

**SAN DIEGO METROPOLITAN TRANSIT SYSTEM
PROJECT LABOR AGREEMENT**

**FOR CONSTRUCTION PROJECTS SUBJECT TO
MTS BOARD POLICY NO. 66**

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SAN DIEGO METROPOLITAN TRANSIT SYSTEM
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FOR CONSTRUCTION PROJECTS SUBJECT TO
MTS BOARD POLICY NO. 66

This Project Labor Agreement (hereinafter, “PLA” or “Agreement”) is entered into this 9th day of January, 2024 by and between the San Diego Building and Construction Trades Council (hereinafter “Council”), and the signatory Craft Unions (hereinafter, together with the Council, collectively, the “Union” or “Unions”), and the San Diego Metropolitan Transit System (“MTS”).

ARTICLE 1

RECITALS

WHEREAS, the MTS has adopted Board Policy No. 66 in regard to the use of a PLA for MTS construction projects projected to exceed \$1 million (hereinafter “Covered Projects”); and

WHEREAS, MTS desires the completion of Covered Projects in a professional, safe, efficient, and economical manner, without undue delay or work stoppage; and

WHEREAS, the Parties have pledged their full commitment to work towards a mutually satisfactory completion of each Covered Project; and

WHEREAS, the Parties agree that by establishing and stabilizing wages, hours, and working conditions for the workers employed on Covered Projects, a satisfactory, continuous, and harmonious relationship will exist among labor and management that will lead to the efficient and economical completion of Covered Projects; and

WHEREAS, in recognition of the need to maintain harmony in labor-management relations and stability during the term of this PLA, the Parties agree to establish effective and binding methods for the settlement of all misunderstandings, disputes and grievances without any strikes, slowdowns, work interruptions, or disruption of Covered Work; and

WHEREAS, MTS supports the development of programs for the recruitment, training, and employment of Disadvantaged Business Enterprises and Small Businesses, and also recognizes the ability of local Apprenticeship Programs to provide meaningful and sustainable careers in the building and construction industry. The Parties will encourage Local Residents of

San Diego County to participate in Covered Projects through programs and procedures jointly developed to prepare and encourage such individuals for entrance into Apprenticeship Programs and to seek formal employment on Covered Projects through the referral programs sponsored and/or supported by the Parties to this PLA; and

WHEREAS, this PLA has been developed in compliance with California Public Contracts Code § 2500 et seq.; and

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

ARTICLE 2

DEFINITIONS

Capitalized terms utilized in this PLA which are not otherwise defined herein shall have the meanings ascribed to said terms below.

“Agreement” means this Project Labor Agreement (PLA).

“Applicable Prevailing Determination” means the prevailing wage determinations applicable to Project Work as required by law, such as the State of California Labor Code and/or the federal Davis-Bacon Act, as applicable.

“Apprentice” means an apprentice properly registered in an Apprenticeship Program for the entire time they are employed on a Covered Project.

“Apprenticeship Program” as used in this PLA shall be defined as an apprenticeship program approved by the State of California.

“Contractor” means any contractor awarded work on a Covered Project. The term “Contractor” includes any individual, firm, partnership, corporation, owner operator, or combination thereof, including joint ventures, that has entered into a contract with MTS for Project Work, or any subcontractor who has signed a contract with a Contractor or another subcontractor for Project Work.

“Core Employees” are defined in Article 4, Section 4.6 (e).

“Council” means the San Diego County Building & Construction Trades Council.

“Covered Contract” means a contract awarded on a Covered Project.

“Covered Project” or “Project Work” means work on a Covered Project subject to this PLA. “Covered Projects” are MTS construction solicitations projected to exceed \$1 million, based on MTS’s Engineer’s independent cost estimate and individual Job Orders projected to exceed \$1 million issued under a master Job Order Contract.

“Disadvantaged Business Enterprise” means a firm that has been certified as a Disadvantaged Business Enterprise by the California Unified Certification Program based on eligibility standards at 49 CFR Part 26, or a Small Business as defined in this PLA.

“Joint Labor-Management Apprenticeship Program” means a Joint Labor-Management Apprenticeship Program approved by the State of California.

“Local Resident” means an individual that resides in the MTS Service Area.

“Party” means MTS, Council, Union and Contractor signing a Letter of Assent to this PLA.

“Project Labor Coordinator” means the designee of MTS to monitor compliance with this Agreement.

“Schedule A’s” means the local master labor agreements of the Unions.

“Small Business” means a firm that has been certified as a Small Business by the U.S. Small Business Administration.

“Union” or “Unions” means any labor organization signatory to this Agreement acting on their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have, through their officers, executed this Agreement.

ARTICLE 3

SCOPE OF THE AGREEMENT

Section 3.1 Scope

(a) This Agreement covers, without limitation, all on-site site preparation, construction, alteration, demolition, installation, improvement, landscaping, painting or repair of buildings, structures and other works, and related activities for the Covered Project that is within the craft jurisdiction of one of the signatory Unions and which is directly part of the Covered Project. On-site work includes work done solely for the Covered Project in temporary yards, dedicated sites, or

other areas provided that they are adjacent to the Covered Project, and at any on-site or off-site batch plant constructed solely to supply materials to the Covered Project.

(b) This Agreement applies to any start-up, calibration, commissioning, performance testing, repair, maintenance or operational revisions to systems and/or subsystems for the Project that are required as part of the original Prime Contract.

(c) The furnishing of supplies, equipment or materials which are stockpiled for later use shall not be covered by this Agreement. However, construction trucking work for the delivery of ready-mix shall be covered by the terms and conditions of this Agreement to the extent required by law and/or by the prevailing wage determinations of the California Department of Industrial Relations.

The scope of work covered by this PLA is limited to all on-site construction work except as otherwise set forth above.

Section 3.2 Exclusions. Items specifically excluded from the scope of this PLA include the following:

(a) Work of non-manual employees including but not limited to, superintendents, supervisors, staff engineers, quality control and quality assurance personnel, timekeepers, mail carriers, clerks, office workers, messengers, guards, safety personnel, emergency medical and first aid technicians, and other professional, engineering, administrative, supervisory, and management employees; and

(b) All offsite manufacturing, fabrication, maintenance, and handling of materials, equipment, or machinery and the offsite hauling of materials of any kind to or from the Covered Project site. However, any lay down or storage areas for equipment or material manufacturing (i.e. prefabrication) sites dedicated solely to and adjacent to the Covered Project site, and the movement of materials or goods between locations on the Covered Project site are within the scope of this PLA. On-site fabrication work includes work done for the Project in temporary yards or areas near the Project. On site construction shall also include the site of any batch plant constructed solely to supply materials to the Project; and

(c) All employees of MTS, design teams (including, but not limited to, architects, engineers, and master planners), or any other consultants for MTS (including, but not limited to, project managers and construction managers and their employees where not engaged in Covered Work) and their subconsultants, and other employees of professional service organizations not performing manual

labor within the scope of this PLA. This exclusion shall not apply to geotechnical, surveying and inspection work performed within the State of California's general prevailing wage determination for Field Surveyor or Building/Construction Inspector and Field Soils and Material Tester when this work is performed under a professional services agreement in preparation for a construction project which MTS reasonably believes will be projected to exceed \$1 million. As used in this Section, "preparation" means any geotechnical, surveying or inspection work involved as part of a design task to develop construction bid documents (e.g. developing design drawings or technical specifications); and

(d) Any work performed by MTS, state, county, city, or other governmental bodies, or their contractors (other than work within the scope of this PLA undertaken by contractors to MTS); or by private utilities, or their contractors; and

(e) Installation, start up, and/or commission work performed by employees of a manufacturer or vendor necessary to maintain such manufacturer's or vendor's warranty or guarantee, and provided the warranty agreement is the manufacturer's or vendor's usual and customary warranty agreement for such equipment and is consistent with industry practice. Any work to be excluded pursuant to this subsection (e) shall be identified and discussed at the relevant pre-job conference. Upon request from the Council, MTS shall review with the vendor whether installation or application may be performed pursuant to terms of the PLA without affecting the status of the warranty. Nothing in this section is intended to include within the scope of this Agreement maintenance or repair work performed pursuant to a manufacturer's or vendor's warranty after MTS has given its Notice of Acceptance pursuant to Section 20.2 of this Agreement; and

(f) Specialized or technical work requiring specialized training, unique skills, or a level of specific technical experience which employees represented by the Unions do not possess. At least ten (10) working days' notice shall be given to the Council before any work is performed pursuant to this exemption; and

(g) Laboratory work; and

(h) Non-construction support services contracted by MTS; and

(i) Contracts for which there are less than three (3) responsible, responsive bidders (two (2) for ready-mix concrete) that bid, with at least ten (10) days' notice to the Council prior to bids being due, in which case MTS may reject all bids and re-advertise the project without the application of this PLA; and

- (j) Contracts for which the bid from the lowest responsible, responsive bidder is in excess of 20% more than MTS's Engineer's independent cost estimate, in which case MTS may reject all bids and re-advertise the project without the application of this PLA; and
- (k) If application of the PLA would violate the terms of a governmental grant or funding sources to pay for the Covered Project, as determined by MTS; and
- (l) Installation of specialty items, artwork, furniture, fixtures, security systems, and equipment under separate contract with MTS, including without limitation office and operational equipment and machinery. This exclusion shall not apply to installation of closed-circuit television equipment (i.e. pulling in new wire, and installation of, new video camera and related server), regardless of procurement method, if the work: involves a State of California general prevailing wage determination; and is in furtherance of a Covered Project; and
- (m) repair or maintenance of equipment or machinery owned or controlled by MTS; and
- (n) off-site maintenance of leased equipment and on-site supervision of such work; and
- (o) all work by employees of MTS or its contractors involving general maintenance, emergency repair, and/or cleaning work; and
- (p) non-construction support services contracted by MTS in connection with Covered Projects; and
- (q) Construction projects adjacent to the MTS right of way that are not being developed or controlled by MTS; and
- (r) all maintenance, operations, janitorial services (other than construction clean-up), emergency, special event work, or other professional services performed at the direction of the MTS Chief Executive Officer (CEO) in their sole discretion.

Section 3.3 Awarding of Contracts.

- (a) MTS has the absolute right to bid or award Project Work notwithstanding the existence or non-existence of any agreements between any Contractor and any Union, provided only that such Contractor is willing, ready, and able to execute and comply with this PLA should such Contractor be awarded work covered by this PLA.

(b) It is agreed that all Contractors who have been awarded a contract for Project Work shall be required to accept and be bound by the terms and conditions of this PLA in regard to Project Work only. Contractors shall evidence their acceptance of this Agreement by executing a Letter of Assent as set forth in Attachment A hereto. No Contractor shall commence Project Work without first providing a copy of the signed Letter of Assent to the Project Labor Coordinator.

(c) MTS and Prime Contractors agree 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 that will not create labor strife. Under all circumstances, however, MTS and Prime Contractors shall retain the absolute right to select the lowest responsive and responsible bidder for the award of contracts on all Covered Projects based on MTS's and Prime Contractor's procurement policies, procedures and as required by law.

Section 3.4 Schedule A's.

(a) The provisions of this PLA, including the Schedule A's (which are the local Master Labor Agreements of the signatory Unions having jurisdiction over the Project Work, as such may be changed from time to time consistent with Section 19.1, and which are incorporated herein by reference), shall apply to the work covered by this PLA, notwithstanding the provisions of any other local, area and/or national agreement that may conflict with or differ from the terms of this PLA. Where a subject covered by the provisions of this PLA is also covered by a Schedule A, the provisions of this PLA shall prevail. Where a subject is covered by a provision of a Schedule A and not covered by this PLA, the provisions of the Schedule A shall govern. Any dispute as to the applicable source between this PLA and any Schedule A shall be resolved under the procedures established in Article 10.

(b) It is understood that this PLA, together with the referenced Schedule A's, constitutes a self-contained, stand-alone agreement and, by virtue of having become bound to this PLA, no Contractor shall be obligated to sign any other local, area, or national collective bargaining agreement as a condition of performing work within the scope of this PLA (provided, however, that the Contractor may be required to sign a uniformly applied non-discriminatory Participation or Subscription 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 may be bound to make contributions under this PLA, provided that such Participation or Subscription Agreement does not purport to bind the Contractor beyond the terms and

conditions of this PLA and/or expand its obligation to make contributions pursuant thereto). It shall be the responsibility of the Prime Contractor to have each of its Contractors of any tier sign the documents with the appropriate Union prior to the Contractor beginning Project Work.

Section 3.5 The Parties agree that this PLA 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 PLA shall not apply to any work of any Contractor other than that on Project Work specifically covered by this PLA.

Section 3.6 Binding Signatories Only. This PLA and Letter of Assent 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 3.7 Other MTS Work. 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 PLA, which may be performed by MTS employees or contracted for by MTS for its own account, on its property, or in and around a project site.

Section 3.8 Separate Liability. It is understood that the liability of the Contractor(s) and the liability of the separate Unions under this PLA shall be several and not joint. The Unions agree that this PLA does not have the effect of creating any joint employment status between or among MTS and any Contractor, or between and among any Contractors.

Section 3.9 Completed Project Work. As areas of Project Work are accepted by MTS, this PLA shall have no further force or effect on such items or areas except where the Contractor is directed by MTS to engage in repairs, modification and/or check-out functions required by its contract(s) with MTS.

Section 3.10 Except for all work performed under the NTL Articles of Agreement, the National Stack/Chimney Agreement, and the National Cooling Tower Agreement, all instrument calibrations work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, and the National Agreement of the International Union of Elevator Constructors, with the exception of Article 7 (Work Stoppages and Lockouts), Article 8 (Work Assignments and Jurisdictional Disputes) and Article 10 (Settlement of Grievances and Disputes) of this PLA, which shall apply to such work.

ARTICLE 4

UNION RECOGNITION AND EMPLOYMENT

Section 4.1 Recognition. MTS recognizes the 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 4.2 Contractor Selection of Employees. Contractors 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 this Article. Contractors shall also have the right to reject any applicant referred by a Union for any reason, subject to any reporting time requirements of the applicable Schedule A; provided, however, that such right is exercised in good faith and not for the purpose of avoiding Contractor's commitment to employ qualified workers through the procedures endorsed in this PLA.

Section 4.3 Referral Procedures.

(a) For signatory Unions to this Agreement 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 for Core Employees or as otherwise modified by this PLA. Such job referral system will be operated in a nondiscriminatory manner and in full compliance with federal, state, and local laws and regulations that require equal employment opportunities and non-discrimination. All of the foregoing hiring procedures, including related practices affecting apprenticeship, shall be operated so as to encourage employment of Local Residents on Project Work, 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 Contractors, 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 Unions will work with the Project Labor Coordinator, to identify and refer competent craft persons as needed for Project Work, and to identify individuals, particularly Local Residents, for entrance into Apprenticeship Programs, or 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 work to be undertaken by MTS.

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

Section 4.4 Non-Discrimination in Referral, Employment, and Contracting. The Unions and Contractors agree that they will not unlawfully discriminate against any employee or applicant for employment on the basis of race, ethnicity, color, caste, ancestry, religion, creed, gender, gender identity, gender expression, transgender status, national origin, age, Union status, sex, sexual orientation, marital status, political affiliation, denial of family care leave, genetic information, military or veteran status, criminal records, past incarceration, previous status as a foster youth, political affiliation, medical condition or disability. Further, it is recognized that MTS has a policy for the utilization of Disadvantaged Business Enterprises and Small Businesses. The Parties shall jointly endeavor to assure that these commitments are fully met, and that any provisions of this PLA that may appear to interfere with Disadvantaged Business Enterprises and Small Businesses successfully bidding for work on Covered Projects 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 MTS's policy for the utilization of Disadvantaged Business Enterprises and Small Businesses as Contractors, vendors or suppliers on Project Work.

Section 4.5 Employment of Local Residents

(a) In recognition of MTS's mission to serve the residents of its service area, the Unions and Contractors agree that, to the extent allowed by law, and as long as they possess the requisite skills and qualifications, residents of the MTS Service Area, hereafter "Local Residents", shall be first referred by appropriate Union Hiring Hall for Project Work per Section 4.6. A "Local Resident" is defined as a permanent resident of the MTS Service Area at the time of initial employment on a Covered Project or a Veteran residing anywhere. The list of qualifying zip codes for Local Residents is included within Attachment C, Workforce Dispatch Request Form.

(b) The Contractors and Unions agree to work together to achieve an aspirational goal of at least forty percent (40%) of the total construction craft hours worked on each Covered Project be performed by Local Residents.

(c) Professional services agreements entered into by MTS for covered surveying or inspection services, which are separate and apart from the

Construction Contract for a Covered Project, are exempt from the foregoing MTS Local Resident hiring goals.

(d) To facilitate the dispatch of MTS Local Residents, as well as all Contractor requests for referral and dispatch of workers from the applicable Union referral system, all Contractors are required to utilize the Workforce Dispatch Request Form for Covered Projects, a sample of which is attached as Attachment C.

(e) The Project Labor Coordinator shall work with the Unions and Contractors in the monitoring and the reporting of the foregoing Local Resident hiring goals.

Section 4.6 Core Employees and Union Referral Process. This Section only applies to Contractors who are not directly signatory to an applicable Schedule A.

(a) Disadvantaged Business Enterprise. The Parties recognize MTS's interest in promoting competition and inclusion of Disadvantaged Business Enterprises, which may not be signatory to a current Schedule A. In order to promote participation and attract Disadvantaged Business Enterprises to work under this PLA, and subject to the limitations set forth below, each Contractor that is a Disadvantaged Business Enterprise may first employ three (3) of its core employees per craft on each Covered Project prior to employing an employee through the appropriate Union hiring hall. The next (fourth) employee shall be hired from the appropriate Union hiring hall and thereafter, such Contractor may employ, as needed, two (2) additional Core Employees in an alternating manner with Union referrals, up to a total of five (5) Core Employees. Thereafter, all additional employees in the affected trade or craft shall be requested and referred from the appropriate Union hiring hall.

The foregoing Core Employee hiring procedure for Disadvantaged Business Enterprises is subject to the following limitations:

(1) Disadvantaged Business Enterprises with an individual subcontract value of \$100,000 or less and;

(2) Each Disadvantaged Business Enterprise is limited to utilizing the foregoing Core Employee hiring procedure to one (1) subcontract per Covered Project and;

(3) The total value of all subcontracts utilizing the foregoing Core Employee hiring procedure shall not exceed twenty (20) percent of the total value of each Covered Project; and

(4) In order to assist the Project Labor Coordinator monitor compliance with this Section, each Prime Contractor will be responsible for tracking, reporting and providing notice to the Project Labor Coordinator describing each Disadvantaged Business Enterprise subcontract that qualifies for the foregoing hiring procedure prior to work commencing.

(b) Contractors who do not qualify for the hiring procedure set forth in Section 4.6(a), and who are not otherwise signatory to a current Schedule A may employ, as needed, first a Core Employee, then an employee through the appropriate Union hiring hall, then a second Core Employee, then a second employee through the Union hiring hall, and so forth on until a maximum of three (3) Core Employees are employed per craft on the Project. Thereafter, all additional employees in the affected trade or craft shall be requested and referred from the appropriate Union hiring hall in accordance with this Article.

(c) Section 4.6 only applies to Contractors who are not directly signatory to a current Schedule A for the craft worker in its employ and is not intended to limit the transfer provisions of the Schedule A of any trade. As part of this process, and in order to facilitate the contract administration procedures, as well as appropriate fringe benefit fund coverage, all Contractors shall require their Core Employees and any other persons employed other than through the referral process, to register with the appropriate Union hiring hall, if any, prior to their first day of employment working under the Construction Contract at the project site.

(d) At least 30 calendar days prior to each Contractor performing any work on the Covered Project, each Contractor shall provide a list of Core Employees to the Project Labor Coordinator and the Council. Failure to submit the Core Employee list prior to work commencing will prohibit the Contractor from using any Core Employees for 30 calendar days after the list is provided to the Project Labor Coordinator and Council. After submitting the Core Employee list prior to commencing work, Contractors shall not make any changes or substitutions to the Core Employee list for the duration of the Covered Project, except in cases where a Core Employee is injured, becomes ill, resigns, is terminated or otherwise cannot work on the Covered Project due to factors beyond the Contractor's control. Such "substituted" Core Employees are not subject to the preceding 30-day prior notice requirement above, but are still required to register with the

appropriate Union hiring hall, if any, prior to their first day of employment working under the Construction Contract at the project site.

(e) Upon request by any Party to this Agreement, the Contractor hiring any Core Employee shall provide satisfactory proof (i.e., payroll records, quarterly tax records, and such other documentation) evidencing the Core Employee's qualification as a Core Employee to the Project Labor Coordinator.

(f) Core Employees must meet the following eligibility requirements to qualify for employment on Covered Projects:

(1) A Core Employee must be a journeyperson and appear on the Contractor's active payroll for at least ninety (90) of the last one-hundred-eighty (180) working days prior to being designated as a Core Employee. The date a Core Employee is designated is the date the Core Employee list is submitted to the Project Labor Coordinator prior to the Contractor commencing work; and

(2) A Core Employee must possess any license required by state or federal law for the Project Work to be performed; and

(3) A Core Employee must have the ability to safely perform the basic functions of the applicable trade.

(4) Apprentices are defined in Article 1 and the process for hiring Apprentices for a Covered Project is set forth in Article 22.

(g) In addition to the Core Employee provisions set forth herein, all Contractors may avail themselves of any opportunity provided for in the applicable Schedule A's to call for specific employees by name.

(h) During any layoffs or reductions in workforce, Contractors shall layoff employees in an order and manner consistent with the Core Employee hiring procedures and maintain the required Core Employee-to-Union referral ratios required by this Section for the duration of each Covered Project.

Section 4.7 Time for Referral. If any Union's registration and referral system does not fulfill the requirements for specific classifications of covered employees requested by an MTS Contractor within forty-eight (48) hours (excluding Saturdays, Sundays, and holidays), that Contractor may use any number of its Core Employees without seeking referrals from the Union hiring hall for that classification of workers, or it may use employment sources other than the Union registration and referral services, and may employ applicants from any other available source. The Union may not subsequently require a MTS Contractor to replace these applicants with

referrals from a Union's hiring hall after the forty-eight (48) hours (excluding Saturdays, Sundays, and holidays) time period has expired. 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. A similar referral process and deadline for Apprentices is set forth in Section 22.2.

Section 4.8 Lack of Referral Procedure. If a signatory local Union does not have a job referral system as set forth in Section 4.3 above, the Contractor shall give the Union equal opportunity to refer applicants.

Section 4.9 Union Membership. Employees are not required to become or remain union members as a condition of performing Covered Work under this Agreement. Employers shall make and transmit all deductions for union dues, fees, and assessments that have been authorized by employees in writing in accordance with the applicable Schedule A. Core Employees of a Contractor shall not be required to pay union dues, fees or assessments, or to register with any Union. Nothing in this Section 4.9 is intended to supersede the requirements of the applicable Schedule A's as to those Employers otherwise signatory to such Schedule A and as to the employees of those Employers who are performing Covered Work.

Section 4.10 Foremen. The selection and number of craft foremen and/or general foremen shall be the responsibility of the Contractor, consistent with the Schedule A's. All foremen shall take orders exclusively from the designated Contractor representatives. Craft foremen shall be designated as working foremen at the request of the Contractors.

ARTICLE 5

UNION ACCESS AND STEWARDS

Section 5.1 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 5.2 Stewards.

(a) Each signatory local Union shall have the right to dispatch a working journeyman as a steward for each shift, and shall notify the Contractor in 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 their 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 not with the employees of any other Contractor. The Contractor will not discriminate against the steward in the proper performance of their 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 5.3 Steward Layoff/Discharge. The Contractor agrees to notify the appropriate Union twenty-four (24) hours before the layoff of a steward, except in the case of discipline or 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 has been given; provided, however, that during the 24-hour period before the discipline or discharge becomes final, the steward will be considered suspended pending investigation without pay.

Section 5.4 Employees on Non-Project Work. On work where the personnel of MTS may be working in close proximity to the construction activities covered by this PLA, the Union agrees that the Union representatives, stewards, and individual workers will not interfere with MTS personnel, or with personnel employed by any other employer not a Party to this PLA.

ARTICLE 6

WAGES AND BENEFITS

Section 6.1 Wages. At a minimum, all employees covered by this PLA shall be classified in accordance with work performed and paid the hourly wage rates and benefits for those classifications in compliance with the applicable Prevailing Wage Determination established pursuant to the California Labor Code by the California Department of Industrial Relations, or if applicable, in compliance with the applicable Prevailing Wage Determination set by the United States Department of Labor for a Davis-Bacon Act Project.

Section 6.2 Benefits.

(a) Payment of Benefits. Subject to the exception set forth below for Core Employees of Disadvantaged Business Enterprise, for all employees performing Project Work, Contractors shall pay all fringe benefits and other required employer contributions to the established Union employee benefit funds in the amounts required by the applicable Schedule A. In addition, the Contractors and Unions agree that only such bona fide employee benefits that accrue to the direct benefit of the employees (such as pension and annuity, health and welfare, vacation, apprenticeship, and training funds) shall be included in this requirement and required to be paid by the Contractor on Covered Projects. Fringe benefit amounts that do not accrue to the direct benefit of the employees (such as industry promotion and contract administration) will be added to employee wages and paid directly to employees. Contractors utilizing this exemption are still required to pay all fringe benefits and other required employer contributions to the established Union employee benefit funds for all employees other than Core Employees, and must comply with all applicable prevailing wage requirements, including the payment of fringe benefits, for all employees performing Project Work. Stated differently, Contractors utilizing this exemption must satisfy California prevailing wage requirements for all employees, but contributions to Union employee benefit funds are only required on behalf of non- Core Employees. Contractors who employ Core Employees can pay the required fringe benefits into benefit plans that directly benefit the Core Employees (e.g. payment into a 401(k) plan to benefit the Core Employees).

(b) Core Employees of Disadvantaged Business Enterprises. Disadvantaged Business Enterprises are exempt from the requirement of subsection (a) to pay fringe benefits and other required employer contributions on behalf of their Core

Employees to Union employee benefit funds, subject to the following exemption limitations:

(1) The exemption is only applicable to Disadvantaged Business Enterprises with an individual subcontract value of \$100,000 or less and;

(2) Each Disadvantaged Business Enterprise is limited to utilizing this exemption for one subcontract per Covered Project and;

(3) The total value of all subcontracts utilizing this exemption shall not exceed twenty (20) percent of the total value of each Covered Project; and

(4) Disadvantaged Business Enterprises utilizing this exemption are still required to pay all fringe benefits and other required employer contributions to the established Union employee benefit funds for all employees other than their Core Employees, and must comply with the applicable prevailing wage requirements, including the payment of fringe benefits, for all employees performing Project Work; and

(5) In order to assist the Project Labor Coordinator monitor utilization of this exemption, each Prime Contractor will be responsible for tracking, reporting and providing notice to the Project Labor Coordinator about each Disadvantaged Business Enterprise subcontract that qualifies and intends to utilize this exemption prior to work commencing.

(c) Unless otherwise required by law, non-union Contractors who do not qualify for the exemption in Section 6.2(a) and who have fringe benefits for their Core Employees equal to or better than those designated in the Schedule A shall have those benefits “follow the worker” and do not have to pay the fringe benefit contributions designated in the Schedule A on behalf of their Core Employees. Contractors who believe their benefit plans are equal to or better than those designated in the Schedule A’s must submit their fringe benefit packages including Summary Plan Descriptions to the Project Labor Coordinator for evaluation by the Project Labor Coordinator at least fourteen (14) days prior to bidding. The Project Labor Coordinator will be responsible for determining whether the contractor’s benefits are equal to or better than those designated in the Schedule A’s and the credit the Contractor can take for providing the fringe benefits. The Parties hereby agree that, to qualify as “equal to or better than,” all of the following must be true:

(1) Each component (medical, vision, dental, retirement, life insurance, etc.) of the Contractor's plan(s) must be "equal to or better than" the benefits designated in the Schedule A's;

(2) If the Schedule A provides for a defined benefit plan, a Contractor's plan must also be a defined benefit plan and be 100% paid for by the Contractor in order to be eligible for a determination that it is "equal to or better than" the plan in the Schedule A; and

(3) The Contractor's health & welfare premiums (including vision and dental, if applicable) must be 100% paid by the Contractor, including coverage for any eligible dependents.

(d) Where applicable, the Contractor adopts and agrees to be bound by the written terms of the applicable, legally established, Union trust agreement(s) specifying the detailed basis how payments will be made into, and benefits paid out of, such trust funds for its employees. The Contractor authorizes the Parties to such trust funds to appoint trustees and successors' trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor. The Contractor obligations to the applicable Union benefit fund(s) and trust agreement(s) are limited to work performed on a Covered Project. The applicable Union benefit funds and trust agreement(s) to each Contractor will be determined at the pre-job conference described in Articles 15.

(e) Each Contractor is required to certify to the Project Labor Coordinator that it has paid all benefit contributions due and owing to the appropriate Union trust(s) and benefit funds 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 Contractor who is delinquent in payments to assure that proper benefit contributions are made, to the extent of requesting MTS to withhold payments otherwise due such Contractor, until such contributions have been made or otherwise guaranteed.

(f) Notwithstanding any other provisions, this Agreement is an agreement under Section 8(f) of the National Labor Relations Act (NLRA), which covers work performed in the building and construction industry. In addition, the work performed under this Agreement qualifies for the Construction Industry Exemption under the Employee Retirement and Income Security Act of 1974 ("ERISA"), as amended as well. If any Union Pension Trust Fund ("Fund") covered by the terms and conditions of this Agreement does not qualify for the Construction Industry Exemption authorized by Section 4203 (B)(1)(i), of the Employee Retirement Income Security Act of 1974 ("ERISA") as amended, 29

U.S.C. 1383(b)(1)(i), or has not taken the necessary steps to amend the Fund documents to qualify for the Construction Industry Exemption as authorized by Section 4203(B)(1)(ii) of ERISA, as amended, 29 U.S.C. 1383(b)(1)(B)(ii); and to recognize the work performed under this Agreement to qualify for the Construction Industry Exemption, the Contractors signatory to this Agreement will not be obligated to make pension fund contributions to that Fund. In such an event, the Contractor shall pay all required amounts otherwise allocated for payment toward the non-exempt Fund to the employees' wages or other bona fide retirement plan program pursuant to applicable prevailing wage requirements.

Section 6.3 Wage Premiums, with the exception of shift premiums, shall not be applicable to work performed under this PLA. The types of wages premiums that will not apply to the Project include, but are not limited to, pay based on height of work, hazard pay, scaffold pay, and special skills, except to the extent provided for in any prevailing wage determination. Similarly, there will be no wage premiums based on staggered start times or start times that are earlier or later than set forth in the applicable Schedule A, with the exception of shift premiums.

Section 6.4 Compliance with Prevailing Wage Laws. All complaints regarding possible prevailing wage violations may be referred to the Project Labor Coordinator for processing, investigation and resolution, and if not resolved within thirty (30) calendar days, may be referred by any Party to the State Labor Commissioner. To facilitate compliance with applicable prevailing wage laws, each Contractor agrees to provide copies of certified payroll reports, redacted only to the extent required by law, to the Unions (or to any Labor Management Cooperation Committee in which a Union or its affiliate participates) within ten (10) days of their request.

ARTICLE 7

WORK STOPPAGES AND LOCKOUTS

Section 7.1 No Work Stoppages or Disruptive Activity. The Council and the Unions signatory hereto agree that neither they, nor their respective officers, agents or representatives, shall incite or encourage, condone or participate in any strike, walk-out, slowdown, picketing, observation of 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 MTS 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 material violation of this PLA. The Council and the Union shall take all steps necessary to obtain compliance with this Article.

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 PLA.

Section 7.3 Standing to Enforce. 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. If a collective bargaining agreement between a signatory Contractor and one or more of the Union(s) expires before the Contractor completes the performance of a Covered Contract for the Project, and the Union or the Contractor gives notice of demand for a new or modified collective bargaining agreement, the Unions agree that they will not strike the Contractor on the Project, and the Union and the Contractor agree that the expired collective bargaining agreement will continue in full force and effect for the Project Work until a new or modified collective bargaining agreement is reached between the Union and the Contractor. All employees shall continue to work and to perform all their obligations with respect to Project Work despite the expiration of a Schedule A agreement. Should a Contractor engaged in Project Work enter into an interim agreement with the Unions 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 Section 20.3.

Section 7.5 No Lock Outs. 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 PLA. 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 PLA, or any other agreement, nor does "lock-out" include MTS'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, it shall, at least twenty-four (24) hours prior to invoking the procedures of Section 7.7, provide written notification to the Council of the involved Union(s) and to the Project Labor Coordinator, setting forth the facts which the Contractor contends violates this Article. The Council 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 Article.

(b) If the Union contends that any Contractor has violated this Article, it will notify the Contractor and the Project Labor Coordinator, setting forth the facts which the Union contends violate this Article, 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 MTS, which is 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 this Article is alleged.

(a) The Party invoking this procedure shall notify Kenneth Perea, who has been selected by the negotiating Parties, and whom the Parties agree shall be the permanent arbitrator under this procedure, and if Mr. Perea is unavailable, shall notify Jan Stiglitz, who has been selected as the alternate arbitrator under this procedure. If the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, then a selection shall be made from the list of arbitrators as set forth in Article 10. 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 Project Labor Coordinator and Council. For purposes of this Article, written notice may be given by email, hand delivery, or overnight mail and will be deemed effective upon receipt.

(b) Upon receipt of said notice, the arbitrator named above or their 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 Council of the involved Union(s) and/or Contractor as required by Section 7.6, above.

(c) The arbitrator shall notify the Parties of the place and time chosen for this hearing, which may be a Zoom proceeding or the equivalent. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon

by all Parties. A failure of any Party 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 issues at the hearing shall be whether or not a violation of this Article has in fact occurred, and if so, the amount of liquidated damages pursuant to Section 7.8 below. The arbitrator shall have no authority to consider any matter in justification, explanation, or mitigation of such violation. 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, liquidated damages and other appropriate relief, and such award shall be served on all Parties by hand, email 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 PLA and all other relevant documents referred to herein above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other Party. In any judicial proceeding to obtain a temporary order enforcing the arbitrator's award as issued under Section 7.7(d) of this Article, all Parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any Party's right to participate in a hearing for a final order of enforcement. The court's order or orders enforcing the arbitrator's award shall be served on all Parties by hand or by delivery to their address as shown on this PLA (for a Union), as shown on their business contract for work under this PLA (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) found in violation of Section 7.7 shall pay liquidated damages in accordance with subsection (c) below.

(b) If the arbitrator determines in accordance with Section 7.7 above that a lock out has occurred, the respondent Contractor(s) found in violation of Section 7.7 shall pay liquidated damages in accordance with subsection (c) below.

(c) The Parties agree that project delays caused by violations of this Article will cause MTS to sustain damages. They agree that it would be impractical or extremely difficult to fix the amount of such damages. Therefore, the Parties agree that, in the event of a breach of either of these provisions, the Party in breach shall pay to the impacted parties the sum of \$10,000 per day for each day that the breach occurred until the arbitrator determines that the project is again on construction schedule. If the breaching party is a Union, the liquidated damages will be paid to MTS. If the breaching party is a Contractor, the liquidated damages will be apportioned among the affected employees and the benefit funds as determined by the Arbitrator. The payment of liquidated damages, when made, shall constitute a damages remedy for the delay specified, but shall not prevent the impacted party or parties from seeking an injunction or equitable relief, including termination of this PLA. Payment of these sums as liquidated damages is not intended as a forfeiture or penalty within the meaning of California Civil Code sections 3275 or 3369, but instead, is intended to constitute liquidated damages to the affected party or parties pursuant to section 1671 of the California Civil Code.

Section 7.9 Payroll and Benefit Delinquencies. Notwithstanding other provisions of this PLA, it shall not be a violation of this PLA for any Union to withhold the services of its members from a Contractor who fails to timely pay its weekly payroll in accordance with the applicable Schedule A, or fails to make timely payments to the applicable Union benefit funds. This Section 7.9 does not inhibit or affect responsibilities of the Council and the Union under Section 7.1 to refrain from picketing or other disruption of Project Work.

Prior to withholding its members' services for the Contractor's failure to meet its weekly payroll, the Union shall give at least five (5) working days written notice of such failure to pay by certified mail, and by email transmission to the involved Contractor, Prime Contractor and Project Labor Coordinator. The Prime Contractor, together with the involved Contractor and affected Union, shall meet within five (5) working days after the written notice of such failure to pay was sent to attempt to resolve the payroll delinquency. If the payroll delinquency remains unresolved, then the affected Union may withhold the services of its members from the involved Contractor. Upon the payment of all monies due and then owing for wages, the Union shall direct its members to immediately return to work and the Contractor shall return all such members back to work.

Prior to withholding its members' services for the Contractor's failure to make timely payments to the applicable Union benefit funds, the Union shall give at least thirty (30) days written notice of such failure to pay by certified mail, and by email transmission to the involved Contractor, the Prime Contractor and Project Labor Coordinator. The Prime Contractor, together with the involved Contractor and affected Union, shall meet within five (5) working days after the written notice of such failure to pay was sent to attempt to resolve the delinquency. If the delinquency remains unresolved, then the affected Union may withhold the services of its members from the involved Contractor. Upon payment by the delinquent Contractor of all monies due and then owing for employee benefit contributions, the Union shall direct its members to immediately return to work and the Contractor shall return all such members back to work.

Nothing in this section should be construed to prevent the Union having jurisdiction over the involved work from submitting a grievance under the procedures of Article 10 for any alleged or actual violations of Article 6 or referring any alleged or actual prevailing wage violation to the Project Labor Coordinator for review and enforcement, in accordance with Section 6.4.

The Prime Contractor shall have the right to replace any delinquent Contractor in accordance with the terms and conditions of their prime contract with MTS.

ARTICLE 8

WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

Section 8.1 No Jobsite Disruption. There will be no strikes, work stoppages, picketing, sympathy strikes, slowdowns, or other interference with the work because of jurisdictional disputes between Unions. 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 Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

Section 8.2 All jurisdictional disputes on this project shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted by the Building and Construction Trades Department. Decisions rendered shall be final and binding and conclusive on the Contractors and Unions parties to this PLA.

All jurisdictional disputes shall be resolved without the occurrence of any of the activities prohibited in Article 7 (Work Stoppages and Lockouts), and the

Contractor's assignment shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

Section 8.2.1 If a dispute arising under this Article involves the Southwest Regional Council of Carpenters or any of its subordinate bodies, an arbitrator shall be chosen by the procedures specified in Article V, Section 5, of the Plan from a list composed of Thomas Pagan, Thomas Angelo, Robert Hirsch, and John Kagel, and the arbitrator's hearing on the dispute shall be held at the offices of the Council within fourteen (14) days of the selection of the arbitrator. All other procedures shall be as specified in the Plan.

Section 8.3 Failure to Comply. If any Union or Contractor fails to immediately and fully comply with the final decision rendered by the Plan, affected Union(s) or Contractor(s) may seek legal redress for such conduct, including, but not limited to, injunctive relief and/or damages.

Section 8.4 Pre-job Conference. It is required that a pre-job conference be held not later than fourteen (14) calendar days prior to the start of work by each Contractor for the Project in accordance with the procedure described in Article 15.

ARTICLE 9

MANAGEMENT RIGHTS

Section 9.1 Contractor and MTS Rights. The Contractors and MTS 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 PLA. In addition to the following and other rights of the Contractors enumerated in this PLA, 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; and
- (b) Hire, promote, transfer, and layoff their own employees, respectively, as deemed appropriate to satisfy work and/or skill requirements; and
- (c) Promulgate and require all employees to observe reasonable job rules and security and safety regulations; and
- (d) Discharge, suspend, or discipline their own employees for just cause; and

- (e) Utilize, in accordance with MTS 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; and
- (f) Assign and schedule work at their discretion; and
- (g) Assign overtime, determine when it will be worked and the number and identity of employees engaged in such work, subject to such provisions in the applicable Schedule A(s) requiring such assignments be equalized or otherwise made in a nondiscriminatory manner; and
- (h) Establish start/stop times consistent with the direction of the MTS and Prime Contractor, which may include staggered shifts as required to perform work in an active public right-of-way and to safely execute the work by minimizing crew overlap and congestion. Staggered start times shall not trigger any premium pay obligations.

Section 9.2 Specific MTS Rights. In addition to the following and other rights of the MTS and Prime Contractor enumerated in this PLA, the MTS expressly reserves its management rights and all the rights conferred on it by law and contract. The MTS's rights (and those of the Project Labor Coordinator 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; and
- (b) At its sole option, terminate, delay, and/or suspend any and all portions of the Project 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 MTS and/or to mitigate the effect of ongoing Project Work on businesses and residents in the neighborhood of the Project sites; and/or require any other operational or schedule changes it deems necessary, in its sole judgment, to meet Project deadlines and remain a good neighbor to those in the area of the Covered Projects. (In order to permit the Contractors and Unions to make appropriate scheduling plans, the MTS will use best efforts to 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); and
- (c) Approve any work methods, procedures, and techniques used by Contractors whether or not these methods, procedures, or techniques are part of industry practices or customs; and

(d) Investigate and process complaints or disagreements, through its Project Labor Coordinator.

Section 9.3 Use of Materials. There should be no limitations or restrictions by the 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, preassembled or modular materials, products, tools, or other labor-saving devices, subject to the application of the California Public Contract and Labor Codes. Generally, the onsite installation or application of such items shall be performed by the craft having jurisdiction over such 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 Covered Project sites. The nature of the equipment, together with the requirements for manufacturer's warranties, may dictate that it be prefabricated, pre-piped, and/or pre-wired and that it be installed by and/or under the supervision and direction of the manufacturer's personnel. The Unions agree that such equipment is to be installed without incident.

(b) The Parties recognize 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 Unions agree 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, modular products 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, 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 proceed as directed by the Contractor, and the Parties shall immediately consult over the matter. If the disagreement is not resolved, the affected Union(s) shall have the right to proceed through the procedures set forth in Article 10.

ARTICLE 10

SETTLEMENT OF GRIEVANCES AND DISPUTES

Section 10.1 Cooperation and Harmony on Site.

- (a) This PLA is intended to establish and foster continued close cooperation between management and labor.
- (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 of Project Work, and agree to resolve all disputes in accordance with the grievance provisions set forth in this Article or, as appropriate, those of Article 7 or 8.
- (c) The Project Labor Coordinator shall observe the processing of grievances under this Article and Articles 7 and 8, including the scheduling and arrangements of facilities for meetings, selection of the arbitrator from the agreed-upon panel to hear the case, and any other administrative matters necessary to facilitate the timely resolution of any dispute; provided, however, it is the responsibility of the principal Parties to any pending grievance to ensure the time limits and deadlines are met.

Section 10.2 Processing Grievances. Any disputes arising out of and during the term of this PLA involving its interpretation and application, and all disputes involving the interpretation or application of the applicable Schedule A's, but not alleged violations of Articles 7 or 8, shall be considered a grievance and subject to resolution under the following procedures.

Step 1. (a) Employee Grievances. When any employee subject to the provisions of this PLA feels aggrieved by an alleged violation of this PLA or the applicable Schedule A, 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, the details of the alleged violation and the remedy sought to resolve the matter. A grievance shall be considered null and void if notice of the grievance is not given within the ten (10) day period. 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 applicable agreement alleged to have been violated. Grievances and disputes settled at Step 1 shall be non-precedential except as to the Parties directly involved.

(b) 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 Step 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 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) Robert M. Hirsch; (2) Kenneth Perea; (3) Sara Adler; (4) John Kagel; (5) Michael Prihar; (6) Michael Rappaport; and (7) Fred Horowitz. 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 subtract from any of the provisions of this PLA or the applicable Schedule A.

Section 10.3 Limit on Use of Procedures. Procedures contained in this Article shall not be applicable to any alleged violation of Article 7 or 8, with a single exception that any employee discharged for violation of Section 7.2 may resort to the procedures of this Article to determine only if they were, in fact, engaged in that violation.

Section 10.4 Notice. The Project Labor Coordinator 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 in all proceedings at such steps.

ARTICLE 11

COMPLIANCE

Section 11.1 Compliance with All Laws. The Council and all Unions, Contractors, and their employees 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 MTS, the Project Labor Coordinator, and the Contractor. Employees must promptly report any injuries or accidents to a supervisor.

Section 11.2 Monitoring Compliance. The Parties agree that MTS, the Prime Contractor, the Project Labor Coordinator and the Council shall be entitled to monitor compliance by all Contractors with all federal and state laws and regulations 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 MTS and/or the Prime Contractor) to investigate or monitor compliance with these various laws and regulations. The Council may recommend to the Project Labor Coordinator, the Prime Contractor, and/or the MTS procedures to encourage compliance with these laws and regulations.

Section 11.3 Prevailing Wage Compliance. The Council or Union may refer all complaints regarding any potential prevailing wage violation to the Project Labor Coordinator, who may process, investigate, and resolve such complaints. 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 by MTS of a violation by a Contractor of a federal or state law, and upon notice to the Contractor that it is in such violation, MTS, in the absence of the Contractor remedying such violation, may take such action as it is permitted by law or contract to encourage the Contractor to come into compliance, including, but not limited to, removing the offending Contractor from Project Work.

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 all applicable safety laws and regulations and any safety rules contained herein or established by MTS or the Prime 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 MTS.

(b) All Parties and Contractor employees shall be bound by the safety, security, and visitor rules established by the Prime Contractor, Contractor and MTS. These rules will be published and posted. An employee's failure to satisfy their obligations under this Section will subject them to discipline, up to and including discharge.

Section 12.2 Drug and Alcohol Testing Policy. The Parties agree to adopt the Drug and Alcohol Testing Policy attached hereto as Attachment B, which is the exclusive Drug and Alcohol Testing Policy for the Project.

Section 12.3 Inspection. The inspection of shipments of equipment, machinery, and construction materials of every kind shall be performed at the discretion of the Contractor by individuals of its choice.

ARTICLE 13

TRAVEL

Section 13.1 Travel expenses, travel time, subsistence allowances and/or zone rates, and parking reimbursements shall not be applicable to work under this PLA, except to

the extent provided for in any applicable prevailing wage determination. Parking for employees covered by this PLA shall be provided by the Contractor(s) according to the provision of the Schedule A(s) existing on the Effective Date of this PLA and upon presentation of proof of any expense incurred.

ARTICLE 14

LEGAL ACTION

Section 14.1 Legal Action. Council and Unions recognize the substantial legal costs (including all attorney's fees and associated disbursements) that might accrue with regard to any legal challenge over this PLA, and related to claims directly challenging the legality of this PLA, or a particular section or language that has been adopted herein. In the event of a legal challenge, the Council, on behalf of itself and affiliated Unions, agrees to seek to intervene in the legal action and actively participate in the litigation or other action to defend the legality of this PLA, or a particular section or language herein. The failure of the Council to seek to intervene in the legal action and actively participate to defend the legality of this PLA will constitute a material breach of this PLA. In the event the Council is denied leave to intervene in the legal action, the Council shall have its counsel coordinate with counsel for MTS, at the Council's own expense, regarding how the Council can best support the legal position of MTS.

ARTICLE 15

PRE-JOB CONFERENCE

Section 15.1 Each Contractor is required to conduct a pre-job conference with the Unions not later than fourteen (14) calendar days prior to commencing work. The purpose of the conference will be to, among other things, convey craft manpower needs, the schedule of work for the Covered Project, project work rules, and propose preliminary Union work assignments. The Project Labor Coordinator may work with the Prime Contractor and Council to facilitate the scheduling of all pre-job conferences, but ensuring each Contractor conducts a pre-job conference in accordance with this Agreement is the responsibility of the Prime Contractor. All preliminary Union work assignments shall be disclosed by each Contractor at a pre-job conference. Should there be work within the scope of a Construction Contract for a Covered Project that was not previously assigned at a pre-job conference, or should additional work be added to the scope of the Covered

Project, the Contractor(s) performing such work will conduct a separate pre-job conference. Any Union in disagreement with a proposed assignment shall notify the affected Contractor of its position in writing, with a copy sent to the Project Labor Coordinator, within seven (7) calendar days after the pre-job conference occurred. Within seven (7) calendar days after the period allowed for Union notices of disagreement with the Employer's proposed assignments, but prior to the commencement of any work, the Employer shall make final assignments in writing with copies sent to the Project Labor Coordinator and Council.

ARTICLE 16

SAVINGS AND SEPARABILITY

Section 16.1 Savings Clause. It is not the intention of MTS, the Project Labor Coordinator, Contractor, or the Union Parties to violate any laws governing the subject matter of this PLA. The Parties hereto agree that in the event any provision of this PLA is finally held or determined to be illegal or void as being in contravention of any applicable law or regulation, the remainder of the PLA 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 PLA. Further, the Parties agree that if and when any provision(s) of this PLA 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 effect 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 PLA is challenged and any form of injunctive relief is granted by any court, suspending temporarily or permanently the implementation of this PLA, then the Parties agree that all Project Work that would otherwise be covered by this PLA should be continued to be bid and constructed without application of this PLA so that there is no delay or interference with the ongoing planning, bidding, and construction of any Project Work.

Section 16.2 Effect of Injunctions or Other Court Orders. The Parties recognize the right of MTS to withdraw, at its absolute discretion, the utilization of the PLA as part of any bid specification should a court of competent jurisdiction issue any order, or any applicable statute that could result, temporarily or permanently, in delay of the bidding, awarding, and/or construction on the Project.

ARTICLE 17
LABOR/MANAGEMENT AND COOPERATION

Section 17.1 Joint Committee. The Parties to this PLA may agree, if necessary, to form a joint committee consisting of two (2) representatives selected by the Council and two (2) representatives selected by 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 to evaluate and ensure an adequate supply of skilled labor for all Project Work. Representatives of MTS may participate upon its request, and all Parties will be invited to attend.

Section 17.2 Functions of Joint Committee. The Committee may meet as needed to discuss the administration of the PLA, the progress of the project, general labor management problems that may arise, and any other matters consistent with this PLA. Substantive grievances or disputes arising under Articles 7, 8, or 10 shall not be reviewed or discussed by this Committee, but shall be processed pursuant to the provisions of the appropriate Article.

The Project Labor Coordinator shall be responsible for scheduling of the meetings and the preparation of the agenda topics for the meetings, with input from the Unions, the Contractors, and MTS. 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. MTS shall be notified of the meetings and invited to send a representative(s) to participate.

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 PLA.

ARTICLE 18

WAIVER

Section 18.1 Waiver. A waiver of or a failure to assert any provisions of this PLA 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 PLA or change in the

terms and conditions of the PLA and shall not relieve, excuse or release any of the Parties from any of their rights, duties, or obligations hereunder.

ARTICLE 19

AMENDMENTS

Section 19.1 Amendments. The provisions of this PLA can be renegotiated, supplemented, rescinded, or otherwise altered only by mutual agreement in writing, hereafter signed by MTS and the Council.

ARTICLE 20

DURATION OF THE PLA

Section 20.1 Duration. This Agreement shall be effective on the date when it has been executed by both the Council and MTS, and shall apply to Covered Projects put out to bid by MTS after that date. The Agreement shall continue in full force and effect for a period of five (5) years. At the end of the initial five (5) year term (and any subsequent five-year terms), this Agreement shall automatically renew for an additional term of five (5) years, unless either MTS or the Council provides written notice to the other at least sixty (60) days before the expiration date of its intention to renegotiate or terminate the PLA. Further, any signatory Union may withdraw from the PLA by providing written notice to the Council and MTS at least sixty (60) days before the expiration date. For any Covered Project where the construction has commenced before the expiration of this Agreement, the terms of this Agreement will continue to apply until the conclusion of that Covered Project.

Section 20.2 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 MTS by the Contractor and the MTS has accepted such phase, portion, section, or segment. As areas and systems of the Covered Project are inspected and construction-tested and/or approved and accepted by MTS or third parties with approval of the MTS, the PLA shall have no further force or effect on such items or areas, except when the Contractor is directed by MTS to engage in repairs, modifications or warranty work required by its Contract(s) with the MTS or the Prime Contractor.

(b) Notice of each final acceptance received by MTS 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 PLA will continue to apply to each such item on the list until it is completed to the satisfaction of MTS and Notice of Acceptance is given by MTS or its representative to the Contractor.

Section 20.3 Continuation of Schedule A’s. Schedule A's incorporated as part of this PLA shall continue in full force and effect, as previously stated, until the Contractor and Union 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 PLA; provided, however, that any such provisions negotiated in said collective bargaining agreements will not apply to work covered by this PLA if such provisions are less favorable to the Contractor under the PLA than those uniformly required of Contractors for construction work normally covered by those agreements in San Diego County; nor shall any provision be recognized or applied if it may be construed to apply exclusively or predominantly to work covered by this PLA. Any disagreement between the Parties over the incorporation into a Schedule A of any such provision agreed upon in a negotiation of the local collective bargaining agreement that is the basis for a Schedule A shall be resolved under the procedures established in Article 10.

Section 20.4 Final Termination. Final termination of all obligations, rights, and liabilities, and disagreements shall occur upon receipt by the Council of a Notice from the MTS saying that no work remains within the scope of the PLA on that Project.

ARTICLE 21

HELMETS TO HARDHATS

Section 21.1 Veterans Entry into Building and Construction Trades. The Parties recognize a desire to facilitate the entry into the building and construction trades of Veterans who are interested in careers in the building and construction industry. The Contractors and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter “Center”) and the Center’s “Helmets to Hardhats” program to serve as a resource for preliminary orientation, assessment, and construction aptitude, referral to Apprenticeship

Programs or hiring halls, counseling and mentoring, support network, employment opportunities, and other needs as identified by the Parties.

Section 21.2 Integrated Database. The Unions and Contractors agree to coordinate with the Center to create and maintain an integrated database of Veterans interested in working on this Covered Project and of apprenticeship and employment opportunities for this Covered Project.

ARTICLE 22

APPRENTICES

Section 22.1 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. To this end, and consistent with any laws or regulations, the Parties will facilitate, encourage, and assist Local Residents to commence and progress in Apprenticeship Programs and/or apprenticeship readiness programs in the construction industry leading to participation in such Joint-Labor Management Apprenticeship Programs. The Project Labor Coordinator, the Contractors, and the Council and Unions, 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 entry into Apprenticeship Programs. Apprentices, if utilized, must be enrolled in a California Apprenticeship Council-approved Joint Labor-Management Apprenticeship Program, except as provided in Section 4.6 and 4.7.

Section 22.2 Use of Apprentices.

(a) The Unions and Contractors agree to cooperate in referring and employing Apprentices up to the maximum percentage allowed by the State Labor Code and the standards of each Joint Labor-Management Apprenticeship Program. The minimum ratios for Apprentice to journey person hours worked shall comply, at a minimum, with the applicable provisions of the State Labor Code relating to utilization of Apprentices. The Prime Contractor, unless otherwise required by law, 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, Apprenticeship Programs, and Contractors to assure appropriate and maximum utilization of Apprentices and the continuing availability of both Apprentices and journey persons.

(b) The Parties agree that all Contractors will comply with all applicable laws and regulations in the request for dispatch and employment of Apprentices. The Contractor shall first request the referral of Apprentices using the process set forth in Article 4, except that no Core Employee privileges shall apply to Apprentices. If any Union's registration and referral system does not fulfill the requirements for Apprentices from a joint labor-management apprenticeship program requested by an MTS Contractor within forty-eight (48) hours (excluding Saturdays, Sundays, and holidays), that Contractor may request Apprentices from any state registered apprenticeship program for the apprenticeable trade. The Union may not require a MTS Contractor to replace an Apprentice requested from other state-registered apprenticeship programs with an Apprentice referral from a joint labor-management apprenticeship program after the forty-eight (48) hours (excluding Saturdays, Sundays, and holidays) time period has expired. 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.

(c) The Parties agree that Apprentices will not be dispatched to Contractors working under this PLA unless there is a journeyperson 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 they are participating.

ARTICLE 23

OPT-INS BY PRIVATE ENTITIES

Section 23.1 PLA Opt-In by Private Entities on Joint Development Projects. Per MTS Board Policy No. 18 "Joint Development Program", a joint development agreement between MTS and a private entity requires that the private entity ensure that the joint development project comply with Public Utilities Code section 120221.5. Per Public Utilities Code section 120221.5, a construction contract over \$1,000,000 must either be performed by a skilled and trained workforce (See Public Contract Code 2600 et seq.) or be performed under a PLA. A private entity may choose to utilize a PLA to comply with the requirements of MTS Board Policy No. 18 "Joint Development Program". A private entity has the option to require its Prime Contractor to opt-in to the terms and conditions of this PLA, as well as responsibility of the PLA administration (e.g. designating a Project Labor Coordinator), on a per project basis, by having its Prime Contractor and the Council execute Attachment D – Agreement by Private Entity To Be Bound. For

any Prime Contractor executing such an Attachment D, the term “MTS” will be deemed to have been replaced with the private entity’s name accordingly throughout this PLA, and the term “Covered Project” will mean the Joint Development Project in question subject to MTS Board Policy No. 18.

In witness whereof, the Parties have caused this Project Labor Agreement for Covered Projects to be executed as of the date and year above stated.

Dated: _____

SAN DIEGO BUILDING AND CONSTRUCTION
TRADES COUNCIL

By: _____
Carol Kim, Business Manager

Dated: 12/14/2023

SAN DIEGO METROPOLITAN TRANSIT
SYSTEM

By: *Sharon Cooney*
Sharon Cooney, Chief Executive Officer

SIGNATORY UNIONS (See Attached)

any Prime Contractor executing such an Attachment D, the term “MTS” will be deemed to have been replaced with the private entity’s name accordingly throughout this PLA, and the term “Covered Project” will mean the Joint Development Project in question subject to MTS Board Policy No. 18.

In witness whereof, the Parties have caused this Project Labor Agreement for Covered Projects to be executed as of the date and year above stated.

Dated: 1/9/2024

SAN DIEGO BUILDING AND CONSTRUCTION
TRADES COUNCIL

By: 

Carol Kim, Business Manager

Dated: _____

SAN DIEGO METROPOLITAN TRANSIT
SYSTEM

By: _____
Sharon Cooney, Chief Executive Officer

SIGNATORY UNIONS (See Attached)

SIGNATORY UNIONS

DocuSigned by:
By: Michael Patterson
Allied Workers Local 5

DocuSigned by:
By: Luis Miramontes
Boilermakers Local 92

DocuSigned by:
By: Chris Brisson
Briclayer & Allied Crafts Local 4

DocuSigned by:
By: Jack Alvarado
Cement Masons Local 500 / Area 744

DocuSigned by:
By: [Signature]
Electrical Workers Local 569

DocuSigned by:
By: Tony Garzavito
Elevator Constructors Local 18

DocuSigned by:
By: Ernesto Toscano
Painters & Allied Trades District Council 36

DocuSigned by:
By: Beau Coleman
Iron Workers Local 229

DocuSigned by:
By: Val Macedo
Laborers Local 89

DocuSigned by:
By: David Casey
Plasterers Local 200

DocuSigned by:
By: Jose Sanchez
Plaster Tenders Local 1414

By: _____
Operating Engineers Local 12

DocuSigned by:
By: Steve Beringer
Plumbers & Pipefitters Local 230

By: _____
Operating Engineers Local 12

DocuSigned by:
By: Paul Colmenero
Roofers & Waterproofers Local 45

By: _____
Operating Engineers Local 12

DocuSigned by:
By: [Signature]
Laborers Local 1184

DocuSigned by:
By: Dave Gauthier
Sheet Metal Workers' Local 206

DocuSigned by:
By: Ed Iann
Laborers Local 345

DocuSigned by:
By: Jose Estrada
Teamsters Local 166

DocuSigned by:
By: Ricardo Perez
UA Local 345

DocuSigned by:
By: SERGIO RASCAN
Laborers Local 300

DocuSigned by:
By: Todd Barry on behalf of B.M. Robert Cooper
Road Signaler Fitters Local 669

DocuSigned by:
By: Jon Preciado
Southern California District Council of Laborers

DocuSigned by:
By: Doug Hicks
Southwest Regional Council of Carpenters

DocuSigned by:
By: Victor Torres
Teamsters Local 481

SIGNATORY UNIONS

By: _____ Allied Workers Local 5	By: _____ Boilermakers Local 92
By: _____ Bricklayer & Allied Crafts Local 4	By: _____ Cement Masons Local 500 / Area 744
By: _____ Electrical Workers Local 569	By: _____ Elevator Constructors Local 18
By: _____ Painters & Allied Trades Local 1399	By: _____ Iron Workers Local 229
By: _____ Laborers Local 89	By: _____ Plasterers Local 200
By: _____ Plaster Tenders Local 1414	By: _____ Operating Engineers Local 12
By: _____ Plumbers & Pipefitters Local 230	By: _____ Road Sprinkler Fitters Local 669
By: _____ Roofers & Waterproofers Local 45	By: _____ Sheet Metal Workers' Local 206
By: _____ Laborers Local 1184	By: _____ Teamsters Local 166
By: _____ Laborers Local 345	By: _____ Tradeshow & Sign Crafts Local 831
By: _____ UA Local 345	By: _____ Laborers Local 300

By: _____

Southwest Regional Council of Carpenters

By: _____

Carpenters Local 619 (formerly local 547)

By: _____

Cement Masons Local 500/Area 744

ATTACHMENT A – LETTER OF ASSENT

To be signed by all Contractors awarded work covered by the Project Labor Agreement prior to commencing work.

[CONTRACTOR’S LETTERHEAD]

DATE

Project Labor Coordinator

Address

Address

Address

Attention: _____

Re: San Diego Metropolitan Transit System – Project Labor Agreement for Covered Project

Dear Sir or Madam:

This is to confirm [_____ (Name of Company)] agrees to be party to and bound by the San Diego Metropolitan Transit System Project Labor Agreement (“MTS PLA”), because this Project is covered by MTS Board Policy No. 66.

The MTS PLA became effective _____, 2023. Such obligation to be a Party and bound by this Agreement shall extend to all work covered by the Agreement undertaken by this Company on the Project pursuant to [Contract No. _____ and _____ (Name of Covered Project)], 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 Company)

By: _____
(insert Company official)

[Copies of this Letter must be submitted to the Project Labor Coordinator consistent with Article 3, Section 3.3(b)]

ATTACHMENT B – DRUG AND ALCOHOL TESTING POLICY

The Parties recognize the problems that drug and alcohol abuse have created in the construction industry and the need to develop drug and alcohol abuse prevention programs. Accordingly, the Parties agree that in order to enhance the safety of the workplace and to maintain a drug and alcohol-free work environment, individual Contractors shall require applicants or employees to undergo drug and alcohol testing in accordance with this PLA and this policy, Attachment B – Drug and Alcohol Testing Policy, hereafter “Policy.”

1. It is understood that the use, possession, transfer, or sale of illegal drugs, narcotics, or other unlawful substances, as well as being under the influence of alcohol and the possession of or consuming alcohol is absolutely prohibited while employees are on the Contractor’s job premises or while working on any jobsite in connection with work performed under the PLA.
2. No Contractor may implement a drug and alcohol testing program that does not conform in all respects to the provisions of this Policy.
3. No Contractor may implement drug and alcohol testing at any jobsite unless written notice is given to the Union setting forth the location of the jobsite, a description of the project under construction, and the name and telephone number of the Prime Contractor's project manager. Said notice shall be provided at the pre-job conferences for each Covered Project. Failure to give such notice shall make any drug and alcohol testing engaged in by the Contractor a violation of the Agreement and subject to the Article 10 grievance procedure.
4. A Contractor who elects to implement drug and alcohol testing pursuant to this Policy shall require all craft employees on the Covered Project to be tested. With respect to individuals who become employed on the Covered Project subsequent to the proper implementation of a valid drug and alcohol testing program, such test shall be administered upon the commencement of employment on the project, whether by referral from a Union Dispatch Office, transfer from another project, or another method. Individuals who were employed on the project prior to proper implementation of a valid drug and alcohol testing program may only be subjected to testing for the reasons set forth in paragraphs 5(g)(1) through 5(g)(3) and paragraphs 6(a) through 6(e) of this Policy. Refusal to undergo such testing shall be considered sufficient grounds to deny employment on the project.
5. The following procedure shall apply to all drug and alcohol testing:
 - a. The Contractor may request urine samples only. The applicant or employee shall not be observed when the urine specimen is given. An applicant or employee, at his or her sole option, shall, upon request, receive a blood test in lieu of a urine test. No employee of the Contractor shall draw blood from a bargaining unit employee, touch or handle

urine specimens, or in any way become involved in the chain of custody of urine or blood specimens. A Union Business Representative, subject to the approval of the individual applicant or employee, shall be permitted to accompany the applicant or employee to the collection facility to observe the collection, bottling, and sealing of the specimen.

- b. A Contractor may request an applicant or employee promptly, within four (4) hours of the Contractor's request, perform an alcohol breathalyzer test at a certified laboratory only, and cutoff levels shall be those mandated by applicable state or federal law.
- c. The testing shall be done by a laboratory approved by the Substance Abuse & Mental Health Services Administration (SAMHSA), which is chosen by the Contractor and the Union.
- d. An initial test shall be performed using the Enzyme Multiplied Immunoassay Technique (EMIT). In the event a question or positive result arises from the initial test, a confirmation test must be utilized before action can be taken against the applicant or employee. The confirmation test will be by Gas Chromatography/Mass Spectrometry (GC/MS). Cutoff levels for both the initial test and confirmation test will be those established by SAMHSA and this Policy. Should these SAMHSA levels be changed during the course of the PLA or new testing procedures are approved, then these new regulations will be deemed as part of this existing PLA. Confirmed positive samples will be retained by the testing laboratory in secured long-term frozen storage for a minimum of one (1) year. Handling and transportation of each sample must be documented through strict chain-of-custody procedures.
- e. In the event of a confirmed positive test result, the applicant or employee may request, within forty-eight (48) hours, a sample of their specimen from the testing laboratory for purposes of a second test to be performed at a second laboratory, designated by the Union and approved by SAMHSA. The retest must be performed within ten (10) days of the request. Chain of custody for this sample shall be maintained by the Contractor between the original testing laboratory and the Union's designated laboratory. Retesting shall be performed at the applicant's or employee's expense. In the event of conflicting test results, the Contractor may require a third test, at the Contractor's expense.
- f. If, as a result of the above testing procedure, it is determined that an applicant or employee has tested positive, this shall be considered sufficient grounds to deny the applicant or employee their employment on the project.
- g. No individual who tests negative for drugs and alcohol pursuant to the above procedure and becomes employed on the project shall again be subjected to drug and alcohol testing with the following exceptions:
 - 1) Employees who are involved in industrial accidents resulting in damage to plant, property, or equipment or injury to them or others may be tested for drugs or alcohol pursuant to the procedures stated hereinabove.
 - 2) The Contractor may test employees following thirty (30) days' advance written notice to the employee(s) to be tested and to the applicable Union. Notice to the applicable Union shall be sent by certified mail to the affected Union with a copy

to the Project Labor Coordinator. Such testing shall be pursuant to the procedures stated hereinabove.

- 3) The Contractor may test an employee where the Contractor has reasonable cause to believe that the employee is impaired from performing their job. Reasonable cause shall be defined as being aberrant or unusual behavior, the type of which is a recognized and accepted symptom of impairment (e.g., slurred speech, unusual lack of muscular coordination). Such behavior must be actually observed by at least two (2) persons, one (1) of whom shall be a supervisor who has been trained to recognize the symptoms of drug and alcohol abuse or impairment and the other of whom shall be the Job Steward. If the Job Steward is unavailable or there is no Job Steward on the Covered Project, the other person shall be a member of the applicable Union's bargaining unit. Testing shall be pursuant to the procedures stated hereinabove. Employees who are tested pursuant to the exceptions set forth in this paragraph and who test positive will be removed from the Contractor's payroll.
- h. Applicants or employees who do not test positive shall be paid for all time lost while undergoing drug and alcohol testing. Payment shall be at the applicable wage and benefit rates set forth in the applicable Union's Master Labor Agreement. Applicants who have been dispatched from the Union and who are not put to work pending the results of a test will be paid waiting time until such time as they are put to work. It is understood that an applicant must pass the test as a condition of employment. Applicants who are put to work pending the results of a test will be considered probationary employees.
6. The Contractors will be allowed to conduct periodic jobsite drug and alcohol testing on the Project under the following conditions:
 - a. The entire jobsite must be tested, including any employee or subcontractor's employee who worked on that project three (3) working days before or after the date of the test;
 - b. Jobsite testing cannot commence sooner than fifteen (15) days after start of the work on the project;
 - c. Prior to start of periodic testing, a Business Representative will be allowed to conduct an educational period on company time to explain periodic jobsite testing program to affected employees;
 - d. Testing shall be conducted by an SAMHSA-certified laboratory, pursuant to the provisions set forth in paragraph 5 hereinabove.
 - e. Only two (2) periodic tests may be performed in a twelve (12)-month period.
7. It is understood that the unsafe use of prescribed medication, or where the use of prescribed medication impairs the employee's ability to perform work, is a basis for the Contractor to remove the employee from the jobsite.
8. Any grievance or dispute that may arise out of the application of this Policy shall be subject to the grievance and arbitration procedures set forth in the PLA.

9. The establishment or operation of this Policy shall not curtail any right of any employee found in any law, rule, or regulation. Should any part of this Policy be found unlawful by a court of competent jurisdiction or a public agency having jurisdiction over the Parties, the remaining portions of the Agreement shall be unaffected, and the Parties shall enter negotiations to replace the affected provision.
10. Present employees, if tested positive, shall have the prerogative for rehabilitation program at the employee's expense. When such program has been successfully completed, the Contractor shall not discriminate in any way against the employee. If work for which the employee is qualified exists, they may be reinstated.
11. The Contractor agrees that results of urine and blood tests performed hereunder will be considered medical records held confidential to the extent permitted or required by law. Such records shall not be released to any persons or entities other than designated Contractor representatives and the applicable Union. Such release to the applicable Union shall only be allowed upon the signing of a written release by the employee, and the information contained therein shall not be used to discourage the employment of the individual applicant or employee on any subsequent occasion.
12. Employees who seek voluntary assistance for substance abuse may not be disciplined for seeking such assistance. Requests from employees for such assistance shall remain confidential and shall not be revealed to other employees or management personnel without the employee's consent. Employees enrolled in substance abuse programs will be subject to all Contractor rules, regulations, and job performance standards with the understanding that an employee enrolled in such a program is receiving treatment for an illness.
13. The Contractor shall indemnify and hold the Union harmless against any and all claims, demands, suits, or liabilities that may arise out of the application of this Policy.
14. This Policy shall constitute the only Policy in effect between the Parties concerning drug and alcohol abuse, prevention, and testing. Any modifications thereto must be accomplished pursuant to collective bargaining negotiations between the Parties.

SPECIMEN REPORTING CRITERIA

Initial Test Analyte	Initial Test Cutoff ¹	Confirmatory Test Analyte	Confirmatory Test Cutoff Concentration
Marijuana metabolites (THCA) ²	50 ng/ml ³	THCA	15 ng/ml
Cocaine metabolite (Benzoylecgonine)	150 ng/ml ³	Benzoylecgonine	100 ng/ml
Codeine/ Morphine	2000 ng/ml	Codeine Morphine	2000 ng/ml 2000 ng/ml
Hydrocodone/ Hydromorphone	300 ng/ml	Hydrocodone Hydromorphone	100 ng/ml 100 ng/ml
Alcohol	0.02%	Ethanol	0.02%
Oxycodone/ Oxymorphone	100 ng/ml	Oxycodone Oxymorphone	100 ng/ml 100 ng/ml
6-Acetylmorphine	10 ng/ml	6-Acetylmorphine	10 ng/ml
Phencyclidine	25 ng/ml	Phencyclidine	25 ng/ml
Amphetamine/ Methamphetamine	500 ng/ml	Amphetamine Methamphetamine	250 ng/ml 250 ng/ml
MDMA ⁴ /MDA ⁵	500 ng/ml	MDMA MDA	250 ng/ml 250 ng/ml
Initial Test Analyte	Initial Test Cutoff	Confirmatory Test Analyte	Confirmatory Test Cutoff Concentration
Barbiturates	300 ng/ml	Barbiturates	200 ng/ml
Benzodiazepines	300 ng/ml	Benzodiazepines	300 ng/ml
Methadone ⁶	300 ng/ml	Methadone	100 ng/ml
Methaqualone	300 ng/ml	Methaqualone	300 ng/ml
Propoxyphene	300 ng/ml	Propoxyphene	100 ng/ml

¹ For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):

Immunoassay: The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

Alternate technology: Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.

² An immunoassay must be calibrated with the target analyte, 9-tetrahydrocannabinol-9- carboxylic acid (THCA).

³ **Alternate technology (THCA and benzoylecgonine):** The confirmatory test cutoff must be used for an alternate technology initial test that is specific for the target analyte (i.e., 15 ng/ml for THCA, 100 ng/ml for benzoylecgonine).

⁴ Methylenedioxyamphetamine (MDMA)

⁵ Methylenedioxyamphetamine (MDA)

⁶ Employees with a prescription for methadone who are using the medication as prescribed, and are not impaired and can safely perform their work, will not be considered to have violated this Policy.

MEMORANDUM OF UNDERSTANDING REGARDING
“QUICK” DRUG SCREENING TESTS PURSUANT TO
ATTACHMENT B – DRUG AND ALCOHOL TESTING POLICY

It is hereby agreed between the Parties hereto that a Contractor who has otherwise properly implemented drug and alcohol testing, as set forth in the Policy, shall have the right to offer an applicant or employee a "quick" drug screening test. This “quick” screen test shall consist either of the “ICUP” urine screen or similar test or an oral screen test. The applicant or employee shall have the absolute right to select either of the two “quick” screen tests, or to reject both and request a full drug test.

An applicant or employee who selects one of the "quick" screen tests, and who passes the test, shall be put to work immediately. An applicant or employee who fails the "quick" screen test, or who rejects the "quick" screen tests, shall be tested pursuant to the procedures set forth in the Policy. The sample used for the "quick" screen test shall be discarded immediately upon conclusion of the test. An applicant or employee shall not be deprived of any rights granted to them by the Policy as a result of any occurrence related to the “quick” screen test.

ATTACHMENT C – WORKFORCE DISPATCH REQUEST FORM



Workforce Dispatch Request Form

CONTRACTOR USE ONLY		Contractor Information						
Requesting Contractor								
Phone:			Fax:			Email:		
Job Site Information								
Project Name:								
Address:								
Job Superintendent:								
Work Request Start Date & Time:				Estimated Work Duration:				
Contractor Requirements								
Employee Classification					Requested Skills, Experience, Certifications and/or Equipment to Be Utilized			
Indicate Level	Craft/Classification			Quantity				
Journeyman <input type="checkbox"/>								
Apprentice <input type="checkbox"/>								
UNION USE ONLY		Dispatch Information						
Name of Applicant(s) Dispatched:								
Date of Dispatch:								
UNION DISPATCHER: PLEASE CIRCLE THE ZIP CODE OF THE DISPATCHED WORKER(S)								
MTS SERVICE AREA ZIP CODES	91901	91902	91905	91906	91910	91911	91913	91914
	91915	91916	91917	91931	91932	91934	91935	91941
	91942	91945	91948	91950	91962	91963	91977	91978
	91980	92004	92014	92019	92020	92021	92025	92027
	92029	92036	92037	92040	92059	92060	92061	92064
	92065	92066	92067	92070	92071	92075	92082	92086
	92091	92092	92093	92101	92102	92103	92104	92105
	92106	92107	92108	92109	92110	92111	92113	92114
	92115	92116	92117	92118	92119	92120	92121	92122
	92123	92124	92126	92127	92128	92129	92130	92131
	92132	92134	92135	92136	92139	92140	92145	92147
	92154	92155	92161	92173	92179	92182	92259	92274
	92536	92539	92592					
	MTS Service Zip Codes: 40% of contractor's total craft construction							
Veteran Status:								
Note to Dispatching Agent: Please fax a copy of the form to the PLA Coordination Team at: [insert fax number here]								
Note:								



Contractor Core Workforce Form

CONTRACTOR USE ONLY		Contractor Information						
Requesting Contractor								
Phone:			Fax:			Email:		
Job Site Information								
Project Name:								
Address:								
Job Superintendent:								
Work Request Start Date & Time:					Estimated Work Duration:			
Union Registration								
Employee Classification				Contractors Workforce Information Name and Zip Code of Applicant				
Indicate Level	Craft/Classification							
Journeyman <input type="checkbox"/>								
UNION USE ONLY		Dispatch Information						
Applicant's Information Reviewed By:								
Date of Union Registration (Referral):								
UNION DISPATCHER: PLEASE CIRCLE THE ZIP CODE OF THE DISPATCHED WORKER(S)								
MTS SERVICE AREA ZIP CODES	91901	91902	91905	91906	91910	91911	91913	91914
	91915	91916	91917	91931	91932	91934	91935	91941
	91942	91945	91948	91950	91962	91963	91977	91978
	91980	92004	92014	92019	92020	92021	92025	92027
	92029	92036	92037	92040	92059	92060	92061	92064
	92065	92066	92067	92070	92071	92075	92082	92086
	92091	92092	92093	92101	92102	92103	92104	92105
	92106	92107	92108	92109	92110	92111	92113	92114
	92115	92116	92117	92118	92119	92120	92121	92122
	92123	92124	92126	92127	92128	92129	92130	92131
	92132	92134	92135	92136	92139	92140	92145	92147
	92154	92155	92161	92173	92179	92182	92259	92274
	92536	92539	92592					
	Disadvantaged Business Enterprises (DBE): The first 3 core workers from a DBE contractor need not reside within San Diego County. Fourth and Sixth worker from appropriate union hiring hall, Fifth and Seventh worker may be core employees (5 core employees max.)							
Non-DBE Contractors: First, Third, and Fifth worker may be core employees (3 core employees max.) Second, Fourth, Sixth and all workers in excess of Six to be requested from the appropriate union hiring hall.								
Veteran Status:								
Core Worker Selection:								
SD County Zip Codes:								
Note to Dispatching Agent: Please fax a copy of the form to the PLA Coordination Team at: [insert fax number here]								

ATTACHMENT D – AGREEMENT BY PRIVATE ENTITY TO BE BOUND

To be signed by any private entity choosing to opt-in to the terms of this PLA.

[PRIVATE ENTITY’S LETTERHEAD]

DATE

San Diego County Building & Construction Trades Council
3737 Camino Del Rio South, Suite 202
San Diego, CA

Attention: Business Manager

**Re: San Diego Metropolitan Transit System Policy 18 – Project Labor Agreement for
Joint Development Project**

Dear Sir or Madam:

This is to confirm [_____ (Name of Company)] agrees to be bound by the terms of the San Diego Metropolitan Transit System Project Labor Agreement (“MTS PLA”) for _____ (Name of Covered Project), as that PLA may be amended from time to time according to its terms, because this Project is covered by MTS Board Policy No. 18. By signing this Agreement by Private Entity to Be Bound, the undersigned understands, pursuant to Article 23 of the MTS PLA, that the MTS PLA shall apply to the Joint Development Project named above, with “MTS” being replaced by _____ (Name of Company) and by the term “Covered Project” meaning the Joint Development Project named above. The undersigned further understands that it is assuming all responsibilities for administering this PLA on the Joint Development Project, including the designation of a Project Labor Coordinator.

Sincerely,

(Name of Company)

By: _____
(insert Company official)

APPROVED by San Diego County Building & Construction Trades Council

By: _____ Date: _____

From: NABTU <agreements@nabtu.org>
Date: December 8, 2023 at 8:22:58 AM PST
To: Carol Kim <Carol@sdbuildingtrades.com>
Subject: PLA Application Approved for San Diego Metropolitan Transit System (MTS) Project Labor Agreement
Reply-To: agreements@nabtu.org

Hello Carol Kim:

Thank you for your application for the PLA agreement application for San Diego Metropolitan Transit System (MTS) Project Labor Agreement. It has been approved.

If you have any questions, please reach out to NABTU at agreements@NABTU.org.

Regards,

NABTU