

**MAJOR PROJECTS
PROJECT STABILIZATION AGREEMENT**

For the

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

This Agreement is made and entered into this _____ day of _____, 2016, by and between the San Francisco Bay Area Rapid Transit District (“the District”) together with other contractors and sub-contractors, who shall become parties to this Agreement by signing the “Agreement to be Bound” (Addendum A), the Building and Construction Trades Council of Alameda County, the Contra Costa County Building & Construction Trades Council, the San Francisco Building & Construction Trades Council, the San Mateo County Building & Construction Trades Council and the Santa Clara & San Benito Counties Building & Construction Trades Council (collectively “the Councils”) and their affiliated local Unions who have executed this Agreement.

PURPOSE

The purposes of this Agreement are to promote efficiency of construction operations during covered Projects, to ensure an adequate supply of skilled craftspeople and to provide for peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the District’s and the public interest in ensuring the timely and economical completion of the construction projects covered by this Agreement. It is the intent of the parties to set out uniform and fair working conditions for the efficient completion of the Projects, to maintain harmonious labor/management relations and to eliminate the risk of strikes, lockouts and other delays. The parties agree that one of the primary purposes of this Agreement is to avoid the tension that might arise on a Project if Union and non-union workers of different contractors were to work side-by-side on a Project, thereby potentially leading to labor disputes that could delay completion of a Project.

RECITALS

WHEREAS, the successful completion of the Projects covered by this Agreement is of the utmost importance to the District and the general public in the San Francisco Bay Area; and

WHEREAS, large numbers of workers of various skills will be required in the performance of the construction work, including those to be represented by the Unions affiliated with the Councils and signatory to this Agreement employed by contractors and subcontractors who are signatory to agreements with the Unions; and

WHEREAS, it is recognized that on construction projects with multiple contractors and bargaining units on the job at the same time over an extended period of time, the potential for work disruption is substantial without an overriding commitment to maintain continuity of work; and

WHEREAS, the parties recognize the need for safe and efficient construction in order to reduce unnecessary delays and to shorten construction schedules, thereby further reducing costs, resulting in timely completion of the Projects; and

WHEREAS, the interests of the general public, the District, the Councils, the Unions and Contractors would be best served if the construction work proceeded in an orderly manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

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

WHEREAS, this Agreement is not intended to replace, interfere with, abrogate, diminish or modify existing local or national collective bargaining agreements in effect during the duration of the Projects, insofar as a legally binding agreement exists between the Contractor and the affected Unions; and

WHEREAS, the contracts for the construction of the projects will be awarded in accordance with the applicable provisions of the California Public Contract Code, the District Act and applicable Federal, State and local requirements; and

WHEREAS, the District desires to provide opportunities for local resident and small business entities to participate in the Projects where legally permissible; and

WHEREAS, the District has the absolute right to award to the successful bidder(s) Construction Contracts in accordance with applicable law; and

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

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

ARTICLE 1

DEFINITIONS

1.1 “Agreement” means this Project Stabilization Agreement.

1.2 “Completion” means that point at which there is Final Acceptance by the District of a Construction Contract. For this definition of “Completion,” “Final Acceptance” shall mean that point in time at which the engineer for the District has determined upon final inspection that the work has been completed in all respects and all required contract documents, contract drawings, warranties, certificates, manuals and data have been submitted and training completed in accordance with the contract documents and the District has executed a written acceptance of the work.

1.3 “Construction Contract” means a contract for construction of all or a part of an individual Project as defined in section 1.15, below.

1.4 “Contractor(s)” means any individual, firm, partnership or corporation, or combination thereof, including joint ventures, and including the Prime Contractor, General Contractor, or equivalent entity, that is an independent business enterprise, and their successors and assigns, that enters into a contract with the District or any of its contractors or subcontractors of any tier, with respect to the construction work necessary for any part of a Project.

1.5 “Councils” means the Building and Construction Trades Council of Alameda County, the Contra Costa Building & Construction Trades Council, the San Francisco Building & Construction Trades Council, the San Mateo Building & Construction Trades Council and the Santa Clara & San Benito Counties Building & Construction Trades Council.

1.6 “Disadvantaged Worker” means an individual who, prior to commencing work on the Project, resides in an Economically Disadvantaged Area or Extremely Economically Disadvantaged Area as defined in Sections 1.8 and 1.9 and faces at least one (1) of the following barriers to employment: (1) being a veteran; (2) being homeless; (3) being a custodial single parent; (4) receiving public assistance; (5) lacking a GED or high school diploma; (6) having a criminal record or other involvement with the criminal justice system; (7) suffering from chronic unemployment; (8) being emancipated from the foster care system; or (9) being an apprentice with less than twenty-five percent (25%) of the apprenticeship hours required to graduate to journey level in an apprentice program recognized by this Agreement.

1.7 “District” means the San Francisco Bay Area Rapid Transit District.

1.8 “Economically Disadvantaged Area” means a zip code that includes a census tract or portion thereof in which the median annual household income is between thirty-two thousand dollars (\$32,000) and forty thousand dollars (\$40,000) per year, as measured and reported by the U.S. Census Bureau in the 2010 U.S. Census and as updated by the parties upon the U.S. Census Bureau issuing updated Median Annual Household Income data by census tract in the American Community Survey.

1.9 “Extremely Economically Disadvantaged Area” means a zip code that includes a census tract or portion thereof in which the median annual household income is less than thirty-two thousand dollars (\$32,000) per year, as measured and reported by the U.S. Census Bureau in the 2010 U.S. Census and as updated by the parties upon the U.S. Census Bureau issuing updated Median Annual Household Income data by census tract in the American Community Survey.

1.10 "Federal Targeted Worker" means a female or Minority worker, whom contractors on federally funded projects are required to take affirmative action to employ, pursuant to United States Executive Order 11246 and its implementing regulations set forth at 41 CFR sec. 60-4, "Construction Contractors' Affirmative Action Requirements," as amended from time to time.

1.11 “Jobs Coordinator” means the District designee responsible for the facilitation and implementation of the Targeted Hiring Requirements of this Agreement. The Jobs Coordinator shall have the requisite qualifications and/or experience to fulfill the duties and responsibilities.

1.12 “Local Area Resident” means residents of Alameda, Contra Costa, San Francisco, San Mateo and Santa Clara counties.

1.13 "Minority" means individuals in the following categories: (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin); (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race); (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

1.14 “National Targeted Worker” means (a) an individual whose primary place of residence is within an Economically Disadvantaged Area or an Extremely Economically Disadvantaged Area in the United States; or (b) a Disadvantaged Worker.

1.15 “Project” means those individual construction projects listed in Exhibit A attached to and incorporated into this Agreement.

1.16 “Project Local Impact Area” means the county(ies) in which the Project is located.

1.17 “Project Manager” means the person or persons or business entity designated by the District to oversee all phases of construction on the Project.

1.18 “Union” or “Unions” means the Councils and any affiliated 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.

1.19 “Schedule A Agreement” or “Master Labor Agreement” means the local master labor agreement of a Union signatory to this Agreement.

ARTICLE 2

SCOPE OF AGREEMENT

2.1 Parties: This Agreement shall apply to all Projects and is limited to all Contractors and subcontractors of any tier performing a Construction Contract necessary for a Project, the District and the Councils and their affiliated labor organizations 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.

2.2 Project Description: This Agreement shall govern the award of Construction Contracts for a Project. The District has the absolute right to combine, consolidate or cancel contract(s) or portions of contract(s) identified as part of a Project. Should the District remove any contract from a Project and thereafter authorize that construction work be commenced on such contract, then such contract shall be performed under the terms of this Agreement. Once a Construction Contract is completed, it is no longer covered by this Agreement except when a Contractor is directed to engage in repairs, warranty work or modifications required by its Construction Contract. For the purposes of this Agreement, a Construction Contract shall be considered Completed as set forth in Section 1.2 of this Agreement.

2.3 Covered Work:

2.3.1 This Agreement covers, without limitation, all on-site construction, demolition, alteration, installation, including the installation of office modular furniture systems, improvement, painting or repair of buildings, structures, and other works, landscaping, temporary fencing and other works and related activities for a Project that is within the craft jurisdiction of one of the Unions and that is part of a Project, including, without limitation to the following examples, geotechnical and exploratory drilling, temporary HVAC, pipelines (including those in linear corridors built to serve the Project), pumps, pump stations, site preparation, survey work, demolition of existing structures and all construction, demolition or improvements required to be performed as a condition of approval by any public agency. This scope of work includes all soils and materials testing and inspection where such testing and inspection is a classification in which a prevailing wage determination has been published.

2.3.2 Covered work includes all on-site work necessary for a Project, work in areas adjacent to a Project site or temporary yards established to support a Project and work at any on-site or off-site batch plant constructed solely to supply materials to a Project. This Agreement covers all on-site fabrication work over which the District, the Contractor(s) or subcontractor(s) possess the right of control (including work done for a Project in any temporary yard or area established for a Project.) Additionally, this Agreement covers any off-site work, including fabrication necessary for a Project defined herein, that is covered by a current Schedule A Agreement or local addenda to a national agreement of the applicable Union that is in effect as of

the execution date of this Agreement. All of the work described in this paragraph is within the scope of a Project and this Agreement.

2.3.3 This Agreement shall apply to any start-up, calibration, commissioning, performance testing, repair, and operational revisions to systems and/or subsystems performed for the Project prior to Completion.

2.3.4 The furnishing of supplies, equipment or materials which are stockpiled for later use shall in no case be considered subcontracting. Construction trucking work, such as the delivery of ready-mix, asphalt, aggregate, sand or other fill or material which are directly incorporated into the construction process, as well as the off-hauling of debris and excess fill, material and/or mud, shall be covered by the terms and conditions of this Agreement to the fullest extent provided by law and by the prevailing wage determinations of the California Department of Industrial Relations. Employers, including brokers, of persons providing construction trucking work shall provide certified payroll records to the District within ten (10) calendar days of written request or as required by bid specifications.

2.3.5 The on-site installation or application of all items shall be performed by the craft having jurisdiction over such work. It is recognized that installation of specialty items which may be furnished by the District or a Contractor shall be performed by construction persons employed under this Agreement who may be directed by other personnel in a supervisory role; *provided*, however, in limited circumstances requiring special knowledge of the particular item(s), such installation may be performed by construction persons of the vendor or manufacturer where necessary to protect a manufacturer's warranty provided the Contractor using the vendor or manufacturer can demonstrate by an enumeration of the specific tasks that the work cannot be performed by construction person employed under this Agreement. All such work to be performed by the employees of a vendor or equipment manufacturer necessary to protect the warranty on such equipment shall be identified and discussed at the Pre-job meeting as provided in Article 5 of this Agreement. The issue of whether it is necessary to use construction persons of the vendor or manufacturer to protect the manufacturer's warranty shall be subject to the grievance and arbitration clause of this Agreement.

2.4 Exclusions: The following shall be excluded from the scope of a Project:

2.4.1 This Agreement shall be limited to construction work necessary for a Project and is not intended to, and shall not, govern other construction work performed by the District at any time prior to the effective date, during or after the expiration or termination of this Agreement that is not part of the Project.

2.4.2 This Agreement is not intended to, and shall not, affect the operation or maintenance of any of the District's facilities or rail system and shall not apply to District employees.

2.4.3 This Agreement shall not apply to a Contractor's non-craft executives, managerial employees, engineering employees, design employees, supervisors (except those

covered by existing building and construction trades collective bargaining agreements), and office and clerical employees.

2.4.4 This Agreement shall not apply to any work performed on or near or leading to the site of work covered by this Agreement that is undertaken by state, county or other governmental bodies or their contractors; or by public or private utilities or their contractors; or by the District or its contractors for work not part of the scope of a Project.

2.4.5 This Agreement shall not apply to the off-site maintenance of leased equipment or the on-site supervision of such work.

2.5 Work covered by this Agreement within the following craft jurisdictions shall be performed under the terms of their National Agreements as follows: the NTL Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, and the National Agreement of Elevator Constructors, and any instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Technicians, with the exception that Articles 4, 12 and 13 of this Agreement shall apply to such work.

ARTICLE 3

EFFECT OF AGREEMENT/SUBCONTRACTORS/COMPLIANCE

3.1 By executing this Agreement, the Unions, the Councils and the District agree to be bound by each and every provision of this Agreement.

3.2 By accepting the award of a Construction Contract for a Project, whether as contractor or subcontractor at any tier, the Contractor agrees to be bound by each and every provision of this Agreement.

3.3 This Agreement shall only be binding on the signatory parties hereto and their successors and assigns and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party unless performing work within the scope of a Project.

3.4 It is understood that this Agreement, together with the referenced Schedule A Agreements, constitutes an integrated, self-contained, stand-alone agreement, and that by virtue of having become bound to this Agreement, the Contractor will not be obligated to sign any other local, area, or national agreement as a condition of performing work within the scope of this Agreement. In addition, it is understood and agreed that all grievances and disputes involving the interpretation or application of this Agreement, including the Schedule A Agreements, shall be resolved according to the procedures set forth in Article 12 of this Agreement; *provided*, however, that should a dispute involve a single Schedule A Agreement and a Contractor signatory thereto, and not involve interpretation or application of this Agreement, then such dispute shall be processed and resolved pursuant to the grievance provisions of that Schedule A Agreement. Should there be a dispute in the first instance as to whether the provisions of Article 12 of this Agreement or the grievance procedures of a Schedule

A Agreement apply, the dispute shall be presented initially to arbitrator Robert Hirsch or, if Robert Hirsch is unavailable, arbitrator William Riker, for resolution as to the applicable procedure. Such referral of a dispute as to the applicable procedures shall be done by an immediate conference call among the parties and the arbitrator, and heard and decided within three (3) calendar days. Should the arbitrator hold that Article 12 applies, the parties may, by mutual agreement, submit the issue to the same arbitrator pursuant to the provisions of Article 12, or, absent mutual agreement, commence processing the dispute at Step 1 of that Article.

3.5 Subcontractors. At the time that any Contractor enters into a subcontract with any subcontractor of any tier for the performance of construction or construction trucking work within the scope of this Agreement, the Contractor shall provide a copy of this Agreement, as it may from time to time be modified by the negotiating parties, to said subcontractor and shall require the subcontractor as a condition of accepting an award of a construction subcontract to agree to be bound by each and every provision of the Agreement prior to the commencement of work.

3.5.1 Each Contractor and subcontractor shall evidence its agreement to be bound to this Agreement by executing the **Agreement To Be Bound** form attached hereto as Addendum A. A copy of the Agreement To Be Bound executed by the contractors and subcontractors shall be submitted to the Union(s) prior to both the commencement of work and the Pre-Job Conference. If the Contractor or subcontractor refuses to execute the Agreement to be Bound, then such Contractor or subcontractor shall not be awarded a Construction Contract to perform work on the Project. A Contractor or subcontractor who executes the Agreement to Be Bound shall be considered a signatory party to this Agreement.

3.6 It is understood that the liability of each Contractor and subcontractor and the liability of each Union under this Agreement shall be several and not joint.

3.7 This Agreement shall be included in all invitations to bid or solicitations for proposals from contractors for work on the Project that are issued on or after the effective date of this Agreement. The District shall exercise its best efforts to provide a copy of all invitations to bid or solicitations at time of issuance to the affected Council(s).

3.8 Compliance: It shall be the responsibility of the Contractor(s) and Unions to investigate and monitor compliance with the provisions of the Agreement contained in Article 15 (Wages/Benefits). Nothing in this Agreement shall be construed to interfere with or supersede the usual and customary legal remedies available to the Unions and/or employee benefit Trust Funds to collect delinquent Trust Fund contributions from Contractor(s) on the Project. The District shall monitor compliance with the prevailing wage requirements of the state, and the Contractors' compliance with this Agreement.

ARTICLE 4

WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCK OUTS

4.1 The Unions, District and Contractors agree that for the duration of a Project:

4.1.1 There shall be no strikes, sympathy strikes, work stoppages, picketing, hand-billing or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions or construction persons employed on a Project, at the job site of a Project or at any other facility of the District because of a dispute on a Project. Disputes arising between the Unions and Contractors on other District projects are not governed by the terms of this Agreement.

4.1.2 As to construction persons employed on a Project, there shall be no lockout of any kind by a Contractor covered by this Agreement.

4.1.3 If a Schedule A Agreement expires before the Contractor completes the performance of a Construction Contract and the Union or Contractor gives notice of demand for a new or modified Schedule A Agreement, the Union agrees that it will not strike, picket, hand-bill, slowdown or engage in any such activity against the Contractor and the Contractor will not lock out construction persons of the Union on such Construction Contract for work covered under this Agreement. The Union and the Contractor agree that the expired Schedule A Agreement shall continue in full force and effect for work covered under this Agreement until a new or modified Schedule A Agreement is reached. If the new or modified Schedule A Agreement provides that any terms of the new Schedule A Agreement shall be retroactive, the Contractor agrees to comply with any retroactive terms of the new or modified Schedule A Agreement which are applicable to construction persons employed on a Project within seven (7) calendar days.

4.2 It shall not be considered a violation of this Article 4 for a Union to withhold labor (but not picket) from any Contractor who fails to make its timely payment of Trust Fund contributions or fails to meet its weekly payroll. The affected Union shall give seventy-two (72) hours written notice to the District and to the Contractor prior to withholding labor due to such Contractor's failure to make timely payment of Trust Fund contributions and twenty-four (24) hours written notice to the District and to the Contractor when a Contractor fails to make weekly payroll or when paychecks are determined to be non-negotiable by a financial institution normally recognized to honor such paychecks, during which time the Contractor shall have the opportunity to correct the default.

4.3 Notification: If the District or Prime Contractor contends that any Union has violated this Article 4, it will notify in writing the Senior Executive of the applicable Council and the Senior Executive of the affected Union, setting forth the facts alleged to violate this Article 4, prior to instituting the expedited arbitration procedure set forth below. The Senior Executive of the Council will immediately use his/her best efforts to cause the cessation of any violation of this Article 4. The leadership of the Union will immediately notify the membership of their obligations under this Article 4. A Union complying with this obligation shall not be liable for unauthorized acts of employees it represents.

4.4 Expedited Arbitration: Any party to this Agreement shall institute the following procedure, in lieu of or prior to any other action at law or equity, when a breach of this Article 4 is alleged to have occurred:

4.4.1 A party invoking this procedure shall notify **Robert Hirsch** whom the parties agree shall be the permanent arbitrator under this procedure. In the event that the permanent arbitrator is unavailable at any time, **William Riker** shall be the alternate arbitrator. Notice to the arbitrator shall be by the most expeditious means available, with notices by facsimile, electronic mail or telephone to the party alleged to be in violation, to the District, to the Council and to the involved local Union if a Union is alleged to be in violation.

4.4.2 Upon receipt of said notice, the arbitrator named above or his alternate shall convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

4.4.3 The arbitrator shall notify the parties by facsimile, electronic mail or telephone of the place and time for the hearing. The hearing shall be completed in one (1) session, which, with appropriate recesses at the arbitrator's discretion, shall not delay the hearing of evidence or the issuance of any award by the arbitrator.

4.4.4 The sole issue at the hearing shall be whether or not a violation of Article 4, Section 4.1 of this Agreement has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) calendar days, but its issuance shall not delay compliance with or enforcement of the award. The arbitrator may order cessation of the violation of this Article 4 and other appropriate relief and such award shall be served on all parties by hand or registered mail upon issuance.

4.4.5 Such award may be enforced by any Court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the arbitrator's award as issued under Section 4.4.4 of this Article 4, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order or enforcement. The Court's order or orders enforcing the arbitrator's award shall be served on all parties by hand or delivered by certified mail.

4.4.6 Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance are waived by the parties.

4.4.7 The fees and expenses of the arbitrator shall be divided equally between the party instituting the arbitration proceedings provided for in this Article 4 and the party alleged to have violated this Article 4.

4.5 **Liquidated Damages.** If the arbitrator determines that a violation of Section 4.1 has occurred, the breaching party shall, within eight (8) hours of the issuance of the arbitrator's decision, take all steps necessary to immediately cease such activities and return to work. If the breaching party involved does not cease such activities by the beginning of the next regularly

scheduled shift following the expiration of the eight (8) hour period after the arbitrator's issuance of the decision, then the breaching party shall pay the sum of ten thousand dollars (\$10,000) as liquidated damages to the affected party per shift until the breach is remedied. The arbitrator shall retain jurisdiction for the sole purpose of determining compliance with this obligation and determining the amount of liquidated damages, if any. The retention of jurisdiction by the arbitrator shall not prevent the moving party from seeking judicial enforcement of the initial decision.

ARTICLE 5

PRE-JOB CONFERENCE

5.1 Timing/Attendees:

5.1.1 The Prime Contractor shall hold and the Council and District staff representative or designee shall co-chair a mandatory pre-job conference with representatives of all involved Contractors and the Unions at a location mutually agreeable to the Council with geographic jurisdiction covering the Project, at least twenty-one (21) calendar days prior to:

- (a) The commencement of any Project work; and
- (b) The commencement of Project work on each subsequently awarded Construction Contract.

5.1.2 The conference shall be attended by a representative of each participating Contractor, each affected Union, and the applicable Council(s). Representatives from the District may attend at their discretion.

5.2 Pre-Job Conference. The information presented at the pre-job conference will include but not be limited to:

- (a) A listing of each Contractor's scope of work;
- (b) The craft work assignments;
- (c) The estimated number of craft workers required to perform the work;
- (d) Any transportation arrangements;
- (e) The estimated start and completion dates of the work;
- (f) Discussion of pre-fabricated materials;
- (g) Discussion of any trucking work regarding the on-haul and/or off-haul of materials, including applicable rates of pay;
- (h) All workforce requirements for the Project; and
- (i) A listing of any specialty work to be performed by the employees of an equipment vendor or manufacturer to protect the warranty on such equipment as described in section 2.3.5, above, if any, for which the Contractor using the vendor or manufacturer shall demonstrate by an enumeration of specific tasks that the work cannot be performed by construction persons employed under this Agreement.

5.3 Project work shall not commence for any Contractor until an **Agreement to be Bound** has been signed and submitted by a duly authorized representative of the Contractor to the applicable Union(s) and the Council.

ARTICLE 6
NO DISCRIMINATION

6.1 The Contractors and Unions agree to comply with all non-discrimination provisions of federal, state and local law, including reasonable policies adopted by BART's Board of Directors, to protect employees and applicants for employment on the Project.

ARTICLE 7
UNION SECURITY

7.1 The Contractors recognize the Union(s) as the sole bargaining representative of all construction persons working within the scope of this Agreement.

7.2 All construction persons who are employed by the Contractor(s) shall, as a condition of employment, on or before the eighth (8th) day of consecutive or cumulative employment on a Project, be responsible for the payment of the applicable monthly working dues and any associated fees uniformly required for union membership in the applicable local Union signatory to this Agreement and shall stay current with such working dues and fees for the duration of work on a Project. Further, there is nothing in this Agreement that would prevent non-union construction persons from joining the local Union.

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

ARTICLE 8
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM—(Federal Funding for Project)

8.1 The parties agree that California Unified Certification Program ("CUCP") Disadvantaged Business Enterprises ("DBE's") shall be encouraged to participate in the construction of the Project. In order to achieve this, CUCP certified DBE's which meet the following qualifications shall be excluded from the Agreement:

8.1.1 Have average annual gross receipts for the previous three (3) fiscal years not exceeding twenty-three million nine hundred eighty thousand dollars (\$23,980,000) (or as adjusted for inflation by the Secretary of the Department of Transportation ("DOT") pursuant to 49 CFR Section 26.65(b)); and

8.1.2 Are owned and operated by an individual with a net worth of less than one million three hundred twenty thousand dollars (\$1,320,000). In determining an individual's net

worth, an individual's ownership interest in the applicant firm and equity in his or her primary residence (except any portion of such equity that is attributable to excessive withdrawals from the applicant firm) shall be excluded.

8.2 DBE's which meet these qualifications may participate in the Project and be excluded from this Agreement only insofar as:

8.2.1 No more than four percent (4%) of the total pre-bid construction cost estimate on the Project is awarded to such DBE's combined; and

8.2.2 There shall be full disclosure of all relevant information concerning bid, award and contract performance to the JAC (as described in Article 11 of this Agreement); provided, however, that nothing herein shall be construed to require the District to disclose confidential information provided to the District by a DBE entity. If there are any disputes concerning this Article, they shall be submitted to arbitration pursuant to Article 12 of this Agreement and the District may invite the affected DBE to participate in the resolution of the dispute; and

8.2.3 Not more than ten percent (10%) of the work within the scope of work of each craft on the Project as described in each Schedule A Agreement shall be subject to this Article; and

8.2.4 There shall be full Union(s) access at all times to the worksite and construction persons performing any work performed under this Article; and

8.2.5 Nothing in this Article or Agreement shall supersede any subcontracting clause in any Schedule A Agreement; and

8.2.6 The parties mutually agree there shall be no retaliation against any entity participating in this Disadvantaged Business Enterprise Program.

ARTICLE 8A
SMALL BUSINESS PROGRAM—(No Federal Funding for Project)

8.1A The parties agree that, pursuant to the District's Small Business ("SB") Program, SB's shall be encouraged to participate in the construction of the Project. In order to achieve this, State of California Department of General Services (DGS) certified SB's which meet the following qualifications shall be excluded from the Agreement:

8.1.1A Have average annual gross receipts for the previous three (3) fiscal years not exceeding fourteen million dollars (\$14,000,000) (or as adjusted by inflation by the DGS); and

8.1.2A Have its principal office located in California; and

8.1.3A Have its owners domiciled in California; and

8.1.4A Have one hundred (100) or fewer employees

8.2A SB's which meet these qualifications may participate in the Project and be excluded from this Agreement only insofar as:

8.2.1A No more than four percent (4%) of the total pre-bid construction cost estimate on the Project is awarded to such SB's combined; and

8.2.2A There shall be full disclosure of all relevant information concerning bid, award and contract performance to the JAC (as described in Article 11 of this Agreement); provided, however, that nothing herein shall be construed to require the District to disclose confidential information provided to the District by an SB entity. If there are any disputes concerning this Article, they shall be submitted to arbitration pursuant to Article 12 of this Agreement and the District may invite the affected SB to participate in the resolution of the dispute; and

8.2.3A Not more than ten percent (10%) of the work within the scope of work of each craft on the Project as described in each Schedule A Agreement shall be subject to this Article; and

8.2.4A There shall be full Union(s) access at all times to the worksite and construction persons performing any work performed under this Article; and

8.2.5A Nothing in this Article or Agreement shall supersede any subcontracting clause in any Schedule A Agreement; and

8.2.6A The parties mutually agree there shall be no retaliation against any entity participating in this Small Business Program.

ARTICLE 9

REFERRAL PROCEDURES

GENERAL

9.1 The Contractors recognize that the Unions shall be the primary source of all craft labor employed on a Project. For each craft, the local Union with geographic jurisdiction over the Project shall make referrals of applicants to the requesting Contractor. The Unions will exert their best efforts to recruit and identify individuals, especially those who satisfy particular hiring goals for a Project, for entrance or re-entrance into the labor/management apprenticeship programs, and to assist individuals in qualifying and becoming eligible for such programs.

9.2 The parties agree to implement the hiring objectives of this Article 9 on all Projects covered by this Agreement consistent with Section 9.5, below, unless prohibited by state or federal law.

9.3 Overall Project Hiring Goals

9.3.1 Federal Department of Transportation (“DOT”)-Funded Projects (National Targeted Worker Program)

9.3.1.1 Federal Targeted Workers: It shall be an objective of the parties to this Agreement that all Contractors performing work on an eligible Project meet or exceed the hiring goals of Federal Targeted Workers (as defined in, Article 1, Section 1.10) regarding overall cumulative hours worked by female and Minority (as defined in Article 1, Section 1.13) workers on the Project. The female and Minority hiring goals shall be consistent with those set forth by the Office of Federal Contract Compliance Programs (“OFCCP”) for the San Francisco-Oakland Standard Metropolitan Statistical Area. Currently, the OFCCP Federal Register publications have established affirmative action percentage goals of 25.6% of work hours for Minorities, and 6.9% for women. (See Office of Federal Contract Compliance Programs' Technical Assistance Guide for Federal Construction Contractors, May 2009).

9.3.1.2 (a) National Targeted Workers: A minimum of twenty-five percent (25%) of all Apprentice hours worked on the Project shall be performed by National Targeted Workers (as defined in Article 1, Section 1.14).

9.3.1.2 (b) Disadvantaged Workers: A minimum of ten percent (10%) of all National Targeted Worker hours shall be performed by Disadvantaged Workers (as defined in Article 1, Section 1.6).

9.3.2 Non-DOT Funded Projects (Local Hire Program)

9.3.2.1 Fifty percent (50%) of all hours worked on the Project, on a craft basis, will be worked by Local Area Residents, and twenty-five percent (25%) will be worked by residents of the Project Local Impact Area if such construction persons are available, capable and willing to work on the Project and are dispatched through the utilization of the normal Union hiring hall procedures.

9.3.2.2 Only Local Area Residents shall be utilized as apprentices, and fifty percent (50%) of all apprentice hours worked on the Project will be worked by residents of the Project Local Impact Area.

9.3.3 Apprentice and journeyman hours shall count towards meeting the hiring goals set forth in Section 9.3.1 and 9.3.2, above.

9.3.4 Eligible Workers. As used in this Article 9, Eligible Workers are workers who meet the requirements of either a Disadvantaged Worker or a National Targeted Worker, respectively, under the National Targeted Worker Program or a Local Area Resident or resident of the Project Local Impact Area, respectively, under the Local Hire Program, whichever is applicable.

9.4 Contractors that qualify as a DBE or SB under Articles 8 and 8A of this Agreement and who are signatory to this Agreement may employ “Core Employees” as defined under this Article 9. Contractors utilizing Core Employees shall follow the procedures outlined below:

9.4.1 A worker shall be considered a “Core Employee” for the purposes of this Article if the employee’s meets all of the following qualifications:

- (1) Possess any license and/or certifications required by State or Federal law for the Project work to be performed;
- (2) Have worked a total of at least two thousand (2,000) hours in the construction craft during the prior three (3) year period;
- (3) Were on the Contractor’s active payroll for at least sixty (60) out of one hundred (100) calendar days prior to the contract award; and
- (4) Have the ability to perform safely the basic functions of the applicable trade.

9.4.2 At the request of the Council or a local Union signatory to this Agreement, the applicable Contractor shall submit a Core Employee List to the requesting party and shall provide payroll records evidencing the worker’s qualification as a Core Employee.

9.4.3 The number of a DBE’s or SB’s Core Employees on a Project for a Contractor covered by this Agreement shall be governed by the following referral procedures: One (1) worker shall be referred from the applicable hiring hall and then one (1) Core Employee shall be selected and referred from the hiring hall and this process shall repeat until such Contractor’s requirements are met or until such Contractor has hired five (5) such Core Employees for that trade or craft, whichever occurs first. Thereafter, all additional employees in the affected trade or craft shall be hired exclusively from the applicable hiring hall list. In the event of a reduction-in-force or layoff, such will take place in a manner to assure that the number of remaining Core Employees in the affected trade or craft does not exceed, at any time, the number of others working in that trade or craft who were employed pursuant to this Agreement.

9.4.4 This provision applies only to employees not currently working under a current Schedule A agreement and is not intended to limit transfer provisions of such current Schedule A agreement of any trade or craft. As part of this process, and in order to facilitate the contract administration procedures, as well as appropriate benefit fund coverage, all Contractors shall require their “Core Employees” and any other persons employed, other than through the referral process, to register with the appropriate hiring hall, if any, of the signatory Union prior to said employee’s first day of employment at the Project site. The Contractor shall make all benefit fund contributions to the applicable Union’s benefit funds for each hour worked by a Core Employee as provided in Article 15 of this Agreement.

9.5 Contractors shall, in filling craft job requirements, use and be bound by the registration facilities and referral systems established or authorized by the Unions signatory hereto.

9.6 In the event that referral facilities maintained by the Unions are unable to fill the requisition of a Contractor for Eligible Workers for Apprentices as provided below within forty-eight (48) hours (excluding Saturdays, Sundays and Holidays), the Contractor shall be free to obtain Eligible Workers from any source consistent with section 9.12.2, below. If the Union’s registration and referral system does not fulfill the requirements for specific classifications of covered classifications requested by any Contractor within forty-eight (48) hours (excluding

Saturdays, Sundays or Holidays), that Contactor may use employment sources other than the Union registration and referral services, and may employ any applicants meeting such standards from any other available source. A Contractor who hires any workers to perform covered work on the Project pursuant to this Section shall immediately provide the appropriate Union with the name and address of such employee(s) and shall immediately refer such employee(s) to the appropriate Union to satisfy the requirements of Article 7 of this Agreement.

9.7 The Contractor must document all efforts made to comply with the targeted hiring process to locate and hire Eligible Workers as Apprentices and provide such documentation to the Jobs Coordinator.

9.8 The Contractor shall inform the Unions and District of the name, address, worker craft classification and social security number of any worker hired from other sources upon their employment on the Project.

9.9 The Unions will make their best effort to recruit sufficient numbers of skilled craft persons to fulfill the requirements of the Contractors.

9.10 Recruitment. The Unions will make every effort to recruit Eligible Workers into their respective Apprentice programs and to refer and utilize Eligible Workers as Apprentices on the Project. The Contractors shall submit written documentation to the District on a quarterly basis, or as required by District, which sets forth the steps taken by the Contractors to recruit, refer, and utilize qualified Eligible Workers recruited by the Unions and referred to or utilized as Apprentices on the Project. In recognition of the District's policy to utilize Eligible Workers as Apprentices on this Project, the Unions and Contractors agree that as long as they possess the requisite skills and qualifications, to the extent consistent with applicable apprenticeship program, hiring hall and Schedule A requirements, such Eligible Workers shall be first referred for Project work as Apprentices.

9.11 The Contractors are responsible for ensuring that the following Project Hiring Goal are met and the Contractors and Unions are responsible for providing documentation of their performance of these objectives to the Jobs Coordinator:

9.12 Apprentice Hiring Requirements and Goals:

9.12.1 All Contractors performing work on the Project will make every effort to employ the maximum number of Apprentices allowed by State law and to meet or exceed the employment goals for Eligible Workers.

9.12.2 Recognizing the need to develop adequate numbers of competent workers in the construction industry, Contractors shall employ apprentices from a Joint Labor-Management Apprentice Program approved by the State of California, Department of Industrial Relations, Division of Apprenticeship Standards ("DAS"), or, in the case of a project utilizing Federal funds, approved by the U.S. Department of Labor ("DOL") and DAS in the respective crafts to perform work within their capabilities and that is customarily performed by the craft in which they are indentured.

9.12.3 All Apprentices shall work under the direct supervision of a journeyman from the trade or craft in which the Apprentice is indentured. A journeyman shall be defined as set forth in the California Code of Regulations, Title 8 [apprenticeship] section 205, which defines a journeyman as a person who has either completed an accredited apprenticeship in his or her trade or craft, or has completed the equivalent of an apprenticeship in length and content of work experience and all other requirements in the trade or craft which has workers classified as journeyman in the apprenticeable occupation. Each Contractor shall provide adequate proof evidencing the worker's qualification as a journeyman to the Jobs Coordinator.

9.13 The Contractor shall use MC3 certified programs or other community based organizations as approved by the JAC working in collaboration with the Apprentice programs for recruiting Eligible Workers for work on the Project if a Union cannot provide such workers as Apprentices as requested and in conformity with the Union hiring hall rules. Drug screening will be a prerequisite to employment consistent with the applicable Schedule A Agreement.

9.13.1 For the applicant to qualify under this program, the Jobs Coordinator shall verify the presence of any of the criteria listed above for the National Targeted Worker Program and Local Hire Program, respectively.

9.14 The Contractor shall be the sole judge of the qualifications of any employee including those referred to the Contractor from any source consistent with the applicable Schedule A Agreement.

9.15 The Contractor or subcontractor shall use the "Name Call", "Rehire" or other available hiring hall procedures to reach the goals of this Article 9. The Contractors, Unions and Jobs Coordinator are to maintain copies of all documents related to the request and referral of workers performing construction craft work on the Project submitted or received including transmission verification reports that are date/time imprinted, until the Project is completed. All documents and transmission verification reports shall be available for inspection by the District and copies provided to the District upon request.

9.16 Good Faith Efforts. A Contractor must take the following good faith steps to demonstrate that it has made every effort to reach the goals for employing Eligible Workers as set forth in this Article 9. Each Contractor performing work under this Agreement shall attend a Pre-Job Meeting held under this Agreement and shall submit written workforce projections and projected work hours on a craft-by-craft basis.

9.16.1 Within seven (7) calendar days after being issued a Notice to Proceed, the Contractor shall meet with the Joint Administrative Committee to present its plan for reaching the hiring objectives under this Article 9.

9.16.2 The Contractor shall document and retain such documents regarding its request(s) of Eligible Workers from the Union hiring halls and any community based organization(s) as proof of its good faith efforts.

9.16.3 The Contractor shall notify the Project Manager of the District by U.S. Mail or electronic mail if a Union cannot, upon request by the Contractor, dispatch an individual qualified as an Eligible Worker to the Project.

9.16.4 It shall be the responsibility of the Contractor to retain all evidence of its good faith efforts. Proof of substantial compliance with the requirements of this section and section 9.10 shall satisfy the requirement of good faith effort under this Agreement.

9.17 Consequences for Non-Compliance. District staff and the JAC shall monitor the operation of the referral program and the JAC shall consider allegations of non-compliance with the goals stated in this Article 9. If there is a determination by the JAC that a Contractor has not complied with the goals or demonstrated good faith efforts to do so, the issue will be referred to the grievance procedure as provided in Article 12 of this Agreement.

9.17.1 At any time during the process of compliance review, the Contractor can negotiate a settlement with the JAC.

9.18 Funding. To cover the expenses related to the implementation and management of the referral objectives of this Article 9 and the costs of services provided by community based organizations in support of the objectives of this Agreement, each Contractor shall contribute ten cents (\$0.10) per hour worked/paid for each construction worker performing work on a Project. The JAC shall establish an account for the receipt and distribution of funds contributed under this Section 9.18 and shall establish administrative procedures to manage such resources.

ARTICLE 10 **HELMETS TO HARDHATS**

10.1 The parties recognize a desire to facilitate the entry into the Building and Construction Trade Union(s) of Veterans who are interested in careers in the building and construction industry. The parties agree to utilize the services of the Center for Military Recruitment, Assessment and Veteran's Employment ("Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

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

ARTICLE 11 **JOINT ADMINISTRATIVE COMMITTEE**

11.1 The parties to this Agreement shall establish a Joint Administrative Committee ("JAC"). This Committee shall be comprised of an equal number of representatives appointed by the District and by the signatory Council(s), however the collective total number of Committee members shall not exceed ten (10). District staff and the Councils and Unions respectively will select an alternate for each Committee representative who shall serve in place of an absent Committee member for any purpose contemplated by this Agreement. There shall be one (1) co-

chairperson appointed by the Committee members appointed by the District and one (1) co-chairperson appointed by the Committee members appointed by the Councils. The Co-chairs shall preside over the meetings of the JAC.

11.2 Members of the JAC shall meet as required, but not less than once each quarter, to review the implementation of the Agreement and the progress of current Projects including, but not limited to: compliance with Article 8 (*Disadvantaged Business Enterprise Program*), Article 8A (*Small Business Program*), Article 12 (*Grievance Resolution Procedure*), Article 15 (*Wages/Benefits*), Article 9 (*Referral Procedures*), safety, craft workforce levels, construction progress and the administration of revenue and distributions of funds generated under section 9.18, above. In addition, the JAC, through mutual agreement of the Committee members, may add additional construction projects to the Projects covered by this Agreement. A special call meeting of the JAC may be called by either Co-chairperson. Requests for certified payroll made by a Joint Labor/Management Committee to which the Union(s) signatory to this Agreement are a party shall be provided as allowed by law.

11.3 Attendance at meetings of the JAC is limited to District staff representatives, the representatives of the Unions, the Prime Contractor(s)'s designated representatives (as applicable) and the Jobs Coordinator, except for invitees as may be determined by the JAC.

11.4 Should any of the arbitrators identified in this Agreement no longer work as a labor arbitrator, the JAC shall agree to a replacement, and the parties agree to recognize the replacement arbitrator.

11.5 Except for the issue of adding additional construction projects to the Projects covered by this Agreement, any deadlock vote by the JAC shall be resolved pursuant to Step 3 of the Grievance Arbitration Procedure contained in Article 12 of this Agreement.

ARTICLE 12

GRIEVANCE ARBITRATION PROCEDURE

12.1 All Project labor disputes involving the application or interpretation of the Schedule A Agreement to which a signatory Contractor and a signatory Union are parties shall be resolved pursuant to the resolution procedures of such Schedule A Agreement. All disputes involving discipline and/or discharge of employees working on the Project shall be resolved through the grievance and arbitration provision contained in the Schedule A Agreement for the craft of the affected employee. All disputes relating to the interpretation or application of this Agreement that do not fall within the Article 4, *Work Stoppages, Strikes, Sympathy Strikes and Lockouts*, or Article 13, *Jurisdictional Disputes*, shall be governed by the following grievance and arbitration procedure. No grievance shall be recognized unless the grieving party provides notice in writing to the signatory party with whom it has a dispute within seven (7) calendar days after becoming aware of the dispute, but in no event more than thirty (30) calendar days after it reasonably should have become aware of the event giving to the dispute. The limits in this Section 12.1 may be extended by mutual written agreement of the parties.

12.2 Grievances shall be settled according to the following procedures:

Step 1: Within seven (7) calendar days after the receipt of the written notice of grievance, the parties to the grievance shall confer and attempt to resolve the grievance.

Step 2: In the event that the representatives are unable to resolve the dispute within seven (7) calendar days after its referral to Step 1, either involved party may submit it within three (3) calendar days to the Joint Administrative Committee which shall meet within seven (7) calendar days after such referral (or such longer time as mutually agreed upon by all representatives of the JAC), to confer in an attempt to resolve the grievance. Regardless of which party has initiated the grievance proceeding, prior to the meeting of the Joint Administrative Committee, the Union(s) shall notify its International Union(s) Representative(s), which shall advise both parties if they intend on participating in the meeting. The participation by the International Union(s) Representative(s) in this Step 2 meeting shall not delay the time set herein for the meeting, unless otherwise mutually agreed by the parties. A decision of the Joint Administrative Committee shall be final and binding. If the dispute is not resolved within such time (seven (7) calendar days after its referral or such longer time as mutually agreed upon) it may be referred within seven (7) calendar days by either party to Step 3.

Step 3: Within seven (7) seven calendar days after referral of a dispute to Step 3, the representatives of each party shall choose an arbitrator for final and binding arbitration. The parties agree that an arbitrator shall be selected by the alternate striking method from the following list. The party who shall strike the first name shall be selected by the toss of a coin.

1. Barry Winograd
2. Robert Hirsh
3. William Riker
4. William Engler
5. Morris Davis

12.3 The arbitrator shall attempt to arrange for a hearing no later than fourteen (14) calendar days from the date of his/her selection. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the presiding arbitrator. The time limits specified in any step of the Grievance Procedure set forth in Section 12.2, above, may be extended by mutual agreement of the parties initiated by the written request of one party to the other, at the appropriate step of the Grievance Procedure. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without agreement on an extension of time, shall be deemed a waiver of such grievance without prejudice, or without precedent to the processing of and/or resolution of like or similar grievances or disputes.

12.4 The decision of the arbitrator shall be binding on all parties. The arbitrator shall not have authority to change, amend, add, or detract from any of the provisions of the Agreement. In

addition to any other remedy provided for in the applicable Schedule A, at a minimum, the arbitrator may impose the *Alcan* remedy for violations of *Union Security* (Article 7) and *Referral* (Article 9). The expense of the Arbitrator shall be borne equally by both parties.

12.5 In order to encourage the resolution of disputes and grievances at Step 1 and 2 of this Grievance Procedure, the parties agree that such settlements shall not be precedent setting.

ARTICLE 13 **JURISDICTIONAL DISPUTES**

13.1 The assignment of Covered Work will be solely the responsibility of the Contractor performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the “Plan”) or any successor Plan.

13.2 All jurisdictional disputes on this Project between or among the Union(s) and the Contractor, parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department, or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Contractor and Union(s) parties to this Agreement.

13.2.1 If a dispute arising under this Article involves the Northern California Carpenters Regional Council or any of its subordinate bodies, an Arbitrator shall be chosen by the procedures specified in Article V, Section 5, of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch and Thomas Pagan and the Arbitrator’s hearing on the dispute shall be held at the offices of the California State Building and Construction Trades Council in Sacramento, California, within fourteen (14) calendar days of the selection of the Arbitrator. All other procedures shall be as specified in the Plan.

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

13.4 Each Contractor shall conduct a Pre-Job Conference with the applicable Council(s) prior to commencing Covered Work. The District will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Contractors may be held together.

ARTICLE 14 **MANAGEMENT RIGHTS**

14.1 The Contractors shall retain full and exclusive authority for the management of their operations, including the right to direct their work force in their sole discretion except as

otherwise limited by the terms of this Agreement and/or the Schedule A Agreements. No rules, customs or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of construction persons except that the lawful manning provisions of the Schedule A Agreements shall be recognized.

ARTICLE 15

WAGES/BENEFITS

15.1 All Contractors agree to pay contributions to the established vacation, pension and other form of deferred compensation plan, apprenticeship, and health benefit trust funds established by the applicable Master Agreement for each hour worked on the Project in the amounts designated in the Schedule A Agreements of the appropriate local Unions.

15.2 By signing this Agreement, the Contractors adopt and agree to be bound by the written terms of the legally established trust agreements for the benefit trust funds, as described in section 15.1 of this Agreement, specifying the detailed basis on which payments are to be made into, and benefits paid out of, such trust funds. The Contractors authorize the parties to such local trust agreements to appoint trustees and successor trustees to administer the trust funds and hereby ratify and accept the trustees so appointed as if made by the Contractor(s). The Contractor agrees to execute a separate subscription agreement(s) for trust funds when such trust fund(s) require such documents.

15.3 Wages, Hours, Terms and Conditions of Employment: The wages, hours and other terms and conditions of employment on a Project shall be governed by the Schedule A Agreement of the respective crafts to the extent such Schedule A Agreement is not inconsistent with this Agreement. Where a subject is covered by the Schedule A Agreement and not covered by this Agreement, the Schedule A Agreement will prevail. When a subject is covered by both the Schedule A Agreement and this Agreement, to the extent there is any inconsistency, this Agreement will prevail.

15.4. Holidays: Holidays shall be in compliance with the applicable Schedule A Agreement.

ARTICLE 16

MODIFIED SCHEDULE A AGREEMENTS

16.1 Certain Provisions Shall Not Apply. Provisions negotiated into the new or modified Schedule A Agreements which are less favorable to the Contractor than those uniformly required of employers for construction work normally covered by those agreements or which may be construed to apply exclusively or predominately to work covered by this Agreement shall not apply to work covered by this Agreement. Any disagreement between the parties regarding the application of the provisions of any new or modified collective bargaining agreement to work covered by this Agreement pursuant to this Article shall be resolved under the dispute and grievance arbitration procedures set forth in Article 12 hereof.

ARTICLE 17
DRUG & ALCOHOL TESTING

17.1 The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms at any time during the work day is prohibited.

17.2 The Parties agree to recognize and use the Substance Abuse Prevention Program contained in each applicable Union's Schedule A Agreement.

ARTICLE 18
SAVINGS CLAUSE

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

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

ARTICLE 19
ENTIRE AGREEMENT

19.1 This Agreement represents the complete understanding of the parties. The provisions of this Agreement, including the Schedule A Agreements, which are incorporated herein by reference, shall apply to the work covered by this Agreement. Where a subject covered by the provisions of this Agreement is also covered by a Schedule A Agreement, the provisions of this Agreement shall prevail. Where a subject is covered by the provisions of a Schedule A Agreement and is not covered by this Agreement, the provisions of the Schedule A Agreement shall prevail.

19.2 The parties agree that this Agreement, including the Schedule A Agreements incorporated by reference, covers all matters affecting wages, hours, and other terms and conditions of employment and that during the term of this Agreement the parties will not be required to negotiate on any further matters affecting these or any other subject not specifically set forth in this Agreement except by mutual agreement of the parties.

19.3 This Agreement may be executed in counterparts, such that original signatures may appear on separate pages and when bound together all necessary signatures shall constitute an original. Facsimile or PDF signature pages transmitted to other parties to this Agreement shall be deemed the equivalent to original signatures.

ARTICLE 20
TERM

20.1 Execution of this Agreement shall be included as a condition of the award of any Construction Contracts for a Project.

20.2 Subsequent to the first one hundred eighty (180) calendar days following the execution of this Agreement by the parties, the Councils may request through the JAC that this Agreement be opened and the parties meet and confer on the sole issue of whether or not additional individual construction projects be added to the Projects covered by this Agreement.

20.3 This Agreement shall continue in full force and effect for a period of five (5) years from the date of execution by the District. Within ninety (90) calendar days prior to the end of the five (5) year period, either the District or the Councils may reopen certain provisions of the Agreement, or the Agreement in its entirety, by providing written notice to the other party of the re-opener. Upon Notice, the District and the Councils shall meet and confer to reach resolution regarding the reopener, during which time this Agreement shall remain in full force and effect. Absent Notice, this Agreement shall rollover for an additional five (5) year period. The District and the Councils may mutually agree to amend this Agreement. Any Project commenced under this Agreement prior to the date of termination shall be covered by this Agreement until Completion.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK]

EXHIBIT A
PROJECT LIST

	Project Name	Estimated Date of Bid Advertisement
1	Transbay Tube Retrofit	Q1 2016
2	El Cerrito Del Norte Station Modernization	Q2 2016
3	19th Street BART Station Improvement Project	Q2 2016
4	Canopy/Escalator Replacement-Powell Street and Civic Center Stations	Q2 2016
5	New Operations Control Center	Q1 2018
6	Tunnel Lighting Upgrade	Q4 2016
7	34.5kV AC Pipe Cables from ACO-ANA	Q4 2016
8	CBTC Design-Build (Installation Portion)	Q2 2017
9	SF Escalators and Future Phases	Q4 2018

ADDENDUM A

**BAY AREA RAPID TRANSIT DISTRICT
PROJECT STABILIZATION AGREEMENT
AGREEMENT TO BE BOUND**

The undersigned, as a Contractor or Subcontractor ("Contractor") on a Project covered by the San Francisco Bay Area Rapid Transit District Project Stabilization Agreement ("Project"), for and in consideration of the award to it of a contract to perform work on said Project, and in further consideration of the mutual promises made in the Project Stabilization Agreement ("Agreement"), a copy of which was received and is acknowledged, hereby:

1. Accepts and agrees to be bound by the terms and conditions of the Agreement, together with any and all amendments and supplements now existing or which are later made to said Agreement.
2. Certifies that it has no commitments or agreements which would preclude its full and complete compliance with the terms and conditions of said Agreement;
3. Agrees to secure from any Contractor (as defined in said Agreement) which is or becomes a subcontractor (of any tier) to it, and from any successors, a duly executed Agreement to be bound in form identical to this document.
4. By executing this Agreement to Be Bound, the undersigned party subscribes to, adopts and agrees to be bound by the written terms of the legally established trust agreements and plans for the provision of fringe benefits that accrue to the undersigned's employees, as set forth in Article 15 of the Agreement, pursuant to the applicable Master Labor Agreement, as they may from time to time be amended, specifying the detailed basis upon which contributions are to be made into, and benefits made out of, such trust funds and ratifies and accepts the trustees appointed by the parties to such trust funds. Contractor agrees to execute a separate Subscription Agreement(s) for each trust fund that requires such a document.

This document shall constitute a subscription agreement, to the extent of the terms of the letter.

Date _____ Company Name _____

Name of Prime Contractor or

Higher Level Subcontractor _____

Signature _____ Print Name _____

Title _____ Contractor's License # _____

Motor Carrier Permit (CA) #: _____ CA Public Works Contractor Registration #: _____

ADDENDUM B
Schedule A Agreements