.3, individual seniority shall not be recognized or applied to employees working on the Project; provided, however, that group and/or classification seniority in a Union's Schedule A as of the effective date of this Agreement shall be recognized for purposes of layoffs.

Section 3.12 Foremen. The selection and number of craft foreman and/or general foreman shall be the responsibility of the contractor. All foremen shall take orders exclusively from the designated contractor representatives.

Eric 2/15/11 1:57 PM

Comment [20]: So you don't have to join a union you just have to pay union dues while employed on the project. This is what is known as a distinction without a difference. What do union dues run per trade?

ARTICLE 4
UNION ACCESS AND STEWARDS

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

Section 4.2 Stewards.

- (a) Each signatory local Union shall have the right to dispatch a working journey person as a steward for each shift, and shall notify the contractor in the writing of the identity of the designated steward or stewards prior to the assumption of such person's duties as steward. Such designated steward or stewards shall not exercise any supervisory functions. There will be no non-working stewards. Stewards will receive the regular rate of pay for their respective crafts.
- (b) In addition to his/her work as an employee, the steward should have the right to receive, but not to solicit, complaints or grievances and to discuss and assist in the adjustment of the same with the employee's appropriate supervisor. Each steward should be concerned only with the employees of the steward's contractor and, if applicable, subcontractor(s), and not with the employees of any other contractor. The contractor will not discriminate against the steward in the proper performance of his/her union duties.
- (c) When a contractor has multiple, non-contiguous work locations at one site, the contractor may request and the union shall appoint such additional working stewards as the contractor requests to provide independent coverage of one or more such locations. In such cases, a steward may not service more than one work location without the approval of the contractor.
- (d) The stewards shall not have the right to determine when overtime shall be worked or who shall work overtime.

Section 4.3 Steward Layoff/Discharge. The relevant contractor agrees to notify the appropriate Union twenty-four (24) hours before the layoff of a steward, except in the case of disciplinary discharge for just cause. If the steward is protected against such layoff by the provisions of the applicable Schedule A, such provisions shall be recognized when the steward possesses the necessary qualifications to perform the remaining work. In any case in which the steward is discharged or disciplined for just cause, the appropriate Union will be notified immediately by the contractor, and such discharge or discipline shall not become final (subject to any later filed grievance) until twenty-four (24) hours after such notice have been given.

Section 4.4 Employees on Non-Project Work. On work where the personnel of the COUNTY may be working in close proximity to the construction activities covered by this Agreement, the Union agrees that the Union representatives, stewards, and individual workers will not interfere with the COUNTY personnel, or with personnel employed by any employer not a party to this Agreement.

ARTICLE 5
WAGES AND BENEFITS

Section 5.1 Wages. All employees covered by this Agreement shall be classified in accordance with work performed and paid the hourly wage rates for those classifications in compliance with the applicable prevailing wage rate determination established pursuant to the California Labor Code by the Department of Industrial Relations. If a prevailing rate increases under state law, the contractor shall pay that rate as of its effective date under the law. If the prevailing wage laws are repealed during the term of this Agreement, the contractor shall pay the

Eric 2/15/11 1:59 PM

Comment [21]: This is always helpful. Once again we see one group treated differently than any other. Not in America people.

wage rates established under the Schedule A's, except as otherwise provided in this Agreement.

Section 5.2 Benefits.

(a) Except as provided herein, Contractors shall pay contributions to the established employee benefit funds in the amounts designated in the appropriate Schedule A, and make all employee – authorized deductions in the amounts designated in the appropriate Schedule A; provided, however, that the contractor and Union agree that only such bona fide employee benefits as accrue to the direct benefit of the employees (such as pension and annuity, health and welfare, vacation, apprenticeship, training funds, etc.) shall be included in this requirement and required to be paid by the contractor on the Project; and provided further, however, that such contributions shall not exceed the contribution amounts set forth in the applicable prevailing wage determination.

(b) In making contributions as required by subdivision (a), the contractor adopts and agrees to be bound by the written terms of the applicable, legally established, trust agreement(s) specifying the detailed basis on which payments are to be made into, and benefits paid out of, such trust funds for its employees. The contractor authorizes the parties to such trust funds to appoint trustees and successor trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the contractor.

(c) Each contractor and subcontractor shall certify to the Project Labor Coordinator that all benefit contributions due and owing to the appropriate Trust(s) have been paid prior to the receipt of its final payment and/or retention. Further, upon timely notification and presentation of evidence by a Union to the Project Labor Coordinator, the Project Labor Coordinator shall work with any prime contractor or subcontractor who is determined to be delinquent in payments to assure that proper benefit contributions are made, to the extent of requesting the County or the prime contractor to withhold payments otherwise due such contractor, until such contributions have been made or otherwise guaranteed.

(d) Provided that core work force employees receive fringe benefits in a dollar amount equivalent to or greater than that designated in the appropriate Schedule "A," Contractors employing such employees shall not be obligated to pay the fringe benefit contribution designated in the appropriate Schedule "A" on the core work force so long employees receive such fringe benefits or the dollar equivalent or greater. The Project Labor Coordinator will be responsible for determining whether the benefits are equivalent to or greater than those designated in the Schedule "A's". Contractors shall submit their fringe benefit package to the Project Coordinator for evaluation prior to or at the time of bidding.

(e) The difference between the hourly cost, if any, of the fringe benefit provided and the hourly cost of the applicable Schedule "A" fringe benefit portion of the wage determination may be paid to the worker as wages. Benefits designated in the Schedule "A" will be paid to all employees dispatched by the Union.

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

Section 5.4 Compliance with Prevailing Wage Laws. The parties agree that the Project Labor Coordinator shall monitor the compliance by all contractors and subcontractors with all applicable federal and state prevailing wage laws and regulations, and that such monitoring shall include contractors engaged in what would otherwise be Project Work but for the exceptions to Agreement coverage in Article 2, Section 2.2. All complaints regarding possible prevailing wage violations shall be referred to the Project Labor Coordinator for processing, investigation and resolution, and if not resolved within thirty calendar days, may be referred by any party to the

Eric 2/15/11 2:07 PM

Comment [22]: So a non-union contractor has to justify their benefits to a third party who now gets to subjectively determine the worth of such a benefit package for employees and if that third party (the Project Labor Coordinator) deems the benefits less than equal to union benefits the non-union contractor must pay TWICE, once into his existing program and then into the union program. Question: What is the vesting period for union trades when it comes to being able to receive medical, leave and retirement benefits? If the non-union worker does not work on the PLA covered project long enough to become vested, is that money in fact lost to the non-union worker?

ARTICLE 6
HOURS OF WORK, OVERTIME, SHIFTS AND HOLIDAYS

Section 6.1 Hours of Work. Eight (8) hours per day between the hours of 6:00 a.m. and 5:30 p.m., plus one-half (½) hour unpaid lunch approximately mid-way through the shift, shall constitute the standard work day. Forty (40) hours per week shall constitute a regular week's work. The work week will start on Sunday and conclude on Saturday. The foregoing provisions of this Article are applicable unless otherwise provided in the applicable prevailing wage determination, or unless changes are permitted by law and such are agreed upon by the parties. Nothing herein shall be construed as guaranteeing any employee eight (8) hours per day or forty (40) hours per week, or a Monday through Friday work standard work schedule.

Section 6.2 Place of Work. Employees shall be at their place of work (as designated by the contractor), at the starting time and shall remain at their place of work, performing their assigned functions, until quitting time. The place of work is defined as the gang or tool box or equipment at the employee's assigned work location or the place where the parties reaffirm their policy of a fair day's work for a fair day's wage. There shall be no pay for time not worked unless the employee is otherwise engaged at the direction of the contractor.

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

Section 6.4 Shifts and Alternate Work Schedules.

(a) Alternate starting and quitting time and/or shift work may be performed at the option of the contractor upon three (3) days' prior notice to the affected union(s), unless a shorter notice period is provided for in the applicable Schedule A, and shall continue for a period of not less than five (5) working days. Saturdays and Sundays, if worked, may be used for establishing the five (5) day minimum work shift. If two shifts are worked, it shall be in accordance with the applicable Schedule A.

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

Section 6.5 Holidays. Recognized holidays on this Project shall be those set forth and governed by the prevailing wage determination(s) applicable to this Project, unless or until such may be, and are, revised by mutual agreement of the parties to this Agreement.

Section 6.6 Show-up Pay.

(a) Except as otherwise required by State law, Employees reporting for work and for whom no work is provided, except when given prior notification not to report to work, shall receive two (2) hours pay at the regular straight time hourly rate. Employees who are directed to start work shall receive four (4) hours of pay at the regular straight time hourly rate. Employees who work beyond four (4) hours shall be paid for actual hours worked. Whenever reporting pay is provided

for employees, they will be required to remain at the Project Site and available for work for such time as they receive pay, unless released earlier by the principal supervisor of the contractor(s) or his/her designated representative. Each employee shall furnish his/her contractor with his/her current address and telephone number, and shall promptly report any changes to the contractor.

(b) An employee called out to work outside of his/her shift shall receive a minimum of two (2) hours pay at the appropriate rate. This does not apply to time worked as an extension of (before or after) the employee's normal shift.

(c) When an employee leaves the job or work location of his/her own volition, or is discharged for cause or is not working as a result of the contractor's invocation of Article XII, Section 12.3, the employee shall only be paid for actual time worked.

Section 6.7 "Brassing". The contractor may utilize "brassing" (or similar system) to check employees in and out. Each employee must check himself/herself in and out. The contractor will provide adequate facilities for checking in and out in an expeditious manner.

Section 6.8 Meal Periods. The contractor will schedule a meal period of no more than onehalf hour duration at the work location at approximately mid-point of the schedule shift; provided, however, that the contractor may, for efficiency of the operation, establish a schedule which coordinates the meal periods of two or more crafts. An employee may be required to work through his meal period because of an emergency or a threat to life or property, or for such other reasons as are in the applicable Schedule A, and if he is so required, he shall be compensated in the manner established in the applicable Schedule A.

ARTICLE 7 WORK STOPPAGES AND LOCK-OUTS

Section 7.1 No Work Stoppages or Disruptive Activity. The Council and the Unions signatory hereto agree that neither they, and each of them, nor their respective officers or agents or representatives, shall incite or encourage, condone or participate in any strike, walk-out, slowdown, picketing, observing picket lines or other activity of any nature or kind whatsoever, for any cause or dispute whatsoever with respect to or any way related to Project Work, or which interferes with or otherwise disrupts, Project Work, or with respect to or related to the County or contractors or subcontractors, including, but not limited to, economic strikes, unfair labor practice strikes, safety strikes, sympathy strikes and jurisdictional strikes whether or not the underlying dispute is arbitrable. Any such actions by the Council, or Unions, or their members, agents, representatives or the employees they represent shall constitute a violation of this Agreement. The Council and the Union shall take all steps necessary to obtain compliance with this Article and neither should be held liable for conduct for which it is not responsible.

Section 7.2 Employee Violations. The Contractor may discharge any employee violating Section 7.1 above and any such employee will not be eligible for rehire under this Agreement.

Section 7.3 Standing to Enforce. The County, the Contractor Administrator, or any contractor affected by an alleged violation of Section 7.1 shall have standing and the right to enforce the obligations established therein.

Section 7.4 Expiration of Schedule A's. All employees shall continue to work and to perform all their obligations with respect to Project Work despite the expiration of any Schedule A Agreement. Should a contractor engaged in Project Work enter into an interim agreement with the Union for work being performed elsewhere after the expiration, and before the renewal, of a

Eric 2/15/11 2:11 PM

Comment [23]: Have PLAs had strikes, slowdowns and work stoppages on them? If PLAs are needed to stop these threats then why do multiple sections of the PLA lay out how to deal with them should they occur?

local collective bargaining agreement forming the basis for Schedule A, such interim agreement shall be utilized by that contractor for Project Work (subject to the provisions of Article 21, Section 21.3, Paragraph 2).

Section 7.5 No Lockouts. Contractors shall not cause, incite, encourage, condone or participate in any lock-out of employees with respect to Project Work during the term of this Agreement. The term "lock-out" refers only to a contractor's exclusion of employees in order to secure collective bargaining advantage, and does not refer to the discharge, termination or layoff of employees by the contractor for any reason in the exercise of rights pursuant to any provision of this Agreement, or any other agreement, nor does "lock-out" include the COUNTY's decision to stop, suspend or discontinue any Project Work or any portion thereof for any reason.

Section 7.6 Best Efforts To End Violations.

(a) If a contractor contends that there is any violation of this Article, Section 8.3 of Article 8, or the provisions of Article 21, Section 21.4, it shall notify, in writing, the Executive Secretary of the Council, the Senior Executive of the involved Union(s) and the Project Labor Coordinator. The Executive Secretary and the leadership of the involved Union(s) will immediately instruct, order and use their best efforts to cause the cessation of any violation of the relevant Article.

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

Section 7.7 Expedited Enforcement Procedure. Any party, including the County, which the parties agree is a party to the Agreement for purposes of this Article and an intended beneficiary of this Article, or the Project Labor Coordinator, may institute the following procedures, in lieu of or in addition to any other action at law or equity, when a breach of Section 7.1 or 7.5, above, or Section 8.3 of Article 8, or Section 21.4 of Article 21, is alleged.

(a) The party invoking this procedure shall arrange for arbitration through the American Arbitration Association according to its usual procedures. Notice to the arbitrator shall be by the most expeditious means available, with notices to the parties alleged to be in violation, and to the Council if it is a union alleged to be in violation. For purposes of this Article, written notice may be given by telegram, facsimile, hand delivery or overnight mail and will be deemed effective upon receipt.

(b) Upon receipt of said notice, an arbitration proceeding shall be scheduled at the earliest possible opportunity if it is contended that the violation still exists, but not sooner than twentyfour (24) hours after notice has been dispatched to the Executive Secretary and the Senior Official(s) as required by Section 7.6, as above.

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

(d) The sole issue at the hearing shall be whether or not a violation of Sections 7.1 or 7.5, above, of Section 8.3 of Article 8, or Section 21.4 of Article 21, has in fact occurred. The arbitrator shall have no authority to consider any matter in justification, explanation or mitigation of such violation or to award damages, (except for damages as set forth in 7.8 below) which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without an opinion. If any party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay

compliance with, or enforcement of, the Award. The arbitrator may order cessation of the violation of the Article and other appropriate relief, and such Award shall be served on all parties by hand or registered mail upon issuance.

(e) Such award shall be final and binding on all parties and may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to herein above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other party. In any judicial proceeding to obtain a temporary order enforcing the arbitrator's Award as issued under Section 7.7(d) of this Article, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order of enforcement. The court's order or orders enforcing the arbitrator's award shall be served on all parties by hand or by delivery to their address as shown on this Agreement (for a Union), as shown on their business contract for work under this Agreement (for a contractor) and to the representing Union (for an employee), by certified mail by the party or parties first alleging the violation.

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

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

Section 7.8 Liquidated Damages.

(a) If the Arbitrator determines in accordance with Section 7.7 above that a work stoppage has occurred, the respondent Union(s) shall, within eight (8) hours of receipt of the award, direct all the employees they represent on the Project to immediately return to work. If the craft(s) involved do not return the work by the beginning of the next regularly scheduled shift following such eight (8) hour period after receipt of the arbitrator's award, and the respondent Union(s) have not complied with their obligations to immediately instruct, order and use their best efforts to cause a cessation of the violation and return the employees they represent to work, then the non-complying respondent Union(s) shall each pay a sum as liquidated damages to the County, and each will pay an additional sum per shift, as set forth in (c), below, for each shift thereafter on which the craft(s) has not returned to work.

(b) If the arbitrator determines in accordance with Section 7.7 above that a lock-out has occurred, the respondent contractor(s) shall, within eight (8) hours after receipt of the award, return all the affected employees to work on the Project, or otherwise correct the violations found by the arbitrator. If the respondent contractor(s) do not take such action by the beginning of the next regular scheduled shift following the eight (8) hour period, each noncomplying respondent contractor shall pay or give as liquidated damages, to the affected Union(s) (to be apportioned among the affected employees and the benefit funds to which contributions are made on their behalf, as designated by the arbitrator) and each shall pay an additional sum per shift, as set forth in (c), below, for each shift thereafter in which compliance by the respondent contractor(s) has not been completed.

(c) The arbitrator shall retain jurisdiction to determine compliance with this Section and to establish the appropriate sum of liquidated damages, which shall not be less than \$1,000.00 (One Thousand Dollars) and no more than \$15,000.00 (Fifteen Thousand Dollars) per shift for each non-complying entity.

ARTICLE 8 WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

Section 8.1 Assignment of Work. The assignment of work will be solely the responsibility of the contractor performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the “Plan”) currently in effect, or any successor plan.

Section 8.2 The Plan. All jurisdictional disputes between or among Building and Construction Trades Unions, shall be settled and adjusted according to the Plan, or any other plan or method of procedures that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the contractors and Union.

Section 8.3 No Work Disruption Over Jurisdiction. All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, disruption, or slow down of any nature, and the contractor’s assignments shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

Section 8.4 Pre-Job Conferences. As provided in Article 21, each contractor will conduct a pre-job conference with the appropriate affected Union(s) prior to commencing work. The Council and the Project Labor Coordinator shall be advised in advance of all such conferences and may participate if they wish.

Section 8.5 Resolution of Jurisdictional Disputes. If any actual or threatened strike, sympathy strike, work stoppage, slow down, picketing, hand-billing or otherwise advising the public that a labor dispute exists, or interference with the progress of Project Work by reason of a jurisdictional dispute or disputes occurs, the parties shall exhaust the expedited procedures set forth in the Plan, if such procedures are in the plan then currently in affect, or otherwise as in Article 7 above.

ARTICLE 9 MANAGEMENT RIGHTS

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

- (a) Plan, direct and control operations of all work;
- (b) Hire, promote, transfer and layoff their own employees, respectively, as deemed appropriate to satisfy work and/or skill requirements;
- (c) Promulgate and require all employees to observe reasonable job rules and security and safety regulations;
- (d) Discharge, suspend or discipline their own employees for just cause;
- (e) Utilize, in accordance with County approval, any work methods, procedures or techniques, and select, use and install any types or kinds of materials, apparatus or equipment, regardless of source of manufacture or construction; assign and schedule work at their discretion; and
- (f) Assign overtime, determine when it will be worked and the number and identity of employees engaged in such work, subject to such provisions in the applicable Schedule A(s) requiring such assignments be equalized or otherwise made in a nondiscriminatory manner.

Eric 2/15/11 2:16 PM

Comment [24]: What is “The Plan”? Do non-union contractors have to read this massive document before agreeing to a PLA? How many small businesses have staff that they can dedicate to reading this document?

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

- (a) Inspect any construction site or facility to ensure that the contractor follows the applicable safety and other work requirements;
- (b) At its sole option, terminate, delay and/or suspend any and all portions of the covered work at any time; prohibit some or all work on certain days or during certain hours of the day to accommodate the ongoing operations of the County's educational facilities and/or to mitigate the effect of ongoing Project Work on businesses and residents in the neighborhood of the Project site; and/or require such other operational or schedule changes it deems necessary, in its sole judgment, to effectively maintain its primary mission and remain a good neighbor to those in the area of its facilities. (In order to permit the contractors and unions to make appropriate scheduling plans, the County will provide the Project Labor Coordinator, and the affected contractor(s) and union(s) with reasonable notice of any changes it requires pursuant to this section; provided, however, that if notice is not provided in time to advise employees not to report for work, show-up pay shall be due pursuant to the provision of Article 6, Section 6.6);
- (c) Approve any work methods, procedures and techniques used by contractors whether or not these methods, procedures or techniques are part of industry practices or customs; and
- (d) Investigate and process complaints, through its Project Labor Coordinator, in the matter set forth in Articles 7 and 10.

Section 9.3 Use of Materials. Except for items to be fabricated by the Sheet Metal, Electrical and Pipe Fitting Trades, there shall be no limitations or restriction by Union upon a contractor's choice of materials or design, nor, regardless of source or location, upon the full use and utilization, of equipment, machinery, packaging, precast, prefabricated, prefinished, or preassembled materials, tools or other labor saving devices, subject to the application of the State Public Contracts and Labor Codes as required by law in reference to offsite construction. All offsite fabrication is excluded from the scope of this Agreement, except for work covered by the Sheet Metal Workers, Electrical Workers and Pipefitters MLA's. The County and its Project Labor Coordinator shall advise all contractors of, and enforce as appropriate, the off-site application of the prevailing wage law as it affects Project Work.

Section 9.4 Special Equipment, Warranties and Guaranties.

- (a) It is recognized that certain equipment of a highly technical and specialized nature may be installed at Project Work sites. The nature of the equipment, together with the requirements for manufacturer's warranties, may dictate that it be prefabricated prepiped and/or pre-wired and that it be installed under the supervision and direction of the County's and/or manufacturer's personnel. The Unions agree that such equipment is to be installed without incident.
- (b) The parties recognized that the contractor will initiate from time to time the use of new technology, equipment, machinery, tools, and other labor-savings devices and methods of performing Project Work. The Union agrees that they will not restrict the implementation of such devices or work methods. The Unions will accept and will not refuse to handle, install or work with any standardized and/or catalogue: parts, assemblies, accessories, prefabricated items, preassembled items, partially assembled items, or materials whatever their source of manufacture or construction.
- (c) If any disagreement between the contractor and the Unions concerning the methods of implementation or installation of any equipment, or device or item, or method of work, arises, or whether a particular part or pre-assembled item is a standardized or catalog part or item, the work will precede as directed by the contractor and the parties shall immediately consult over the matter. If the disagreement is not resolved, the affected Union(s) shall have the right to proceed

through the procedures set forth in Article 10.

Section 9.5 No Less Favorable Treatment. The parties expressly agree that Project Work will not receive less favorable treatment than that on any other project which the Unions, contractors and employees work.

ARTICLE 10 SETTLEMENT OF GRIEVANCES AND DISPUTES

Section 10.1 Cooperation and Harmony on Site.

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

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

(c) The Project Labor Coordinator shall oversee the processing of grievances under this Article and Articles 7 and 8, including the scheduling and arrangements of facilities for meetings, selection of the arbitrator from the agreed-upon panel to hear the case, and any other administrative matters necessary to facilitate the timely resolution of any dispute; provided, however, it is the responsibility of the principal parties to any pending grievance to insure the time limits and deadlines are met.

Section 10.2 Processing Grievances. Any questions arising out of and during the term of this Agreement involving its interpretation and application, which includes applicable provisions of the Schedule A's, but not jurisdictional disputes or alleged violations of Article 7 Section 7.1 and 7.4 and similar provisions, shall be considered a grievance and subject to resolution under the following procedures.

Step 1. Employee Grievances. When any employee subject to the provisions of this Agreement feels aggrieved by an alleged violation of this Agreement, the employee shall, through his local union business representative or, job steward, within ten (10) working days after the occurrence of the violation, give notice to the work site representative of the involved contractor stating the provision(s) alleged to have been violated. A business representative of the local Union or the job steward and the work site representative of the involved contractor shall meet and endeavor to adjust the matter within ten (10) working days after timely notice has been given. If they fail to resolve the matter within the prescribed period, the grieving party may, within ten (10) working days thereafter, pursue Step 2 of this grievance procedure provided the grievance is reduced to writing, setting forth the relevant information, including a short description thereof, the date on which the alleged violation occurred, and the provision(s) of the Agreement alleged to have been violated. Grievances and disputes settled at Step 1 shall be non precedential except as to the parties directly involved. Union or Contractor Grievances. Should the Union(s) or any contractor have a dispute with the other party(ies) and, if after conferring within ten (10) working days after the disputing party knew or should have known of the facts or occurrence giving rise to the dispute, a settlement is not reached within five (5) working days, the dispute shall be reduced to writing and processed to Step 2 in the same manner as outlined in 1(a) above for the adjustment of an employee complaint.

Step 2. The business manager of the involved local Union or his designee, together with

Eric 2/15/11 2:18 PM

Comment [25]: That sounds wonderful, as long as you are NOT a non-union contractor.

the site representative of the involved contractor, and the labor relations representative of the Project Labor Coordinator, shall meet within seven (7) working days of the referral of the dispute to this second step to arrive at a satisfactory settlement thereof. If the parties fail to reach an agreement, the dispute may be appealed in writing in accordance with the provisions of Step 3 within seven (7) calendar days after the initial meeting at Step 2.

Step 3.

(a) If the grievance shall have been submitted but not resolved under Step 2, either the Union or contractor party may request in writing to the Project Labor Coordinator (with copy(ies) to the other party(ies)) within seven (7) calendar days after the initial Step 2 meeting, that the grievance be submitted to the American Arbitration Association according to its procedures. The decision of the arbitrator shall be final and binding on all parties and the fee and expenses of such arbitrations shall be borne equally by the involved contractor(s) and the involved union(s).

(b) Failure of the grieving party to adhere to the time limits established herein shall render the grievance null and void. The time limits established herein may be extended only by written consent of the parties involved at the particular step where the extension is agreed upon. The arbitrator shall have the authority to make decisions only on issues presented and shall not have the authority to change, amend, add to or detract from any of the provisions of this Agreement.

Section 10.3 Limit on Use of Procedures. Procedures contained in this Article shall not be applicable to any alleged violation of Articles 7 or 8, with a single exception that any employee discharged for violation of Article 7, Section 7.2, or Article 8, Section 8.3, may resort to the procedures of this Article to determine only if he/she was, in fact, engaged in that violation. Section 10.4 Notice. The Project Labor Coordinator (and the County, in the case of any grievance regarding the Scope of this Agreement), shall be notified by the involved contractor of all actions at Steps 2 and 3, and further, the Project Labor Coordinator shall, upon its own request, be permitted to participate fully as a party in all proceedings at such steps.

ARTICLE 11 REGULATORY COMPLIANCE

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

Section 11.2 Monitoring Compliance. The parties agree that the County shall require, and that the Project Labor Coordinator and Council shall monitor, compliance by all contractors and subcontractors with all federal and state laws regulation that, from time to time may apply to Project Work. It shall be the responsibility of both the Council and the Project Labor Coordinator (on behalf of the County) to investigate or monitor compliance with these various laws and regulations. The Council may recommend to the Project Labor Coordinator and/or the County procedures to encourage and enforce compliance with these laws and regulations.

Section 11.3 Prevailing Wage Compliance. The Council or Union shall refer all complaints regarding any potential prevailing wage violation to the Project Labor Coordinator, who may process, investigate and resolve such complaints, or refer them to the Director of Industrial Relations, Division of Labor Standards Enforcement. The Council or Union, as appropriate, shall be advised in a timely manner with regard to the facts and resolution, if any, of

any complaint. It is understood that this Section does not restrict any individual rights as established under the State Labor Code, including the rights of an individual to file a complaint with the State Labor Commissioner.

Section 11.4 Violations of Law. Based upon a finding of violation by the County of a federal and state law, and upon notice to the contractor that it or its subcontractors is in such violation, the County, in the absence of the contractor or subcontractor remedying such violation, shall take such action as it is permitted by law or contract to encourage that contractor to come into compliance, including, but not limited to, assessing fines and penalties and/or removing the offending contractor from Project Work. Additionally, in accordance with the Agreement between the County and the contractor, the County may cause the contractor to remove from Project Work any subcontractor who is in violation of state or federal law.

ARTICLE 12 SAFETY AND PROTECTION OF PERSON AND PROPERTY

Section 12.1 Safety.

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

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

(c) The Project Labor Coordinator may, at the request of the County, negotiate with the Union, reasonable substance abuse testing procedures and regulations, which may include pre-hire, reasonable cause, random and post accident testing to the extent permitted by federal and state law. Should the Project Labor Coordinator approve, an established program to which signatory Union(s) are currently a party shall become the project-wide substance abuse testing program, after consultation with the unions. Until there is such a project-wide substance abuse testing procedure negotiated and/or otherwise adopted by the Project Labor Coordinator, such substance abuse testing procedures as are contained in the Schedule As shall be applicable to work on the Project pursuant to their terms.

Section 12.2 Inspection. The inspection of incoming shipments of equipment, machinery, and construction materials of every kind shall be performed at the discretion of the contractor by individuals of its choice.

Section 12.3 Suspension of Work for Safety. A contractor may suspend all or a portion of the job to protect the life and safety of employees. In such cases, employees will be compensated only for the actual time worked; provided, however, that where the contractor requests employees to remain at the site and be available for work, the employees will be compensated for stand-by time at their basic hourly rate of pay.

Section 12.4 Water and Sanitary Facilities. The contractor shall provide adequate supplies of drinking water and sanitary facilities for all employees as required by state law or regulation.

ARTICLE 13
TRAVEL AND SUBSISTENCE

Travel expenses, travel time (unless required by State or Federal law), subsistence allowances and/or zone rates and parking reimbursements shall not be applicable to work under this Agreement, except to the extent provided for in any applicable prevailing wage determination. Parking for employees covered by this Agreement shall be provided by the Contractor(s) according to the provision of the Schedule A(s) existing on the effective date of this Agreement, and upon presentation of proof of any expense incurred.

ARTICLE 14
APPRENTICES

Section 14.1 Importance of Training. The parties recognize the need to maintain continuing support of the programs designed to develop adequate numbers of competent workers in the construction industry, the obligation to capitalize on the availability of the local work force in the area served by the County, and the opportunities to provide continuing work in the construction field. To these ends, the parties will facilitate, encourage, and assist local residents to commence and progress in Labor/Management Apprenticeship and/or training Programs in the construction industry leading to participation in such apprenticeship programs. The County, the Project Labor Coordinator, other County consultants, and the Council, will work cooperatively to identify, or establish and maintain, effective programs and procedures for persons interested in entering the construction industry and which will help prepare them for the formal joint labor/management apprenticeship programs maintained by the signatory unions.

Section 14.2 Use of Apprentices.

(a) Apprentices used on Projects under this Agreement shall be registered in Joint Labor Management Apprenticeship Programs approved by the State of California. Apprentices may comprise up to thirty percent (30%) of each craft's work force at any time, unless the standards of the applicable joint apprenticeship committee confirmed by the State Labor Commissioner establish a lower maximum percentage, and where such is the case, the applicable unions should use its best efforts with the committee and, if necessary, the Commissioner to permit up to thirty percent (30%) apprentices on the project. When available and capable of undertaking the tasks involved, forty percent (40%) of such apprentice workforce of each craft shall consist of first (1st) year apprentices.

(b) The Unions agree to cooperate with the contractor in furnishing apprentices as requested up to the maximum percentage. The apprentice ratio for each craft shall be in compliance, at a minimum, with the applicable provisions of the Labor Code relating to utilization of apprentices. The County shall encourage such utilization, and, both as to apprentices and the overall supply of experienced workers, the Project Labor Coordinator will work with the Council to assure appropriate and maximum utilization of apprentices and the continuing availability of both apprentices and journey persons.

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

(d) To the extent allowed by law, and as long as they possess the requisite skills and qualifications, residents of the County and students and graduates of the County shall be first considered by the Union for any apprenticeships which may be established under a Schedule A

and covered by the applicable prevailing wage for utilization on Project Work, until at least 20% of the positions for apprenticeships for a particular contractor by craft, have been filled with County residents and students and graduates of the County.

Eric 2/15/11 2:21 PM

Comment [26]: Only union apprentices are allowed to work under this agreement. How can anyone support this explicit discrimination?

Section 14.3 Joint Subcommittee on Training and Apprenticeship. To carry out the intent and purposes of this Article, a subcommittee of the Labor Management Committee established pursuant to Article 17 shall be established, jointly chaired by a designee of the County and a designee of the Council, to oversee the identification and/or effective development of procedures and programs leading to the full utilization of apprenticeship programs, and to work with representatives of each signatory craft's joint apprenticeship committee ("JAC") and representatives of the County's technical schools to establish appropriate criteria for recognition by such JAC's of the educational and work experience possessed by County students and graduates toward qualifying for entry or advanced level in the apprenticeship programs under the direction of such JAC's. The Subcommittee will meet as necessary at the call of the joint chairs to promptly facilitate its purposes in an expeditious manner as soon as this Agreement becomes effective. In addition to the joint chairs, the membership of the committee will consist of at least three representatives of the signatory local Unions and three representatives of contractors signatory to this Agreement and experienced in overseeing and participating in joint labor management apprenticeship programs (or organizations to which the contractors belong).

ARTICLE 15 WORKING CONDITIONS

Section 15.1 Rest Periods. There will be no non-working times established during working hours except as may be required by applicable state law or regulations. Rest periods as provided in IWC Order No. 16 (currently ten (10) minutes in each four hours worked) shall apply to all Project Work, consistent with its terms as then in effect. Individual coffee containers and nourishment will be permitted at the employees' work location; however, there will be no organized coffee breaks.

Section 15.2 Work Rules. The County, the Project Labor Coordinator, and/or relevant contractor shall establish such reasonable work rules as they deem appropriate and not inconsistent with this Agreement. These rules will be posted at the work sites by the contractor and may be amended thereafter as necessary. Failure to observe these rules and regulations by employees may be grounds for discipline up to and including discharge.

Section 15.3 Emergency Use of Tools and Equipment. There should be no restrictions on the emergency use of any tools by any qualified employee or supervisor, or on the use of any tools or equipment for the performance of work within the jurisdiction, provided the employee can safely use the tools and/or equipment involved and is compliance with applicable governmental rules and regulations.

Section 15.4 Access Restrictions for Cars. Recognizing the nature of the work being conducted on the site, employee access by a private automobile may be limited to certain roads and/or parking areas.

ARTICLE 16 PRE-JOB CONFERENCES

Consistent with Article 8, Section 8.4, all work assignments should be disclosed by the

contractor at a pre-job conference held in accordance with industry practice. The contractor shall notify the Project Labor Coordinator at least two weeks before starting work under this Agreement, and the Project Labor Coordinator shall coordinate the scheduling of a pre job conference with the Council, the contractor(s) and the affected union(s). Should there be any formal jurisdictional dispute raised under Article 8, the Project Labor Coordinator shall be promptly notified. At the pre-job, the Project Labor Coordinator shall review the County's employment and contracting programs and goals with the participants.

ARTICLE 17
LABOR/MANAGEMENT AND COOPERATION

Section 17.1 Joint Committee. The parties to this Agreement will form a joint committee consisting of representatives selected by the Council and the Project Labor Coordinator, to be chaired jointly by a representative of the Project Labor Coordinator and the Council. The purpose of the Committee shall be to promote harmonious and stable labor management relations on this Project, to ensure effective and constructive communication between labor and management parties, to advance the proficiency of work in the industry, and evaluate and ensure an adequate supply of skilled labor for all Project Work. Representatives of the County may participate upon its request.

Section 17.2 Functions of Joint Committee. The Committee shall meet on a schedule to be determined by the Committee or at the call of the joint chairs, to discuss the administration of the Agreement, the progress of the Project, general labor management problems that may arise, and any other matters consistent with this Agreement. Substantive grievances or disputes arising under Articles 7, 8 or 10 shall not be reviewed or discussed by this Committee, but shall be processed pursuant to the provisions of the appropriate Article. The Project Labor Coordinator shall be responsible for the scheduling of the meetings, the preparation of the agenda topics for the meetings, with input from the Unions the contractors and the County. Notice of the date, time and place of meetings, shall be given to the Committee members at least three (3) days prior to the meeting. The County should be notified of the meetings and invited to send a representative(s) to participate. The Project Labor Coordinator shall prepare quarterly reports on apprentice utilization and the training and employment of County residents, and a schedule of Project work and estimated number of craft workers needed. The Committee, or an appropriate subcommittee, may review such reports and make any recommendations for improvement, if necessary, including increasing the availability of skilled trades, and the employment of local residents or other individuals who should be assisted with appropriate training to qualify for apprenticeship programs.

Section 17.3 Subcommittees. The Committee may form subcommittees to consider and advise the full Committee with regard to safety and health issues affecting the Project and other similar issues affecting the overall Project, including any workers compensation program initiated under this Agreement.

ARTICLE 18
SAVINGS AND SEPARABILITY

Section 18.1 Savings Clause. It is not the intention of the County, the Project Labor

Coordinator, contractor or the Union parties to violate any laws governing the subject matter of this Agreement. The parties hereto agree that in the event any provision of this Agreement is finally held or determined to be illegal or void as being in contravention of any applicable law or regulation, the remainder of the Agreement shall remain in full force and effect unless the part or parts so found to be void are wholly inseparable from the remaining portions of this Agreement. Further, the parties agree that if and when any provision(s) of this Agreement is finally held or determined to be illegal or void by a court of competent jurisdiction, the parties will promptly enter into negotiations concerning the substantive affect of such decision for the purposes of achieving conformity with the requirements of any applicable laws and the intent of the parties hereto. If the legality of this Agreement is challenged and any form of injunctive relief is granted by any court, suspending temporarily or permanently the implementation of this Agreement, then the parties agree that all Project Work that would otherwise be covered by this Agreement should be continued to be bid and constructed without application of this Agreement so that there is no delay or interference with the ongoing planning, bidding and construction of any Project Work.

Section 18.2 Effect of Injunctions or Other Court Orders. The parties recognize the right of the County to withdraw, at its absolute discretion, the utilization of the Agreement as part of any bid specification should a Court of competent jurisdiction issue any order, or any applicable statute which could result, temporarily or permanently in delay of the bidding, awarding and/or construction on the Project. Notwithstanding such an action by the County, or such court order or statutory provision, the parties agree that the Agreement shall remain in full force and the fact on covered Project Work to the maximum extent legally possible.

ARTICLE 19 WAIVER

A waiver of or a failure to assert any provisions of this Agreement by any or all of the parties hereto shall not constitute a waiver of such provision for the future. Any such waiver shall not constitute a modification of the Agreement or change in the terms and conditions of the Agreement and shall not relieve, excuse or release any of the parties from any of their rights, duties or obligations hereunder.

ARTICLE 20 AMENDMENTS

The provisions of this Agreement can be renegotiated, supplemented, rescinded or otherwise altered only by mutual agreement in writing, hereafter signed by the negotiating parties hereto.

ARTICLE 21 DURATION OF THE AGREEMENT

Section 21.1 Duration.

(a) This Agreement shall be effective as of December 15, 2010, and shall be continued in effect until, December 31, 2015 (provided however, it shall continue in effect for all work awarded prior to such termination date until the completion of such Project Work).

(b) This Agreement may be extended by mutual consent of the County and the signatory unions for any further Project Work.

Eric 2/15/11 2:40 PM

Comment [27]: The PLA is not only about a Pilot Project

Section 21.2 Turnover and Final Acceptance of Completed Work.

(a) Construction of any phase, portion, section, or segment of Project Work shall be deemed complete when such phase, portion, section or segment has been turned over to the County by the contractor and the County has accepted such phase, portion, section, or segment. As areas and systems of the Project are inspected and construction-tested and/or approved and accepted by the County or third parties with the approval of the County, the Agreement shall have no further force or effect on such items or areas, except when the contractor is directed by the County to engage and repairs or modifications required by its contract(s) with the County.

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

Section 21.3 Continuation of Schedule A's. Schedule A's incorporated as part of this Agreement shall continue in full force and effect, as previously stated, until the contract or and unions parties to the collective bargaining agreement(s) which are the basis for such Schedule A's notify the Project Labor Coordinator of the mutually agreed upon changes in such agreements and their effective date(s).

The parties agree to recognize and implement all applicable changes on their effective dates, except as otherwise provided by this Agreement; provided, however, that any such provisions negotiated in said collective bargaining agreements will not apply to work covered by this Agreement if such provisions are less favorable to the contractor under the Agreement than those uniformly required of contractors for construction work normally covered by those agreements; nor shall any provision be recognized or applied if it may be construed to apply exclusively or predominately to work covered by this Agreement. Any disagreement between the parties over the incorporation into a Schedule A of any such provision agreed upon in a negotiation of the Local Collective Bargaining Agreement which is the basis for a Schedule A shall be resolved under the procedures established in Article 10.

Section 21.4 No Work Stoppages. The Union agrees that there will be no strikes, work stoppages, sympathy strikes, picketing, slowdowns or any other disruptive activity affecting the Project by any Union involved in the negotiation or renegotiations of the Local Collective Bargaining Agreement and the resulting Schedule A's, nor shall it be any lock-out on this Project of the involved Union(s) during the course of such negotiations.

Section 21.5 Final Termination. Final termination of all obligations, rights, and liabilities, and disagreements shall occur upon receipt by the Council of a Notice from the County saying that no work remains within the scope of the Agreement; or, December 31, 2014, (unless there is a mutually agreed upon extension) whichever occurs first.

IN WITNESS whereof the parties have caused this County of Santa Barbara Local Jobs Local Construction Workforce Agreement to be executed as of the dates written under each Party's signature below.

COUNTY OF SANTA BARBARA

By: _____

Chair

Dated: _____

ATTEST: APPROVED AS TO FORM:

MICHAEL F. BROWN RAY AROMATORIO,
CLERK OF THE BOARD RISK PROGRAM ADMINISTRATOR

By: _____ By: _____

Deputy Risk Program Administrator

APPROVED AS TO FORM: APPROVED AS TO ACCOUNTING FORM:

DENNIS A. MARSHALL ROBERT W. GEIS, CPA
COUNTY COUNSEL AUDITOR-CONTROLLER

By: _____ By: _____

Deputy County Counsel Deputy

TRI-COUNTIES

BUILDING & CONSTRUCTION

TRADES COUNCIL

By: _____ Dated: _____

Executive Secretary

Signatory Unions and Councils

(see attached signature pages)

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ATTACHMENT A – LETTER OF ASSENT

To be signed by all contractors awarded work covered by the project stabilization agreement prior to commencing work.

[Contractor's Letterhead]

Project Labor Coordinator

C/O County of Santa Barbara

105 East Anapamu Street, Room ____

Santa Barbara CA 93101

Attn: _____

Re: Project Labor Agreement –Letter of Assent

Dear Sir:

This is to confirm that [name of company] agrees to be party to and bound by the Santa Barbara County Project Labor Agreement – Applicable to New Construction and Capital Improvement Projects As Designated by the Board Of Supervisors effective [____], 20__. As such, the Agreement may from time to time be amended by the negotiating parties or interpreted pursuant to its terms. Such obligation to be a party and bound by this Agreement shall extend all work covered by the agreement undertaken by this Company on the project pursuant to [Contract Number or Identifying Description], and this Company shall require all of its subcontractors of whatever tier to be similarly bound for all work within the scope of the Agreement by signing and furnishing to you an identical letter of assent prior to their commencement of work.

Sincerely,

[Name of Construction Company]

By: [_____] Name and Title of Authorized Executive

[Copies of this letter must be submitted to the Project Labor Coordinator and to the Council Consist with Article II, Section 2.5(b).]