PROJECT LABOR AGREEMENT FOR WEST VALLEY-MISSION COMMUNITY COLLEGE DISTRICT

This Project Labor Agreement for West Valley-Mission Community College District ("Agreement") is entered into this ___ day of _____, 2018, by and between West Valley-Mission Community College District ("District"), Santa Clara & San Benito Counties Building and Construction Trades Council, AFL-CIO ("Council"), Signatory Unions (as defined herein below (commonly referred to as "Union") and the Contractors and subcontractors of all tiers (as defined herein below) who shall become signatory to this Agreement by signing the "Agreement to be Bound" (Addendum A). The District, Council, Signatory Unions and Contractor are collectively referred to herein as "the Parties" and each individually as a "Party." This Agreement is entered into with reference to the following Recitals, all of which are incorporated herein by this reference.

RECITALS

WHEREAS, the purpose of this Agreement is to achieve the objectives described in this Agreement on District projects; and

WHEREAS, the District successfully completed a pilot project situated on the District's West Valley College campus commonly referred to as the Applied Arts and Sciences Building under a Project Labor Agreement; and

WHEREAS, funds for construction of the Project are derived in whole or in part from proceeds of the District's Measure X General Obligation Bonds that will be on the ballot in the November 2018 election; and

WHEREAS, successfully completing Project construction within the time and the budget established by the District is of the utmost importance to the District and the students served by the District; and

WHEREAS, large numbers of workers of various skills are required to complete Project construction; and

WHEREAS, the use of skilled labor on construction work increases the safety of construction projects as well as the quality of completed work; and

WHEREAS, it is recognized that on projects of this magnitude 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 interests of the general public, the District and its students, the Union, the Council and the Contractors are best served by completing construction of the Project in an orderly manner without delay, hindrance or disruption due to strikes, picketing or other labor disturbances, and.

WHEREAS, the Contractors and the Union desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the Project and to encourage close cooperation among the Contractors/Employers and the Union so that a satisfactory, continuous and harmonious relationship will exist among the parties to this Agreement; and

WHEREAS, the parties agree that one of the primary purposes of this Agreement is to avoid the tensions that might arise on the Project if Union and non-union workers of different employers were to work side by side on the Project, potentially leading to labor disputes that could delay completion of the Project; and

WHEREAS, this Agreement is not intended to replace, interfere with, abrogate, diminish or modify existing local or national collective bargaining agreements in effect during the duration of the Project, insofar as a legally binding agreement exists between the Contractors/Employers and the affected Unions, except to the extent that the provisions of this Agreement are inconsistent with said collective bargaining agreements, in which event, the provisions of this Agreement shall prevail; and

WHEREAS, the District places high priority upon the development of comprehensive programs for the recruitment, training and employment of local area residents, including District graduates, and recognizing the ability of local pre-apprenticeship and apprenticeship programs to provide meaningful and sustainable career pathways to careers in the building and construction industry; and

WHEREAS, the parties to this Agreement pledge their full good faith and trust to work toward the mutually satisfactory completion of the Projects;

NOW THEREFORE, the Parties hereto agree as follows.

Article 1. Definitions.

1.1. Agreement. "Agreement" means this Project Labor Agreement for West Valley-Mission Community College District along with Addendum A (Agreement to be Bound), and B (list of Unions with applicable Schedule A Master Collective Bargaining Agreements referred to herein as "Schedule A's" or "Master Agreements") attached hereto (collectively hereinafter referred to as "Appendices") and modifications thereto mutually agreed to by the Parties in accordance with the provisions of this Agreement. Addendum A and B are incorporated herein by this reference.

1.2. District. "District" is West Valley-Mission Community College District, its governing board, officers, agents and public employees, including managerial personnel.

1.3. District Representative. The District Representative is the District's Vice Chancellor, Administrative Services or such employee of the District as she/he may designate. The District Representative is an employee or officer of the District who is authorized to act on behalf of the District under this Agreement and to enforce the rights of the District under this Agreement.

1.4. Contractor. "Contractor" means any individual, firm, partnership, or corporation, (including the prime contractor, general contractor, construction manager, project manager, design-build entity, lease-leaseback entity or equivalent entity), or combination thereof, including joint ventures, and their successors and assigns, that are independent business enterprises under contract with the District for construction of the Project or portions thereof. The term "Contractor" includes Subcontractors of any tier, as required by the context of usage.

1.5. Construction Contract. "Construction Contract" means the public works or improvement contract(s) (including design-bid, design-build, lease-leaseback or other contracts under which construction of the Project is done) awarded by the District for construction of the Project or portions thereof.

1.6. Project. "Project" means all projects paid for in whole or in part with Measure X funds, excluding those listed in Addendum C. The District and the Council may mutually agree in writing to add additional projects to the scope of Projects to be covered by this Agreement. The term "Project" applies to each and all projects as defined in this section, whether used in the singular or plural herein.

1.7. Union. "Union" or "Unions" means the Santa Clara & San Benito Counties Building and Construction Trades Council, AFL-CIO, and any affiliated labor organization signatory to this Agreement, acting on its own behalf and on behalf of its respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement. The terms "Union" and "Signatory Union" or the plurals thereof are used interchangeably in this Agreement.

1.8. Construction Manager. The "Construction Manager" is a consultant to the District responsible for management and oversight of Project construction on behalf of the District as an agent of the District.

1.9. Master Collective Bargaining Agreements. "Master Collective Bargaining Agreement(s)," "Master Agreement" or "Schedule A" means the local or regional master collective bargaining agreements to which the Union(s) and Contractors are bound, copies of which shall be provided to the District upon request and are incorporated herein by reference. The list of Unions with Schedule A Master Collective Bargaining Agreements is attached hereto as Addendum B.

1.10. Council. "Council" means the Santa Clara & San Benito Counties Building & Construction Trades Council.

1.11. Bonafide Apprenticeship Program. A "Bonafide Apprenticeship Program" is a joint apprenticeship training program approved by the California Division of Apprenticeship Standards.

Article 2. Scope of Agreement.

2.1. Agreement Objectives. The Parties hereto acknowledge and agree that each and all of the following are the objectives of this Agreement:

2.1.1. Project Completion. Completing construction of the Project within the budget and the time established by the District.

2.1.2. District Compliance with Public Works Contract Procurement Requirements. Bidding and award of the Construction Contract for the Project by the District shall be in accordance with: (i) applicable California law, including without limitation, applicable provisions of the California Public Contract Code and the California Education Code;

and (ii) the District's Board Policies and Administrative Procedures relating to purchasing, bids and contracts, and construction contracts which are in effect at the time of the publication of the first advertisement of the availability of a Project subject to this Agreement for bidding, not inconsistent with this Agreement.

2.1.3. Sufficient Labor Force. At all times during construction of the Project, a sufficient supply of labor resources, with necessary skills and training, are available to maintain progress of Project construction as reflected in the then current District approved Construction Schedule for the Project.

2.1.4. Elimination of Labor Disturbances. Prohibition on labor disturbances affecting completion of Project construction, including without limitation, work stoppages, strikes, sympathy strikes and lockouts.

2.1.5. Consistency of Labor Code Compliance. Uniformity in the monitoring of Contractor compliance with Labor Code requirements during Project construction and uniform enforcement of Labor Code obligations of the Contractor during Project construction.

2.1.6. Resolution of Labor Grievances. Establishment of neutral arbitration procedures as an alternative dispute resolution process for resolving labor grievances arising during Project construction.

2.1.7. Equal Bidding Opportunities. Equal opportunity for all qualified Contractors to submit a Bid Proposal to the District for construction of the Project, whether or not at the time of submitting a Bid Proposal, the Contractor is a signatory to a collective bargaining agreement. The foregoing is subject to compliance by the Contractor with the terms of this Agreement and execution of the Agreement To Be Bound set forth in Addendum A to this Agreement.

2.2. Parties. The Parties to this Agreement are the Contractors, the District, the Council and the Union.

2.3 Covered Work: This Agreement covers, without limitation, all on-site site preparation, surveying, construction, alteration, demolition, installation, improvement, remediation, retrofit, painting, or repair of buildings, structures and other works, and related activities for the Project, that is within the craft jurisdiction of one of the Unions and which is part of the Project, including, without limitation to the following examples, geotechnical and exploratory drilling, temporary HVAC, landscaping and temporary fencing, pipelines (including those in linear corridors built to serve the Project), pumps, pump stations, start-up, modular furniture installation, and final clean-up. On-site work includes work done for the Project in temporary yards, dedicated sites, or areas adjacent to the Project, and at any on-site or off-site batch plant constructed solely to supply materials to the Project. This scope of work includes all soils and materials testing and inspection only if such testing and inspection is a classification in which a prevailing wage determination has been published by the California Department of Industrial Relations at the time of the publication of the first advertisement of the availability of a Project subject to this Agreement for bidding.

2.3.1. This Agreement applies to any start-up, calibration, commissioning, performance testing, repair, maintenance, and operational revisions to systems and/or subsystems for the Project performed after Completion pursuant to a Construction Contract unless performed by District employees.

2.3.2. This Agreement covers all on-site fabrication work over which the District, Contractor(s)/Employer(s) or subcontractor(s) possess the right of control (including work done for the Project in any temporary yard or area established for the Project). Additionally, this Agreement covers any off-site work, including fabrication necessary for the Project defined herein, that is covered by a current Schedule A Agreement or local addenda to a National Agreement of the applicable Union(s) that is in effect as of the execution date of this Agreement.

2.3.3. Except for the delivery of supplies, equipment or materials that are stockpiled for later use, this Agreement covers all construction trucking work, including the hauling and delivery of ready-mix, asphalt, aggregate, sand, soil or other fill or similar material that is directly incorporated into the Project's construction process as well as the off-hauling of soil, sand, gravel, rocks, concrete, asphalt, excavation materials, construction debris and excess fill, material and/or mud as such work is subject to a prevailing wage rate determination of the California Department of Industrial Relations. Contractor(s)/Employer(s), including brokers of persons providing construction trucking work who shall provide certified payroll records to the District within ten (10) days of written request or as required by bid specifications.

2.3.4. Work covered by this Agreement within the following craft jurisdictions shall be performed under the terms of their National Agreements, as follows: the National Agreement of Elevator Constructors, the National Transient Lodge (NTL) Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, and any instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians; with the exception that Articles 4, 13 and 14 of this Agreement shall apply to such work.

2.4. Excluded Items/Activities. The following items/activities are specifically excluded from the scope of this Agreement and not subject to the terms hereof:

2.4.1. Non-Manual Labor Employees. Work of non-manual employees, including without limitation, superintendents,), supervisors and other supervisory personnel, staff engineers, timekeepers, clerical/office workers, messengers, guard/security services, safety personnel, emergency medical and first aid technicians, and other professional, design professional, engineering, administrative, supervisory and construction management personnel (unless any of the above is covered by a collective bargaining agreement).

2.4.2. District Equipment. Equipment or machinery owned, rented, leased or otherwise controlled by the District and operated by the District's employees.

2.4.3. District Employees and Professional Service Providers. All employees of the District, and professional employees of the Construction Manager, design professionals retained by the District in connection with design or construction of the Project (including without limitation, the architect, engineers and other professional services consultants and their respective sub-consultants) and employees of other professional service providers for which a prevailing wage determination has not been issued by the California Department of Industrial Relations as of the date of the applicable Project for the relevant classification above.

2.4.4. Leased/Rented Equipment Maintenance and Supervision. Maintenance or repairs of leased or rented equipment used for Project construction away from the Site and supervision of leased/rented equipment at the Site.

2.4.5. Construction By Others. Work performed on, adjacent to, or leading to the Site by state, regional or local governmental or quasi-governmental entities, public utility service providers, or the District and/or contractors to the District which is not within the scope of the work of the Project, as established by the Design Documents for the Project.

2.4.6. Warranty Work of Equipment or Materials Manufacturers. Work by employees of any specialty manufacturer or vendor, pursuant to warranty obligations of such manufacturer or vendor, except as set forth in section 2.3.2; *provided*, that should such circumstances arise, the contractor shall demonstrate to the District and/or Construction Manager and the affected Union(s), including the Council, at the pre-job meeting, which shall be at least five (5) working days prior to the utilization of such employees, by enumeration of specific tasks, why the work cannot be performed by craftworkers covered by this Agreement, as well as provide a copy of any warranty or guarantee involved. Every effort will be made, consistent with the requirements of the warranty or guarantee, to utilize employees working under this Agreement pursuant to the advice and oversight of supervisors and/or technicians from a manufacturer or vendor, rather than employees not covered by this Agreement. Disputes under this section are subject to the grievance procedure in Article 13.

2.4.7. Post Completion Work. Work on any Portion of the interior or exterior of the Project after a Notice of Completion is filed, except when the District directs a Contractor to engage in repairs, warranty work, modifications or punch list work pertaining to a Construction Contract or when a Contractor performs work under a change order issued under a Construction Contract.

2.4.8. Non-Construction Services. All non-construction support services in connection with construction of the Project which are contracted for by the District, the Construction Manager and/or the Contractor.

2.4.9. Emergency/Maintenance. Work by employees of the District or employees of contractors to the District relating to emergencies or maintenance activities.

2.4.10. Specialty Testing Laboratory. Laboratory work for specialty testing of materials or equipment not ordinarily performed by the Signatory Unions; provided, however, that employees engaged in testing and inspection functions covered by a prevailing wage determination, shall be subject to this Agreement.

2.5. Project Labor Disputes. All Project labor disputes involving the application or interpretation of a Master Agreement to which the Contractor and a Signatory Union are parties and all employee discipline grievances shall be resolved pursuant to the resolution procedures of the applicable Master Agreement. All disputes relating to the interpretation or application of this Agreement shall be subject to resolution by the Joint Administrative Committee, as described in Article 12, and the grievance arbitration procedure set forth herein.

2.6. Limitations to Application of Agreement to Project.

2.6.1. Application Only to the Project. The Agreement is not intended to, and shall not affect or govern the award of other public works contracts by the District, except for the Project.

2.6.2. Non-Manual Labor Employees. Unless covered by a Master Agreement, this Agreement shall not apply to a Contractor's executives, managerial employees, engineering employees, supervisors, office or clerical employees.

2.6.3. District Employees. This Agreement shall not apply to employees of the District.

Article 3. Effect of Agreement.

3.1. Binding on Parties. By executing the Agreement, all Parties hereto agree to be bound by each and all of the provisions of the Agreement.

3.2. Construction Contract and Agreement Terms. By accepting the award of a Construction Contract for the Project, whether as a Contractor or subcontractor thereunder, the Contractor agrees to be bound by the provisions of this Agreement and agrees that it will evidence its acceptance prior to the commencement of work by executing the Agreement to be Bound in the form attached hereto as Addendum A. Except for being bound by the terms of this Agreement, nothing in this Agreement shall be construed to require a Contractor to be a signatory to any collective bargaining agreement; however, the Contractor shall, for any Project subject to this Agreement, be bound by the applicable collective bargaining agreement with any Union.

3.3. Subcontractors. At the time that the Contractor enters into a subcontract with any subcontractor providing for the performance of any portion of the Construction Contract for the Project subject to this Agreement, the Contractor shall provide a copy of this Agreement, as it may from time to time be modified, to said subcontractor and shall

require the subcontractor, as a part of its acceptance of an award of a subcontract to construct a portion of the Project, to agree in writing to be bound by each and every provision of this Agreement prior to the commencement of work. The obligations of a Contractor may not be evaded by subcontracting. nor shall this Agreement be deemed to create a contractual relationship between the District and a subcontractor other than as set forth herein.

3.4. Limitation to Parties and Project. This Agreement shall only be binding on the Parties hereto and their successors and assigns, relating to the Project and shall not apply to: (i) the parents, affiliates, subsidiaries, or other ventures of any such Party; (ii) the Excluded Items/Activities and Limitations on Application of Agreement to Project, set forth in Sections 2.4 and 2.6 above; or (iii) any District work of improvement except the Project.

3.5. Schedule A's. The provisions of this Agreement, including the Schedule A's incorporated herein by reference, shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement. To the extent a provision of this Agreement is inconsistent with a Schedule A, the provisions of this Agreement shall prevail. Where a provision of a Schedule A is not inconsistent with this Agreement, the provision of the Schedule A shall apply.

Article 4. Work Stoppages, Strikes, Sympathy Strikes and Lockouts

4.1. Agreement to Not Engage in Work Stoppages or Lockouts. The Parties agree to all of the following for the duration of Project construction:

4.1.1. Prohibition on Work Stoppages, Strikes, etc. There shall be no strikes, sympathy strikes, work stoppages, picketing, handbilling or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions or employees employed by the Contractor on the Project, at the Site or at any other facility owned, leased, rented or otherwise occupied by the District because of a labor-related dispute on the Project. Disputes arising between the Unions and Contractor on construction projects excluded from the definition of "Project," or activities specifically excluded under Section 2.4 of this Agreement are not governed by the terms of this Section 4.1.1.

4.1.2. Prohibition on Lockouts. As to employees of the Contractors employed on the Project, there shall be no lockout of any kind by the Contractors.

4.1.3. Expiration of Collective Bargaining Agreement. If a collective bargaining agreement between the Contractor and a Union expires before the Contractor completes the performance of the Construction Contract for the Project, and the Union or Contractor gives notice of demands for a new or modified collective bargaining agreement, the Union agrees that it will not engage in strike activities at the Site. The Contractor and Union agree that the expired collective bargaining agreement shall continue in full force and effect for the

Project subject to this Agreement until a new or modified collective bargaining agreement is reached between the Union and Contractor. If the new or modified collective bargaining agreement reached between the Union and Contractor provides that any terms of the collective bargaining agreement shall be retroactive, the Contractor agrees to comply with any retroactive terms of the new or modified collective bargaining agreement that are applicable to employees employed on the Project within seven (7) days of execution of the new or modified collective bargaining agreement.

4.1.4. Nonpayment of wages or contributions: In the case of nonpayment of wages or trust fund contributions on the Project, the Union shall give the District and the Contractor three (3) business days' notice when nonpayment of trust fund contributions has occurred, and one (1) business days' notice when nonpayment of wages has occurred or when paychecks being tendered to a financial institution normally recognized to honor such paychecks will not honor such paycheck as a result of insufficient funds, of the intent to withhold labor from the Contractor's or their subcontractor's workforce, during which time the Contractor/Employer may correct the default. In this instance, a Union's withholding of labor (but not picketing) from a Contractor/Employer that has failed to pay its fringe benefit contributions or failed to meet its weekly payroll shall not be considered a violation of this Article. The District or the General Contractor may elect to issue joint checks for disputed delinquencies.

4.1.5. Notification: If the District contends that any Union has violated this Article, it will so notify, in writing, the Senior Executive of the Council and the Senior Executive of the Union, setting forth the facts alleged to violate the Article, prior to instituting the expedited arbitration procedure set forth below. The Council shall immediately use its best efforts to cause the cessation of any violation of this Article. The leadership of the Union shall immediately inform the workers of their obligations under this Article. A Union complying with this obligation shall not be held responsible for unauthorized acts of employees it represents.

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

4.2.1. Notice. A Party invoking this procedure shall notify, Robert Hirsch, as the permanent arbitrator, or Barry Winograd, as the alternate arbitrator under this procedure. In the event the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, then the parties shall select the arbitrator from the list in Section 13.2.3. Notice to the arbitrator shall be by the most expeditious means available, with notice by email and telephone to the District and the party alleged to be in violation, and to the Council and involved local Union if a Union is alleged to be in violation.

4.2.2. Council Notice to Parties. Upon receipt of a Grievance Notice alleging that a Party has breached Article 4, the District will contact the permanent arbitrator named above, or his alternate, who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

4.2.3. Council Notice of Arbitration; Conduct of Arbitration Hearing. The arbitrator shall notify the Parties by e-mail and telephone of the place and time for the 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 Parties. A failure of any Party to attend said hearings shall not delay the hearing of evidence or the issuance of any award by the arbitrator.

4.2.4. Limits to Scope of Arbitration; Arbitration Award. The sole issue at the hearing shall be whether or not a violation of Article 4.1 of the Agreement has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any Party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with or enforcement of the award. The arbitrator may order cessation of the violation of this Article and other appropriate relief and such award shall be served on all Parties by hand or registered mail upon issuance. Should a party found in violation of Articles 4.1.1 and/or 4.1.2 fail to comply with an arbitrator's award to cease the violation, the party in violation shall pay to the affected party as liquidated damages the sum of ten thousand dollars ($10,000.00) per shift for which it failed to comply, or portion thereof, until such violation is ceased. The arbitrator shall retain jurisdiction to resolve any disputes regarding the liquidated damages claimed under this section.

4.2.5. Enforcement of Arbitration Award. Such award may be enforced by any Court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. Written notice of the filing of such enforcement proceedings shall be served on all Parties in accordance with the California Code of Civil Procedure. In the proceeding to obtain a temporary order enforcing the arbitrator's award as issued under Section 4,2,4, all Parties waive the right to a noticed hearing and agree that such proceedings may be conducted on an ex parte basis upon timely and proper service of the ex parte hearing. Such agreement does not waive any Party's right to participate in a hearing for a final order of enforcement. The Court's order or orders enforcing the arbitrator's award shall be served on all Parties by hand or delivered by certified mail.

4.2.6. Waiver of Other Arbitration Rights. Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance are waived by the Parties.

4.2.7. Arbitration Costs; Arbitrator's Fees. The fees and expenses of the arbitrator shall be divided equally between the Parties to the arbitration.

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

Article 5. Pre-Construction Conference. A pre-construction conference shall be held when requested by any Party to this Agreement prior to the commencement of work under the Construction Contract for the Project. Such conference shall be attended by a representative each from the District, all Contractors on that portion of the Project, the Unions and the Construction Manager, if any.

Article 6. No Discriminatory Employment Practices. In connection with Project construction, the Contractor and Unions agree to comply with all non-discrimination provisions of federal, state and local law, to protect employees and applicants for employment, on the Project.

Article 7. Union Security.

7.1. Union Exclusive Bargaining Representative. The Contractor recognizes the Unions as the sole bargaining representatives of all craft employees working on the Project who are covered by the scope of this Agreement.

7.2. Dues and Fees. All employees who are employed by the Contractor/Employer(s) shall, as a condition of employment, on or before the eighth (8th) day of consecutive or cumulative employment on a construction contract subject to this Agreement, comply with Union security of the applicable Schedule A and be responsible for the payment of the applicable monthly working dues and any associated fees uniformly required for Union membership in the applicable local Union which is signatory to this Agreement and shall stay current with such working dues and fees for the duration of work on the Project. The Contractor agrees to deduct initiation fees, Union dues or representation fees from the pay of any employee who executes a voluntary authorization for such deductions and to remit the dues and fees to the applicable Union or Council. Further, there is nothing in this Agreement that would prevent non-union employees from voluntarily joining the local Union.

Article 8. Referral.

8.1. Union Craft Labor Referrals. Except as otherwise provided in sections 8.2, 8.3 and 8.4, the Union shall be the sole source of all craft labor of the Contractor employed on the Project. The Contractor shall be bound by and utilize the registration facilities and referral systems established or authorized by the Union when such procedures are not in violation of Federal or state law.

8.2. Core Employees. The Parties recognize the District's commitment to provide opportunities to participate on the Project to emerging business enterprises as well as other enterprises that may not have previously had a relationship with the Union. To ensure that such enterprises will have an opportunity to employ their "core" employees

on the Project, the Parties agree that in those situations where the Contractor is not a party to a current collective bargaining agreement with the Union having jurisdiction over Project construction work to be performed by the Contractor, the Contractor may request by name, and the referring Union will honor, referral of core non-apprentice persons who have applied to the local Union for Project work and who provide satisfactory proof of all of the following qualifications to the Union and the District.

8.2.1. Licensing. Possess any and all licenses required by state or federal law for the Project work to be performed, if required by the nature of the work to be performed.

8.2.2. Experience. Have worked a total of at least five thousand (5,000) hours in the appropriate construction craft.

8.2.3. Contractor Employment. Were on the Contractor's active payroll for at least ninety (90) out of the one-hundred twenty (120) calendar days prior to the date of the District's award of the Construction Contract.

8.2.4. Safety. Have the ability to perform safely the basic functions of the applicable trade.

8.3. Referrals of Contractor Core Employees and Union Craft Labor. The Unions will refer to the Contractor one employee from the hiring hall out of work list for each affected craft, and will then refer one of the Contractor's "core" employees as defined above. The process then will be repeated, one and one, until a maximum of five (5) of the Contractor's "core" employees have been hired, after which point hiring will be done in accordance with Section 8.1 above from the applicable hiring hall out of work list. In the event of a reduction-in-force or layoff, such will take place in the reverse order, with layoff of the core employee and then the hiring hall employee, one and one.

8.4. Contractor Utilization of Alternative Labor Sources after 48 Hours. In the event that referral facilities maintained by the Union are unable to fill the requisition of the Contractor for employees within a forty-eight (48) hour period (Saturdays, Sundays and holidays excluded) after such requisition is made in writing by the Contractor, the Contractor shall be free to obtain labor resources from any available source. The Contractor shall refer the worker to the applicable hiring hall for dispatch to the Project, and shall immediately notify the Union of the name, address and social security number of any such worker(s) and shall immediately refer such worker(s) to the appropriate Union to satisfy the requirements of Article VII of this Agreement.

8.5. Workers' Residency Data. The Contractors shall collect and provide to the District on at least an annual basis data identifying the residence city and zip code of each employee engaged by the Contractor in Project construction.

8.6. Local Craft Labor Resources. Union will exert its utmost efforts to recruit sufficient numbers of skilled craftpersons to fulfill the requirements of the Contractor, including dispatch of qualified local residents if permissible under applicable laws and hiring hall policies/bylaws. The Unions agree to encourage the referral and utilization, to the

extent permitted by law and the hiring hall procedures of the local Unions and the standards of the Apprenticeship programs, of qualified residents residing in the zip codes listed in Addendum B, as journeymen and apprentices on the Project including entrance into such apprenticeship programs as may be operated by the Signatory Unions.

8.7. Bonafide Apprenticeship Programs. The Contractor or Subcontractor performing work on the Project shall, for each apprenticeable craft that it employs, employ on its regular workforce the ratio of apprentices as required by Labor Code Section 1777.5 who are enrolled and participating in a Bonafide Apprenticeship Program.

8.8. Drug Testing. Workers engaged in construction of the Project shall be subject to drug and substance abuse testing in accordance with the applicable Master Collective Bargaining Agreement.

Article 9. Wages, Hours and Fringe Benefits

9.1. Wages, Hours and Fringe Benefits Established by Schedule A Agreements. The wages, hours, fringe benefits and terms and conditions of employment on the Project shall be governed by the applicable Schedule A Master Collective Bargaining Agreement of the affected craft(s) as listed in Addendum B.

9.2. Contractor Contributions. The Contractor agrees to pay contributions to the established vacation, pension or other form of "deferred compensation plan," apprenticeship, worker protection and assistance, and health benefit funds in the amounts designated in the Master Collective Bargaining Agreements of the appropriate local Unions for those employees on the Project. The Contractor shall not be required to pay contributions to any other trust funds to satisfy their obligation under this Article except that Contractors who are signatory to collective bargaining agreements with the respective trades shall continue to pay all trust fund contributions required by such collective bargaining agreements.

9.3. Binding Effect of Schedule A Agreements. By signing this Agreement, the Contractors adopt and agree to be bound by the written terms of the legally established Trust Agreements, as described in Section 9.1, specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds.

9.4. Holidays. Holidays shall be in compliance with the applicable Master Agreement.

Article 10. Compliance with Wages, Hours and Fringe Benefit Requirements. It shall be the responsibility of the Contractor and Unions to investigate and monitor compliance with the provisions of the Agreement contained in Article 9. The District shall, in accordance with applicable law and California Labor Code § 1726(a) take cognizance of Contractor's compliance with the prevailing wage law, including rate requirements, fringe benefits requirements imposed by law, and limitations on hours of work per day/per week and shall promptly report any suspected violations to the Labor Commissioner.

Article 11. Helmets to Hardhats

11.1. Center for Military Recruitment, Assessment and Veterans Employment. The Contractors/Employers and Union 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/Employers and Union 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 of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

11.2. Veterans' Database. The Union and Contractors/Employers agree to coordinate with the Center to participate in an integrated database of veterans interested in working on the Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Union will give credit to such veterans for bonafide, provable past experience

Article 12. Joint Administrative Committee. The Parties to this Agreement shall establish a four (4) person Joint Administrative Committee. The Joint Administrative Committee shall be comprised of two (2) representatives selected by the District and two (2) representatives selected by the Union. Each representative shall designate an alternate who shall serve in his or her absence for any purpose contemplated by this Agreement. The Joint Administrative Committee shall meet as required but not less than once each 3-months during Project construction to review the implementation of the Agreement and the progress of the Project and resolve problems by majority vote, with such resolutions to be binding on all Parties to this Agreement. If the resolution to the problem brought before the Joint Administrative Committee requires a change, amendment, addition to or detraction from any provision of this Agreement, the Joint Administrative Committee shall have the power to make this resolution by majority vote, such resolution to become effective upon approval of the District's and the Union's signatories to this Agreement. If the problem arises out of the meaning, interpretation or application of the provisions of this Agreement, and the Committee is unable to resolve the matter by majority vote, the problem will be referred to the procedures set forth in Article 13 for final and binding resolution.

Article 13. Grievance Arbitration Procedure.

13.1. Agreement Procedures Exclusive. The Parties understand and agree that in the event any dispute arises out of the meaning, interpretation or application of the provisions of this Agreement, the same shall be settled by means of the procedures set out herein. No grievance shall be recognized unless the grieving party (Local Union or District Council on its own behalf, or on behalf of an employee whom it represents, or a Contractor on its own behalf) provides notice in writing to the Party with whom it has a dispute within five (5) days after becoming aware of the dispute but in no event more than thirty (30) days after it reasonably should have become aware of the event giving rise to the dispute. The time limits may be extended by mutual written agreement of the Parties.

13.2. Grievance Procedures. Grievances shall be settled according to the following procedures:

13.2.1. Meet and Confer (Step 1). Within seven (7) business days after the receipt of the written notice of the grievance, the Business Representative of the involved Local Union or District Council, or his/her designee, or the representative of the employee, and the representative of the involved Contractor shall confer and attempt to resolve the grievance.

13.2.2. Referral to Joint Administrative Committee (Step 2). In the event that the representatives are unable to resolve the dispute within the seven (7) business days after its referral to Step I, either involved Party may submit it within five (5) business days to the Joint Administrative Committee, which shall meet within five (5) business days after such referral (or such longer time as is mutually agreed upon by all representatives on the Joint Administrative Committee), to confer in an attempt to resolve the grievance. If the dispute is not resolved within such time (five (5) business days after its referral or such longer time as mutually agreed upon), it may be submitted within five (5) business days by either Party to arbitration at Step 3.

13.2.3. Referral to Arbitrator (Step 3). Within five (5) business days after referral of a dispute to Step 3, the Party filing the grievance shall notify the permanent arbitrator set forth in Article IV, or if he is not available, his alternate, for final and binding arbitration. The parties agree that if the permanent arbitrator or his alternate is not available, an arbitrator shall be selected by the alternate striking method from the list of three (3) below. The order of striking names from the list of arbitrators shall be determined by a coin toss, the winner of which shall decide whether they wish to strike first or second

1. William Riker
2. Morris Davis
3. Lluela Nelson

13.2.4. Hearing Process. The costs of the arbitration shall be borne equally by the Party filing the grievance and the Party or Parties against whom the grievance has been filed, with each Party bearing its own attorneys' fees and costs. It is understood that this grievance arbitration procedure will be used to resolve disputes regarding the language of this Agreement, but will not be used to resolve disputes over language of any Schedule A Master Collective Bargaining Agreement. Those disputes will be resolved under the dispute resolution procedures contained in the applicable Schedule A Master Collective Bargaining Agreement. The decision of the Arbitrator shall be binding on all Parties. The Arbitrator shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement. The expense of the Arbitrator shall be borne equally by all Parties to the grievance.

13.2.5. Hearing. The Arbitrator shall arrange for a hearing as soon as practicable from the date of his/her selection. A written opinion may be requested by a Party from the presiding Arbitrator.

13.2.6. Time. The time limits specified in any step of the Grievance Procedure set forth in Section 13.2 may be extended by mutual agreement of the parties initiated by the written request of one party to the other, at the appropriate step of the Grievance Procedure. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without a request for an extension of time, shall be deemed a waiver of such grievance without prejudice, or without precedent to the processing of and/or resolution of like or similar grievances or disputes.

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

Article 14. Work Assignments and Jurisdictional Disputes—Northern California Plan.

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

14.2. Jurisdictional Disputes. All jurisdictional disputes between or among Unions, parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding, and conclusive on the Contractors and Unions parties to this Agreement.

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

14.4. Prohibition on Work Stoppages. All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Employer's assignment shall be adhered to until the dispute is resolved. Individual employees violating this section shall be subject to immediate discharge. Each Employer will conduct a pre-job conference with the Council prior to commencing work. The District and the Project Manager will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Employers may be held together.

Article 15. Contractor Management Rights. The Contractor shall retain full and exclusive authority for the management of its business operations, including the right to direct its labor force in its sole discretion, consistent with this Agreement and the applicable Schedule A. No rules, customs or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees, however, the lawful manning provisions of the applicable Schedule A shall be recognized on the Project.

Article 16. Incorporation of Agreement into Construction Contract and Subcontracts. The District shall cause this Agreement to be incorporated into the terms and conditions of the Construction Contract awarded by the District for Project construction. In executing its Construction Agreement with the District, the Contractor acknowledges and agrees that it shall cause this Agreement to be incorporated into the terms and conditions of each Subcontract awarded by the Contractor to a Subcontractor.

Article 17. Term. This Agreement shall become effective upon execution by the District, after the District's Board of Trustees has approved this Agreement in an open public meeting of the Board of Trustees, and execution by the Council. Prior to each five (5) year anniversary of the effective date of this Agreement, the District and the Council shall meet to discuss proposed changes, if any, to the Agreement. Any mutually agreed upon changes to the Agreement shall be set forth in writing and shall not be effective unless and until approved by the Board of Trustees, the Council and the applicable Unions. Absent changes, the Agreement will roll over for an additional five (5) years. Notwithstanding expiration of the Term of this Agreement, this Agreement shall remain in full force and effect for all Projects under construction at the time of expiration of the Term of this Agreement or for which the District has awarded a Construction Contract prior to the expiration date of this Agreement.

Article 18. Savings Clause. The parties agree that this Agreement shall be interpreted consistent with applicable laws. The Parties agree that in the event any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void as being in contravention of any applicable law, by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect. The Parties further agree that if any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void, by a court of competent jurisdiction, the Parties shall substitute, by mutual agreement, in its place and stead, an article, provision, clause, sentence or word which will meet the objections to its validity and which will be in accordance with the intent and purpose of the article, provision, clause, sentence or word in question. The Parties also agree that in the event that a decision of a court of competent jurisdiction materially alters the terms of the Agreement such that the intent of the Parties is defeated, then the entire Agreement shall be null and void.

Article 19. Counterparts: This Agreement may be executed in counterparts, such that original signatures may appear on separate pages and when bound together all necessary signatures shall constitute an original. Faxed or emailed PDF signature pages transmitted to other parties to this Agreement shall be deemed the equivalent of original signatures.

Article 20. Headings: The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement. All defined terms used in this Agreement shall be deemed to refer to the singular and/or plural, in each instance as the context and/or particular facts may require.

Article 21. Conditions to Enforcement of Agreement. Notwithstanding Article 17, this Agreement is not effective, binding or enforceable unless the electorate within the District's jurisdictional boundaries have voted in the November 2018 election to approve the District General Obligation Bond Measure. If the District does not place a General Obligation Bond Measure on the November 2018 ballot or if the District places a General Obligation Bond Measure on the November 2018 ballot that does not obtain sufficient votes for passage, this Agreement is deemed terminated without further action of any Party hereto.

Dated: WEST VALLEY-MISSION COMMUNITY COLLEGE

_____

By: _____

Dated: SANTA CLARA AND SAN BENITO COUNTIES
BUILDING AND CONSTRUCTION TRADES COUNCIL

_____

By: David Bini, Executive Director

UNION SIGNATURES

Addendum A
AGREEMENT TO BE BOUND

[Date]

West Valley Mission Community College District
Attn: _____
14000 Fruitvale Avenue
Saratoga, California 95070

Re: West Valley Mission Community College District PLA -- Agreement To Be Bound
Project Name: _____ ("District Project")
District Bid No. _____

Dear Mr./Ms. _____:

By executing herein below, _____
[Name of Contractor/Subcontractor]
("Contractor") confirms that it agrees to be a party to and bound by the Project Labor Agreement for the West Valley Mission Community College District, as such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms for the above-named Project.

By executing this **Agreement to be Bound**, Contractor subscribes to, adopts and agrees to be bound by the written terms of the legally established trust agreements as set forth in Section 9.1, as they may from time to time be amended, specifying the detailed basis upon which contributions are to be made into, and benefits made out of, such trust funds, and ratifies and accepts the trustees appointed by the parties to such trust funds. The undersigned agrees to execute a separate Subscription Agreement(s) for such trust funds when such trust fund(s) require(s) such document(s).

The obligation to be a party to and be bound by this Agreement shall extend to all District Project work covered by this Agreement undertaken by Contractor. The Contractor shall require all of its subcontractors, of whatever tier, on the District Project to become similarly bound for all of their work within the scope of this Agreement by signing an identical Agreement to be Bound.

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

CONTRACTOR/SUBCONTRACTOR:_____

California Contractor State License No. or Motor Carrier (CA) Permit No.: _____

Name of Authorized Signatory (print): _____

Signature of Authorized Signatory: _____

Title of Authorized Signatory: _____

Telephone Number of Authorized Signatory:_____

Address of Authorized Signatory:_____

State Public Works Registration Number: _____

Addendum B: List of Unions

Addendum C: List of Projects Excluded from Coverage Under WVMCCD PLA

1. Signage & Wayfinding Master Plan and Implementation
2. MPOE Bunker Renovation—WV
3. Vasona Creek Improvements
4. Modular Classroom Removal and Site Rehabilitation
5. Campus Center Upgrades

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