

COMMUNITY WORKFORCE AND TRAINING AGREEMENT OLIVEHURST PUBLIC UTILITY DISTRICT

INTRODUCTION/FINDINGS

~~This~~ ~~The purpose of this~~ Community Workforce and Training Agreement is entered into this _____ day of _____, 20____, by and between Olivehurst Public Utility District (“OPUD”), together with its contractors and subcontractors of all tiers, who shall become signatory to this Agreement by signing the “Agreement to be Bound” (Addendum A) (hereinafter “Contractor(s)/ Employer(s)”), and the Mid-Valley Building and Construction Trades Council, AFL-CIO (hereinafter the “Trades Council”) and the labor organizations that become signatory to this Agreement (hereinafter collectively, the “Union(s)”).

This Agreement is intended to and does apply to the specific Project enumerated in Section 1.6 herein receiving funding from the Yuba Water Agency (the “Project”).

The purpose of this Agreement is to promote efficiency of operations in the construction of the Olivehurst Public Utility District’s (“OPUD”) water and wastewater infrastructure project between OPUD and the Yuba Water Agency that ~~is are~~ subject to this Agreement through the use of skilled labor resulting in quality construction outcomes, and to provide for the peaceful settlement of labor disputes and grievances without disruption caused by strikes or lockouts, thereby promoting the public interest in assuring the timely and cost-effective completion of the projects, while at the same time supporting employment and career development opportunities for workers who are residents of OPUD’s service areas. OPUD and Trade Council may mutually agree in writing to modify the scope of the Project to be covered under this Agreement.

A. WHEREAS, ~~The OPUD Board of Directors has determined that~~ the timely, successful and cost-effective completion of the OPUD public works project is of the utmost importance to meet the needs of OPUD and the residents it serves and avoid increased costs resulting from delays in construction; and -

B. — ~~OPUD has determined that applying a uniform workforce agreement to the project will provide efficiencies for OPUD and its contractors.~~

BC. WHEREAS, ~~C~~community workforce and training agreements and similar workforce agreements have been used successfully to achieve the goals and objectives set forth in this Agreement by other public agencies and private entities on major construction projects in the region; and-

CD. WHEREAS, ~~H~~large numbers of workers of various skills will be required in the performance of the construction work, including those workers represented by the Local Unions signatory to this Agreement and employed by contractors and subcontractors who are signatory to this Agreement; and-

DE. WHEREAS, ~~The~~ use of skilled labor on construction work increases the safety of construction operations and the quality of completed work; ~~and-~~

EF. WHEREAS, ~~on Projects of this magnitude~~ ~~The project subject to this Agreement will require with~~ multiple contractors and bargaining units ~~to be~~ on the job site at the same time over an extended period of time, ~~increasing~~ the potential for work disruption ~~may be substantial~~ in the absence of an overriding commitment to maintain continuity of work ~~and labor peace; and-~~

FG. WHEREAS, ~~The~~ interests of the general public and the residents served by OPUD, OPUD, the Contractor(s), and the Unions would be best served if the construction work proceeded in an orderly manner without disruption and delay ~~because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns, or other interferences with work; and-~~

GH. WHEREAS, ~~The~~ Contractor(s) and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the construction projects subject to this Agreement ~~and to encourage close cooperation among the Contractors and the Unions~~ in order to promote a satisfactory, continuous and harmonious relationship among the parties to this Agreement; ~~and-~~

HI. WHEREAS, ~~t~~his 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 Project, insofar as a legally binding agreement exists between the Contractor(s) and the affected Union(s), except to the extent that the provisions of this Agreement are inconsistent with said collective bargaining agreements, in which event, the provisions of this Agreement shall prevail; ~~and-~~

IJ. WHEREAS, ~~The~~ contracts for the construction of the Project will be awarded in accordance with the applicable provisions of OPUD ordinances and policies, the California State Public Contract Code and other applicable state, local and federal laws; ~~and-~~

JK. WHEREAS, OPUD has the right and is legally obligated, subject to certain exceptions, to select the lowest responsive and responsible bidder for the award of construction contracts on the Project or to reject all bids; ~~and.~~

KL. WHEREAS, OPUD places a high priority on ensuring its investments in large construction projects also support training and employment opportunities for local area residents, disadvantaged workers, and military veterans; ~~and-~~ OPUD recognizes the ability of local apprenticeship programs to provide meaningful and sustainable careers in the building and construction industry; ~~and.~~

LM. WHEREAS, ~~The~~ parties signatory to this Agreement pledge their full good faith and trust to work towards mutually satisfactory completion of ~~the OPUD public works P~~projects subject to this Agreement.

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

ARTICLE I
DEFINITIONS

1.1 "Agreement" means this Community Workforce and Training Agreement.

1.2 "Agreement to be Bound" means the agreement (attached hereto and incorporated herein as Addendum A) required to be executed by any Contractor(s) working on the Project as a precondition to performing Covered Work on the Project.

1.3 "Completion" means the point at which there is Final Acceptance by OPUD of a Construction Contract and OPUD has filed a, ~~which occurs when OPUD determines that the entire Project is complete in accordance with the terms of the contract for Covered Work. The date of completion of the entire Project shall be specified in any~~ Notice of Completion filed pursuant to Civil Code Section 9204. For purposes of this definition, "Final Acceptance" means that point in time at which the OPUD 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 OPUD has executed a written acceptance of the work.

1.3 "Construction Contract" means the all public works contract(s) approved by OPUD for thea Project, including design-bid-build, design-build, lease-leaseback or other contracts under which Covered Work construction of the Project is performed, awarded by OPUD that is necessary to complete the Project as defined herein.

1.4 "Contractor" or "Contractor(s)" means any person, firm, corporation, or other entity, or any combination thereof, including joint ventures, and any successor or assigns of such persons or entities, that is an independent business enterprise and has entered into a contract with OPUD with respect to the construction of any part of, ~~or with any other person or entity contracting for work on~~ the Project ~~on behalf of OPUD~~ (whether by design-bid, design-build, lease-leaseback or other means), with respect to the construction of any part of the Project under contract terms and conditions approved by OPUD, and any of its contractors or subcontractors of any tier.

1.5 "Master Agreement" or "Schedule A" means the Master Collective Bargaining Agreement of each craft Union signatory hereto, copies of which shall be provided to OPUD or the Employer(s) promptly upon request.

1.6 "Project" means the construction of the wastewater infrastructure referred to as the Olivehurst Public Utility District's Conveyance Design Project, and associated infrastructure and related improvements. Included in The Project includes, but is not limited to, is the force main pipe along Rancho Road between a new Pump Station (#3) near S. Beale Road and a new pump station near Ostrom Road as well as a new shared pipeline and pump station facilities at the Ostrom Road Pump Station to OPUD's wastewater treatment plant.

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1.7 "Project Manager" means the person or business entity designated by, or under contract with OPUD to oversee all phases of construction on the Project and the implementation of this Agreement and who works under the direction of OPUD.

1.8 "Trades Council" means the Mid-Valley Building and Construction Trades Council, AFL-CIO.

1.9 "Union" or "Unions" means the labor organizations that are 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 ("Local Unions"). The Trades Council and the Local Unions are collectively referred to herein as the "Unions."

ARTICLE II **SCOPE OF AGREEMENT**

2.1 Parties. This Agreement applies to and is limited to all Contractor(s) performing Construction Contracts on the Project, OPUD, the Trades Council and the Local Unions that are signatory to this Agreement.

2.2 Applicability. This Agreement governs all Construction Contracts awarded on the Project subject to this Agreement. For purposes of this Agreement, a Construction Contract is considered completed as described in Section 1.4, except when OPUD's authorized representative directs a Contractor to engage in repairs, warranty work, or modifications as required under the original Construction Contract with OPUD.

2.2.1 Covered Work. This Agreement covers, without limitation, all on-site ~~site~~ preparation, surveying, construction, alteration, demolition, installation, improvement, ~~landscaping~~, painting or repair of buildings, structures and other works, and related activities for the Project that is within the craft jurisdiction of one of the Unions and which is directly or indirectly part of the Project, including, without limitation to the following examples: geotechnical and exploratory drilling, temporary HVAC, landscaping and temporary fencing, pipelines (including those in linear corridors built to serve the Project), pumps, pump stations, and modular furniture installation. This Agreement covers On-site work includes work done solely for the Project in temporary yards, dedicated sites, or areas adjacent to the Project, and at any on-site or off-site batch plant constructed solely to supply materials to the Project. 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.

2.2.2 This Agreement applies to any start-up, calibration, commissioning, performance testing, repair, maintenance, or operational revisions to systems and/or subsystems for the Project performed pursuant to that are part of the original a Construction Contract, ~~including when performed after Completion,~~ unless ~~it is~~ performed by OPUD employees or excluded pursuant to Section 2.3.8.

2.2.3 This Agreement covers all on-site fabrication work over which OPUD, Contractor(s) or their subcontractors possess the right of control (including work done for the Project in any temporary yard or area established solely for the Project). Additionally, this

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Agreement covers any off-site fabrication work necessary for the Project that is traditionally performed by any of the Unions and that is covered by a Master Agreement or local addenda to a National Agreement of the applicable Union(s) in effect as of the execution date of this Agreement.

2.2.4 The furnishing of supplies, equipment or materials that are stockpiled for later use are not covered by this Agreement. However, construction trucking work, such as the delivery of ready-mix, asphalt, aggregate, sand, or other fill or material that is 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 allowed by law~~. Contractor(s), including brokers, of persons providing construction trucking work shall provide certified payroll records to OPUD within ten (10) calendar days of written request or as required by the Construction Contract.

2.2.5 Work covered by this Agreement within the following craft jurisdictions shall be performed under the terms of their National Agreements as follows: the National Transient Lodge (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 IV, XIV and XVI of this Agreement shall apply to such work.

2.3 Exclusions from Covered Work

2.3.1 This Agreement is limited to construction work on the Project and is not intended to and shall not affect or govern the award of construction contracts by OPUD which are not a part of a Project.

2.3.2 This Agreement does not apply to a Contractor(s)' non-construction craft employees, including but not limited to executives, managerial employees, contract and/or construction managers, engineering employees, superintendents and supervisors above the level of General Foreman (except those covered by existing Master Agreements), staff engineers or other professional engineers, administrative, management, office, professional, and clerical employees.

2.3.3 This Agreement does not apply to work by employees of OPUD.

2.3.4 This Agreement is not intended to, and shall not, affect the operation or maintenance of any other public facilities within the District not included in the Construction Contract.

2.3.5 This Agreement shall not be construed to prohibit or restrict the District or its employees and consultants from performing non-Project work on or around the Project Site or from entering the Project Site for any purposes deemed necessary or appropriate by the District.

2.3.3.2.3.6 This Agreement shall not apply to any non-Project work performed on or near or leading to the site of work covered by this Agreement that is undertaken by state, county, city, or other governmental bodies or their contractors. Work performed by public or private utilities including all electrical utility, voice-data-video, and security installation work ahead of and up to the electrical service entry connection or the main

point of entry into the building shall be excluded. All electrical utility, voice-data-video, and security installation work performed after the electrical utility service entrance or the main point of entry shall be Covered Work. Additionally, all contracted work performed ahead of the service entrance connection and main point of entry that is inside the property line and provides for access to the building via a conduit or series of conduits shall be Covered Work.

2.3.7 The Agreement does not apply to off-site maintenance of leased equipment and on-site supervision of such work. This Agreement shall not apply to persons engaged in on-site equipment warranty work unless covered by a Schedule A.

2.3.8 This Agreement shall not apply to quality assurance work performed by or on behalf of the District unless covered by a Schedule A or by a prevailing wage determination. In addition, this Agreement shall not apply to quality assurance work to be performed by persons not covered by this Agreement.

2.3.9 This Agreement shall not apply to training of District personnel after Completion of the Project. However, in the event such training is covered by a Schedule A or prevailing wage determination and performed within the scope of the Prime Contractor/Employer's Construction Contract (including, if performed by a third-party commissioning agent), it shall be covered by this Agreement unless Section 2.4.9 applies.

2.3.10 Once a Construction Contract is completed, it is no longer covered by this Agreement except when a Contractor/Employer is directed to engage in repairs, warranty work or modifications required under the Construction Contract with the District.

2.3.11 This Agreement shall not apply to non-construction support services contracted by the District or any Contractor/Employer in connection with a Project. For purposes of clarification, the parties agree that "construction trucking" is not a non-construction support service.

2.3.12 Nothing in this Agreement shall limit the District's right to combine, consolidate, or cancel contracts for Project construction. However, should the District remove any work and/or contract from a Project and thereafter authorize that work and/or contract to be commenced, then such work and/or contract shall be performed under the terms of this Agreement.

2.3.13 This Agreement shall not apply to any off-site environmental mitigation work not performed under the Prime Contractor/Employer's Construction Contract.

2.3.14 The Agreement does not apply to laboratory work for specialty testing or inspections and all testing or inspections not covered by the Master Agreement of one of the signatory Unions.

2.4 Award and Enforcement of Construction Contracts. Notwithstanding any other provision of this Agreement, OPUD has the absolute right to select any qualified bidder for the award of Construction Contracts and to enforce all provisions of its Construction Contracts. The bidder need only be willing, ready and able to execute the Addendum A Agreement to be Bound and comply with this Agreement. This Agreement shall be included in all invitations to bid or solicitations for proposals from contractors or subcontractors for work on the Project that

are issued on and after the effective date of this Agreement.

ARTICLE III
EFFECT OF AGREEMENT

3.1 By executing this Agreement, the Unions and OPUD agree to be bound by the terms and conditions of the Agreement. The Councils, Unions and District acknowledge and agree that as the Projects are not yet fully designed, this Agreement is based on currently known information, and in the event unknown issues or conditions are revealed, the parties agree to cooperate in addressing those issues within this Agreement.

3.2 By accepting the award of a Construction Contract for the Project, whether as contractor or subcontractor, the Contractor(s) agrees to be bound by each and every provision of the Agreement, and agrees that it will evidence its acceptance prior to the commencement of work by executing the Agreement to be Bound in the form attached hereto as Addendum A.

3.3 At the time that any Contractor(s) enters into a subcontract with any subcontractor providing for the performance of a Construction Contract, the Contractor(s) shall provide a copy of this Agreement to such subcontractor, and shall require their subcontractor, as a condition ~~to~~of accepting an award of a construction subcontract, to agree in writing to be bound by each and every provision of this Agreement prior to the commencement of work by executing the Agreement to be Bound in the form attached hereto as Addendum A.

3.4 This Agreement is only binding on the signatories and their successors and assigns, and does not apply to the parents, affiliates, subsidiaries, or other ventures of any such party. Each Contractor and subcontractor are solely liable and responsible for its own individual acts and conduct and for any breach or alleged breach of this Agreement, except as otherwise provided by law or the applicable Schedule A. Any dispute between the Union(s) and the Contractor(s) respecting compliance with the terms of the Agreement, shall not affect the rights, liabilities, obligations, and duties between the signatory Union(s) and other Contractor(s) party to this Agreement. Any liability by a signatory Union to this Agreement shall be several and not joint. Any alleged breach of this Agreement by a signatory Union does not affect the rights, liabilities, obligations, and duties between the signatory Contractor(s) and the other Union(s) party to this Agreement.

3.5 In the event OPUD does not receive at least three (3) responsive bids for a Construction Contract and intends to re-bid the Construction Contract, OPUD and the Trade Council shall meet and confer, at OPUD's request, regarding how to facilitate completion of the Project.

~~3.5.6~~ The provisions of this Agreement, including the Master Agreements of the Local Unions having jurisdiction over the work on the Project, incorporated herein by reference, shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement. Where a subject covered by the provisions of this Agreement is also covered by a Master Agreement, the provisions of this Agreement shall prevail. Where a subject is covered by the provisions of a Master Agreement and is not covered by this

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Agreement, the provisions of the Master Agreement shall prevail.

ARTICLE IV
WORK STOPPAGES, STRIKES, SYMPATHY
STRIKES AND LOCKOUTS

4.1 The Unions, OPUD and Contractor(s) covered by the Agreement agree that for the duration of the Project:

4.1.1 There shall be no strikes, sympathy strikes, work stoppages, “work to rule,” sickouts, boycotts, picketing of any type (including area standard wage or informational picketing), handbilling, bannering, or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions or Contractor employees employed on the Project, at the job site of the Project or at any other facility of OPUD because of a dispute on the Project. Disputes arising between the Unions and Contractor(s) on other OPUD projects are not governed by the terms of the Agreement or this Article.

4.1.2 No craft employee shall engage in activities that violate this Article. Any craft employee who violates this article shall be subject to disciplinary action, including up to discharge, and, if justifiably discharged for the above reasons, shall not be eligible for rehire on the Project for a period of not less than ninety (90) days.

4.1.24.1.3 There shall be no lockout of any kind by a Contractor of workers employed on the Project.

4.1.34.1.4 If a Master Agreement expires before the Contractor completes the performance of work under ~~a the~~ Construction Contract and the Union or Contractor gives notice of demands for a new or modified Master Agreement, the Union agrees that it will not strike on work covered under this Agreement and the Union and the Contractor agree that the expired Master Agreement shall continue in full force and effect for work covered under this Agreement until a new or modified Master Agreement is reached.

4.1.44.1.5 In the case of nonpayment of wages or trust fund contributions on the Project, the Union shall give OPUD and the Contractor(s) three (3) business days' notice when nonpayment of trust fund contributions has occurred and one (1) business days' notice when nonpayment of wages has occurred or when paychecks being tendered to a financial institution normally recognized to honor such paychecks will not honor such paycheck as a result of insufficient funds, of the intent to withhold labor from the Contractor(s) or their subcontractor's workforce, during which time the Contractor shall have the opportunity to correct the default. In this instance, a Union's withholding of labor (but not picketing) from a Contractor who has failed to pay its fringe benefit contributions or failed to meet its weekly payroll shall not be considered a violation of this Article. Also in such event, the Contractor/Employer shall have the right to replace such Contractor/Employer(s) or subcontractor with any other Contractor/Employer or subcontractor who executes the Agreement to be Bound.

4.1.54.1.6 If OPUD or any Contractor contends that any Union has violated

this Article, it will notify in writing (including email) the Senior Executive of the Trades Council and the Senior Executive of the Union, setting forth the facts alleged to violate the Article, prior to instituting the expedited arbitration procedure set forth below. The Senior Executive of the Trades Council will immediately use his/her best efforts to cause the cessation of any violation of this Article. The leadership of the Union will immediately inform the membership of their obligations under this Article. A Union complying with this obligation shall not be held responsible for unauthorized acts of employees it represents.

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

4.2.1 A party invoking this procedure shall notify Barry Winograd, as the permanent arbitrator, or John Kagel, as the alternate arbitrator under this procedure. In the event that 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 Section 14.2. Notice to the arbitrator shall be by the most expeditious means available, with notices by facsimile, email or telephone to OPUD and the party alleged to be in violation, and to the Trades Council and involved Local Union if a Union is alleged to be in violation.

4.2.2 Upon receipt of said notice, OPUD will contact the designated arbitrator named above or his alternate who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

4.2.3 The arbitrator shall notify the parties by facsimile, email or telephone of the place and time for the hearing. The hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party to attend such hearings shall not delay the hearing of evidence or the issuance of an award by the arbitrator.

4.2.4 The sole issue at the hearing shall be whether or not a violation of Article IV, Section 4.1 of the Agreement has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation, or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) 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 and other appropriate relief and such award shall be served on all parties by hand or registered mail upon issuance. Should a party found in violation of this Article fail to comply with the arbitrator's award ordering the party to cease the violation, the party in violation shall pay to the affected party as liquidated damages the sum of ten thousand dollars (\$10,000.00) per shift for which it failed to comply, or portion thereof, until such violation is ceased. The arbitrator shall retain jurisdiction to resolve any disputes regarding the liquidated damages claimed under this section.

4.2.34.2.5 ~~The arbitrator's~~ 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. Written notice of the filing of such enforcement proceedings shall be given

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to the other party. In the proceeding to obtain a temporary order enforcing the arbitrator's award as issued under Section 4.2.4 of this Article, all parties waive the right to a hearing and agree that such proceedings may be *ex parte*. Such agreement does not waive any party's right to participate in a hearing for a final order or enforcement. The Court's order or orders enforcing the arbitrator's award shall be served on all parties by hand or delivered by certified mail.

4.2.44.2.6 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.

4.2.7 The fees and expenses of the arbitrator shall be divided equally between the party instituting the arbitration proceedings and the party alleged to be in breach of its obligation under this Article.

4.2.54.2.8 Should either the permanent or the alternate arbitrator identified above no longer work as a labor arbitrator, the District and the Council shall mutually agree to a replacement.

ARTICLE V **JOINT LABOR/MANAGEMENT MEETINGS AND** **PRE-JOB CONFERENCES**

~~5.1 — Joint Labor/Management Meetings. During the period of any work performed under this Agreement, joint Labor/Management meetings between the Contractor(s) and the Unions shall be held on a periodic basis to be determined by the parties. OPUD staff may attend at OPUD's discretion. The purpose of these meetings is to promote harmonious labor/management relations, ensure adequate communications and advance the proficiency and efficiency of the craft workers and contractors performing work at the Project. These meetings will include a discussion of safety, craft resource requirements, scheduling and productivity of work performed at the Project.~~

5.2 Pre-Job Conferences. The Project Manager shall convene and conduct, at a location and time mutually agreeable to the Trades Council, a Pre-Job Conference with representatives of all involved Contractor(s) and the Unions ~~at least twenty one (21) calendar days prior to the commencement of any Covered Work on the Project and prior to the commencement of any Covered Work on each subsequently awarded Construction Contract or phase of the Project.~~ The conference shall be attended by a representative of each participating Contractor and each affected Union. The Trades Council and OPUD may attend at their discretion. The Project Manager and the Contractor(s) shall be prepared to discuss in detail: (i) the scope of work for each Contractor; (ii) craft assignments; (iii) estimated number of craft workers required to perform the work; (iv) transportation arrangements; (v) estimated start and completion dates of the work; and (vi) planned use of prefabricated materials. The meeting shall be held at a location mutually agreeable to the parties.

5.3 Review Meetings: In order to ensure that the terms of this Agreement are being fulfilled and the concerns of the District, Unions and Contractors/Employers are addressed, the District, and the Council, or designated representatives thereof, shall meet on a periodic basis during the term of construction, and the Unions may attend at their discretion.

5.25.4 The District, the Contractor/Employer and the Councils agree to work together toward the efficient implementation of this Agreement.

ARTICLE VI
NO DISCRIMINATION

6.1 The Contractor(s) and Unions agree to comply with all anti-discrimination provisions of federal, state, and local law, to protect employees and applicants for employment, on the Project.

ARTICLE VII
UNION SECURITY

7.1 Contractors/The Employers recognize the Unions signatory to this Agreement as the sole and exclusive collective bargaining agents for their respective construction craft employees performing Covered Work for the Project, and further recognize the traditional and customary craft jurisdiction of each Union. Such recognition does not extend beyond the period when the employee is engaged in Project Work.

7.2 Contractors/Employees are not required to become or remain union members as a condition of performing Covered Work under this Agreement. Contractors/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 Master Agreement. Nothing in this Section 5.2 is intended to supersede the requirements of applicable Master Agreements as to those Employers otherwise signatory to such Master Agreements and as to the employees of those Employers who are performing Covered Work.

ARTICLE VIII
REFERRAL

8.1 Contractor(s) performing Covered Work ~~construction work~~ on the Project described in the Agreement shall, in filling craft job requirements, utilize and be bound by the registration facilities and referral systems established or authorized by the Local Unions (“Job Referral System”). Such Job Referral System shall be operated in a non-discriminatory manner and in full compliance with all federal, state, and local laws and regulations, including those which require equal employment opportunities and non-discrimination. The Contractor(s) shall have the right to reject any applicant referred by the Union(s) in accordance with this Article VIII.

8.2 The Contractor(s) shall have the unqualified right to select and hire directly all supervisors above the level of general foreman it considers necessary and desirable, without such persons being referred by the Union(s) consistent with Section 2.3.2 of this Agreement.

8.3 In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor(s) for employees within a forty-eight (48) hour period (Saturdays, Sundays and Holidays excluded) after such requisition is made by the Contractor(s), the Contractor(s) shall be free to obtain work persons from any source. A Contractor who hires any personnel 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 VII of this Agreement.

ARTICLE IX

LOCAL HIRE, APPRENTICESHIP AND WORKFORCE DEVELOPMENT

9.1 Local Hire. It is in the interest of the parties to this Agreement to promote and maximize the employment and training opportunities of residents within OPUD service areas and to develop increased numbers of local skilled construction workers to meet the requirements of the regional construction economy. It is ~~a goal~~ ~~the objective~~ of the parties that ~~not less than~~ forty percent (40%) of the combined journey-level and apprentice hours worked on the Project, on a craft-by-craft basis, be worked by residents of the Local Area. The “Local Area” is defined as the City of Wheatland, the City of Olivehurst, all other municipalities and unincorporated areas within Yuba County, and the additional eight counties identified in section 9.1.3. The Unions agree that residents of the Local Area shall be first referred for Project Work, including journey-level workers and apprentices covered by this Agreement, in the following order of priority:

- 9.1.1 Priority 1: Residents of the City of Wheatland and the City of Olivehurst.
- 9.1.2 Priority 2: Residents of Yuba County outside of the Cities of Wheatland and Olivehurst.
- 9.1.3 Priority 3: Residents of the Counties of Yolo, Plumas, Butte, Sutter, Sacramento, Placer, Nevada, and Sierra.

9.2 The Unions will exert their utmost efforts to recruit sufficient numbers of skilled craft persons and apprentices to fulfill the requirements of the contractor and to meet the Local Area resident hiring objectives of this Agreement. The Local Area residents referred by the Unions must possess the requisite skills and qualifications required for the position to be filled and such referrals shall be in accordance with law and consistent with the Local Union’s hiring hall rules and procedures.

9.3 The parties also recognize and support OPUD’s commitment to provide opportunities for participation of businesses within OPUD’s service areas on the Projects covered by this Agreement. In furtherance of this commitment and the local hire objectives of this Agreement, the parties agree that contractors and subcontractors whose principal place of business is within the County of Yuba and who are awarded work on the Project may request by name, and the Local Union will honor, referral of such Contractor’s “core” employees who have applied to the Local Union for Project work, and who demonstrate the following qualifications:

- (1) possess any license 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 two (2) years;
- (3) were on the Contractor's active payroll for at least ninety (90) out of the one hundred and twenty (120) calendar days prior to the contract award;
- (4) have the ability to perform safely the basic functions of the applicable trade;
and
- (5) are County of Yuba residents.

A County of Yuba resident is any individual who six (6) months prior to the award of the Construction Contract to the Contractor can certify through a utility bill or other similar means acceptable to the parties that the individual resides within the municipal boundaries of the County of Yuba.

9.4 [Subject to the provisions of Section 8.3 herein](#), ~~the~~ the Union will refer to such Contractor one journeyman employee from the hiring hall out-of-work list for the affected trade or craft and will then refer one of such Contractor's "core" employees as a journeyman and shall repeat the process, one and one, until such Contractor's crew requirements are met or until such Contractor has hired one (1) "core" employees, whichever occurs first. Thereafter, all additional employees in the affected trade or craft shall be hired exclusively from the hiring hall out-of-work list(s). For the duration of the Contractor's work, the ratio shall be maintained and when the Contractor's workforce is reduced, employees shall be reduced in the same ratio of core employees to hiring hall referrals as was applied in the initial hiring.

9.5 The work hours performed by any out-of-state residents shall not be included in the total work hours on the Project in calculating the percentage of total work hours worked by Local Area residents.

9.6 Apprenticeship and Workforce Development.

9.6.1 Recognizing the need to develop adequate numbers of competent workers in the construction industry, the Contractor(s) shall [make an effort to](#) employ apprentices of a California State--approved Joint Apprenticeship Training Program in the respective crafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured. The apprenticeship ratios will comply with the applicable provisions of the California Labor Code and Prevailing Wage Rate Determination. Consistent with the Master Agreements and state law, there shall be no restriction on the utilization of apprentices in performing the work of their craft provided they are properly supervised.

9.6.2 The Unions are committed to providing apprenticeship opportunities to veterans and disadvantaged workers with OPUD service areas. At least annually, the Unions will conduct a Community Career Fair within the OPUD service area to provide at-risk youth,

veterans, and others an opportunity to learn about each craft and the process for entering their apprenticeship programs.

9.7 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 IX. OPUD may, at its discretion, request that a ~~eContractor(s) or contractors~~ performing Covered Work under the Agreement provide OPUD a report documenting compliance with these provisions. The Contractor(s) and the Unions agree to cooperate in providing information required to prepare these reports.

ARTICLE X

HELMETS TO HARDHATS

10.1 The Contractor(s) and the Unions recognize a desire to facilitate the entry into the building and construction trades of veterans and members of the National Guard and Reserves who are interested in careers in the building and construction industry. The Contractor(s) and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center), a joint Labor-Management Cooperation Trust Fund, established under the authority of Section 6(b) of the Labor-Management Cooperation Act of 1978, 29 U.S.C. Section 175(a), and Section 302(c)(9) of the Labor-Management Relations Act, 29 U.S.C. Section 186(c)(9), and a charitable tax exempt organization under Section 501(c)(3) of the Internal Revenue Code, 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 Unions and Contractor(s) agree to coordinate with the Center to participate in an integrated database of veterans and members of the National Guard and Reserves interested in working on the Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

ARTICLE XI

WAGES AND BENEFITS

11.1 All Contractor(s) agree to pay all benefit contributions required by the applicable Master Agreement(s), including not not limited to ~~the established~~ vacation, pension and/or other forms of deferred compensation ~~plan~~, apprenticeship, worker protection and assistance, and health benefit funds established by the applicable Master Agreement for each hour worked on the Project in the amounts designated in the applicable Master Agreements of the appropriate Local Unions.

11.2 By signing this Agreement, the Contractor(s) adopts and agrees to be bound by the written terms of the legally established Trust Agreements, as described in Section 11.1, which may from time to time be amended, specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds. The Contractor(s)

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authorizes the parties to such local ~~T~~trust ~~A~~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(s) agrees to execute a separate Subscription Agreement(s) for a Trust Fund(s) when required by such Trust Fund(s).

~~11.3—11.3~~ Wages, Hours, Terms and Conditions of Employment. The wages, hours and other terms and conditions of employment on the Project shall be governed by the Master Agreement of the respective crafts to the extent such Master Agreement is not inconsistent with this Agreement. ~~All employees covered by this Agreement shall be classified and paid in accordance with the classification and wage scales contained in the appropriate local agreements which have been negotiated by the historically recognized bargaining entity and in compliance with the applicable general prevailing wage determination made by the Director of Industrial Relations pursuant to the California Labor Code.~~

~~11.4—During the period of construction on this Project, the Contractor(s) agrees to recognize and put into effect such increases in wages and recognized fringe benefits as shall be negotiated between the various Unions and the historically recognized local bargaining entity on the effective date as set forth in the applicable agreement. The Unions shall notify the Contractor(s) in writing of the specific increases in wages and recognized fringe benefits and the date on which they become effective.~~

11.4 Holidays. Holidays shall be in compliance with the applicable Schedule A agreement.

ARTICLE XII **COMPLIANCE**

12.1 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 XI. 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 Employers on the Project. OPUD shall monitor and enforce the Contractor(s)' compliance with this Agreement and State prevailing wage requirements to the extent required by law.

ARTICLE XIII **EMPLOYEE GRIEVANCE PROCEDURE**

13.1 All disputes involving the discipline and/or discharge of employees working on the Project shall be resolved through the grievance and arbitration provision contained in the Master Agreement for the craft of the affected employee. No employee working on the Project shall be disciplined or dismissed without just cause.

ARTICLE XIV
GENERAL GRIEVANCE PROCEDURE

14.1 Project Labor Disputes. All disputes involving the application or interpretation of the Master Agreement to which a signatory Contractor and a signatory Union are parties shall be resolved pursuant to the resolution procedures of that Master Agreement. All disputes relating to the interpretation or application of this Agreement, excluding work stoppages, strikes, sympathy strikes, and lockouts subject to Article IV, shall be subject to resolution by the grievance arbitration procedures set forth in this Article XIV.

14.2 No grievance shall be recognized unless the grieving party (Local Union or ~~Trades District~~ Council on its own behalf, or on behalf of an employee whom it represents, or a Contractor on its own behalf) provides notice in writing to the party with whom it has a dispute within five (5) business days after becoming aware of the dispute but in no event more than thirty (30) business days after it reasonably should have become aware of the event giving rise to the dispute. Time limits may be extended by mutual written agreement of the parties.

~~14.2~~14.3 Grievances shall be settled according to the following procedures:

Step 1: Within five (5) business days after the receipt of the written notice of the grievance, the Business Representative of the involved Local Union or ~~Trades District~~ Council, or his/her designee, or the representative of the employee, and the representative of the involved Contractor shall confer and attempt to resolve the grievance.

Step 2: In the event that the representatives are unable to resolve the dispute within the five (5) business days of the Step 1 meeting, within five (5) business days thereafter, the alleged grievance may be referred in writing by either involved party to the Business Manager(s) of the affected Union(s) involved and the Manager of Labor Relations of the Contractor(s) or the Manager's designated representative, for discussion and resolution. Regardless of which party has initiated the grievance proceeding, prior to a Step 2 meeting, the Union(s) shall notify its International Union representative(s), which shall advise both parties if it intends on participating in a Step 2 meeting. The Project Manager and the Trades Council shall have the right to participate in any efforts to resolve the dispute at Step 2.

Step 3: If the grievance is not settled in Step 2 within five (5) business days, within five (5) business days thereafter, either party may request the dispute be submitted to an Arbitrator for final and binding arbitration. The request for arbitration must be in writing with a copy to Project Manager. Should the parties be unable to mutually agree on the selection of an Arbitrator, selection for that given arbitration shall be made by seeking a list of seven (7) labor arbitrators with construction experience from the Federal Mediation and Conciliation Service and alternately striking names from the list of names on the list until the parties agree on an Arbitrator or until one name remains. The first party to strike a name from the list shall alternate between the party bringing forth the grievance and the party defending the grievance. The Project Manager shall keep a record of the sequence and shall notify the parties to the grievance as to which party has the right to strike a name first.

14.4 The decision of the Arbitrator shall be final and binding on all parties. The

Arbitrator shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement. The expense of the Arbitrator shall be borne equally by both parties. The Arbitrator shall arrange for a hearing on the earliest available date 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.

14.5 The time limits specified in any step of the Grievance Procedure set forth in Section 14.2 may be extended by mutual agreement of the parties. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without an agreed upon 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.

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

14.7 Retention. At the time a grievance is submitted under this Agreement or any Master Agreement, the Union(s) may request that OPUD withhold and retain an amount from what is due and owing to the Contractor(s) against whom the grievance is filed sufficient to cover the damages alleged in the grievance should the Union(s) prevail. The amount shall be retained by OPUD until such time as the underlying grievance giving rise to the retention is withdrawn, settled, or otherwise resolved, and the retained amount shall be paid to whomever the parties to the grievance shall decide, or to whomever an Arbitrator shall so order.

ARTICLE XV **JURISDICTIONAL DISPUTES**

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

15.2 All jurisdictional disputes on this Project between or among the Building and Construction Trades Unions and their employees, parties to this Agreement, shall be settled and adjusted according to the present Plan established by North America's Building Trades Unions or any other plan or method of procedure that may be adopted in the future by North America's Building Trades Unions. Decisions rendered shall be final, binding and conclusive on the Employers and Unions subject to this Agreement.

15.3 If a dispute arising under this Article involves the Northern California 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 John Kagel, Joel Schaffer, Robert Hirsch, and Thomas Pagan, and the Arbitrator's hearing on the dispute shall be held at the offices of the Mid Valley Building and Construction Trades Council in Yuba City, California within fourteen (14) days of the selection of the Arbitrator. All other

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procedures shall be as specified in the Plan. The resolution dispute procedure enunciated in this Section 15.3 shall be coordinated in such a manner so as to not delay the work of any Contractor.

15.4 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature and the Contractor's Employer's assignment shall be adhered to until the dispute is resolved. Individual employees violating this section shall be subject to immediate discharge.

15.5 Each Employer will conduct a pre-job conference with the Council prior to commencing work. The District and the Project Manager will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Employers may be held together. Assignment of work shall be discussed in the Pre-Job conference prior to commencing work as set forth in Article 12.

ARTICLE XVI **MANAGEMENT RIGHTS**

16.1 OPUD and its Contractor(s) shall retain full and exclusive authority for the management of their operations, including the right to direct their workforce in their sole discretion.

16.2 Exercising its judgment, the Contractor(s) shall utilize the most efficient and effective methods or techniques of construction, tools, or other labor saving devices. Except as provided in Section 2.3, there shall be no limitations upon the choice of materials or design, nor shall there be any limit on production by workers or restrictions on the full use of tools or equipment. There shall be no restriction, other than in accordance with safety regulations, on the number of employees assigned to any crew or to any service.

16.3 Except as provided by Section 2.2.3 and by the lawful manning provisions in the applicable Master Agreement, no rules, customs, or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees.

~~16.4~~16.4 The Contractor(s) may require all employees to observe Project Security and Safety Regulations. These include, without limitation, the requirements of OSHA, and any other applicable governmental agency, and as required by the insurer for the Project. These Project Regulations shall be reviewed and mutually agreed upon at the Pre-Job Conference, supplied to all employees at time of hire, and posted conspicuously on the jobsite.

ARTICLE XVII **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 workday is prohibited.

17.2 The parties agree to recognize and use the Substance Abuse Program contained in each applicable Local Union's Master Agreement.

17.3 If a Schedule A agreement does not contain a reasonable drug and alcohol testing

procedure, the procedures attached hereto as Addendum B or a sister Schedule A drug and alcohol testing procedure will apply. To be reasonable, the drug and alcohol testing procedure must comply with the insurance program governing the Project. If the Schedule A procedure is not in compliance with the insurance program governing the Project, the parties agree to meet and confer to select a program that is compliant. For testing administered under this Agreement, Contractors shall compensate employees for their time and cover costs of testing and any related expenses, in accordance with applicable law.

ARTICLE XVIII **SAVINGS CLAUSE**

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

18.2 If 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.

~~18.2~~18.3 If a court of competent jurisdiction determines that all or part of the Agreement is invalid and/or enjoins OPUD from complying with all or part of its provisions and OPUD accordingly determines that the Agreement will not be required as part of an award to a Contractor(s), the Unions will no longer be bound by the provisions of Article IV.

~~18.3~~18.4 The parties agree that should any Project subject to this Agreement receive a non-de minimis allocation of federal funds for construction of the Project, and such federal funding allocation, whether or not allocated through the state, includes a condition to receipt of the federal funds that prohibits OPUD from applying any local hiring preference in any contracts for construction of the Project, or that prohibits application of any other provision or provisions of this Agreement, the local resident hiring provisions contained in Article IX, or any other provision or provisions of this Agreement prohibited by such condition to receipt of federal funds for Project construction, shall not be applied to the Project, but all other terms and conditions of this Agreement shall remain in full force and effect.

18.5 The parties acknowledge and agree that this Agreement satisfies the skilled & trained workforce requirements of Public Contract Code Section 22164, et. seq., if applicable to a Construction Contract or the Project.

ARTICLE XIX
AMENDMENT/COUNTERPARTS/AUTHORITYM
ISCELLANEOUS PROVISIONS

19.1 The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement. All defined terms used in this Agreement shall be deemed to refer to the singular and/or plural, in each instance as the context and/or particular facts may require.

~~19.1~~19.2 Any substantive modification of any provision or addendum to this Agreement must be reduced to writing and signed by OPUD, Trades Council and Unions to be effective.

~~19.2~~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 scanned signature pages transmitted to other parties to this Agreement shall be deemed equivalent to original signatures.

~~19.3~~19.4 Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the party indicated and each of the parties by signing this Agreement warrants and represents that such party is legally authorized and entitled to enter into this Agreement.

ARTICLE XX
TERM

20.1 The term of this Agreement shall commence on the date indicated below as the date of execution and shall continue in effect until completion of all Covered Work pursuant to Article II.

20.2 This Agreement shall apply until the Completion of each Project Construction Contract in accordance with Sections 1.4 and 2.2.

20.3 This Agreement shall become effective on the day it is executed by OPUD and the Trades Council. After five (5) years, OPUD’s Board of Directors may vote to terminate this Agreement. In the absence of such a vote, this Agreement will automatically renew. Thereafter, OPUD’s Board of Directors may vote to terminate this agreement every four (4) years. In the absence of such a vote, this Agreement will automatically renew.

OLIVEHURST PUBLIC UTILITIES DISTRICT

Name:

Date: _____

Title:

Approved as to form:

OPUD's Attorney

Date: _____

Attested to by:

OPUD Clerk

Date: _____

MID VALLEY BUILDING AND CONSTRUCTION TRADES COUNCIL,
AFL-CIO COUNCIL

Name:

Date: _____

Title:

UNIONS

Addendum A

**COMMUNITY WORKFORCE AND TRAINING AGREEMENT
OLIVEHURST PUBLIC UTILITY DISTRICT**

AGREEMENT TO BE BOUND

The undersigned, as a Contractor or Subcontractor, including construction material trucking company/entity, (hereinafter CONTRACTOR) on the Olivehurst Public Utility District Project, (hereinafter PROJECT), for and in consideration of the award to it of a contract to perform work on said PROJECT, and in further consideration of the mutual promises made in this Community Workforce and Training Agreement (hereinafter AGREEMENT), a copy of which was received and is acknowledged, hereby:

(1) Accepts and agrees to be bound by the terms and conditions of the AGREEMENT for this PROJECT, together with any and all amendments and supplements now existing or which are later made thereto.

(2) The CONTRACTOR agrees to be bound by the legally established local trust agreements designated in the applicable Master Agreement as described in Article XI of this AGREEMENT.

(3) The CONTRACTOR authorizes the parties to such local trust agreements to appoint trustees and successor trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the CONTRACTOR.

(4) Certifies that it has no commitments or agreements which would preclude its full and complete compliance with the terms and conditions of said AGREEMENT.

(5) Agrees to secure from any CONTRACTOR(S) (as defined in said AGREEMENT) which is or becomes a subcontractor (of any tier) to it, a duly executed Agreement to be Bound in form identical to this document.

(6) This Agreement to be Bound constitutes a subscription agreement to the extent of its terms. However, the undersigned agrees to execute a separate Subscription Agreement(s) or contributing employer agreement for Trust Funds when such Trust Fund(s) requires such document(s).

Date: _____

Name of Contractor

(Name of Contractor Representative)

(Authorized Officer & Title)

CSLB # or Motor Carrier Permit