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#25

Associated Builders and Contractors, Inc.

Southern California Chapter

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The Truth About Project Labor Agreements

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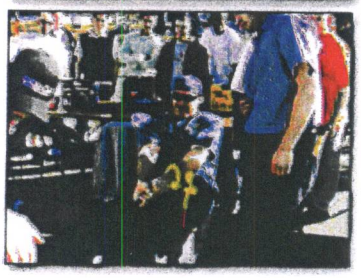
ABC Associated Builders and Contractors, Inc. Southern California Chapter

Green Construction at Work Building Green

2010

Craft Championships

Saturday
January 9, 2010



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- Lots of great food!

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Lunch served	11:45 am
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Awards ceremony to follow dinner

Join the fun as students from three of our training programs compete in an all day event, building finished projects based on schematics from start to finish. Competition is fierce with the top winners in each category earning a trip to the ABC National Craft Championships in San Diego, California.

ABC Southern California
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(714) 779-3199
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Associated Builders and Contractors, Inc.

Southern California Chapter

Voice of the Merit Shop

January 5, 2010

Distinguished Long Beach City Council Members:

We at the Associated Builders and Contractors have been made aware that members of the Long Beach City Council are considering placing a union exclusive contract known as a "project labor agreement" on the upcoming Long Beach Airport improvements. Project Labor Agreements discriminate against Minority, Free Enterprise Shop and Open Shop employers. Before continuing I would like to distinguish the difference between Free Enterprise Shop, Open Shop and Union Shop.

As you are aware, Union contractors have chosen to become a party to a collective bargaining unit and work together to bring business opportunities to those participating. Union employees receive prevailing wage and are traditionally trained through union apprenticeship programs. Open Shop is composed of contractors and employees who do not belong to a collective bargaining unit and may or may not pay prevailing wage based on state and agency mandates.

Free Enterprise Shop (formally known as Merit Shop) is composed of contractors who are not part of a collective bargaining unit but are part of an association which trains apprentices in state and federally recognized programs equal to that of union apprenticeship programs such as Associated Builders and Contractors Apprenticeship Training. Free Enterprise contractors pay their employees at minimum prevailing wage but often pay more subject to the accomplishments and acquired skills of the employee or apprentice.

Now that I have made those distinctions I would like to discuss the reasons why the Long Beach City Council members should not impose a union exclusive agreement on the airport or any upcoming public works.

Project Labor Agreements are bad for the taxpayer as they have been proven to add between 15 – 20% in additional costs. These costs come about as a result of reduction of bidders, mandatory labor fees and dues paid by contractors and their employees and additional regulations and procedures imposed during the project. (Please see the independent studies at "thetruthaboutplas.com.")

Project Labor Agreements are bad for local residents seeking jobs and training because:

1. Currently, the private construction workforce in California and nationwide is approximately 18% union shop and 80% open and free enterprise shop allowing for more training and job placement opportunity in free enterprise shop. (Unionstats.com) PLAs prohibit the use of non-

union apprentices thereby eliminating 80% of the training and employment opportunities for local residents.

2. Written in most PLA's is a quiet clause that states that a local resident may qualify as such "by using the address of their local hiring hall." Hiring halls assign apprentices and craftsmen to local contractors based on their general locale and even though the hiring hall may exist in the local hiring targeted area the person being sent to work may not live in it.

3. The state of California Department of Industrial Relations and the Department of Labor do not recognize the "pre-apprentice" classification common in project labor agreements. This is an invented term which equates to a "laborer" in open shop. Both have equal standing in entering an apprenticeship program under the state and federal guidelines. There are no published wage rates with the classification of "pre-apprentice" issued by the Department of Labor Statistics and Research. Wages paid to these individuals are not set and the laborer is subject to minimum wage and is not guaranteed benefits in either union or open shop.

4. Local residents seeking employment under a PLA are still subject to the agreed upon "seniority" stipulations of their respective collective bargaining agreement placing them in a lesser standing than current union members. When the seniority clause has been circumvented by the PLA union employees feel neglected. (See attached article)

Project Labor Agreements are bad for current Free Enterprise and Open shop employees as all employers are forced into paying for retirement benefits through union pension plans which do not vest for 5 years as opposed to employees who currently have portable 401.k plans that vest immediately. Further, even if the employee remains with their union for the 5 year time period, many employees do not get enough hours to vest at all so that their pension money remains with the trust forever. For this reason, under a PLA, Free Enterprise and Open shop employers will often need to double pay retirement benefits in order to keep good employees. Medical benefits must also be interrupted under a PLA and paid through union trusts.

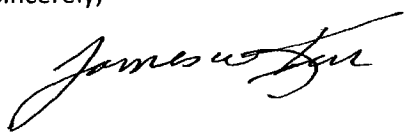
Federal law mandates that any employer that becomes a party to a pension trust is obligated to the trust for the life of their company. Therefore, any Free Enterprise and Open shop contractor that enrolls their employees in a multi-employer pension plan mandated by the PLA is liable for the plan even after they finish the project. In 2007 the Southern California IBEW-NECA Pension Trust Fund was only funded at 61.52% according to IRS filings. This placed it in the "CRITICAL" zone under the guidelines set forth in the 2006 Pension Protection Act. This was and is still too risky an undertaking for many open shop contractors.

Employees and employers must also pay approximately **10 different types of dues and fees to BIG LABOR** which includes "Labor-Management Cooperation Trusts" which fund their political agenda. This works as a funnel of taxpayer dollars into campaign treasuries. Please see the deductions outlined below: (Referenced deductions are agreed upon in the current IBEW Local 11 and LA NECA Collective Bargaining Agreement enacted 2/17/05)

Amount	Measure	Name of Fund	Notes
3%	Total Wages	National Employee Benefit Fund	Funded at 69% as of 2007
.2 – 1 %	Total Wages	National Electrical Industry Fund	25% of all payroll in excess of 75,000 man hours and 100% of payroll in excess of 150,000 man hours
.5%	Total Wages	Contract Compliance Fund	Labor Compliance Program
.05	Per Hour	Labor Management Cooperation Committee	Contributed $250,000 to defeat Prop 75 in 2007 (AFL-CIO mandate
Variable	Payroll Deduction	IBEW Political Education Fund	
3.60	Per Hour	Southern California IBEW – NECA Pension Trust Fund	Funded at 61.5% as of 2007 5 years needed to vest (free enterprise employees will not benefit from these funds as they are not union employees)
3.69	Per Hour	IBEW-NECA Health Trust Fund	Mandatory under PLA so free enterprise contractor must disrupt current benefits
12%	Total Wages	Los Angeles Electrical Workers Credit Union	Lock Box Fund allowing for use of portion of interest by union. "Other contributions" are also mandated.
3.30	Per Hour	Southern California IBEW NECA Defined Contribution Plan	Southern California Board of Trustees Administration for IBEW/NECA Pension Trust Fund

One argument made by PLA lobbyists is that Open and Free Enterprise shop employees and employers are not mandated to join the union but to only pay the fees and the dues required. For the employee this is like paying for an insurance policy which will never benefit them. They get to pay for the opportunity to be on the job but receive no representation while working.
Thank you for the hard work you are doing to bring improved access to transportation for our employees and the residents of Southern California. We at ABC want Long Beach to thrive for years to come.

Sincerely,



James Kerr
Chairman of the Board

Table of Contents

1

Union Project Labor Agreements: A Good Concept Even Union Contractors Oppose

MARK BRESLIN

MARK BRESLIN, CEO
THE ENGINEERING AND UTILITY CONTRACTORS ASSOCIATION

As the CEO of an association that represents exclusively union construction firms, one would think that I would automatically and heartily endorse broad-based use of Project Labor Agreements for the benefit of contractors, unions, and end-users. In this regard, you would be seriously in error.

Despite some years of our support for PLAs, our contractors and association no longer see value in them for contractors, unions, or owners.

PLAs have become a vehicle for circumventing union contractors, undermining labor agreements, and "subsidizing" some non-performing local unions and their weak leadership. We can no longer find union contractors willing to support PLAs in our marketplace.

The Broken Promise

From a conceptual standpoint, PLAs as industry-shaping policies have a compelling positive operational and economic rationale. They are presented as engines of opportunity and project stability. The breakdown occurs when the concept moves to policy and into implementation. In this regard, systemic failures have become a fertile breeding ground for disputes, conflict, and contractor liability. ➢

Relevance, Responsiveness and Responsibility

Heretofore, industry construction craft practices have been a function of the contractual scope of Union Master Agreements. A hundred years of Construction Master Agreements between unions and employer associations is how labor and management have found their middle ground.

With the PLAs of today, this is often abandoned because the union no longer has to negotiate with the employer; they can go to a third party who will then dictate terms of scope, coverage, and employment. These are most often negotiated directly between local Building Trades organizations and the owner.

As a result, contractors are now required to become signatory to agreements they did not negotiate.

Union Master Agreements are the level playing field. They are the known territory that governs bidding labor costs and assessing contractor risk. They are templates for assembly of a workforce and a production objective.

Most union contractors are not signed to many unions. That is a normal part of the industry. Factors that impact this have always been contractor utilization and preference, decisions based on the craft's ability to perform, their progressive (or lack of) cooperative nature, and their ongoing relevance to the market and industry.

Though some might point to cost as another driving factor, in my opinion there are crafts that could price themselves at minimum wage and never be utilized due to their real or perceived inability to meet market or contractor needs. Now PLAs require contractors to sign with nearly every union regardless of need, operational history, or efficiency.

As the PLAs proliferate, owners and unions rarely take into account the contractor's concerns. These contractors are completely and deliberately omitted from what has become a "deal-cutting" process that often expands coverage beyond existing collective bargaining agreements, obscures or prevents local practices from being used, includes new classifications, and otherwise shows no regard or respect for the union employer.

Bottom line: what they cannot get at the bargaining table with their "employer partners" they can sell to an unknowing, apathetic or under-pressure public/private owner.

Impact on the Union Contractor

Contractors, due to the obligations of many PLAs, are finding that with the multiplicity of bargaining obligations required they cannot utilize their existing workforces; cannot follow decades-long practices; cannot determine what craft rates to use or not use for labor costs; and cannot perform to the time, cost, and production schedules that they have built their businesses upon.

Beyond this, a significant negative impact is being experienced by union contractors due to the proliferation of PLAs and a total lack of responsiveness and responsibility on the part of the unions promoting them. For many it is just a free handout that turns the contractor upside down. Here are some of the specific impacts:

- Many of our members are being forced to use unions that they have no relationship with and no need of utilizing.
- Contractors do not know how to bid projects "apples to apples" from a labor cost standpoint, and so are at undue risk.
- Jurisdictional disputes are much higher in number and nature on PLAs, and contractors are the only ones operationally impacted.
- Local practices are often ignored at the expense of the contractor's efficiency and long-standing history.
- Contractors are being forced to expand coverages and classifications that are not in their existing agreements.
- Contractors report that costs associated with bidding PLA projects often result in an increase in price to the owner of 10-20%.

Subsidizing the Non-Performing

For unions that are progressive, cooperative and responsible, PLAs have little impact. On the other hand, for unions that have been unresponsive to the market, contractors and competition, PLAs have become a welfare program.

PLAs are life support for some unions that have been unable, unwilling or incapable of meeting the market's needs for years. As such, this owner-mandated contractual vehicle requires little effort and no downside, and suddenly jurisdictional disputes between crafts increase exponentially. The contractor, of course, is stuck in the middle, between the owner's vague idea on the content of the PLA or the consequences, and the union's struggles to expand or retain jurisdiction.

A PLA does not require a poorly run or led union to be more efficient, effective, responsive or professional. It only slices up the pie into smaller pieces and then jams them down the throat of the contractor, like it or not.

The Union Contractor Viewpoint

For something that was supposed to look pretty good to existing union contractors, we have heard nothing but complaints about complications, conflict and cost escalations for our contractor members. We cannot find union contractors willing to support PLAs in our marketplace any longer. This should be taken very seriously. Most have found themselves in the middle of conflicts between crafts, or been forced to use workers from unions with which they did not have relationships. This leads to higher risk, lost production, and a souring of the union-employer relationship.

Solutions: Integrity or Elimination

There must be structural reform of PLAs. Here are the key recommendations that must be enacted:

PLAs cannot contain any variations from the Master Construction Agreements. Anything more or less is a total breach of bargaining integrity. Behind the scenes deal-cutting is unacceptable, and lacks transparency and integrity.

Local practices must be respected in jurisdictional dispute resolution. With the breakdown of the AFL-CIO Building Trades agreements, solid alternatives must be agreed to between the crafts. The answer needs to be based on local practices and local arbitration. Local union leaders need to find methods of bridging their gaps, not dumping it into some administrative black hole. No longer can contractors and unions refer to ancient documents, decades-old decisions, and irrelevantly distant geographic practices to govern local work.

PLAs do not need to be "one size fits all" with every craft signatory. Perhaps not everyone needs to be included in every PLA. If the work does not warrant it (heavy civil vs. building vs. residential) due to the nature or scope, it should be streamlined to meet the needs of the project, the contractor, and the owner.

Contractors and their associations need to be asked to the table. The arrogant position that the contractor has no stake or voice is idiotic. One hundred percent of the economic risk of every project bid under a PLA is on the contractor, and he or she has a right to protect the interests of their business and the bargaining environment that ensures a level playing field.

In absence of the protections above, union contractors and their associations should oppose PLAs that impact their markets, bargaining agreements, and companies. Owners need to take heed of possible additional costs and complications that they would otherwise not experience with PLAs as they are generally drafted today. ■

2

AN ORDINANCE AMENDING THE CODIFIED ORDINANCES OF THE COUNTY OF ORANGE TO INCLUDE PROVISIONS PROHIBITING THE REQUIREMENT OF PROJECT LABOR AGREEMENTS AND OTHER ANTICOMPETITIVE MEASURES EXCEPT WHERE OTHERWISE REQUIRED BY STATE AND FEDERAL LAW

The Board of Supervisors of the County of Orange ordains as follows:

Section 1. Sections 1-8-3 and 1-8-4 of the Codified Ordinances of Orange County California are herby enacted to read as follows:

Section 1-8-3. Prohibition of Anti-Competitive or Discriminatory Requirements in Public Contracts.

Except as otherwise required by State or Federal law, in contracting for the construction, maintenance, repair, improvement or replacement of public works:

(a) The County shall not fund, in whole or in part, any contract containing a requirement that an owner, developer, contractor, subcontractor or material supplier [individually and collectively referred to for purposes of this Section as the "Contracting Party"]:

(1) shall execute, or become a party to, an agreement between organized labor, on the one hand, and the County or the Contracting Party on the other;

(2) shall become a signatory to a collective bargaining agreement; or

(3) shall require its employees to join a union, or pay dues or make contributions to a union or union benefit fund.

(b) The County shall not such impose, as a bid specification, contract prerequisite, contract term or otherwise, any requirement prohibited by subsection (a) of this Section.

(c) For purposes of this Section, the term "public works" means: a building, road, street, park, playground, sewer, storm water, water system, irrigation system, reclamation project, redevelopment project, or other facility funded, owned, or to be owned or

contracted for, by the County of Orange, the Orange County Flood Control District, the Orange County Housing Authority, the Orange County Development Agency, or any other governmental entity for which the Orange County Board of Supervisors acts as the governing body.

(d) Nothing in this Section shall prohibit parties covered by the National Labor Relations Act from entering into agreements or engaging in activity protected by law.

(e) Any person aggrieved or injured in any way by a violation of this Section shall be entitled to injunctive relief in the Superior Court of the State of California, County of San Orange, including by way of an action filed pursuant to California Code of Civil Procedure section 526a.

Section 1-8-4. Severability.

If any provision, section, subsection, paragraph, or clause of Section 1-8-3 of these Codified Ordinances of the County of Orange is held by a court of law to be invalid, the remainder of said Section 1-8-3 shall not be affected but shall remain in full force and effect, and to that end the provisions of said Section 1-8-3 are severable.

3

MINORITY AND WOMEN'S GROUPS COMMENTS OF THE DISCRIMATORY NATURE OF PROJECT LABOR AGREEMENTS (PLAs)

"98% of Black owned contracting firms are not union. They are not welcomed nor would unions allow their employees into their trades."

-Harry Alford

President/CEO National Black Chamber of Commerce

CONGRESSIONAL TESTIMONY, September 23, 2009

"...a paltry average of 8 percent of construction union members are minorities, even though blacks and Hispanics make up about 23 percent of the general population."

-Mr. Robert P. Hunter , *Union Racial Discrimination is Alive and Well*

"PLAs amount to *de facto* segregation ... African-American workers are significantly underrepresented in all crafts of construction union shops ... this problem has been persistent during past decades and there appears to be no type of improvement coming ... PLAs are anti-free-market, non-competitive, and, most of all, discriminatory."

-National Black Chamber of Commerce

"WCOE opposed federally mandated project labor agreements ... PLAs will disproportionately impact small business, particularly those owned by women and minorities."

-Women Construction Owners & Executives, USA

"Bay Area Black Contractors Association has been a strong advocate for merit shops in the Oakland/San Francisco Bay Area and we are opposed to project labor agreements."

-Bay Area Black Contractors Association

"We believe PLAs make it more difficult for minority-owned contractors to compete ... they effectively work against the goals of increasing the number of projects awarded to minority-owned businesses by placing roadblocks in our way."

-Latin Builders Association, Inc

"(PLAs) are bad for business, especially small businesses which constitute most of our membership. They impose undue restrictions on our ability to compete, increase the cost of doing business, reduce employee benefits, and interfere with the free negotiation

process between employee and employer. They are patently unfair to small businesses who do not have the resources to comply with yet another government mandate."

-U.S. Pan-Asian-American Chamber of Commerce

"The ultimate effect of the San Francisco Airport PLA is clear ... once a PLA was implemented, minority business enterprise prime contract participation dropped 91.9 percent and subcontract participation dropped 34.4 percent. This PLA has been a disaster for minority-owned businesses ... "

-American Asian Contractors Association

"(PLAs) are not good business for small business in general, and particularly for women and minorities in business ... the impact on women and minorities trying to compete in federal procurement would be devastating."

-National Association of Women Business Owners

4

Union Membership, Coverage, Density, and Employment Among Private Construction Workers, 1973-2008

Year	Obs	Employment	Members	Covered	%Mem	%Cov.
1973	2,670	4,131.8	1,632.8	--	39.5	--
1974	2,479	4,017.2	1,490.9	--	37.1	--
1975	2,103	3,464.0	1,284.0	--	37.1	--
1976	2,208	3,692.9	1,321.9	--	35.8	--
1977	2,882	3,975.4	1,425.3	1,495.2	35.9	37.6
1978	3,030	4,422.3	1,418.7	1,495.2	32.1	33.8
1979	3,092	4,563.1	1,451.5	1,548.5	31.8	33.9
1980	3,544	4,443.1	1,370.7	1,431.2	30.9	32.2
1981	785	4,365.2	1,438.2	1,472.6	32.9	33.7
1982	--	--	--	--	--	--
1983	8,053	4,109.0	1,130.7	1,207.0	27.5	29.4
1984	8,528	4,503.7	1,060.5	1,115.1	23.5	24.8
1985	8,748	4,716.3	1,050.9	1,113.9	22.3	23.6
1986	8,817	4,958.8	1,091.9	1,158.0	22.0	23.4
1987	8,814	5,052.1	1,060.1	1,122.7	21.0	22.2
1988	8,543	5,193.3	1,095.6	1,151.3	21.1	22.2
1989	8,629	5,322.2	1,144.8	1,202.8	21.5	22.6
1990	8,844	5,122.1	1,073.1	1,137.1	21.0	22.2
1991	7,806	4,624.1	977.3	1,033.9	21.1	22.4
1992	7,443	4,529.8	906.2	955.1	20.0	21.1
1993	7,491	4,638.1	929.3	972.9	20.0	21.0
1994	7,416	4,866.7	915.9	966.3	18.8	19.9
1995	7,645	5,135.0	908.1	963.4	17.7	18.8
1996	7,180	5,387.4	994.2	1,032.7	18.5	19.2
1997	7,494	5,739.4	1,067.1	1,117.8	18.6	19.5
1998	7,726	5,946.5	1,055.8	1,093.3	17.8	18.4
1999	8,154	6,229.6	1,186.9	1,224.0	19.1	19.6
2000	8,725	6,665.6	1,219.6	1,268.2	18.3	19.0
2001	9,548	6,867.6	1,276.0	1,315.2	18.6	19.2
2002	10,085	6,679.5	1,164.7	1,203.7	17.4	18.0
2003	10,134	7,126.1	1,139.2	1,187.9	16.0	16.7
2004	10,389	7,549.9	1,109.8	1,161.8	14.7	15.4
2005	10,982	8,053.1	1,057.1	1,111.5	13.1	13.8
2006	11,362	8,444.0	1,097.3	1,146.2	13.0	13.6
2007	11,071	8,561.2	1,192.7	1,231.5	13.9	14.4
2008	9,914	7,651.6	1,194.9	1,240.6	15.6	16.2

Data sources: For the years 1973-81 the May Current Population (CPS). For the years 1983-2008 the CPS Outgoing Rotation Group (ORG) Earnings Files. There were no union questions in the 1982 CPS. Sample includes wage and salary workers, ages 16 and over. Variable definitions are: Obs=CPS sample size; Employment=wage and salary employment in thousands, Members=employed workers who are union members in thousands, Covered=workers covered by a collective bargaining agreement in thousands, %Mem=percent of employed workers who are union members, and %Cov=percent of employed workers who are covered by a collective bargaining agreement. The definition of union membership was expanded in 1977 to include "employee associations similar to a union".

Union Membership, Coverage, Density and Employment by State, 2008 (details in table note)

State	Sector	Obs	Employment	Members	Covered	%Mem	%Cov
California	Total	13,917	14,888,985	2,739,901	2,909,494	18.4	19.5

Data Sources: Current Population Survey (CPS) Outgoing Rotation Group (ORG) Earnings Files, 2008. Sample includes employed wage and salary workers, ages 16 and over. Variable definitions are: State Code=Census state code used in CPS, Obs=CPS sample size, Employment=wage and salary employment, Members=employed workers who are union members, Covered=workers covered by a collective bargaining agreement, %Mem=percent of employed workers who are union members, and %Cov=percent of employed workers who are covered by a collective bargaining agreement.

5

Orange County Board of Supervisors
333 W. Santa Ana Blvd., 10 Civic Center Plaza
Santa Ana, California

November 3, 2009

RE: 11/3/09 Item #16 Ban on Project Labor Agreements
Support of Ordinance

Dear Board of Supervisors:

PLAs are inherently unfair to the general body of available construction workers and specialty contractors.

- A typical PLA limits the size of merit shop specialty contractor core employees to five (5) **(see LAUSD PSA §3.6 and clarification letter-2/10/09).**
- PLA's prohibit new hiring by merit shops. Only 5 core employees can be employed provided they have been on company payroll for 50 days over the last 100 days before signing of new contract **(see LAUSD PSA §3.6)**
- Merit shop employees are not required to join the union but are forced to sign up at the union hall, pay union dues, but receive no benefits **(see LAUSD PSA §3.9).**
- Benefit contributions set up by merit shops can not go to company employee benefit plans (pensions, insurance, vacation, training fund). They have to go to the union trust funds and merit shop employees receive none of the benefits. **(See LAUSD PSA §5.2)**

PLA/PSA agreements are grossly unfair to free enterprise and is merely a way of building up membership of shrinking unions in the face of growing competition. Please implement the ordinance as soon as possible so that Orange County can be in Contractor's Market plans along side San Diego and LA County which do not have such unfair restrictions on merit shop contractors who already pay prevailing wages.

Dr. Eric MacCalla, P.E
Specialty Contractor

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 3.6 Core Employees. Except as otherwise provided in separate collective bargaining agreement(s) to which the contractor is signatory,

(a) A specialty or sub-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 five 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 10 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.

(c) The core work force is comprised of those employees:

(i) whose names appeared on the contractor's active payroll for fifty of the one hundred working days before award of Project Work to the contractor;

(ii) who possess any license required by state or federal law for the Project Work to be performed;

(iii) who have the ability to safely perform the basic functions of the applicable trade; and

* LIMITATIONS of 5 employees, matched by 5 UNION referrals

To All Contractors and Subcontractors:

Re: LAUSD PSA Section 3.6(a)
Core-to-Referred Ratio for Specialty Contractors and Subcontractors

Section 3.6(a) of the PSA states:

> "A specialty or sub-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 five 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 10 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."

The ratio of core employees to hiring hall-referred employees in Section 3.6(a) is applicable on a per-contract basis. Thus, a specialty or subcontractor may employ up to a maximum of five (5) core employees for each District construction contract that includes the PSA, consistent with the employment procedures set forth in Article 3 of the PSA.

* Remains 5 employees

Guy Mehula
Chief Facilities Executive
LOS ANGELES UNIFIED SCHOOL DISTRICT

2/10/09
Date

Richard Slawson
Executive Secretary
LOS ANGELES AND ORANGE COUNTIES BUILDING AND CONSTRUCTION TRADES COUNCIL

2-10-09 *
Date

(iv) who are residents of the District on the effective date of this Agreement, or have been residents of the District for the one hundred working days prior to the award of Project Work to the contractor.

(d) If there are any questions with 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.

Section 3.7 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 3.8 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 3.9 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

* Non-union employees must pay union dues

applicable monthly working dues and any non-initiation or application fees uniformly required for membership in the Union.

Section 3.10 Individual Seniority. Except as provided in Article IV, 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 3.11 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. Craft foreman shall be designated as working foreman at the request of the request of the contractors.

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 journeyperson 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,

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

Section 5.2 Benefits. (a) 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 bonafide 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. Contractors directly signatory to one or more of the Schedule A's are required to make all contributions set forth in those Schedule A's without reference to the foregoing. Bonafide jointly-trusteed benefit plans or authorized employee deduction programs established or negotiated under the applicable Schedule A or by the parties to this Agreement during the life of this Agreement may be added, subject to the limitations upon such negotiated changes contained in Article XXI, Section 21.3, and provided that the contributions do not exceed the amounts set forth in the applicable prevailing wage determination.

(b) 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 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 successors trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the contractor.

* Benefits to the UNION TRUST. No benefit to employees.

6

UNION-ONLY PLA STUDIES

Read the academic studies and reports below to learn more about the failure of union-only PLAs to control construction costs, increase work opportunities, prevent construction delays or improve safety, productivity or quality on construction projects.

Academic and Private PLA Research
Federal Government Reports and Hearing Testimony

Academic and Private PLA Research

ABC Statements on the Impact of Union-Only Project Labor Agreements (PLAs) - Updated February 2009 highlights excerpts from studies pertaining to common areas of discussion during PLA debates.

ABC National's Comments on Proposed Rule Encouraging Federal Agencies to Mandate PLAs (FAR Case 2009-005 and Executive Order 13502)

On August 13, 2009, ABC filed comments with Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in response to a proposed rule to implement Executive Order 13502, which encourages federal agencies to require PLAs on federal construction projects via the Federal Aquisition Regulation (FAR) Council "FAR Case 2009-005, Use of Project Labor Agreements for Federal Construction Projects."

Both comments express serious concerns with the proposed regulation, particularly with its impact statement, the absence of any meaningful criteria for agencies to use in deciding whether to impose PLAs and the absence of any empirical justification for using PLAs on federal projects.

The comments highlight numerous problems with government mandated PLAs and reference a variety of arguments and studies that document how this bad public policy will harm taxpayers, contractors and their employees.

Read the Main Comments

ABC Member Survey Supplement to Main Comments

Read the Comments Specifically Addressing the Regulatory Flexibility Act

ABC News Release on Comments

ABC Survey Finds PLAs on Federal Construction Projects Will Injure Competition (June 2009)

Study Finds that PLAs and President Barack Obama's Executive Order 13502 Will Hurt Nonunion Workers (October 2009)

An October 2009 white paper by Dr. John R. McGowan titled, "The Discriminatory Impact of Union Fringe Benefit Requirements on Nonunion Workers Under Government-Mandated Project Labor Agreements" finds that employees of nonunion contractors that are forced to perform under government-mandated PLAs suffer a reduction in their take home pay that is conservatively estimated at 20 percent, as hundreds of millions of dollars of their income will be distributed to union pension funds, from which the nonunion workers will receive no benefits. The study also states that nonunion contractors will be forced to pay extra costs to work under PLAs on federal construction projects, in excess of 25 percent. Additionally, the study notes that nonunion contractors will also face increased and unnecessary exposure to pension fund liability if they perform work under PLAs, including possible withdrawal liability when the PLA project is completed. The study concluded that in total, the move to PLAs could cost nonunion workers and their employers from over $275 million to over $1.38 billion annually.

Read the Study

Beacon Hill Institute Study Says Federal PLAs and Executive Order 13502 Will Harm Taxpayers (September 2009)

A study released Sept. 23 by the Beacon Hill Institute (BHI) called "Project Labor Agreements on Federal Construction Projects: A Costly Solution in Search of a Problem," found that PLAs significantly increase construction costs on federal projects. The BHI review of federal construction projects from 2001-2008, the years under which government-mandated PLAs were prohibited, also revealed that there were no instances in which labor disruptions occurred that resulted in significant project delays or increased costs. The study concludes that "the justifications for PLAs provided by Executive Order 13502 are unproven."

Read the Study

Read the ABC Newsline Story

Government Funded Study Finds PLAs Increase Costs and Offer Limited Value (June 2009)

A June 2009 study conducted by property and construction consulting firm Rider Levett Bucknall prepared for the U.S. Department of Veterans Affairs (VA) Office of Construction and Facilities Management found that PLAs would likely increase construction costs by as much as 9 percent on three of the five construction markets (Denver, New Orleans and Orlando) in which the VA is planning to build hospitals.

The VA hired this firm to evaluate the cost impact of PLAs in various markets where the VA plans to build hospitals in light of President Obama's order that encourages federal agencies to mandate PLAs (Executive Order 13502).

Read Project Labor Agreements – Impact Study for the Department of Veterans Affairs

Read analysis of this study here.

Study Questions Effectiveness of DC Baseball Stadium PLA (October 2007)

A PLA on the District of Columbia's new $611 million baseball stadium has completely failed to ensure that local residents get the majority of work on the project, according to a report released Oct. 2, 2007 by the District Economic Empowerment Coalition.

Read the Study

Read the ABC Newsline Story

Beacon Hill Institute Study Finds PLAs Increase Cost of School Projects in New York (May 2006)

This study conducted by the Beacon Hill Institute at Suffolk University found that the use of PLAs on school construction projects in New York increased the cost of the projects by 20 percent.

Read the Study

Read the ABC Newsline Story

Iowa Events Center PLA Study (March 2006)

The Public Interest Institute, a nonpartisan, nonprofit research and educational institute in Mt. Pleasant, Iowa, has released a new study that concludes the PLA on the Iowa Events Center project in downtown Des Moines, placed an "unnecessary burden" on local workers, businesses and taxpayers.

Read the Study

Read the ABC Newsline Story

Union-Only Project Labor Agreements: The Public Record of Poor Performance (2005 Edition)

The 2005 edition of ABC General Counsel Maury Baskin's report on union-only PLAs documents a record of union-only construction projects experiencing a consistent pattern of cost overruns, adverse impacts on competition, delays in construction, construction defects, safety problems and diversity issues.

Read the Study

Beacon Hill Institute Study Finds PLAs Increase Cost of School Projects in Connecticut (September 2004)

This study conducted by the Beacon Hill Institute at Suffolk University found that the use of PLAs on school construction projects in Connecticut increased the cost of the projects by nearly 18 percent. The report concludes that the presence of a PLA increased the projects' final base construction costs by $30 per square foot relative to non-PLA projects.

"This study provides further evidence that PLAs drive up the cost of construction projects, while discriminating against the four out of five construction workers who choose not to join a labor union," said Kirk Pickerel, ABC president and CEO.

Read the Study

Beacon Hill Institute Study Finds PLAs Increase Cost of School Projects in Massachusetts (September 2003)

A study completed by the Beacon Hill Institute entitled, "Project Labor Agreements and the Cost of School Construction in Massachusetts," finds that "PLA projects add an estimated $18.83 per square foot to the bid cost of construction (in 2001 prices), representing an almost 14 percent increase in costs over the average non-PLA project. The low estimates find that actual project costs are raised by 8.4 percent; the high estimates find that bid costs are raised by 14.9 percent.

Read the Study

Erie County (NY) Courthouse Construction Projects: Project Labor Agreement Study (September 2001)

This study, completed by the firm of Ernst & Young, was commissioned by Erie County in New York to analyze a PLA on a public construction project. Ernst & Young concluded that "bidder participation was diminished because the county chose to utilize a PLA. Further, the use of PLAs adversely affects competition for publicly bid projects to the likely detriment of cost-effective construction... the use of PLAs strongly inhibits participation in public bidding by non-union contractors and may result in those projects having artificially inflated costs."

Read the Study

PLAs on Public Construction Projects: The Case For And Against (May 2001)

The Worcester Municipal Research Bureau May 21, 2001 released a study titled "Project Labor Agreements on Public Construction Projects: The Case For and Against.". The study concluded that "PLAs tend to constrict the number of bidders on a project compared to those without PLAs, and are likely to reduce the savings to the public that would accrue if nonunion contractors who are employed were allowed to follow their customary methods."

Read the Study

Project Labor Agreements Research Study: Focus on Southern Nevada Water Authority (November 2000)

This study, completed by Neil Opfer and Jaeho Son of the University of Nevada, Las Vegas, and John Gambatese of Oregon State University, concluded that a Nevada Water Authority project PLA cost taxpayers an additional $200,000 because the true low bidder refused to sign the PLA. The project went to a union contractor whose bid

was $200,000 higher.

Read the Study

Economic Evaluation of Project Stabilization Agreement For Construction Projects Funded Proposition BB (November 2000)

The project stabilization/labor agreement (PSA/PLA) for the Los Angeles Unified School District's (LAUSD) Proposition BB construction was required to end after one year unless the LAUSD or unions could prove the PLA was effective. A Price Waterhouse Coopers study requested by the LAUSD was "unable to conclusively determine whether the PSA has had either a net positive or net negative economic impact for the District, [and] there is anecdotal information which suggests that the PSA has to date had neither a significant positive nor a significant negative net impact." Despite the study's findings, the school board voted 5-2 to continue with the PLA, supporting the thesis that PLAs are implemented by public officials because of political concerns and not on the basis of sound public policy.

Read the Study

Project Labor Agreement in Minnesota (September 2000)

"Project Labor Agreements in Minnesota" was completed by Zachary C. Kleinsasser of Albion College. The study outlines inefficiencies with construction projects that contain PLAs between the months of June and August in the year 2000.

Read the Study

Analysis of the Impacts on the Jefferson County (NY) Courthouse Complex through Project Labor Considerations (September 2000)

This study, commissioned by the Jefferson County, New York, Board of Legislators, and completed by Professor Paul G. Carr, P.E., concluded that "[t]he additional costs estimated with the use of a PLA could range upwards of $955,000. With the loss of even one general contractor from the bidding [as a result of the PLA], the cost increase could approach $200,000." On this estimated $14 million project, this would mean a cost increase of more than of 7 percent.

Read the Study

Weber Merritt Survey Finds Washington D.C. Contractors Less Likely to Bid on Projects with PLAs

In a 2000 survey of Washington D.C. area public works contractors regarding PLAs and public projects, over 70 percent said they would be less likely to bid on a project with a government-mandated PLAs.

Read the Survey Results

Task Order No. 99-1: Project Labor Agreement (PLA) Study (June 2000)

The Clark County School District (CCSD) in Nevada, retained Resolution Management to perform an objective study of the use of union-only PLAs on School District Projects. In an independent and unbiased study, they found "no compelling reason for CCSD to enter into PLAs for school construction at this time."

Read the Study

Government-Mandated Project Labor Agreements in Construction: A Force to Obtain Union Monopoly on Government-Funded Projects (January 2000)

This study by Dr. Herbert R. Northrup of the University of Pennsylvania's Wharton School, concludes that "analysis shows that the justifications for imposing government-directed project agreements are flimsy at best. They are

neither based upon fact nor do they conform to the realities of the construction industry."

Read the Study

Fitchburg State College Project Labor Agreement Survey Results (1998)

This 1997-1998 survey conducted by researchers at Finchburg State College found that over 66 percent of prime contractors identified as open shop by project managers on the Boston Harbor Cleanup Project were in fact union contractors. Additionally, 54 percent of the subcontractors surveyed that the project manager claimed to be open shop were either union contractors or didn't work on the project at all.

Read the Survey Results

Perception and Influence of Project Labor Agreements on Merit Shop Contractors (1997)

This 1997 study conducted by researchers at the University of Washington found that "when the virtues of using a PLA are evaluated..., it appears PLAs might not be necessary on any construction projects."

Read the Study

Roswell Park Cancer Institute Letters (March 1995)

This ABC study of the taxpayer costs for Roswell Park Cancer Institute in Buffalo, New York, assessed bids for the same project both before and after a PLA was temporarily imposed in 1995. It revealed that there were 30 percent fewer bidders to perform the work and that costs increased by more than 26 percent when the PLA was in effect.

Read the Study

Federal Government Reports and Hearing Testimony

U.S. Government Accounting Office (GAO) Report: Project Labor Agreements: The Extent of Their Use and Related Information (May 1998)

A U.S. General Accounting Office (GAO) report, issued May 5, 1998, demonstrated that it is nearly impossible to show any cost savings or increased quality derived from the use of union-only project labor agreements, largely because of the difficulty in finding two identical projects, with or without a PLA, to study.

Read the Report

"The Administration's Policy of Discrimination: Project Labor Agreement's Negative Impact on Women and Minority Owned Small Businesses" (August 1998)

Testimony from an August 6, 1998 U.S. House Small Business Committee hearing on project labor agreements and their negative impact on women and minority owned businesses.

Read the Testimony

Senate Committee on Labor and Human Resources Hearing on the "Proposed Executive Order on Project Labor Agreements" (April 1997)

Testimony from an April 30, 1997 hearing before the U.S. Senate Committee on Labor and Human Resources on President Clinton's Proposed Executive Order on PLAs that later became a memo on PLAs. Click the below organizations to view their testimony before the committee in opposition to union-only PLAs

Read ABC's Testimony

Read ABC Member Testimony

Read Associated General Contractors' Testimony

Read U.S. Chamber of Commerce Testimony

7

LOS ANGELES UNIFIED SCHOOL DISTRICT
PROJECT STABILIZATION AGREEMENT --
NEW SCHOOL CONSTRUCTION AND MAJOR REHABILITATION
FUNDED BY PROPOSITION BB AND/OR MEASURE K

Effective Date: June __, 2003

May 12, 2003

TABLE OF CONTENTS

TABLE OF CONTENTS
(continued)

Page

TABLE OF CONTENTS
(continued)

Page

TABLE OF CONTENTS
(continued)

Page

LOS ANGELES UNIFIED SCHOOL DISTRICT
PROJECT STABILIZATION AGREEMENT -
NEW SCHOOL CONSTRUCTION AND MAJOR REHABILITATION
FUNDED BY PROPOSITION BB AND/OR MEASURE K

This Project Stabilization Agreement (hereinafter, "Agreement") is entered into this 12th day of May, 2003, by and between the Board of Education of the Los Angeles Unified School District, its successors or assigns, (hereinafter, "District") and The Los Angeles/Orange Counties Building and Construction Trades Council (hereinafter, "Council"), and the signatory Craft Unions (hereinafter, together with the Council, collectively, the "Union" or "Unions"). This Agreement, understood by the parties to be a modification of the Proposition BB Project Stabilization Agreement, establishes the labor relations Policies and Procedures for the District and for the craft employees represented by the Unions engaged in the District's new school and building construction and substantial rehabilitation and capital improvement program funded, in whole or in part, by Proposition BB and/or Measure K (hereinafter, "Project" or "Project Work", and more specifically defined in Article II, Section 2.2).

It is understood by the Parties to this Agreement that if this Agreement is acceptable to the District, it will become the policy of the District for the Project Work to be contracted exclusively to contractors who agree to execute and be bound by the terms of this Agreement, directly or through the Letter of Assent (Attachment A), and to require each of its subcontractors, of whatever tier, to become bound. The District shall include, directly or by incorporation by reference, the requirements of this Agreement in the advertisement of and/or specifications for each and every contract for Project Work to be awarded by the District.

It is further understood that the District 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 craftspersons working under it, and the ratepayers, residents and students of the District. The District shall, therefore, designate a "Project Labor Coordinator," either from its own staff or an independent contractor acting on behalf of the District, to monitor compliance with this Agreement; assist, as the authorized representative of the District, 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; and together with District and the Unions, the Project Labor Coordinator shall be considered a "negotiating party" of this Agreement.

The term "Contractor" as used in this Agreement includes any contractor to whom the District 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 District with respect to the Project Work, or with another contractor as a subcontractor for Project Work.

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.

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. (NO OPEN SHOP APPRENTICES)

The Union and all contractors agree to abide by the terms and conditions of this Agreement and 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 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 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 are for information only, and carry no legal significance.

ARTICLE 1

INTENT AND PURPOSE

Section 1.1 Background. The District's new construction and major rehabilitation projects funded by Proposition BB and/or Measure K will affect over a thousand school buildings and offices that are owned, leased or controlled by the District. The Project is the largest overall educational construction program developed and undertaken by a school district in the history of State of California. The goal of this Project is to provide new construction and major rehabilitation of the District's facilities so as to provide sufficient facilities and technologies to properly educate the children within the District's boundaries. The District, therefore, wishing to utilize the most modern, efficient and effective procedures for construction, including assurances of a sufficient supply of skilled craftpersons, and the elimination of disruptions or interference with Project Work, adopts of this Agreement in the best interests of the students, parents, District staff, and the tax payers of the District to meet the District's goal that the Project work be completed on time and within budget.

Section 1.2 Identification and Retention of Skilled Labor and Employment District Residents. The vast amount of new school construction, substantial rehabilitation, and capital improvement work scheduled to be performed pursuant to Proposition BB and/or Measure K 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 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 District 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 residents and other individuals wishing to pursue a career in construction. Further, with assistance of the Project Labor Coordinator, the District, 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.

Section 1.3 Encouragement of Small Local Business. The Project 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 District, the Project Labor Coordinator, and other organizations retained by the District for the purpose, to encourage and assist the participation of local small businesses in Project Work. Specifically, all parties understand that the District has established and quantified goals which place a strong emphasis on the utilization of small, local business on the Project. Each party agrees that it shall employ demonstrable efforts to encourage utilization 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 Project Work through programs and procedures jointly developed to prepare and encourage such local residents for apprenticeship programs and formal employment on the Project 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 District.

Section 1.4 Project Cooperation. The parties recognize that the construction 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 people of Los Angeles and the students of the District. 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 Project Work.

Further, the parties recognize that an Act of God or on Act of War could require the District to partially or fully suspend Project Work. The parties shall fully cooperate with any request by the District to redirect their equipment, skills and expertise to support the District's efforts necessitated by such events.

Section 1.5 Workers' Compensation Carve-out. Further, the parties recognize the potential which the Project may provide for the implementation of a cost effective workers' compensation system as permitted by revised California Labor Code Section 3201.5, and it is understood that the District is in an ongoing review of the value of such a program. Should the District request, the Union parties agree to meet and negotiate in good faith with representatives of the District for the development, and subsequent implementation, of an effective program

involving improved and revised dispute resolution and medical care procedures for the delivery of workers compensation benefits and medical coverage as permitted by the Code.

Section 1.6 Peaceful Resolution of All Disputes. 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 Project Stabilization 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 lock-out.

Section 1.7 Binding Agreement on Parties and Inclusion of District Residents and Business. By executing this Agreement, the District, 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 to adopt, develop and implement processes and procedures which are inclusive of the residents and businesses of the District.

ARTICLE 2

SCOPE OF THE AGREEMENT

Section 2.1 General. This Agreement shall apply and is limited to all new construction, rehabilitation 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 District's facilities which, jointly, constitute the Project, and have been designated by the District for new construction or major rehabilitation, where such work is funded in whole or in part by (a) Proposition BB Funds, the prime contract for which is awarded more than 30 days after the effective date of this Agreement, (b) or Measure K, all of which are hereinafter referred to as the "Project" or "Project Work".

Section 2.2 Specific. The Project is defined and limited to:

(a) All construction and major rehabilitation work pursuant to prime multi-trade construction contracts that exceed $175,000.00, and

(b) all prime specialty contracts that exceed $20,000.00, and are funded in whole or in part by monies from Proposition BB and/or Measure K as described above, and all subcontracts flowing from these prime contracts; and

(c) All contracts for similar work, subject to the same threshold limitations, funded by future propositions or measures and awarded prior to the expiration date of this Agreement.

(d) It is understood by the Parties that the District may at any time, and at its sole discretion, determine to build segments of the Project under this Agreement which were not currently proposed, or to modify or not to build any one or more particular segments proposed to be covered.

Section 2.3 Bundling of Contracts. The Parties understand that, to the maximum extent feasible, and consistent with goals of the District to (i) utilize this Agreement as the labor relations Policy for its new construction and major rehabilitation program and (ii) fully utilize the services of local small business enterprises for such construction and rehabilitation work,

(a) the District, in its sole discretion, with the advice of the Project Labor Coordinator, will seek to group (or "bundle") for bidding, contracts not meeting the thresholds of Section 2.2(a) or (b) above. (Small contracts for like types of work, scheduled to be undertaken at the same school, in the same district or on the same Project site, and within the same timeframe, will be considered for such bundling, consistent with economies of scale, and the purposes of this Agreement); and

(b) project work will not be split, divided or otherwise separated for contract award purposes to avoid application of this Agreement.

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

(a) Work of non-manual employees, including but not limited to: superintendents; 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 District;

(c) All off-site manufacture and handling of materials, equipment or machinery; 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 District, Project Labor Coordinator, design teams (including, but not limited to architects, engineers and master planners), or any other consultants for the District (including, but not limited to, project managers and construction managers and their employees where 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 Building/Construction Inspector and Field Soils and Materials Testers (Inspectors) are a covered craft under the PLA. (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 the PLA.) 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 District 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 District, Project Labor Coordinator, or contractor in connection with this Project;

(i) Laboratory work for testing.

Section 2.5 Awarding of Contracts. (a) The District 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 Project Stabilization 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 Project Stabilization 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 District 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 District shall retain the absolute right to select the lowest reliable and responsible bidder for the award of contracts on all Proposition BB and Measure K-funded projects.

Section 2.6 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 fund if such Project Work is covered by this Agreement; or a law regulation, proposition or measure prohibits such coverage or the use by the District, or for its benefit, of particular funds if such coverage exists. The District agrees that it will make every effort to establish the enforcement of this Agreement with any governmental agency or granting authority.

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 XXI, 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; provided, however, that such does not apply to the NTL Articles of Agreement or the Elevator Constructors (except, in the latter case, as provided in Attachment B). 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 X.

(b) 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 Project Stabilization 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 District 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 new or existing facilities referenced 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 district Employees or contracted for by the District for its own account, on its property or in and around a Project site.

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. The Unions agree that this Agreement does not have the effect of creating any joint employment status between or among the District or Project Labor Coordinator and/or any contractor.

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

ARTICLE 3

UNION RECOGNITION AND EMPLOYMENT

Section 3.1 Recognition. The Contractor recognizes the Council and the signatory local 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 3.12 and with Article IV, 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 VI, 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 District to encourage employment of District residents and utilization of small local businesses on the Project, and to facilitate the ability of all contractors to meet their employment needs.

(b) 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 District, to identify and refer competent craftpersons as needed for Project Work, and to identify individuals, particularly residents of the District, 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 District.

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

(d) The parties are aware of the District's policy that contractors and other employers shall not employ, on Project Work when minors may be present on or around the site of such Project Work during working hours, a person who would not be eligible for employment by the District under California Educational Code Sec. 45123. The Parties shall endeavor to employ persons under this Article in compliance with this policy, and the contractors agree to remove such an individual in their employ from the particular Project site at the request of the District or the Project Labor Coordinator.

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, martial status or disability. Further, it is recognized that the District 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 District's policies and commitment to its goals for the significant utilization of local small businesses as direct contractors or suppliers on Proposition BB and/or Measure K financed work.

Section 3.5 Employment of District Residents. (a) In recognition of the District's mission to serve the District and its residents, the Unions and contractors agree that, to the extent allowed by law, and as long as they posses the requisites skills and qualifications, residents of the District shall be first referred for Project Work, including journeyperson, 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 percent of the positions for Project Work for a particular contractor (including the contractor's "core workforce"), by craft, have been filled with District residents; provided, however, that in circumstances determined by the District, 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 District residency, up to a minimum of 30 percent of such contractor's work force, by craft, where available); and

(b) only if:

(1) at least 50 percent of the positions for any one contractor, by individual craft, are filled by District residents (or 30 percent in the case of zip-coded referral); 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 3.6 Core Employees. Except as otherwise provided in separate collective bargaining agreement(s) to which the contractor is signatory,

(a) A specialty or sub-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 five 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 10 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.

(c) The core work force is comprised of those employees:

(i) whose names appeared on the contractor's active payroll for fifty of the one hundred working days before award of Project Work to the contractor;

(ii) who possess any license required by state or federal law for the Project Work to be performed;

(iii) who have the ability to safely perform the basic functions of the applicable trade; and

(iv) who are residents of the District on the effective date of this Agreement, or have been residents of the District for the one hundred working days prior to the award of Project Work to the contractor.

(d) If there are any questions with 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.

Section 3.7 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 3.8 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 3.9 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 3.10 Individual Seniority. Except as provided in Article IV, 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 3.11 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. Craft foreman shall be designated as working foreman at the request of the request of the contractors.

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 journeyperson 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 District 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 District personnel, or with personnel employed by the any other 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 wage rates established under the Schedule A's, except as otherwise provided in this Agreement.

Section 5.2 Benefits. (a) 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 bonafide 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. Contractors directly signatory to one or more of the Schedule A's are required to make all contributions set forth in those Schedule A's without reference to the foregoing. Bonafide jointly-trusteed benefit plans or authorized employee deduction programs established or negotiated under the applicable Schedule A or by the parties to this Agreement during the life of this Agreement may be added, subject to the limitations upon such negotiated changes contained in Article XXI, Section 21.3, and provided that the contributions do not exceed the amounts set forth in the applicable prevailing wage determination.

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

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 II, 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 state labor commissioner.

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 (1/2) 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 foreman gives instructions. 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, each shall consist of eight (8) hours of continuous work exclusive of a one-half (1/2) hour non-paid lunch period, for 8 hours pay. The last shift shall start on or before 6:00 p.m. The first shift starting at or after 6:00 a.m. is designated as the first shift, with the second shift following.

(b) Contractors, the Council and the Union recognize the economic impact upon the District and District rate payers of the massive project being undertaken by the District and agree that all parties to this Agreement desire and intend Project Work to be undertaken in a

cost efficient and effective manner to the highest standard of quality and craftsmanship. Recognizing the economic conditions, the parties agree that, to the extent permitted by law, employees performing Project Work shall not be entitled to any differentials or additional pay based upon the shift or work schedule of the employees. Instead, all employees working on Project Work shall be paid at the same base rate regardless of shift or work schedule worked.

(c) To the extent permitted by state and federal law, the contractor may, upon five (5) days' notice to appropriate union(s), establish a work week of four (4) consecutive ten (10) work hour days (exclusive of the one half hour unpaid lunch approximately halfway through the shift). Such work week should consist of the same four days each week, with the fifth day available as a make-up day if needed. Pay compensation for such shift shall be at the applicable rates established for first shift worked in this Agreement.

(d) Because of operational necessities, the second shift may, at the District's direction, be scheduled without the preceding shift having been worked. It is recognized that the District's operations and/or mitigation obligations may require restructuring of normal work schedules. Except in an emergency or when specified in the District'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) 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 one – half hour duration at the work location at approximately mid-point of the schedule shift; provided, however, that the contractor may, for efficiency of the operation, establish a schedule which coordinates the meal periods of two or more crafts. An employee may be required to work through 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.

Section 6.9 Make-up Days. To the extent permitted by the applicable general wage determination, when an employee has been prevented from working for reasons beyond the control of the employer, including, but not limited to inclement weather or other natural causes, during the regularly scheduled work week, a make-up day may be worked on a non-regularly scheduled work day for which an employee shall receive eight (8) hours pay at the straight time rate of pay or any premium rate required for such hours under the prevailing wage law.

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, slow-down, 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 District 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 District, 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 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 XXI, 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 District'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 VIII, or the provisions of Article XXI, 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 District, 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 VIII, or Section 21.4 of Article XXI, is alleged.

(a) The party invoking this procedure shall notify John Kagel, who has been selected by the negotiating parties, and whom the parties agree shall be the permanent arbitrator under this procedure. If the permanent arbitrator is unavailable at any time, the party invoking

this procedure shall notify one of the alternates selected by the negotiating parties, Joseph Gentile or Chester Brisco, in that order on an alternating basis. 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, the arbitrator named above or his/her alternate shall sit and hold a hearing within twenty-four (24) hours if it is contended that the violation still exists, but not sooner than twenty-four (24) hours after notice has been dispatched to the Executive Secretary and the Senior Official(s) as required by Section 7.6, 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 VIII, or Section 21.4 of Article XI, 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 7.4(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 District, 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 non-complying 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 (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 party to this Agreement, 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 parties to this Agreement.

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 XVI, 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 VII above.

ARTICLE 9

MANAGEMENT RIGHTS

Section 9.1 Contractor and District Rights. The contractors and the District 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 District 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 non-discriminatory manner.

Section 9.2 Specific District Rights. In addition to the following and other rights of the District enumerated in this Agreement, the District expressly reserves its management rights and all the rights conferred on it by law. The District'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) Require contractors to establish a different work week or shift schedule for particular employees as required to meet the operational needs of the Project Work at a particular locations or in order to accommodate the instructional programs and pupil control problems at various project sites where school may be in session during periods of construction activity;

(c) At its sole option, terminate, delay and/or suspend any and all portions of the covered work at any time; prohibit some or all work on certain days or during certain hours of the day to accommodate the ongoing operations of the District'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 District 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 VI, Section 6.6);

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

(e) Investigate and process complaints, through its Project Labor Coordinator, in the matter set forth in Articles VII and X.

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

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 VII or VIII.

(c) The Project Labor Coordinator shall oversee the processing of grievances under this Article and Articles VII and VIII, 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 VII 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 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 an arbitrator selected from the agreed upon list below, on a rotational basis in the order listed. Those arbitrators are: (1) Joseph Gentile; (2) Howard S. Block; (3) Thomas T. Roberts; (4) Chester Brisco; (5) William Rule; (6) Anthony Sinicropi; and (7) Wayne Estes. 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 Article VII or VIII, with a single exception that any employee discharged for violation of Article VII, Section 7.2, or Article VIII, 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 District, 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 the District, 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 District 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 District) to investigate or monitor compliance with these various laws and regulations. The Council may recommend to the Project Labor Coordinator and/or the District 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 on its own, or with the assistance of the District's labor compliance program, shall process, investigate and resolve such complaints, consistent with Article V, Section 5.4. 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 District of a federal and state law, and upon notice to the contractor that it or its subcontractors is in such violation, the District, 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 District and the contractor, the District 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 District, 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 District.

(b) Employees shall be bound by the safety, security and visitor rules established by the contractor, the Project Labor Coordinator and/or the District. 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 District establish and implement, after negotiation 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 A's 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, 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 District, and the opportunities to provide continuing work under the construction program funded by Proposition BB and Measure K. 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 District, the Project Labor Coordinator, other District 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 may comprise up to thirty (30) percent 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 apprentices on the project. When available and capable of undertaking the tasks involved, forty (40) percent 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 District 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 journeymen 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.

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 XVII shall be established, jointly chaired by a designee of the District 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 District's technical schools to establish appropriate criteria for recognition by such JAC's of the educational and work experience possessed by District students and graduates toward qualifying for entry or advanced level in the apprenticeship programs under the direction under such JAC's. The Subcommittee will meet as necessary at the call of the joint chairs to promptly to 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 will be permitted at the employees' work location; however, there will be no organized coffee breaks.

Section 15.2 Work Rules. The District, 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 an 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 VIII, 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 VIII, the Project Labor Coordinator shall be

promptly notified. At the pre-job, the Project Labor Coordinator shall review the District'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 District 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 VII, VIII or X 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 District. 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 District 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 District 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 District, the Project Labor Coordinator, contractor or the Union parties to violate any laws governing the subject manner 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 District 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 District, 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 October 1, 2003 for purposes of work funded under Measure K and awarded after such date, and [30 days later,], November 1, 2003 for all Project Work funded pursuant to Proposition BB (after which date, the parties agree, the Project Stabilization Agreement originally effective August 31, 1999 for Project BB Funded work shall be terminated in its entirety except as to work then underway pursuant to such

Agreement), and shall be continued in effect until October 1, 2008 (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 District and the signatory unions for any further construction program initiated pursuant to Propositions BB or Measure K consistent with the Scope Provisions of Article II of this Agreement, and further, it is agreed that with regard to any new construction or major modification programs undertaken by the District pursuant to further Propositions or Measures enacted by District voters prior to October 1, 2008, this Agreement shall apply to all construction work awarded prior to said October 1, 2008, for work meeting conditions established in Article II, Section 2.2 above.

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

(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 District and Notice of Acceptance is given by the District 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 District pursuant to (a) above, involving otherwise turned-over and completed facilities which have been accepted by the District, 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 an negotiation of the Local Collective Bargaining Agreement which is the basis for a Schedule A shall be resolved under the procedures established in Article X.

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 District saying that no work remains within the scope of the Agreement; or _____, 2008, (unless there is a mutually agreed upon extension) whichever occurs first.

In witness whereof the parties have caused this Project Stabilization Agreement for Los Angeles Unified School District New School Construction and Major Rehabilitation to be executed as of the date and year above stated.

LOS ANGELES
UNIFIED SCHOOL DISTRICT

By: _____

JAMES A. McCONNELL, JR.
Chief Facilities Executive

By: _____

LOS ANGELES ORANGE COUNTIES
BUILDING AND TRADES
CONSTRUCTION COUNCIL

By: _____
Executive Secretary

Signatory Unions and Districts
(see attached)

29 Schedule A

LOS ANGELES UNIFIED SCHOOL DISTRICT
PROJECT STABILIZATION AGREEMENT

LOCAL UNION/DISTRICT

U.A. Local 250 Steamfitters By: Eddie Barrios

Tile, Marble & Terrazzo Local 418 By:

U.A. Loc. Plumbers 761 By:

Sprinkler Fitters UA Local 709 By: Mike Svensen

Cement Masons #600 By: Tony Arreola

IBEW #11 By:

Teamsters 848 By:

Laborers' Local #300 By:

Plasterers #200 By:

Painters + Allied Trades District Council #36 By:

Bricklayers Local #4 By: Philip Morris

Laborers Local 882 By:

Sheet Metal Workers #105 By:
Landscape & Irrigation

Fitters UA Local 345 By: Ramon Bautista per J. Garner

Iron Workers L.U. #433 By: Douglas P. Williams

Roofers & Waterproofers 36 By:

I.W. 416	By:	David A. Alexander (DMA)
Boilermakers #92	By:	Edward J. Marquez
Elevator Constructors #18	By:	Lonnie Brown
Carpenters Regional Council	By:	Lloyd Clay
Teamsters Local #986	By:	
Granite Local #345	By:	
	By:	
IUOE Local #12	By:	
Iron Workers Local 12	By:	
Plumbers Local 78	By:	John C. Hall
Laborers Local 802	By:	
Laborers Local 507	By:	
Asbestos Workers Local 5	By:	
	By:	

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 Parsons Constructors Inc.
100 W. Walnut Street
Pasadena, CA 91124

Attn: Donna Benenati

Re: Project Stabilization Agreement – New School Construction and Major Rehabilitation Funded by Proposition BB and/or Measure K – Letter of Assent

Dear Sir:

This is to confirm that [Name of Company] agrees to be party to and bound by The Los Angeles Unified School District Project Stabilization Agreement – New School Construction Major Rehabilitation Funded by Proposition BB and/or Measure K effective [ ], 2003, as such Agreement, may from time to time be amended by the negotiating parties or interpreted pursuant to its terms. Such obligation to be a party and bound by this Agreement shall extend all work covered by the Agreement undertaken by this Company on the Project pursuant to [Contract No. 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)].

8

INSIDE WIREMEN'S AGREEMENT

BETWEEN

LOCAL UNION 11
INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS

AND

LOS ANGELES COUNTY CHAPTER
NATIONAL ELECTRICAL
CONTRACTORS
ASSOCIATION

2002 - 2005

INSIDE WIREMEN'S AGREEMENT

Agreement by and between the Los Angeles County Chapter, NECA and Local Union 11, IBEW.

It shall apply to all firms who sign a Letter of Assent to be bound by this agreement.

As used hereinafter in this agreement, the term "Chapter" shall mean the Los Angeles County Chapter, NECA, and the term "Union" shall mean Local Union 11, IBEW.

The term "Employer" shall mean an individual firm who has been recognized by an assent to this agreement.

The word "Workmen", as used hereinafter, shall mean workmen covered by the terms of this agreement.

SCOPE OF WORK

Workmen employed under the terms of this Agreement shall do all electrical construction, and installation or erection work, including the final running tests.

This shall include the installation of all temporary power and light wiring (providing, however, other tradesmen may be permitted to attach or disconnect safe, properly grounded portable cords of not more than one hundred feet in length from a plug-in box for the use of not more than two (2) lamps or power devices to the source of temporary wiring) provided for under this Agreement. This shall also include the installation of all electrical lighting, heating and power equipment, fiber optics, and the installation and connecting of all electronic equipment, including computing machines and devices. This shall also include monitoring of radiation hazards where such monitoring work is not preempted or performed by the U.S. Atomic Energy Commission, their agents, successors, or assignees.

BASIC PRINCIPLES

The Chapter and the Union have a common and sympathetic interest in the Electrical Industry. Therefore, a working system and harmonious relations are necessary to improve the relationship between the Chapter, the Union and the Public. Progress in the industry demands a mutuality of confidence between the Chapter and the Union. All will benefit by continuous peace and by adjusting any difference by rational, common sense methods.

In accordance with the Federal Government Executive Orders, the Fair Employment Practices Act of the State of California, and other applicable laws, the parties

to this Agreement are obligated not to discriminate against employee or applicant for employment because of race, religion, color, age, sex, creed, national origin or disability.

The Employers recognize the Union as the sole collective bargaining agency between itself and the employees covered under this Agreement.

Now, therefore, in consideration of the mutual promises and agreements herein contained, the parties hereto agree as follows:

MUTUAL POLICIES

It is the understandable right of every contractor to build a strong organization and every workman to be represented by a strong Union.

Both parties to this Agreement shall comply with the provisions of this agreement. Employees will not be removed from the job because of jobsite disputes and all disputes shall be resolved by the grievance procedure contained in Article I.

When the contractor secures a contract, that contract is his property to direct, operate and supervise as he sees best. The contractor shall have the ownership, direction and supervision of the job; the Union shall furnish the workmen employed on the job. The Union or its representatives shall have the representational direction of the workmen employed on the job.

The LA/NECA and IBEW Local 11 should jointly undertake a program of Public Relations and Public Information to alert buyers, and the public alike, as to the many benefits inherent in "QUALITY" union electrical work.

The LA/NECA and IBEW Local 11 should continue to monitor all jobs in L.A. County to make certain all parties are abiding by the laws.

The LA/NECA and IBEW Local 11 recognize the need to recover, retain, and increase the market share of unionized electrical construction. The customer is our most valuable asset.

ARTICLE I
Effective Date - Changes
Grievances - Disputes

Section 1.01. This Agreement shall take effect July 1, 2002, and shall remain in effect until June 30, 2005, unless otherwise specifically provided for herein. It shall continue in effect from year to year thereafter, from July 1 through June 30 of each year, unless changed or terminated in the way later provided herein.

Section 1.02. (a) Either party desiring to change or terminate this agreement must notify the other, in writing, at least 90 days prior to the anniversary date.

(b) Whenever notice is given for changes, the nature of the changes desired must be specified in the notice.

(c) The existing provisions of the Agreement shall remain in full force and effect until a conclusion is reached in the matter of proposed changes.

(d) In the event that either party has given a timely notice of proposed changes, and an agreement has not been reached by the anniversary date to renew, modify or extend this agreement or to submit the unresolved issues to the American Arbitration Association, either party may serve the other a ten (10) day written notice terminating this Agreement. The terms and conditions of this Agreement shall remain in full force and effect until the expiration of the ten (10) day period.

(e) By mutual agreement only, the parties may jointly submit the unresolved issues to the American Arbitration Association for adjudication. The arbitrator's decision shall be final and binding on all parties hereto.

Section 1.03. This Agreement shall be subject to change or supplement at any time by mutual consent of the parties hereto. Any such change or supplement agreed upon shall be reduced to writing, signed by the parties hereto, and submitted to the International Office of the IBEW and the National Office of NECA for approval, the same as this Agreement.

Section 1.04. During the term of this Agreement, there shall be no stoppage of work either by strike or lockout because of any proposed changes in this agreement or dispute over matters relating to this Agreement. All such matters must be handled as stated herein.

Section 1.05. There shall be a Labor-Management Committee of three (3) representing the Union and three (3) representing the Employers. It shall meet regularly at such stated times as it may decide. However, it shall also meet within forty-eight (48) hours when notice is given by either party. It shall select its own Chairman and Secretary.

Section 1.06. All grievances or questions in dispute shall be adjusted by the duly authorized representatives of each of the parties to this Agreement. In the event that these two are unable to adjust any matter within forty-eight (48) hours, they shall refer the same to the Labor-Management Committee.

Section 1.07. All matters coming before the Labor-Management Committee shall be decided by a majority vote. Four (4) members of the Committee, two (2) from each of the parties hereto, shall be a quorum for the transaction of business, but each party shall have the right to cast the full vote of its membership and it shall be counted as though all were present and voting.

Section 1.08. Should the Labor-Management Committee fail to agree or adjust any matter, such shall then be referred to Expedited Arbitration for adjudication. The arbitrator's decision shall be final and binding upon both parties hereto.

Section 1.09. When any matter in dispute has been referred to conciliation or arbitration for adjustment, the provisions and conditions prevailing prior to the time such matters arose shall not be changed or abrogated until agreement has been reached or a ruling has been made.

Section 1.10. (a) No complaint, dispute or grievance shall be considered unless written notice is delivered by the aggrieved party to the Union and Chapter within fifteen (15) working days from the date on which the alleged complaint, dispute or grievance first occurred, except in cases involving fringe benefit payments.

(b) The stages of the grievance procedure will be as follows, unless a variance is mutually agreed upon by both parties to this agreement. All grievances must be heard within thirty (30) calendar days by the Sub-Committee, starting from the date the parties are formally notified of the grievance. The results of the Sub-Committee hearing will be mailed within two (2) calendar weeks of the hearing, either party wishing to appeal the decisions of the Sub-Committee must do so within ten (10) calendar days upon receipt of the Sub-Committee decision.

All matters coming before the Full Labor Management Committee must be heard within thirty (30) calendar days from the date the parties formally receive notification.

Should the Full Labor-Management Committee fail to agree on the resolution of any grievance it shall then be referred to Expedited Arbitration for resolution within thirty (30) calendar days from the time Full Labor Management deadlocks on the issues.

ARTICLE II
Employer Qualifications
Employer Rights - Union Rights

Section 2.01. Certain qualifications, knowledge, experience and financial responsibility are required of everyone desiring to be a signatory party to this Agreement. Therefore, an Employer who signs this Agreement is a person, firm, partnership or corporation whose principal business is electrical contracting and who possesses the following qualifications and presents documented evidence substantiating them prior to becoming signatory hereto.

(a) Maintaining a legal place of business which means an office, shop or premises where the Employer or his representative can be reached by telephone, and where he receives his mail, conducts the ordinary tasks of operating his business and maintains employee payroll records.

(b) Furnishes a copy of a valid C-10 license for the State of California in the name of the signatory party or firm.

(c) Employs at least one (1) journeyman from the Hiring Hall who is not financially connected with the firm.

(d) Posts the One Hundred Dollar ($100) Payroll & Fringe Benefits Guarantee Deposit provided herein.

(e) Agrees to comply with all Fringe Benefit Trust provisions.

(f) The Contractor shall notify the dispatch area in which a job is located prior to starting any electrical job, the location, starting time and estimated number of men required for the job. This notification will be by "Fax" or mail.

When the signatory firm employs one (1) journeyman who is not financially connected with the firm, the signatory firm may then designate in writing, two (2) working members of the firm.* Such designated working members of the employing concern shall be registered with the Local Union and shall comply with all of the fringe benefit provisions that are legally permissible. Such designated working members may work with the tools and be transferred to any and all jobs throughout Los Angeles County.*

In no case shall more than two (2) members of partnership, firm, corporation or association be permitted to perform any electrical work under the terms of this Agreement, and only when one (1) journeyman who is not financially connected with the employing concern is employed. In every case the working members of the employing concern must be listed with the Local Union and be governed by all the terms of this Agreement.*

Holders of currently active C-10 licenses in the State of California shall not be allowed to work under the terms of this Agreement until submitting written evidence that such license has been or is in the process of being inactivated in accordance with the inactivation rules set forth by the California Contractor's State License Board.

Management Rights

Section 2.02. The Union understands the Employer is responsible to perform the work required by the owner. The Employer shall therefore have no restrictions, except those specifically provided for in the collective bargaining agreement in planning, directing, and controlling the operation of all his work, in deciding the number and kind of employees to properly perform the work, in hiring and laying off employees, in transferring employees from job to job within the Local Union's geographical jurisdiction, in determining the need and number as well as the person who will act as foreman, in requiring all employees to observe the Employer's and/or owner's rules and regulations not inconsistent with this Agreement, in requiring all employees to observe all safety regulations, and in discharging employees for proper cause.

Section 2.03. Both parties to this Agreement recognize that it is in the interest of both the industry and the public to improve productivity consistent with high safety standards and quality work, and there shall be no restriction against the use of contractor furnished machinery, tools or labor saving devices.

*This provision will sunset at the end of the contract term unless renewed by the parties.

Any applicant referred to a contractor will have been previously certified to have met the requirements of the Immigration Reform and Control Act of 1986. Records to be on file at the office of NECA.

Contractor shall provide evidence that the vehicle and the operator are covered by liability and property damage insurance during the period the employee will be required to drive the vehicle.

Section 2.04. The employer shall have the right to determine the competency and qualifications of its employees, and the right to discharge such employees for any just and sufficient cause. The Union may institute a grievance procedure under the terms of this Agreement if it feels any employee has been unjustly discharged.

Social Security - Unemployment and Disability Insurance - Workers' Compensation and Flight Insurance

Secti n 2.05. For all employees covered by this Agreement the employer shall carry Workers' Compensation Insurance with a company authorized to do business in the state, Social Security and such other protection insurance as may be required by the laws of this state, and shall furnish satisfactory proof of such to the Union; he/she shall also make contributions to the California Department of Employment and observe all applicable provisions of the Safety Orders issued by the State of California.

Any workmen required to fly in any type of aircraft other than scheduled airlines shall have provided to him a personal Flight Insurance Policy in the amount of three hundred thousand dollars ($300,000), covering each individual workman for the loss of life or dismemberment caused while riding in such aircraft provided by the Employer. This Flight Insurance Policy shall be provided at the expense of the Employer and is in addition to normal Workers' Compensation Insurance.

Recognition

Section 2.06. (a) The employer recognizes the Union as the sole and exclusive representative of all its employees performing work within the jurisdiction of the Union for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

(b) The employer understands that the Local Union's jurisdiction – both trade and territorial – is not a subject for negotiations but rather is determined solely within the IBEW by the International President and, therefore, agrees to recognize and be bound by such determinations.

Favored Nations Clause

Section 2.07. The Union agrees that if, during the life of this Agreement, it grants to any other Employer in the Electrical Contracting Industry on work covered by this Agreement, any better terms or conditions than those set forth in this Agreement, such better terms or conditions shall be made available to the Employer under this Agreement, and the Union shall immediately notify the Employer of any such concession.

In order to be competitive in the market and to meet the special needs of Employers on particular jobs, the Union may provide special consideration to Employers who request such treatment and who demonstrate, to the Union's satisfaction, a specific marketing need with regard to a particular job. Any special terms, conditions, modifications, or amendments so provided by the Union, shall be implemented with regard to the particular job for which they were requested.

Such special terms, conditions, modifications, or amendments shall be made available to all signatory Employers with regard to the particular job in question, but shall not constitute an action subject to the favored nations clause in the Agreement. For informational purposes only, the Chapter shall be made aware prior to implementation of any special terms, conditions, modifications or amendments provided by the Union.

This provision does not apply to the following fringe benefits and other contributions as provided for in this agreement: NEBF, Local Pension, Training, Health Fund, NEIF, Labor-Management Cooperation Committee, and Credit Union Fund. These fringe benefits and contributions can only be adjusted by mutual consent of the parties.

Portability

Section 2.09. The parties agree to follow and concur with the guidelines concerning portability established by the National Joint Portability Agreement.

Disciplining Members - Removal From Jobs When Necessary

Section 2.10. The Union reserves the right to discipline its member for violation of its Bylaws and Constitution. However, when employees working as foreman, general foreman or contractors are alleged to have violated this collective bargaining agreement, such charges or violations shall be considered a contractor's violation and responsibility, and shall be processed to the Labor-Management Committee.

Decisions of a Labor-Management Subcommittee or the Labor-Management Committee regarding such violations shall be final, and shall satisfy the parties to this Agreement.

Section 2.11. This Agreement does not deny the right of the Union to render assistance to other labor organizations by approving the honoring of sanctioned picket lines by its individual members. However, the Union shall not encourage any of its members to refuse to cross or work behind any picket line until same has been sanctioned by the Los Angeles Building and Construction Trades Council. There shall be no interruption in work until the picket line authorization has been verified by the Business Agent.

Section 2.12. When workmen are properly removed from the job by the Union in accordance with the terms of this Agreement, or when they are leaving the job due to honoring sanctioned picket lines, the Union shall direct the workmen on such job to carefully put away all tools, equipment or any other property of the contractor in a safe manner.

Section 2.13. The Employer shall not loan or cause to be loaned any workman in his employ to any other Employer without first securing permission of the Business Manager's office of the Local Union, and then only when applicants possessing the required skills are not available through the Referral Procedure.

Stewards

Section 2.14. The Union has the right to appoint stewards at any shop and/or job where workmen are employed under the terms of this Agreement. The employer is to be notified of the name of the steward appointed. A worker shall not be appointed steward until after two (2) days of employment with the contractor. The steward shall be among the last three (3) workmen excluding supervision; provided the steward is qualified and possesses the skills to perform the work.

A steward shall be allowed sufficient time during the regular working hours without loss of pay to perform his/her steward's duties.

The steward will be given a list of workers to be terminated at least two (2) hours prior to the termination of those workers. The list shall include: Name, Money earned, Hours worked, and the type of termination (layoff, fired, etc.).

Stewards shall be given a complete list of men to be paid, showing the amount of money earned and hours worked by each worker. When overtime has been worked, the Steward will be given a complete list of workers that have performed such work and the number of overtime hours worked, and will monitor the reasonable distribution thereof.

Stewards may be appointed by, may be removed by, are subject to the authority of, and shall report to the Business Manager and shall be among the last three (3) workmen excluding supervision on the job to be laid off unless their are special circumstances that are approved by the Business Manager.

A steward shall not be discharged for performance of his/her duties as a steward; however, he/she may be discharged for just cause subject to the Grievance Procedure per Article I.

Emergency Shorter Workweek

Secti n 2.15. When the employment situation becomes such that it is imminent that Section 2.16 will be invoked, a meeting of the Labor-Management Committee shall be called to take steps first to alleviate the situation. The Labor-Management Committee shall have authority to take alternative steps to help employment.

Section 2.16. When at any given time the verified unemployment reaches twelve percent (12%) of the work force based on the average employment of the six (6) month period previous, based on the records of the Credit Union Fund, a meeting of the Labor-Management Committee shall be requested by the Business Manager of Local Union 11 or the Chapter Manager of the NECA to discuss the problem and recommend steps to alleviate the situation. When the verified available unemployed reaches sixteen percent (16%) of the above established work force, all employees shall, within ten (10) days after notice from the Labor-Management Committee, go to a four (4) day, eight (8) hours per day workweek.

Notification of starting and stopping of this change of work time shall be by bulletin of the Labor-Management Committee.

The workweek shall consist of five (5) days Monday through Friday, with all Journeymen working four (4) days per week on a rotating schedule; however, an Employer may, with permission of the Labor-Management Committee, place his work on a six-hour day. Foremen and General Foremen may, at the Employer's discretion, be excluded from the shorter workweek requirements. The shorter workweek shall remain in effect until the Labor-Management Committee advises that unemployment has reached eleven percent (11%).

Provided, however, after the six basic trades (Laborers, Operating Engineers, Carpenters, Teamsters, Cement Masons and Iron Workers) effect a shorter workday than provided herein, the workday provided in this Agreement shall automatically be adjusted to that established by the six basic trades.

Access to Jobs

Section 2.17. The representative of the Union shall be allowed access to any job or shop at any reasonable time, where workmen are employed under the terms of this Agreement. Any necessary clearances are to be arranged by the contractor prior to beginning work on the project. The representative shall report to the supervision on the site prior to meeting with the employees.

Rebates-Subletting Work

Section 2.18. No Employer, or workman or their agents shall give or accept, directly or indirectly, any rebate of wages. No Employer shall directly or indirectly, or by any subterfuge, sublet or contract with any workmen, any or all of the labor services required by such contract of such Employer. Any Employer found violating these provisions shall be subject to having his agreement terminated upon written notice thereof being given by the Union.

Union Label

Section 2.19. Products, equipment, or material bearing a union label will be used where reasonably and readily available.

Payroll Data and Labor Conditions

Section 2.20. Upon request of the Business Manager of the Union, the Employer shall furnish complete data as to the workmen employed under the terms of this Agreement, together with expenses and wages paid each such employee.

Section 2.21. All employees covered by the terms of this Agreement shall be required to become and remain members of the Union as a condition of employment from and after the eighth (8th) day following the date of their employment, or the effective date of this Agreement, whichever is later.

Secti n 2.22. Employees covered by this Agreement, except those meeting the requirements of "Employer" as defined herein, shall not contract for any electrical work, or perform any electrical work for other than his present employer, without the approval of the parties.

Section 2.23. Only working conditions written into this Agreement shall be followed and observed by the employees and the employers.

Section 2.24. When workers are employed on a job in accordance with this Agreement, they shall be allowed to continue on said job until it is completed or they are removed by the Employer, except as herein provided.

Cause for Cancellation

Section 2.25. (a) The Local Union is a part of the International Brotherhood of Electrical Workers, and any violation or annulment by an individual Employer of the approved agreement of this or any other Local Union of the IBEW, other than violations of Paragraph 2 of this section, will be sufficient cause for the cancellation of this agreement by the Local Union, after a finding has been made by the International President of the Union that such a violation or annulment has occurred.

(b) The subletting, assigning or transfer by an individual Employer of any work in connection with electrical work to any person, firm or corporation not recognizing the IBEW, or one of its local unions as the collective bargaining representative of his/her employees on any electrical work in the jurisdiction of this or any other local union to be performed at the site of the construction, alteration, painting, or repair of a building, structure or other work, will be deemed a material breach of this Agreement.

(c) All charges of violations of Paragraph 2 of this section shall be considered as a dispute and shall be processed in accordance with the provisions of this Agreement covering the procedure for the handling of grievances and the final and binding resolution of disputes.

Secti n 2.26. Any Employer meeting the requirements as set forth herein, including Letter of Assent, does hereby agree to be bound by any other IBEW Local Union agreement within whose geographical jurisdiction he/she may be performing electrical construction work covered by this Agreement, provided such is legal under applicable state and federal law.

Section 2.27. The obligations of this Agreement shall not be affected by the nature or form of doing business by any Employer party hereto; and the obligations herein shall also extend to any person, firm or corporation under control or common control with any signatory, and which entity engages in any work covered by this Agreement, or any work under the State Contractor's License of the signatory or otherwise.

Signs On Trucks

Section 2.28. Each contractor signatory to an IBEW agreement shall have legible identification cards, seals, decals or stickers of not less than 12 inches by 18 inches or 220 square inches in area with letters not less than 3 inches high, and visible from the outside on each side of regular, commercial trucks. Signs shall be permanent type and remain as such. Magnetic, or hang-on signs, are not permitted on trucks. Identification signs shall also be displayed on all jobs, wherever permissible by contract or local laws.

ARTICLE III
Hours - Wages - Working Conditions

Section 3.01. Eight (8) hours work, Monday through Friday, between the hours of 6:00 a.m. and 6:00 p.m., with thirty (30) minutes for a lunch period between 10:00 a.m. and 1:30 p.m., to be decided by conditions of the job, shall constitute a day's work. All work performed outside of the stated hours will be paid at the overtime rate.

When time clocks are required by the Employer, employees shall punch such time clocks on the Employer's time. "Signing In," "Badging In," or "Brassing In," is construed as the same as punching a time clock. Security checkpoints do not constitute "signing in", "badging in", or "brassing in". Contractor will pay for initial security clearance.

Section 3.02. (a) Where required by the job conditions, the contractor may request a job site conference with the contractor, the authorized representative of the Local Union and LA/NECA to resolve job site conditions. Should the authorized representatives be unable to mutually agree or resolve the conditions, they shall be referred to the procedure outlined in Article I.

(b) Where multiple reporting locations are utilized, the men shall report to their assigned reporting location on their own time, and shall be allowed adequate pickup time and will leave the reporting location at quitting time.

Overtime

Section 3.03. (a) Overtime on all types of construction shall be paid at time and one-half the regular straight time rate of pay for hours worked. The overtime rate shall be double the straight time rate of pay on Sunday, the following Holidays, and after twelve (12) hours on any day:

Memorial Day (last Monday in May)
Fourth of July
Labor Day
Veteran's Day (November 11)
Thanksgiving Day
Day After Thanksgiving
Christmas Day
New Year's Day

(b) If any of these days fall on Sunday, the following Monday shall be considered the holiday. If Christmas or New Year's falls on Saturday, the Friday preceding will be considered the Holiday.

(c) Martin Luther King, Jr. Day (third Monday in January), and Cesar Chavez Day (March 31 or the closest Monday or Friday to each March 31st), and the regular workday before Christmas, and the regular workday before New Year's Day, will normally be a non-scheduled work days. If, however, it is necessary, due to job scheduling, to work on these days, the straight time rate of pay will be applicable.

(d) All overtime prior to normal shift will be paid at double the straight time rate of pay.

(e) No work shall be performed on Labor Day, except in case of emergency and then only after permission is granted by the Business Manager of the Union.

(f) Any employee working non-scheduled overtime shall be paid a two (2) hour minimum (call out only.).

Paid Parking

Section 3.04. In all areas of Los Angeles County, where free parking is not available within 500 yards of the job or project at the start of the shift, the contractor shall reimburse employees (weekly) at the lowest rate available within said 500 yard area, provided the employee presents a signed and dated receipt for each parking expenditure.

Wage Scale

Section 3.05. The Union shall notify contractors forty-five (45) days prior to any changes in wages or fringe benefit allocations. The foreman, general foreman, qualified cable-splicers, qualified instrument technicians, fiber optics-splicers, qualified welders (welding on electrical work shall be done by journeymen wiremen employed under the terms of this Agreement), journeymen, and apprentices shall be put on derivative rates as follows:

WAGE AND APPRENTICESHIP INCREASES:

Journeyman Wireman Effective Dates:

	7/29/02	1/27/03	7/28/03	1/26/04	7/26/04	1/31/05
General Foreman (1.226 X Jrmn. Rate)	$37.33					
Foreman (1.113 x Jrmn. Rate)	$33.89					
Journeyman (Regular)	$30.45	($0.75)*	($0.85)*	($0.90)*	($0.85)*	($0.90)*
Journeyman (When Cable Splicing, Welding or performing Instrumentation work or Fiber Optics Splicing) ($.60 above Jrmn. Rate).	$31.05					

*Negotiated increases to be allocated by the membership and may be allocated to wages and/or fringe benefits.

APPRENTICES:

YEAR / SEMESTER / PERIOD:	7/29/02	1/27/03 etc: to be allocated
Year 1 / Semester 1 / Period 1.....40%	.....$12.18+	**++
Year 1 / Semester 2 / Period 2.....45%	.....$13.70+	**++
Year 2 / Semester 1 / Period 3.....50%	.....$15.23	++

Year 2 / Semester 2 / Period 4.....55% .....$16.75 ++
Year 3 / Semester 1 / Period 5.....60% .....$18.27 ++
Year 3 / Semester 2 / Period 6.....65% .....$19.79 ++
Year 4 / Semester 1 / Period 7.....70% .....$21.32 ++
Year 4 / Semester 2 / Period 8.....75% .....$22.84 ++
Year 5 / Semester 1 / Period 9.....80% .....$24.36 ++
Year 5 / Semester 2 / Period 10....85% .....$25.88 ++

+ No pension for 40% and 45% apprentices (except NEBF). All others get percentage of $6.90 equal to their percentage in the program.
** Health contribution is $3.24 for 40% and 45% apprentices. All others are at $3.69.
++ No $0.30 deduction for training on apprentices, employer pays $0.51.

TUNNEL WORK Effective Dates:

	7/29/02	1/27/03	7/28/03	1/26/04	7/26/04	1/31/05
General Foreman (1.349 x Jrmn. Wireman's Scale)	$41.08					
Foreman (1.224 x Jrmn. Wireman's Scale)	$37.27					
Journeyman (1.100 x Jrmn. Wireman's Scale)	$33.50	*	*	*	*	*
Journeyman (When Cable Splicing, Welding or performing Instrumentation work or Fiber Optics Splicing) ($ .60 above Journeyman Tunnel Scale)	$34.10					

Apprentices equal to wage % in program as above plus 10%.

* Negotiated increases to be allocated by the membership and may be allocated to wages and/or fringe benefits.

FRINGE BENEFITS: (Hourly Rate) Effective July 29, 2002:

	Employer Contribution	Employee Deduction
N.E.B.F.	3%	
Local Pension	$6.90 ($3.30 Annuity)	
Training	$0.46	$0.30*
Health Fund	$3.69	
Labor-Management Cooperation Committee	$0.15	$0.05
Credit Union Fund		12%
N.E.I.F. (NECA Members)	1%	
C.C.F. (Non-NECA Members)	0.5%**	

*No $0.30 deduction for training on apprentices, employer pays $0.51.
**As determined by Art. VII Sec. 7.01. Contractors not paying into NEIF shall pay 0.5% into the Contract Compliance Fund. This provision will sunset at the end of the contract term unless renewed by the parties.

Shift Work

Section 3.12. When so elected by the contractor, multiple shifts of at least five (5) days' duration may be worked. When two (2) or three (3) shifts are worked: the first shift (day shift) shall be worked between the hours of 6:00 a.m. and 6:00 p.m. Workmen on the day shift shall receive eight (8) hours' pay at the regular hourly rate for eight (8) hours' work.

The second shift (swing shift) shall be worked between the hours of 4:30 p.m. and 12:30 a.m. Workmen on the "swing shift" shall receive eight (8) hours' pay at the regular hourly rate plus ten percent (10%) for seven and one-half (7 1/2) hour's work.

The third shift (graveyard shift) shall be worked between the hours of 12:30 a.m. and 8:00 a.m. Workmen on the "graveyard shift" shall receive eight (8) hours' pay at the regular hourly rate plus fifteen percent (15%) for seven (7) hours' work.

A lunch period of thirty (30) minutes shall be allowed on each shift.

All overtime work required after the completion of a regular shift shall be paid at one and one-half (1½) times the shift hourly rate.

There shall be no pyramiding of overtime rates and double the straight time shall be the maximum compensation for any hour worked.

There shall be no requirement for a day shift when either the second or third shift is worked.

Weekly Paydays

Section 3.16. Wages and all authorized expenses shall be paid weekly not later than quitting time on Wednesday. The payroll workweek shall start at 12:01 a.m. Monday and end 12:00 midnight Sunday. Not more than three (3) days' wages and expenses may be withheld. Under exceptional conditions, extensions up to a five (5) day maximum withholding period may be granted by the Labor-Management Committee. When there is a holiday in the payweek, the Employer shall have one additional day of grace to prepare his payroll and deliver the pay checks to the workmen.

Any workman laid off or discharged by the Employer shall be paid all his wages immediately. In the event he is not paid off, waiting time at the regular rate shall be charged until payment is made.

When workers on jobs are laid off or terminated after quitting time on Friday, or on a Saturday, Sunday or Holiday, they shall be paid in full not later than 3:30 p.m. the next succeeding regular business day following termination.

When employment is terminated, for whatever reason, the employee shall return to the Union Dispatch Office, and register "out-of-work", before accepting any other assignments.

On being terminated, all workmen shall immediately be given a written Termination Notice, on which shall be shown the contractor's company name, the workman's name and social security number, the reason for termination, the name of the workman's immediate supervisor and the signature of the person effecting the termination. One copy each of the Termination Notice shall be sent to the Los Angeles NECA Chapter Office, and the appropriate IBEW Local Union Dispatch Area, and one copy shall be retained by the contractor.

Any and all disputes relating to wage payments must be filed in the Business Manager's office within fifteen (15) working days after the regular payroll period in question.

All pay given to workmen shall be accompanied by either check stub or voucher showing the total hours worked, amounts withheld, and the company name, address, phone number and home office city.

Show-Up Pay

Section 3.17. (a) Any employee being laid off, permanently or temporarily, after having worked less than four (4) hours shall receive pay for four (4) hours, and if laid off after working more than four (4) hours, but less than eight (8) hours, he/she shall receive pay for eight (8) hours. This provision is inapplicable when operations cannot continue due to threats to persons or property, or when recommended by civil authorities.

(b) In case of layoff, the employee shall be notified one (1) hour in advance of regular quitting time and be paid in full and released one-half (1/2) hour in advance of regular quitting rime.

(c) Employees who are late or fail to report for work on a given day, without notifying the Employer in a timely manner, will not be entitled to show up pay if terminated. Termination pay shall be available by the end of the shift on the next succeeding regular business day. Notification in a timely manner shall mean within two (2) hours after starting time.

Section 3.18. (a) When workmen are directed to report to a job and do not start work due to weather conditions, lack of material, or other causes beyond their control, they shall receive a minimum of two (2) hours' pay at the applicable rate unless notified one hour before starting time. The employee must have given a current phone number to supervision prior to the event in order for this section to apply.

(b) It will not be mandatory for an employee to accept transfer to a dispatch area other than the one he was dispatched to.

Foreman

Section 3.19. (a) On any job requiring three (3) or more workmen, one (1) shall be designated as a foreman by the Employer. A foreman is a workman who may supervise a crew of nine (9) journeymen or fifteen (15) workmen including himself/herself.

(b) On any job requiring more than nine (9) journeymen an additional foreman is required.

(c) The employment of more than one (1) foreman requires a general foreman.

(d) A general foreman is a workman who may supervise a crew of up to nine (9) journeymen or fifteen (15) workmen including himself/herself and all foremen under his/her supervision.

(e) No foreman shall give orders to or take orders from another foreman.

(f) All foremen and general foremen shall have the classification and qualifications of journeyman wireman.

Section 3.21. On jobs having a foreman, workmen are not to take directions or orders, or accept the layout of any job from anyone except their foreman, except where an immediate decision is necessary.

Section 3.22. No foreman of one job shall at the same time supervise work on another job. No foreman of one job shall be transferred to another job for the purpose of working as a journeyman on overtime, unless previous connection with the overtime job requires special consideration.

Section 3.23. On all jobs requiring five (5) or more journeymen, at least every fifth (5th) journeyman, if available, shall be fifty (50) years of age or older.

Required Tools

Section 3.24. Cable splicer shall furnish only the following in addition to the tools required for journeymen and apprentice wiremen:

Shave Hook
Ball Peen Hammer
Scissors
Lead Dresser
Cable Knife

Anyone dispatched as a journeyman or apprentice wireman shall provide himself with the following tools:

1. 1 pr. each channel lock pliers - #420 and #430 or equivalent
2. 1 pr. side cutting pliers - 8" minimum
3. 1 pr. diagonal cutting pliers - 6"
4. 1 straight claw hammer
5. 1 screwdriver - 5" blade
6. 1 screwdriver - 8" blade
7. 1 adjustable hacksaw frame
8. 1 steel rule - 12' x 3/4" minimum
9. 1 wire skinning pocket knife
10. 1 pr. long nose pliers
11. 1 tool pouch with tool belt
12. 1 scratch awl
13. 1 adjustable end wrench - 12"
14. 1 pr. tin snips - Klein #630 or equivalent
15. 1 stubby screwdriver - flat blade and Phillips
16. 1 Phillips screwdriver - Size "0"
17. 1 Phillips screwdriver - Size "1"
18. 1 Allen wrench set - 1/8" - 3/8"
19. 1 drywall saw
20. 1 plumb bob - 8 oz.
21. 1 small level
22. 1 tap wrench to 1/4"
23. 1 wire stripper
24. 1 wood folding rule - 6'
25. 1 Wiggington voltage tester or equivalent

26. Gloves

All employees who are welding under the terms of this Agreement will be furnished by the Employer all the necessary protective shields and leather goods in order to perform their work under safe conditions. The Employer's job headquarters on every project must have a completely equipped certified First Aid Kit at all times.

Section 3.25. (a) The Employer shall furnish all other necessary tools or equipment. Workmen will be held responsible for the tools or equipment issued to them providing the Employer furnishes the necessary lockers, tool boxes, or other safe places for storage. Each Employer shall provide a locked box or safe place for the storage of employees' tools. Only new sanitary liners and clean hard hats will be furnished by the Employer.

(b) All employees working on instrumentation under the terms of this agreement will be furnished, by the employer, all other necessary meters, gauges, instruments and tools required to perform their work in a safe and workmanlike manner.

Workmanship

Section 3.26. Workmen shall install all electrical work in a safe and workmanlike manner and in accordance with applicable code and contract specifications.

Section 3.27. (a) A journeyman shall be required to make corrections on improper workmanship for which he/she is responsible on his/her own time and during the regular working hours, unless errors were made by orders of the Employer or the Employer's representative. Employers shall notify the Union of workmen who fail to adjust improper workmanship, and the Union assumes responsibility for the enforcement of this provision; corrections to be made only after a fair investigation by the Employer and the Business Manager of the Union.

(b) No workman shall leave any job incomplete without proper cause or due notice to the Employer.

Traveling Time

Section 3.28. The Employer shall pay traveling time and furnish transportation from shop to job, job to job, and job to shop. On all jobs requiring employees to remain away from home overnight, the Employer shall also furnish board, lodging and all other necessary expenses. The parties to this Agreement may establish special conditions for work in remote areas of the county and on existing project agreements.

Section 3.30. No traveling time shall be paid before or after working hours to workmen for traveling to or from jobs within Los Angeles County when workmen are ordered to report directly to the job. Providing, however, this Section shall not prohibit the Business Manager of the Union and the Chapter Manager of the NECA from making mutually satisfactory arrangements with respect to any job in an isolated area.

Instrumentation

Section 3.31. All work including, but not limited to, mounting, hook-up, loop check, and calibration of all instruments shall be performed by a qualified journeyman at the appropriate rate of pay.

Cable Splicing

Section 3.32. All work of joining, splicing and insulating, and the placing of flame-proof covering, where wiped lead joints are necessary, shall be performed by cable splicers. Journeymen only may be used in assisting cable splicers. Cable splicers shall not be required to work on wires or cables where the difference in potential is over 300 volts between any two conductors, or between any conductor and ground, unless assisted by another journeyman. In no case shall cable splicers be required to work on energized cables carrying in excess of 440 volts.

All work of joining, splicing and insulating and the placing of flame-proof covering on shielded synthetic cables operating at over 600 volts, and the installation of pot heads, oil switches and oil fuse cutouts shall be done by a cable splicer at the cable-splicer's rate of pay.

Handling Material

Section 3.33. The handling and moving of all electrical material, equipment and apparatus on the job shall be performed by workmen employed under the terms of this Agreement.

The occasional handling or transporting of light tools or light items of material shall not be construed as working with the tools.

Catalogue Item

Section 3.34. The cutting, threading, and bending of all conduit shall be performed by workmen employed under the terms of this Agreement, excluding STANDARD CATALOGUE ITEMS. Where pipe cutting and threading machines are used on the job, these shall be operated by a journeyman, or under his/her immediate supervision.

Drinking Water

Section 3.35. The contractor shall assure that potable water is available to employees at the job site.

Division of Overtime

Section 3.36. The division and assignment of all overtime will be at the sole discretion of the contractor. All overtime will be reasonably and impartially divided among the workmen over the duration of the job except where it is mutually agreed to be impractical.

Section 3.37. In no case shall workmen not employed on a job during the regular working hours be placed on overtime unless all workmen on the job have been offered the overtime work. Any workman required on overtime work, or emergency work in excess of the regular crew, may be brought in by the Employer from his shop, or from other jobs.

Use of Vehicles

Section 3.38. No workman shall use any vehicle in a manner detrimental to the best interest of other workmen, nor shall he/she use his/her vehicle to transport the Employer's tools or materials. The employer shall provide transportation for tools and materials.

Shop Location

Section 3.39. When an employer has no permanent shop located in the jurisdiction of the Union, the location of his/her shop shall be considered the city in which the job is located.

Offshore Work

Section 3.50. Workmen shall be required to report at the embarkation point at 8:00 a.m. on their trip to the island and must be returned on the embarkation point at 4:30 p.m. on their return trip from the island. The contractor may change the normal starting and stopping time for any job up to a maximum of two (2) hours to meet a bonafide job requirement. Starting time shall not be staggered.

Overtime shall be required if employees are to report earlier or are held over later than the regular shift. If employees are required to report Saturday or Sunday, the regular overtime rate must be paid.

Employees shall receive a minimum of eight (8) hours' wages for each day they are required to remain on the island.

The Employer must pay full subsistence for each day employees are required to remain on the island.

The Employer shall pay traveling time and furnish transportation from the reporting location.

Hazard Insurance

Section 3.51. For all employees covered by this Agreement, an accidental death or dismemberment insurance policy shall be provided by the Payroll Guarantee Trust Fund when such employees are subject to the following:

(a) Where workmen are required to work sixty (60) feet or more from the ground or supporting structures from trusses, stacks, towers, tanks, bosun's chairs, swinging or rolling scaffolding, or open platforms where the workman is subject to a direct fall, or where he/her has to work from a ladder or other support on a platform within five (5) feet of any direct fall opening.

(b) The elevation of the above mentioned seating, footing or platform from which work is performed, under the above conditions, governs the applicability of the coverage.

(c) Where workmen are required to work under compressed air in excess of five (5) pounds above normal atmospheric pressure, or in areas where injurious gases, dust, noxious fumes or spray painting are present in amounts necessitating the use of gas masks or respirators.

(d) When workmen are required to work where other than climatic temperatures exceed 130 degrees F. maximum or 20 degrees F. minimum.

Helicopters

Section 3.52. Any contractor using helicopters to transport workmen shall pay one hours' pay at the workman's regular rate as a hazard bonus for one round trip to the job site. All additional flying during the work day shall require one additional hour hazard bonus pay during that day.

ARTICLE IV
Referral Procedure

Section 4.01. In the interest of maintaining an efficient system of production in the Industry, providing for an orderly procedure of referral of applicants for employment, preserving the legitimate interests of the employees in their employment status within the area and of eliminating discrimination in employment because of membership or non-membership in the Union, the parties hereto agree to the following system of referral of applicants for employment.

Section 4.02. The Union shall be the sole and exclusive source of referral of applicants for employment.

Section 4.03. The Employer shall have the right to reject any applicant for employment.

Section 4.04. The Union shall select and refer applicants for employment without discrimination against such applicants by reason of membership or non-membership in the Union and such selection and referral shall not be affected in any way by rules, regulations, bylaws, constitutional provisions or any other aspect or obligation of Union membership policies or requirements. All such selection and referral shall be in accord with the following procedure.

Section 4.05. The Union shall maintain a register of applicants for employment established on the basis of the Groups listed below. Each applicant for employment shall be registered in the highest priority Group for which he/she qualifies.

Journeyman Wireman

GROUP I: All applicants for employment who have four (4) or more years' experience in the trade, are residents of the geographical area constituting the normal construction labor market, have passed a journeyman wireman's examination given by a duly constituted Inside Construction Local Union of the IBEW or have been certified as a journeyman wireman by any Inside Joint Apprenticeship, and Training Committee, and who have been employed for a period of at least one year in the last four (4) years in the geographical area covered by the collective bargaining agreement.

GROUP II: All applicants for employment who have four or more years' experience in the trade, and who have passed a journeyman wireman's examination given by a duly constituted Inside Construction Local Union of the IBEW or have been certified as a journeyman wireman by any Inside Joint Apprenticeship and Training Committee.

GROUP III: All applicants for employment who have two (2) or more years' experience in the trade, are residents of the geographical area constituting the normal construction labor market, and who have been employed for at least six (6) months in the last three (3) years in the trade under a collective bargaining agreement between the parties to this Agreement.

GROUP IV: All applicants for employment who have worked at the trade for more than one (1) year.

Section 4.06. If the registration list is exhausted and the Local Union is unable to refer applicants for employment to the Employer within forty-eight (48) hours from the time of receiving the Employer's request, Saturdays, Sundays, and Holidays excepted, the Employer shall be free to secure applicants without using the Referral procedure, but such applicants, if hired, shall have the status of "temporary employees".

Section 4.07. The Employer shall notify the Business Manager promptly of the names and social security numbers of such "temporary employees" and shall replace such "temporary employees" as soon as registered applicants for employment are available under the Referral Procedure.

Section 4.08. "Normal construction labor market" is defined to mean the following geographical area plus the commuting distance adjacent thereto, which includes the area from which the normal labor supply is secured.

Los Angeles County, California

The above geographical area is agreed upon by the parties to include the area defined by the Secretary of Labor to be the appropriate prevailing wage areas under the Davis-Bacon Act to which the agreement applies.

Secti n 4.09. "Resident" means a person who has maintained his/her permanent home in the above defined geographical area for a period of not less than one (1) year or who, having had a permanent home in this area, has temporarily left with the intention of returning to this area as his/her permanent home.

Section 4.10. "Examinations" – An "Examination" shall include experience rating tests if such examination shall have been given prior to the date of this procedure, but from and after the date of this procedure, shall include only written and/or practical examinations given by a duly constituted Inside Construction Local Union of the IBEW. Reasonable intervals of time for examinations are specified as ninety (90) days. An applicant shall be eligible for examination if he/she has four (4) years' experience in the trade.

Section 4.11. The Union shall maintain an "Out of Work List" which shall list the applicants within each Group in chronological order of the dates and times they register their availability for employment.

Section 4.12. An applicant who is hired and who receives, through no fault of his/her own, work of 120 hours or less, shall (upon re-registration), be restored to his/her appropriate place within his/her Group.

Section 4.13. Employers shall advise the Business Manager of the Local Union of the umber of applicants needed. The Business Manager shall refer applicants to the Employer by first referring applicants in GROUP I in the order of their place on the "Out of Work List" and then referring applicants in the same manner successively from the "Out of Work List" in GROUP II, then GROUP III, and then GROUP IV. Any applicant who is rejected by the Employer shall be returned to his/her appropriate place within his/her Group and shall be referred to other employment in accordance with the position of his/her Group and his/her place within his/her Group.

Section 4.14. The only exceptions which shall be allowed in this order of referral are as follows:

(a) When the Employer states bona fide requirements for special skills and abilities in his/her request for applicants, the Business Manager shall refer the first applicant on the register possessing such skills and abilities.

(b) The age ratio clause in the agreement calls for the employment of an additional employee or employees on the basis of age. Therefore, the Business Manager shall refer the first applicant on the register satisfying the applicable age requirements, provided, however, that all names in higher priority Groups, if any, shall first be exhausted before such overage reference can be made.

(c) An individual who has the Qualified Safety Person (QSP) designation will be considered to have special skills and abilities for the purposes of referral as referenced in Section 4.14 (a).

Section 4.15. An Appeals Committee is hereby established composed of one member appointed by the Union, one member appointed by the Employer or by the Association, as the case may be, and a public member appointed by both these members.

Section 4.16. It shall be the function of the Appeals Committee to consider any complaint of any employee or applicant for employment arising out of the administration by the Local Union of Sections 4.04 through 4.14 of this Agreement. The Appeals Committee shall have the power to make a final and binding decision on any such complaint which shall be complied with by the Local Union. The Appeals Committee is authorized to issue procedural rules for the conduct of its business, but it is not authorized to add to, subtract from, or modify any of the provisions of this Agreement and its decisions shall be in accord with this Agreement.

Section 4.17. A representative of the Employer or of the Association, as the case may be, designated to the Union in writing, shall be permitted to inspect the Referral Procedure records at any time during normal business hours.

Section 4.18. A copy of the Referral Procedure, as determined by the Local Union,* shall be posted on the bulletin board in the offices of the Local Union, and in the offices of the Employers who are parties to this Agreement.

There shall be six (6) dispatch areas as follows:
(See map in appendix)

1) 515 South Avenue 19, Los Angeles, CA. 90031
2) 11911 Artesia Boulevard, Cerritos, CA. 90701
3) 8333 Airport Boulevard, Los Angeles, CA. 90045
4) 400 S. Chatsworth, San Fernando, CA. 91340
5) 38279 North 6th Street East, Palmdale, CA. 93550
6) 1510 North Peck Road, South El Monte, CA. 91733

*This provision will sunset at the end of the contract term unless renewed by the parties.

Section 4.19. Apprentices shall be hired and transferred in accordance with the apprenticeship provisions of the Inside Wiremen's Agreement between the parties.

Section 4.20. When the Employer desires to employ a particular applicant as Foreman or General Foreman, he/she shall notify the Business Manager in writing of the name of the applicant requested and the classification (Foreman or General Foreman) in which the applicant is to be employed.
This employee shall remain as Foreman or General Foreman for at least six (6) months or shall receive a "reduction in force". Upon such request the Business Manager shall refer said applicant, provided the name appears on GROUP I.

Reverse Layoff

Section 4.21. When making reductions in the number of employees due to lack of work, Employers shall use the following procedure:

(a) Temporary employees, if any are employed, shall be laid off first. Then employees in GROUP IV shall be laid off next, if any are employed in this Group. Next to be laid off are employees in GROUP III, if any are employed in this Group, then those in GROUP II, and finally those in GROUP I.

(b) Paragraph (a) will not apply to the special skills requirement of Section 4.14 (a) but shall apply to Section 4.14 (c).

(c) Supervisory employees covered by the terms of this Agreement will be excluded from layoff as long as they remain in a supervisory capacity. When they are reduced to the status of journeyman, they will be slotted in the appropriate Group in paragraph (a) above.

ARTICLE V
STANDARD INSIDE APPRENTICESHIP & TRAINING LANGUAGE

Section 5.01. There shall be a local Joint Apprenticeship and Training Committee (JATC) consisting of a total of (either 6 or 8) members who shall also serve as Trustees to the local apprenticeship and training trust. An equal number of members (either 3 or 4) shall be appointed, in writing, by the local chapter of the National Electrical Contractors Association (NECA) and the local union of the International Brotherhood of Electrical Workers (IBEW). The local apprenticeship standards shall be in conformance with national guideline standards and policies. All apprenticeship standards shall be registered with the NJATC and thereafter submitted to the appropriate registration agency. The JATC shall be responsible for the training of apprentices, journeymen, installers, technicians, and all others (unindentured, intermediate journeymen, etc.)

Section 5.02. All JATC member appointments, re-appointments and acceptance of appointments shall be in writing. Each member shall be appointed for a 3 year term, unless being appointed for a lesser period of time to complete an unexpired term. The

terms shall be staggered, with one (1) term from each side expiring each year. JATC members shall complete their appointed term unless removed for cause by the party they represent or they voluntarily resign. All vacancies shall be filled immediately.

The JATC shall select from its membership, but not both from the same party, a Chairman and a Secretary who shall retain voting privileges. The JATC will maintain one (1) set of minutes for JATC committee meetings and a separate set of minutes for Trust meetings. The JATC should meet on a monthly basis, and also upon the call of the Chairman.

Section 5.03. Any issue concerning an apprentice or an apprenticeship matter shall be referred to the JATC for its review, evaluation, and resolve; as per standards and policies. If the JATC deadlocks on any issue, the matter shall be referred to the Labor-Management Committee for resolution as outlined in Article I of this agreement; except for trust fund matters, which shall be resolved as stipulated in the local trust instrument.

Section 5.04. There shall be only one (1) JATC and one (1) local apprenticeship and training trust. The JATC may, however, establish joint subcommittees to meet specific needs, such as residential or telecommunication apprenticeship. The JATC may also establish a subcommittee to oversee an apprenticeship program within a specified area of the jurisdiction covered by this agreement.

All subcommittee members shall be appointed, in writing, by the party they represent. A subcommittee member may or may not be a member of the JATC.

Section 5.05. The JATC may select and employ a part-time or a full-time Training Director and other support staff, as it deems necessary. In considering the qualification, duties, and responsibilities of the Training Director, the JATC should review the Training Director's Job Description provided by the NJATC. All employees of the JATC shall serve at the pleasure and discretion of the JATC.

Section 5.06. To help ensure diversity of training, provide reasonable continuous employment opportunities, and comply with apprenticeship rules and regulations, the JATC, as the program sponsor, shall have full authority for issuing all job training assignments and for transferring apprentices from one employer to another. The employer shall cooperate in providing apprentices with needed work experiences. The local union referral office shall be notified, in writing, of all job training assignments. If the employer is unable to provide reasonable continuous employment for apprentices, the JATC is to be so notified.

Section 5.07. All apprentices shall enter the program through the JATC as provided for in the registered apprenticeship standards and selection procedures. An apprentice may have their indenture canceled by the JATC at any time prior to completion as stipulated in the registered standards. Time worked and accumulated in apprenticeship shall not be considered for local union referral purposes until the apprentice has satisfied all conditions of apprenticeship. Individuals terminated from apprenticeship

shall not be assigned to any job in any classification, or participate in any related training, unless they are reinstated in apprenticeship as per the standards, or they qualify through means other than apprenticeship, at some time in the future, but no sooner than two years after their class has completed apprenticeship, and they have gained related knowledge and job skills to warrant such classification.

Section 5.08. The JATC shall select and indenture a sufficient number of apprentices to meet local manpower needs. The JATC is authorized to indenture a total number of apprentices not to exceed a ratio of one (1) apprentice to (3) Journeyman Wiremen normally employed under a collective bargaining agreement. The JATC shall indenture a larger number of apprentices provided the individuals are entering the program as the result of direct-entry through organizing; as provided for in the registered apprenticeship standards.

Section 5.09. Though the JATC cannot guarantee any number of apprentices, if a qualified employer requests an apprentice, the JATC shall make reasonable efforts to honor the request. If the JATC is unable to fill the request within ten (10) working days, and if the JATC has fewer indentured apprentices than permitted by its allowable ratio, they shall select and indenture the next available person from the active list of qualified applicants. An active list of qualified applicants shall be maintained by the JATC as per the selection procedures.

Section 5.10. To accommodate short-term needs when apprentices are unavailable, the JATC shall assign unindentured workers who meet the basic qualification for apprenticeship. Unindentured workers shall not remain employed if apprentices become available for OJT assignment. Unindentured workers shall be used to meet job site ratios except on wage and hour (prevailing wage) job sites.

Before being employed, the unindentured person must sign a letter of understanding with the JATC and the employer, agreeing that they are not to accumulate more than two thousand (2,000) hours as an unindentured, that they are subject to replacement by indentured apprentices and that are not to work on wage and hour (prevailing wage) job sites.

Should an unindentured worker be selected for apprenticeship, the JATC will determine, as provided for in the apprenticeship standards, if some credit for hours worked as an unindentured will be applied toward the minimum OJT hours of apprenticeship. The JATC may elect to offer voluntary related training to unindentured; such as Math Review, English, Safety, Orientation/Awareness, Introduction to OSHA, First-Aid and CPR. Participation shall be voluntary.

Section 5.11. The employer shall contribute to the local health and welfare plans and to the National Electrical Benefit Fund (NEBF) on behalf of all apprentices and unindentured. Contributions to other benefit plans may be addressed in other sections of this agreement.

Secti n 5.12. Each job site shall be allowed a ratio of two (2) apprentices for every three (3) Journeyman Wiremen or fraction thereof as illustrated below.

Number of Journeymen	Maximum Number of Apprentices/Unindentured
1 to 3	2
4 to 6	4
7 to 9	6
97 to 99, etc.	66, etc.

The first person assigned to any job site shall be a Journeyman Wireman.

A job site is considered to be the physical location where employees report for their work assignments. The employer's shop (service center) is considered to be a separate, single job site. All other physical locations where workers report for work are each considered to be a single, separate job site.

Section 5.13. An apprentice is to be under the supervision of a Journeyman Wireman at all times. This does not imply that the apprentice must always be in sight of a Journeyman Wireman. Journeymen are not required to constantly watch the apprentice. Supervision will not be of a nature that prevents the development of responsibility and initiative. Work may be laid out by the employer's designated supervisor or journeyman based on their evaluation of the apprentice's skills and ability to perform the job tasks. Apprentices shall be permitted to perform job tasks in order to develop job skills and trade competencies. Journeymen are permitted to leave the immediate work area without being accompanied by the apprentice.

Apprentices who have satisfactorily completed the first four years of related classroom training using the NJATC curriculum and accumulated a minimum of 6,500 hours of OJT with satisfactory performance, shall be permitted to work alone on any job site and receive work assignments in the same manner as a Journeymen Wireman. An apprentice shall not be the first person assigned to a job site and apprentices shall not supervise the work of others.

Section 5.14. Upon satisfactory completion of apprenticeship, the JATC shall issue all graduating apprentices an appropriate diploma from the NJATC. The JATC shall encourage each graduating apprentice to apply for college credit through the NJATC. The JATC may also require each apprentice to acquire any electrical license required for journeymen to work in the jurisdiction covered by this Agreement.

Section 5.15. The parties to this Agreement shall be bound by the Local Joint Apprenticeship Training Trust Fund Agreement which shall conform to Section 302 of the Labor-Management Relations Act of 1947 as amended, ERISA, and other applicable regulations.

The Trustees authorized under this Trust Agreement are hereby empowered to determine the reasonable value of any facilities, materials, or services furnished by either party. All funds shall be handled and disbursed in accordance with the Trust Agreement.

Section 5.16. All Employers subject to the terms of this Agreement shall contribute the amount of funds specified by the parties signatory to the local apprenticeship and training trust agreement. For the current rate of contribution refer to Article III, Section 3.05 of this agreement. This sum shall be due the Trust Fund by the same date as is their payment to the NEBF under the terms of the Restated Employees Benefit Agreement and Trust.

ARTICLE VI
National Employees Benefit Fund

Section 6.01. It is agreed that in accord with the National Employees Benefit Agreement entered into between the National Electrical Contractors Association and the International Brotherhood of Electrical Workers on September 3, 1946, as amended, that unless authorized otherwise by the National Employees Benefit Board, the individual Employer will forward monthly to the designated Local Secretary-Treasurer an amount equal to three percent (3%) of his gross monthly labor payroll, which he/she is obligated to pay to the employees in this bargaining unit, and a completed payroll report prescribed by the National Board. The payment shall be made by check or draft and shall constitute a debt due and owing to the National Board on the last day of each calendar month, which may be recovered by suit initiated by the National Board or its assignee. The payment and the payroll report shall be mailed to reach the office of the appropriate Local Secretary-Treasurer not later than fifteen (15) calendar days following the end of each calendar month.

Individual Employers who fail to remit as provided above shall be additionally subject to having this agreement terminated upon seventy-two (72) hours' notice, in writing, being served by the Union, provided the individual Employer fails to show satisfactory proof that the required payments have been paid to the Local Secretary-Treasurer. The failure of an individual Employer to comply with the applicable provisions of the National Employees Benefit Agreement shall also constitute a breach of this Labor Agreement.

ARTICLE VII
National Electrical Industry Fund

Section 7.01. Each individual Employer shall contribute an amount not to exceed one percent (1%) nor less than .2 of 1% of the productive electrical payroll, as determined by each Local Chapter and approved by the Trustees, with the following exclusions:

1. Twenty-five percent (25%) of all productive electrical payroll in excess of 75,000 man-hours paid for electrical work in any one Chapter area during any one calendar year, but not exceeding 150,000 man-hours.

2. One Hundred percent (100%) of all productive electrical payroll in excess of 150,000 man-hours paid for electrical work in any one Chapter area during any one calendar year.

(Productive electrical payroll is defined as the total wages (including overtime) paid with respect to all hours worked by all classes of electrical labor for which a rate is established in the prevailing labor area where the business is transacted).

Payment shall be forwarded monthly to the National Electrical Industry Fund in a form and manner prescribed by the Trustees no later than fifteen (15) calendar days following the last day of the month in which the labor was performed. Failure to do so will be considered a breach of this Agreement on the part of the individual Employer.

CONTRACT COMPLIANCE FUND*

Section 7.02 Contract Compliance Fund – Each employer shall contribute 0.5% of the productive payroll for work performed under this agreement.

The fund shall be administered solely by the Association and shall be utilized to pay for administration services performed on behalf of all signatory employers, such as marketing the benefits of IBEW contractors to construction users, promoting project labor agreements, and service on all funds as required by federal law. The amount of this contribution is included in, and is not in addition to, the amount paid by NECA members to the NEIF.

The C.C.F. contribution shall be submitted with all other fringe benefits as delineated in the Labor Agreement by the fifteenth (15th) of the following month in which they are due to the Administrator receiving funds. In the event any employer is delinquent in submitting the required Contract Compliance Fund to the designated Administrator, the Administrator shall have the authority to recover any funds, along with attorney fees, court costs, interest and liquidated damages as required with all other fringe benefits as delineated in the Labor Agreement receiving such funds. The enforcement for delinquent payments to the fund shall be the sole responsibility of the fund or the employer and not the Local union. These monies shall not be used to the detriment of the IBEW.

IBEW Political Education Fund*

Section 7.03 An IBEW Political Education (COPE) fund will be established upon adoption of mutually agreed to language by the parties, but administered solely by IBEW Local 11. Contributions to the fund will be employee deductions.

*This provision will sunset at the end of the contract term unless renewed by the parties.

Labor-Management Cooperation Committee

Section 7.05. Each employee covered by the terms of the agreement shall contribute, through a payroll deduction, five cents ($0.05) per hour for each hour worked, into the Local 11, I.B.E.W.-Los Angeles County Chapter, N.E.C.A. Labor-Management Cooperation Committee. Each Employer shall make the five cents ($0.05) per hour deduction for each hour worked and shall forward the total amount for all employees covered by this agreement and on a monthly basis transmitted on a form furnished and prescribed by the Trustees of the Fund.

Section 7.06 All Employers subject to the terms of this agreement shall contribute fifteen cents ($.15) per hour for each hour worked for the purpose of maintaining the Local 11, I.B.E.W.-Los Angeles County Chapter, N.E.C.A. Labor-Management Cooperation Committee. This sum shall be forwarded monthly to the Trust.

Section 7.07. A Board of Trustees for the Labor-Management Cooperation Committee is hereby established and shall consist of an equal number of members selected by the Union and the Chapter. The Board of Trustees is hereby authorized to establish and implement such Trust Fund, Trust Fund Agreement, and reporting forms as they consider necessary to administer the plan.

Payroll and Fringe Benefits Guarantee Trust Fund

Section 7.10. Each electrical contractor employing workmen under the terms of this Agreement shall deposit One Hundred Dollars ($100.00), free of interest, for a payroll and fringe benefits guarantee (including Credit Union Fund) up to Fifty Thousand Dollars ($50,000.00) of payroll, but not over that amount, with the Trustees who shall function under a Trust Agreement to be agreed upon between the parties. If at any time, the interest accrued in the Payroll and Fringe Benefits Guarantee Trust Fund is depleted, each signatory contractor shall make an additional deposit into such fund of any amount up to One Hundred Dollars ($100.00), making a total of Two Hundred Dollars ($200.00) maximum. Notice of such additional deposit shall be given by the Labor-Management Committee.

Net payroll checks shall be paid by the Electrical Industry Payroll and Fringe Benefits Guarantee Trust Fund to be agreed upon between the parties. Net payroll checks shall be paid by the Electrical Industry Payroll and Fringe Benefits Guarantee Trust Fund in a total amount not to exceed Two Thousand Two Hundred and Fifty Dollars ($2,250.00) maximum per employee.

A contractor who makes the payroll and fringe benefits deposit, and pays wages and fringe benefits to employees covered by this agreement, shall be absolved from all responsibilities with respect thereto. This payroll and fringe benefits deposit is in no respect a bond covering the contractor's payroll and fringe benefits obligation, but only an emergency fund to relieve employees' financial strain caused by issuing of bad checks or

failure of contractors to meet payroll, or failure of contractors to make fringe benefit contributions as provided in this agreement. If the contractor defaults in the foregoing, his/her liability shall be as set forth in the Trust Agreement but shall, in any event, include the following:

(1) The contractor shall be liable for cost of enforcing collection, including but not limited to court costs, attorney fees, loss of earnings of an employee not paid, fringe benefits lost to an employee and any other expenses as determined by the Trustees to be the fault of such delinquent contractor.

(2) The Trustees are authorized to institute whatever federal or state, civil or criminal actions as are necessary to enforce collection. Upon collection of defaulted payroll, or bad check, employees must reimburse the Payroll and Fringe Benefits Guarantee Trust Fund. Employees shall cooperate in every manner in regard to the collection of defaulted payroll, as requested by the Trustees.

(3) The contractor must, within five (5) calendar days after notice from the Business Manager of Local Union No. 11, IBEW, make good any defaulted wages to his/her employees.

(4) On the first default of payroll payments and/or fringe benefit payments the defaulting contractor shall, upon notice from the Trustees, furnish a surety or cash bond in an amount of Five Thousand Dollars ($5,000) as guarantee that wage payments and fringe benefit payments will be regularly made. On the second default of payroll and/or fringe benefit payments, the defaulting contractor shall furnish a bond or equivalent of at least Ten Thousand Dollars ($10,000). The amount of bond may also be set by the Trustees by using the following formula:

Four (4) times the weekly wages and fringe benefits for all of said signatory contractor's employees covered by this agreement.

However, the amount of bond required in this instance shall not be less than Ten Thousand Dollars ($10,000). Failure to furnish the above-referred-to bond shall constitute cause for immediate cancellation of the Collective Bargaining Agreement at the option of the Local Union and the processing of all legal procedures necessary to enforce collection of defaulted amount, plus collection costs and interest involved. It shall not be a violation of this Agreement for the Union to refuse to permit persons covered by this Agreement to work on said job or project until all such wages and/or fringe benefits have been paid.

(5) Whenever a contractor has definite knowledge that he is taking over a contract for a job that has been partially completed by another contractor, he/she shall notify the Local Union, in writing, in the area before starting work.

(6) It is understood and agreed that this Payroll and Fringe Benefits Guarantee Trust Fund is considered a joint fund covering both the Inside and Outside Agreements

and groups of workmen. Consequently, contractors who are engaged in both Inside and Outside work shall make only one payroll and fringe benefits deposit to this Trust.

Rules, regulations and operations of the Payroll and Fringe Benefits Guarantee Trust Fund are as set forth in the Trust Agreement.

Fringe Benefits
Pension Fund - Contributions

Section 7.20. Each signatory contractor shall contribute to the Southern California IBEW-NECA Pension Trust Fund a total of Three Dollars and sixty Cents ($3.60) per hour for each hour worked by each employee covered by this Agreement, except apprenticeship classifications. (See Wage Scales - Article III, Section 3.05)

Section 7.21. A Board of Trustees for the Pension Trust Fund is hereby established, and shall consist of an equal number of members selected by the Union and the Chapter. The Board of Trustees is hereby authorized to establish and implement such Trust Fund Pension Plan, Trust Agreement and reporting forms as they consider necessary to the finalization of the Pension Plan.

Section 7.22. All disbursements shall be in accordance with the Trust Agreement. The cost of implementing and the administration of the Pension Plan and Trust, including legal fees, bonding of Trustees, postage, printing, etc., shall be borne by and from the Pension Trust Fund.

Section 7.23. This Pension Fund, including employer contributions, shall be irrevocable except by mutual consent of the parties to this Collective Bargaining Agreement. Mutual consent, as used herein is defined as: A three-fourths (3/4) majority vote of the total employees covered by the plan, and a like vote of the Employers, with subsequent conformity to Section 1.03 of Article I. The provisions of the plan trust and documents shall have control as to plan benefits and rights not specifically addressed herein.

Section 7.24. Any signatory contractor that defaults in making contributions to the Pension Fund shall be liable for all collection and litigation expenses, including reasonable attorney's fees, court costs, liquidated damages and audit fees and expenses, as well as interest at the legal rate.

Section 7.25. This Pension Fund and Trust Document will comply with and conform to all applicable laws.

Health Fund Contributions

Section 7.30. Each signatory contractor shall contribute to the Southern California IBEW-NECA Health Trust Fund a total of Three Dollars and sixty-nine Cents ($3.69) per

hour for each hour worked by each employee covered by this Agreement. (See Wage Scales - Article III, Section 3.05)

Section 7.31. A Board of Trustees for the Health Trust Fund is hereby established and shall consist of an equal number of members selected by the Union and the Chapter. The Board of Trustees is hereby authorized to establish and implement such Trust Fund, Health Fund Trust Agreement and reporting forms as they consider necessary to the finalization of the Health Fund.

Section 7.32. All disbursements shall be in accordance with the Trust Agreement. The cost of implementing and the administration of the Health Fund and Trust, including legal fees, bonding of Trustees, postage, printing, etc., shall be borne by and from the Health Trust Fund.

Section 7.33. This Health Fund Plan, including employer contributions, shall be irrevocable except by mutual consent of the parties to this Collective Bargaining Agreement. Mutual consent, as used herein, is defined as: A three-fourths (3/4) majority vote of the total employees covered by the Plan, and a like vote of the Employers, with subsequent conformity to Section 1.03 of Article I. The provisions of the plan trust and documents shall have control as to plan benefits and rights not specifically addressed herein.

Section 7.34. Any signatory contractor that defaults in making contributions to the Health Trust Fund shall be liable for all collection and litigation expenses, including reasonable attorney's fees, court costs, liquidated damages and audit fees and expenses, as well as interest at the legal rate.

Section 7.35. This Health Plan and Trust Document will comply with and conform to all applicable laws.

Credit Union Fund

Secti n 7.40. The Employer shall pay to each employee, by paying to an account maintained in his/her name at the Los Angeles Electrical Workers Credit Union (LAEWCU), a state chartered credit union, an amount equal to 12% of the gross pay of each employee. This amount is not in excess of, but is a part of the wage scale, and shall be paid to the LAEWCU by remitting said amount along with other contributions to the existing "Lock Box" account.

UNION Keeps Interest

Section 7.41. The accounts held in each employee's name by the LAEWCU shall be subject to such rules and regulations as the LAEWCU has adopted or may adopt pursuant to its charter.

Secti n 7.42. The employer's sole responsibility under this section shall be to pay the amounts described in Section 7.40 above.

Southern California IBEW, Local No. 11-NECA
Defined Contribution Plan

Section 7.45. Each signatory contractor shall contribute to the Southern California IBEW Local Union 11-NECA Defined Contribution Plan a total of Three Dollars and thirty Cents ($3.30) per hour for each hour worked by each employee covered by this Agreement. is fund shall become Part "B" of the Southern California Board of Trustees that administer the Southern California IBEW/NECA Pension Trust Fund. (See Wage Scale - Article III, Section 3.05). A 'Tiered' Defined Contribution process shall be implemented by the parties to this agreement upon full compliance with all state and federal laws. In addition, an automatic Local 11 Working Assessment will be implemented.

Secti n 7.46. All disbursements shall be in accordance with the Plan adopted by the Board of Trustees. The cost of implementing and the administration of the Southern California IBEW, Local Union 11-NECA Defined Contribution Plan shall be borne by the Southern California IBEW, Local Union 11-NECA Defined Contribution Plan.

Section 7.47. This Southern California IBEW, Local Union 11-NECA Defined Contribution Plan, including Employer contributions, shall be irrevocable except by mutual consent of the parties to this Collective Bargaining Agreement. Mutual consent, as used herein, is defined as: A three-fourths (3/4) majority vote of the total employees covered by the Plan, and a like vote of the employers with subsequent conformity to Section 1.03 of Article I. The provisions of the plan trust and documents shall have control as to plan benefits and rights not specifically addressed herein.

Section 7.48. This Southern California IBEW, Local Union 11-NECA Defined Contribution Plan shall comply with and conform to all applicable laws.

Time of Contributions and Monthly Reports, Delinquency or Failure to Make Contributions or to File Reports of all Funds

Section 7.51. Contributions to each of the foregoing Funds shall be due and payable on or before the tenth (10th) day of each month covering hours worked by each employee through the last payroll period in the prior calendar month. Each contractor shall file a monthly report with each Fund in the form established by the Fund, and such report shall be filed regardless of whether a contractor has employed any employees in the month covered by the report.

Section 7.52. Any contractor who fails to report or to make contributions due to any foregoing Fund before the fifteenth (15th) day of the month in which it is due, or who issues a non-sufficient check shall be considered delinquent and, therefore, obligated and liable and subject to the following:

Each delinquent contractor shall pay to the Fund involved liquidated damages in the amount of 1½% of the principal if late 1-30 days; 3% of the principal if late 31-60 days; 1½% will accrue for each additional thirty days late, up to a maximum of 18% per annum of the indebtedness or ten dollars ($10.00) for each month of delinquency, whichever is the greater.

The Trustees of the Fund involved shall, within sixty (60) days after a contractor is delinquent, instruct legal counsel to institute legal action to enforce collection. A delinquent contractor shall pay all collection and litigation expenses, including reasonable attorney's fees, court costs, liquidated damages, audit fees and expenses, as well as interest and other expenses incurred in the enforcing of collection from such contractor, and each contractor shall make applicable books and records available for such purpose. Collection actions may be brought by the Trustees of the Fund in the name of the Fund, or in the name of the Trustees or in the name of any assignee, or agent as determined by the Trustees.

A delinquent contractor shall be liable to any employee affected by such delinquency for a sum equal to the value of the benefits lost to the employee by reason of delinquency of such contractor. A delinquent contractor shall be liable to reimburse any Fund for the cost or value of any benefits which may be made available by the Trustees to any employee affected by the failure of the delinquent contractor to contribute or to report to the Health Fund or to the Pension Fund or to any other Fund.

Individual Employers who fail to remit as provided above shall be additionally subject to having this Agreement terminated upon seventy-two (72) hours notice, in writing, being served by the Union, provided the individual Employer fails to show satisfactory proof that the required payments have been paid to the Local Secretary-Treasurer.

A contractor may be absolved of any or all of the foregoing liabilities if he/she satisfies the Trustees that he/she failed to pay any contributions or to report because of honest mistake, clerical error, or other reasons satisfactory to the Board of Trustees.

Whenever a contractor claims that his/her failure to make the required contributions was due to honest mistake or clerical error, and requests relief for that reason, it shall be considered provided the contractor agrees in writing to an audit of his/her records by an auditor appointed by the Board of Trustees. If the audit reveals to the Trustees that such failure to pay was not due to honest mistake or clerical error, then the contractor shall pay the cost of the audit; otherwise, the Trust Fund will pay for the cost of the audit. Any contractor shall be entitled to credit for or refund of money paid to any Trust Fund by reason of clerical error or mistake and the Trustees are authorized to refund such monies. The acceptance of any contributions from any contractor shall not release or discharge him/her from the obligations to contribute for all hours worked under this Agreement for which no contribution has actually been received notwithstanding any statement, restriction or qualification appearing on any check from any contractor.

The following Trust Agreements are binding on all contractors employing persons covered by this Agreement:

1. Pension Trust Agreement; Health Trust Agreement; Joint Apprenticeship and Educational and Training Trust Agreement; Payroll and Fringe Benefits Guarantee Trust Fund Agreement; Credit Union Fund Agreement; the Labor-Management Cooperation Committee.

2. Each contractor party hereto agrees to be bound by all of the obligations imposed upon the individual contractor by said Agreement. Each contractor making contributions to each of said Funds hereby agrees that by so doing, and hereby does irrevocably designate and appoint the Employer-designated Trustees mentioned in each of said Trust Agreements, as Trustees authorized to act in his behalf pursuant to said Trust Agreements, and irrevocably ratifies the designation, selection, appointment, removal and substitution of Trustees as provided in each of said Trust Agreements. Each contractor becoming a party to this Agreement authorizes the Trustees functioning under said Trust Agreements and the parties hereto to obtain rulings before any court or agency concerning any tax or other aspect of this Agreement, or any of the foregoing Trust Agreements, and to comply with the filing or reporting requirements of any applicable law, in behalf of all persons covered thereby.

Section 7.53. It is contemplated and understood that the Pension Plan and Health Plan created hereunder, and any trust which may be established in connection therewith, shall at all times.

(a) Be and remain a qualified plan, payments to which are deductible to the contractors, and not current income to the employees, under the United States Internal Revenue Act of 1954, the Revenue and Taxation Code of the State of California, and the Bank and Corporation Tax Law of the State of California.

(b) Be and remain such that it complies with the provisions of the California Retirement Systems Act (if applicable), the Labor-Management Relations Act of 1947, as amended, the Federal Welfare and Pension Plans Disclosure Act, and this Agreement, and as they may be amended from time to time, together with any other applicable valid State laws or rules or regulations.

(c) Be and remain such that contributions to the Pension Plan and Health Plan shall not be a part of the "regular rate" at which any employee is employed, according to the terms of the United States Fair Labor Standards Act and the Regulations and interpretations of it, and shall not be subject to deductions for state or federal income tax purposes, or under or for the purposes of the California Unemployment and Disability Insurance Act, the Federal Unemployment Tax Act, the Social Security Act, or the Federal Insurance Contributions Act, or any similar legislation.

(d) To this end, the parties agree that they will, from time to time, promptly adopt such amendments or take such other steps as to make the provisions of the Pension Plan and Health Plan and its administration clearly conform to these laws, rules and regulations including, if necessary, amendments with retroactive effect as the circumstances may require.

(e) It is further understood that the contractor's sole obligation hereunder, and under each Plan and Trust, shall be to make such contributions as are required hereunder, and that benefits payable under the Pension Plan and Health Plan and Trusts shall be determined on a money purchase basis, or on any other basis that is actuarially sound in relation to the required contributions.

Section 7.54. A delinquent contractor shall be cited before the Labor-Management Committee in accord with Article VII, Section 7.55 by the Trustees or their designated representative, or any authorized party to the Agreement under the following circumstances:

1. Issuing a check with insufficient funds in payment of wages, fringe benefits or other contributions as required by the terms and conditions of this agreement.

2. Failure to transmit a contribution report form when due.

3. Refusing to permit audit entry upon the request of the trustees of any trust.

4. Failure to pay wages or contributions as disclosed by an audit performed at the request of the trustees of any trust.

(a) Notice of hearing shall be sent at least ten (10) days prior to the scheduled hearing date.

(b) Notice shall be sent to the Employer at the address appearing on this Agreement or any Letter of Assent, or on the list of the Secretary of the Labor-Management Committee, which address shall be the recognized address for the giving of notice. The signatory parties hereto agree that service of the charges, the notice of hearing before the Labor-Management Committee and notice of the decision of the Labor-Management Committee shall be deemed to have been properly served upon the party cited if it is sent by Certified Mail, return receipt requested, to said Employer's recognized address. The signatory parties hereto agree that the recognized address shall be the last known address of the person cited, and the person cited agrees that service at the recognized address will be deemed sufficient both for notice of hearing and of the decision of the Labor-Management Committee. It shall be the affirmative duty of each signatory party hereto to keep the Local Union advised of said person's last known address if said address is different from that appearing on this Agreement or any Letter of Assent. The signatory parties hereto waive any claim that they were not served properly if service as described above was made in accord with this Section.

Section 7.55. The procedures of the Labor-Management Committee, with regard to the failure to pay contributions or refusal to permit audit entry upon request of the Trustees of any Trust are set forth in Article VII, Section 7.54.

Section 7.56. The Labor-Management Committee shall have the right not only to determine whether there has been a violation of this Agreement, but shall also have the right to devise an appropriate remedy consistent with the interpretation and applicable of this Agreement, including allowance of attorney's fees, cost of enforcement and interest from the date of decision, if court proceedings are required to enforce the decision. In addition, the Labor-Management Committee shall have the right to determine whether a party cited before these bodies has been properly cited and whether the provisions for notice have been complied with. The Labor-Management Committee shall have the further right to determine whether a party is signatory to this Agreement, whether any particular dispute is subject to the grievance procedure of this Agreement; and shall have the right to determine any and all defenses and contentions, legal or otherwise, raised by any person. Upon the rendering of the decision by the Labor-Management Committee, the Chairman and Secretary may execute any written award on behalf of all the members of the Committee.

Section 7.57. The Labor-Management Committee may delegate any or all of its powers and duties to the Labor-Management Subcommittee which body shall have authority to hear and determine grievances with the same force and effect of the Labor-Management Committee. Any decision of the Labor-Management Subcommittee may be appealed to the Labor-Management Committee within ten (10) days of rendition of the Arbitration Award, but where contributions are found due, the full sum of the award must be posted prior to appeal. If no appeal is taken, or if the requisite deposit is not given, the decision of the Labor-Management Committee shall be final and binding at the end of ten (10) days.

ARTICLE VIII
Safety - Job Safety

Section 8.01. On all energized circuits or equipment carrying 480 volts or over, as a safety measure, two (2) or more journeymen must work together, one (1) standing by wearing rubber gloves.

Section 8.02. All drivers and passengers riding in Company vehicles must comply with CAL/OSHA Safety Standards.

Insurance

Section 8.05. Electrical contractors shall post in every truck, and on every job, the name of their Workers' Compensation and Disability Insurance Carriers, and a list of doctors and medical facilities available in case of job injury.

Drug and Alcohol Policy

Section 8.06. The dangers and costs which alcohol and other chemical abuses can create in the electrical contracting industry in terms of safety and productivity are significant. The parties to this Agreement resolve to combat chemical abuse in any form and agree that to be effective, programs to eliminate substance impairment should contain a strong rehabilitation component. The parties recognize the employer's right to adopt and implement a drug and alcohol policy subject to all applicable laws and regulations, procedural safeguards, scientific principles, and legitimate interests of privacy and confidentiality. When drug and alcohol testing is performed, all testing shall be conducted in accordance with the procedures outlined in the aforementioned policy.

Where such testing is required, the employer shall pay for the test, and shall compensate the employee for his time, except where the employee tests positive, in which case the employee shall not be compensated for his/her time.

Separability Clause

Should any provision of this Agreement be declared illegal by any court of competent jurisdiction, such provisions shall immediately become null and void, leaving the remainder of the Agreement in full force and effect and the parties shall, thereupon, seek to negotiate substitute provisions which are in conformity with the applicable laws.

General Savings Clause

If any portion of this Agreement may not be put into effect because of applicable Legislation, Executive Orders or Regulations, then such portions, or any part thereof, shall become effective at such time, in such amounts, and for such periods, as will be permitted by law at any time during the life of this Agreement and any extension thereof.

Whenever the masculine gender is used in this Agreement, the female gender is also intended.

ARTICLE IX
National Labor Management Cooperation Committee (NLMCC)

Section 9.01. The parties agree to participate in the NECA-IBEW National Labor-Management Cooperation Fund, under authority of Section 6(b) of the Labor-Management Cooperation Act of 1978, 29 U.S.C. §175(a) and Section 302(c)(9) of the Labor-Management Relations Act, 29 U.S.C. §186(c)(9). The purposes of this Fund include the following:

1) to improve communication between representatives of labor and management;

2) to provide workers and employers with opportunities to study and explore

new and innovative joint approaches to achieving organization effectiveness;

3) to assist worker and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

4) to study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the electrical construction industry;

5) to sponsor programs which improve job security, enhance economic and community development, and promote the general welfare of the community and the industry;

6) to encourage and support the initiation and operation of similarly constituted local labor-management cooperation committees;

7) to engage in research and development programs concerning various aspects of the industry, including, but not limited to, new technologies, occupational safety and health, labor relations, and new methods of improved production;

8) to engage in public education and other programs to expand the economic development of the electrical construction industry;

9) to enhance the involvement of workers in making decisions that affect their working lives; and

9) to engage in any other lawful activities incidental or related to the accomplishment of these purposes and goals.

Section 9.02. The Fund shall function in accordance with, and as provided in, its Agreement and Declaration of Trust, and any amendments thereto and any other of its governing documents. Each Employer hereby accepts, agrees to be bound by, and shall be entitled to participate in the NLMCC, as provided in said Agreement and Declaration of Trust.

Section 9.03. Each employer shall contribute one cent (1¢) per hour worked under this Agreement up to a maximum of 150,000 hours per year. Payment shall be forwarded monthly, in a form and manner prescribed by the Trustees, no later than fifteen (15) calendar days following the last day of the month in which the labor was performed. The NECA Chapter, or its designee, shall be the collection agent for this Fund.

Section 9.04. If an Employer fails to make the required contributions to the Fund, the Trustees shall have the right to take whatever steps are necessary to secure compliance. In the event the Employer is in default, the Employer shall be liable for a sum equal to 15% of the delinquent payment, but not less than the sum of twenty dollars ($20), for each month payment of contributions is delinquent to the Fund, such amount being liquidated damages, and not a penalty, reflecting the reasonable

damages incurred by the Fund due to the delinquency of the payments. Such amount shall be added to and become a part of the contributions due and payable, and the whole amount due shall bear interest at the rate of ten percent (10%) per annum until paid. The Employer shall also be liable for all costs of collecting the payment together with attorneys' fees.

Negotiated by Local Union 11, IBEW and Los Angeles County Chapter, National Electrical Contractors Association.

Effective Date: July 1, 2002

Signed For:

LOCAL UNION NO. 11, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

/ss
Business Manager
Marvin Kropke

/ss
President
Dean Todd

Signed For:

LOS ANGELES COUNTY CHAPTER NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION

/ss
Chapter Manager
James M. Willson

/ss
President
Mike Richards

MK/JW/lr
opeiu#537
afl-cio clc

APPENDIX I
SAFETY RECOMMENDATIONS

THE FOLLOWING SAFETY RECOMMENDATIONS ARE OFFERED IN THE HOPE THAT THEY WILL REDUCE THE NUMBER AND THE SEVERITY OF ACCIDENTS IN THE ELECTRICAL INDUSTRY.

1. Prior to starting work, the Employer must survey the job site to determine the hazards and the safeguards necessary to ensure that work is performed safely.

2. When a worker is first employed, he must be given instructions regarding job hazards, safety precautions and the Employer's code of safety practices.

3. All workers shall follow safe practice rules, render every possible aid to safe operations, and report all unsafe conditions or practices to their immediate supervisors.

4. Foremen shall insist that employees work in a safe, workmanlike manner.

5. All workmen shall use the appropriate personal protective safety equipment required for the particular job (i.e., hard hats, safety goggles, etc.).

6. Tailgate safety meetings shall be held at least every ten (10) working days; topics shall be selected on the basis of conditions on the work site. Meetings shall be documented.

7. No one shall knowingly report for work or be allowed to work while his or her ability or alertness is impaired by fatigue, illness, alcohol, drugs, or other causes that might expose them or others to injury.

8. Workers are required to be properly attired for work at all time.

9. Horseplay, scuffling and other acts which tend to have an adverse influence on the safety standards shall be prohibited.

10. The use of any machinery, tools, material, or equipment which is not in compliance with safety standards shall be prohibited.

11. Portable metal ladders shall not be used for electrical work.

12. Workers shall share responsibility of keeping their work place free of scrap and debris, maintaining good housekeeping at all times.

13. Workers shall not throw material, tools or other objects from buildings or structures until proper precautions are taken to protect others.

14. Equipment or circuits that are to be de-energized for service or repair shall be rendered inoperable and have locks and tags applied which shall only be removed by the worker who installs them. Grounds are to be applied where applicable.

15. When work must be performed on energized circuits or over 300 volts to ground, rubber gloves and suitable barriers must be used.

16. Exposed energized conductors shall not be left unguarded.

17. GFI (Ground Fault Interrupter) protection or assured grounding systems shall be used in all 15 and 20 AMP 120 Volt circuits.

18. When working around exposed high voltage conductors, a six (6) foot minimum clearance must be maintained; when using hoisting type equipment, a ten (10) foot minimum clearance must be maintained.

19. The use of any powder-actuated tool is prohibited unless the operator is licensed by the tool manufacturer.

20. Employees shall not enter confined spaces unless it has been determined that the atmosphere has not been contaminated and has sufficient oxygen to sustain life. Supplementary ventilation is recommended.

21. Any trench or excavation over five (5) feet in depth or in unstable soil shall be shored or the sides sloped prior to the workmen being allowed to enter. A CAL/OSHA permit is required.

22. All accidents must be reported immediately to the Employer's representative and steward if available.

23. The Employer and employee shall both be on the alert for asbestos at the work site. The Employer will determine the level of exposure and take proper precautions.

24. The Employer shall make available reasonable, sanitary facilities including suitable and sanitary drinking water (this shall not necessarily mean bottled water) for its employees.

25. An adequate first aid kit shall be mandatory on every job and/or truck.

26. Each employee covered under this Agreement must have current first aid and CPR certificate (current shall mean within the previous three (3) years).

PHONE NUMBERS:

IBEW/NECA Electrical Training Trust
(323) 221-5881 Fax (323) 224-1886

Southern Calif. IBEW-NECA (Health & Pension) Trust
(323) 221-5861 Fax (323) 222-4894

Employee Assistance Program
(800) 221-0945

L.A. Electrical Workers Credit Union
(626) 440-9284 Fax (626) 440-9485

National Electrical Contractors Association(NECA)
(626) 792-6322 Fax (626) 792-6372
IBEW Local 11 Business Offices:
Business Manager
(626) 792-0061 Fax (626) 793-9743

Dues
(626) 792-1943

Organizing
(626) 793-9697 Fax (626) 792- 3107

International Pension & NEBF
(626) 792-2748

Metro - Dispatch
(323) 221-2171 Fax (323) 221-7336

District 1 (Pasadena Office)
(626) 792-1831 Fax (626) 796-8612

District #2 – Cerritos
(562) 924-4713 Fax (562) 865-5418

District #3 - Westchester
(310) 645-3637 Fax (310) 645-0308

District #4 - San Fernando
(818) 361-7774 Fax (818) 361-0606

District #5 – Palmdale
(661) 274-9461 Fax (661) 274-9503

District #6 - So. El Monte
(626) 443-6946 Fax (626) 443-7720

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INSIDE WIREMEN'S AGREEMENT

BETWEEN

LOCAL UNION 11
INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS

AND

LOS ANGELES COUNTY CHAPTER
NATIONAL ELECTRICAL CONTRACTORS
ASSOCIATION

2002 – 2005

9

Procedural Rules and Regulations for the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (Adopted 1984)

These procedures shall apply to:

A. Employers who employ members of the organizations affiliated with the Building and Construction Trades Department, AFL-CIO, and who signed a stipulation setting forth that they are willing to be bound by the terms of the agreement establishing the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry, or who are members of a stipulated association of employers with authority to bind its members, or who are parties to a collective bargaining agreement providing for the settlement of jurisdictional disputes under the procedures herein set forth.

B. All National and International Unions affiliated with the Building and Construction Trades Department, AFL-CIO, and their local constituent bodies.

The stipulation form adopted by the Joint Administrative Committee follows:

STIPULATION

In signing this stipulation, the undersigned (employer) (employer association on behalf of its members) agrees to be bound by all the terms and provisions of the Agreement establishing procedures for the resolution of jurisdictional

disputes in the construction industry known as the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry. In particular, the under-signed agrees to abide by those provisions of the Plan requiring compliance with the decisions and awards of
the Administrator, arbitrators or National Arbitration Panels established under the Plan, and to fulfill the obligations of the Employer set forth in the Agreement.

This stipulation shall run for the term of the Agreement and shall continue in effect for each year thereafter unless specifically terminated effective upon the anniversary date of said Agreement, in accordance with the notice provisions contained in the Agreement. The effective date of this stipulation shall be, 1984.

(Signed) .....

Company .....

Date .....

To facilitate expeditious processing of jurisdictional disputes, employer parties to the Plan are encouraged to file signed Stipulation forms with the Administrator.

ARTICLE I
CONTRACTOR'S RESPONSIBILITY

1. The contractor who has the responsibility for the performance and installation shall make a specific assignment of the work which is included in his contract. For instance, if contractor A subcontracts certain work to contractor B, then contractor B shall have the responsibility for making the specific assignments for the work

included in his contract. If contractor B, in turn, shall subcontract certain work to contractor C, then contractor C shall have the responsibility for making the specific assignment for the work included in his contract. After work has been so assigned, such assignment will be maintained even though the assigning contractor is replaced and such work is subcontracted to another con-tractor. It is a violation of the Plan for the contractor to hold up disputed work or shut down a project because of a jurisdictional dispute.

2. When a contractor has made an assignment of work, he shall continue the assignment without alteration unless otherwise directed by an arbitrator or there is agreement between the National or International Unions involved.

a. Unloading and/or handling of materials to stockpile or storage by a trade for the convenience of the responsible contractor when his employees are not on the job site, or in an emergency situation, shall not be considered to be an original assignment to that trade.

b. Starting of work by a trade without a specific assignment by an authorized representative of the responsible contractor shall not be considered an original assignment to that trade, provided that the responsible contractor, or his authorized representative, promptly, and, in any event, within eight working hours following the start of work, takes positive steps to stop further unauthorized performance of the work by that trade.

c. The Administrator shall determine all questions of original assignment of work and render decisions regarding same. An appeal of the Administrator's determination of original assignment may be made to an arbitrator in a

hearing under the terms and provisions of Article V of the Plan.

d. Criteria to be used in making assignments of work are set forth in Article V, Section 8, of the Plan.

ARTICLE II

UNION'S RESPONSIBILITY

1. The Plan provides (Article VI, Section 1) that during the existence of the Plan there shall be no strikes, work stoppages, or picketing arising out of any jurisdictional dispute.

2. When a contractor has made a specific work assignment, all unions shall remain at work and process any complaint over a jurisdictional dispute in accordance with the procedures herein established by the Administrator. Any union which protests that a contractor has failed to assign work in accordance with the procedures specified above, shall remain at work and process the complaint through its International office. The Administrator is prohibited from taking action on protests or requests to discuss jurisdictional matters from local unions or building and construction trades councils.

ARTICLE III

STRIKES AND IMPEDIMENTS TO JOB PROGRESS

1. When it is alleged, in a written notice, by a stipulated employer directly affected by the dispute, or the signatory Employer Association representing such employer, that a work stoppage, slowdown, or other impediment to job progress is

taking place, the Administrator shall proceed as set forth in Article VI of the Plan.

2. Notice to the Administrator shall include:

a. Union engaged in strike, slowdown, or impediment to job progress [specify]

b. Other union or unions directly involved (in most cases, trade receiving original assignment)

c. Brief description of work in dispute

d. Name and city and state location of project

e. Contractor and subcontractor, if any, directly involved, and mailing address of each

f. A statement detailing how the responsible contractor is stipulated to be bound to the Plan and these procedures.

Required Format for Notice

[Name of Union] on strike in jurisdictional dispute with [Name of Union] over (Briefly describe work and name of job) project, (City & State) [Name of Contractor], (Mailing Address) [Name of Subcontractor], (Mailing Address).

This contractor is stipulated. to the Plan and these procedures by virtue of (provision in collective bargaining agreement or signed stipulation on file in Plan office)

3. Impediments to job progress shall include, but not be limited to:

a. Filing a grievance under a collective bargaining agreement, or under a local plan for

the settlement of jurisdictional disputes not recognized by the Department, where an issue is a case, dispute or controversy involving a jurisdictional dispute or assignment of work by a stipulated contractor, or by a stipulated subcontractor.

b. Filing an unfair labor practice charge with the National Labor Relations Board, or action in any court against a stipulated employer by a National or International Union, or local affiliate thereof, where an issue is a case, dispute or controversy involving a jurisdictional dispute or assignment of work.

ARTICLE IV
FILING A COMPLAINT

1. When a dispute over an assignment of work arises, the National or International Union challenging the assignment, or the employer directly affected by the jurisdictional dispute, or the signatory Employer Association representing such employer, shall notify the Administrator in writing. Such notice shall include the following information:

a. Unions involved

b. A full and complete description of the work in dispute

c. Name and location of project

d. Contractors involved and their mailing addresses

e. The assignment of work and the contractor who made the assignment

f. A statement detailing how the responsible contractor is stipulated to the Plan and these procedures. Effective

stipulation shall be either a collective bargaining agreement provision recognizing the Plan or a current signed
stipulation form on file at the Plan office.

2, The notice shall be in writing and sent to:

Administrator
Plan for the Settlement of Jurisdictional
Disputes in the Construction Industry
Room 812
815 16th Street, N.W.
Washington, D.C. 20006

ARTICLE V
TIME CONSTRAINTS UNDER THE PLAN

In computing any period of time prescribed in the Plan or the procedural rules, the day from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used herein, "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day designated as a holiday by the Administrator.

ARTICLE VI DIRECT RESOLUTION

1. Within two (2) days following receipt of a properly filed notice, the Administrator shall

notify, by wire, all directly affected National and International Unions and employers that a dispute exists between local parties.

2. If the directly affected National and International Unions and employers, parties to the dispute, are able to settle the dispute, each shall inform the Administrator, in writing, signed by an authorized representative of each party, that a settlement has been reached.

3. If the directly affected National and International Unions and employers are unable to resolve the dispute, any of the directly affected parties may request arbitration of the dispute within five (5) days from the date the matter was referred by the Administrator, by filing a notice in writing to arbitrate with the Administrator, with copies to all directly affected parties.

ARTICLE VII
SELECTING AN ARBITRATOR

1. Upon receipt of a request to arbitrate, the Administrator shall send to all directly affected parties a list of impartial arbitrators, knowledgeable about the construction industry, chosen by the Joint Administrative Committee, who are able to schedule a hearing within the time constraints set forth in the Plan.

2. The directly affected National and International Unions and the responsible contractor(s) will have three days to choose, by the alternate elimination method, an arbitrator from the list supplied. It shall be the responsibility of the party requesting arbitration to arrange a meeting or conference call among the parties for that purpose and thereafter notify the Administrator of the arbitrator selected.

3. If the parties are unable to select an arbitrator, the Administrator shall appoint an arbitrator.

ARTICLE VIII
RESOLUTION BY
ARBITRATION

1. Upon his selection, the arbitrator, with the assistance of the Administrator, shall set and hold a hearing within seven (7) days.

2. The Administrator shall notify the responsible contractor(s) and the appropriate National and International Unions and signatory association(s) by telegram of the place and time chosen for the hearing. Said hearing shall be held in Washington, D.C.

3. Attendance at arbitration hearings by the parties shall be limited to one full-time employee of each National or International Union party, and one full-time employee of the responsible contractor party. Failure to attend by a party shall not delay a hearing, the taking of evidence, or the issuance of a decision.

4. Presentations shall be in writing with copies for each party, the arbitrator, and a file copy.

5. The arbitrator shall issue his decision within three (3) days after the case has been closed. The decision of the arbitrator shall be final and binding on all parties to the dispute.

6. Each party to the arbitration shall bear its own expenses for the arbitration and agrees that the fees and expenses of the arbitrator shall be borne by the losing party or parties as determined by the arbitrator.

7. Following the issuance of the decision, the Administrator will send a statement to the losing party or parties allocating the arbitrator's fees and expenses. Such statement shall be payable within ten (10) days of receipt.

ARTICLE IX
POLICY REGARDING DIRECTIVES

1. The Plan and the Procedural Rules and Regulations provide for the settlement of a jurisdictional dispute on a specific job by agreement or understanding between or among the National and International Unions involved.

2. The Procedural Rules also provide that an assignment of work may be changed by the responsible contractor(s) to conform to the terms of same, upon notification by the Administrator. Such notification shall be made by means of a directive sent to the responsible contractor(s) by the Administrator.

3. In order to give effect to the procedure set forth above, and before a directive may be sent to the affected contractor(s) by the 'Administrator, the National or International Unions involved shall submit for the records of the Plan the following:

a. A statement of by what document the responsible contractor is stipulated to the agreement.

b. A statement of the exact terms of the agreement or understanding reached. Such statement is to be jointly signed by authorized representatives of each of the National or International Unions involved. If separate communications are submitted by the parties, the terms of the agreement or understanding must be identical in each communication.

c. A statement regarding the notification to the responsible contractor(s) of the agreement or understanding reached. If objection to the agreement or understanding was made by the contractor(s) or representatives, the nature of the objection must be stated.

4. In accordance with the Plan and the Procedural Rules, any directive from the Administrator shall be complied with by the affected contractor(s) unless, and within 24 hours, following receipt of such directive, the contractor(s) notifies the Administrator that he elects not to comply with the directive, and requests that the jurisdictional dispute be processed through arbitration to a decision. Such decision shall be made in accordance with the provisions of Article V of the Plan.

ARTICI.E X

APPEALS FROM DECISIONS OF RECOGNIZED LOCAL BOARDS

1. Appeals from local settlements, agreements, or decisions issued by a plan for the settlement of jurisdictional disputes that has been recognized by the Department, may be filed with the Administrator within seven (7) days of issuance by the National or International Unions directly affected, or by the responsible contractor(s), or a signatory Employers Association representing such employer.

a. Such filing shall include a copy of the local settlement, agreement, or decision being appealed and the specific basis for the appeal. Simultaneous notice shall be given all other parties.

2. The authority of the Administrator to refer an appeal to arbitration is discretionary. The administrator shall in exercising his authority, consider whether the parties were afforded opportunity to present evidence at hearing conducted for that purpose under the Plan an in conformity with generally recognized procedures not incompatible with the provisions and procedures of this Plan.

3. Appeals referred to arbitration will be processed in accordance with Article V of the Agreement.

4. Presentations shall be in writing and limited to that which was presented at the recognized local plan for the settlement of jurisdictional disputes.

PLAN FOR THE SETTLEMENT OF JURISDICTIONAL DISPUTES IN THE CONSTRUCTION INDUSTRY

PREAMBLE

This Agreement is entered into by and among the Building and Construction Trades Department, AFL-CIO, on behalf of its constituent National and International Unions (referred to hereinafter as the Department) and the Employer Associations signatory to this Agreement (referred to hereinafter as the Employer Associations).

The parties to this Agreement dedicate their efforts to improving the construction industry by providing machinery for the handling of disputes

over work assignments without strikes or work stoppages thus stabilizing employment in the industry at the same time increasing both its efficiency and capacity to furnish construction services to the public at reasonable cost.

ARTICLE I
SCOPE OF APPLICATION

The procedures shall apply to:

(a) Employers who employ members of the organizations affiliated with the Department and who have signed a stipulation setting forth that they are willing to be bound by the terms of this Agreement or who are members of a stipulated association of employers with authority to bind its members, or who are parties to a collective bargaining agreement providing for the settlement of jurisdictional disputes under these procedures herein set forth; provided, that any such employers who

have agreed to be so bound, but were not parties to the predecessor Plan for the Settlement of Jurisdictional Disputes of June 1, 1977, must reaffirm their agreement in order to be accepted in this Plan.

The essence of this Plan assumes voluntary participation. National Employer Associations shall encourage participation in this Plan by their chapters and members, but no contractor stipulation or agreement shall be recognized by the Administrator if it is shown to the satisfaction of the Administrator that it is the result of unlawful strikes, work stoppages or other coercive activity or any activity which is contrary to the voluntary nature of this Plan, by a labor organization affiliated with the Department. Notwithstanding any other provision of this Plan should such action

be taken against any chapter or member of any participating Employer Association to compel stipulation to the Plan, its parent association, if it is a signatory to this Plan, shall thereby have the option to terminate its participation upon written notice to the Administrator within thirty (80) days of such action or occurrence, provided that notice of the action or occurrence has been afforded to the Department by the parent association during the thirty (80) day period and prior to any notice of termination.

(b) All unions affiliated with the Department.

ARTICLE II
STIPULATION PROCEDURE

Sec. 1. The Department and all National and Inter national Unions affiliated with the Department shall, in accordance with their constitutional powers, request each of the Building and Construction Trades Councils, District Councils and Local Unions, respectively:

(a) To secure written assent or stipulation to the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry by all Employers in signed agreement with said National or International Union, Council and/or Local Union except for such Employers who are stipulated to the Plan by the action of the Employer Association of which they are members; or

(b) To proceed at the earliest opportunity to negotiate stipulation to the Plan into all agreements with each employer whose employees are represented by such Building Trades Council, District Council or Local Union.

Sec. 2 All Employer Associations shall seek to have their local chapters stipulate their membership to the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry unless the national Employer Association has made such stipulation on behalf of its membership. In the event a local chapter refuses to stipulate, the national association shall notify the Joint Administrative Committee of the negative action of the specific local chapter and/or the individual member.

Sec. 3. It is understood that only those Employers or Employer Associations who employ members of the organizations affiliated with the Department shall be considered bound by this Agreement when they have signed a stipulation setting forth that they are willing to subscribe to and be bound by the terms and provisions of this Agreement.

ARTICLE III
JOINT ADMINISTRATIVE COMMITTEE

Sec. 1. There shall be established a Joint Administrative Committee (hereinafter referred to as the "JAC"), to oversee the operation of the Plan.

Sec. 2. The JAC representing the Department and the signatory Employer Associations shall consist of eight (8) voting members, four (4) nominees from the Department and four (4) from the Employer Associations. There shall be a Chairman and Vice-Chairman of the JAC. The Chairman shall be the President of the Department. The Vice-Chairman shall be designated by the signatory Employer Associations. The Chairman and the Vice-Chairman shall be non-voting members of the Committee.

Sec. 8. The JAC shall appoint a full time Administrator of the Plan. The Administrator shall be compensated at a rate and under terms to be established by the JAC.

Sec. 4. The Administrator shall be bonded and made responsible for disbursement of the funds, shall keep the books of the Plan and submit to the parties to the Agreement a quarterly financial statement; shall provide for an annual audit of the books by a certified public accountant and shall prepare annually a proposed budget of the necessary expenses of the Plan for the following twelve (12) months and submit same to the JAC for approval. The total amount of the budget, when approved, shall be subscribed annually in advance, 50 percent by the Department and 50 percent by the signatory Employer Associations. All expenditures shall be within the approved budget.

ARTICLE IV
RULES AND REGULATIONS

Sec. 1. The Administrator shall adapt his operations to assure that all cases submitted shall be disposed of as expeditiously as possible.

Sec. 2. The Administrator, with the prior approval of the JAC, shall establish such procedural regulations and

administrative practices as may be required for the effective administration of this Agreement, provided such regulations and practices are consistent with the ex-pressed terms of this Agreement.

Sec. 8. The JAC shall have the power to revise the procedural regulations and administrative

practices of the Administrator. The Administrator shall promptly notify all parties to the Plan of any revisions in the procedural rules or administrative practices.

Sec. 4. The Administrator shall keep records of disputes and decisions and develop such statistical and operational information as may be of value to the JAC. The Administrator shall from time to time make recommendations to the JAC for changes in the procedural rules or provisions of the Plan which will strengthen and improve the effectiveness of the Plan.

Sec. 5. It shall be the duty of the Administrator to process cases of jurisdictional disputes in the Building and Construction Industry when disputes are referred to him by any of the National and International Unions involved in the dispute, or an Employer directly affected by the dispute on the work in which he is engaged or by the signatory Employer Association representing such Employer. The Administrator shall only process cases in which all parties to the dispute are stipulated to the Plan in accordance with Article II.

Sec. 6. In the interest of expediting resolutions of jurisdictional disputes, the Administrator shall undertake to keep a record of decisions involving the same type of dispute and involving the same trades and report such record quarterly to the JAC.

ARTICLE V
RESOLUTION OF JURISDICTIONAL DISPUTES

Sec. 1. When a dispute over an assignment of work arises, the National or International Union challenging the assignment, or the Employer directly affected by the dispute or the signatory

Employer Association representing such Employer shall notify the Administrator in writing.

Sec. 2. Upon receipt of said notice, the Administrator or his designee shall notify within two (2) days by TWX or telegram all directly affected National and International Unions and employers that a dispute exists between the local parties.

Sec. 3. If the respective National and International unions of the disputing locals and the directly affected Employer are unable to resolve the dispute, any of the directly affected parties may request arbitration of the dispute within five (5) days, from the date the matter is referred by the Administrator, by filing a notice to arbitrate with the Administrator, with copies to all directly affected parties.

Sec. 4. Upon receipt of said notice, the Administrator shall send to all directly affected parties a list of impartial arbitrators knowledgeable about the construction industry, chosen by the JAC.

Sec. 5. The directly affected National and International Unions and the responsible contractor (s) will have three (3) days to choose, by the alternate elimination method, an arbitrator from the list supplied by the Administrator. If the parties are unable to select an arbitrator, the Administrator shall appoint the arbitrator.

Sec. 6. Upon his selection the Arbitrator, with the assistance of the Administrator, shall set and hold a hearing within seven (7) days. The Administrator shall notify the employer, the local unions and the appropriate National and International Unions and

Employer Associations by telegram of the place and time chosen for the hearing. Said hearing shall be held in Washington, D.C. A failure of any party or parties to attend said hearing without good cause, as determined by the Administrator, shall not delay the hearing of evidence or issuance of a decision by the Arbitrator.

Sec. 7. The Arbitrator shall issue his decision within three (3) days after the case has been closed. The decision of the Arbitrator shall be final and binding on all parties to the dispute.

Sec. 8. In rendering his decision, the Arbitrator shall determine first whether a previous decision or agreement of record between the parties to the dispute governs. If the Arbitrator finds that the dispute is not covered by an appropriate or applicable decision or agreement of record, he shall then consider whether there is an applicable agreement between the crafts governing the case. If no such agreement is in effect, the Arbitrator shall then consider the established trade practice and prevailing practice in the locality. Because efficiency, cost or continuity and good management are essential to the well-being of the industry, the Arbitrator shall not ignore the interests of the consumer or the past practices of the employer.

Sec. 9. The Arbitrator is not authorized to award back pay or any other damages for a misassignment of work. Nor may any party to this Plan bring an independent action for back pay or any other damages, based upon a decision of an Arbitrator.

Sec. 10. Each party to the arbitration shall bear its own expense for the arbitration and agrees that the

fees and expenses of the Arbitrator shall be borne by the losing party or parties.

ARTICLE VI
CONTINUATION OF WORK

Sec. 1. During the existence of this Agreement, there shall be no strikes, work stoppages or picketing arising out of any jurisdictional dispute.

Contractors and subcontractors shall make work assignments in accordance with the Obligations of the Employers as set forth in Article IX, and the Rules and Regulations of the Administrator. Members of organizations affiliated with the Department shall continue to work on the basis of their original assignment.

Sec. 2. Recognizing that it is in the best interests of the parties to this Agreement, the Department, on behalf of itself and the General Presidents of each of the affiliated National and International Unions, reaffirms its desire to eliminate work stoppages, slowdowns and other impediments to job progress and its intent to comply with the provisions of the Plan prohibiting jurisdictional strikes and agrees to enforce these provisions by direction and action of their respective National or International offices. In the event of a work stoppage, slowdown or other impediment to job progress, the employer may take the following course of action:

(a) The employer shall notify the Administrator or his designee of the alleged breach of this Article. Notice to the Administrator shall be by the most expeditious means available, with simultaneous notice by telegram to the party alleged to be in violation and the involved National or International Union President(s). The International

President(s) will immediately instruct, order and use the best efforts of his office to cause the local union or unions to cease any violation of this article. A National or International Union complying with this obligation shall not be liable for unauthorized acts of its local union.

(b) Upon receipt of said notice, the Administrator or his designee shall select an arbitrator from a panel of arbitrators chosen by the JAC.

(c) Upon his selection, the Arbitrator shall hold a hearing within 24 hours if it is contended that the violation still exists.

(d) The Arbitrator shall notify the employer, the local union(s), and the appropriate National or International Union(s) and Employer Association(s) by telegram of the place and time he has chosen for this hearing. Said hearing shall be held in Washington, D.C. and shall be completed in one session. A failure of any party or parties to attend said hearing shall not delay the hearing of evidence or issuance of a decision by the Arbitrator.

(e) The sole issue at the hearing shall be whether or not a violation of this Article has in fact occurred, and the Arbitrator shall have no authority to consider any matter in justification, explanation or mitigation of such violation or to award damages. The Arbitrator's decision shall be issued in writing within 3 hours after the close of the hearing, and may be issued without an opinion. If any party desires an opinion, one shall be issued within 15 days, but its issuance shall not delay compliance with, or enforcement of, the decision. The Arbitrator may order cessation of the violation of this Article and other appropriate relief, and such decision shall be served on all parties by hand or registered mail upon issuance.

(f) The Arbitrator's decision may be enforced by the United States District Court for the District of Columbia upon the filing of this agreement and all other relevant documents in the following manner: Any National or: International Union, Employer or Employer Association whose affiliate was a party to the arbitration proceeding may notify the Administrator of the failure of any party to abide by the Arbitrator's decision. A copy of such notice shall be sent simultaneously to all other parties to the arbitration proceeding and the appropriate National or International Union(s), Employer(s) and Employer Association(s). If the Administrator determines that the Arbitrator's decision is not being implemented, he shall proceed to obtain a temporal order enforcing the Arbitrator's decision. Telegraphic notice of the filing of such enforcement proceedings shall be given to all directly affected parties.

(g) All parties signatory or stipulated to this agreement, consent to the jurisdiction of the United State. District Court for the District of Columbia for the purposes of enforcement of an arbitration decision rendered under this Article. In addition, in the proceedings to obtain a temporary order enforcing the arbitrator decision, all parties to this agreement waive the right to a hearing and agree that such proceedings to enforce an arbitrator's decision may be *ex parte.* Such agreement does not waive any party's right to participate in; hearing for a final order of enforcement. The court's order(s) enforcing the Arbitrator's decision shall be served on all interested parties by hand or by delivery to their last known address or by registered mail.

(h) Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance

therewith are hereby waived by the parties to whom they accrue.

(i) Each party to the arbitration shall bear its own expense for the arbitration and agrees that the fees and expenses of the Arbitrator shall be borne by the losing party or parties. Attorneys fees, court costs and expenses incurred by the Administrator in enforcing an arbitrator's decision shall be paid by the party the court orders to abide by the Arbitrator's decision.

ARTICLE VII
ENFORCEMENT

Sec. 1. When the JAC has determined that an Employer or National or International Union is in violation of this Agreement, such Employer or National or International Union shall be denied a representative on any committee established by this Agreement during the period of violation, provided, however, that in accordance with Article IV, section 5, an Employer who is not stipulated to this Plan shall not be entitled to resolution by an arbitrator of any dispute in which he is involved or to invoke any sanctions against any National or International Union,

Sec. 2. Any decision or interpretation rendered by an arbitrator shall be immediately accepted and, complied with by all parties subject to this Agreement. If a party fails to accept and comply with a jurisdictional decision of an arbitrator or a ruling of the Administrator or the JAC, the Administrator may, with the approval of the JAC, proceed in the same manner as the enforcement 'of an arbitrator's decision set forth in Section 2 (f)-(i) of Article VI.

Sec. 3. It shall be a violation of this Agreement for any Local, National or International Union, Employer or Employer Association signatory or stipulated to this Agreement, to enter into any agreement, resolution or stipulation that (a) attempts to establish any jurisdiction which deviates from the spirit and intent of the Agreement and Rules and Regulations of the Plan; or (b) permits jurisdictional disputes between affiliates of the Department to be resolved by a single craft labor-management committee, provided the dispute involves stipulated contractors and can be processed under this Plan.

ARTICLE VIII
LOCAL BOARDS

Sec. 1. In any community or locality where a plan for the settlement of jurisdictional disputes has been recognized by the Department, it shall be used in the first instance to bring about an agreement, settlement or decision. However, any such local settlement, agreement or decision may be appealed by any of the involved parties in accordance with Sections 2 and 8 of this Article,

Sec. 2. The Administrator is empowered to refer to arbitration, in accordance with Article V, Sections 5-10, any appeal from a decision or ruling of a Local Board recognized under Section 1. The authority of the Administrator to refer a case to arbitration shall be discretionary. The Administrator is authorized, subject to the prior approval of the JAC, to prescribe rules as to the types of cases he will refer to arbitration. '

Sec. 3. The Administrator shall have the authority to establish such procedural regulations and administrative practices as may be required for the effective administration of this appeals

procedure, subject to the prior approval of the JAC.

ARTICLE IX
OBLIGATIONS OF THE PARTIES

To the end that proper assignments of work are made by the Employer involved and that jurisdictional disputes between unions are settled under the terms of the Plan without interruptions of work, it is therefore agreed as follows:

Sec. 1. Obligations of the Employer

(a) Each Employer or Employer Association stipulated to this Plan agrees that all cases, disputes or controversies involving jurisdictional disputes or assignments of work arising under this Agreement shall be resolved as provided herein, and shall comply with the decisions and rulings of the Administrator, the JAC, arbitrators or National Arbitration Panels established hereunder. A jurisdictional dispute is defined as a dispute between unions over the assignment of work and in which the Employer has an interest.

(b) Each Employer agrees that he shall continue to make work assignments in accordance with Article V, Section 8 and the Rules and Regulations of the Administrator. Continued misassignments by an Employer, as determined by the Administrator, shall be reported to the JAC which shall take such procedural or legal action against such Employer as it deems necessary and proper to effectuate the purposes of this Agreement.

(c) All participating Employer Associations shall inform their stipulated members, in writing, of their responsibility for the assignment of work in accordance with the Rules and Regulations of the Administrator.

(d) All participating Employer Associations shall encourage inclusion of work assignment training in all supervisory training programs.

(e) Each Employer who is bound by this Plan will use his best efforts to assure compliance with its terms by subcontractors engaged by the Employer on any construction job covered by the Plan.

Sec. 2. Obligations of the Department and its Affiliated Unions

(a) The Department and each of its affiliated unions agree that all cases, disputes or controversies involving jurisdictional disputes and assignments of work arising under this Agreement shall be resolved as provided herein, and shall comply with the decisions and rulings of the Administrator, the JAG, arbitrators or National Arbitration Panels established hereunder.

(b) The Department and each of its affiliated National and International Unions agree that the establishment of picket lines and/or the stoppage of work by reason of an Employer's assignment of work are prohibited. No Local Union of an affiliated National or International Union shall institute or post picket lines for jurisdictional purposes.

(c) In the event of a jurisdictional dispute, resulting in a work stoppage, strike, picket line or other interference of the work, a report of that fact shall be made by the Employer and/or the National or International Union immediately to the Administrator, to the Building and Construction Trades Department and to the appropriate Employer Association office for processing in accordance with Article VI of the Plan.

(d) In the event pickets are posted by any local trades council or any local of a National or International Union affiliated with the Department

for jurisdictional purposes, the Department will immediately direct all National and International Unions to advise their affiliates to ignore such picketing and to continue to work. If in contravention of this Plan a jurisdictional work stoppage should occur, it is the intent of this Article that the work shall continue with the crafts cooperating to the maximum extent possible to enable job continuity.

(e) The Administrator shall send a monthly report to each General President, the President of the Department and to the executive heads of the signatory Employer Associations setting forth all information on jurisdictional disputes for that month. The report should include the location and job where the dispute occurred, the parties involved, the subject of the dispute and shall indicate whether any stoppage occurred or picket lines were established.

ARTICLE X
NATIONAL ARBITRATION PANEL

See. 1. National Arbitration Panels shall be established hereunder and shall be composed of three arbitrators, knowledgeable in, the construction industry, appointed by the JAC

Sec. 2.

(a) The JAC shall meet quarterly and among its other duties and responsibilities it shall, at each meeting, review the record of disputes filed with the Administrator and in particular shall review the record of decisions involving the same trades as submitted by the Administrator in accordance with Article IV, Section 6 hereof.

(b) A dispute will be declared repetitive by the JAC when in its judgment such dispute is disruptive to the industry or seriously jeopardizes

the operational integrity of the Plan. All parties to the Plan may bring a dispute to the JAC for such determination. The JAC will develop such criteria and guidelines to determine what constitutes a repetitive dispute. The JAC will issue a written report to the party or parties who have requested a decision from the JAC involving the dispute referred for such consideration. The written report will be timely and reflect the circumstances and criteria used by the JAG to determine whether or not said dispute is in fact considered repetitive.

(c) In the event the JAG declares a dispute to be repetitive, the JAC shall refer the matter to the National
and International Unions involved for a period of not more than 90 days during which time the Unions shall
consult with the Employer Associations who represent Employers who have responsibility for that type of work.
The Unions shall endeavor to reach a national agreement governing future jurisdiction. The Administrator shall
assist the Unions and may appoint a mediator to facilitate settlement. If an agreement is reached, it shall be attested
to by the Administrator and shall serve as a criterion for decisions in future disputes. Should the National and
International Unions fail to reach an agreement within 90 days, the Administrator shall refer the dispute to a
National Arbitration Panel.

Sec. 3. In any case to go to a National Arbitration Panel, the Administrator shall notify all General Presidents of National and International Unions affiliated with the Department *and* the signatory Employer Associations stating the controversy to be considered. Only directly affected parties as determined by the JAC shall be allowed to intervene. Thirty days notice shall be given of the date set for the hearing. Briefs shall be submitted and exchanged by all parties to the dispute at least ten days prior to the hearing date.

Sec. 4. The National Arbitration Panel shall in every instance consider all pertinent evidence, including the criteria set forth in Article V, Sec. 8, and shall render a decision, if possible, within ten (10) days after the conclusion of the hearings. Copies of the National Arbitration Panel's decision shall be sent to all parties signatory to this Agreement.

Decisions of the National Arbitration Panel shall be immediately recognized under the provisions of the Constitution of the Department and Article IX of this Plan.

Decisions of the National Arbitration Panel shall be immediately accepted and complied with by the disputing unions.

Sec. 5. In the event any party to a dispute fails to present its case within the stated time, the National Arbitration Panel shall, nevertheless, proceed with the case and make its decision on the basis of the evidence presented.

ARTICLE XI
TECHNOLOGICAL CHANGES

Sec. 1. The JAC shall establish a standing Technological Change Committee. The Committee shall concern itself with technological changes in the building and construction industry as they affect the jurisdiction of the various affiliated unions of the Building and Construction Trades Department. The Committee shall consist of ten members from the Building and Construction Trades Department and ten members from the signatory Employer Associations, respectively. The Committee shall select a chairman and a secretary.

Sec. 2. The Committee is authorized to establish sub-committees provided that there is equal representation of labor and management on each subcommittee. Each subcommittee shall elect a chairman and a secretary.

Sec. 8. The Committee shall study existing methods of construction and procedures as they relate to technological changes in the industry and make recommendations to the JAC. The Committee may refer particular items to the crafts concerned who may establish committees to determine the craft jurisdiction and report their decisions to the Department and the signatory Employer Associations.

Sec. 4. The Committee shall submit a report of its activities, including reports from any subcommittees, quarterly to the JAC.

ARTICLE XII

NATIONAL AGREEMENTS REGARDING JURISDICTION

Sec. 1. When national agreements regarding jurisdiction between National or International Unions have been negotiated, immediate notice of such agreements shall be given to the appropriate management groups. Prior consultation with such groups regarding the making of agreements between National or International Unions is desirable and should be carried on.

Sec. 2. National agreements entered into and properly signed by disputing National or International Unions shall be filed with the Administrator and attested by the Administrator. Such national agreements shall take effect prospectively and shall not apply to jobs in process

at the time of execution. "Jobs in process" means any construction contract upon which the date for submission of bids or proposals has passed.

ARTICLE XIII

EFFECTIVE DATE, TERMINATION, CHANGE AND WITHDRAWAL

Sec. 1. This Agreement shall take effect on June 1, 1984 and shall remain in force and effect until May 81, 1985 and shall continue in effect for each year thereafter unless terminated as provided for herein. Changes or amendments to this Agreement may be made as provided for herein.

Sec. 2. If either the Department or any signatory Employer Association desires to change or terminate this Agreement it shall notify the other party in writing at least ninety (90) days before the anniversary date of this agreement. When notice for change is given, the nature of the changes desired must be specified in the notice. This Agreement shall be subject to change at any time by mutual consent of the parties hereto.

Any changes agreed upon shall be reduced to writing and signed by the parties hereto, the same as this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and effective as of the day and year above written.

FOR THE BUILDING AND CONSTRUCTION TRADES DEPARTMENT, AFL-CIO

Robert A. Georgine
President

FOR THE EMPLOYER ASSOCIATIONS

National Constructors Association
Robert P. McCormick

National Electrical Contractors Association
Robert L. Higgins

Mechanical Contractors Association of America, Inc.
Walter M. Kardy

National Erectors Association
Joseph R. La Rocca

Sheet Metal and Air Conditioning Contmetors National Aseociation
Russell Smith

National Association of Construction Boilermaker Employers
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10

The Financial Health of Defined Benefit Pension Plans
An Analysis of Certain Trade Unions Pension Plans

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Thanks to Maggie Wilson for her assistance in the financial analysis for this report.

KEY FINDINGS

1. Pension Benefit Guarantee Corporation (PBGC) is experiencing a significant increase in financial liabilities for failed pension plans. The PBGC, in 2008, experienced a loss of $4.8 billion in equity investments. PBGC's assumption of corporate pensions is resulting in a sharply widening deficit. The PBGC will assume responsibility of $3.2 billion in pension obligations over the next five years. The Congressional Budget Office estimates that the shortfall will widen to $86.7 billion by 2015.
2. Multiemployer pension plans also contribute to the financial overload being experienced by the PBGC. PBGC currently insures about 1,500 multiemployer (sometimes referred to as union) plans. These plans provide or promise benefits to roughly 10 million participants or their beneficiaries. As of September 30, 2007, the multiemployer insurance program reported a deficit of over $900 million. PBGC's multiemployer (union) program deficit was $955 million dollars at the end of fiscal year 2007. This was a $216 million increase in the deficit compared to the previous year, when there was a $739 million deficit.
3. One avenue for multiemployer pension plans to improve solvency is to cut benefits for future retirees. For example, on March 27, 2008 the Teamsters for a Democratic Union announced that the third largest pension fund in the Teamsters Union is reportedly planning new benefit cuts. A second example was announced that same day. Teamsters in New Jersey Local 641 were hit with major pension and health and welfare cuts on March 10—just nine days after the Local 641 pension fund announced it was in critical status (the "Red Zone"). In November

of 2008, the Boilermaker – Blacksmith National Pension Trust announced that, despite benefit reductions announced in August of 2008, the pension "is now facing serious financial challenges."

4. Another avenue for multiemployer pension plans to improve solvency is to increase employer contributions, including large "withdrawal" payments for employers who want to get out of a union pension plan. The Central States Pension Fund demanded a one-time $6 billion withdrawal payment from UPS in order to allow UPS to leave the Central States Pension Fund and start a different pension plan.

5. **Local multiemployer (union) pension funds are facing serious financial solvency issues.** Under the federal law, funds that fall in the Yellow Zone (less than 80 percent funded) or the Red Zone (less than 65 percent funded, as well as a poor credit balance) have to develop a rehabilitation plan to get above 80 percent funding. Funds can raise their funding level by increasing employer contributions or by cutting members' benefits. In extreme cases, funds in the Red Zone can even cut benefits that members (but not retirees) have already earned—money trustees could not touch before the new law. Of the five local union pensions plans examined (the Carpenters Trust Fund, Construction Laborers Fund of Greater St. Louis, **local chapters of IBEW, local chapters** of **Plumbers and Pipefitters** Union, and Sheet Metal Workers), **three** of the five reported solvency in the yellow zone and two in the red zone as of the most recent filing. When financial solvency is calculated relative to assets maintained in the stock market and the market's recent performance, all five of

the union pension plans are in the red zone.

6. Employees should consider the financial short-comings of multiemployer (union) pension plans when employment changes are considered, and employers must consider the potential financial obligations (withdrawal payments) that can be levied by pension programs when an employer wants to leave a particular pension plan.

BACKGROUND

News stories about companies' pension problems abound in 2008. Generally speaking there are two types of pension plans. The first is a defined contribution plan. These plans normally consist of contributions from both the employer and the employee. The amount available for retirement is simply a function of the amounts contributed and their performance in the market. The second type is a defined benefit plan. As the name suggests, defined benefit pension plans provide specified levels of benefits for retirees. Companies have the responsibility for funding these plans until they grow and provide promised benefits to retirees. A number of factors are now making defined benefit plans a risky proposition, and potentially even a thing of the past. In some cases, companies (cities) promised more generous benefits than they could realistically afford. Beyond that, the combination of a weak economy and declining stock market has also provided a one two punch that has knocked many companies defined benefit pension plans down for the count.

The customary view of defined benefit plans is summed up in a recent article in *Money Magazine* (Revell 2008). "If you're one of the lucky 30 million American workers still covered by a traditional defined-benefit pension plan, you'll likely be faced with a

crucial and irrevocable decision when you retire: Should you take your pension in the form of a guaranteed monthly check for life or should you grab all of your pension money up front and manage the funds yourself?" The thought of trouble with the pension fund was previously not much of a consideration.

However as many workers have become painfully aware, companies with defined benefit plans can go bankrupt. Consider such companies as Worldcom, Enron, Global Crossing, Kmart, and Delphi. The fate of employees' pension plans depends on what type of bankruptcy the firm takes: chapter 7 or chapter 11 (USA Today, 2002). The more common form is Chapter 11, where the business continues to operate and reorganizes financially. However, the employer may and often does reduce or eliminate matching contributions. Filing Chapter 7 bankruptcy is far more serious. Here, the firm shuts down and any company-sponsored retirement plans are terminated. Another possible action is for the pension plan to "freeze" the assets. The term "freeze" can mean closing the plan to new entrants or ceasing accruals for some or all plan participants.

STUDY OBJECTIVE

The first goal of this article is to review the current trends among companies' defined benefit pension plans. The number of companies going bankrupt is shooting upward and out of control. The Pension Benefit Guarantee Corporation (PBGC) is taking over the pension obligations for many of these failed companies. Evidence is presented to show the PBGC is becoming overwhelmed with failed single-employer pensions. In addition, there is a cap on the amount of benefits, which can be paid from PBGC.

The second objective of this article is to examine the financial health of multiemployer pension plans in general. Unlike single employer plans, the PBGC makes

loans to these pensions when they experience funding problems. However, with the passage of the Pension Protection Act of 2006, there is substantial pressure on multiemployer pension plans to either raise premiums or lower benefits in an effort to achieve minimum solvency ratios. In an effort to examine the solvency of a sample of multiemployer plans, a sample of trade unions is studied next. This analysis is based on data obtained from an IRS Form 5500 website called freeERISA.com. Form 5500 discloses important information about the solvency of the pension plan. The goal of this analysis is to provide a glimpse of the current financial condition of these particular pension plans. In addition, it should provide employees information that will help them analyze the financial health of their own companies' pension plan. Lastly, in light of these major financial challenges, the final section presents some questions and facts about pension alternatives for employees' consideration as they evaluate new employment opportunities.

TRENDS AMONG COMPANIES' DEFINED BENEFIT PENSION PLANS

The number of private sector defined benefit plans reached a peak in the mid-1980s. At that time, about one-third of American workers were covered by defined benefit plans. From 1986 to 2004, 101,000 single-employer plans with about 7.5 million participants were terminated. In about 99,000 of these terminations, the plans had enough assets to purchase annuities in the private sector to cover all benefits earned by workers and retirees (a "standard termination"). In the remaining 2,000 cases, companies with underfunded plans shifted their pension liabilities to the PBGC. By the end of 2005, the number of plans supported by the PBGC was at about 30,000 (PGBC 2005). In recent

years, many employers have chosen not to adopt defined benefit plans, and others have chosen to terminate their existing plans.

DECLINING PEFORMANCE OF DEFINED BENEFIT PLANS

A 2007 survey by the Employee Benefit Research Institute (EBRI) suggests that U.S. workers are slow to see or adapt to a changing U.S. retirement system. In addition, those who are aware of these changes may not be adapting to them in ways that are likely to secure them a comfortable retirement. The Retail Confidence Survey finds pension-plan changes by employers have left nearly half of workers less confident about the benefits they will receive from a traditional pension plan. There is reason for their lack of confidence.

PBGC PENSION OBLIGATIONS GROWING AT AN ALARMING RATE

On top of the shooting numbers of companies dumping their pension plans on the PBGC, in 2008, it experienced a loss of $4.8 billion in equity investments. With a newly adopted investment strategy that includes more equity, George Miller, a California Democrat who heads the congressional committee that oversees the PBGC brings up the question of whether it is wise to invest our nation's pension backstop in volatile equities considering the current market turmoil. However, the PBGC downplays the risks. "It gives us a better chance—three times better—to eliminate the deficit without taxpayer bailout," PBGC Director Charles Millard said. "Retirees who depend on us should not be concerned.

PBGC's assumption of corporate pensions is resulting in a sharply widening deficit. The deficit could swell substantially if the Chapter 11 filings of Delta, Northwest and Delphi lead them to offload unfunded pension liabilities on the agency. In addition,

United Airlines, which is operating in bankruptcy protection, received court permission to terminate its four employee pension plans, setting off the largest pension default in the three decades that the government has guaranteed pensions. The PBGC will assume responsibility of the $3.2 billion in pension obligations over the next five years. Analysts have predicted that if United wins its case, there could be a domino effect for other airlines to cut their pension obligations as well. If this domino effect takes place, the PBGC might find itself seeking Congresses help for a bailout since it is already facing more than a $9 billion shortfall. The Congressional Budget Office estimates that the shortfall will widen to $86.7 billion by 2015."

The trend for escalating pension burdens for the PBGC is likely to continue. In fact, the PBGC has become an increasingly popular option for private-capital funds and other investors who are seeking to spin investments in near-bankrupt industrial companies into gold. Shifting the heavy pension liability from the balance sheet to the pension corporation does this. Thomas Conway, VP of the United Steel Workers of America has said, "It's become a kind of system to bail out companies." Robert S. Miller has been known to take this approach in turning around companies such as Bethlehem Steel, Federal-Mogul and now Delphi. Many other executives at airlines and other troubled companies have also copied this approach. Although these companies are turning around, and the people relying on Miller are becoming rich, this approach may be creating a multibillion-dollar mess for taxpayers.

Many cities are heading toward bankruptcy due to ridiculous pension plan benefits. Recently, Vallejo, California became the largest city in the state's history to declare bankruptcy. "Thanks to retroactive benefit enhancements approved by the city

council in 2000, police officers and firefighters can now retire at age 50 and receive an annual pension equal to 90% of their final pay (assuming 30 years on the job), an amount that gets increased every year to help keep pace with inflation." More cities are likely to follow due to similar overextensions of their pension plan obligations. As government pension plans are protected by constitutional and legal guarantees, the only way out is for the city to declare bankruptcy. Once again the pension plan goes off to the PBGC.

The PBGC is already facing a large long-term funding gap before all these major companies unload their defined benefit pension plans. As a result, the funding burden will shoot higher for companies with existing plans. For example, the first inflation-triggered increase of multiemployer premiums becomes effective in 2008. Accordingly, the premium rate will increase from $8 to $9 per participant as required by the Deficit Reduction Act of 2006.

PBGC AND MULTIEMPLOYER PENSION PLANS

PBGC currently insures about 1,500 multiemployer (sometimes referred to as union) plans. These plans provide or promise benefits to roughly 10 million participants or their beneficiaries. As of September 30, 2007, the PBGC multiemployer insurance program reported a deficit of over $900 million. In other words, multiemployer program liabilities exceeded assets by almost $1 billion. This pales in comparison to the deficit in the much larger single-employer program, but it nevertheless is a matter of concern.[1] Activity in PBGC's multiemployer insurance program has increased substantially over the last few years. PBGC has also seen significant increases in requests for financial assistance. To put matters in perspective, consider the following evolution of requests for

[1] Israel Goldowitz, Chief Counsel, PBGC, National Coordinating Committee for Multiemployer Plans, Lawyers and Administrators Meeting, April 2 2008.

financial assistance.

In the first 17 years since the inception of MPPAA[2], PBGC had provided financial assistance to only 19 plans in the approximate amount of $35 million. In 1997, PBGC recorded liability for future financial assistance in the amount of $361 million to 45 troubled plans. Moreover, PBGC was paying only 14 of those plans $4 million annually in financial assistance. By the end of 2007, the multiemployer program recorded liability for 94 plans with a present value of future financial assistance of $2.1 billion. In fiscal 2007, PBGC paid nearly $71 million to 34 plans. This represented an 18-fold increase in payments to more than double the number of plans. Finally, by the end of fiscal 2008, PBGC expects to pay financial assistance to 44 plans; and by the end of 2009, 50 plans.

The assets supporting the multiemployer program had a value of $1.2 billion as of September 30, 2007. Against $1.2 billion in assets, PBGC has recorded $2.1 billion in accrued liabilities in the multiemployer insurance program as of September 30, 2007. These liabilities represent the present value of future financial assistance for plans that PBGC has identified as "probables" for purposes of PBGC's financial statements. A probable" plan is one that is currently receiving, or is projected to require, financial assistance. Thus, a "probable" plan is usually a terminated or insolvent multiemployer plan.

In summary, PBGC's multiemployer program deficit was $955 million dollars at the end of fiscal year 2007. This was a $216 million increase in the deficit compared to the previous year, when there was a $739 million deficit. The increased deficit is due primarily to PBGC's booking of additional liabilities arising from expected future

[2] Multiemployer Pension Plan Amendments Act of 1980.

financial assistance to troubled plans – most of these increased liabilities were attributable to plans that terminated in 2007. In addition to terminated plans, certain ongoing plans have notified PBGC of their intentions to file termination notices in the near future.

SPECIFIC PROBLEMS WITH MULTIEMPLOYER PENSION PLANS

The following case illustrates what is happening to multiemployer pension plans. Consider the example of a historically strong and over funded multiemployer plan with over 1,500 participants.[3] During the late 1990's, the plan was over 100% funded. Based on its funding status, the ERISA required plan contributions were less than the plan's negotiated contributions. Trustees continued to grow the plan and often were required to increase benefits for participants to ensure that their contributions were tax deductible, resulting in increased overall liabilities of the plan.

Between 2001 and 2004, poor financial markets resulted in a significant decrease in the plan's assets. The decrease in assets, coupled with the higher liabilities, created a funding gap that began to raise the plan's minimum contribution. The plan's credit balance was used to offset the growing gap between the minimum contributions and negotiated contributions. However, the gap was understated due to favorable actuarial smoothing rules, which allowed the use of asset values based on averages from the bull market five years earlier. As a result of the perceived smaller funding gap, minimum contributions remained low and the credit balance was not significantly drawn down. In addition, trustees actually increased benefits in 2003 because their current model for

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[3] See J. Sparling, "The Fallout of Reform: How Multiemployer Plans Can Better Manage Credit Balances & Funding Levels." See http://www.seic.com/institutions/documents/Fallout_Reform_ME_Plans_FINAL.pdf

management did not forecast the potential problems they were yet to experience.

Today, the plan is in significant trouble. As market volatility persisted, the benefits of smoothing decreased and funding levels dropped significantly and the plan's credit balance has eroded. In retrospect, the plan management model failed to alert trustees because it did not budget for market volatility. Last year, trustees were forced to cut benefits by 85% because of market volatility that caused a significant decrease in assets. This benefit reduction then caused a strain on recruiting new members. To make matters worse, the plan's actuary assumed the plan would meet the assumption rate for 2006 and instructed trustees to increase benefits to about half of what they had previously been. Although typical practice is to use this standard assumption, the investment management strategy was not changed to align with this goal. Recently, when the actuary revisited this case and realized the plan might not meet the return assumption, he recommended that the trustees retract their promise to plan participants to increase benefits.

To further illustrate what is going on in the area of multiemployer pension plans, consider the following comments from the Multiemployer Pension Fund Coalition (MPFC) regarding their position on the PPA of 2006. The MPFC was predicting what would happen if a poor economy and stock market negatively impacted multiemployer Pension Plans. They were concerned that plans in critical status could bankrupt the plans and lead to their transfer to the PGBC. "Contributing employers to a multiemployer plan in critical status that has adopted and is complying with a rehabilitation plan must be protected from potentially devastating, extra-contractual contribution requirements and excise taxes that could trigger bankruptcies and, eventually, plan failures, the transfer of liabilities to the PBGC, and drastic reductions in participant benefits.

There are also specific examples in 2008 where multiemployer plans are admitting to the need to cut benefits. For example, on March 27, 2008 the Teamsters for a Democratic Union announced that the third largest pension fund in the Teamsters Union is reportedly planning new benefit cuts. However, as also noted, teamster members in New England have not yet been informed of these developments by the fund or its union trustees.[4] A second example was announced that same day. Teamsters in New Jersey Local 641 were hit with major pension and health and welfare cuts on March 10—just nine days after the Local 641 pension fund announced it was in critical status (the "Red Zone").

UPS, the world's largest package-delivery service, wants Congress to allow employers to cut pension benefits already promised to some workers in plans funded by multiple companies. Atlanta-based UPS says the plans can no longer afford to pay full benefits because so many companies that used to pay into the pool have gone out of business. UPS is currently trying to withdraw from its pension obligations and set up a new independent pension plan. The following excerpt typifies the challenge:

> "Even retirees, whose pension benefits are guaranteed, could be at risk. If the funding woes at Central States continue, the plan could, in the worst-case scenario, end up in the hands of the PBGC. But the PBGC limits benefits in multi-employer plans to about $13,000 a year per retiree, compared with roughly $52,000 for single-employer plans. That would be a big cut for Frank Bryant, a 67-year-old former UPS driver who retired in 2003 and now collects a $37,000 annual pension from Central States. "It looks like a downward spiral right now,"

[4] See http://www.tdu.org/node/1900.

says the Greensboro (N.C.) resident. Central States says it has no plans to alter benefits or employer contributions."

The Hidden Pension Threat, Business Week, December 4, 2008

FORM 5500 ANALYSES FOR DEFINED BENEFIT PLANS IN TRADE UNIONS

Defined benefit pension plans are featured as an important benefit for trade unions. For purposes of this study we analyzed the financial health of a number of defined pension benefit plans for a small sample of the trade unions. While the sample was not large enough to provide statistical significance, the local chapters selected appear to be a fair representation of the financial health of the defined benefit pension plans for the trade unions. **The data for this analysis is available at www.freeERISA.com at no charge. This website provides free access to pension and benefit data. Specifically, pension data is available for IRS Form 5500. Schedule B of Form 5500 provides specific data that enables interested parties to analyze the financial health of their pension plans.**

FUNDING STANDARDS FROM PENSION PROTECTION ACT OF 2006

Federal law has a number of special rules that apply to financially troubled multiemployer plans. Under so called "plan reorganization rules," a plan with adverse financial experience may need to increase required contributions and my reduce benefits that are not eligible for the PBGC's guarantee (generally, benefits that have been in effect for less than 60 months). If a plan is in reorganization status, it must provide notification that the plan is in reorganization status and that, if contributions are not increased, accrued benefits under the plan may be reduced or an excise tax may be imposed (or both). The law requires the plan to furnish this notification to each contributing employer and the labor organization.

The main goal of the Pension Protection Act was to raise each pension's

funding level. The funding level is determined by comparing the amount of money they have on hand with the amount of benefits they expect to pay out. The goal of better funding was taken advantage of and stringent new restrictions were placed on funds. In addition, it became easier to cut members' benefits.

Under the law, funds that fall in the Yellow Zone (less than 80 percent funded) or the Red Zone (less than 65 percent funded, as well as a poor credit balance) have to develop a rehabilitation plan to get above 80 percent funding. Funds can raise their funding level by increasing employer contributions or by cutting members' benefits. In extreme cases, funds in the Red Zone can even cut benefits that members (but not retirees) have already earned—money trustees could not touch before the new law. Even when funds are healthy, the new law makes it less likely that they will improve benefits. Raising benefits lowers the funding level—something fund trustees are less likely to do with the threat of slipping into the Red Zone.

LIMITATION ON PENSION BENEFITS PAID BY PBGC

The law mandates the maximum benefit guaranteed by the PBGC. Moreover, only vested benefits are guaranteed.[5] Specifically, the PBGC guarantees a monthly benefit payment equal to 100% of the first $11 of the Plan's monthly benefit accrual rate, plus 75% of the next $33 of the accrual rate, times each year of credited service. The PBGC's maximum guarantee, therefore, is $35.75 per month times a participant's years of credited service.

> **Example 1**: If a participant with 10 years of credited service has an accrued monthly benefit of $500, the accrual rate for purposes of determining the PBGC guarantee would be determined by dividing the monthly benefit by the participant's years of service ($500/10), which

[5] See Boilermaker Blacksmith National Pension Trust Annual Report, November 2008.

equals $50. The guaranteed amount for a $50 monthly accrual rate is equal to the sum of $11 plus $24.75 (.75 * $33), or $35.75. Thus, the participant's guaranteed monthly benefit is $357.50 ($35.75 * 10).

Example 2: If the participant in Example 1 has an accrued monthly benefit of $200, the accrual rate for purposes of determining the guarantee would be $20 (or $200/10). The guaranteed amount for a $20 monthly accrual rate is equal to the sum of $11 plus $6.75 (.75 x $9), or $117.75. Thus, the participant's guaranteed monthly benefit would be $177.50 ($17.75 x 10).

In calculating a person's monthly payment, the PBGC will disregard any benefit increases that were made under the Plan within 60 months before the earlier of the plan's termination or insolvency. Similarly, the PBGC does not guarantee:

- Pre-retirement death benefits to a spouse or beneficiary if the participant dies after the plan terminates,
- Benefits above the normal retirement benefit,
- Disability benefits not in pay status, or
- Non-pension benefits such as health insurance, life insurance, death benefits, vacation pay or severance pay.

Accordingly, the maximum monthly benefit is $357.50.

DATA ANALYSIS

The funding level is determined by dividing current assets by total liabilities. This **ratio is used as a proxy for the financial health of the plan.** The Form 5500 available at freeERISA.com provides this data. The results of analyzing these trade union pension plans are revealing. All the plans examined are in the yellow zone and two in the red zone. The trade union with the largest assets in the sample is the Carpenters Trust Fund. Current assets are almost $1.2 billion. Total liabilities however are just over $2 billion. The resulting funding percentage is 70 percent. The next largest pension plan is Construction Laborers Fund of Greater St. Louis with assets of just under $400 million. Total liabilities are $519 million. This plan, while still in the yellow zone, had the

strongest funding level in the sample at 75 percent. The third sample of plans came from a number of local chapters of IBEW. The average assets in these pension plans are $158 million and liabilities are $244 million. The resulting funding level was in the red zone at just under 65 percent. A number of local chapters of Plumbers and Pipefitters Union were examined. Average current assets were $79 million and total liabilities were $118 million. The average funding level for these plans was 67 percent. Finally, the National Sheetmetal Workers pension fund revealed assets of $129 million compared with over $201 million in liabilities, a funding level of 64%.

Pension Fund	Current Assets	Total Liabilities	Percentage
Carpenters Pension Trust Fund of St. Louis	$1,435,159,165	$2,031,453,937	70.65%
Construction Laborers Fund of Greater St. Louis *	$391,340,770	$519,434,403	75.34%
International Brotherhood of Electrical Workers	**$158,832,878**	**$244,512,913**	**64.96%**
Plumbers and Pipefitters Misc. Local Chapters	$79,631,277	$118,332,486	67.29%
Sheet Metal Workers	$129,274,465	$201,574,482	64.13%

* Serves Laborers' International Union of North America Locals #42, #53, and #110.

The funding level analysis for these plans is based on tax return data available for fiscal years ranging from December 31, 2006 through May 31, 2007. Therefore, the pension asset values were updated to reflect the estimated change in value through December 2008. The calculation is based on the assumption that two-thirds of the assets are invested in the stock market.[6] The change in the value of the Dow Jones Index was used to restate the value of the assets in the plans. By December 2008, the Dow Jones

[6] An experienced actuary supplied this data.

plunged to 8,500. The liabilities were estimated to increase by 3 percent. Accordingly, a recalculation of funding ratios for the union pensions places them all in the red zone.

Pension Fund	Current Assets	Total Liabilities	Percentage
Carpenters Trust Fund	$1,118,796,591	$2,092,397,555	53%
Construction Laborers	$305,074,678	$535,017,435	57%
IBEW	$121,596,183	$251,848,300	48%
Plumbers and Pipefitters	$63,001,560	$121,882,461	52%
Sheet Metal Workers	$102,131,615	$207,621,716	49%

Clearly, all the multiemployer sponsored pension plans in the sample would be in trouble based on the standards and requirements of the Pension Protection Act of 2006. In fact, they would all be in the red or "critical" zone with solvency ratios well below 60 percent.

QUESTIONS AND FACTS FOR EMPLOYEES CONSIDERATION

In view of the shaky financial conditions of many companies' defined benefit plans, employees should be asking specific questions about their companies' plan:

1. What type of pension plan is there? Is it a traditional defined benefit pension, a cash balance plan, a defined contribution plan, or a retirement savings plan?
2. Is the pension in question underfunded? By how much is it underfunded? What does it mean to me if my pension is underfunded?
3. How are plan benefits calculated?
4. When and in what form are benefits paid. What types of options are available?
5. What are the financial consequences of retiring early? When can you start participating in the plan?

6. When do pension benefits become vested?[7]
7. What is the vesting period? Usually it is a certain number of years you must work before you are eligible to receive benefits (usually 1- 5 years).
8. How do you file for pension benefits?

The answers to these questions should be carefully considered before workers accept new employment opportunities.

SUMMARY

News stories about companies' pension problems abound in 2008. The combination of a weak economy and declining stock market has had a profoundly negative effect on companies' defined benefit pension plans. The Pension Protection Act of 2006 was passed to ensure minimum funding levels in pension plans. If funding levels fall below minimum levels, the plan must either increase funding or reduce benefits. Many companies have passed their failed or failing pension plan benefit liabilities to the Pension Benefit Guarantee Corporation. The unprecedented and ever increasing size of these failed pension obligations is raising serious concerns that benefits will have to be reduced further to avoid a collapse of this government sponsored program.

A form 5500 database sponsored by freeERISA.com was examined to determine the financial health of a number of trade union defined benefit pension plans. Evidence

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[7] According to one Union Pension Booklet, vesting required 5 credits. A credit was earned by working 1,000 hours in a year. Workers who worked less than 1,000 hours in a year would not receive a credit (even though sizeable pension payments may have been made). This may be particularly significant in the construction trades where seasonal restraints may combine with gaps between construction projects to reduce total hours worked to less than 1,000. It may take many more than 5 years to become vested. Moreover, if a worker started mid-year he or she might not receive a credit for that year. A second surprise from this booklet was the stipulation that a union member might forfeit his benefits if he (she) ever worked for a non-union company in that trade at any time in the future. This would include working for himself or herself in a non-union capacity. This could be severely limiting if the number of union companies in that trade in that geographical area was small, or if the worker happened to move to a community where there were few or no union companies in that trade.

was provided that virtually all of these plans (as adjusted for current market conditions) are in the red or critical zone, which may lead to significant cuts in benefits for retirees. As further evidence of the dire nature of companies' defined benefit pension plans, a large number of companies recently made an impassioned plea to Congress for financial assistance for their pension plans.[8]

When workers consider new employment opportunities they should ask a number of important questions about their pension plans. What type of pension plan is there? Is it a traditional defined benefit pension, a retirement savings plan, or a defined contribution plan? When are pension benefits vested?

Due to the increasing troubles for defined benefit plans, there is a move toward defined contribution plans in the U.S. (DeGennaro and Murphy, 2004). Defined contribution plans frequently provide greater control and more flexibility for participants. For example, funds may be transferred from equities to bonds or even money markets when market conditions decline.

In today's volatile stock market, having the ability to transfer investments between different types of funds can provide an enormous amount of protection for workers. Furthermore, there is no chance that benefits will be cut due to weak funding levels in the plan.

[8] The AICPA and more than 300 other businesses and non-profit organizations sent letters to four House and Senate committees warning that the "drop in the value of pension plan assets coupled with the current credit crunch has placed defined benefit plan sponsors in an untenable position." The identical letters to the House Ways and Means Committee, Senate Finance Committee, House Education and Labor Committee and Senate Health, Education, Labor, and Pensions Committee urged lawmakers to modify pension plan funding rules to avoid increased unemployment and a slower economic recovery.

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11

Special Comment

Moody's Global Corporate Finance

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Growing Multiemployer Pension Funding Shortfall is an Increasing Credit Concern

An update of Moody's funding deficiency estimates reveals a widening gap

Introduction

Moody's has updated its estimates for the funding shortfall for 44 rated companies that participate in Multiemployer Pension Plans ('MEPP's') in the U.S. The precariously weak funding levels in most MEPPs are resulting in an increase in imputed debt for participating companies. In a few cases, the magnitude of future MEPP funding obligations is placing downward pressure on ratings. The funded status of MEPP's fell precipitously during 2008. We examined 126 plans that include some of some of largest MEPP plans in the country. We estimate that these plans are collectively underfunded by upwards of $165 billion. The ballooning of the under funded status of these funds has substantially increased the implied liability for contributing companies in the industries affected. In summary, we expect to see the following developments over the near term with respect to companies involved with multiemployer plans:

- The funding requirements of the Pension Protection Act of 2006 ('PPA') will result in larger contributions for many sponsoring companies, in some cases extremely large increases. On top of these increased payments companies may face contentious labor relations due to retiree benefits being cut.
- While underfunding will not result in downgrades for most companies that are affected by multiemployer plans, the financial stress created by the potential for increased calls on cash could have a material impact on the ratings of certain companies that may not have the size, scope, or financial wherewithal to withstand such additional burdens on their cost structure. We believe that speculative grade companies that have weak flexibility to meet an increased pension funding need will be at the greatest risk for downgrades.

- If smaller and/or weaker companies are unable to handle increased contributions, or possibly exit the plans due to bankruptcy, this will further increase the funding burden placed on otherwise stronger companies contributing to an underfunded plan. This "last man standing" scenario suggests that certain investment grade companies could eventually face substantial rating pressure.

Nature and Operation of Multiemployer Plans

Multiemployer pension plans are defined under U.S. federal law by the Taft-Hartley Act of 1947. They cover workers from more than one employer. These plans are funded by employer contributions that are determined by collective bargaining with one or more labor unions. These plans exist to provide benefits to unionized workers in businesses characterized by frequent job switching, such as construction, entertainment, printing, food/supermarkets, hotels/casinos, and transportation businesses. They do so by considering service with multiple employers under the same plan as if the worker had worked for the same employer the entire time. The employers participating in a multiemployer plan often share a common industry bond.

Multiemployer plans that provide defined pension benefits cover about 10 million active and retired workers in the US, or about 20 percent of workers with defined benefit plans. A simplified way to understand multiemployer plans is to contrast them to the more common single employer plans:

Table 1

Feature	Multiemployer	Single-employer
Plan control	Trustees, consisting of an equal number of management and union representatives	The company controls all aspects of the plan
Contributions	As negotiated between the company and the union; little ability to deviate from the contract	As required or permitted by pension and tax law; considerable flexibility in funding, for well funded plans
Accounting	Pay as you go with minimal disclosure	Accrual accounting with substantial smoothing of income; extensive disclosures
Company liability at withdrawal or termination	Pro-rata share of plan under-funding	Amount of plan under-funding
Benefit reductions	Can reduce accruals of future benefits for active employees; can't reduce benefits earned to date for active or retired employees; except in certain circumstances for "critical status" plan	Same, except that vested benefits cannot be cut
Company liability for under-funding	The amount of liability is a complex function of actions by other employers, trustees and the union; company could be liable for more than its share if other employers are insolvent	Fully liable for under-funding

Appendix I shows a list of companies that disclosed contributions to multiemployer pension plans. We located these companies by searching public disclosures for references to multiemployer plans and we reviewed pension disclosures in the financial statements of companies in industries where multiemployer plans are common. Our most recent assessment identified 44 companies whose debt we rate. This is a decline from the 62 companies which were noted in our August 2006 rating methodology "Multiemployer Pension Plans: Moody's Analytical Approach. There were several reasons for this decline; bankruptcies, mergers, plan withdrawals and discontinued business lines account for the majority of the decrease.

Funding requirements – Pension Protection Act 2006

Funding requirements for multiemployer plans are a lot less complicated when compared to single employer plans. This is because contributions to multiemployer plans are set through negotiations between unions and company sponsors. However, to ensure retiree benefits are protected, when a multiemployer plan falls below certain funding levels, stronger funding requirements become effective under provisions of the Pension Protection Act of 2006. Plans whose funding levels are below 80% are referred to as "endangered," while

Growing Multiemployer Pension Funding Shortfall is an Increasing Credit Concern

those below 65% are referred to as "critical." The more common terms for these funding levels are "yellow zone" and "red zone." When a plan is endangered, the plan administrators must devise a rehabilitation plan to return to an 80% funded status within the next 10 years through either increased contributions or decreased benefits or a combination of both. Plans which are classified as "critical" must also devise a 10 year rehabilitation plan but the PPA also mandates an immediate cut in certain vested benefits. However, the time frame a plan has to return to an 80% funded status was extended by an extra three years when the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA)was passed into law at the end of 2008.

The WRERA also allows plan sponsors to elect to temporarily freeze the status of certain multiemployer plans at the funding status held during the previous plan year. This covers plan years beginning on or after Oct. 1, 2008, and before Oct. 1, 2009. Also, if the plan was "endangered" or in "critical status" the preceding plan year, it isn't required to revise its funding improvement plan or schedules until the following plan year. A number of underfunded plans have taken advantage of the freeze in the hopes of some recovery to asset values, rather than negotiating funding increases while at a temporary market bottom

Funded Status

Appendix III lists 126 multiemployer plans. We estimate that these plans represent the majority of assets and obligations for all multiemployer plans. These plans represent 115 of the largest plans (as measured by assets) and 11 other plans that we selected to supplement the list in certain industries with few large plans. We obtained plan data from Form 5500 pension disclosure documents that plans must file annually with the US Department of Labor.

Unfortunately, the data disclosed in Form 5500s is not up-to-date. The most recent Form 5500s include plan years ended in 2007. Complete information for 2008 year end will not be available until October 2009 at the very earliest. Despite the limitations in the data a very stark picture emerges.

Collectively, the multiemployer plans were in weak shape in 2007. When data for year end 2008 is finally released, it is sure to show substantial deterioration in asset values during 2008, when almost all broad investment indices experienced sharp declines. At the end of 2007, the plans that we examined had a 77% funded ratio and total underfunding of $87 billion. By contrast a similar universe of single employer plans indicated a funded status of 101% entering into 2008's maelstrom and ended the year with a funding level of only 75%. Using 2007 numbers as a starting point we estimate that underfundings for our universe of MEPP's ballooned to approximately $165 billion or a 56% funded level. In other words for every dollar that these funds owe, they hold only 56 cents of invested assets.

Funded status of plans by industry sector

$ millions	Funded status 2007		Funded status 2008	
Industry	$	%	$	%
Construction	(39,156)	75%	(72,484)	54%
Entertainment/Printing	(1,213)	93%	(4,946)	72%
Food/Supermarket	(7,692)	79%	(15,358)	58%
Hotels/Casino	(690)	83%	(1,556)	63%
Transportation	(34,828)	72%	(58,071)	53%
Other	(3,771)	91%	(12,295)	68%
Total	(87,350)	77%	(164,710)	56%

The severity of the shortfall suggests that the vast majority of multiemployer plans are in the yellow or red zone. These funding levels will no doubt result in remediation plans which will cut benefits and/or increase contributions. While these plans are being formulated, companies which participate in MEPP's have the specter of increased contributions and/or contentious labor relations looming over their heads.

Last Man Standing

The driving force behind the creation of MEPP's was the transient work force that is inherent in such industries as trucking, retail, and construction, among others. With individual employees likely to have worked for a number of companies over the person's working life, combined with the entrance and exit of many employer companies over that span, it is impractical for any one company to provide pension (and other retirement) benefits to members of this work force. This led to the creation of a risk-pooling system amongst the sponsor companies which resulted in multiemployer plans. Under such a plan, if a participating sponsor ceases to make contributions (for example, through voluntary exit or bankruptcy), the remaining sponsors will share the responsibility to make up for such a shortfall in funding on a joint and several basis. Throughout normal business cycles in the past, this arrangement has worked relatively well, as long as the pension funds themselves are adequately funded and if companies depart from the plan in an orderly fashion, alleviating any "shock" to the plan from a mass exodus.

However, while the risk sharing characteristics of MEPP's make them attractive to beneficiaries, the pooling arrangement doesn't necessarily immunize the sponsor companies from risk during a deep and prolonged economic downturn, as we are currently experiencing. In fact, the joint and several responsibility among sponsors can exacerbate the risk that the obligation borne by a contributing company becomes more onerous.

Because of the highly cyclical nature of industries participating in multiemployer plans, a situation can arise where many contributors, or possibly a particularly large but vulnerable employer may exit the plan as the result of bankruptcy. This problem would be particularly acute if it occurs at a time when a plan's status becomes critically under-funded, requiring increased contributions from a shrinking sponsor pool. As a result, an otherwise healthy sponsor could face daunting levels of additional contributions to MEPP's in which it participates. The remaining companies are effectively paying for the retirement benefits of employees that never worked for them – commonly referred to as "orphans" - but who instead were employed by companies that no longer participate in the plan. This problem is exacerbated by declining union membership often fueled by the growth of non-union players (e.g., FedEx in transportation, Wal-Mart in the supermarket space) and longer life expectancies which drives a growing imbalance between the number of retirees to active workers.

In this financial crisis scenario, the MEPP scheme has essentially created a negative feedback loop: an ever-decreasing number of companies financing an ever-increasing liability. A theoretical outcome from this feedback loop is that there are eventually few, or ultimately only one company left sponsoring the entire retirement benefits of every retiree in the plan, hence the term "last man standing" is used to describe this phenomenon. The risk for remaining sponsors becomes more acute if withdrawing sponsors are unable to pay their termination liability at the time of withdrawal because of financial distress.

This concept is very clearly demonstrated by the condition of the Central States Southeast and Southwest area pension plan (Central States) and its impact on sponsors in the trucking industry. In December of 2007, UPS (senior unsecured rating of Aa3) - voluntarily withdrew from Central States plan, at a cost of $6.1 billion. Before its withdrawal, UPS was one of the largest contributors to Central States. In 2008 UPS reported $51 billion in revenue and $32 billion in assets. At the end of 2007, which takes into account the UPS exit contribution, Central States was 67% funded, with a total underfunding of $18 billion. The broad market declines in asset values experienced since then suggests that Central States' under-funding levels have increased substantially. We estimate that Central States' 2008 funded ratio could be as low as only 44% which would equate to underfunding of $25 billion. Absent a mass withdrawal of the remaining sponsors before December 1, 2009[1], it is believed that UPS will have no further obligation to contribute anything to help reduce this deficit. Making matters worse, the second largest contributor, YRC Worldwide Inc. (corporate family rating Caa3; 2008 revenues of $9 billion and $4 billion in assets) is facing significant financial stress, and has arranged an 18-month cessation of union pension fund contributions which will not require repayment. This means that the cost to remediate the under-funding of the Central States plan will fall on a pool of much smaller companies at a time of considerable weakness in the trucking sector, which could place stress on the financial condition of those companies. With UPS and YRC no longer contributing, one of the largest remaining employers currently making contributions to the Central States plan is Arkansas Best (senior

[1] A mass withdrawal is when substantially all the employers withdraw from the plan within a year. If this occurs, ERISA regulations allow the fund to recalculate the withdrawal liability of companies that withdrew within the prior two years.

unsecured rating of Baa2), which is only a fraction of the size of either UPS or YRC. In 2008, Arkansas Best reported $1.8 billion in revenues and $972 million in assets.

Moody's Multiemployer Pensions Plan Methodology

As previously noted, we published a rating methodology that explains our analytical approach to MEPPs in August 2006. Our methodology for evaluating the credit impact of funding shortfalls under MEPPs is consistent with our approach for single employer pension plans. This involves (1) adjusting a company's financial statements to reflect the company's share of the multiemployer plan's under-funding as a debt-like liability and recognize related interest expense, and (2) inquiring into the likely pattern of future cash contributions to the plans, including the possibility that the company could trigger a withdrawal liability.

Moody's adjusts the company's financial statements to reflect our belief that a company's share of plan under-funding represents a long-term debt-like liability, because:

- The economics of under-funding in multiemployer plans are similar to single-employer defined-benefit plans where Moody's has long viewed the amount of under-funding as a debt-like liability of the sponsors.
- If under-funding is left unresolved, ultimately, provisions in tax and pension law will compel plan administrators to seek increased contributions from sponsor companies to cover a major part of the deficiency.

Our ability to precisely estimate a company's share of MEPP under-funding is limited by sparse public disclosure; few companies disclose their share of any under-funding or even the identity of the plans in which a company participates. So, our rating methodology employs a computation based on limited publicly available data to roughly estimate a company's share of any under-funding. See Appendix IV for an explanation of our calculations and related assumptions. Using this methodology our updated multiples for 2008 are as follows:

Average Under Funding Multiple by Industry Group*

	Updated Multiple	Previous Multiple
Construction	5.2	2.7
Entertainment/Printing	2.8	1.8
Food/Supermarket	7.4	2.6
Hotels/Casino	3	1.5
Transportation	5.6	3.1
Other	4	0.7

**Multiples based on 2008 estimated underfundings-See Appendix III*

See Appendix II for the companies updated imputed debt numbers.

Ratings Impact

With the underfunded status of so many plans growing to critical levels, combined with considerable stress experienced in the mostly-cyclical industries involved, we will make adjustments to financial data, as outlined above, which will imply a much higher liability inherent in the capital structure and risk profile of many companies. Consequently, the condition of the multiemployer plans will likely (a) negatively impact the cash flow generating capability of a contributing company and/or (b) meaningfully increase debt.

The application of higher multiples to growing contributions figures will result in substantial weakening of key credit ratios such as leverage. The higher Debt/EBITDA multiples that ensue will reflect Moody's current assessment of the company's debt-like MEPP termination liability. Some ratings could face downward consideration as the result of these adjustments.

As rehabilitation plans become evidenced in either current or future labor contracts, we expect that companies' operating cost structures will be affected by requirements to increase contributions. The degree to which this

Growing Multiemployer Pension Funding Shortfall is an Increasing Credit Concern

occurs will not only be a function of the amount of underfunding, but also the state of the participating industry – i.e. if important participants exit due to bankruptcy and leave more obligation to be borne by the surviving companies ("last man standing").

In the short term we believe that increased demands on liquidity could have the largest ratings impact for speculative grade companies. Companies at this rating level typically do not have large amounts of liquidity and little flexibility in cost structure.

An important determinant in the rating impact on affected issuers will be the magnitude of cash required to meet increased funding obligations relative to the company's liquid resources, (those that can be internally generated and assurance of external funding availability) and other cash requirements, such as its debt maturity profile, capital spending requirements to maintain its competitive position and efficiency of operations, dividend payments and working capital requirements. The timing of inflows versus outflows will also be a consideration. The overall flexibility that a company exhibits in its ability to manage cash requirements, and its willingness to make trade-offs in order to maintain financial integrity and a strong financial profile will be key factors in the rating analysis.

Ironically distressed companies ratings may not be immediately impacted by MEPP underfundings. Unions will not want to deal a deathblow to these companies so they should be able to negotiate payment modifications to their contribution levels. For example YRC Worldwide Inc, currently rated Caa3, arranged an 18-month cessation of union pension fund contributions which will not require repayment. This does not solve the problem or eliminate a company's obligation, but can potentially delay the impact until a firm's financial health improves.

We expect that investment grade companies will be hardest hit in absolute dollar terms because they are typically the largest companies in their industries and the likeliest "last men standing." However, due to their current financial strength and flexibility these increased contributions may not lead to liquidity problems, and near term financial distress is not as much of a risk as for speculative grade rated entities. However, in the longer term, the systemic risk may weigh more heavily on investment grade companies. As weaker companies fail, the remaining companies will be required to increase their contributions. This in turm could lead to weaker margins, which would have a concomitant impact on their ability to generate robust levels of operating cash flows. Reduced cash flows may result in lower levels of capital investment necessary to sustain or grow market share during the cyclical recovery, or an increasing reliance on debt to fund the required capital spending. All this may negatively impact these companies' competitive position, especially vis-à-vis non-union, non-MEPP participants, suggesting stress on certain companies' ratings.

Growing Multiemployer Pension Funding Shortfall is an Increasing Credit Concern

Appendix I

Companies Participating in Multiemployer Pension Plans

Company Name	Rating	Contribution to Multiemployer Pension Plans ($'000s) 2008	2007	2006	2005	CAGR	2008 Contribution as % of Debt	CFO
Industry: Construction								
EMCOR Group, Inc.	Ba1	221,100	187,000	150,100	133,500	18%	110.49%	65.99%
U.S. Concrete, Inc.	B2	15,300	13,700	15,100	13,900	3%	5.00%	51.55%
Vulcan Materials Company	Baa2	8,008	8,368	7,352	5,825	11%	0.23%	1.84%
Industry: Entertainment/Printing								
CBS Corporation	Baa3	43,100	34,600	31,200	37,400	5%	0.62%	2.01%
News Corporation	Baa1	116,000	114,000	88,000	75,000	16%	0.81%	5.16%
New York Times Company (The)	B1	15,000	15,000	16,000	16,000	-2%	1.42%	6.06%
Time Warner Inc.	Baa2	66,000	75,000	75,000	58,000	4%	0.17%	0.64%
Viacom Inc.	Baa3	3,000	4,900	3,800	12,900	-39%	0.04%	0.15%
Walt Disney Company (The)	A2	56,000	54,000	51,000	37,000	15%	0.38%	1.03%
Washington Post Company (The)	A1	1,300	1,500	1,600	2,600	-21%	0.23%	0.24%
Industry: Food/Supermarket								
Anheuser-Busch Companies, Inc.	Baa2	17,200	16,700	16,200	16,200	2%	0.04%	0.41%
B&G Foods, Inc.	B2	1,100	900	800	700	16%	0.21%	2.72%
Coca-Cola Enterprises Inc.	A3	48,000	37,000	37,000	36,000	10%	0.53%	2.97%
ConAgra Foods, Inc.	Baa2	8,500	7,700	10,500	8,000	2%	0.24%	6.85%
Dean Foods Company	B1	28,295	27,164	27,231	57,664	-21%	0.63%	3.94%
Del Monte Foods Company	Ba3	7,800	6,500	5,500	5,500	12%	0.50%	3.88%
Dole Food Company, Inc.	B2	1,600	2,800	3,700	3,600	-24%	0.07%	3.59%
Flowers Foods, Inc.	Baa2	900	500	500	500	22%	0.27%	0.95%
Great Atlantic & Pacific Tea Co., Inc.(The)	B3	48,200	34,400	32,100	378,800	-50%	4.35%	NM
Kellogg Company	A3	64,000	108,000	137,000	120,000	-19%	1.55%	5.05%
Kroger Co. (The)	Baa2	219,000	207,000	204,000	196,000	4%	2.32%	7.56%
Rite Aid Corporation	Caa2	10,924	13,341	13,326	11,642	-2%	0.18%	3.04%
Safeway Inc.	Baa2	286,900	270,100	253,800	234,500	7%	5.22%	12.75%
Sara Lee Corporation	Baa1	48,000	47,000	45,000	46,000	1%	1.51%	7.92%
Stater Bros. Holdings, Inc.	B2	40,508	38,548	38,022	38,548	2%	4.96%	69.06%
Supervalu, INC.	Ba3	142,000	122,000	37,000	37,000	57%	1.67%	9.26%
Sysco Corporation	A1	35,040	37,296	29,796	28,822	7%	1.41%	2.21%
Industry: Hotel/Casinos								
Boyd Gaming Corporation	B1	1,000	1,100	2,200	2,500	-26%	0.04%	0.45%
Harrah's Entertainment, Inc.	Caa3	37,700	35,900	34,600	21,500	21%	0.16%	7.13%
MGM MIRAGE	Caa2	192,000	194,000	189,000	161,000	6%	1.43%	25.50%
Riviera Holdings Corporation	Ca	2,020	1,989	1,952	1,760	5%	0.82%	47.00%
Starwood Hotels & Resorts Worldwide Inc.	Ba1	9,000	9,000	8,000	11,000	-6%	0.22%	1.39%

Growing Multiemployer Pension Funding Shortfall is an Increasing Credit Concern

Companies Participating in Multiemployer Pension Plans

Company Name	Rating	Contribution to Multiemployer Pension Plans ($'000s) 2008	2007	2006	2005	CAGR	2008 Contribution as % of Debt	CFO
Industry: Transportation								
Arkansas Best Corporation	Baa2	219,856	218,091	209,273	192,589	5%	1308.28%	208.72%
Quality Distributions LLC	Caa1	2,300	2,200	2,200	1,600	13%	0.63%	11.74%
Ryder System, Inc.	Baa1	4,886	4,843	4,879	4,700	1%	0.17%	0.39%
United Parcel Service, Inc.	Aa3	1,069,000	7,642,000	1,405,000	1,234,000	-5%	10.83%	12.69%
YRC Worldwide Inc.	Caa3	554,100	578,000	542,000	472,700	5%	40.72%	252.07%
Industry: Other								
Allegheny Technologies Incorporated	Baa3	1,500	1,300	1,100	800	23%	0.29%	0.20%
Alpha Natural Resources Inc.	Ba2	191	84	28	32	81%	0.04%	0.04%
ARAMARK Corporation	B1	34,000	34,000	22,200	9,400	54%	0.58%	6.85%
MDU Resources Group, Inc.	Baa1	73,100	51,500	57,600	39,600	23%	4.17%	9.30%
Sealy Mattress Company	B2	4,700	5,300	4,700	4,500	1%	0.60%	8.75%
United States Steel Corporation	Ba2	42,000	30,000	29,000	28,000	14%	1.33%	2.53%
United Technologies Corporation	A2	163,000	145,000	132,000	126,000	9%	1.42%	2.65%

NM: Not meaningful, cash from operations are negative

Growing Multiemployer Pension Funding Shortfall is an Increasing Credit Concern

Appendix II

Imputed debt for Companies Participating in Multiemployer Pension Plans

All figures in $'000s unless otherwise noted

Company Name	Rating	2008 Contributions	Multiple	Imputed Debt	2008 Reported Debt	Imputed debt As % of Reported debt
Industry: Construction						
EMCOR Group, Inc.	Ba1	221,100	5.2	1,149,720	200,104	574.56%
U.S. Concrete, Inc.	B2	15,300	5.2	79,560	305,988	26.00%
Vulcan Materials Company	Baa2	8,008	5.2	41,642	3,547,773	1.17%
Industry: Entertainment/Printing						
CBS Corporation	Baa3	43,100	2.8	120,680	6,996,100	1.72%
News Corporation	Baa1	116,000	2.8	324,800	14,289,000	2.27%
New York Times Company (The)	B1	15,000	2.8	42,000	1,059,375	3.96%
Time Warner Inc.	Baa2	66,000	2.8	184,800	39,983,000	0.46%
Viacom Inc.	Baa3	3,000	2.8	8,400	8,002,000	0.10%
Walt Disney Company (The)	A2	56,000	2.8	156,800	14,639,000	1.07%
Washington Post Company (The)	A1	1,300	2.8	3,640	553,825	0.66%
Industry: Food/Supermarket						
Anheuser-Busch Companies, Inc.	Baa2	17,200	7.4	127,280	43,178,000	0.29%
B&G Foods, Inc.	B2	1,100	7.4	8,140	535,800	1.52%
Coca-Cola Enterprises Inc.	A3	48,000	7.4	355,200	9,029,000	3.93%
ConAgra Foods, Inc.	Baa2	8,500	7.4	62,900	3,490,000	1.80%
Dean Foods Company	B1	28,295	7.4	209,383	4,489,251	4.66%
Del Monte Foods Company	Ba3	7,800	7.4	57,720	1,560,000	3.70%
Dole Food Company, Inc.	B2	1,600	7.4	11,840	2,155,304	0.55%
Flowers Foods, Inc.	Baa2	900	7.4	6,660	335,206	1.99%
Great Atlantic & Pacific Tea Co., Inc.(The)	B3	48,200	7.4	356,680	1,108,008	32.2%
Kellogg Company	A3	64,000	7.4	473,600	4,129,835	11.47%
Kroger Co. (The)	Baa2	219,000	7.4	1,620,600	9,420,000	17.20%
Rite Aid Corporation	Caa2	10,924	7.4	80,838	6,011,709	1.34%
Safeway Inc.	Baa2	286,900	7.4	2,123,060	5,499,800	38.60%
Sara Lee Corporation	Baa1	48,000	7.4	355,200	3,188,000	11.14%
Stater Bros. Holdings, Inc.	B2	40,508	7.4	299,759	816,286	36.72%
Supervalu, INC.	Ba3	142,000	7.4	1,050,800	8,484,000	12.39%
Sysco	A1	35,040	7.4	259,296	2,477,000	10.47%
Industry: Hotel/Casinos						
Boyd Gaming Corporation	B1	1,000	3.0	3,000	2,647,674	0.11%
Harrah's Entertainment, Inc.	Caa3	37,700	3.0	113,100	23,209,000	0.49%
MGM MIRAGE	Caa2	192,000	3.0	576,000	13,464,166	4.28%
Riviera Holdings Corporation	Ca	2,020	3.0	6,060	245,703	2.47%
Starwood Hotels & Resorts Worldwide Inc.	Ba1	9,000	3.0	27,000	4,008,000	0.67%

Growing Multiemployer Pension Funding Shortfall is an Increasing Credit Concern

Imputed debt for Companies Participating in Multiemployer Pension Plans

All figures in $'000s unless otherwise noted

Company Name	Rating	2008 Contributions	Multiple	Imputed Debt	2008 Reported Debt	Imputed debt As % of Reported debt
Industry: Transportation						
Arkansas Best Corporation	Baa2	219,856	5.6	1,231,194	16,805	7326.35%
Quality Distributions LLC	Caa1	2,300	5.6	12,880	362,586	3.55%
Ryder System, Inc.	Baa1	4,886	5.6	27,362	2,862,799	0.96%
United Parcel Service, Inc.	Aa3	1,069,000	5.6	5,986,400	9,871,000	60.65%
YRC Worldwide Inc.	Caa3	554,100	5.6	3,102,960	1,360,752	228.03%
Industry: Other						
Allegheny Technologies Incorporated	Baa3	1,500	4.0	6,000	509,800	1.18%
Alpha Natural Resources Inc.	Ba2	191	4.0	764	520,857	0.15%
ARAMARK Corporation	B1	34,000	4.0	136,000	5,859,557	2.32%
MDU Resources Group, Inc.	Baa1	73,100	4.0	292,400	1,752,402	16.69%
Sealy Mattress Company	B2	4,700	4.0	18,800	783,405	2.40%
United States Steel Corporation	Ba2	42,000	4.0	168,000	3,156,000	5.32%
United Technologies Corporation	A2	163,000	4.0	652,000	11,476,000	5.68%

Growing Multiemployer Pension Funding Shortfall is an Increasing Credit Concern

Appendix III

Major Multiemployer Plans

($ millions) Plan Name	Estimated Net Plan Assets*	Estimated RPA 94 Current Liability**	Moody's Adjusted Funded Status	Estimated Contributions***	Under funding Multiple
			(D)=(B)/		(F)=[(C*90% -
(A)	(B)	(C)	(C*90%)	(E)	(B)*50%]/E
Industry: Construction					
Alaska Electrical Pension Plan	1,230.90	1,840	74.3%	42	5.0
Alaska Laborers - Employers Retirement Fund	472.9	713	73.7%	17	4.9
Boilermaker Blacksmith National Pension	5,678.50	10,881	58%	278	7.4
Bricklayers & Trowel Trades International Pension Fund	1,149.90	2,383	53.6%	92	5.4
Building Service 32B-J Pension Fund	1,174.90	3,087	42.3%	120	6.7
Building Trades United Pension Trust Fund MIL and Vicinity	1,100.20	1,814	67.4%	88	3.0
California Ironworkers Field Pension Trust	1,280.60	2,206	64.5%	91	3.9
Carpenter Pension Trust for Southern California	2,089.60	3,845	60.4%	101	6.8
Carpenters Pension Fund of Illinois	1,178.40	2,039	64.2%	57	5.7
Carpenters Pension Fund of Philadelphia and Vicinity	1,102.00	1,845	66.4%	91	3.1
Carpenters Pension fund of Western Pennsylvania	514	940	60.8%	24	7.0
Carpenters Pension Trust Fund Detroit & Vicinity	855.6	2,297	41.4%	42	14.5
Carpenters Pension Trust Fund for Northern California	1,608.50	3,153	53.7%	141	4.4
Carpenters Pension Trust Fund of St Louis	1,253.90	2,032	68.6%	71	4.1
Carpenters Retirement Plan of Western Washington	835.1	1,270	73.1%	43	3.6
Central Laborers Pension Fund	730.6	1,497	54.2%	47	6.5
Central Pension Fund of the IUOE and Participating Employers	7,869.80	12,628	69.2%	515	3.4
Chicago District Council of Carpenters Pension Fund	1,923.90	3,051	70.1%	191	2.2
Electrical Contractors Assoc. of City of Chicago Union 134, IBEW Jt. Pension 2	779.9	1,176	73.7%	58	2.4
Electrical Workers Pension Fund, Local 103, IBEW	548.8	903	67.5%	42	3.2
Electrical Workers Pension Trust Fund of Local Union 58	458.1	912	55.8%	31	5.8
Indiana State District Council of Laborers & Hod Carriers Pension Fund	635	1,365	51.7%	32	9.3
Iron Workers District Council of Southern Ohio & Vicinity Pension Trust	519.6	1,071	53.9%	39	5.6

Growing Multiemployer Pension Funding Shortfall is an Increasing Credit Concern

Major Multiemployer Plans

($ millions) Plan Name	Estimated Net Plan Assets*	Estimated RPA 94 Current Liability**	Moody's Adjusted Funded Status	Estimated Contributions***	Under funding Multiple
(A)	(B)	(C)	(D)=(B)/(C*90%)	(E)	(F)=[(C*90% - (B)*50%]/E
Iron Workers Local No. 25 Pension Trust Fund	512.9	1,228	46.4%	41	7.3
Laborers District Council and Contractors Pension Fund of Ohio	1,288.10	1,899	75.4%	36	5.9
Laborers District Council of W. PA Pension Fund	514.3	1,222	46.8%	29	10.1
Laborers National Pension Fund	1,293.50	2,315	62.1%	48	8.3
Laborers Pension Fund	1,568.10	2,614	66.7%	125	3.1
Washington State Plumbing & Pipefitting Industry Pension Fund	481.1	590	90.6%	17	1.5
Laborers Pension Trust Fund for Northern California	1,115.70	2,477	50.0%	98	5.7
LIUNA National Industrial Pension Fund	638.4	1,411	50.3%	53	6.0
MA State Carpenters Guaranteed Annuity Fund	1,104.00	1,194	102.7%	94	-0.2
MA State Carpenters Pension Fund	966.2	1,565	68.6%	60	3.7
Massachusetts Laborers Pension Fund	838.4	1,440	64.7%	54	4.2
Michigan Carpenters Pension Fund	429.4	950	50.2%	21	10.1
Michigan Laborers Pension Fund	518.9	1,043	55.3%	34	6.2
Midwest Operating Engineers Pension	2,320.70	3,805	67.8%	137	4.0
Minnesota Laborers Pension Fund	874.8	1,557	62.4%	52	5.1
National Automatic Sprinkler Industry Pension	2,206.50	3,617	67.8%	90	5.8
National Electrical Benefit Fund	8,580.30	16,390	58.2%	433	7.1
National Elevator Industry Pension	3,659.70	5,731	71.0%	204	3.7
NECA-IBEW Pension Trust Fund	611.7	983	69.2%	32	4.3
NJ Carpenters Pension Fund	841.1	1,469	63.6%	61	4.0
NY District Council of Carpenters Pension Plan	1,338.80	2,510	59.3%	196	2.4
OE Pension Trust Fund	2,793.20	5,923	52.4%	181	7.0
Ohio Operating Engineers Pension Plan	1,377.40	2,023	75.7%	42	5.3
IUOE Stationary Engineers Local 39 Pension Plan	515.8	879	65.2%	41	3.4
Operating Engineers Local 324 Pension Fund	983.4	2,310	47.3%	58	9.5
Operating Engineers Pension Trust	1,645.50	2,963	61.7%	112	4.5

Growing Multiemployer Pension Funding Shortfall is an Increasing Credit Concern

Major Multiemployer Plans

($ millions) Plan Name	Estimated Net Plan Assets*	Estimated RPA 94 Current Liability**	Moody's Adjusted Funded Status	Estimated Contributions***	Under funding Multiple
(A)	(B)	(C)	(D)=(B)/(C*90%)	(E)	(F)=[(C*90% - (B)*50%]/E
Plumbers & Pipefitters National Pension	4,004.10	8,158	54.5%	323	5.2
Pipe Fitters Retirement Fund Local 597	776.6	1,564	55.2%	73	4.3
Sheet Metal Workers National Pension Fund	2,550.40	7,454.50	38.0%	316	6.6
Sheet Metal Workers Pension Plan of Northern Calif	845.9	1,707.30	55.1%	43.1	8.0
Sheet Metal Workers Pension Plan of S. CA, Arizona and Nevada	739	1,379.40	59.5%	28.4	8.8
Twin City Carpenters Pension Fund	983.2	2,174.10	50.2%	60	8.1
Western Metal Industry Pension Plan	984.3	1,270.00	86.1%	11.6	6.9
Wisconsin Carpenters Pension Fund	640.7	1,259.90	56.5%	46.6	5.3
Construction - Summary	**85,532.60**	**158,016.80**	**60.1%**	**5,501.70**	**5.2**
Construction Regulatory Funded Status		**54%**			
Industry: Entertainment/Printing					
AFTRA Retirement Plan	1,509.20	2,434.70	68.9%	44.2	7.7
American Federation of Musicians & Employers Pension	1,549.10	2,180.60	78.9%	53.2	3.9
BERT Bell Pete Rozelle NFL Player Retirement Plan	835.4	1,546.40	60.0%	125.9	2.2
Chicago Newspaper Publishers Drivers Union Pension Trust	73.3	153.9	52.9%	4.1	7.9
Directors GUILD of America - Producer Pension Plan	1,649.60	1,165.20	157.3%	103.2	-2.9
GCIU Local 119B NY Printers League Pension Fund	85.7	133.4	71.4%	1.1	NM
GCIU-Employer Retirement Fund	1,065.40	2,053.40	57.6%	23	NM
Newspaper and Mail Delivers - Publishers Pension Fund	118.2	216.9	60.5%	5.6	6.8
Newspaper GUILD of NY the New York Times Pension Plan	175.2	276.3	70.5%	12.4	3
Producer-Writers Guild of America Pension Plan	1,572.20	2,300.90	75.9%	53.1	4.7
The Newspaper Guild International Pension Plan	68.2	120.7	62.8%	2.4	8.3
Equity League Pension Plan	946.7	983.2	107.0%	31	-1
Screen Actors Guild- Producers Pension	2,894.20	3,922.70	82.0%	119.6	2.7

Growing Multiemployer Pension Funding Shortfall is an Increasing Credit Concern

Major Multiemployer Plans

($ millions) Plan Name	Estimated Net Plan Assets*	Estimated RPA 94 Current Liability**	Moody's Adjusted Funded Status	Estimated Contributions***	Under funding Multiple
(A)	(B)	(C)	(D)=(B)/(C*90%)	(E)	(F)=[(C*90% - (B)*50%]/E
Entertainment/Printing - Summary	**12,542.40**	**17,488.30**	**79.7%**	**578.8**	**2.8**
Entertainment/Printing - Regulatory Funded Status		**72%**			
Industry: Food/Supermarket					
Bakery & Confectionery Union & Industry International Pension	4,667.20	8,325.50	62.3%	186.3	7.6
UFCW Unions and Food Employers Pension Plan of Central Ohio	412.6	747.4	61.3%	11.7	11.1
National Shopmen Pension Fund	388.1	533.4	80.9%	8.6	5.3
FELRA and UFCW Pension Fund	742.3	2,073.40	39.8%	40.9	13.7
Oregon Retail Employees Pension Plan	699.6	968.2	80.3%	14.4	6
Rocky Mt. UFCW Unions & Employers Pension Plan	656.6	1,050.30	69.5%	25.4	5.7
Retail Clerks Pension Plan	1,340.90	2,201.90	67.7%	27.5	11.7
SO CA UFCW Union Joint Pension	3,548.60	6,749.40	58.4%	158.7	8
UFCW International Union Industry Pension	3,681.10	5,018.10	81.5%	78.4	5.3
UFCW International Union Pension Plan for Employees	776.6	1,298.90	66.4%	79.8	2.5
UFCW Nothern California Joint Pension	3,203.30	5,836.50	61.0%	145.2	7.1
UFCW Unions & Employers Midwest Pension Fund	1,008.10	1,680.20	66.7%	11.1	NM
Food/Supermarket - Summary	**21,124.90**	**36,483.30**	**64.3%**	**788**	**7.4**
Food/Supermarket - Regulatory Funded Status		**58%**			
Industry: Hotel/Casino					
Alaska Hotel & Restaurant Employees Pension Plan	136	189.6	79.7%	0.9	NM
HERE Local 25 and Hotel Association of Washington, DC Pension	62.3	140.3	49.3%	7.6	4.2
Hotel Employees Restaurant Employees Pension Plan	78	98.7	87.8%	2.1	2.6
Hotel Industry-ILWU Pension Plan	148.5	251.2	65.7%	4.1	9.5
Hotel Union and Hotel Industry of Hawaii Pension Plan	260.2	335.7	86.1%	13.8	1.5

Growing Multiemployer Pension Funding Shortfall is an Increasing Credit Concern

Major Multiemployer Plans

($ millions) Plan Name	Estimated Net Plan Assets*	Estimated RPA 94 Current Liability**	Moody's Adjusted Funded Status	Estimated Contributions***	Under funding Multiple
(A)	(B)	(C)	(D)=(B)/(C*90%)	(E)	(F)=[(C*90% - (B)*50%]/E
LA Hotel-Restaurant Employer-Union Retirement Fund	104	135.9	85.0%	5.2	1.8
NY Hotel Trades Council and Hotel Association of NYC Pension Fund	617.2	1,245.10	55.1%	97	2.6
Southern Nevada Culinary & Bartenders Pension Trust	1,196.50	1,762.20	75.4%	58.6	3.3
Hotel/Casino - Summary	**2,602.80**	**4,158.80**	**69.5%**	**189.3**	**3.0**
Hotel/Casino - Regulatory Funded Status		63%			
Industry: Transportation					
Automotive Mechanics Local No. 701 Union Pension Fund	542.7	1,084.40	55.6%	21.3	10.2
Alaska Teamster-Employer Pension Plan	638.9	1,070.70	66.3%	27.2	6
Automotive Industries Pension Plan	1,152.00	1,768.10	72.4%	25.1	8.7
Automotive Machinists Pension Plan	693.8	1,207.80	63.8%	21.7	9.1
Central Pennsylvania Teamsters Defined Benefit Plan	662.4	1,336.10	55.1%	75.2	3.6
Central States SE&SW	19,397.00	44,414.20	48.5%	1,440.30	7.1
District No. 9, IAM and Aerospace Workers Pension	482.7	769.3	69.7%	18.6	5.6
IAM National Pension Plan	6,623.70	8,852.40	83.1%	269.2	2.5
IB of T Union Local 710 Pension	1,416.80	2,833.00	55.6%	107.5	5.3
Local 705 IB of T Pension Trust Fund	852.8	2,045.30	46.3%	79.1	6.2
Local 804 I.B.T. and Local 447 IAM UPS Multi-employer Retirement Plan	546.1	1,529.10	39.7%	61.6	6.7
Masters, Mates & Pilots Pension Plan	413.1	811	56.6%	16.6	9.5
New England Teamsters & Trucking Industry Pension	2,723.90	7,466.60	40.5%	229.2	8.7
NYS Teamsters Conference Pension & Retirement Fund	1,809.30	3,914.70	51.4%	102.3	8.4
Teamsters Joint Council No. 83 of Verginia Pension Fund	402.6	814.3	54.9%	30.5	5.4
Teamsters Local 639 Employers Pension Trust	656.7	959.4	76.1%	37	2.8
Teamsters Pension Trust of Philadelphia and Vicinity	1,166.80	2,673.10	48.5%	91.4	6.8
Trucking Employees of North Jersey Welfare Fund Inc. Pension Fund	409.2	699.4	65.0%	43.4	2.5

Growing Multiemployer Pension Funding Shortfall is an Increasing Credit Concern

Major Multiemployer Plans

($ millions) Plan Name	Estimated Net Plan Assets*	Estimated RPA 94 Current Liability**	Moody's Adjusted Funded Status	Estimated Contributions***	Under funding Multiple
(A)	(B)	(C)	(D)=(B)/(C*90%)	(E)	(F)=[(C*90% - (B)*50%]/E
Western Conference of Teamsters	23,382.80	36,820.30	70.6%	1,320.40	3.7
Western Pennsylvania Teamsters and Employers Pension Plan	891.4	1,866.70	53.1%	43.9	9
Transportation - Summary	**64,864.60**	**122,935.90**	**58.6%**	**4061.7**	5.6
Transportation - Regulatory Funded Status		53%			
Industry: Other					
1199 Health Care Employees Pension	7,035.00	7,979.70	98.0%	265.7	0.3
American Maritime Officers Pension Plan (2005)	428.4	657.3	72.4%	45.8	1.8
CWA/ITU Negotiated Pension Plan	779.6	1,295.90	66.8%	16.5	11.7
ILWU-PMA Pension Plan	1,906.40	3,724.10	56.9%	146.5	4.9
Major League Baseball Players Pension Plan	1,375.20	2,563.80	59.6%	128.9	3.6
MEBA Pension Trust	945.7	1,136.10	92.5%	3.1	12.4
National Asbestos Workers Pension Fund	412.4	703.2	65.2%	12.5	8.8
National Integrated Group Pension Plan	680.5	1,387.50	54.5%	17.8	NM
NYS Nurses Association Pension Plan	1,597.60	1,976.70	89.8%	100.9	0.9
PACE Industry Union-Management Pension Fund	1,416.70	2,851.70	55.2%	58.6	9.8
Seafarers Pension Trust	544.1	646	93.6%	4.8	3.9
SEIU National Industry Pension Fund	934.6	1,598.10	65.0%	39.1	6.4
Steamship Trade Assn of Baltimore - Intl Longshoremans Assn AFL-CIO Pension Fund	620.2	647.2	106.5%	8.0	-2.4
Steelworkers Pension Trust (2007)	1,487.60	2,497.20	66.2%	164.6	2.3
The Cultural Institutions Pension Plan	822.4	888.4	102.9%	26.7	-0.4
United Mine Workers of America 1974 Pension Plan	5,076.80	7,804.90	72.3%	21.9	44.5
Other - Summary	**26,062.90**	**38,358.00**	**75.5%**	**1061.4**	4
Other - Regulatory Funded Status		68%			

Growing Multiemployer Pension Funding Shortfall is an Increasing Credit Concern

** Asset values for end of year 2008 were estimated by applying the following assumptions to EOY 2007 fair market values*

	Equity	Debt	Other
Asset mix	65%	25%	10%
Gains / (Losses)	(38.50%)	1%	(30%)

*** 2008 RPA current liability assumed unchanged from 2007*

**** 2008 Contributions assumed unchanged from 2007*

Notes

All the data is collected from Form 5500s filed with the Department of Labor. The most recent 5500s include plan years ended in 2007. In case 2007 data was not available, we used 5500s for plan years ended in 2006.

(B) Plan Assets are recorded at fair market value at the end of the year and are obtained from Schedule H (Form 5500)

(C)RPA 94 Current Liability related to retired participants is obtained from Schedule B (Form 5500). It is recorded as of the valuation date, which is typically the beginning of the year. The interest rate used to compute the RPA 94 Current Liability is per the guidelines issued by the IRS (section 412).

(D) Moody's Adjusted Funded Status uses the RPA 94 amount (expected future benefit payments discounted at the risk free rate of interest) multiplied by a factor of 90%

We believe this approach best simulates a benefit obligation measured using generally accepted accounting principles.

(E)Funded Status is the weighted average funded status of all plans in an industry.

(F)Total Contribution includes contributions made by all participating employers to the plan during the year.

(G)The Under-Funding Multiple compares the relationship between a plan's funded status and annual contributions the plan receives from participating companies.

Under funding multiple for the industry is computed using total plan assets, total average liability and total contributions (i.e. weighted average multiple)

NM: Not meaningful (Under funding multiples in excess of 15x are labeled NM)

Appendix IV

Moodys' Calculation of Imputed Debt for Multiemployer Pension Plan Obligations

We calculate imputed debt for companies contributing to MEPP's using the following steps[2]:

1. Compute an "under-funding multiple" for individual major multiemployer plans based on the relationship between a plan's funded status and total annual contributions to the plan from all participating companies
2. Group major multiemployer plans into broad industry categories and compute an "industry under-funding multiple" as the weighted average of the under-funding multiples for the plans in that industry
3. Roughly estimate a company's share of under-funding by multiplying the company's most recent annual contribution to its plans by the applicable under-funding multiple

We calculate the under-funding multiple for each plan in three steps:

1. Measure the plans' funded status. We subtract "net plan assets" from 90 percent of the RPA 94 liability ("the adjusted liability")
2. Calculate the gross multiple. We divide the funded status in (1) by total contributions to the plan from all participating companies
3. Determine the "under-funding multiple". We take 50 percent of the gross multiple in (2). This haircut reflects our view that in contract negotiations with unions, companies will ultimately fund about 50 percent of the underfunding and union employees will "fund" the remaining 50 percent by foregoing current wages, benefits or work rules

Our methodology attempts to adjust a company's financial statements to reflect the company's share of the MEPP underfunding, which in theory should create comparability to SEPP's. That being said, one major difference between our methodologies for MEPP's and SEPP's is that we reduce the underfunded levels for MEPP's by 50% when imputing debt.

The rationale for this apparent contradiction is that in recent years many companies have held all-in compensation increases for union employees to modest levels. In effect, a portion of the increase in multiemployer funding has resulted from union requests to direct much of the increase in the total compensation package to multiemployer plans, thereby forgoing a portion of current wage increases. As neither unions nor management are dominant in negotiations, absent more specific information, we expect that union employees will share about 50 percent of the burden to address under-funding of multiemployer plans, while companies will fund the remaining 50 percent. This differs from SEPP's in that the sponsoring company is legally obligated to fund vested benefits.

These assumptions will only work when companies intend to continually contribute to their respective MEPP's. This was clearly demonstrated when UPS withdrew from Central States in December of 2007. When UPS withdrew, it was required to contribute $6.1 billion in cash to the fund. For year ended December 2006 we imputed $4.4 billion of debt for UPS contributions to all its multiemployer plans, which includes Central States. The exact amount of debt associated with Central States is unknown but it would be certainly a lot less than the $4.4 billion in total imputed debt and in turn a lot less than the $6.1 billion paid. The explanation for this large difference between our imputed debt and UPS' payment is two fold;

1. A withdrawal liability is calculated in a much different way than an ongoing liability. Without delving into technical details a withdrawal liability will nearly always be higher than a company's current share of the unfunded liability. This is one of the reasons many company's either cannot afford to withdraw from a plan or simply do not want to.

[2] See rating methodology "Multiemployer Pension Plans: Moody's Analytical Approach" for a more detailed description of the calculations.

2. When UPS withdrew, the employees and retires did not shoulder any of the burden of underfunding, which is clearly different from our 50% assumption. Once again this is a major reason why companies do not want to withdraw from plans – after withdrawal they are less able to push some of the funding burden onto plan participants.

The 50 percent haircut would be revisited if it appears that a company may withdraw from its plans.

Moody's Related Research

Rating Methodology

- Multiemployer Pension Plans: Moody's Analytical Approach, August 2006 (98445)
- Analytical Observations Related To U.S. Pension Obligations, January 2003 (77242)

Special Comment

- Managing Ratings With Increased Pension Liability, Special Comment, March 2003 (115011)

To access any of these reports, click on the entry above. Note that these references are current as of the date of publication of this report and that more recent reports may be available. All research may not be available to all clients.

Growing Multiemployer Pension Funding Shortfall is an Increasing Credit Concern

Report Number: 119880

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Moody's Investors Service

12

DATE

To: NAME, NAME OF AGENCY

From: YOUR NAME

Re: Negotiating a "Fair" Project Labor Agreement for NAME OF AGENCY

NAME:

As you negotiate on behalf of the [NAME OF AGENCY] for a Project Labor Agreement (PLA) on future construction for [NAME OF AGENCY], you may want to incorporate elements of a "fair" Project Labor Agreement (PLA). A "fair" PLA could be palatable enough for some non-union general contractors and subcontractors to bid on the project, thus increasing competition and perhaps reducing the cost of the project for taxpayers. A "fair" PLA would also provide a more inviting environment for small businesses in the area – including minority and women-owned businesses – to bid on [NAME OF AGENCY] projects.

Request to Participate in Negotiations

One of the unfair aspects of PLAs is that contractors are required to sign them to work on a project, but contractors are not allowed to participate in negotiations. All parties that sign these agreements should be invited to participate in the negotiations. Associated Builders and Contractors should have a representative participating in all negotiations for the PLA.

Labor Requirements Important to ABC in PLA Negotiations

Although PLAs are replete with provisions that cut competition, there are four provisions of PLAs that are particularly objectionable to non-union companies:

- PLAs require non-union companies to pay their workers' health and welfare benefits to union trust funds, even though these companies have their own benefit plans. Companies thus have to pay benefits twice: once to the union and once to the company plan. Workers never see any of their benefits sent to the unions unless they decide to leave their non-union employer and remain with the union until vested.

- PLAs require non-union companies to obtain their workers from union hiring halls. This means that a non-union company has to send its workers to the union hiring hall and hope

that the union sends the same workers back. In addition, this provides unions with the opportunity to dispatch "salts" (paid union organizers) with conflicts of interest in employment to non-union companies.

- PLAs require non-union companies to obtain apprentices exclusively from union apprenticeship programs. Participants in state-approved non-union apprenticeship programs cannot work on a job covered by a PLA. This means that young people enrolled in non-union apprenticeship programs can find themselves excluded from work in their hometowns.

- Non-union workers must pay union dues and fees or join a union.

There are solutions to each of these problems:

Fringe Benefits

Here is language from the current Ballpark Village PLA in San Diego that allows a contractor to pay health and pension employee benefits to its own plans. We recommend that the fair PLA does not contain the phrase in brackets below, as that phrase requires the contractor to make payments for collective bargaining agreement administrative fees and to union-affiliated programs categorized as "industry advancement."

WAGE SCALES AND FRINGE BENEFITS

Wages, fringe benefits, and all Trust Fund contributions shall be determined by the applicable Schedule "A" agreements for those contractors signatory to an applicable Schedule "A." Non-signatory Contractors shall also be required to pay wages, fringe benefits and Trust Fund contributions, which benefits and contributions accrue directly to the benefit of employees (e.g., health and welfare, vacation, holidays, pensions, apprenticeship, training funds), pursuant to the attached Schedule "A" agreements; however, any Contractor or Subcontractor, who for at least ninety (90) days prior to its execution of a contract to perform work on the Project has been a contributing member of a multi-employer pension plan or third-party administered pension plan covering employees performing work covered by this Agreement or has provided company paid health and welfare benefits at a level generally commensurate with the benefits provided by the applicable Union medical plan may, at the discretion of the Contractor or Subcontractor, continue to contribute to such pension and medical plans on behalf of its non-union Core Employees in lieu of payments to the Union's medical and pension plans. In the event the Contractor's contribution to a qualifying pension plan is lower than the pension contribution called for in the applicable Schedule "A," the difference shall be paid to the employee in the employee's regular weekly paycheck. [All other required benefit contributions and] all contributions on behalf of Union members and employees obtained through Union hiring halls shall be paid to the applicable Union Trust Funds pursuant to the provisions of the applicable Schedule "A." Project contractor and the business agent of the Union having jurisdiction over the craft shall, upon giving at least

seventy-two (72) hours written notice to a Contractor or Subcontractor, have the right to audit the Contractor or Subcontractor's payroll records to ensure compliance with these provisions.

Or, ABC suggests that the PLA address the matter of fringe benefits by including an expansion of exemption language that appears in the University of New Mexico Hospital West Wing Construction PLA, approved in May 2004. Although the language in the New Mexico PLA only applies to retirement plans, the [NAME OF AGENCY] should expand the language to include employer payments for employee benefit plans included as part of prevailing wages as defined in Section 1773.1 of the California Labor Code.

Here is the language from the New Mexico PLA:

A contractor that is not a signatory to an existing collective bargaining agreement with any Union having jurisdiction over the Project and that has established and/or is making employer contributions to a retirement plan for its employees, may continue to make employer contributions to such plan on behalf of each of its "regular employee workforce" employed under this Agreement pursuant to 10.2 above, and for such other employees of the Contractor working under this Agreement who meet the criteria below, in lieu of making employer contributions to a retirement plan pursuant to 14.3, provided the following conditions are met:

(i) such Contractor's plan is a bona fide plan and in effect at the time that the Contractor commences Project work and has been in effect and applicable to the Contractor's employees, whether working on private or public projects, for the proceeding twelve (12) months;

(ii) the Contractor contribution amount represents the actual cost of the benefit (expressed as an hourly contribution) to the Contractor, and that is consistent with applicable laws related to wages and employee benefits; and

(iii) the employee on whose behalf the Contractor contribution is made is an active participant in the Contractor plan at the time of his initial employment on the project, or was an active participant in the plan at the time of his last employment with the Contractor.

(iv) Any difference between the total hourly contribution to a Contractor retirement plan under this section and the Contractor contribution due to the corresponding fund under 14.1 and 14.3, shall be paid directly to the employee as part of his paycheck for wages earned on the Project.

(v) For purposes of this Section 14.4, a bona fide retirement plan qualifying for recognition under 14.4(a) shall be a tax-qualified plan, subject to ERISA, and have a current SPD available for review. The Contractor shall advise the Project Labor Administrator and the affected Union(s) at least five (5) working days prior to

exercising its rights under this section 14.4 and provide the Project Labor Administrator with such information as is necessary to demonstrate the appropriateness of the Contractor's utilization of this section.

Use of Employees

Contractors should be allowed to retain a "core workforce" with a reasonable definition of a regular employee. Here is sample language:

> Where a successful bidding Contractor is not a party to a current collective bargaining agreement with the signatory Union having jurisdiction over the affected work, the Contractor may request by name, and the local will honor, referral of core non-apprentice persons who have applied to the local Union for Project work and who demonstrate to the local Union dispatcher and provide proof of all the following qualifications:
>
> 1. possess any and all license(s) and certification(s) required by state or federal law for the Project work to be performed;
>
> 2. have worked a total of at least five thousand (5,000) hours in the appropriate construction craft;
>
> 3. were on the Contractor's active payroll for at least ninety (90) out of the one hundred-twenty (120) calendar days prior to the award of the Contract; and
>
> 4. have the ability to perform safely the basic functions of the applicable trade.
>
> When the Contractor requires employees for the Project in addition to his/her core workforce it shall utilize the Union referral system.

ABC would oppose an alternating procedure in which a regular employee is assigned to the project and then another worker is obtained from the union hiring hall.

Also, the PLA should include language that guarantees that if a Contractor without an existing collective bargaining agreement with a union sends an employee who does not fall under the core workforce definition to the union, the union is required to dispatch the same worker back to the company. Such language is seen in Article IV, Section 5 of the PLA for the San Diego County Water Authority's Emergency Storage Project:

> The Local Unions shall not knowingly refer an employee currently employed by any Contractor working under this Agreement to any other Contractor.

Apprenticeship

The PLA should contain language that conforms to Section 1777.5 of the California Labor Code, which states the following:

> When the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected.

Language from the East Side Union High School District PLA, approved in August 2003, would be acceptable:

> 8.4 Each contractor or subcontractor performing work on the project shall, for each apprenticeable craft that it employs, employ on its regular workforce the ratio of apprentices as required by Labor Code Section 1777.5 who are enrolled and participating in a bona fide apprenticeship program. Prior to commencing work on the Project, each contractor or subcontractor must file with the District a certification of its compliance with this requirement and disclose the identity of the bona fide apprenticeship program from which it will obtain apprentices for work on this project.

The following language could also be included:

> Any contractor performing work covered by this Agreement shall have the right to employ apprentices enrolled in any State-approved apprenticeship program, provided that the contractor has employed apprentices enrolled in the same program for a period of at least six months prior to either (1) this Agreement taking effect or (2) the contractor's commencement of work covered by this Agreement. No apprentice may be required to pay membership dues or fees to any organization where such requirement did not pre-exist performance of work by such apprentice under this Agreement.

Or, the following language could be included:

> Notwithstanding the provisions of this agreement or any labor agreement incorporated therein, any contractor performing work covered by this Agreement shall have the right to employ apprentices enrolled in any State-approved apprenticeship program for which the contractor is approved to train prior to the contractor's commencement of work covered by this Agreement. No apprentice may be required to pay membership dues or fees to any organization where such apprentice has been dispatched to such a contractor under this agreement.

Union Dues and Fees

The PLA should specifically indicate the cash amount of dues and fees, such as initiation fees, that would be requested of a non-union employee. Non-union employees should have the option whether or not to pay union dues and various fees. Language from the East Side Union High School District PLA, approved in 2003, would be acceptable:

> 7.2 ... The Contractor agrees to deduct initiation fees, union dues or representation fees from the pay of any employee who executes a voluntary authorization for such deductions ...

Other Provisions of Concern in PLAs

Threshold

Associated Builders and Contractors urges the [NAME OF AGENCY] to seek a project cost threshold of $8-10 million for the PLA, as suggested by board member [NAME] at the [DATE] board meeting. Selecting a threshold is an arena where important negotiations can occur.

Annual Review and Sunset Clause

Associated Builders and Contractors urges the [NAME OF AGENCY] to seek a review clause allowing the [NAME OF AGENCY] to enter the PLA on a trial basis to see if economic projections are achieved. Such a clause was included in the 1999 PLA for Los Angeles Unified School District, which contracted with the independent accounting firm of PriceWaterhouseCoopers to conduct a financial evaluation of the PLA. The clause was included as follows:

> Section 3.5 The parties recognize that the District has elected to enter into this Agreement in expectation of projected cost savings. As such, the District shall enter into this Agreement on a trial basis for the duration of the first identified set of projects undertaken. This Agreement shall expire at the end of one year unless the District and/or Council demonstrate that expected economic savings to the District have materialized at a level sufficient to justify continuing the Agreement. Such a termination shall render all provisions of this Agreement completely null and void for all purposes.

Simple Sunset Clause

Associated Builders and Contractors urges the [NAME OF AGENCY] to seek a sunset clause allowing the [NAME OF AGENCY] to terminate the PLA after a period of XX years. One example of such a sunset clause comes from the Orange County PLA, which the Orange County Board of Supervisors voted to terminate at the end of 2005:

> 21.2 The Agreement shall continue in full force and effect until December 31, 2005. The Agreement will automatically renew for an additional five (5) years unless the parties,

one and/or both, notify each other ninety (90) days prior to the original expiration date of the Agreement, of the intent to terminate or renegotiate the Agreement.

Associated Builders and Contractors suggests that the sunset clause used by [NAME OF AGENCY] automatically terminate the PLA at the end of the period.

Competitive Bid Requirement

In order to protect the [NAME OF AGENCY] from a reduced number of bidders resulting from a PLA, the PLA should contain a provision requiring covered work to be rebid without a PLA requirement if the [NAME OF AGENCY] does not receive bona fide bids on that work on or before the deadline for receiving such bids from at least three (3) persons, firms, or corporations.

Employer Withdrawal Liability for Multiemployer Pension Plans

The Employment Retirement Income Security Act (ERISA) allows union multi-employer construction industry pension plans to make assessments against employers after they withdraw from those plans and no longer have an obligation to contribute. Employers who withdraw from a multiemployer pension plan, for example after ceasing work on a project covered by a PLA, can be required after the project ends to pay the plan an additional amount to cover part of the plan's alleged "unfunded vested benefits." Withdrawal liability could be incurred if the employer is no longer obligated to contribute to a plan, but continues the same type of work in the same area as was covered by the union that was signatory to the PLA. The PLA should include language exempting the contractor from employer withdrawal liability if the employer made all of the required contributions to the union pension fund during the period it was covered under a PLA. Here is sample language that has been used in some PLAs and other labor agreements:

> To the extent that such are not contrary to the terms of this Agreement, the Contractor agrees to accept the terms of the Trust Agreement of the union's fringe benefit funds as amended establishing the Trust Agreements and Funds of the said Union. The Contractor designates as its representatives and trustees of said Funds the trustees now serving or who may in the future serve as vacancies occur. In the event that any pension fund designated for contributions by the Union assesses withdrawal liability against the Contractor as a result of such contributions, the Union agrees to defend with competent counsel, indemnify and hold harmless the Contractor from such assessment of withdrawal liability and from any and all attorneys' fees and costs related to or arising out of such agreement.

Or, the following language could be included:

> In order to protect the Contractor from incurring any withdrawal liability based on the contributions made to such pension plans as a result of executing this Agreement, the parties stipulate that it is not intended that such Contractor shall have any withdrawal liability when such Contractor ceases to make contributions to such pension plans

pursuant to this Agreement. Furthermore, the signatory Unions therefore agree not to collect or make any attempt to collect such a withdrawal liability and to indemnify and hold harmless any Contractor against any withdrawal liability resulting from a Contractor contributing to said pension funds as a result of executing this Agreement.

No-Strike Clause

The [NAME OF AGENCY] needs to be firm on this: if there is a strike or any other union slowdown, the PLA is void. The PLA should also ascertain in writing whether or not the Building Trades will ask their workers to cross picket lines set up by other unions in order to abide by the conditions of the PLA.

Assessing Financial Liability for Work Stoppages and Slowdowns

As the "no-strike clause" is a prominent feature of a PLA, the inclusion of a provision to assess financial liability for work stoppages and slowdowns can serve as an extra incentive to fulfill the conditions of the agreement. Here is sample language:

In the event a work stoppage or slowdown affects work covered by this Agreement and said stoppage or slowdown involves or is caused by a Union signatory to this Agreement, an affected signatory party may seek redress under the grievance procedure of this Agreement which shall include, but not be limited to, liquidated damages of $_____ [depending on size/scope of project] per day and any other remedies available under applicable law.

Waiving Recourse to a Third-Party Lawsuit under the Grievance Procedure

Under applicable law, PLAs may provide recourse to grievance and arbitration procedures that eliminate costly and time-consuming court litigation. Accordingly, to expand upon this concept and keep disputes out of court, the following language is proposed. Alternative One addresses the basic concept, while Alternative Two specifically addresses the potential for assignment of claims by employees covered by the PLA to third parties not signatory to it, such as joint labor-management committees established pursuant to the federal Labor Management Cooperation Act of 1978 (Section 175a of Title 29 of the United States Code), which have independent rights of action which may not be directly affected by the language in Alternative One.

Alternative One:

All signatory parties, employers, unions, joint labor-management committees, trust funds, owners, agencies, shareholders, officers, directors, trustees, representatives of same, as well as any third-party which has any ownership, corporate, affiliate, partnership, legal, sponsor, and/or personal relationship shall be required to raise and resolve any and all disputes flowing from the performance of work and duties under this Agreement through the grievance-arbitration mechanisms of this Agreement unless otherwise specifically excluded by the terms of this Agreement.

Alternative Two:

> This agreement and the rights set out in it are unique to the parties and may not be assigned to third parties to this agreement. In addition, all such rights are understood to arise in the context of and are subject to resolution through the grievance processes of this agreement. Accordingly, no party or third party to this agreement is herein accorded any rights of action in any venue, except such rights as exist in this agreement under the grievance process.

Most Favored Nations Clause for Signatory Contractors

A "Most Favored Nations" clause is a labor agreement provision which exists due to competitive challenges in a marketplace. It allows a signatory employer to level its playing field by adhering to terms of other labor agreements that a union has negotiated with other employers in the same industry. Here is sample language:

> The parties to the Agreement recognize the need for cost-efficiency and competitive terms to complete the Project. The parties also recognize that within the marketplace different labor agreements may create inconsistent terms governing the same issues. Accordingly, to enhance cost-efficiency and fairness in the performance of work covered by this Agreement, any signatory employer is entitled, upon written request to a signatory union which claims jurisdiction over that employer's scope of Project work, of a complete copy of any and all agreements entered into by said union providing terms for the performance of the same type of work in that union's geographic jurisdiction. Thorough and complete responses shall be required within 7 days. Upon written notice to the union, the signatory employer may advise in writing and implement any terms of such agreements which are more advantageous for the completion of the contractor's work under this Agreement. A signatory union's failure to respond in timely fashion, or failure to respect the designation of another agreement's more favorable terms, raises a grievable issue and shall subject that union to liability for the damages the signatory employer suffers as a result.
>
> For purposes of this project labor agreement, this clause is deemed to include any and all project labor agreements executed by signatories to this agreement within the past two years within the jurisdictional area of the labor unions signatory hereto.

Union Security Provisions

Bid specifications for the projects should include the applicable crafts' Schedule A Agreements as referenced in the Union Security section of the PLA.

Are non-union employees on this PLA subject to union disciplinary actions such as monetary fines if they ignore prohibitions in the union constitution and by-laws? Will non-union workers be fined if they leave the union once the job ends? Which petty rules do non-union workers have to follow on a PLA job? For example, are they required to boycott certain products and establishments? Perhaps the PLA should include a copy of the union constitution and by-laws so signatories will know the conditions that must be followed by their employees.

Audits

Will the union fund trustees have the right to audit non-union contractors' financial records when working on a PLA?

Biased Arbitrators

A PLA nullifies the non-union company's employee handbook. Who will choose the arbitrators for employee grievances in this PLA? Is it the unions?

Privacy of Workers

How much access will union officials and organizers have to non-union workers on the jobsite? Will union organizers have access to the names and addresses of non-union employees and use the information for marketing purposes, including home visits about joining the union?

Drug Testing

What are the rules concerning drug testing under this PLA? Will non-union companies have to abandon their drug testing program?

I hope these comments are useful as you negotiate the PLA for the [NAME OF AGENCY]. These comments should also shed a clearer light on why associations such as ABC oppose PLAs in the format pushed by unions at various local governments in [CHAPTER REGION]. You can contact me at (XXX) XXX-XXX or at XXX@XXX.XXX.