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**SOUTHERN CALIFORNIA  
TUNNEL MASTER AGREEMENT**

**2018 - 2022**

**Between**

**ASSOCIATED GENERAL CONTRACTORS OF CALIFORNIA,  
INC.**

**And**

**SOUTHERN CALIFORNIA DISTRICT COUNCIL OF  
LABORERS**

**AFFILIATED WITH THE LABORERS' INTERNATIONAL  
UNION OF NORTH AMERICA, AFL-CIO**

This AGREEMENT entered into this 1st day of July, 2018, by and between the Associated General Contractors of California, Inc. hereinafter called the ASSOCIATION, and the Southern California District Council of Laborers affiliated with the Laborers' International Union of North America, AFL-CIO, and its affiliated Local Unions, or any or all of them, hereinafter referred to as the UNION.

**Section 1      General Provisions**

The term Association shall refer to the Associated General Contractors of California, Inc.

The term Employer (or Contractor) shall refer to a person, firm or corporation party to this Agreement.

The term Union means the Southern California District Council of Laborers and its affiliated Local Unions.

The term Local Union, as used herein, shall refer to a Local Union affiliated with Southern California District Council of Laborers, which has jurisdiction over the work in the territory covered by the Agreement.

The term Employee (or Employees) means the employed person or persons.

The term Workmen means persons in the Labor Market not employed. All personal nouns and pronouns refer to the male and female gender.

The term "Method of Delivery of Written Notices", required by this Agreement shall be satisfied by one of the following means of delivery: e-mail, fax, certified mail or regular mail.

- (a) This Agreement shall cover the CONSTRUCTION, ALTERATION, REPAIR AND DEMOLITION of tunnels, subways, shafts, raises and all underground excavations including lining of same.
- (b) This Agreement shall apply to any employee who performs work falling within the recognized jurisdiction of those local unions of the Laborers' International Union of North America, affiliated with the Southern California District Council of Laborers, except that this Agreement shall not apply to Superintendents, Assistant Superintendents, Civil Engineers and their helpers, Timekeepers, Confidential Help and Office Help.
- (c) Geographical Coverage: This Agreement shall apply to the area generally known as the eleven Southern California Counties: namely, Los Angeles, Orange, San Bernardino, Riverside, Imperial, Ventura, Santa Barbara, San Luis Obispo, Kern, Inyo and Mono. This Agreement shall also apply to the offshore islands of Southern California: namely, Richardson Rock, San Nicholas Island, Santa Catalina Island, San Miguel Island, Santa Barbara island, San Clemente Island, Santa Rosa island, Anacapa Island, Santa Cruz Island, Arch Rock, and any man-made or artificial islands offshore the Southern California Counties.

## **Section 2 Coverage and Description**

This Agreement shall cover all work of construction, alteration, repair or demolition of all tunnels, shafts, raises, subways, and all underground excavations including lining of same (Open cut work shall be excluded from this agreement except as follows: Where open cut work is covered over or decked with wood, steel or other substitute materials and workers are required to work under such cover, they shall be paid in accordance with the classifications of this Agreement for all excavation, cutting, and placing, lagging and stud gun work), which falls within the rightful jurisdiction of the Laborer's International Union of North America. Without limiting the scope of the work covered hereby it is agreed that miner's work shall be include, but not be limited to the construction, laying and maintenance of all railroad track in subways and tunnels; all mining work including the manning, running and/or handling of all boring equipment, laser beams, mole machines, shields and all drilling, regardless of type or method used for work covered by this Agreement, sharpening of bits, steel nippers, dumpmen (power or manual), dry housemen, chucktenders, air tuggers, all conveyors, kemper pneumatic placer and all similar type equipment, all rock bolting and placing of rock restraining wire, setting all steel and wood supports, jacking of pipe, drilling, loading and shooting, handling of all powder, including splitting and making primers; all timbering retimbering, whether wood or steel; including but not limited to placing, tying, and bending rebar; all mucking and dumping; cable tenders, swampers/brakemen on muck trains and timber trains; handling, installing and extending all water, air, and vent lines, manning of cherry pickers while mucking; handling sponge pumps in wet headings; all caulking and guns, all concrete work, including shotcrete (or similar type), gunite and grouting, dumping of agitators; raising, setting and moving forms; handling of rods and other materials for use in reinforced concrete; stripping all forms and cleanup work; all concrete finishing, running of grout pumps and screeding of concrete; waterproofing, membrane vapor, barrier and H.D.P.E. installation. This Agreement covers piping; all air, water, dewatering, discharge pipe and ventilation lines; segment erector, Top lander and Bottom Lander, as determined by the Contractor. Locomotive/motorman, earth pressure balance machine navigation, shotcrete-grouting and concrete pumpman (regardless of size of machine), the operation of all switch gear, the tail gunner, including moving all rollers ahead, watching all hoses and power cables and signaling trains in and out, TBM belt man, including loading trains with tunnel muck, all work in regard to the cutter, including changing cutters, worn bolts and saddles, the chemical groutman, including running plant and pump, probe hole driller, including checking for gas, water, ground type and grouting, Moran cars/mixers/lifts, temporary powerman, including all

lighting/moving Bologna cable/transformers/fan lines/vent fans; all miners work in connection with T Lock welding; all miners work in connection with the installation of PVC membrane liners; all miners work in connection with the installation, operation, maintenance and splicing of continuing conveyor belts; all miners work in connection with the installation, operation and maintenance of Alimak Elevators; all miners work in connection with the installation of slurry walls.

This Agreement shall also cover miner's work on that part of the open cut excavation two (2) diameters in front of the portal face, two (2) diameters in back of the portal face, one (1) diameter above the arch of the tunnel, and four (4) diameters on each side of the center line of the tunnel where, because of the nature of the conditions encountered, it is necessary to employ special techniques used in tunnel work in order to secure the portal area preparatory to commencing underground operations. Concrete operations covered by this Agreement are those which start at the tunnel portals or at the collars of the shafts, and are carried out underground. (Diameter as used above is the specified excavated diameter of the tunnel.)

Laborers' work on construction of structures such as, but not limited to, intake or outlet structures, power houses, subway stations, and penstocks outside the portal face shall be outside work, though they may lie within the area defined above, and shall not be covered by the Tunnel Agreement.

The words "alteration, repair or demolition of all tunnels" as used in the first paragraph shall apply only to miner's work on the support of, the lining of, or the structure of the tunnel itself, but not to Laborers' work on mechanical or electrical facilities, road paving (excluding inverts), tile work, or other work within the tunnel not done with tunneling methods and equipment. Once a tunnel has been completed and put into full operation for the purpose for which designed, the provisions of the Master Labor Agreement between the Southern California General Contractors and the Southern California District Council of Laborers shall apply.

Swampers on moving trains shall be employees under this Agreement.

All classifications listed in this Agreement which are not listed under this Section shall be included in the coverage and description of work just as though incorporated in full in this Section.

Any Contractor not signatory to both the Laborers' Tunnel Agreement and the Master Labor Agreement agrees that whenever work is performed which is covered by the terms of the Laborers' Master Labor Agreement for the Eleven Southern California Counties, the provisions of that Agreement shall be fully applicable to and binding upon the individual Contractor.

### **Section 3      Subcontractors**

- A.**      The terms and conditions of this Agreement insofar as it affects Employer and the individual employer shall apply equally to any subcontractor of any tier under the control of, or working under oral or written contract with such individual employer on any work covered by this Agreement to be performed at the jobsite or job yard, and said subcontractor with respect to such work shall be considered the same as an individual employer covered hereby.

Subject to the provisions of this Section and any other Section of this Agreement applicable to subcontractors, if an individual employer shall subcontract work herein defined, such subcontract shall state that such subcontractor agrees to be bound by and comply with the terms and provisions of this Agreement.

A subcontractor is defined as any person, firm or corporation who agrees under contract with the Employer, or any individual employer, or a subcontractor of the Employer, or any individual employer to perform on the jobsite any part or portion of the construction work

covered by the prime contract, including the operation of equipment, performance of Labor and installation of materials.

The individual employer has the primary obligation for performance of all conditions of this Agreement. This obligation cannot be relieved, evaded or diminished by subcontracting. Should the individual elect to subcontract, the individual employer shall continue to have such primary obligation. Said primary obligation shall be deemed conclusive evidence of the union's majority status for the purpose of establishing the obligation of the individual employer to bargain collectively pursuant to Section 8 (a) (5) of the National Labor Relations Act as amended with the Union upon expiration of this agreement but for no other purpose, statute or law.

An individual employer who provides in the subcontract that the subcontractor will pay the wages and benefits and will observe the hours and all other terms and conditions of this Agreement, shall not be liable for any delinquency by such subcontractor in the payment of any wages or fringe benefits provided herein, including payments required by Sections, 25, 26, 27, 28 and 29 (Health and Welfare, Pension, Vacation, Training & Retraining, and Center for Contract Compliance Funds) except as follows:

The individual employer will give written notice to the Union of any subcontract involving the performance of work covered by this Agreement within five (5) days of entering such subcontract, and shall specify the name and address of the subcontractor.

Written notice at a pre-job conference shall be deemed written notice under this provision for those subcontractors listed at the pre-job only. Notification to the Union of any subcontractor not listed in writing at the pre-job must still be given in accordance with this paragraph.

If thereafter such subcontractor shall become delinquent in the payment of any wages or benefits as above specified, the Union or the Trust Office shall promptly give written notice thereof to the individual employer and to the subcontractor specifying the nature and amount of such delinquency.

If such notice is given, the individual employer shall pay and satisfy only the amount of any such delinquency by such subcontractor occurring within ninety (90) days prior to the receipt of said notice from the Union, and said individual employer may withhold the amount claimed to be delinquent out of the sums due and owing by the individual employer to such contractor.

In the event the individual employer fails to give written notice of a subcontract as required herein, such individual employer shall be liable for all delinquencies of the subcontractor on that job or project without limitation.

The provisions of this Section 3 shall be applied only to the extent permitted by law and, notwithstanding any other provision of this Agreement, no aspect of the subcontractors' clause, including its enforcement, may be enforced by or subject to strike action.

In addition to any recovery of damages by the Union for a Contractor's violation of the subcontracting clause, the Trust Funds may recover damages in an amount equal to the full fringe benefit contribution rate in effect under this Agreement at the time of the violation, plus Interest, audit fees, and liquidated damages, for each hour of covered work performed by the non-signatory subcontractor's employees. Such damages shall be payable to the Vacation Trust and shall be damages and not for the benefit of any specific individual.

- B.** MBE/WBE/DBE/DVBE Subcontracting. In the event the Contractor is required to subcontract work on a public works project to a certified MBE/WBE/DBE/DVBE subcontractor to meet requirements contained in governmental rules or regulations, the Contractor shall notify in writing the Local Union in whose jurisdiction the work is to be performed. The Union shall offer to sign the subcontractor to the Union's MBE/WBE/DBE/DVBE Public Works Short-Form Agreement.

#### **Section 4 Additional Work Of Classifications In Tunnel**

- A.** In the event any work classification is performed which is not covered by Appendix "A" of this Agreement, the parties shall meet promptly to negotiate an appropriate wage scale for such classification. Any disagreement hereunder shall be subject to Section 21 of this Agreement.

Whenever any work covered by this Agreement is to be eliminated or modified by the introduction of any new machine, mechanized process, new or different materials, or new or different method or technology with respect to the performance of such work, persons employed under this Agreement and subject thereto, will be given preference for employment and will be assigned such work where it is not in conflict with International jurisdiction agreements with respect to such new machine, mechanized process, new or different material, or new or different method or technology; and the use of any such new machine, mechanized process, new or different material, or new or different method or technology shall be subject to and covered by this Agreement, regardless of the nature, size or characteristics of such new machine, mechanized process, new or different material, or new or different method or technology.

It is not the intent of the parties to provide work where no job exists.

- B.** Jurisdictional Disputes. There shall be no cessation or interference in any way with any work of the Employer or any individual employer by reason of jurisdictional disputes between the Union and any other Union affiliated with the AFL-CIO or National Construction Alliance with respect to jurisdiction over any of the work covered by this Agreement. Such disputes will be settled by the Unions themselves, or submitted to the International Presidents of the Unions involved in the dispute for determination. Until such determination is made and confirmed by the disputing Unions the work shall proceed as originally assigned by the individual employer. Craft jurisdiction is neither determined nor awarded by classifications or coverage descriptions appearing in this Agreement.

#### **Section 5 Existing And Other Agreements**

In the event the Union establishes special conditions for work covered by this Agreement, those special conditions shall be made available to the Contractor or individual Contractors who wish to perform the designated work in the same locality as provided for in that immediate Area Agreement as defined herein.

The Union will promptly notify the Employer in writing of any amendment, modification, exception or addendum of this Agreement which might be negotiated in any area covered by this Agreement between the Union, an individual employer or group of individual employers.

Should the Contractor discover that the Union has not complied with this provision, he/she will be entitled to implement the more favorable conditions immediately.

This Agreement shall be deemed to be executed when the parties signing shall have affixed their signatures hereto. Before accepting as an affiliate or issuing a charter to a local Union in the area herein defined, the Union shall require as a condition of such affiliation that said local Union be bound by the terms hereof.

## **Section 6 Bargaining Representative**

- A. The Contractor hereby recognizes the Union who is signatory hereto as the sole and exclusive collective bargaining representative of all employees of the Contractor signatory hereto over whom the Union has jurisdiction. The Union has requested recognition as the Section 9(a) representative of the employees performing laborers' work covered by this Agreement and has demonstrated or offered to demonstrate through authorization cards that it has the support of the majority of these employees. The Association and each Contractor expressly acknowledge that they and each of them have satisfied themselves that the Union represents a majority of the employees employed to perform laborers' work and agrees that the Union is the collective bargaining representative of such employees. The Association on behalf of themselves and each of their members and each Contractor specifically agree that they are establishing or have established a collective bargaining relationship by this Agreement within the meaning of Section 9(a) of the National Labor Relations Act of 1947 as amended. The Union is recognized as the sole and exclusive bargaining agent for itself and all its affiliated Local Unions. Any dispute concerning this paragraph shall be resolved by a mutually agreed upon neutral Arbitrator, either during the term of this Agreement or any time thereafter. The Association on behalf of itself and its respective member Contractors bound to this Agreement specifically agree that the neutral Arbitrator may order (as the Arbitrator deems appropriate) the parties to bargain in good faith for any period following a written notice of termination of the Agreement unless and until a lawful impasse occurs or until a successor Agreement is negotiated.

It is understood that the Union does not at this time, nor will it during the term of this Agreement, claim jurisdiction over the following classes of employees: executive, civil engineers and their helpers, superintendents, assistant superintendents, master mechanics, timekeepers, gas tester/safety representative, messenger boys, office workers or any employees above the rank of craft foreman.

- B. The Union hereby recognizes the Associated General Contractors of California, Inc., as the sole and exclusive bargaining representative for its respective eligible members, present and future, who are or who become bound by this Agreement and agrees that during the term of this Agreement it will not negotiate or enter into any agreement with such individual members of the Associations relative, to part or all of the subject matter covered by this Agreement.
- C. This Agreement shall be binding upon each and every eligible member of the Associated General Contractors of California, Inc., with the same force and effect as if this Agreement were entered into by each member individually. All eligible members of the Associated General Contractors of California, Inc., shall remain jointly and severally liable under this Agreement for the term of the Agreement irrespective of whether any member shall resign or be suspended from the Association prior to the expiration date of this Agreement, and such liability shall survive the termination or suspension of membership and remain in force during the term of this Agreement: provided; however, that as to such former or suspended members, the provisions of Section 13 and Section 21 shall not be applicable or in force from and after the time when a member resigns or is suspended from said Association and instead, the Contractor shall automatically be party to the Union's Short-Form Agreement for Tunnel Construction.



- D.** The Union shall not dispatch workers or permit employees to work for a person, firm, limited liability company, partnership, joint venture or other legal entity who, as a "broker", or subcontractor, furnishes workers to perform work covered by this Agreement, or who arranges for workers to be placed upon the payroll of a Contractor. A "broker" is a person, firm, Limited Liability Company, partnership, joint venture or other legal entity, including a Contractor or Subcontractor, who hires or arranges for the hire of jobsite employees but does not supervise or control their work or maintain the equipment they use.
- E.** Access to Project. The Business Representative shall have access to a project during working hours for the purpose of adjusting grievances or disputes and such other duties as he may have to perform. The Business Agent shall perform his duties as expeditiously as possible and with the least amount of job interference.

## **Section 7 Employment and Discharge**

### **A. Union Security.**

1. Every person performing work covered by this Agreement who is a member of the Union and in the employment of an individual employer on work covered by this Agreement on the effective date of this Subsection 7A shall, as a condition of employment or continued employment, remain a member in good standing of the Union in the appropriate Local Union of the Union. Every other person covered by this Agreement and employed to perform work covered by this Agreement shall be required, as a condition of employment, to apply for and become a member of and to maintain membership in good standing in the Union in the appropriate Local Union of the Union which has territorial jurisdiction of the area in which such person is performing work on and after the expiration of eight (8) days of employment on such work following the beginning of such employment or the, effective date of this Subsection 7A, whichever is later. Membership in any such Local Union shall be available to any such person on the same terms and conditions generally applicable to other members.

If Federal Law is hereafter amended to permit a lesser requirement for union membership or union membership as a condition of employment than provided in this Subsection, the Collective Bargaining Representative of the Employer and the Union will promptly enter into negotiations with regard to such subject.

2. The individual employer shall be required to discharge any employee pursuant to this Subsection 7A only when a written notice from the Union, or local union of such employee's non-compliance, with this Subsection, stating all pertinent facts showing such non-compliance shall have been served upon such individual employer and a reasonable time (not to exceed forty-eight [48] hours) has been allowed for compliance therewith.

### **B. Employment.**

1. The Union or local union shall maintain open and non-discriminatory hiring halls for the use of workmen desiring employment on work covered by this Agreement and such workmen shall be entitled to use such hiring halls. It is mutually agreed by the employer and the Union to fully comply with all of the provisions of Title 7 of the Civil Rights Act of 1964, Presidential Executive Order No. 11246, and California Fair Employment Practices Section, to the end that no person shall, on the ground of sex, race, color or national origin be excluded from participation in, be denied the

benefits of, or be otherwise subjected to discrimination by not having full access to the contents of Section 7 of this Agreement.

2. Each person desiring employment shall register through such hiring hall by appearing personally and by indicating his name, address, telephone number, Social Security Account Number, qualifications and employment desired. Each such person shall be listed numerically in the order in which he registers. The Union shall not be responsible for the accuracy of the information supplied to it by workmen.
3. No person shall be entitled to have his name placed on any employment list which is applicable to a particular type or classification of work unless he has been employed in such type or classification of work.
4. The individual Employer shall contact the appropriate hiring hall of the Local Union having work and area jurisdiction for all men as he or it may from time to time need, and the Local Union shall furnish to the individual Employer the required number of workmen of the classifications needed by the individual Employer in accordance with the provisions of this Subsection 7B, if such men are available.
5. When requesting men, the individual Employer shall submit job orders, indicating the number of persons desired, qualifications of each person desired, the location of the job, the reporting date and time and the representatives of the individual employer to be contacted on the jobsite.
6. The appropriate hiring hall of the Local Union of the Union having work and area jurisdiction, will furnish in accordance with the request of the individual Employer workmen of the classifications needed from among those entered on said lists to the individual Employer by use of a written referral in the following order of preference. Such applicants referred for employment shall present the necessary documents required by the Immigration and Naturalization Act of 1986, upon reporting to the Employer. Any applicant who is unable to present the proper documents shall not be eligible for employment and therefore not be entitled to Show-up time or subsistence.

Persons shall be referred in the order in which they are registered, if their registration indicates that they are qualified for and desirous of taking such referral unless they are not available for referral, subject to the following conditions:

First,

- (a) Notwithstanding any other provision of this Agreement, the individual Employer may request a person by name, out of order and such person must be dispatched if such person is registered on the out-of-work list and if such person was employed previously by such individual Employer or member of a joint venture within five (5) years prior to such request within the territorial jurisdiction of the appropriate Local Union of the Union. Foreman shall have the right to transfer from one area to another area without any restrictions. Dispatch slips for employees transferred from another area shall be submitted by fax or personal delivery.
- (b) In addition to request permitted by the provision of Subsection 6(a), the individual Employer may request any person registered on

the out-of-work list out of order to meet the Employer's need to operate the job in a safe and efficient manner; provided, however, that at no time shall any job contain more than fifty (50%) percent of persons requested under Subsection 6(b).

- (c) Any Local Union may, at its option, permit a percentage of individual requests greater than fifty (50%) percent on any job. The refusal of such permission shall not be deemed a violation of this Agreement.
- (d) For Contractor requests by name pursuant to the provisions of Subsections 6(a), 6(b), or 6(c) of this Section the Contractor shall document the request in writing, dated, is signed by an appropriate management representative, specifying whether the person is a rehire or new employee and names the job for which the rehire, and or new employee, is requested.

Second, persons who within five (5) years immediately preceding the job order performed work covered under this Agreement in the geographical area covered by this Agreement in the order in which they registered.

Third, persons who are registered in the order in which they registered by qualification.

- 7. Expedited Dispatch Group: The Union recognizes the need of the Contractor to have the Union dispatch workers on an expedited basis to jobsites, and the Contractor recognizes the requirement for the Union to operate a fair hiring hall. Notwithstanding any other provision of this Article, if the Contractor contacts the Local Union after posted dispatch hours and requests workers to be dispatched to a jobsite within twenty-four (24) hours of the Contractors' call to the Local Union (and the Contractor does not request the worker by name), the Local Union shall dispatch the person nearest to the top of the out-of-work list who has the qualifications requested by the Contractor and who is present at the Local Union hiring hall and if no one is present, then the person nearest to the top of the out-of-work list who can be contacted by telephone. If the Local Union cannot contact a person by telephone after one telephone call, the Local Union shall call the next qualified person on the list. A person who is not present at the Local Union hiring hall or reachable by telephone for an Expedited Dispatch shall not be eliminated from the out-of-work list.
- 8. Notwithstanding the provisions of this Article, a worker shall be given preference in the order of dispatch under any of the following circumstances:
  - (a) A Contractor becomes newly bound to this Agreement and requests the dispatch of its existing employees at the time the Contractor becomes bound.
  - (b) A Contractor agrees to sponsor an employee as a Journeyman Laborer who has not worked under any Laborers Union Agreement; provided the Contractor agrees in writing that it intends to employ the worker on a full time basis. The Contractor shall send a letter to the Local Union to document its request.

- (c) A worker is "stripped" from a non-union employer and is dispatched to a Contractor.
  - (d) A worker is a certified job steward and is dispatched to the job to act in such capacity.
9. Available for employment shall mean: All persons eligible for referral shall be present at the hiring hall during dispatching hours or present at their residence telephone (if the Local Union permits dispatching by telephone) during the Local Union's posted dispatch hours, and all persons eligible for referral and present at the hiring hall after posted dispatch hours, unless excused for the following reasons:
- (a) When death occurs in the immediate family, from the date of death and not exceeding one (1) week after the date of burial; provided, however, that the applicant produces bona fide proof of such death.
  - (b) Persons on jury duty provided they produce bona fide proof they are serving on jury duty.
  - (c) Persons temporarily serving in the U.S. Military Reserve provided they produce bona fide proof of such service.
  - (d) Required attendance at a Workers' Compensation hearing or other administrative or court hearing, provided they produce bona fide proof of their required attendance at such hearing.
  - (e) Any other reason stated in the Local Union's hiring hall rules.
10. When ordering workmen, the individual Employer will give notice to the appropriate hiring hall of the Local Union, not later than 2:30 p.m. of the day prior (Monday through Friday) or, in any event, not less than seventeen and one-half (17 ½) hours before the required reporting time and in the event that, forty-eight (48) hours after such notice (Saturdays, Sundays and recognized holidays excluded), the Local Union shall not furnish such workmen, the individual Employer may procure workmen from any other source or sources. If workmen are so employed the individual Employer shall promptly report to the appropriate hiring hall of the Local Union, in writing, or by phone with written confirmation within forty-eight (48) hours the name, address and Social Security Account Number of the employee procured from such other source and the date of employment and the location of the job on which he is employed.
11. Each person, upon being referred, shall receive a written referral to be transmitted to the employer representative at the jobsite indicating the name, address, Social Security Account Number, type of job, date of proposed employment and date of referral.
12. Persons shall be eliminated from the registration list for the following reasons:
- (a) Dispatched to a job - except that any person who is rejected by the individual Employer or who fails to complete five (5) full days work shall retain his position on, said list; provided, no person who is rejected by the individual Employer shall be referred to such

individual Employer with respect to the same request pursuant to which he was initially referred.

- (b) Failing to accept dispatch.
  - (c) Unavailable for employment during posted dispatch hours.
  - (d) Any person dispatched to a job who fails to report for work.
  - (e) Failure to register or attend roll call in accordance with the Local Union's rules.
  - (f) Any other reason stated in the Local Union's hiring hall rules.
13. Subject to the other provisions of this Subsection 7B, and in order for the Employer to meet its need to operate the job in a safe and efficient manner, the individual Employer may specifically request that a particular named workman who is registered in a hiring hall of a Local Union be furnished to him to perform work as:

Shifter  
Shaft Work and Raise-Shifters  
Diamond Driller  
Miner-Tunnel, including top and bottom man on shaft and raise work  
Timberman, Retimberman - Wood or Steel  
Blaster, Driller, Powderman - in Heading  
Cherry Pickerman - where car is lifted  
Primerhouseman  
Chucktender and Cabletender  
Nozzlemen  
Bull Gang Foreman  
Miner Concrete Finisher  
Tail Gunner  
TBM Beltman  
Cutterman  
Robotic Shotcrete Placer  
Segment Erector  
Roadheader Man

The Local Union will furnish such workman to the individual employer in accordance with such request, without regard to the order of registration of the workman, provided that such person is registered on the employment list of the appropriate Local Union of the Union and has qualified himself for work in any such classification for which he may be called under this Subsection.

14. Selection of applicants for referral to jobs pursuant to this Agreement shall be on a non-discriminatory basis and shall not be based on, or in any way affected by, union membership, by-laws, rules, regulations, constitutional provisions, or any other aspect or obligation of union membership, policies or requirements, provided that the provisions hereof shall not modify or qualify the requirements of Subsection A of this Section 7.
15. (a) This section shall be known as the Laborers' Code of Performance. Without diminishing in any manner the Contractor's rights under Section C

of this Article, should any Laborer referred for employment be terminated for cause as defined under this section, his or her referral privileges shall be suspended automatically for one (1) month. Should the same individual be terminated for cause a second time within a twenty-four (24) month period, his or her hiring hall referral privileges shall be suspended automatically for six (6) months. Should the same individual be terminated for cause a third time within a twenty-four (24) month period, his or her referral privileges shall be suspended indefinitely (time period begins from date of first discharge). A termination “for cause” under this section is defined to include a termination for excessive absenteeism, excessive tardiness, lack of required skills (not applicable to apprentices), insubordination or theft.

- (b) A termination shall not be considered as “for cause” for purpose of this provision if the person referred for employment has filed a grievance challenging the propriety of his or her termination, unless and until the grievance is resolved in a manner that affirms the termination for cause. For the purpose of this provision, a decision of the designated panel or an arbitrator shall be final and binding.
- (c) The provisions in subsections (a) and (b) notwithstanding, a Review Committee, composed of three (3) members appointed by the Business Manager of the District Council may, upon written request of the applicant, vacate or reduce the period of suspension. A request under this provision shall stay the commencement of suspension from referral unless and until the Committee decides otherwise. The Committee’s decision will be by majority vote and shall be based on all of the available evidence including, as appropriate, the circumstances of the termination, skills evaluations by third parties, the availability and need for additional training, whether the applicant is an apprentice or journeyman member and such other factors as may be relevant. The Committee’s decision shall rest in its sole and complete discretion.
- (d) The decision of the Committee will affect only the issue of eligibility for future referrals, and will not affect the termination unless all parties expressly consent to have that issue considered by it.
- (e) If dissatisfied with the decision by the Review Committee, the applicant may appeal the Committee’s decision to an Independent Review Officer designated by and whose costs shall be paid by the International Union. The Independent Review Officer shall establish a procedure for expedited and prompt review of such appeals. Any appeal to the Independent Review Officer shall be filed by the applicant in writing within five (5) calendar days of time he/she has been notified of the Review Committee’s decision and shall contain a brief statement of the issue(s). The decision of the Independent Review Officer shall be final and binding. A request for review under this provision does not affect the commencement or continuation of the suspension from referral unless and until the Independent Review Officer decides otherwise.

16. There is hereby established a Joint Referral Committee consisting of four (4) representatives of the Contractor and four (4) representatives of the Union. The establishment of the Committee is for the purpose of interpreting and enforcing all the terms and provisions of Section 7B. Any person having any disagreement with

an applicant's placement or dispatch under Section 7, shall submit his grievance to the Joint Referral Committee, by filing a written grievance with the Local Union stating the reasons for the grievance within ten (10) working days after the occurrence of the grievance. The Joint Referral Committee shall have full power to adjust the grievance and its decision shall be final and binding upon the person submitting the grievance and all other parties involved in the dispute. In the event of deadlock of the Joint Referral Committee, the grievance shall be referred to the permanent hiring hall neutral arbitrator, whose decision shall be final and binding. The costs of arbitration shall be borne equally by the Employer and the Local Union involved in the dispute. Forms for the submission of any such grievance shall be available at all times in the offices of the Local Unions. Neither the Joint Referral Committee nor the permanent hiring hall neutral arbitrator has the authority to modify, vary, change, add to or remove any of the terms or conditions of this Agreement.

NOTE: The foregoing employment procedures apply only to Tunnel work. The provisions outlined in the Master Labor Agreement between the Southern California General Contractors and the Southern California District Council of Laborers shall apply to all outside work.

- C. Subject to the foregoing, the Contractor shall have complete freedom of selectivity in hiring and the Contractor retains the right to reject, for any reason, any job applicant referred by the employment facility. The Contractor may discharge any employee for any cause which he may deem sufficient, provided there shall be no discrimination on the part of the Contractor against any applicant or employee, nor shall any such employee be discharged by reason of any Union activity not interfering with the proper performance of his work.
- D. No employee may be transferred from an individual Employer's payroll to another individual Employer's payroll except in accordance with Subsection 7B except any transfer to and/or from a joint venture of which the individual Employer is a partner.

## **Section 8                      Show Up Time**

- A. Any workman or employee reporting for work at the regular starting time and for whom no work is provided, shall receive pay for two (2) hours at the stipulated rate for so reporting, unless (1) he has been notified before the end of his last preceding shift not to report; or (2) during a period of inclement weather, the Contractor has instructed the employee to call a designated job number provided to him for instructions concerning reporting to the job site and the employee has either failed to do so or the employee called and was instructed not to report; and any workman or employee who reports for work and for whom work is provided shall receive not less than four (4) hours' pay; and if more than four (4) hours are worked in one day, but less than six (6) hours, he shall receive not less than six (6) hours pay at the straight-time hourly rate and if an employee works more than six (6) hours but less than eight (8) hours, he shall receive not less than eight (8) hours pay at the straight-time hourly rate unless prevented from working for reasons beyond the control of the Employer, including, but not limited by, such factors as inclement weather, a breakdown causing discontinuance of a major unit of the project during which time workmen or employees are not required or requested to remain on the project by the employer or his agent. New employees on their first day of work shall be paid for their actual time worked.
- B. If work is to be suspended for any reason, the employees shall be notified at least two (2) hours (except four (4) hours on remote projects by mutual agreement) before being required to report for work. The employee shall keep the individual Employer at all times advised of

his correct address and, if he has a telephone, his telephone number. If an employee does not keep the individual Employer so informed, the individual Employer shall be relieved of the duty of giving such notice and further he shall not have to pay such employee show-up time. Radio and/or TV notice is acceptable on remote projects as a means of notification providing the Union is notified in writing at the commencement of the job.

## **Section 9 Meal, Rest Periods, & Heat Illness Preventative Recovery Period**

- A.** Employees shall not work more than five (5) consecutive hours without a one-half (1/2) hour meal period. When employees work over five (5) hours without being provided with a one-half (1/2) hour meal period, they shall receive one-half (1/2) hour pay at the double time rate. When an employee is required to work more than three (3) hours after his regular shift, he will be entitled to a one-half (1/2) hour meal period at the end of the three (3) hours without loss of pay and an additional one-half (1/2) hour each five (5) hours thereafter, without loss of pay. In the event an employee is required to work through an overtime meal period, then the employee shall receive pay for an additional one-half (1/2) hour at the double time rate. Meal periods may be staggered to meet job requirements.
- B.** The parties to this agreement recognize Industrial Wage Order 16 for meal and rest periods covering "On Site Construction, Mining, Drilling and Logging Industries." Any dispute or grievance arising from this Wage Order shall be processed under and in accordance with Section 21, Procedure for Settlement of Grievances and Disputes of this Agreement. The grievance process of Section 21 shall be the exclusive method for resolving all alleged violations of this Wage Order and the time limitation of Section 21 shall apply.
- C.** A heat illness preventative cool-down recovery period shall be made available for employees working in high heat conditions in order to prevent heat illness in accordance with CAL OSHA requirements.
- D.** All disputes concerning the payment of wages, meals, rest periods and/or heat illness preventative recovery periods are subject to the Procedure for Settlement of Grievance and Disputes in Section 21 and as outlined in Appendix C of the Agreement. Decisions resolving disputes arising out of the Procedure for Settlement of Grievance and Disputes shall be final and binding upon both parties.

## **Section 10 Records**

- A.** Each individual Employer shall provide a proper means for registering the reporting, quitting time, and as supplied by the employee, the address and telephone number of all employees covered by this Agreement. In the event of a dispute such records shall be accessible to the business representative of the Union or Local Union during working hours.
- B.** Each individual Employer upon request of any Trust Fund specified in this Agreement shall permit a Trust Fund Auditor to review any and all records relevant to the enforcement of the provisions of this Agreement pertaining to the Trust Funds. Such review shall be permitted not less than two (2) working days after demand.

## **Section 11 Payment of Wages**

- A.** Wage rates shall be recognized as applying to classifications rather than to men and any workman performing work shall be paid at the rate which the classification of his work calls



for, except when it is necessary to temporarily transfer workmen from one classification to another in which event such workman shall be paid on the basis of the highest rate and the duration of payment at the highest rate shall be reckoned by the day.

- B.** When men are requested for one classification and this work is no longer available at the rate and type of work they were requested for, then the men have the right to accept or reject the employment offered. If the man so desires, he shall be given a written notice of reduction in force, stating that the classification that he was originally hired for is no longer available; or he may have the choice of a lesser rate of pay.
- C.** Each employee shall be paid wages in full each week before or at quitting time on the Contractor's regular pay day, which shall be Monday through Friday, unless specific arrangements to the contrary are made in writing with the appropriate Local Union. Employees who are terminated shall be paid in full at the time of termination on the jobsite. In the event the employee is not paid in full after being terminated, he shall be paid eight (8) hours for each scheduled workday for all waiting time at his appropriate wage rate, except that in the event an employee is terminated on swing or graveyard shift and is required to return on the immediately following scheduled day shift to obtain his check, he shall receive four (4) hours waiting time. In the event the employee quits, he shall be paid in full within seventy-two (72) hours or on the regularly scheduled pay day, whichever comes first. If the employee has previously authorized electronic payment of wages, payment of the final check may also be made by electronic deposit as long as it meets the time criteria specified in this Section. In the event he is not paid within seventy-two (72) hours, he shall be paid eight (8) hours per scheduled workday for all waiting time, at his appropriate wage rate. In the event the Contractor fails to comply with this clause, the matter shall be settled in accordance with the provisions of Section 21 of this Agreement.
- D.** Each employee shall be given a statement with the Employer's name and address itemizing the employee's gross amount earned, hours worked, social security tax, withholding tax and all other deductions, also a statement of hours applicable to Health & Welfare, Pension, Vacation, Holiday, Training and Retraining, and Center for Contract Compliance Plans.

## **Section 12 Contracting Piece Work**

No work shall be let or paid for by piece work contract, or lump sum, direct with employees covered by this Agreement.

## **Section 13 No Cessation of Work**

- A.** The parties agree that there is an absolute prohibition against any and all strikes including sympathy strikes, work stoppages, slowdowns, picketing or other types of interference, except, whenever an individual employer pays improperly with checks which do not clear for collection.

## **Section 14 Elimination of Restrictions**

- A.** No rules, customs or practices shall be permitted that limit production or increase the time required to do any work. There shall be no limitation or restriction of the use of machinery, tools, or other labor-saving devices.

**B. Safety**

The Union shall cooperate with (1) the individual Contractor and with each other in carrying out all of the individual Contractor's safety measures and practices for accident prevention, and (2) employees shall perform their duties in each operation in such a manner as to promote efficient operations of each particular duty and of any job as a whole. Employees will acknowledge, in writing, having been given the Contractor's safety measures and practices for accident prevention to satisfy OSHA or other Agency requirement. The individual Contractors must post the name and address of their doctor and the compensation insurance carrier on the jobsite.

1. The Union shall cooperate with the individual Employer and with each employee in carrying out all pertinent rules and regulations dealing with health, safety and welfare of employees promulgated by the Department of Industrial Relations of the State of California. All employees shall perform their duties in each operation in such manner as to promote safe and efficient operations of each particular duty and of any job as a whole.
2. All State and/or Federal and/or Local Safety Laws, Standards, Rules and Regulations shall be applicable to all work covered by this Agreement. The individual Employer is solely responsible for implementing and maintaining such Laws, Standards, Rules and Regulations. Neither the Union nor any Local Union is responsible for implementing or maintaining such Laws, Standards, Rules or Regulations.
3. Adequate first-aid equipment shall be maintained and provisions should be made for the safety of employees covered by this Agreement on each job by each individual Employer. Each individual Employer shall arrange for adequate and prompt medical attention in case of injury. This may be accomplished by (1) on-the-job facilities or proper equipment for prompt transportation of the injured person to a physician, or (2) a communication system for contacting a doctor and/or ambulance or a combination of these that will avoid unnecessary delay in treatment. Each individual Employer must post the name and address of its doctor and of the Workers' Compensation insurance carrier on the job site.
4. Manhaul trucks regularly used for personnel transport but not designed for this purpose, shall be provided with safe seating and side and end protection to prevent falls. Some convenient means of mounting and dismounting the truck shall be provided. Adequate protection shall be provided during inclement weather. A bell or other means of communication with the driver shall be installed.
5. No employee shall be discharged for refusing to work under conditions injurious to his health or safety as determined under any rules or regulation of the United States or State of California or any political subdivision. Such determination shall be made by a responsible agent of the State of California or OSHA or any of its political subdivisions, or by a safety inspector from the applicable insurance carrier. However, no employee shall refuse an order to perform work unless it clearly is unsafe; said determination to be made by a management certified safety representative.
6. In the event the Contractor requests a variance from a Tunnel Safety Order, other than Electrical and/or Diesel, such requests will be mailed to the Union at the same time such written request is mailed to the Division of Industrial Safety.

7. No man working under this Agreement shall be required to return to the heading or blasting area in less than ten (10) minutes after firing a full round. (A longer waiting period may be required to allow time for clearing of the air by the ventilation system in accordance with the California or OSHA State Tunnel Safety Orders).
8. When an employee is injured while at work to the extent of being unable to work for the balance of the day, he shall be paid for a full day at his regular rate. His ability to work or not to work shall be determined by a qualified physician.
9. The Local Union with area jurisdiction shall be notified within one (1) day [twenty-four (24) hours] of any industrial injury which results in death or requires hospitalization.

### **Section 15 Change House**

- A. The individual Employer shall establish and maintain a change house within a reasonable distance of each portal, adit or shaft which shall include showers, toilet facilities, lockers and heating and drying facilities in accordance with the amount of men in each crew. Each change house shall be so constructed to provide that all clothing will dry between shifts.
- B. This shall not apply to short dry tunnels, such as under highways or railroad embankments. The individual Employer will reimburse employees for clothing, personal effects or tools lost by fire in an amount up to two hundred dollars and fifty dollars (\$250.00) in the event of the destruction of the change house by fire.
- C. An employee on the day shift shall be designated as a change house attendant whose primary duties shall be to maintain sanitary conditions and see that adequate heat and ventilation is provided to properly dry clothes between shifts. The Employer may, if time permits, assign this employee to other duties outside the tunnel requiring comparable skills and ability, providing such work is in the vicinity of the change house.
- D. If any additional cleaning is required, an employee on either the second or third shift shall be detailed to clean the change house.

### **Section 16 Protective Clothing**

The individual Employer shall furnish the necessary goggles, hard hats, shock proof gloves and other protective clothing. Men who work in rain, snow and sleet or under wet conditions shall be furnished with water proof clothing. Men working in gunite or handling concrete and/or cement shall be furnished rubber boots and gloves. Men working in mud or water shall be furnished boots. Such equipment shall be furnished free of charge and returned by the employee in the same condition as received subject to reasonable wear and tear. Such equipment shall be sanitized before re-issue.

### **Section 17 Hours, Overtime Rates, And Working Conditions**

- A. Eight (8) hours of actual work between 5:00 A.M. and 5:00 P.M., excluding meal hour, shall constitute a regular day's work at straight time rates, except on shift work as hereinafter provided. Starting times may be changed to meet job requirements, including maximum utilization of daylight hours. Starting time may be staggered to meet job requirements, on concrete and paving operations; however no employee will be required to report at a later starting time as a means to avoid paying for a full shift. Telephonic notice shall be given to the Union in cases of deviation' from the original starting time, followed by written confirmation.

- B.** The regular work week shall be Monday 5:00 a.m., through Friday 5:00 p.m., at straight time.
- C.** Shift Work. When two (2) shifts are employed for five (5) or more consecutive days, eight (8) hours of actual work shall constitute a day's work for which eight (8) hours at the straight time rate shall be paid. This includes heading crews, concrete crews, bull gang and dump men, retimbermen or any other crew doing work which comes within the jurisdiction of the Union. When three (3) shifts are employed for five (5) or more consecutive days on the day shift, eight (8) hours of actual work shall constitute a day's work for which eight (8) hours at the straight time rate shall be paid. On the second shift, seven and one-half (7 ½) consecutive hours (exclusive of meal period) shall constitute a day of work, for which eight (8) hours at the straight time hourly rate shall be paid. The third shift shall be seven (7) hours worked for eight (8) hours straight time pay.

When one heading is working on a shift basis then the other heading shall be considered as working on a shift basis.

Shifts must run for five (5) consecutive days or more before the job is to be considered as running on shift work basis. There shall be no split shifts. The hours of work shall be reckoned by the day and the one-half day, regardless of the reason for the suspension or interruption of work.

All employees working in the tunnel, subway, shaft, raise, etc., and the primer housemen, dump men, and members of the Bull Gang working on the construction, repair and maintenance of the track to the dump, and all work outside the tunnel, subway, shaft, raise, etc., of loading and unloading steel, timber, rails, or other materials to be used inside the tunnel, subway, shaft, raise, etc., or construction, repair or demolition of said tunnel, subway, shaft, raise, etc., shall come under the Tunnel Agreement and shall work under the tunnel shift conditions (either single or multiple), but nothing herein provided shall preclude the concurrent operation of a separate day shift under separate supervision on work performed outside the tunnel pursuant to the Laborers Master Agreement.

The Employer will assign at least one (1) swamper to each two (2) loaded, moving muck trains, who may be assigned to other duties when muck trains are not in operation.

Shifter: The Contractor who employs men in a tunnel shall employ a shifter, covered by this Agreement, who shall have supervision over all employees, excluding Bull gang, pursuant to the Tunnel Master Agreement. Shifters may perform work at the discretion of the Employer.

Supervisory personnel excluded from this Agreement shall not perform any work in any classification covered by this Agreement.

Shifts shall run consecutively with not more than one (1) hour break between shifts.

- D.** The starting time for shifts, whether on single shifts or on shift work, may be changed by mutual consent of Unions and Employers when it is considered desirable to start work earlier than the time or times previously established or established by this Agreement.
- E.** Day shift to start at either 7:00 or 8:00 a.m.; swing shift to start at either 3:00 or 4:00 p.m.; and graveyard shift to start at either 11:00 p.m. or 12:00 midnight.

The Friday graveyard shift, though coming off work Saturday morning is to be considered working Friday. Work performed after 8:00 a.m. Saturday morning shall be deemed Saturday work.

The Saturday graveyard shift, though coming off work Sunday morning, is to be considered working Saturday. Work performed after 8:00 a.m. Sunday morning shall be deemed Sunday work.

The Sunday graveyard shift, though coming off work Monday morning is to be considered working Sunday, with the exception that a graveyard shift employee who has worked eight (8) or more hours prior to the scheduled starting time of the Monday day shift and continues to work after such starting time shall continue to receive the double time wage rate.

- F.** Maintenance Work. Workmen employed on Saturdays, Sundays and holidays to perform maintenance or repair work (that is, work other than actual construction) shall be paid under the same provisions they worked during the regular work week at the applicable overtime rate of pay. Workmen employed on Sundays or holidays on maintenance or repair work shall be paid at double the regular straight time rate.
- G.** Overtime Rates. In all eleven Southern California Counties covered by this Agreement, all time worked before a regularly scheduled shift begins, after same shift ends, or work performed on Saturday shall be paid for at time and one-half the regular straight time rate. All work performed over twelve (12) hours in a single workday, on Sundays or holidays shall be paid for at double the regular straight time hourly rate. Overtime hours shall be computed to the next one-quarter hour (1/4).

Employees working a complete shift of shift work on overtime days shall receive eight (8) hours pay at the overtime rate for eight (8) hours work.

Overtime shall be calculated on a daily basis and shall be reckoned by the quarter (1/4) hour.

- H.** Camps. When the individual Employer sets up a camp or boarding house on a project, the charge made to an employee for board and room shall not exceed the subsistence rate paid incurred during a calendar week.
- I.** Special Single Shift. When the individual Employer produces evidence in writing to the appropriate Local Union of the Union of a bona fide job requirement for a public agency or a public utility which certifies that work can only be done outside the normal shift hours, and notifies the appropriate Local Union by certified mail at least three (3) days prior to the start of such special shift, the individual Employer may initiate such special shift of eight (8) consecutive hours (not in conjunction with any other shift), exclusive of meal period, Monday through Friday. The straight time rate for such special shift shall be two dollars and fifty cents (\$2.50) per hour above the appropriate straight time wage otherwise specified in this Agreement. Any work performed on Saturday and Sunday shall be paid as outlined herein at the applicable overtime rate of pay.
- J.** Parking. In the event free parking facilities are not available within a reasonable distance of the jobsite, the individual Employer will provide such parking facilities and the individual Employer shall have the right to designate parking areas to be used.

Where, because of congested parking conditions, it is necessary to use public parking facilities the individual Employer shall reimburse the employees for the cost of such parking upon being presented with a receipt or voucher certifying to the cost thereof, submitted

weekly. Such reimbursement to be made on a weekly basis or at the conclusion of the project, whichever occurs earlier.

On remote jobs when the access to where the work is being performed (to a job or project or within a job or project) is unsuitable, and no parking facilities are provided within a ten (10) minute walk from where the work is being performed, the individual Employer shall transport the employees to and from the place where the work is being performed and such transporting shall be one-half (2) on the individual Employer's time.

- K.** Any employees such as flagmen shall be furnished adequate relief for the use of toilet facilities.

### **Section 18 Recognized Holidays**

The following days are recognized as holidays:

New Year's Day	Veterans Day
Memorial Day	Thanksgiving Day
Fourth of July	Day after Thanksgiving
Labor Day	Christmas Day

If any of the above holidays falls on Sunday, the Monday following shall be considered a holiday.

At such a time as Federal Laws designate certain of the foregoing holidays to be celebrated on Monday, the same shall apply to this Agreement.

President's Day shall be considered a legal holiday when and if recognized by the Laborers Construction Master Agreement.

### **Section 19 Gunite**

When Gunite work is subcontracted, the subcontractor shall be signatory to, and comply with all of the terms and conditions contained in that agreement known as the Southern California District Council of Laborers Eleven County Gunite Agreement. If not subcontracted, the rates and provisions of this Agreement shall apply to the Gunite Work.

### **Section 20 Steward**

- A.** The Union may select an employee on the job as a Steward and he shall be a working employee. Written notification shall be given to the individual Employer of such assignment. The Union agrees that the Steward's duties shall be performed as expeditiously as possible and the individual Employer agrees to allow him a reasonable amount of time for the performance of his duties. The individual Employer will give the Union two (2) full working days advance written notice before terminating the steward unless the job is completed or he is discharged for cause.

- B.** The Steward shall be limited to and shall not exceed the following duties and activities:

1. Check the dispatch of each employee dispatched under the terms of this Agreement.
2. Report to his Business Representative all violations of this Agreement

3. Report to his Business Representative any employee covered by this Agreement who, during his shift, leaves the job site without giving the individual Employer and the Steward prior notice.
- C. The Steward shall not:
1. Stop the individual Employer's work for any reason or tell any workmen or any employee covered by this Agreement that he cannot work on the job.
  2. Infraction of either of the two rules set forth in C (1) above, shall be cause for immediate dismissal of the Steward without any prior notice.

## **Section 21 Procedure for Settlement of Grievances and Disputes**

- A. Upon request of either the Union or the Association, the parties shall appoint a Laborers' Joint Adjustment Board consisting of four (4) representatives of the Contractors and four (4) representatives of the Union. The Board is for the purpose of interpreting and enforcing all the terms and provisions contained in this Agreement. The Contractors and Union shall each have a total of four (4) votes on the Joint adjustment Board and not less than two (2) appointed by each party and the Chairman shall constitute a quorum. Each side shall have four (4) votes and a decision of the Joint Adjustment Board by majority vote shall be final and binding.
- B. No dispute, complaint or grievance shall be recognized unless called to the attention of and, in the event it is not resolved, confirmed in writing to the individual Contractor, the appropriate Association, or the Local Union and the Union within fifteen (15) calendar days, except on discharges, which shall be seven (7) working days after the alleged violation occurred. In the event the Union or Contractor determines that further discovery is necessary prior to proceeding to the next step in processing the grievance, the grieving party shall notify the other party in writing and the time limits contained in this Article (other than for the filing of the grievance) shall be extended until the party has made a final determination of the facts giving rise to the dispute. The grieving party shall notify the other party in writing of when a final determination has been made.
- C. In cases of violation, misunderstanding or differences of interpretation of this Agreement by either party, there shall be no cessation or stoppage of work except as otherwise provided in this Agreement.
- D. In the event a grievance or dispute cannot be satisfactorily adjusted on the job between the representative of the Union and the Contractor or his representative within twenty-four (24) hours, the Labor Relations Representative of the appropriate Contractor's Association shall meet as soon as possible with the Contractor and the Union representative in an attempt to resolve the dispute. If the dispute is not resolved at this meeting, the issue shall be immediately referred to the Joint Adjustment Board in writing for their consideration and decision.
- E. A Contractor shall refer a grievance or dispute to the Chairman of the Joint Adjustment Board through the appropriate Employer Association. The Association shall then refer the grievance or dispute to the Board by sending written notice to the Contractor and the Union Chairman of the Joint Adjustment Board. The Local Union shall refer a grievance to the Joint Adjustment Board by sending written notice to the Union Chairman of the Joint Adjustment Board and the Management Chairman of the Joint Adjustment Board. The written notice of referral required by this paragraph shall contain the name of the Contractor and the Local Union directly

involved, the date and place of occurrence of the grievance or dispute and a brief description of the nature of the grievance or dispute.

- F.** Upon referral of a grievance to the Joint Adjustment Board, each party shall appoint its representatives and immediately notify the other party, in writing, of the name and business address of each representative appointed. The Joint Adjustment Board shall thereafter meet within ten (10) days, select its Chairman and Secretary and hear the grievance.
- G.** In the event the Joint Adjustment Board does not reach a decision or does not meet within ten (10) days of the grievance being referred to the Joint Adjustment Board, any dispute or grievance may be referred to arbitration by either or both parties within five (5) working days. The parties may attempt to agree on the arbitrator, but they cannot do so within three (3) work days, either party may request a panel of seven (7) arbitrators from the Federal Mediation and Conciliation Service serving the Southern California area. The party against whom the grievance is filed shall first strike a name of an arbitrator on the panel, with the grieving party striking next; the striking of names shall continue in this order until there remains one name, who shall serve as the arbitrator. The decision of the arbitrator shall be final and binding upon all parties and the grievants.
- H.** The Contractors and the Union shall each have a total of four (4) votes on the Joint Adjustment Board and four (4) representatives and not less than two (2) appointed by each party and the Chairman shall constitute a quorum.
- I.** All expenses incurred and approved by the Joint Adjustment Board necessary for the consideration and decision of grievances or disputes submitted to it shall be borne by and divided equally by the Union and the Contractor. All fees and expenses of the Arbitrator shall be borne by the party against whom the Arbitrator rules.
- J.** If there is any question as to which is the losing party, or if a case is referred back to the parties without decision or if there are decisions against more than one of the parties to the arbitration, the Arbitrator is authorized and requested to determine who shall pay the fees and may in such case order a sharing of such fees. In such event the decision of the Arbitrator on this issue shall be final and binding.
- K.** No jurisdictional disputes shall be submitted for determination to any grievance procedure provided in this Section, but shall be determined in the manner provided in Section 4.B of this Agreement.
- L.** No grievance body established under this Agreement, including the Joint Adjustment Board and Arbitrator, in determining any grievance, shall have the authority to modify, vary, change, add to or remove any of the terms or conditions of this Agreement.
- M.** The provisions of this Section 21.C shall not apply in the event the Contractor or the subcontractor or the subcontractor of a subcontractor fails to pay or is delinquent in contributions to any Trust established under this Agreement.
- N.** The Joint Chairmen of the Joint Adjustment Board shall, immediately following the decision rendered in Executive session, announce the decision of the Board to the parties. In addition, such decision shall be served upon the parties in writing, with copies of such decision being furnished to both the Union and the Association. The Joint Adjustment Board shall have full authority to fashion such remedies, whether by way of damages, orders to cease and desist, or any and all other reasonable remedies designed to correct any violation which the Joint Adjustment Board may have found to have existed. Minutes of all meetings of the Joint



Adjustment Board shall be recorded by one of the Board members selected by the Board, and shall be signed by all members of the Board. Minutes shall be condensed and need not be verbatim.

- O.** Each decision of the Joint Adjustment Board and the Arbitrator shall be made in writing and a copy of each sent to each interested party, particularly including separate copies to the Local Union and the Contractor directly involved, and each of the Contractor Associations and Unions signatory to this Agreement. The decisions of the Joint Adjustment Board or Arbitrator are final and binding upon the parties and are enforceable in a court of competent jurisdiction.
- P.** It is understood and agreed that the procedures outlined in this Section 21 shall be the exclusive remedy for any violation of this Agreement.

## **Section 22 Liability of the Parties**

It is mutually understood and agreed that neither the Employer, any individual employer, the Union nor any Local Union shall be liable for damages caused by the acts or conduct of any individual or group of individuals who are acting or conducting themselves in violation of the terms of this Agreement without authority of the respective party, provided that such action or conduct has not been specifically authorized, participated in, fomented, or condoned by the Employer, the individual employer, the Union, or the Local Unions, as the case may be.

In the event of any unauthorized violation of the terms of this Agreement, responsible and authorized representatives of the Union, Local Union, the Employer, or the individual employer, as the case may be, shall promptly take such affirmative action as is within their power to correct and terminate such violation for the purpose of bringing such unauthorized persons into compliance with the terms of this Agreement. Such individuals acting or conducting themselves in violation of the terms of this Agreement shall be subject to discipline, up to and including discharge.

## **Section 23 General Savings Clause**

It is not the intent of either party hereto to violate any laws, rulings, or regulations of any Governmental authority or agency having jurisdiction of the subject matter or of this Agreement, and the parties hereto agree that in the event any provisions of this Agreement are finally held or determined to be illegal or void as being in contravention of any such laws, rulings, or regulations; nevertheless, the remainder of the Agreement shall remain in full force and effect, unless the parts so found to be void are wholly inseparable from the remaining portion of this Agreement. The clauses hereof relating to "Hiring", Section 7 hereof, and "No Cessation of Work", Section 13 hereof, are intended to be inseparable and mutually interdependent. Should either of such sections be held or determined to be illegal or void for any reason, other than by reason of a Contractor not being a member of an Association then both of said clauses shall forthwith become of no further force or effect, and neither party shall by implication be bound thereby. The parties agree that if and when any provisions of this Agreement are finally held or determined to be illegal or void, they will then promptly enter into lawful negotiations concerning the substance thereof.

It is the intent of the parties to this Agreement that each and every, all and singular, of the provisions of this Agreement be fully in accordance with Federal and State Law. Its interpretation and the interpretation of each of the provisions of this Agreement is therefore intended to apply no broader than that permitted by law.

## **Section 24     Warranty**

Each of the persons executing this Agreement on behalf of their respective Employers or Unions hereby warrants his authority to execute this Agreement and to bind the respective party on whose behalf he signs.

This Agreement contains all the covenants, stipulations and provisions agreed upon by the parties hereto, and no agent or representative of either party has authority to make and none of the parties shall be bound by nor liable for any statement, representation, promise, inducement, or agreement not set forth herein.

## **Section 25     Health and Welfare Plan**

- A.**     Contractors covered by the terms of this Agreement agree to pay to the Laborers' Health and Welfare Trust Fund for Southern California the sum designated in Appendix "B" of this Agreement for each hour worked or paid for on all classifications contained in this Agreement.
- B.**     The Contractor may make voluntary contributions on behalf of supervisory employees above the rank of craft foreman in the amounts and manner to be determined by the Trustees.
- C.**     Contractors covered by the terms of this Agreement approve and consent to the appointment of the Trustees designated by the Laborers' Health and Welfare Trust Agreement for Southern California and further ratify, confirm and consent to all acts heretofore taken in the creation and administration of said Trust by the joint Trustees, its agents and representatives, and agree to be bound by all the terms, conditions, provisions, privileges and obligations provided for by said Agreement and Declaration of Trust as same may be constituted in its original form, as amended, and as may be subsequently amended.
- D.**     The Laborers Health & Welfare Trust for Southern California is party to a Money-Follows-The-Man Agreement with the Northern California Laborers Health & Welfare Trust and other Laborers Health & Welfare Trusts, that permits employees whose home Trust is the Northern California Laborers Health & Welfare Trust or other participating Health & Welfare Trusts to have contributions paid to the Laborers Health & Welfare Trust for Southern California transferred to those Trusts in accordance with and subject to the terms of the Money-Follows-The-Man Agreement. Pursuant to Subsection 1, above, all contributions for hours worked or paid must be made to the Health & Welfare Trust for Southern California.
- E.**     The Laborers' Health and Welfare Trust Fund for Southern California shall, at all times be maintained by its Trustees in compliance with all applicable provisions of the Affordable Care Act and other laws and, in particular, shall satisfy the conditions needed to ensure that the Employers are eligible for and protected by the "multiemployer arrangement pass-through" exemption from penalties under section 4980H for employees on whom contributions are made pursuant to this Agreement and any related participation agreement the Employers may execute providing benefit coverage for non-jobsite employees and/or supervisory personnel.

**Section 26 Pension**

- A. Contractors performing work within the Eleven Counties covered by this Agreement agree to pay to the Construction Laborers' Pension Trust Fund for Southern California, at its principal Trust Office in Los Angeles, California the sum designated in Appendix B for each hour worked, or for which the employee receives pay, for each employee covered by this Agreement. This money paid into the Pension Trust Fund is to be used for pension benefits pursuant to that certain Trust Agreement referred to for convenience as the Construction Laborers' Pension Trust Agreement for Southern California.
- B. The Contractor may make voluntary contributions on behalf of supervisory employees above the rank of Shifter (craft foreman) in the amounts and manner to be determined by the Trustees.
- C. The Contractors approve and consent to the appointment of the Trustees designated by the respective parties to the Construction Laborers' Pension Trust Agreement for Southern California and further ratify, confirm and consent to all acts, heretofore taken in the creation and administration of said Trust by the said Trustees, its agents and representatives and agree to be bound by all the terms, conditions, provisions, privileges: and obligations provided for by said Agreement and Declaration of Trust as may be constituted in its original form or may be subsequently amended.
- D. The Contractors hereby elect to become a party to the Agreement and Declaration of Trust establishing the Pension Trust referred to herein and do authorize the Trustees of said Trust to accept their signatures herein as evidence of such election to the same extent as if their signatures were affixed to a copy of said Trust Agreement.
- E. The Construction Laborers Pension Trust for Southern California is party to a Money-Follows-The-Man Agreement with the Northern California Laborers Pension Trust, the San Diego Laborers Pension Trust and other participating Laborers Pension Trusts that permits employees whose home Trust is the Northern California Laborers Pension Trust, the San Diego Laborers Pension Trust or other participating Pension Trusts to have contributions paid to the Construction Laborers Pension Trust for Southern California transferred to those Trusts in accordance with and subject to the terms of the Money-Follows-The-Man Agreement. Pursuant to Subsection 1, above, all contributions for hours worked or paid must be made to the Construction Laborers Pension Trust for Southern California.

**Section 27 Annuity**

- 1. Contractors covered by the terms of this Agreement agree to pay to the Laborers Annuity Plan for Southern California the sum designated in Attachment #1 of this Agreement for each hour worked or paid for all classifications contained in this Agreement.
- 2. Contractors covered by the terms of this Agreement approve and consent to the appointment of the Trustees designated by the Laborers Annuity Plan Trust Agreement for Southern California and further ratify, confirm, and consent to all acts heretofore taken in the creation and administration of said Trust by the joint Trustees, its agents and representatives, and agree to be bound by all the terms, conditions, provisions, privileges and obligations provided for by said Agreement and Declaration of Trust as same may be constituted in its original form, as amended, and as may be subsequently amended. The establishment of an Annuity Trust Fund Agreement between the Contractors and the Union may be initiated at any time during the life of this Agreement by mutual consent.

## **Section 28 Vacation, Holiday, and Sick Pay**

Contractors performing work within the Eleven Counties covered by this Agreement agree to pay to the Construction Laborers' Vacation, Holiday and Sick Pay Trust Fund for Southern California, at its principal Trust Office in Los Angeles, California the sum designated in Appendix B for each hour worked, or for which the employee receives pay, for each employee covered by this Agreement. This money paid into the Vacation Trust Fund is to be used for vacation benefits pursuant to that certain Trust Agreement referred to for convenience as the Construction Laborers' Vacation Trust Agreement for Southern California.

The Contractors approve and consent to the appointment of the Trustees designated by the respective parties to the Construction Laborers' Vacation, Holiday and Sick Pay Trust Agreement for Southern California, and further ratify, confirm, and consent to all acts heretofore taken in the creation and administration of said trust by the said Trustees, its agents and representatives, and agree to be bound by all the terms, conditions, provisions, privileges, and obligations provided for by said Agreement and Declaration of Trust as may be constituted in its original form or may be subsequently amended.

The Contractors hereby elect to become a party to the Agreement and Declaration of Trust establishing the Vacation, Holiday and Sick Pay Trust referred to herein and do authorize the trustees of said trust to accept their signatures herein as evidence of such election to the same extent as if their signatures were affixed to a copy of said Trust Agreement.

## **Section 29 Training and Retraining**

- A.** Contractors covered by the terms of this Agreement agree to pay to the Laborers' Training and Retraining Trust Fund for Southern California the sum designated in Appendix "B" of this Agreement for each hour worked (or paid for) on all classifications contained in this Agreement.
- B.** Contractors covered by the terms of this Agreement approve and consent to the appointment of the Trustees designated by the Laborers' Training and Retraining Trust Agreement for Southern California and further ratify, confirm, and consent to all acts heretofore taken in the creation and administration of said Trust by the joint Trustees, its agents and representatives and agree to be bound by all the terms, conditions, provisions, privileges and obligations provided for by said Agreement and Declaration of Trust as same may be constituted in its original form, as amended, and as may be subsequently amended.

## **Section 30 Center for Contract Compliance**

- A.** Contractors covered by the terms of this Agreement agree to pay to the Center for Contract Compliance Trust Fund the sum designated in Appendix "B" of this Agreement for each hour worked (or paid for) on all classifications contained in this Agreement.
- B.** The Contractor is bound by all the terms and conditions of the Agreement and Declaration of Trust as it may be constituted in its original form and insofar as it maybe amended, and approve and consent to the appointment of Trustees and further notify, confirm, and consent to all acts heretofore and hereafter taken in the creation and administration of said Trust.
- C.** The parties agree that a review of the Center for Contract Compliance will be performed after one (1) year.

- D. This Section of the Agreement will be subject to the Agreement of the parties on the language for the Agreement and Declaration of Trust.

### **Section 31 Supplemental Dues**

- A. The Employer agrees that he shall, if he is furnished with his employee's written authorization to do so, deduct the sum of certified by the Union as the amount owing for supplemental dues from the amounts required to be paid by the third paragraph of Appendix "B" of this Agreement for each employee covered hereby for each hour worked or paid for in each payroll period as special supplemental dues. In implementing the foregoing, the parties have heretofore established the Laborers' Vacation Dues Reconciliation Trust (hereinafter "Dues Trust") as agent for the purpose of receiving and holding written authorization cards and for receiving, holding, allocating and distributing the dues monies.
- B. Said supplemental dues shall be transmitted to the Dues Trust concurrently with, but not as a part of, the Employer's monthly vacation contributions with respect to his employees covered by this Agreement to the Construction Laborers' Vacation Trust for Southern California. All sums deducted by the Employers pursuant to the provisions of this Section shall, from the instant of their deduction, be considered dues if proper authorization shall have been furnished. All other sums transmitted by the employers pursuant to the provisions of this Section shall, from the instant of their transmittal, be considered vacation contributions if no such proper authorization shall have been furnished, and shall be held by the Vacation Trust for the account of the employee. Prior to deposit in the separate bank accounts of the Dues Trust, on the one hand, and the Vacation Trust, on the other, the bank shall separate the funds transmitted into dues and vacation contributions, respectively, based upon whether or not a proper dues deduction authorization shall have been filed. The bank shall then deposit such sums in the account of the appropriate Trust referred to in this Section. The Union shall bear the entire responsibility for furnishing the written authorization referred to above. All costs incidental to receipt, administration and remittance to the Union of the supplemental dues payments shall be borne solely and entirely by the Union. This provision shall not reduce the obligations of the Contractor to pay the full amount of vacation contributions specified in this Agreement. All written authorization, referred to above shall be irrevocable for a period of one (1) year from the date of the execution and shall renew automatically from year to year thereafter, unless the employee, by written notice served upon the Southern California District Council of Laborers and/or the Dues Trust, as agent for the Contractor, within fifteen (15) days following the first year or any year thereafter, revokes such authorization.
- C. Subject to the following conditions, the Contractor agrees that he shall, if he is furnished with his employee's written authorization to do so, deduct the sum authorized by the employee as the amount owing for contribution to the LiUNA PAC, or other Political Action Committee from the amounts required to be paid to the Vacation Trust pursuant to Appendix "B" of this Agreement for each employee for each hour worked or paid for in each payroll period. In implementing the foregoing, the parties have heretofore established the Laborers Vacation Dues Reconciliation Trust (hereinafter "Dues Trust") and they hereby designate the Dues Trust as agent for the purpose of receiving and holding written authorization for, and for receiving, holding, allocating and distributing moneys designated by employees as political contributions.
- D. Said contributions shall be transmitted to the Dues Trust concurrently with, but not as a part of, the Employer's monthly vacation contributions with respect to his employees covered by this Agreement to the Construction Laborers Vacation Trust for Southern California. All sums deducted by the Employers as contributions pursuant to the provisions of this Section shall, from the instant of their deduction, be considered, contributions to LiUNA PAC or other

designated Political Action Committee. Prior to deposit in the separate bank accounts of the Dues Trust, on the one hand, and the Vacation Trust, on the other, the bank shall separate the political contributions and deposit such sums in the account of the appropriate Trust referred to in this Section. The Union shall bear the entire responsibility for furnishing the written contribution authorization. All costs incidental to receipt, administration and remittance to the LiUNA PAC or other Political Action Committee shall be paid from the political contributions made into the Dues Trust or, at the Union's election, paid by the Union; and the Contractor shall not, by virtue of this provision, incur any additional cost. This provision shall not reduce the obligations of the Contractor to pay the full amount of vacation contributions specified in this Agreement.

### **Section 32 Delinquencies and Collection Procedure**

- A.** The Contractor shall pay its monthly contributions to the Trust Funds accompanied by a fully completed and executed report form furnished by the Trust Funds. The Contractor shall include with the monthly report form in a format acceptable to the Trust Funds:
1. The identification of each job worked on by the Contractor during the month, including the job location, the owner of the job location property, and the name and address of the entity for whom the Contractor is working.
  2. The name and social security number of each employee who performed covered work, indicating the number of hours each employee worked on each jobsite.

The provisions of subsections 1. and 2. above shall be implemented by the Trust Fund Administrator, in consultation with the Association and Union, in a way that minimizes any inconvenience to the Contractor. The information provided by the reports required by subsections 1. and 2. shall be maintained in a confidential, restricted access manner by the Trust Funds for collection and fringe benefit eligibility purposes.

- B.** The Trustees of the Trust Fund shall furnish the Contractor Association and the Union with a list of delinquent contractors each month. Such list will also be available to all signatory contractors on request in electronic format at no cost or in printed format, subject to such reasonable cost as may be determined by the administrative office of the Trust Funds as representing the cost of duplication and transmission of such lists, payment for which is to be made in advance. If the Contractor subcontracts any portion of his job to any subcontractor whose name appears on the delinquent list, the Contractor shall be liable for all fringe benefit contributions of the delinquent Contractor or his subcontractor, or the subcontractor of his subcontractor for work performed on the Contractor's job or project.
- C.** If the Contractor fails to remove the delinquent subcontractor, the Contractor shall become financially responsible for all fringe benefits owed to any funds established by this Agreement by the Contractor or by his subcontractor or the subcontractor of his subcontractor for work performed on the Contractor's job or project in accordance with the requirements set forth below.
- D.** The term "Contractor" for delinquency purposes only, shall include all entities of the delinquent contractor, change of name, or change of entity, provided that the delinquent contractor holds at least ten (10%) percent ownership in the other entity.
- E.** In the event the Contractor subcontracts to a subcontractor that is not on the delinquency list at the time the subcontract is entered into, the Trust Office shall notify the Contractor of any delinquency of the subcontractor within ninety (90) days of the date the delinquency first

occurred and in no case shall the Contractor be liable for fringe benefit contributions of a subcontractor for more than ninety (90) days prior to the date the Trust Office notice is sent to the Contractor. A courtesy copy of the notice shall be sent to the Association that represents the Contractor; provided, however, that the Trust Office's failure to send such notice to the Association shall not affect the Trust's rights against the Contractor.

- F.** Where a Contractor contracts with a listed delinquent subcontractor or subcontractors, and the Contractor fails to terminate the subcontract of such delinquent subcontractor, or subcontractors, the contractor shall become financially responsible for the liability of the delinquent subcontractor's fringe benefits on that job from the commencement of the work under the subcontract to the date of termination of that subcontract.
- G.** The Trust Office shall send delinquency notices to Contractors whose contributions are not paid as required. The Trust Office shall notify the Union of those contractors who fail to pay within five (5) days of such notice and the Union may, at its sole option, withhold service from the Contractor involved until contributions are paid or satisfactory arrangements made with the Trustees for payment.
- H.** Any employee rendered unemployed by reason of the foregoing shall not be deemed engaged in a work stoppage or labor dispute but shall be deemed constructively laid off by the Contractor by failure to pay monies due for the benefit of the employees. Contractor agrees that such employees are entitled to unemployment insurance and warrants that he will take no action to interfere with the employee's application for unemployment insurance. Any dispute in connection with this paragraph is subject to the grievance procedure.
- I.** The Trust Office shall issue delinquency notices and clearances to Contractors confirmed in writing.
- J.** All employees shall be covered by this Agreement and the provisions applicable to Trust Funds. The Trustees shall have authority to audit Contractor records to determine the appropriate contributions and shall have specific authority to examine the Contractor's records, including but not limited to all payroll records, (including certified payroll records, electronic payroll records, and all records, reflecting payments to trust funds other than the Laborer Trust Funds of Southern California Federal W-2 Forms, Forms 1099 and 1096, Quarterly State Tax returns, and time cards), all cash disbursement ledgers, and all canceled checks, check registers, invoices and bank checking account statements, the scope of work portion of all contracts and subcontracts between general contractors and subcontractors. If requested by the Trusts, the Contractor shall provide payroll breakdown by job, and shall provide the job location, legal description of the jobsite property if known, the owner of job location, the name and address of the entity for which the Contractor is working, the contact telephone number for the job, the names and social security numbers of the employees working on the job, the number of hours worked by each employee on the job, all preliminary notices, mechanic liens and stop notices on the job, other relevant job location information requested by the Trusts and certification of workers compensation coverage. The Trustees may file suit to enforce this obligation, and, if successful, shall recover their attorneys' fees and costs, whether or not the audit reveals a delinquency. Any Contractor delinquent under this Article may be required by the Trust Funds to submit, in addition to regular reports, payroll breakdowns by job, and the failure to submit timely job breakdowns shall be considered a delinquency under this Article. If a Contractor refuses to furnish the foregoing the Union may take economic action.
- K.** The Contractor has a duty to report to the Trust Funds as required by the Agreement. The Contractor shall maintain for a period not less than four (4) years all payroll and related

records showing all payments to persons or firms for work of the nature covered by this Agreement, including the records described in Section J, above. The Contractor shall make available such records for audit by the Trust Funds representative upon written request. The Contractor and the Union agree that such audits are expensive and time consuming for the Trust Funds and the Contractor, but the Trust Funds otherwise have no way of knowing the full extent of the Contractor's obligations, since the records showing the related employment are in the possession and control of the Contractor. In order to minimize the need for a frequency of such audits, the Contractor agrees that the Trustees and the Union place trust and confidence in the Contractor to report and pay contributions properly.

- L.** It is recognized that a delinquency in contributions causes damages beyond the value of the unpaid contributions, which are difficult to quantify. These damages include, but are not limited to, the administrative costs of processing and collecting delinquencies, the costs of adjusting benefit credits and notifying participants, the additional burden placed on Contractors who faithfully pay their contributions, and the burden upon participants and beneficiaries who may be unable to qualify for benefits they may have otherwise been entitled to but for the delinquency of the Contractor. Because these damages are difficult, if not impossible, to quantify on a case-by-case basis, the parties agree that liquidated damages, not a penalty, for such losses shall be set at the greater of twenty-five dollars (\$25) or twenty percent (20%) of the contributions late or unpaid for each Trust Fund. The parties have reviewed the costs of collection by the Trust Funds, and agree that twenty percent (20%) liquidated damages is an accurate projection of the Trusts' damages that result from a delinquency. In addition, any Contractor delinquent in its obligations under this Article shall be required to pay interest on the delinquent contributions (at a rate to be set by the Trustees of the Trust Funds), and any audit fees. In the event that litigation is necessary to collect any delinquent contributions (including litigation to enforce mechanic liens, stop notices, bond claims or similar remedies, and any bankruptcy or receivership proceedings) or to enforce any obligation under this Article, in addition to liquidated damages owed by the delinquent Contractor, the Contractor shall also be liable for all reasonable attorney fees and legal costs incurred in such litigation. The Trustees of the Trust Funds may waive or reduce the amount of liquidated damages, at their sole discretion and consistent with their fiduciary duties. The decision of the Trustees in any request to waive or reduce liquidated damages shall be final and binding upon the parties.
- M.** The Trust Funds' Joint Delinquency Committee may require a Contractor to post a satisfactory bond in a sum equal to two (2) times the amount of the delinquency or such lesser amount as the Committee may determine, to secure payments of contributions to the Trust Funds. Such amounts are to be determined by the Trust Funds, and shall increase if the Contractor's delinquency increases. The bond shall not be construed in any way as in lieu of any payments required under this Agreement. All such bonds shall be deposited with the Trust Administrator and shall be in a form acceptable to the Trusts. The bond shall remain in effect for a period of thirty-six (36) months after the delinquency giving rise to the obligation to post the bond or until one year after the date that the Contractor is no longer bound to the Agreement or any successor Agreement, whichever is earlier.
- N.** For the purposes of this Agreement, delinquency in failure to make the required reports and contributions to the Trust Funds, as determined by the Trustees, shall consist of the following:
- (a) Failure to submit trust report forms completely filled out and executed.
  - (b) Failure to report on all employees.
  - (c) Failure to make the payments as required on time.



- (d) Failure to pay audit amounts and audit fees and other costs and damages as determined by the Trust.
- (e) Failure of the bank to honor checks submitted.
- (f) Failure to pay monies due.
- (g) Failure to submit to an audit.
- (h) Failure to submit payroll breakdowns by job during an audit, if the Contractor maintains or can retrieve electronically such payroll breakdowns.

The Trust Funds may exercise discretion in determining the materiality of a technical delinquency and may refrain from publishing to third parties that an employer committing only such a violation is delinquent. When the Trust Funds are asked by third parties or by a Contractor the status of that Contractor, the Trust Funds shall respond promptly to facilitate the Contractor's ability to address any problems quickly and to enable to Contractor to obtain prompt payment from its clients.

- O.** In addition to any other remedies under this Article, the Union may terminate the participation of a delinquent Contractor. Notice of such termination shall be sent to the Contractor, and each of the employees listed on the last report submitted by that Contractor, and shall be effective thirty (30) days from such notice. Upon termination, no employee of the delinquent Contractor shall accrue credit for any benefits for hours worked for that Contractor. However, termination shall not end or alter the obligations of the Contractor (or any Contractor subcontracting to that Contractor) under this Article. In addition to any other damages under this Article, a Contractor so terminated shall be liable to the Trust Fund for the cost of notice, and shall be liable to its employees for the value of any benefits lost in an amount not exceeding the hourly contributions and liquidated damages that would otherwise have been due.

### **Section 33 Pre- Job Conference**

There shall be a pre-job conference prior to the start of a job or project, at the option of either party, where the agreed or estimated price to be paid the individual Employer and any of his or its subcontractors is one million dollars (\$1,000,000.00) or more or where construction conditions or remoteness of the project warrant it.

The individual Employer shall notify, in writing, the appropriate Local Union of the Union of an award of work within thirty (30) days thereof so that a pre-job conference can be arranged.

### **Section 34 Employees not to be Discharged for Recognizing Authorized Picket Lines**

No employee covered hereby may be discharged by an individual employer for refusing to cross a primary picket line established by the Building and Construction Trades Council in the area, which picket line has been authorized or sanctioned by the Local Building and Construction Trades Council having jurisdiction over the area in which the job is located after the individual employer involved has been notified and has had an opportunity to be heard. Said notice shall be in writing and mailed to the individual employer involved at his last known address. This Section shall not apply to jurisdictional disputes.

**Section 35                      Subsistence**

- A. In the subsistence area, as herein defined in Exhibit "A" subject to the exceptions noted below, subsistence shall be paid at the rate of sixty dollars (\$60.00) per scheduled workday. There shall be no prorating of subsistence. Subsistence shall apply to workmen and/or employees who report to work and for whom no work is provided.
- B. An employee or workman who is required to report or perform any work in a subsistence area for any portion of the day or shift shall receive the established subsistence rate for the entire day or shift.
- C. No subsistence need be furnished or paid in the following instances:
  - (a) When the work performed on the job or project is located within the free zone designated in Exhibit "A".
  - (b) When the home of an employee, at the time a job is bid or commitment made on non-bid projects is located within sixty (60) road miles of the job or project which is located in the subsistence area.
  - (c) When the work performed on the job or project is located within fifty (50) road miles of the City Hall of Bishop, California.
- D. Subsistence shall be paid at the rate of sixty dollars (\$60.00) per scheduled workday in the Counties of Inyo and Mono including Trona designated in Exhibit "A".
- E. Subsistence as provided in Paragraph A hereof shall be paid on jobs on the following offshore islands:

Richardson Rock	San Miguel Island
Santa Cruz Island	Santa Barbara Island
Arch Rock	San Clemente Island
San Nicholas Island	Santa Rosa Island
Santa Catalina Island	Anacapa Island

  - (a) Employees reporting at the embarkation point for travel to the above named islands shall be paid travel time from the mainland to the islands and return at the straight-time rate and in no event shall the travel time be less than one (1) hour regardless of mode of travel.
- F. In lieu of subsistence, the Contractor may provide and maintain acceptable room and board or immediately adjacent to the project seven (7) days per week in compliance with California State Laws.

**Section 36                      Compensation for Travel Within Tunnel**

- A. The individual Employer shall pay employees covered by this Agreement working, within the tunnel, adits, or shafts, on a portal to portal basis as follows: The hours of employment of such employee shall commence at the portal of the tunnel, adit or shaft at which he is directed by the individual Employer to report for work on his shift and shall end at such portal



- B.** If a change house is located more than one thousand, two hundred, fifty (1,250) feet from a portal, adit or shaft, then the time of work shall start, for pay purposes, at the change house.

**Section 37 Change of Name or Style**

- A.** This Agreement is binding upon each individual Employer regardless of whether or not he or it changes the name or type or address of his or its business. Each individual Employer shall give notice in writing to said District Council of any intent to change the name, type, or address of his or its business, or to perform business under more than one name or type or at more than one address, prior to the adoption of a new or different name, type, or address, or the addition of new names or types or addresses, as specified herein.
- B.** Nothing in this paragraph shall be construed as adding to the scope of work covered by this Agreement.

**Section 38 Wage Rates**

There is attached hereto, and by this reference made a part hereof, Appendix "A", containing the wage rates to be paid in the various classifications for work performed under the terms of this Agreement.

**Section 39 Effective & Termination Date**

The term of this Agreement is July 1, 2018, to June 30, 2022, and from year to year thereafter unless either the Union or the Association give written notice received by the other not less than sixty (60) days prior to June 30, 2022, or sixty (60) days prior to June 30 of any subsequent year, of a desire to change, amend, modify, or terminate the Agreement. The parties may agree to extend this Agreement at any time by written mutual agreement.

**Section 40 Public Works Projects, Davis-Bacon Act, and Related Statutes**

- A.** In the event an individual Employer bids a public job or project being awarded by a federal, state, county, city or public entity which is to be performed at a predetermined and/or prevailing wage rate established by the Secretary of the U.S. Department of Labor (pursuant to Public Law 74-403 as amended by Public Law 88-349 whose regulations are contained in 29 CFR Parts 1,3,5 and 7, and which determinations are published in the Federal Register), or by the Director of the California Division of Industrial Relations, or a county, city, or other public entity, the established prevailing wage rate, including vacation contributions, in effect on the date of the invitation to bid or in the bid documents of the project, shall be the rates in effect for the duration of the project without change.
- B.** Upon being advised, in writing, by the Union, the Employer agrees to pay any increases to the Pension Trust, Health and Welfare Trust, Training Trust, and Center for Contract Compliance when such increases are made to the Construction Master Labor Agreement.

If any public agency publishes prevailing wage and fringe benefit rates for Laborer classifications for a specific job or project which are less than the rates set forth in the Master Labor Agreement, and there are non-signatory prime bidders on the plan holders list, or if there is no bid list published, then the individual Employer may bid said project in accordance with the wage rates, fringe benefit contribution rates and other applicable provisions of the Prevailing Wage Rate Determinations incorporated in the bid specifications.

**Section 41                      Apprenticeship Program**

- A.     The parties agree that any Apprenticeship Program and Pre-Apprenticeship Program implemented under the Construction Master Labor Agreement may be incorporated into this Agreement. In the event the Construction Master Labor Agreement implements an Apprenticeship Program, the parties will meet to evaluate the need to incorporate an Apprenticeship Program into this Agreement.

**Section 42                      Drug and Alcohol Abuse Prevention Programs**

Refer to Master Labor Agreement.

**Section 43                      Compressed Air Operations**

Workers who enter into a compressed air environment will be paid at a premium of \$6.00 per hour for work in pressure up to 16 psig and premium of \$7.50 per hour for work in pressure above 16 psig. Only workers who enter the compressed air environment will be paid the premium. They will be paid the premium for eight (8) hours during their shift, regardless of whether or not all those hours were under compressed air.

**Section 44                      Contract Administration Fund**

A trust fund entitled "The Contract Administration Fund for Southern California" shall be used only to provide compensation to the Contractors for negotiations and administration of the provisions of this Agreement, including Section 21, for the Industry. Individual Employers shall contribute into the Contract Administration Trust Fund an amount per hour as specified in this agreement for each hour paid for or worked and an additional two cents (\$0.02) per hour may be allocated by the Trustees during the life of this agreement. The Trust Fund shall be administered solely by Trustees selected by the Contractors in accordance with a trust agreement to be executed by the contractors. The Union shall have the right, not more than one (1) time per year, to independently audit the Trust Fund.

**Section 45                      Fund For Construction Industry Advancement**

- A.     The Parties to this Agreement recognize that to protect and expand the interest of the Construction Industry, to be aware of modes and methods of improving the efficiency of the industry and to protect the industry from harmful legislation whose impact is detrimental to both the employees and the Contractors and without regard to whether such employees are employed by members of Contractors the individual employer will contribute the sum of eight cents (\$ 0.08) per hour for all hours worked or paid for by all employees employed under the terms of this Agreement to the FUND FOR CONSTRUCTION INDUSTRY ADVANCEMENT, an employer established and administered Trust formed and created for this purpose and the individual employer hereby adopts and agrees to be bound by the terms of that certain Trust Agreement establishing the FUND FOR CONSTRUCTION INDUSTRY ADVANCEMENT, and further agrees to observe and be bound by the actions and determinations of the Board of Trustees of said Trust. Up to an additional two cents (\$0.02) per hour may be allocated by the Trustees once during the life of this Agreement.
- B.     It is understood that independent of any other provisions, contained in this Agreement which provide for its termination, the Association shall have the right and power to cancel unilaterally the provisions, solely of this Article at any time by delivering notice to the Union in writing to that effect.

- C. The Fund for Construction Industry Advancement shall be used only for the purpose set forth in Paragraph A and shall not be used for anti-labor or anti-employee purposes.

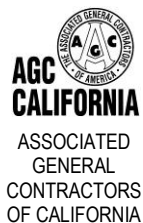
**Section 46 Southern California Partnership for Jobs Industry Advancement Trust Fund**

- A. There is established in the Southern California Partnership for Jobs Trust Fund (Partnership for Jobs Industry Advancement Fund), which is a Labor Management Industry Advancement Fund established to protect and expand the interests of transportation and other infrastructure construction, expand public awareness of the need for transportation and other infrastructure, and address growth and development issues related to the construction industry in Southern California. Contractors covered by the terms of this Agreement agree to pay to the Partnership for Jobs Industry Advancement Fund, the sum of \$0.10 for each hour worked or paid for on all classifications contained in this Agreement.
- B. Contractors covered by the terms of this Agreement approve and consent to the appointment of the Trustees designated by Partnership for Jobs Industry Advancement Fund and further ratify, confirm and consent to all acts heretofore taken in the creation and administration of said Trust by the joint Trustees, its agents and representatives, and agree to be bound by all the terms, conditions, provisions, privileges and obligations provided for by said Agreement and Declaration of Trust as same may be constituted in its original form, as amended, and as may be subsequently amended.
- C. The Union reserves the right upon sixty days written notice to the Associations to reallocate some or all this \$0.05 to wages or to any other Trust Fund to which contributions are made under this Agreement. In the event the Union reallocates some or all of its \$0.05 allocation, the Association shall have the right to reduce or cease the remaining contribution of \$0.05 to the Partnership for Jobs Industry Advancement Fund, under which circumstances the MLA will be amended to reflect such reduction.

**APPENDIX A:**

**CLASSIFICATIONS AND HOURLY WAGE RATES**

<b>EFFECTIVE</b>	<b>7/1/18</b>	<b>7/1/19</b>	<b>7/1/20</b>	<b>7/1/21</b>
<b>Group I</b>	<b>\$40.19</b>	<b>**</b>	<b>**</b>	<b>**</b>
Batch Plant Laborer				
Bottom Lander				
Changehouseman				
Cutterman				
Dumpman				
Dumpman, Outside				
Loading & Unloading Agitator Cars				
Nipper				
Pot Tender - using mastic or other materials; for example (but not by way of limitation), shotcrete, etc.				
Rollover Dumpman				
Shotcrete Man (helper)				
Subsurface Laborer (non-miner)				
Swamper/Brakeman (Brakeman & Switchman on tunnel work)				
Tail Gunner				
TBM Beltman				
Tool Man				
Top Lander				
Tunnel Materials Handling Man				
<b>Group II</b>	<b>\$40.51</b>	<b>**</b>	<b>**</b>	<b>**</b>
Bull Gang Mucker, Trackman				
Chemical Grout Jetman				
Chucktender, Cabletender				
Concrete Crew-Include Rodders and Spreaders				
Grout Mixerman				
Grout Pumpman				
Operating of Troweling and/or Grouting Machines				
Vibratorman, Jack Hammer Pneumatic Tools (except driller)				
<b>Group III</b>	<b>\$40.97</b>	<b>**</b>	<b>**</b>	<b>**</b>
Blaster" Driller, Powderman				
Bull Gang Foreman				
Cherry Pickerman				
Grout Gunman				
Jackleg Miner				
Jumbo Man				
Kemper & Other Pneumatic Concrete Placer Operator				
Miner - Tunnel (hand or machine)				
Micro-Tunneling, Micro-Tunneling Systems				
Nozzleman				
Powderman - Primer House				



Primer Man  
Robotic Shotcrete Placer  
Sandblaster  
Segment Erector  
Steel Form Raiser & Setter  
Timberman, Retimberman, wood or steel  
Tunnel Concrete Finisher

**Group IV** **\$41.66**      \*\*      \*\*      \*\*

Shaft and Raise Work\*  
Diamond Drill  
Roadheader Man

**SHIFTER\*\***

**Watchman** - Wages, fringe benefits, and working conditions as outlined in the Agreement between the Southern California General Contractors and the Southern California District Council of Laborers.

When an Individual Employer, at his discretion, wishes to utilize Employees covered by this Agreement to perform certified gas testing responsibilities, such Employees shall be paid at two dollars (\$2.00) per hour over Group III.

\* The classification "Shaft and Raise Work" shall be applicable to all work from the entrance to the shaft or raise and including surge chambers. This classification shall apply to all work involving surge chambers up to ground level.

\*\* Shifter, whether working or not, shall receive two dollars (\$2.00) per hour above the highest paid classification, covered in this agreement, over which he has leadership. In the event the Contractor, at his option, elects to use a Shifter to supervise other Shifters, he shall be paid not less than one dollar and twenty-five cents (\$1.25) per hour more than the hourly rate of the highest classified Shifter over which he/she has leadership.

When shifter is designated the State Licensed Blaster, he shall receive fifty cents (\$.50) per hour above his rate of pay.

When designated by Employer, State Licensed Blaster shall receive fifty cents (\$.50) per hour above the miners rate.

High scaling above portals and open-cut work in front of portals are usually a part of the Tunnel Contract and the foregoing wage scales shall apply on that part of the work which is done by miners as well as in the tunnel. Work outside not part of the tunnel is not covered by this Agreement except as provided in Section 2 and Section 17.

**TUNNEL:** An underground excavation (lined or unlined) whose length exceeds its width, the inclination of the grade from the excavation shall be no greater than twenty (20) degrees from the horizontal. Should the inclination of grade from the horizontal exceed twenty (20) degrees, the excavation heretofore defined shall constitute a raise.

**SHAFT:** An excavation (lined or unlined) made from the surface of the earth, generally vertical in nature, but may decline up to seventy-five (75) degrees from the vertical, and whose depth is greater than fifteen (15) feet and its largest horizontal dimension.

**APPENDIX B:**

**CONTRIBUTIONS PAYABLE TO TRUST FUNDS**

EFFECTIVE DATE	7/1/18	7/1/19	7/3/20	7/1/21
Laborers Health & Welfare Fund for Southern California	\$7.32	**	**	**
Construction Laborers Pension Trust Fund for Southern California	\$7.78	**	**	**
Construction Laborers Vacation Fund for Southern California †	\$4.84†	**	**	**
Annuity Fund	\$0.25	**	**	**
Training & Retraining	\$0.69	**	**	**
Center for Contract Compliance	\$0.30	**	**	**
Contract Administration Fund	\$0.07	**	**	**
Industry Advancement Fund	\$0.08	**	**	**
Laborers Trusts' Administrative Trust Fund	\$0.06	**	**	**
Partnership for Jobs	\$0.10	**	**	**
<b>Total:</b>	<b>\$21.49</b>			

**FUTURE INCREASES\*\***

07/01/19	\$2.15
07/01/20	\$2.20
07/01/21	\$2.25

† Includes Supplemental Dues contribution

\*\* Upon written notice to the Association at least sixty (60) days prior to July 1 of any year, the Union may allocate the agreed upon increase to (1) hourly wage rate; (2) Health and Welfare; (3) Pension; (4) Vacation; (5) Training and Retraining; (6) Supplemental Dues; (7) Center for Contract Compliance; (8) Any combination thereof.



## **APPENDIX C**

### **GRIEVANCE OF DISPUTES**

The Parties to this Agreement recognize that the Supreme Court of the United States has consistently held for over fifty years that federal law and policy favors the use and finality of arbitration procedures established through collective bargaining agreements to resolve all nature of disputes affecting the employee-employer relationship.

As the designated representative of employees, the Union contracts regarding the specific terms and conditions of employment as well as the enforcement mechanism to ensure those conditions are met, which mechanisms include grievance arbitration. These terms, conditions and enforcement mechanisms are generally superior to those available to employees not covered by collective bargaining agreements. Grievance arbitration provision in a collective bargaining agreement is reflected in national labor laws and is premised on the federal policy to promote industrial stabilization through the collective bargaining agreement. “A major factor in achieving industrial peace is the inclusion of a provision for arbitration of grievances in the collective bargaining agreement.” *United Steelworkers of Am. v. Warrior & Gulf Nav. Co.*, 363 U.S. 574, 577-78, 80 S. Ct. 1347, 1350, 4 L. Ed. 2d 1409 (1960). *D.R. Horton, Inc. v. N.L.R.B.*, 737 F.3d 344, 361 (5th Cir. 2013) (“[W]e discern[ ] in the structure of the [National Labor Relations Act] the very specific right of employees to complete the collective-bargaining process and agree to an arbitration clause.” Citing, *Blessing v. Freestone*, 520 U.S. 329, 343, 117 S.Ct. 1353, 137 L.Ed.2d 569 (1997) (internal quotation marks and citation omitted).

The Parties to this Agreement recognize that the National Labor Relations Board has held that the pursuit of collective or class action claims is concerted action but that a union may waive certain rights to concerted action in a collective bargaining agreement. In doing so, the National Labor Relations Board recognized that a collectively bargained arbitration clause stems from the exercise of rights to act in concert and that “[F]or purposes of examining whether a waiver of Section 7 rights is unlawful, an arbitration clause freely and collectively bargained between a union and an employer does not stand on the same footing as an employment policy... imposed on individual employees by the employer as a condition of employment.” *D. R. Horton Inc.*, 357 NLRB No. 184 (January 3, 2012).

The Parties to this Agreement recognize that arbitration pursuant to the grievance procedure affords numerous benefits including expedited resolution of disputes; reduced cost and expense as compared to litigation; potentially greater monetary relief to individual employees; benefit of the arbitrator’s knowledge and expertise with the bargaining parties, the employment relationships governed by the collective bargaining agreement, and the practices of the construction industry; less restrictive rules of evidence; and less formal procedures. The Parties also recognize that class and representative action procedures are designed to afford a mechanism of relief for claims for which the costs of litigation are disproportionate to the available relief and that this grievance procedure addresses the same concerns by providing an expedited mechanism at reduced cost to address such claims without the need for class or representative action procedures. It is therefore the intent of the parties that this grievance procedure provide a mechanism for resolving the individual claims covered herein which balances expedited and complete relief to employees for violations with avoidance of unnecessary costs and disproportionate remedies associated with class and representative actions.

#### **A. Arbitration of Employment Related Claims.**

Any dispute, complaint or grievance alleging a violation of the Master Labor Agreement shall be processed through the Procedure for Settlement of Grievance and Disputes in Section 21, and the Local Union and Union shall retain sole and exclusive ability to bring such a

grievance to arbitration pursuant such Section. In addition, any dispute, complaint or grievance concerning a violation of, or arising under, Industrial Welfare Commission Wage Order 16 (“Wage Order 16”) which is subject to the Procedure for Settlement of Grievance and Disputes in Section 21 by operation of Wage Order 16 and exemptions contained therein for employees covered by collective bargaining agreements shall remain subject only to Section 21 and not this Appendix C. Disputes, complaints or grievances within the scope of this paragraph shall be referred to as “Contractual Disputes”.

In addition to Contractual Disputes that may be brought by the Union or Local Union as described above, all employee disputes concerning violations of, or arising under Wage Order 16 (except as noted in the immediately preceding paragraph), the California Labor Code Sections identified in California Labor Code section 2699.5 as amended, the California Private Attorneys General Act (Labor Code section 2698, et seq.), and federal, state and local law concerning wage-hour requirements, wage payment and meal or rest periods, including claims arising under the Fair Labor Standards Act (hereinafter “Statutory Dispute” or “Statutory Disputes”) shall be subject to and must be processed by the employee pursuant to the procedures set forth in this Appendix C as the sole and exclusive remedy. To ensure disputes are subject to this grievance procedure in accordance with the intended scope of coverage set forth herein, Statutory Disputes also include any contract, tort or common law claim concerning the matters addressed in the foregoing laws (other than a claim of violation of the Master Labor Agreement which are deemed Contractual Disputes). This Appendix C shall not apply to claims before the National Labor Relations Board, the Employee Equal Opportunity Commission, the Department of Fair Employment and Housing, and the California Division of Workers’ Compensation.

**B. Procedure for Arbitration of Disputes.**

No Statutory Dispute subject to this Appendix C shall be recognized unless called to the attention of and, in the event it is not resolved, confirmed in writing by the individual employee to the individual Contractor and the Local Union within the later of (i) the time set forth in the Procedure for Settlement of Grievance and Disputes in Section 21 or (ii) the time provided for under applicable statute.

Grievances and arbitrations of all Statutory Disputes shall be brought by the individual employee in an individual capacity only and not as a grievant or class member in any purported class or representative grievance or arbitration proceeding. The Arbitrator shall have the authority to consolidate individual grievances for hearing, but shall not have the authority to fashion a proceeding as a class or collective action or to award relief to a group or class of employees in one grievance or arbitration proceeding.

If the individual employee dispute is a Statutory Dispute subject to this Appendix C, the grievance shall not be heard by the Joint Adjustment Board, but shall proceed directly to an independent Arbitrator. In such cases, the procedures for selection of an Arbitrator contained in Section 21 shall not apply; instead, the individual employee and the Contractor shall proceed to arbitration pursuant and subject to the American Arbitration Association National Rules for Employment Disputes. The Contractor shall pay all fees and costs related to the services of the American Arbitration Association and the services of the Arbitrator; however, the Arbitrator may reallocate such fees and costs in the arbitration award, giving due consideration to the individual employee’s ability to pay. Each party shall pay for its own costs, expenses, and attorneys’ fees, if any. However, if any party prevails on a statutory claim which affords the prevailing party costs or attorneys’ fees, or if there is a written agreement providing for an award of costs or attorneys’ fees, the Arbitrator may award costs and reasonable attorneys’ fees to the prevailing party. Any issue regarding the payment of

fees of costs, and any disputes about the manner of proceeding shall be decided by the Arbitrator selected. The Local Union or Union shall not be a party to such, and shall bear no costs or fees of the arbitration.

The Arbitrator shall have full authority to fashion such remedies and award relief consistent with limitations under federal and state law, and precedent established thereunder, whether by way of damages or the award of attorneys' fees and other costs, orders to cease and desist, or any and all other reasonable remedies designed to correct any violation which the Arbitrator may have found to have existed, including such remedies as provided under applicable state or federal law or regulation. The decision of the Arbitrator is final and binding upon the parties and is enforceable in a court of competent jurisdiction.

The Arbitrator shall not have any authority to award relief that would require amendment of the Master Labor Agreement or other agreement(s) between the Union and a Contractor or the Contractors, or which conflicts with any provision of any collective bargaining agreement or such other agreement(s). Any arbitration outcome shall have no precedential value with respect to the interpretation of the Master Labor Agreement or other agreement(s) between the Union and a Contractor or the Contractors.

**APPENDIX D**

**HEALTHY WORKPLACE HEALTHY FAMILY ACT OF 2014**

The parties hereto agree to the fullest extent permitted, the Master Agreement shall operate to waive any and all provisions of the Healthy Workplace Healthy Family Act of 2014, effective January 1, 2015, and shall supersede and be considered to have fulfilled all requirements of said Act as presently written and/or amended during the life of this Master Agreement.

**SIDE LETTER TO TUNNEL MASTER AGREEMENT**

**By and Between**

**Associated General Contractors of California, Inc.,**

**And**

**Southern California District Council of Laborers**

The Southern California District Council of Laborers and its affiliated Local Unions, and the Associated General Contractors of California, Inc., are bound to the 2018-2022 Tunnel Master Agreement covering the eleven (11) Southern California Counties (Tunnel Agreement), and further agree as follows:

1. The following changes in the Tunnel Agreement shall not apply to jobs currently underway or bid on or before October 1, 2018:
  - a. All new coverage added to Section 2.
  - b. New premium wages for Compressed Air work in Section 42.
  - c. New overtime provisions for Shift work in Section 17.
2. Except as expressly modified in this Side Letter, the Terms of the Tunnel Agreement shall apply.