

SAN DIEGO ASSOCIATION OF GOVERNMENTS
COMMUNITY BENEFITS AGREEMENT

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SAN DIEGO ASSOCIATION OF GOVERNMENTS

COMMUNITY BENEFITS AGREEMENT

This Community Benefits Agreement (“CBA”) is entered into by and between the San Diego Association of Governments (“SANDAG”), the San Diego County Building and Construction Trades Council, AFL-CIO (“Council”), and the signatory Craft Unions (“Union”).

ARTICLE 1

RECITALS

WHEREAS, SANDAG is committed to creating programs that provide access to a skilled and trained workforce and address the needs of underserved groups who have historically experienced significant barriers to participating in employment within the construction industry. Through the implementation of projects included in the 2021 Regional Plan, SANDAG aims to create economically sustainable benefits to the region, derived from employment and training programs to help individuals that are systemically marginalized. SANDAG supports policies that create careers, advance racial and gender equity, and assist vulnerable individuals located in underserved communities; and

WHEREAS, this CBA is necessary to implement the 2021 Regional Plan, which includes projects of regional significance critical to the safety, economic sustainability, and quality of life of the citizens of San Diego County; and

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

WHEREAS, the successful completion of Covered Projects are of the utmost importance to the San Diego region; and

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

WHEREAS, large numbers of workers of various skills will be required in the performance of the construction work on the Covered Projects, including workers affiliated with and/or represented by the Unions; and

WHEREAS, it is recognized that on construction projects with multiple contractors and bargaining units on the job site 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 agree that by establishing and stabilizing wages, hours, and working conditions for the workers employed on the Covered Projects, a satisfactory, continuous, and harmonious relationship will exist among labor and management that will lead to the efficient and economical completion of Covered Projects; and

WHEREAS, in recognition of the special needs of the Covered Projects and to maintain a spirit of harmony, labor-management relations, peace, and stability during the term of this CBA, the Parties agree to establish effective and binding methods for the settlement of all misunderstandings, disputes and grievances without any strikes, slowdowns, work interruptions, or disruption of Covered Projects, and the Contractors agree not to engage in any lockout; and

WHEREAS, the SANDAG Workforce Opportunities for Rising Careers (WORC) is a workforce utilization and development program that focuses on creating construction career pathways throughout the transportation industry for Disadvantaged Workers and Targeted Workers. In the SANDAG Commitment to Equity Statement, it is expressed that our agency firmly upholds equity and inclusion for every person in the San Diego region. Implementing the WORC program will allow SANDAG to uphold equity in our workforce by paving career pathways for disadvantaged individuals, including low income, women, minorities, veterans, homeless, formerly incarcerated, and other under-represented populations; and

WHEREAS, SANDAG places high priority upon the development of comprehensive programs for the recruitment, training, and employment of Targeted Workers and Disadvantaged Workers, and also recognizes the ability of local Apprenticeship Programs to provide meaningful and sustainable careers in the building and construction industry. SANDAG, Contractors and Unions will encourage Targeted Workers and Disadvantaged Workers to participate in Covered Projects through programs and procedures jointly developed to prepare and encourage such individuals for entrance into Apprenticeship Programs and formal employment on the Covered Projects through the referral programs sponsored and/or supported by the Parties to this CBA; and

WHEREAS, the Covered Projects will provide opportunities for Disadvantaged Businesses to participate as Contractors, subcontractors, or suppliers, and the Parties therefore agree that they will cooperate with all efforts of SANDAG, the Project Labor Coordinator, Contractors and other organizations retained by SANDAG for this purpose, to encourage and assist the participation of Disadvantaged Businesses in the Covered Projects. Specifically, Contractors and Unions understand that SANDAG has established and quantified goals which place a strong emphasis on the utilization of Disadvantaged Businesses on Covered Projects. SANDAG, Contractors and Unions shall participate in outreach programs and provide education, and assistance to businesses not familiar with working on projects of this scope. Further, the Parties shall ensure that the provisions of this CBA do not inadvertently establish impediments to participation of such Disadvantaged Businesses, Targeted Workers and Disadvantaged Workers; and

WHEREAS, it is further understood that SANDAG shall actively administer and enforce the obligations of this CBA to ensure that the benefits of the CBA flow to all signatory Parties, Contractors, craft persons working under it, and residents of the San Diego region. SANDAG will designate a “Project Labor Coordinator,” either from its own staff and/or a consultant acting on behalf of SANDAG, to monitor and enforce compliance with the CBA. The Project Labor Coordinator, as the authorized representative of SANDAG, will assist with the development and implementation of the programs referenced in this CBA, all of which are critical to fulfilling the intent and purposes of the Parties and this CBA.

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

ARTICLE 2

DEFINITIONS

Capitalized terms utilized in this CBA which are not otherwise defined herein shall have the meanings ascribed to said terms below. All definitions include both singular and plural forms.

“Applicable Prevailing Wage Laws” means the prevailing wage laws, regulations, and determinations applicable to a Covered Project pursuant to the State of California Labor Code and/or the Davis-Bacon Act and related federal laws.

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

“Apprenticeship Program” means an apprenticeship program (i) approved by the State of California’s Division of Apprenticeship Standards; (ii) registered with the U.S. Department of Labor; or (iii) registered with a State Apprenticeship Agency granted authority by the U.S. Department of Labor to register apprenticeship programs for federal purposes, pursuant to 29 CFR Part 29.

“Contractor” means the Prime Contractor and any subcontractor of any tier awarded Covered Work. The term “Contractor” includes any individual, firm, partnership, corporation, owner operator, consultant or combination thereof, including joint ventures, performing Covered Work.

“Core Employee” is defined in Article 4, Section 4.6(f).

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

“Covered Contract” means a prime contract or subcontract awarded for performance of Covered Work, or an individual job order constituting a Covered Project as defined below.

“Covered Project” means a construction project with a prime contract awarded by SANDAG with a SANDAG estimated construction contract award value of \$5,000,000 or greater. For Job Order Contracts, a Covered Project means any individual job order valued at \$250,000 or greater and issued under a master Job Order Contract with an award value of \$5,000,000 or greater. SANDAG shall establish the maximum value of master Job Order Contracts in good faith and not for the purpose of avoiding the applicability of this CBA.

“Covered Work” means construction work in furtherance of a Covered Project, other than work excluded pursuant to specific exemptions set forth in this CBA. Covered Work includes surveying and inspection services regarding construction of a Covered Project, within the State of California general prevailing wage determination for Field Surveyor and/or Building/Construction Inspector and Field Soils and Material Tester, when this work is performed under a Covered Contract, or under a professional services agreement.

“Disadvantaged Area” means a zip code that contains a census tract for which the average household income is no more than 80 percent of the average household income for the Metropolitan Statistical Area (as designated by the U.S. Office of Management and Budget) in which that census tract is located. Qualifying zip codes are available on the SANDAG website, as indicated on the Workforce Dispatch Request Form.

“Disadvantaged Business” means a business that has been certified by the California Department of Transportation and or any other CALTRANS-approved California certifying agency as a Disadvantaged Business Enterprise pursuant to 49 C.F.R §26.5; or a business that has been certified by the California Office of Small Business and DVBE Services as a Small Business, a Small Business for the Purpose of Public Works, or a Disabled Veteran Business Enterprise.

“Disadvantaged Worker” means an individual domiciled in a Disadvantaged Area, or a Veteran residing anywhere. “Domiciled” has the meaning set forth in section 349(b) of the California Election Code, indicating a fixed address with intent of continued residency. For Covered Projects that are not federally-funded, and for federally-funded projects for which local hiring requirements have been pre-approved by federal funding sources, this definition is modified by a Local Employment Project Radius, as described in Section 4.5(b).

“Jobs Coordinator” means an independent third-party individual, entity or employee with whom the Prime Contractor enters into a contract or employs to assist the Contractor with achieving and exceeding the Disadvantaged Worker and Targeted Worker goals set forth in Section 4.5 of this CBA. In addition, the Jobs Coordinator shall assist the Contractor

to fulfill its Workforce Opportunities for Rising Careers program and Helmets to Hardhats obligations described herein.

“Master Agreement” means the local master labor agreement of a Union.

“Party” means SANDAG, the Council, and each Union.

“Prime Contractor” means the contractor awarded a Covered Contract in privity directly with SANDAG.

“Project Labor Coordinator” means the designee of SANDAG, either from its own staff and/or a consultant acting on behalf of SANDAG, to monitor compliance with this CBA and assist with developing, implementing and administering the requirements, policies and programs referenced herein.

“SANDAG” means the San Diego Association of Governments.

“Targeted Worker” means any individual qualifying for one or more of the following categories, at initial time of employment on the Covered Project in question:

- (a) is a Veteran;
- (b) is an Apprentice with less than fifteen percent of the work hours required for completion of the Apprenticeship Program;
- (c) has no high school diploma or general education diploma (GED);
- (d) is homeless or has been homeless within the last year;
- (e) is a former foster youth;
- (f) is a custodial single parent;
- (g) is experiencing protracted unemployment (defined as receiving unemployment benefits for at least three months);
- (h) is a current recipient of government cash or food assistance benefits;
- (i) has a documented income at or below 100 percent of the Federal Poverty Level;
- (j) is formerly incarcerated; or
- (k) is a graduate of an apprenticeship readiness program approved to use the multi-craft core curriculum (MC3).

“Union” means any labor organization signatory to this CBA.

“Veteran” means a veteran or the eligible spouse of a veteran of the United States armed forces, under Section 2(a) of the Jobs for Veterans Act (38 U.S.C. 4215(a)).

“Workforce Dispatch Request Form” means the project-specific form by which Contractors request workers from the Union hiring halls on Covered Projects, an example of which is attached as Attachment B-1.

ARTICLE 3

SCOPE OF THE CBA

Section 3.1 This CBA is limited to covering all onsite construction work on Covered Projects within the scope of each Covered Contract.

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

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

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

(c) All employees of SANDAG, Project Labor Coordinator, design teams (including, but not limited to, architects, engineers, and master planners), or any other consultants for SANDAG (including, but not limited to, project managers and construction managers and their employees) and their subconsultants, and other employees of professional service organizations, not performing manual labor within the scope of this CBA. Notwithstanding the foregoing, however, this

exclusion shall not apply to surveying and inspection services on a Covered Project, within the State of California's general prevailing wage determination for Field Surveyor or Building/Construction Inspector and Field Soils and Material Tester, when this work is performed under a Covered Contract or under a professional services agreement; and

(d) Any work performed on or near or leading to or into a site of work covered by this CBA and undertaken by state, county, SANDAG, private utilities or other governmental bodies, or their contractors (other than work within the scope of this CBA undertaken by contractors to SANDAG); and

(e) Work performed by employees of a manufacturer or vendor on the manufacturer's or vendor's equipment, if required by the warranty agreement in order to maintain the warranty or guarantee, and provided that the warranty agreement is the manufacturer's or vendor's usual and customary warranty agreement for such equipment and is consistent with industry practice. Any work to be excluded pursuant to this subsection (e) shall be identified and discussed at the relevant pre-job conference. Upon request from the Council, SANDAG shall review with the vendor whether installation or application may be performed pursuant to terms of the CBA without affecting the status of the warranty; and

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

(g) Laboratory work; and

(h) Non-construction support services contracted by SANDAG, Project Labor Coordinator, or Contractor in connection with Covered Projects; and

(i) Emergency work.

Section 3.3 Awarding of Contracts.

(a) Each Union shall provide the Project Labor Coordinator a list of signatory Contractors whose principal place of business is within the geographic jurisdiction of SANDAG and that routinely perform work within the scope of Covered Work in such area. The Union may specify the type of work that such Contractor performs and may amend the list as necessary. SANDAG and any Prime Contractor that contracts Covered Work to another Contractor shall solicit bids from at least two (2) Contractors on the applicable Union's list for the Covered Work, provided such Contractors meet any applicable SANDAG pre-

qualification criteria. The solicitation of bids shall be based upon the same terms, conditions and scope of work requested of all potential bidders. Notwithstanding the preceding sentence, SANDAG has the absolute right to bid or award Covered Contracts regardless of delivery method to any Contractor notwithstanding the existence or non-existence of any agreements between such Contractor and any Union, provided only that such Contractor is willing, ready, and able to execute a Letter of Assent as set forth in Attachment A hereto, and comply with this CBA in performance of Covered Work.

(b) It is agreed that all Contractors awarded Covered Work shall be required to accept and be bound by the terms and conditions of this CBA. Contractors shall evidence their acceptance of this CBA by executing a Letter of Assent as set forth in Attachment A hereto. The Prime Contractor must sign and submit the Letter of Assent as a condition of award prior to the execution of a Covered Contract. No Contractor shall commence Covered Projects without first providing a copy of the signed Letter of Assent to the Project Labor Coordinator.

(c) SANDAG and all Contractors awarded Covered Work agree that to the extent permitted by law and consistent with the economy and efficiency of construction and operation, they will use best efforts to purchase materials, equipment, and supplies that will not create labor strife. Under all circumstances, however, SANDAG and Contractors shall retain the absolute right to select Contractors for the award of contracts and subcontracts on all Covered Projects.

Section 3.4 Coverage Exception. The Parties agree and understand that this CBA shall not apply to any Covered Project or portion thereof that would otherwise be covered by the CBA if a governmental agency or granting authority partially or fully funding such work determines that it will not fund the Covered Project if it is covered by this CBA. SANDAG agrees that it will make every effort to establish the inclusion of this CBA with any governmental agency or granting authority funding a Covered Project. In no circumstance shall SANDAG be required to forgo project funding due to potential application of this CBA.

Section 3.5 Master Agreements.

(a) The provisions of this CBA, including the Master Agreements (which are the local Master Agreements of the signatory Unions having jurisdiction over the work on the Project, as such may be changed from time to time consistent with Section 21.3, and which are incorporated herein by reference), shall apply to Covered Work, notwithstanding the provisions of any other local, area and/or national agreement that may conflict with or differ from the terms of this CBA. Where a subject covered by the provisions of this CBA is also covered by a

Master Agreement, the provisions of this CBA shall prevail. Where a subject is covered by a provision of a Master Agreement and not covered by this CBA, the provisions of the Master Agreement shall apply. Any dispute as to the applicable source between this CBA and any Master Agreement shall be resolved under the procedures established in Article 10.

(b) It is understood that this CBA, together with the referenced Master Agreements, constitutes a self-contained, stand-alone agreement and, by virtue of having become bound to this CBA, the Contractor will not be obligated to sign any other local, area, or national collective bargaining agreement as a condition of performing work within the scope of this CBA. Provided, however, that pursuant to Section 6.2, the Contractor may be required to sign a uniformly applied non-discriminatory Participation or Subscription Agreement at the request of the trustees or administrator of a trust fund established pursuant to Section 302 of the Labor Management Relations Act, and to which such Contractor may be bound to make contributions under this CBA, provided that such Participation or Subscription Agreement does not purport to bind the Contractor beyond the terms and conditions of this CBA for work on Covered Projects and/or expand its obligation to make contributions pursuant thereto. It shall be the responsibility of the Prime Contractor to have each of its Contractors of any tier sign the documents with the appropriate Union prior to the Contractor beginning work on Covered Projects.

Section 3.6 The Parties agree that this CBA will be made available to, and will fully apply to, any successful bidder for Covered Projects, without regard to whether that successful bidder performs work at other sites on either a Union or non-Union basis. This CBA shall not apply to any work of any Contractor other than that on Covered Projects specifically covered by this CBA.

Section 3.7 Binding Signatories Only. This CBA and Letter of Assent shall only be binding on Contractors in the performance of Covered Work, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such Contractors.

Section 3.8 Other SANDAG Work. Nothing contained herein shall be interpreted to prohibit, restrict, or interfere with the performance of any other operation, work, or function not covered by this CBA, which may be performed by SANDAG employees or contracted for by SANDAG for its own account, on its property, or in and around a project site.

Section 3.9 Separate Liability. It is understood that the liability of the Contractor(s) and the liability of the separate Unions under this CBA shall be several and not joint. The Unions agree that this CBA does not have the effect of creating any joint

employment status between or among SANDAG or Project Labor Coordinator and/or any Contractor.

Section 3.10 Completed Covered Projects. As portions of Covered Projects are completed, this CBA shall have no further force or effect on such portions of projects, except where the Contractor is directed by SANDAG or its representatives to engage in repairs, modification and/or check-out functions required by its contract(s) with SANDAG.

Section 3.11 Except for all work performed under the NTL Articles of Agreement, the National Stack/Chimney Agreement, and the National Cooling Tower Agreement, all instrument calibrations work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, and the National Agreement of the International Union of Elevator Constructors, with the exception of Article 7 (Work Stoppages and Lockouts), Article 8 (Work Assignments and Jurisdictional Disputes) and Article 10 (Settlement of Grievances and Disputes) of this CBA, which shall apply to such work.

ARTICLE 4

UNION RECOGNITION AND EMPLOYMENT

Section 4.1 Recognition. The Contractor recognizes the Unions as the exclusive bargaining representative for the employees engaged in Covered Projects. Such recognition does not extend beyond the period when the employee is engaged in Covered Projects.

Section 4.2 Contractor Selection of Employees. The Contractor shall have the right to determine the competency of all employees, the number of employees required, the duties of such employees within their craft jurisdiction, and shall have the sole responsibility for selecting employees to be laid off, consistent with this Article. The Contractor shall also have the right to reject any applicant referred by a Union for any lawful reason, subject to any reporting time requirements of the applicable Master Agreement; provided, however, that such right is exercised in good faith and not for the purpose of avoiding the Contractor's commitment to employ qualified workers through the procedures endorsed in this CBA.

Section 4.3 Referral Procedures.

(a) For Unions having a job referral system contained in a Master Agreement, the Contractor agrees to comply with such system, and such system shall be used exclusively by such Contractor, except as modified by this CBA. Such job referral system will be operated in a nondiscriminatory manner and in full compliance with federal, state, and local laws and regulations that require equal employment opportunities and non-discrimination. All of the foregoing hiring procedures, including related practices affecting apprenticeship, shall be operated so as to consider the goals of SANDAG to encourage employment of Disadvantaged Workers, Targeted Workers, and utilization of Disadvantaged Businesses on the Covered Projects, and to facilitate the ability of all Contractors to meet their employment needs.

(b) The Unions will exert their best efforts to recruit and refer sufficient numbers of skilled craft workers to fulfill the labor requirements of the Contractors, including specific employment obligations to which a Contractor may be legally and/or contractually obligated; and to refer Apprentices as requested to develop a larger, skilled workforce to perform Covered Work. The Unions will work with the Project Labor Coordinator and others designated by SANDAG, to identify and refer competent craft persons as needed for Covered Projects. Contractors and Unions shall identify individuals, particularly Disadvantaged Workers and Targeted Workers, for entrance into Apprenticeship Programs, or participation in the WORC program to prepare for such Apprenticeship Programs.

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

Section 4.4 Non-Discrimination in Referral, Employment, and Contracting. The Parties and Contractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, ethnicity, color, ancestry, religious creed, national origin, sexual orientation, physical disability, mental disability, medical condition, age, marital status, denial of family care leave, genetic information, gender, gender identity, gender expression, military and veteran status, criminal records, past incarceration, previous status as a foster youth, political affiliation or membership in a labor organization in hiring and dispatching workers for the Covered Projects. The Parties and Contractors will ensure that the evaluation and treatment of their employees, members, and applicants for employment or membership are free from such discrimination and harassment.

Further, it is recognized that SANDAG has certain policies, programs, and goals for the utilization of Disadvantaged Businesses. The Parties and Contractors shall jointly endeavor to assure that these commitments are fully met, and that any provisions of this CBA that may appear to interfere with Disadvantaged Businesses successfully bidding for work on Covered Projects shall be carefully reviewed, and adjustments made as may be appropriate and agreed upon among the Parties, to ensure full compliance with SANDAG's policies and commitment to its goals for the significant utilization of Disadvantaged Businesses as Contractors, vendors or suppliers on Covered Projects.

Section 4.5 Employment of Disadvantaged Workers and Targeted Workers.

- (a) In recognition of SANDAG's mission to maximize employment opportunities for Disadvantaged Workers and Targeted Workers, Unions and Contractors agree that Disadvantaged Workers (including those in a Local Employment Project Radius, if applicable), as well as Targeted Workers to the extent such status is known, shall be first referred for Covered Projects. The list of qualifying zip codes for Disadvantaged Workers will be posted on the SANDAG website, as indicated in the Workforce Dispatch Request Form.
- (b) The Contractors and Unions agree to work together to achieve a goal of at least thirty (30) percent of the total construction craft hours worked on each Covered Project being performed by Disadvantaged Workers. If the Covered Project does not receive federal funding, or if local hiring requirements are pre-approved by federal funding sources, then the definition of “Disadvantaged Workers” may include a Local Employment Project Radius, which shall consist of a modified definition of Disadvantaged Workers to focus employment and training opportunities on the community impacted by the project. In such cases SANDAG will specify in the Prime Contract whether a Local Employment Project Radius applies, and the details of such modified definition.
- (c) The Contractors and Unions agree to work together to achieve a goal of at least ten (10) percent of the total construction craft hours worked on each Covered Project being performed by Targeted Workers. Hours worked by Targeted Workers who are also Disadvantaged Workers may be applied to the Disadvantaged Worker participation goal.
- (d) Contractors shall attempt to satisfy the goals set forth in Sections 4.5(b) and (c) by (i) assigning current craft employees who are Disadvantaged Workers and/or Targeted Workers to perform Covered Work; (ii) if necessary, requesting referral of Disadvantaged Workers and Targeted Workers from Union hiring halls (using the Workforce Dispatch Request Form) and Apprenticeship Programs; and

(iii) if the goals are not satisfied after following such steps, considering qualifying workers available from other sources, in compliance with Section 4.7.

Contractors that follow these procedures in good faith and with concerted efforts to identify and retain Disadvantaged Workers and Targeted Workers shall not be considered in non-compliance for failure to meet the goals set forth in Sections 4.5(b) and (c).

(e) Professional services agreements entered into by SANDAG for covered surveying or inspection services, which are separate and apart from the Construction Contract for a Covered Project, are exempt from the foregoing Disadvantaged Worker and Targeted Worker hiring goals.

(f) To facilitate the dispatch of Disadvantaged Workers and Targeted Workers, as well as all Contractor requests for referral and dispatch of workers from the applicable Union referral system, all Contractors are required to utilize the Workforce Dispatch Request Form. When Disadvantaged Workers and Targeted Workers are requested by a Contractor, the Unions will refer Disadvantaged Workers, and Targeted Workers to the extent such status is known, regardless of their place in the Union hiring halls' list and normal referral procedures.

(g) The Project Labor Coordinator shall work with the Unions and Contractors in the administration, monitoring, and the reporting of the foregoing Disadvantaged Worker and Targeted Worker hiring goals.

Section 4.6 Core Employees. This Section only applies to Contractors who are not directly signatory to an applicable Master Agreement.

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

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

(1) Provisions of subsection (a) are available only to a Disadvantaged Business with an individual subcontract value of \$500,000 or less, or one-half of one percent (0.5%) of the value of the prime construction contract or individual job order for the Covered Project (or of the task order value, for Covered Work performed pursuant to a professional services agreement task order), whichever is greater; and

(2) The total value of all subcontracts utilizing the foregoing Core Employee hiring procedure shall not exceed twenty (20) percent of the contract award value of each Covered Contract, and each Disadvantaged Business is limited to using this procedure for one subcontract per Covered Project or individual job order per master Job Order Contract; and

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

(b) Contractors who do not qualify for the hiring procedure for Disadvantaged Businesses set forth in Section 4.6(a), and who are not otherwise signatory to a current Master Agreement, may employ, as needed, first, a Core Employee, then an employee through a referral from the appropriate Union hiring hall, then a second Core Employee, then a second employee through the referral system, and so on until a maximum of three (3) Core Employees are employed per craft on each Covered Project. Thereafter, all additional employees in the affected trade or craft shall be requested and referred from the appropriate Union hiring hall in accordance with this Article. Contractors employing more than fifty (50) craft workers at the same time in a specific trade on a Covered Project may hire an additional two (2) Core Employees.

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

first day of employment working under the Construction Contract at a Covered Project site.

(d) Prior to each Contractor performing Covered Work, the Contractor shall provide a list of Core Employees using Attachment B-2, Contractor Core Workforce Form, to the Project Labor Coordinator and the Union having jurisdiction over the work. After submitting the Core Employee list prior to commencing work, Contractors shall not make any changes or substitutions to the Core Employee list for the duration of the Covered Project, except in cases where a Core Employee is injured or otherwise cannot work on the Covered Project due to factors beyond the Contractor's control. Failure to submit the Core Employee list prior to work commencing will prohibit the Contractor from using any Core Employees until 30 calendar days after the list is provided to the Project Labor Coordinator and Union having jurisdiction over the work.

(e) Upon request by any Party to this CBA, a Contractor hiring one or more Core Employees shall provide satisfactory proof (i.e., payroll records, quarterly tax records, and such other documentation) evidencing Core Employees' qualifications as such to the Project Labor Coordinator and the Council.

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

(1) A Core Employee must be either a journeyperson or Apprentice and appear on the Contractor's active payroll for at least sixty (60) of the last one-hundred-twenty (120) working days prior to being designated as a Core Employee. The date a Core Employee is designated is the date the Core Employee list is submitted to the Project Labor Coordinator and Union prior to the Contractor commencing work; and

(2) A Core Employee must possess any license required by state or federal law for the Covered Projects to be performed.

(g) In addition to the core employee provisions set forth herein, all Contractors may avail themselves of any opportunity provided for in the applicable Master Agreements to call for specific employees by name.

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

Section 4.7 Time for Referral. If any Union's registration and referral system does not fulfill the requirements for specific classifications of covered employees (including Disadvantaged Workers and Targeted Workers) requested by any Contractor within forty-eight (48) hours (excluding Saturdays, Sundays, and holidays), that Contractor may employ Core Employees without reference to the ratio requirements in Section 4.6 or use employment sources other than the Union registration and referral services, and may employ applicants from any other available source. The Contractor should promptly inform the Union of any applicants hired from other sources, and such applicants shall register with the appropriate hiring hall, if any.

Section 4.8 Lack of Referral Procedure. If a signatory local Union does not have a job referral system as set forth in Section 4.3 above, the Contractors shall give the Union equal opportunity to refer applicants in conformance with remaining provisions of this Article 4. The Contractors shall notify the Union of employees so hired, as set forth in Section 4.7.

Section 4.9 Union Membership. Employees are not required to become or remain union members as a condition of performing Covered Work under this CBA. Contractors 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 4.9 is intended to supersede the requirements of the applicable Master Agreements as to those Contractors otherwise signatory to such Master Agreement and as to the employees of those Contractors who are performing Covered Work.

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

Section 4.11 Skilled and Trained Workforce. Each Contractor performing work on a Covered Project is required to utilize a skilled and trained workforce, as defined in Public Contract Code § 2602. Unions and Contractors shall utilize the grievance procedures set forth in Article 10 of this CBA to resolve any disputes regarding skilled and trained workforce requirements. To the maximum extent permissible under state law and regulation, including California Public Utilities Code section 132354.7(a)(3), Contractors and SANDAG shall be relieved of reporting and enforcement obligations and systems described in Public Contract Code section 2602 and 2603, and Contractors' requirement to utilize a skilled and trained

workforce shall instead be monitored and enforced by Unions and Contractors through provisions of this CBA.

ARTICLE 5

UNION ACCESS AND STEWARDS

Section 5.1 Access to Project Sites. Authorized representatives of the Union shall have access to Covered Projects, provided that they do not interfere with the work of employees and further provided that such representatives fully comply with posted visitor, security, and safety rules.

Section 5.2 Stewards.

(a) Each signatory local Union shall have the right to dispatch a working journeyman as a steward for each shift, and shall notify the Contractor in writing of the identity of the designated steward or stewards prior to the assumption of such person's duties as steward. Such designated steward or stewards shall not exercise any supervisory functions. There will be no non-working stewards. Stewards will receive the regular rate of pay for their respective crafts.

(b) In addition to his/her work as an employee, the steward should have the right to receive, but not to solicit, complaints or grievances and to discuss and assist in the adjustment of the same with the employee's appropriate supervisor. Each steward should be concerned only with the employees of the steward's Contractor and not with the employees of any other Contractor. The Contractor will not discriminate against the steward in the proper performance of his/her Union duties.

(c) When a Contractor has multiple, non-contiguous work locations at one site, the Contractor may request and the Union shall appoint such additional working stewards as the Contractor requests to provide independent coverage of one or more such locations. In such cases, a steward may not service more than one work location without the approval of the Contractor.

(d) The stewards shall not have the right to determine when overtime shall be worked or who shall work overtime.

Section 5.3 Steward Layoff/Discharge. The Contractor agrees to notify the appropriate Union twenty-four (24) hours before the layoff of a steward, except in the case of disciplinary discharge for just cause. If the steward is protected against such

layoff by the provisions of the applicable Master Agreement, such provisions shall be recognized when the steward possesses the necessary qualifications to perform the remaining work. In any case in which the steward is discharged or disciplined for just cause, the appropriate Union will be notified immediately by the Contractor, and such discharge or discipline shall not become final (subject to any later filed grievance) until twenty-four (24) hours after such notice has been given.

Section 5.4 Employees on Non-Covered Projects. On work where the personnel of SANDAG or its contractors may be working in close proximity to the construction activities covered by this CBA on non-covered projects, the Union agrees that the Union representatives, stewards, and individual workers will not interfere with SANDAG personnel, or with personnel employed by any other employer not performing Covered Work.

ARTICLE 6

WAGES AND BENEFITS

Section 6.1 Wages. At a minimum, all employees covered by this CBA shall be classified in accordance with work performed and paid the hourly wage rates for those classifications in compliance with the Applicable Prevailing Wage Laws.

Section 6.2 Benefits.

(a) Subject to the exception set forth below for Disadvantaged Businesses, otherwise, for all employees performing Covered Work, Contractors shall pay, at a minimum, all employee fringe benefits and other required Contractor contributions to the established Union employee benefit funds in the amounts required by Applicable Prevailing Wage Laws. In addition, the Contractors and Unions agree that only such bona fide employee benefits that accrue to the direct benefit of the employees (such as pension and annuity, health and welfare, vacation, apprenticeship, and training funds) shall be included in this requirement and required to be paid by the Contractor for performance of Covered Work.

(b) Union Benefit Fund Contributions for Disadvantaged Businesses. Disadvantaged Businesses are exempt from the requirement of subsection (a) to pay fringe benefits and other required Contractor contributions on behalf of their Core Employees to the Union employee benefit funds, subject to the following exemption limitations:

(1) Provisions of subsection (b) are available only to a Disadvantaged Business with an individual subcontract value of \$500,000 or less, or one-half of one percent (0.5%) of the value of the prime construction contract or individual job order for the Covered Project (or of the task order value, for Covered Work performed pursuant to a professional services agreement task order), whichever is greater; and

(2) The total value of all subcontracts utilizing this exemption on a Covered Project shall not exceed twenty (20) percent of the prime contract value for the Covered Project, and each Disadvantaged Business is limited to using this exemption for one subcontract per Covered Project or individual job order per master Job Order Contract; and

(3) Disadvantaged Businesses utilizing this exemption are still required to pay all fringe benefits and other required Contractor contributions to the established Union employee benefit funds for all employees other than their Core Employees, and must comply with the Applicable Prevailing Wage Laws, including the payment of fringe benefits, for all employees performing Covered Work; and

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

(c) Where benefits payments are required by subsection (a), the Contractor adopts and agrees to be bound by the written terms of the applicable, legally established, Union trust agreement(s) specifying the detailed basis how payments will be made into, and benefits paid out of, such trust funds for its employees. The Contractor authorizes the parties to such trust funds to appoint trustees and successors' trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor. The Contractor obligations to the applicable Union benefit fund(s) and trust agreement(s) are limited to work performed on a Covered Project. The applicable Union benefit funds and trust agreement(s) to each Contractor are determined by the pre-job conference and Union work assignment process described in Articles 8 and 16.

(d) Each Contractor is required to certify to the Project Labor Coordinator that it has paid all benefit contributions due and owing to the appropriate Union trust(s) and benefit funds prior to the receipt of its final payment and/or retention. Further, upon timely notification by a Union to the Project Labor Coordinator, the

Project Labor Coordinator shall work with any Contractor who is delinquent in payments to assure that proper benefit contributions are made, to the extent of requesting SANDAG and/or the Prime Contractor to withhold payments otherwise due such Contractor, until such contributions have been made or otherwise guaranteed.

(e) Notwithstanding any other provisions, this CBA is an agreement under Section 8(f) of the National Labor Relations Act (NLRA), which covers work performed in the building and construction industry. In addition, the work performed under this CBA qualifies for the Construction Industry Exemption under the Employee Retirement and Income Security Act of 1974 (“ERISA”), as amended as well. If any Union Pension Trust Fund (“Fund”) covered by the terms and conditions of this CBA does not qualify for the ERISA Construction Industry Exemption authorized by Section 4203 (B)(1)(i), as amended, 29 U.S.C. 1383(b)(1)(i), or has not taken the necessary steps to amend the Fund documents to qualify for the Construction Industry Exemption as authorized by Section 4203(B)(1)(ii) of ERISA, as amended, 29 U.S.C. 1383(b)(1)(B)(ii); and to recognize the work performed under this CBA to qualify for the Construction Industry Exemption, the Contractors signatory to this CBA will not be obligated to make pension fund contributions to that Fund. In such an event, the Contractor shall pay all required amounts otherwise allocated for payment toward the non-exempt Fund to the employees’ wages or other bona fide retirement plan program pursuant to Applicable Prevailing Wage Laws.

Section 6.3 Wage Premiums. Wage premiums, including, but not limited to, pay based on height of work, shift premiums, hazard pay, scaffold pay, and special skills shall not be applicable to work under this CBA, except to the extent provided for in any Applicable Prevailing Wage Laws.

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

ARTICLE 7

WORK STOPPAGES AND LOCKOUTS

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

Section 7.2 Employee Violations. The Contractor may discharge any employee violating Section 7.1 above, and any such employee will not be eligible for rehire for performance of Covered Work.

Section 7.3 Standing to Enforce. SANDAG and any Contractor affected by an alleged violation of this Article shall have standing and the right to enforce the obligations established herein.

Section 7.4 Expiration of Master Agreements. If a Master Agreement between a Union-signatory Contractor and one or more of the Union(s) expires before the Contractor completes the performance of a Covered Contract for a Covered Project, and the Union or the Contractor gives notice of demand for a new or modified Master Agreement, the Unions agree that they will not strike the Contractor on any Covered Project, and the Union and the Contractor agree that the expired Master Agreement will continue in full force and effect for the Covered Projects until a new or modified Master Agreement is put in place between the Union and the Contractor. If the new or modified Master Agreement between the Union and the Contractor provides that any terms of the Master Agreement shall be retroactive, the Contractor agrees to comply, consistent with the terms of this CBA and the Applicable Prevailing Wage Laws, with any retroactive terms of the new or modified Master Agreement which are applicable to employees of said Contractor that are employed on a Covered Project within

seven (7) days at no cost to SANDAG. All employees shall continue to work and to perform all their obligations with respect to Covered Projects despite the expiration of any Master Agreement. Should a Contractor engaged in Covered Projects enter into an interim agreement with the Unions for work being performed elsewhere after the expiration, and before the renewal of a local collective bargaining agreement forming the basis for a Master Agreement, such interim agreement shall be utilized by that Contractor for Covered Projects, subject to the provisions of Section 21.3.

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

Section 7.6 Best Efforts to End Violations.

(a) If a Contractor or SANDAG contends that there is any violation of this Article, it shall, at least twenty-four (24) hours prior to invoking the procedures of Section 7.7, provide written notification to the Council of the involved Union(s) and to the Project Labor Coordinator, setting forth the facts which the Contractor contends violates this Article. The Council and the leadership of the involved Union(s) will immediately instruct, order, and use their best efforts to cause the cessation of any violation of the Article.

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

Section 7.7 Expedited Enforcement Procedure. Any Party, including SANDAG, which is an intended beneficiary of this Article, and affected Contractors, may institute the following procedures, in lieu of or in addition to any other action at law or equity, when a breach of this Article is alleged.

(a) The party, including any affected Contractor, invoking this procedure shall notify Thomas Pagan, who has been selected by the Parties, and whom the Parties agree shall be the permanent arbitrator under this procedure, or Barry Winograd, as the alternate arbitrator under this procedure. If the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, then a selection shall be made from the list of arbitrators as set forth in Article 10. Notice to the arbitrator shall be by the most expeditious means available, with notices to the Contractor or Union alleged to be in violation, and to the Project Labor Coordinator and Council. For purposes of this Article, written notice may be given by email, facsimile, hand delivery, or overnight mail and will be deemed effective upon receipt.

(b) Upon receipt of said notice, the arbitrator named above or his/her alternate shall sit and hold a hearing within seventy-two (72) hours if it is contended that the violation still exists, but not sooner than twenty-four (24) hours after notice has been dispatched to the Council of the involved Union(s) and/or Contractor as required by Section 7.6, above.

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

(d) The sole issue at the hearing shall be whether or not a violation of this Article has in fact occurred. The arbitrator shall have no authority to consider any matter in justification, explanation, or mitigation of such violation or to award damages, (except for damages as set forth in Section 7.8 below) which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing and may be issued without an opinion. If any party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with, or enforcement of, the award. The arbitrator may order cessation of the violation of the Article and other appropriate relief, and such award shall be served on all disputing parties by hand or registered mail upon issuance.

(e) Such award shall be final and binding on all disputing parties and may be enforced by any court of competent jurisdiction upon the filing of this CBA and all other relevant documents referred to herein above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other party. In any judicial proceeding to obtain a temporary order enforcing the

arbitrator's award as issued under Section 7.7(d) of this Article, all disputing parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order of enforcement. The court's order or orders enforcing the arbitrator's award shall be sent to all disputing parties.

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

(g) The fees and expenses of the arbitrator shall be equally divided between the disputing parties.

Section 7.8 Liquidated Damages.

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

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

(c) The Parties agree that project delays caused by violations of this Article will cause SANDAG to sustain damages. They agree that it would be impractical or extremely difficult to fix the amount of such damages. Therefore, the Parties agree that, in the event of a breach of this Article, the disputing party in breach shall pay to SANDAG the sum of not less than \$10,000.00 and no more than \$20,000.00 per shift from the time the arbitrator determines that a delay has occurred until the arbitrator determines that the project is no longer disrupted. The payment, when made, shall constitute a damages remedy of SANDAG for the delay specified, but shall not prevent SANDAG from seeking an injunctive or other monetary relief, including termination of this CBA. Payment of these sums as liquidated damages is not intended as a forfeiture or penalty within the meaning of California Civil Code sections 3275 or 3369, but instead, is intended to constitute liquidated damages to SANDAG pursuant to section 1671 of the California Civil Code.

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

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

Prior to withholding its members' services for the Contractor's failure to make timely payments to the applicable Union benefit funds, the Union shall give at least thirty (30) days written notice of such failure to pay by certified mail, and by facsimile or email transmission to the involved Contractor, the Prime Contractor and Project Labor Coordinator. The Prime Contractor, together with the involved Contractor and affected Union, shall meet within five (5) working days after the

written notice of such failure to pay was sent to attempt to resolve the delinquency. If the delinquency remains unresolved, then the affected Union may withhold the services of its members from the involved Contractor. Upon payment by the delinquent Contractor of all monies due and then owing for employee benefit contributions, the Union shall direct its members to immediately return to work and the Contractor shall return all such members back to work.

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

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

ARTICLE 8

WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

Section 8.1 No Jobsite Disruption. There will be no strikes, work stoppages, picketing, sympathy strikes, slowdowns, or other interferences with the work because of jurisdictional disputes between Unions. The assignment of work will be solely the responsibility of the Contractor performing the work involved; and such work assignments will be in accordance with the Plan for Settlement of Jurisdictional Disputes in the Construction Industry (the “Plan”) or any successor Plan.

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

All jurisdictional disputes shall be resolved without the occurrence of any of the activities prohibited in Article 7 (Work Stoppages and Lockouts), and the Contractor’s assignment shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

Section 8.2.1 If a dispute arising under this Article involves the Southwest Regional Council of Carpenters or any of its subordinate bodies, an arbitrator shall be chosen by the

procedures specified in Article V, Section 5, of the Plan from a list composed of Thomas Pagan, Thomas Angelo, Robert Hirsch, and John Kagel, and the arbitrator's hearing on the dispute shall be held at the offices of the Council within fourteen (14) days of the selection of the arbitrator. All other procedures shall be as specified in the Plan.

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

Section 8.4 Pre-job Conference. It is required that a pre-job conference be held not later than ten (10) calendar days prior to the start of work by each Contractor for the Covered Project in accordance with the procedure described in Article 16.

ARTICLE 9

MANAGEMENT RIGHTS

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

- (a) Plan, direct, and control operations of all work; and
- (b) Hire, promote, transfer, and layoff their own employees, respectively, as deemed appropriate to satisfy work and/or skill requirements; and
- (c) Promulgate and require all employees to observe reasonable job rules and security and safety regulations; and
- (d) Discharge, suspend, or discipline their own employees for just cause; and
- (e) Utilize, in accordance with SANDAG approval, any work methods, procedures, or techniques, and select, use, and install any types or kinds of materials, apparatus, or equipment, regardless of source of manufacture or construction; and

- (f) Assign and schedule work at their discretion; and
- (g) Assign overtime, determine when it will be worked and the number and identity of employees engaged in such work, subject to such provisions in the applicable Master Agreement(s) requiring such assignments be equalized or otherwise made in a nondiscriminatory manner.

Section 9.2 Specific SANDAG Rights. In addition to the following and other rights of SANDAG enumerated in this CBA, SANDAG expressly reserves its management rights and all the rights conferred on it by law and contract. SANDAG's rights (and those of the Project Labor Coordinator on its behalf) include, but are not limited to the right to:

- (a) Inspect any construction site or facility to ensure that the Contractor follows the applicable safety and other work requirements; and
- (b) At its sole option, terminate, delay, and/or suspend any and all portions of the Covered Projects at any time; prohibit some or all work on certain days or during certain hours of the day to accommodate the ongoing operations of SANDAG and/or to mitigate the effect of ongoing Covered Projects on businesses and residents in the neighborhood of the Project sites; and/or require any other operational or schedule changes it deems necessary, in its sole judgment, to meet Project deadlines and remain a good neighbor to those in the area of the Covered Projects. (In order to permit the Contractors and Unions to make appropriate scheduling plans, SANDAG will provide the Prime Contractor and affected Unions with reasonable notice of any changes it requires pursuant to this section); and
- (c) Approve any work methods, procedures, and techniques used by Contractors whether or not these methods, procedures, or techniques are part of industry practices or customs; and
- (d) Investigate and process complaints or disagreements, through the Project Labor Coordinator.

Section 9.3 Use of Materials. There should be no limitations or restrictions by the Union upon a Contractor's choice of materials or design, nor, regardless of source or location, upon the full use and utilization of equipment, machinery, packaging, precast, prefabricated, prefinished, or preassembled materials, tools, or other labor-saving devices, subject to the application of the California Public Contract and Labor Codes. Generally, the onsite installation or application of such items shall be performed by the craft having jurisdiction over such work.

Section 9.4 Special Equipment, Warranties, and Guaranties.

(a) It is recognized that certain equipment of a highly technical and specialized nature may be installed at Covered Project sites. The nature of the equipment, together with the requirements for manufacturer's warranties, may dictate that it be prefabricated, pre-piped, and/or pre-wired and that it be installed under the supervision and direction of SANDAG's and/or manufacturer's personnel or certified specialist contractor. The Unions agree that such equipment is to be installed without incident and without violation of this CBA.

(b) The Parties recognize that the Contractor will initiate from time to time the use of new technology, equipment, machinery, tools, and other labor-savings devices and methods of performing Covered Projects. The Unions agree that they will not restrict the implementation of such devices or work methods. The Unions will accept and will not refuse to handle, install, or work with any standardized and/or catalogue parts, assemblies, accessories, prefabricated items, preassembled items, partially assembled items, or materials whatever their source of manufacture or construction.

(c) If any disagreement between the Contractor and the Union concerning the methods of implementation or installation of any equipment, device, or item, or method of work arises, or whether a particular part or pre-assembled item is a standardized or catalog part or item, the work will proceed as directed by the Contractor, and the Contractor and Union shall immediately consult over the matter. If the disagreement is not resolved, the affected Union(s) shall have the right to proceed through the procedures set forth in Article 10.

ARTICLE 10

SETTLEMENT OF GRIEVANCES AND DISPUTES

Section 10.1 Cooperation and Harmony on Site.

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

(b) SANDAG, the Contractors, Unions, and employees collectively and individually, realize the importance of maintaining continuous and uninterrupted performance of Covered Projects, and agree to resolve disputes in accordance with the grievance provisions set forth in this Article or, as appropriate, those of Article 7 or 8.

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

Section 10.2 Processing Grievances. Any questions, complaints or alleged violations of this CBA, which includes questions, complaints or alleged violations of any applicable provisions of the Master Agreements, but not alleged violations of Articles 7 or 8, shall be considered a grievance and subject to resolution under the following procedures.

Step 1.

(a) Employee Grievances. When any employee subject to the provisions of this CBA feels aggrieved by an alleged violation of this CBA, the employee shall, through his local Union business representative or job steward, within ten (10) working days after the occurrence of the violation, give notice to the work site representative of the involved Contractor stating the provision(s) alleged to have been violated, the details of the alleged violation and the remedy sought to resolve the matter. A grievance shall be considered null and void if notice of the grievance is not given within the ten (10) day period. A business representative of the local Union or the job steward and the work site representative of the involved Contractor shall meet and endeavor to adjust the matter within ten (10) working days after timely notice has been given. If they fail to resolve the matter within the prescribed period, the grieving party may, within ten (10) working days thereafter, pursue Step 2 of this grievance procedure provided the grievance is reduced to writing, setting forth the relevant information, including a short description thereof, the date on which the alleged violation occurred, and the provision(s) of the applicable agreement alleged to have been violated. Grievances and disputes settled at Step 1 shall be non-precedential except as to the grievance parties.

(b) Union, Contractor, or SANDAG Grievances. Should a Union, a Contractor, or SANDAG (each a “complaining party”) allege a violation of this

CBA by a Party or a Contractor, and, if after conferring within ten (10) working days after the complaining party knew or should have known of the facts or occurrence giving rise to the dispute, a settlement is not reached within five (5) working days, the dispute shall be reduced to writing and processed to Step 2 in the same manner as outlined in Step 1(a) above for the processing of an employee complaint.

Step 2. A representative of the complaining party, and a representative of any responding party to the grievance (“responding party”), shall meet within seven (7) working days of the referral of the dispute to this second step to attempt to arrive at a satisfactory settlement thereof. SANDAG may participate as an interested Party in any dispute brought under this Article. If the complaining party and responding parties fail to reach an agreement to the satisfaction of the complaining party, the dispute may be submitted in writing in accordance with the provisions of Step 3 within seven (7) working days after the initial meeting at Step 2.

Step 3.

(a) If the grievance is submitted but not resolved under Step 2, the complaining party may request in writing to the Project Labor Coordinator (with copy[ies] to the other party[ies] to the grievance) within seven (7) working days after the initial Step 2 meeting, that the grievance be submitted to an arbitrator selected by the alternate striking method. The order of striking names from the list of arbitrators shall be determined by a coin toss by the Project Labor Coordinator, the loser of which shall have first opportunity to strike a name from the list. Those arbitrators are: (1) Thomas Pagan; (2) David Hart; (3) Edna Francis; (4) Mike Rappaport; (5) Michael Prihar; (6) Fred Horowitz; and (7) Sara Adler. In the event any of these arbitrators retire or become permanently unavailable, SANDAG and the Council shall jointly select a replacement arbitrator for the list. Any arbitrator not available to conduct the arbitration within 120 calendar days of the referral of the grievance to arbitration will be considered unavailable, and the Project Labor Coordinator shall move to the other arbitrator still available prior to the final strike. The decision of the arbitrator shall be final and binding on all parties to the grievance, and the fee and expenses of such arbitrations shall be borne equally by the parties to the grievance. In cases for which the arbitrator finds a violation of this CBA, the arbitrator may order cessation of the violation and other appropriate relief, and such award shall be served on all parties to the grievance and SANDAG. This grievance process and arbitration proceedings do not impede the ability of SANDAG to advance any available dispute resolution processes and remedies under its prime contracts for violations thereof.

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

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

Section 10.4 Notice. The Project Labor Coordinator shall be notified by the involved Union(s) and Contractor(s) of all actions at Steps 2 and 3, and further, the Project Labor Coordinator or other SANDAG representative shall, upon its own request, be permitted to participate fully in all proceedings at such steps.

ARTICLE 11

COMPLIANCE

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

ARTICLE 12

SAFETY AND PROTECTION OF PERSON AND PROPERTY

Section 12.1 Safety.

(a) It shall be the responsibility of each Contractor to ensure safe working conditions and employee compliance with all applicable safety laws and regulations and any safety rules contained herein or established by SANDAG and the Contractor. It is understood that employees have an individual obligation to

use diligent care to perform their work in a safe manner and to protect themselves and the property of the Contractor and SANDAG.

(b) All Parties, Contractors and Contractor employees shall be bound by the safety, security, and visitor rules established by the Contractor, the Project Labor Coordinator, and SANDAG. These rules will be published and posted. An employee's failure to satisfy his/her obligations under this Section will subject him/her to discipline, up to and including discharge.

Section 12.2 Drug and Alcohol Testing Policy. The Parties and Contractors shall adopt the Drug and Alcohol Testing Policy attached hereto as Attachment C, which is the exclusive Drug and Alcohol Testing Policy for Covered Projects.

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

ARTICLE 13

TRAVEL AND SUBSISTENCE

Section 13.1 Travel expenses, travel time, subsistence allowances and/or zone rates, and parking reimbursements shall not be applicable to work under this CBA, except to the extent provided for in Applicable Prevailing Wage Laws. Parking for employees covered by this CBA shall be provided by the Contractor(s) according to the provision of the applicable Master Agreement(s).

ARTICLE 14

APPRENTICES

Section 14.1 Importance of Training. The Parties and Contractors recognize the need to maintain continuing support of the programs designed to develop adequate numbers of competent workers in the construction industry, the obligation to capitalize on the availability of the local work force in the area served by SANDAG, and the opportunities to provide continuing work on Covered Projects for Disadvantaged Workers and Targeted Workers. To these ends, and consistent with any laws or regulations, the Parties and Contractors will facilitate, encourage, and assist Disadvantaged Workers and Targeted Workers in enrolling in and progressing through Apprenticeship Programs and/or apprenticeship

readiness programs in the construction industry that lead to participation in Apprenticeship Programs. SANDAG, the Project Labor Coordinator, other SANDAG consultants, the Contractors, and the Council and Unions, will work cooperatively to identify, or establish and maintain, effective programs and procedures for persons interested in entering the construction industry and which will help prepare them for the entry into Apprenticeship Programs.

Section 14.2 Use of Apprentices.

(a) The Unions and Contractors agree to cooperate in referring and employing Apprentices up to the maximum percentage allowed by the State Labor Code or applicable federal law, and the standards of each Apprenticeship Program. The minimum ratios for Apprentice to journeyman hours worked shall be in compliance, at a minimum, with the applicable provisions of the State Labor Code relating to utilization of Apprentices. SANDAG, unless otherwise required by law, shall encourage such utilization, and, both as to Apprentices and the overall supply of experienced workers, the Project Labor Coordinator will work with the Council, Apprenticeship Programs, and Contractors to assure appropriate and maximum utilization of Apprentices and the continuing availability of both Apprentices and journeymen.

(b) The Parties and Contractors will comply with all applicable laws and regulations in the request for dispatch and employment of Apprentices.

(c) The Parties and Contractors agree that Apprentices will not be dispatched to Contractors working under this CBA unless there is a journeyman or other Contractor employee working on the Project where the Apprentice is to be employed who is qualified to assist and oversee the Apprentice's progress through the program in which he/she is participating. Apprentices must be supervised and utilized in accordance with all applicable Federal and State laws.

ARTICLE 15

LEGAL ACTION

Section 15.1 Legal Action. SANDAG, Council and Unions recognize the substantial legal costs (including all attorney's fees and associated disbursements) that might accrue with regard to any legal challenge over the adoption by SANDAG of this CBA, and related to claims directly challenging the legality of this CBA, or a particular section or language that has been adopted herein. In the event of a legal challenge, the Council, on behalf of itself and affiliated Unions, agrees to seek to

intervene in the legal action and actively participate in the litigation or other action to defend the legality of this CBA, or a particular section or language herein. The failure of the Council to seek to intervene in the legal action and actively participate to defend the legality of this CBA will constitute a material breach of this CBA. In the event the Council is denied leave to intervene in the legal action, the Council shall have its counsel coordinate with SANDAG's counsel, at the Council's own expense, regarding how the Council can best support SANDAG's legal position.

ARTICLE 16

PRE-JOB CONFERENCE

Section 16.1 Each Contractor is required to conduct a pre-job conference with the Unions not later than ten (10) calendar days prior to commencing work. The purpose of the conference will be to, among other things, convey craft manpower needs, the schedule of work for the Covered Project, the Covered Project's rules, and propose preliminary Union work assignments. The Project Labor Coordinator may work with the Prime Contractor and Council to facilitate the scheduling of all pre-job conferences, but ensuring each Contractor conducts a pre-job conference in accordance with this CBA is the responsibility of the Prime Contractor. The Contractors shall make the relevant plans and specifications available to the Unions prior to each pre-job conference. All preliminary Union work assignments shall be disclosed by each Contractor at the pre-job conference. Should there be Covered Work that was not previously assigned at a pre-job conference, or additional Covered Work be added to the scope of the Covered Project, the Contractor(s) performing such work will conduct a separate pre-job conference. Any Union in disagreement with a proposed preliminary assignment shall notify the affected Contractor of its position in writing, with a copy sent to the Project Labor Coordinator, within five (5) calendar days after the pre-job conference occurred. Within five (5) calendar days after the period allowed for Union notices of disagreement with the Contractor's proposed assignments, but prior to the commencement of any work, the Contractor shall make final assignments in writing with copies sent to the Project Labor Coordinator and Council.

Section 16.2 A Contractor's failure to conduct a pre-job conference in accordance with this CBA is considered a breach of contract, and any affected Union may pursue a grievance under Article 10 of this CBA to seek a remedy for such a violation. Provided, however, if the Contractor has conducted a pre-job conference in

accordance with this CBA, that Contractor is not required to participate in any additional pre-job conferences or mark-up meetings related to the original scope(s) of work assigned at the pre-job conference.

Section 16.3 The Project Labor Coordinator may attend and facilitate each pre-job conference. At each pre-job conference, the Project Labor Coordinator shall address the programs, goals and outcomes related to Disadvantaged Worker and Targeted Worker employment, as well as the progress of implementing the Workforce Opportunities for Rising Careers program.

ARTICLE 17

LABOR/MANAGEMENT COLLABORATION

Section 17.1 Labor/Management Collaboration Meetings. The Parties will conduct periodic labor/management cooperation meetings, which will be chaired jointly by a designee of SANDAG and a designee of the Council. The co-chairs shall determine the frequency and scheduling of the meetings with the assistance of the Project Labor Coordinator. The purpose of the meetings shall be to update the Parties about the progress and schedule of Covered Projects, promote harmonious and stable labor management relations, ensure effective and constructive communication between labor and management Parties, advance the proficiency of work in the industry, and to evaluate and ensure an adequate supply of skilled labor for all Covered Projects. The Project Labor Coordinator shall prepare reports detailing the outcomes of the Disadvantaged Worker, Targeted Worker, and Apprentice utilization goals on each Covered Project, and the implementation and progress of the Workforce Opportunities for Rising Careers program. All Parties will be invited to attend the labor/management cooperation meetings. Substantive grievances or disputes shall not be reviewed or discussed by this Committee, but shall be processed pursuant to the provisions of the appropriate Article.

ARTICLE 18

SAVINGS AND SEPARABILITY

Section 18.1 Savings Clause. It is not the intention of any Party to violate any laws governing the subject matter of this CBA. In the event any provision of this CBA is finally held or determined to be illegal or void as being in contravention of any applicable law or regulation, the remainder of the CBA shall remain in full force

and effect unless the part or parts so found to be void are wholly inseparable from the remaining portions of this CBA. If and when any provision(s) of this CBA is finally held or determined to be illegal or void by a court of competent jurisdiction, the Parties will promptly enter into negotiations concerning the substantive effect of such decision for the purposes of achieving conformity with the requirements of any applicable laws and the intent of the Parties hereto. If the legality of this CBA is challenged and any form of injunctive relief is granted by any court suspending temporarily or permanently the implementation of this CBA, then all Covered Projects that would otherwise be covered by this CBA should be continued to be bid and constructed without application of this CBA, so that there is no delay or interference with the ongoing planning, bidding, and construction of any Covered Projects.

Section 18.2 Effect of Injunctions or Other Court Orders. The Parties recognize the right of SANDAG to withdraw, at its absolute discretion, the utilization of the CBA as part of any bid specification should a court of competent jurisdiction issue any order, or any applicable statute that could result, temporarily or permanently, in delay of the bidding, awarding, and/or construction on the project, or jeopardize project funding.

ARTICLE 19

WAIVER

Section 19.1 Waiver. A waiver of or a failure to assert any provisions of this CBA by any or all of the Parties hereto shall not constitute a waiver of such provision for the future. Any such waiver shall not constitute a modification of the CBA or change in the terms and conditions of the CBA and shall not relieve, excuse or release any of the Parties or Contractors from any of their rights, duties, or obligations hereunder.

ARTICLE 20

AMENDMENTS

Section 20.1 Amendments. The provisions of this CBA can be renegotiated, supplemented, rescinded, or otherwise altered only by mutual agreement in writing, hereafter signed by SANDAG and the Council.

ARTICLE 21

EFFECTIVENESS OF THE CBA

Section 21.1 Term and Application.

(a) Term of Years. This CBA shall become effective one hundred twenty (120) calendar days after it has been executed by the Council, SANDAG, and each Union for which a signature line is included below. The CBA shall continue in full force and effect for a term of five (5) years after the initial effective date.

(b) Application to Covered Projects. The CBA applies to Covered Projects for which the bid advertisement date for the prime contract or master Job Order Contract is during the term of years set forth above. For Covered Work performed under professional services agreements, the CBA only applies if the master professional services agreement was awarded pursuant to a request for qualifications or request for proposals that had a release date during the term of years set forth above. The CBA shall be included in all prime contracts, master Job Order Contracts, or master professional services agreements under which Covered Work may be performed. The CBA continues in effect with regard to each Covered Project until all Covered Work under that prime contract or individual job order is completed and accepted by SANDAG, under procedures described in Section 21.2 below.

(c) Extension. Either SANDAG or the Council may provide written notice to the other not less than ninety (90) days prior to the expiration of the CBA of its intent to let the CBA expire. If such notice is given by SANDAG or the Council, the CBA shall expire after the term of years set forth above. If no notice is given by either SANDAG or the Council, then the CBA, including as modified or amended pursuant to Article 20, shall automatically extend for an additional five (5) year term.

Section 21.2 Turnover and Final Acceptance of Completed Work.

(a) Construction of any phase, portion, section, or segment of Covered Projects shall be deemed complete when such phase, portion, section or segment has been turned over to SANDAG by the Prime Contractor and SANDAG has accepted such phase, portion, section, or segment. As areas and systems of the Covered Project are inspected and construction-tested and/or approved and accepted by SANDAG or third parties on behalf of SANDAG, the CBA shall have no further force or effect on such items or areas, except when the Contractor

is directed by SANDAG to engage in repairs or modifications required by its Contract(s) with SANDAG.

(b) Notice of each final acceptance received by the Contractor will be provided to the Council with the description of what portion, segment, etc. has been accepted. Final acceptance may be subject to a “punch” list, and in such case, the CBA will continue to apply to each such item on the list until it is completed to the satisfaction of SANDAG and Notice of Acceptance is given by SANDAG or its representative to the Prime Contractor.

Section 21.3 Continuation of Master Agreements. A Master Agreement shall continue in full force and effect with regard to Covered Work as set forth in Section 3.5, until the Master Agreement is modified by parties thereto.

In such case, Contractors and Unions agree to recognize and implement all applicable changes on their effective dates as set forth in the modified Master Agreement, except as otherwise provided by this CBA; provided, however, that any such provisions negotiated in said Master Agreements will not apply to work covered by this CBA if such provisions are less favorable to the Contractor performing Covered Work than those uniformly required of Contractors for construction work normally covered by those agreements; nor shall any provision be recognized or applied if it may be construed to apply exclusively or predominantly to work covered by this CBA. Any disagreement between any Party and Contractor over application of a modified term of a Master Agreement shall be resolved under the procedures established in Article 10.

Section 21.4 Final Termination. Final termination of all obligations, rights, and liabilities, and disagreements shall occur upon receipt by the Council of a Notice from SANDAG saying that no work remains within the scope of the CBA.

ARTICLE 22

WORKFORCE OPPORTUNITIES FOR RISING CAREERS

Section 22.1 The magnitude, duration, and complexity of the Covered Projects will require large numbers of skilled craft personnel and create significant economic opportunities for Disadvantaged Workers, Targeted Workers, Disadvantaged Businesses and other businesses. It is therefore the understanding and intention of the Parties to use the opportunities provided by the extensive amount of work to collaborate and implement local equity, inclusion, diversity and training programs

and procedures, which may include, for example, North America's Building Trades Unions Multi-Craft Core Curriculum (MC3) apprenticeship readiness programs, to prepare persons, especially Disadvantaged Workers and Targeted Workers, for entrance into Apprenticeship Programs to begin or continue their construction careers on Covered Projects. Further, the Parties and Contractors agree to maximize the inclusion of Disadvantage Businesses through outreach, training, and subcontracting for Covered Projects. With assistance from SANDAG, the Contractors, the Unions and their affiliated regional and national organizations will work jointly to promptly develop and implement procedures for the identification of craft needs, the scheduling of work to facilitate the utilization of available craft workers, and the securing of services of craft workers in sufficient numbers to meet the high demands of the Covered Projects to be undertaken.

Section 22.2 The Parties support the development of increased numbers of skilled construction workers who are Disadvantaged Workers and Targeted Workers to meet the labor needs of Covered Projects. Towards that end, the Parties and Contractors shall develop, implement and administer the Workforce Opportunities for Rising Careers (WORC) program with the mission of maximizing construction career opportunities and creating a construction career pipeline for Disadvantaged Workers and Targeted Workers to become employed on Covered Projects. Further, the Parties and Contractors shall create opportunities for Disadvantaged Businesses consistent with SANDAG's goals and inclusion programs for such businesses. In furtherance of the foregoing, the Unions and Contractors specifically agree to work with SANDAG to:

- (a) Collaborate with existing or newly created MC3 apprenticeship readiness programs in San Diego County to offer opportunities for Disadvantaged Workers and Targeted Workers, including segments of the San Diego County population that are currently under-represented in the construction industry, especially women and minorities, to enroll in free short-term construction apprenticeship readiness training to prepare them to enter into Apprenticeship Programs and become employed by a Contractor on a Covered Project. The Project Labor Coordinator, with the assistance of the Parties and Contractors, will assist with the recruitment, career placement, and tracking of such Disadvantaged Workers and Targeted Workers who graduate from these apprenticeship readiness programs; and
- (b) The Parties and Contractors will cooperate and collaborate to conduct outreach to and include Disadvantaged Workers and Targeted Workers from traditionally under-represented segments of San Diego County's population,

especially women and minorities, in the construction craft workforce for each Covered Project; and

(c) The Project Labor Coordinator, with input from the Council, shall produce detailed bi-annual reports to measure and report the outcomes of the policies, requirements, and programs established in this CBA, including the achievement of Disadvantaged Worker and Targeted Worker employment participation on Covered Projects; and

(d) The Unions will partner with SANDAG to conduct outreach and recruitment activities by establishing or continuing to maintain existing centers, programs, and events to facilitate the entry of Disadvantaged Workers and Targeted Workers into the building and construction trades. These programs shall serve as a resource for preliminary orientation, assessment of construction aptitude, referral to MC3 apprenticeship readiness programs or Apprenticeship Programs, referral to hiring halls, and provide tailored orientation and mentoring for women, minorities, Disadvantaged Workers and Targeted Workers; and

(e) The Unions shall assist Disadvantaged Workers and Targeted Workers with contacting the Apprenticeship Programs for the crafts and trades they are interested in. The Unions shall assist Disadvantaged Workers and Targeted Workers who are seeking employment on Covered Projects and provide opportunities for Union membership by assessing their work experience and giving them credit for provable past experience in their relevant craft or trade, including experience gained working for non-Union Contractors (Contractors not directly signatory to one or more Master Agreement). The Unions shall put on their rolls qualified bona fide Disadvantaged Workers and Targeted Workers for employment on Covered Projects; and

(f) Jobs Coordinator. Each Contractor shall utilize the Jobs Coordinator retained by the Prime Contractor to assist with achieving and exceeding the Disadvantaged Worker and Targeted Worker goals set forth in Section 4.5 of this CBA. In addition, each Contractor shall utilize the Jobs Coordinator to assist the Contractor in fulfilling its WORC program and Helmets to Hardhats obligations described herein.

SANDAG shall develop and implement a Jobs Coordinator program with input from the Council that will include a pre-qualification process, selection guidelines and accountability measures to ensure the Jobs Coordinators are qualified and capable of performing the Jobs Coordinator function in accordance with the intent of the CBA. SANDAG shall have the right to remove Jobs Coordinators from the

pre-qualification list, in which case such individuals or entities shall not be eligible for further selection by Prime Contractors.

Section 22.3 WORC Committee. To carry out the intent and purpose of the WORC program, a WORC Committee under the CBA shall be established, jointly chaired by a designee of SANDAG and a designee of the Council, to oversee the effective development and implementation of the programs and policies described herein, and to work with representatives of each Union’s Apprenticeship Program and representatives of the MC3 apprenticeship readiness programs to maximize employment opportunities for Disadvantaged Workers and Targeted Workers who reflect the diversity of the communities surrounding each Covered Project, and who may not be previously qualified for the construction career opportunities created by the Covered Projects. The WORC Committee will meet at least quarterly to promptly facilitate its purposes in an expeditious manner as soon as this CBA becomes effective. All Unions and Prime Contractors working on active Covered Projects may be invited to attend the WORC Committee meetings, and the joint chairs, at their discretion, may invite other community partners to attend the committee meetings. The Project Labor Coordinator will assist with the scheduling and facilitation of the WORC Committee meetings.

ARTICLE 23

HELMETS TO HARDHATS

Section 23.1 Veterans Entry into Building and Construction Trades. The Parties recognize a desire to facilitate the entry into the building and construction trades of Veterans who are interested in careers in the building and construction industry. The Contractors and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter “Center”) and the Center’s “Helmets to Hardhats” program to serve as a resource for preliminary orientation, assessment, and construction aptitude, referral to Apprenticeship Programs or hiring halls, counseling and mentoring, support network, employment opportunities, and other needs as identified by the Parties.

Section 23.2 Integrated Database. The Unions and Contractors agree to coordinate with the Center to create and maintain an integrated database of Veterans interested in working on this Covered Project and of apprenticeship and employment opportunities for this Covered Project. The Project Labor Coordinator may assist the Contractors and Unions with scheduling opportunities for outreach, recruitment, interviews, assessment and commencing with an Apprenticeship

Program's application and entrance process. The Contractors and Unions agree to engage and participate in such opportunities.

ARTICLE 24

NO DISCRIMINATION AND NO HARASSMENT

Section 24.1 This Article is intended to preserve the dignity and professionalism of the workplace and construction site as well as protect the right of employees to be free from discrimination, unlawful harassment, retaliation and inappropriate conduct toward others based on a protected status. Discrimination, unlawful harassment, retaliation and inappropriate conduct toward others based on a protected status are contrary to the values of SANDAG, Contractors and the Unions. There shall be no unlawful discrimination, harassment or retaliation by any Contractor or Union on the basis of sex, gender, race, national origin, color, ancestry, religion, ethnicity, age, disability, genetic information, sexual orientation, gender identity, gender expression, marital status, denial of family care leave, military and veteran status, criminal record, past incarceration, previous status as a foster youth, medical condition, political affiliation, membership in a labor organization in hiring and dispatching workers for the project, or any other characteristic protected by state or federal employment law. All Contractors and employees are responsible for conducting themselves in accordance with this Article. Any Contractor, Contractor employee or Union representative proven to be in violation of this Article is subject to immediate removal from the Covered Project.

In witness whereof, the Parties have caused this Community Benefits Agreement for SANDAG to be executed as of the date and year stated below.

SANDAG

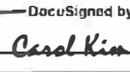
By. 

Name: Hasan Ikhrata

Title: Chief Executive Officer

Dated: January 19, 2022

COUNCIL

By: 
70D82C690EED49C

Name: Carol Kim

Title: _____

Dated: 1/3/2022

SIGNATORY UNIONS

By: DocuSigned by:
Michael Patterson
Allied Workers Local 5

By: DocuSigned by:
Luis Miramontes
Boilermakers Local 92

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

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

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

By: DocuSigned by:
Tony Garzayana
Elevator Constructors Local 18

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

By: DocuSigned by:
Beau Coleman
Iron Workers Local 229

By: DocuSigned by:
Val Macedo
Laborers Local 89

By: DocuSigned by:
Tom Castleman
Plasterers Local 200

By: DocuSigned by:
James Preciado
Plaster Tenders Local 1414

By: DocuSigned by:
Ronald J. Posh
Operating Engineers Local 12

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

By: DocuSigned by:
Todd Barry
Road & Bridge Fitters Local 669

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

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

By: DocuSigned by:
[Signature]
Laborers Local 1184

By: DocuSigned by:
Jose Estrada
Teamsters Local 166

By: DocuSigned by:
Ed Iann
Laborers Local 345

By: DocuSigned by:
SERGIO RASCÓN
Laborers Local 300

By: DocuSigned by:
Ricardo Perez
UA Local 345

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

By: DocuSigned by:
Stephen Aravaia
Southwest Regional Council of Carpenters

By: DocuSigned by:
[Signature]
Operating Engineers Local

By: DocuSigned by:
[Signature]
Operating Engineers Local

ATTACHMENT A – LETTER OF ASSENT

To be signed by all Contractors awarded work covered by the Community Benefits Agreement prior to commencing work.

[CONTRACTOR’S LETTERHEAD]

DATE

Project Labor Coordinator

Address

Address

Address

Attention: _____

Re: SANDAG Community Benefits Agreement

To Whom It May Concern:

This is to confirm [Name of Company] agrees to be bound by the SANDAG Community Benefits Agreement (“CBA”), as such Agreement may from time to time be amended by the Parties or interpreted pursuant to its terms. Such obligation to be bound by the CBA shall extend to all work covered by the CBA undertaken by this Company on the Covered Project pursuant to [Insert SANDAG Contract No. _____ and Name of Covered Project], and this Company shall require all of its subcontractors of whatever tier to be similarly bound for all work within the scope of the CBA by signing and furnishing to you an identical Letter of Assent prior to their commencement of work.

Sincerely,

[Name of Construction Company]

By:

[Name and Title of Authorized Executive]

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

ATTACHMENT B-1 – WORKFORCE DISPATCH REQUEST FORM

San Diego Association of Governments Community Benefits Agreement

The San Diego Association of Governments (SANDAG) Community Benefits Agreement (CBA) establishes a goal of at least thirty percent (30%) of the total craft hours on each Covered Project being performed by Disadvantaged Workers. The SANDAG CBA also establishes a goal of at least ten percent (10%) of the total craft hours on each Covered Project being performed by Targeted Workers. The Unions and Contractors agree that Disadvantaged Workers and Targeted Workers shall be first referred for Covered Projects when requested through use of this Workforce Dispatch Request Form.

C O N T R A C T O R U S E O N L Y

Please complete and fax/email this form to the applicable union to request craft workers that fulfill the hiring requirements for this project. After faxing/emailing your request, please call the local union to verify receipt and substantiate their capacity to furnish workers as specified below. Please print and retain copies of your fax or email transmission for your records.

TO:	Local Union and #	
	Email/Fax	
	Phone	
CC:	Project Labor Coordinator	
	Email/Fax	
FROM:	Contractor	
	Issued by	
	Email/Fax	
	Phone	

UNION CRAFT WORKER REQUEST:

Craft Classification	Journeyman or Apprentice	Disadvantaged Worker and/or Veteran	Targeted Worker	No. of Workers Requested
	<input type="checkbox"/> JM <input type="checkbox"/> APP	*	**	
	<input type="checkbox"/> JM <input type="checkbox"/> APP	*	**	
	<input type="checkbox"/> JM <input type="checkbox"/> APP	*	**	
	<input type="checkbox"/> JM <input type="checkbox"/> APP	*	**	
	<input type="checkbox"/> JM <input type="checkbox"/> APP	*	**	
Total Number of Workers Requested:				

In accordance with the CBA, Article 4, Union Recognition and Employment, we are requesting the union:

* Please provide priority referral of Disadvantaged Workers, based on zip code residence as described on the following page, or veteran status.

** Please provide priority referral of Targeted Workers, to the extent such status is known by the hiring hall or referral source; see list of criteria on the following page.

WORKER REPORTING INSTRUCTIONS:

Reporting Date:		Reporting Time:	
Reporting To:		On Site Phone:	
Project Name:			
Project Location:			
Special Instructions:			

U N I O N U S E O N L Y

Please complete the "Union Use Only" section and fax or email both pages to the requesting Contractor and Project Labor Coordinator.

Date Dispatch Received:						
Dispatch Received by:						
Date Worker(s) Dispatched:						
Name:	JM or App	Veteran	Disadvantaged Worker? *	Zip Code	Targeted Worker? *	Targeted Category**
	<input type="checkbox"/> JM <input checked="" type="checkbox"/> APP	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> JM <input type="checkbox"/> APP	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> JM <input type="checkbox"/> APP	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> JM <input type="checkbox"/> APP	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> JM <input type="checkbox"/> APP	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> JM <input type="checkbox"/> APP	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	

* PLEASE NOTE: By marking the "No" box for either the "Veteran", "Disadvantaged Worker", and "Targeted Worker" categories you are certifying, on behalf of the Union, that the Union has exhausted all reasonable efforts to locate and dispatch such Veteran, Disadvantaged Worker, or Targeted Worker.
 ** Please indicate number of the Targeted Worker category (a through k, as shown below). You may indicate multiple categories per worker.

A **Disadvantaged Worker** is an individual who resides in a Disadvantaged Area or a Veteran residing anywhere. Below is a list of the Disadvantaged Area zip codes within the San Diego area.

91905	91906	91910	91911	91932	91934	91942	91945	91950	91977	92004
92020	92021	92025	92027	92036	92054	92055	92058	92061	92066	92070
92083	92086	92102	92104	92105	92113	92114	92115	92154	92173	92536

The complete list of Disadvantaged Area zip codes can be found here: www.sandag.org/cba

A **Targeted Worker** is any individual who qualifies for one or more of the following categories:

- a) Is a veteran or is the eligible spouse of a veteran of the United States armed forces under Section 2(a) of the Jobs for Veterans Act (38 U.S.C.4215[a])
- b) Is an Apprentice with less than fifteen percent of the work hours required for completion of the Apprenticeship Program
- c) Has no high school diploma or general education diploma GED
- d) Is homeless or has been homeless within the last year
- e) Is a former foster youth
- f) Is a custodial single parent
- g) Is experiencing protracted unemployment (receiving unemployment benefits for at least 3 months)
- h) Is a current recipient of government cash or food assistance benefits
- i) Has a documented income at or below 100 percent of the Federal Poverty Level
- j) Is formerly incarcerated
- k) Is a graduate of an apprenticeship readiness program approved to use the multi-craft core curriculum (MC3)

[This form is not intended to replace a Union's Dispatch or Referral Form normally given to the employee when being dispatched to the jobsite.]

ATTACHMENT C – DRUG AND ALCOHOL TESTING POLICY

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

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

permitted to accompany the applicant or employee to the collection facility to observe the collection, bottling, and sealing of the specimen.

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

accepted symptom of impairment (e.g., slurred speech, unusual lack of muscular coordination). Such behavior must be actually observed by at least two (2) persons, one (1) of whom shall be a supervisor who has been trained to recognize the symptoms of drug and alcohol abuse or impairment and the other of whom shall be the Job Steward. If the Job Steward is unavailable or there is no Job Steward on the Covered Project, the other person shall be a member of the applicable Union's bargaining unit. Testing shall be pursuant to the procedures stated hereinabove. Employees who are tested pursuant to the exceptions set forth in this paragraph and who test positive will be removed from the Contractor's payroll.

- h. Applicants or employees who do not test positive shall be paid for all time lost while undergoing drug and alcohol testing. Payment shall be at the applicable wage and benefit rates set forth in the applicable Union's Master Labor Agreement. Applicants who have been dispatched from the Union and who are not put to work pending the results of a test will be paid waiting time until such time as they are put to work. It is understood that an applicant must pass the test as a condition of employment. Applicants who are put to work pending the results of a test will be considered probationary employees.
6. The Contractors will be allowed to conduct periodic jobsite drug and alcohol testing on the Project under the following conditions:
- a. The entire jobsite must be tested, including any employee or subcontractor's employee who worked on that project three (3) working days before or after the date of the test;
 - b. Jobsite testing cannot commence sooner than fifteen (15) days after start of the work on the project;
 - c. Prior to start of periodic testing, a Business Representative will be allowed to conduct an educational period on company time to explain periodic jobsite testing program to affected employees;
 - d. Testing shall be conducted by an SAMHSA-certified laboratory, pursuant to the provisions set forth in paragraph 5 hereinabove.
 - e. Only two (2) periodic tests may be performed in a twelve (12)-month period.
7. It is understood that the unsafe use of prescribed medication, or where the use of prescribed medication impairs the employee's ability to perform work, is a basis for the Contractor to remove the employee from the jobsite.
8. Any grievance or dispute that may arise out of the application of this Policy shall be subject to the grievance and arbitration procedures set forth in the CBA.
9. The establishment or operation of this Policy shall not curtail any right of any employee found in any law, rule, or regulation. Should any part of this Policy be found unlawful by a court of competent jurisdiction or a public agency having jurisdiction over the Parties, the remaining portions of the CBA shall be unaffected, and the Parties shall enter negotiations to replace the affected provision.

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

SPECIMEN REPORTING CRITERIA

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

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

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

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

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

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

⁴ Methylenedioxymethamphetamine (MDMA)

⁵ Methylenedioxyamphetamine (MDA)

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

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

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

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

APPENDIX A –

MEMORANDUM OF UNDERSTANDING #1

STARTUP AND COMMISSIONING

SANDAG and the Parties agree that work covered by this CBA on Covered Projects includes all onsite physical craft work that is part of startup and commissioning, including, but not limited to, system flushes and testing, loop checks, rework and modifications, and functional and operational testing up to and including the final running test. It is understood that SANDAG's personnel and/or its representatives, together with the manufacturer's and/or vendor's representatives, and/or project operating personnel may supervise and direct the startup, commissioning, rework, and modification activity, and that the onsite physical craft work is typically performed as part of a joint effort with these representatives and personnel. A manufacturer or its representatives may perform industry standard startup and commissioning work to satisfy its guarantee or warranty on a piece of equipment, and such work will be exempt from the Community Benefits Agreement to the extent the work is excluded by Section 3.2(e) and/or Section 3.2(f).