

DOCUMENT 00823

PORT OF OAKLAND MARITIME AND AVIATION
PROJECT LABOR AGREEMENT

ENTERED INTO BETWEEN
DAVILLIER-SLOAN, INC./PARSONS CONSTRUCTORS, INC.
AND THE
BUILDING & CONSTRUCTION TRADES COUNCIL
OF ALAMEDA COUNTY, AFL-CIO

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PORT OF OAKLAND MARITIME AND AVIATION PROJECT LABOR AGREEMENT

Davillier-Sloan Inc./Parsons Constructors, Inc., their successors or assigns (hereinafter "DSI/PCI" or "Project Contractor"), for and on behalf of themselves and the Port of Oakland, enter into this Project Labor Agreement (hereinafter the "Agreement") with the Building and Construction Trades Department, AFL-CIO (hereinafter the "Department"), its affiliated National and International Unions that become signatory to the Agreement, the Building and Construction Trades Council of Alameda County and the Local Unions or Councils that become signatory to the Agreement (collectively referred to as "Unions") The Agreement, once adopted by the Parties and the Board of Port Commissioners of the Port of Oakland, will cover all construction, demolition, modification, alteration and repair work covered by the Scope of the Agreement that is owned and contracted by the Port of Oakland (hereinafter the "Port" or the "Owner").

The Port seeks project stability and the economic savings that flow from the provisions of the Agreement. And the Port places high priority upon the development of comprehensive programs for the recruitment, training and employment of historically disadvantaged residents of the Port's Local Impact Area (LIA, defined as the cities of Alameda, Emeryville, Oakland and San Leandro), especially from Oakland on the Project. It also seeks to create business opportunities on the Project for small and disadvantaged companies and contractors in the LIA business community, especially for those located in Oakland. The Port sought terms and conditions that advanced those goals and removed obstacles that may have historically limited the full employment of such local residents or the access of such businesses to the opportunities available on projects of this kind. The Agreement contains provisions to achieve these important objectives, and recognizes that when those objectives cannot be met that the Parties will work to include workers and businesses from the Port's Local Business Area (LBA, defined as Alameda and Contra Costa counties) as a priority.

For the purposes of the Port's programs under the Agreement, residency for individuals shall mean residency for a period of not less than thirty (30) days prior to the date of dispatch/referral at a place not established or subsidized by a Contractor covered by the Agreement. Residency for businesses will be established as of the date the Port advertised or otherwise offered a contract for bid.

The parties to the Agreement understand that if the Port finds the Agreement acceptable, the Port will include the Agreement in the bid documents, contract specifications and other contract documents for work covered under the Agreement. Upon award, the prime contractor and its various subcontractors will become parties to the Agreement. For purposes of covering such work, the Unions agree that other Contractors may execute the Agreement through execution of a Letter of Assent binding them and their subcontractors to the Agreement. And, the Agreement will supersede the Port of Oakland Vision 2000 (1999 Facilities) Project Labor Agreement for work covered by that agreement that has not been advertised for bid as of the effective date of this Agreement.

DSI/PCI shall monitor and administer the compliance with the Agreement by all Contractors.

This Agreement uses the term "Contractor" and specifies the rights and obligations of each such Contractor as if already parties to this Agreement. The term "Contractor" (or "Contractors") includes all construction contractors and subcontractors of whatever tier that are engaged in work on the construction site within the scope of this Agreement, including DSI/PCI when it performs construction work within the scope of this Agreement.

The Unions, DSI/PCI and all Contractors agree to abide by the terms and conditions contained in the Agreement, including the listed Appendices and the referenced Schedule A agreements. Taken together they constitute the complete understanding of the Parties. No Contractor is required to sign any other agreement with a signatory union as a condition of performing work within the scope of the Agreement. No practice, understanding or agreement between a Contractor and a Union party which is not specifically set forth in this Agreement will be binding on any other party unless endorsed in writing by DSI/PCI.

The Unions agree that any Contractor successfully bidding for covered work has a right to and must become a signatory to the Agreement without regard to whether that successful bidder performs work at other sites on either a union or a non-union basis, and without regard to whether employees of such bidder are or are not members of a union. A signatory Contractor will only be subject to the Agreement for work defined in this Agreement. The Unions hereby pledge to work cooperatively with any Contractor awarded work covered by this Agreement, despite any other dispute the Unions may have with that Contractor over, for example, trust or benefit payments that arose on non-covered work. In consideration of the Unions' waiver of their right to withhold labor from a Contractor delinquent in the payment of Trust Fund contributions, should a Contractor performing work on this Project be delinquent in the payment of Trust Fund contributions required under this Agreement with respect to employees represented by the Union, the Union may request, pursuant to the conditions and prerequisites contained in the attached letter of understanding between the Port and the Unions, that the Owner issue joint checks payable to the Contractor and the appropriate employee benefit Trust Fund(s) until such delinquencies are satisfied. It is agreed, however, with respect to contractors delinquent in trust or benefit contribution payments, that nothing in this Agreement shall affect normal contract remedies available under the local collective bargaining agreements against general contractors or upper-tier subcontractors signatory to those agreements for recovery of subcontractor delinquencies.

The Unions recognize that the Port, at its sole discretion, has the right to contract for work through its Non-Discrimination and Small Local Business Utilization Program as set out in the letter of understanding re: the small business utilization program attached hereto. The Unions pledge to work cooperatively with the Contractors awarded work under that program in order to aid the Port in its effort to increase capacity among historically disadvantaged businesses within its Local Impact Area.

ARTICLE I PURPOSE

The Port of Oakland's Maritime Division Capital Improvement Program, including its urgent Vision 2000 Project, is a multi-year program, currently estimated at in excess of \$640,000,000. The timely and successful completion of the Vision 2000 Project, and complementary elements of its total Maritime Capital Improvement Program is critical to the Port. Otherwise, the Port cannot meet the shipping requirements of its shipping company tenants, the Oakland and San Francisco Bay Area community, the region's industries and businesses and the Nation's international commerce. The Vision 2000 Project Maritime program will significantly expand the capacity of the Port's maritime facilities through the development of new berths and yards and the construction of a highly efficient Joint Intermodal Terminal for increasing the efficiency of ship-to-rail transfer of international container traffic. This physical expansion will more than double the size of the Port's maritime facilities and will require a highly integrated, efficient, cost-effective and time-sensitive construction endeavor to succeed on the critical time path that has been identified for the needs of the industry and the Nation's growing international commerce. Timely and efficient execution of the Project is necessary to avoid severe disruption to the Port's maritime operations. In addition, bringing the other Maritime modernization and realignment programs on line promptly is a highly complementary element of the Port's strategy to provide a state of the art intermodal container facility to its maritime tenants and partners. Failure to execute this overall program in an efficient and timely manner will cause severe disruption to the Port's operations would dramatically reduce the competitiveness of the Port's maritime operations. The consequences of such an outcome would send profound adverse reverberations throughout the local, state and national economies and be very detrimental to the Port.

The Aviation Development Program (ADP) is a multi-year program, currently estimated at in excess of \$665,000,000, to expand the Port's international airport and general aviation facilities. The timely and successful completion of the ADP is critical to the Port. Otherwise, it cannot meet the operational requirements of its tenants or furnish the necessary capacity for air service to the Oakland and San Francisco Bay Area community and the region's airlines, industries, businesses and the general aviation community. Completion of the ADP will enhance regional aviation efficiency and public safety, reduce traffic congestion and improve environmental quality of life for the region. The ADP will expand the capacity of the Port's aviation facilities through the development of new terminal, runway, apron, parking, roadway and other facilities. The physical expansion will significantly increase the capacity of the airport and will require a highly integrated, efficient, cost effective and time sensitive construction endeavor to succeed on the critical time path that has been identified for the needs of the industry and to minimize disruption to on-going operations. Timely and efficient execution of the ADP is necessary to avoid severe disruption to the Port's aviation operations and reductions in their competitiveness, both of which would be very detrimental to the Port.

For purposes of this Agreement, these elements of work, and major maintenance work of the Port's Maritime and Aviation Divisions, will be collectively known as the Project.

In order to accomplish the Project successfully, the Port must ensure that the Contractors that execute the construction projects have available to them a highly trained, skilled and

effective workforce and that the work performed will not be subject to major disruption. In addition, the Port seeks to ensure that the construction is undertaken with the greatest efficiencies in integrating the work of various crafts and trades. And it seeks to establish a mechanism that will quickly resolve, without disruption in work, disputes between Contractors and Unions or among Unions.

In recognition of the special needs of the Project and to maintain a spirit of harmony, labor-management peace and stability during the term of the Agreement, the Parties agree to establish effective and binding methods for the settlement of all labor misunderstandings, disputes or grievances that may arise. And in recognition of such methods and procedures, the Unions agree not to engage in any strikes, picketing, slow downs or interruption of work and the Contractor agrees not to engage in any lockout. And the parties agree to cooperate throughout the term of the Agreement to develop methods to reduce Port construction and project administrative costs.

The Parties commit to provide open access to bidding opportunities for all contractors and to assure that an adequate supply of craft workers possessing the requisite skills and training to perform the construction in order to provide the Port a project of the highest quality.

ARTICLE II SCOPE OF AGREEMENT

This Agreement, hereinafter designated as “The Project Labor Agreement” or “Agreement” shall apply to all on-site construction, modifications, alterations, repair and demolition performed by those contractors of whatever tier that are awarded contracts by the Port for such work, which may include DSI/PCI, as is described in Section 1 (a) of this Article.

It is understood by the parties that the Owner may at any time and at its sole discretion determine to build segments of the Project under this Agreement not currently proposed, or to modify or not to build any one or more of the particular segments proposed to be covered. If segments are added to the Project scope, they would be automatically covered by this Agreement.

Section 1. (a) The projects covered by the Agreement include the following elements contained in the current “PORT OF OAKLAND 5-YEAR CAPITAL IMPROVEMENT PROGRAM” for the Aviation and Maritime Divisions, including major maintenance:

Maritime Division Program:

Vision 2000 (1999 Facilities) Project Labor Agreement: For those projects set out in the Vision 2000 (1999) Facilities Project Labor Agreement that have not yet been advertised for bid prior to the effective date of this Agreement, those projects shall be included in coverage of this Agreement.

Vision 2000 additional facilities: Construction of channel for Berths 57/58 Wharf, fill, demolition, gates and yard; construction of Berth 59 channel, bank, berth and

yard behind “Berth 59”; expansion of Knight RR yard; wharf and channel modifications, embankment; related work including mitigation for historic structures, traffic and water quality associated with Vision 2000 projects; construction of new road; Joint Intermodal Terminal Phase 2; and construction of Middle Harbor Park.

Other Maritime Division expansion and modernization: Those projects, known or currently unknown, for which the estimated cost exceeds \$50,000 that appear on the Capital Improvement Program list for the Maritime Division and have been advertised for bid, invitations to bid have been made, or solicitation for proposals from contractors or sub-contractors have been issued on or before December 31, 2004.

The Aviation Development Program:

Terminal expansion: Expansion of both existing air passenger terminals by up to 750,000 gross square feet. Terminal expansion will provide 12 additional aircraft parking and loading gates, as well as new concourse, circulation and waiting areas, and new passenger service facilities (e.g., ticketing, baggage claim).

Landside Access: Construction of the Airport Roadway Project; a six-story parking garage; realignment, widening, and double-decking of the Airport Drive terminal loop; and relocation of existing parking and rental car facilities displaced by construction of other project components, as well as construction of additional permanent parking and rental car facilities.

Airline and Airport Support: Construction of a building of up to 15,000 gross square feet to expand existing MOIA in-flight provisioning capabilities; consolidation of existing ground vehicle equipment service facilities (fueling, service, and storage) at a single site; relocation of the existing MOIA jet-fuel dispensing facility; and expansion of the existing United Airlines maintenance base.

Other Aviation Division expansion and modernization: Those projects, known or currently unknown, for which the estimated cost exceeds \$50,000 that appear on the Capital Improvement Program list for the Aviation Division and that have been advertised for bid, invitations to bid have been made, or solicitation for proposals from contractors or sub-contractors have been issued on or before December 31, 2004.

(b) Port Work (Notice): Immediately upon determining which company is the apparent low bidder for any work on the Project, and not later than 48 hours after such determination, the Port shall notify the Building Trades Council of the identity of the apparent low bidder and the next two apparent low bidders for all such work. The Port shall notify the Building Trades council no later than 48 hours after awarding contracts for work to be performed on the Project of the identity of the work in question and the Contractor to whom such contract was awarded. The

Port shall notify the Building Trades Council no later than 24 hours after issuing a notice to proceed to any contractor that such notice has issued and shall provide the Buildings Trades Council with a copy of such notice to proceed.

(c) Tenant Work (Notice): The Port shall notify the Building Trades Council of the details of all construction work to be performed by tenants on leased property of the Port within 48 hours of the tenant's notification to the Port of the contemplated work, unless the work is to be performed in less than 48 hours, in which case the Port shall immediately notify the Building Trades council that the tenant is commencing work.

Section 2. Items specifically excluded from the scope of this Agreement include the following:

(a) Work of non-manual employees, including but not limited to, superintendents, supervisors above the level of General Foreman, staff engineers, quality control and quality assurance personnel, timekeepers, mail carriers, clerks, office workers, including messengers, safety personnel, emergency medical and first aid technicians, and other professional, engineering, administrative, community relations or public affairs, environmental compliance, supervisory and management employees.

(b) Equipment and machinery owned or controlled and operated by the Port or railroad, shipping lines, airlines, concessionaires or stevedoring companies, except where such equipment is being operated to perform work on the Project and covered by this Agreement.

(c) All employees of design teams or any other consultant of the Port for, architectural/engineering design services and other professional services not expressly covered by the Agreement.

(d) Any work performed on or near or leading to or onto the site of work covered by this Agreement and undertaken by state, county, city or other governmental bodies, or their contractors; or by public utilities or their contractors; and/or by the Owner (for work which is not part of the Scope of this Agreement as defined in Section 1(a) of this Article).

(e) Non-construction support services contracted by the Owner or DSI/PCI in connection with this Project .

(f) All work by employees of the Port or by railroad or shipping lines, airlines, concessionaires or stevedoring companies doing business at the Port.

(g) Construction work ancillary to the Project but contracted by others. When DSI/PCI is informed of such construction work, it will notify the Building Trades Council as soon as possible thereafter, but not later than twenty-four (24) hours prior to the commencement of such work.

Section 3. (a) The Owner, DSI/PCI, and/or Contractors, as appropriate, have the absolute right to award contracts or subcontracts on this Project notwithstanding the existence or non-existence of any collective bargaining agreements between the prospective Contractor and any Union party, and provided that such Contractor is willing, ready and able to comply with this Project Labor Agreement and shall execute a Letter of Assent (in the form attached as Appendix A), should such Contractor be awarded work covered by this Agreement.

(b) It is agreed that all subcontractors of a Contractor, of whatever tier, who have been awarded contracts for work covered by this Agreement on or after the effective date of this Agreement shall be required to accept and to be bound by the terms and conditions of this Project Labor Agreement, and shall evidence their acceptance by the execution of a Letter of Assent provided to the Contractor by DSI/PCI, prior to the commencement of work. A copy of the Letter of Assent executed by the Contractor shall be immediately transmitted to the Union(s) prior to the dispatch of employees to the job site.

Section 4. (a) The provisions of this Project Labor Agreement (including the Schedule As, which are the local Collective Bargaining Agreements between bona fide contractor groups or representatives and the signatory Unions) shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or National Agreements which may conflict with or differ from the terms of this Agreement. Notwithstanding the foregoing, the Elevator Constructors' National Agreement shall be applied to Qualifying Work falling within the jurisdiction of the Elevator Constructors, except that Articles VIII, IX and X of this Agreement shall prevail and be applied to such work. DSI/PCI and each local union shall agree upon the local collective bargaining agreement to be designated as the applicable Schedule A for work covered by this Agreement. Where a subject covered by the provisions of this Agreement is also covered by a Schedule A, the provisions of this Agreement shall prevail. Where a subject is covered by the provisions of a Schedule A and is not covered by this Agreement, the provisions of the Schedule A shall prevail.

(b) Any dispute as to the applicable source between this Agreement and any Schedule A for determining the wages, hours and working conditions of employees on the Project shall be resolved by Gerald McKay, under the procedures established in Article IX. It is understood that this Agreement, together with the referenced Schedule As, constitutes a self-contained, stand-alone agreement and that, by virtue of having become bound to this Project Labor Agreement, the Contractor will not be obligated to sign any other local, area or national agreement as a condition of performing work within the scope of this Agreement.

Section 5. This Agreement shall only be binding upon the signatory parties hereto and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party. Nothing in this Section shall be construed to limit or prevent the Unions or fringe

benefit trust funds from asserting or enforcing legal rights to collect delinquent contributions from Contractors signatory to this Agreement or their related entities.

- Section 6. This Agreement shall be limited to the on-site construction work within the scope of this Agreement, as set forth in Section 1 of this Article, for which bids have been advertised, invitations to bid have been made, or solicitations for proposals from contractors or subcontractors have been issued on and after the effective date of this Agreement, including, specifically, site preparation and related demolition and deconstruction work. Nothing contained herein shall be construed to prohibit, restrict, or interfere with the performance of any other operation, work or function awarded to any contractor before the effective date of this Agreement or which may be performed by the Owner for its own account on the property or in and around the construction site.
- Section 7. It is understood that the liability of the Contractor and the liability of the separate Unions under this Agreement shall be several and not joint. The Unions agree that this Agreement does not have the effect of creating any joint employment status between or among the Owner or DSI/PCI and/or any Contractor, except in a case when DSI/PCI terminates or directs the termination of the employee of a Contractor.
- Section 8. None of the provisions of this Agreement shall be construed to prohibit or restrict the Port or its employees from performing work not covered by this Agreement on or around the construction site. As areas of covered work are accepted by the Owner, the Agreement shall have no further force or effect on such items or areas except where the Contractor is directed by the Owner to engage in repairs or punch list modifications.
- Section 9. It is understood that the Owner, at its sole option, may terminate, delay or suspend any and all portions of the covered work at any time.

ARTICLE III SOCIAL JUSTICE COMMITTEE

The Parties have agreed to various provisions of the Agreement to achieve the inclusion of historically disadvantaged businesses and individuals in the contracting and employment opportunities created by the covered work. In order to implement and monitor the progress of these social justice provisions, the Port and the Unions, in recognition of their mutual commitment to and the partnership they have established to achieve those goals, shall form a Social Justice Committee. The Social Justice Committee will serve as the central forum for representatives of all interested or affected parties to exchange information and ideas and to advise the Port staff and DSI/PCI concerning the operation and results of the Port Social Justice Program and the ongoing role of this Project Labor Agreement as an integral component of the Port's program. As part of these responsibilities, the Committee will assess the obstacles to success of achieving inclusion of disadvantaged workers in the construction opportunities and shall make recommendations for a program to overcome some of those obstacles.

Section 1. Membership and organization

(a) The Port shall appoint representatives of all interested segments of the community to a Social Justice Committee, which will include local, minority and female business organizations, community-based organizations, the Unions signatory hereto, DSI/PCI and Contractors participating under this Agreement. The Port shall seek the advice of the Social Justice Committee in considering the appointment of subsequent members.

(b) The Committee will establish its rules of procedure.

(c) DSI/PCI, or some other person or entity selected by the Port will chair the Committee.

Section 2. Meetings

(a) The Committee will meet monthly or, more frequently at the call of the Chair.

(b) DSI/PCI will establish agenda topics with input from the Committee and send notices of meetings with the agenda in advance of the meetings.

(c) The meetings will receive reports and consider work progress and practices, disadvantaged business utilization, pre-apprentice recruitment, training and referral, apprentice development and utilization, and other issues of concern to the Committee.

(d) DSI/PCI and the Contractors shall report on monthly progress on these issues and provide ongoing workforce projections for their work.

Section 3. Relation to the Social Justice Subcommittee

(a) The Committee has the right to refer to the Social Justice Subcommittee of the Joint Administrative Committee concerns about a Party's compliance with the Agreement's provisions relating to the utilization of LIA residents and businesses on the Project.

(b) The Committee shall make recommendations to the Social Justice Subcommittee established in Article IV on elements of a Social Justice Program.

Section 4. Funding

- (a) Reasonable costs of the Social Justice Program shall be borne in partnership between the Port and industry (labor/management).
- (b) Industry shall pay its share from existing industry contract administration or similar trust funds as referenced in Article XI, Section 3.
- (c) Any expenditure in behalf of the Social Justice Program from funds received for those purposes under this Agreement shall be made only upon a vote of the Social Justice Subcommittee, with the concurrence of the Joint Administrative Committee, both of which are established in Article IV of this Agreement.

Section 5. Actions by the Committee

Any action taken by the Committee will not be deemed official until it has been ratified by the Social Justice Subcommittee.

**ARTICLE IV
LABOR/MANAGEMENT COOPERATION
JOINT ADMINISTRATIVE COMMITTEE**

Section 1. The parties to this Agreement recognize the necessity for cooperation and communication between Labor and Management, the elimination of disputes and misunderstandings between the parties. To this end, a representative of DSI/PCI will meet monthly with the representatives of the signatory Building Trades Unions to promote harmonious and stable labor/management relations on this Project, and to insure effective and constructive communications between the labor and management parties. The date and time of this meeting will be determined by the parties and will be open to all representatives of Contractors signatory to this agreement. The meetings will be held at the offices of the Alameda County Building & Construction Trades Council.

At this meeting, the DSI/PCI representative will give a report on the safety and progress of on-going contracts and any outstanding issues pertaining to this Project, and will entertain questions and discuss labor relations matters of mutual interest affecting the work and administration of the Agreement.

Section 2. A Project Labor Agreement Joint Administrative Committee will be formed consisting of five (5) Union representatives selected by the Unions and five (5) Contractor representatives selected by DSI/PCI. The Committee shall be jointly chaired by a representative of DSI/PCI and a representative of the Unions appointed by the Building and Construction Trades Council of Alameda County. The purpose of the Committee will be to resolve disputes or misunderstandings and to review,

and, if it agrees, to concur in the disposition of funds allocated to the Social Justice Program.

The Committee shall meet at the call of the Joint Chairs of the monthly Labor/Management meeting to discuss any labor/management problems that may arise or any other matters consistent with this Agreement. DSI/PCI shall be responsible for the scheduling of the meetings, the preparation of the agenda topics for the meeting with input from the Unions and Contractors. Notice of the date, time and place of the meeting shall be given to the Committee members at least three (3) days prior to the meeting. In an emergency, a meeting of the Committee may be held within forty-eight (48) hours at the request of any member, Union or Contractor.

The Unions and the Contractors each agree to notify the other party upon discovery of any potential violation of this Agreement or practices that might lead to a misunderstanding or dispute between the parties. Any agreement or resolution reached pursuant to this paragraph shall not supersede, alter, modify, amend, add to or subtract from this Agreement.

All parties signatory to this Agreement acknowledge the importance of attendance and active support of the Joint Administrative Committee and agree to participate in the meetings as their responsibility that may be required on the Project.

Section 3 (a) The Parties to this Agreement shall establish a standing Subcommittee on Social Justice to this Joint Administrative Committee which shall be comprised of representatives of the Unions, DSI/PCI, Contractors and Community-based organizations located in the LIA and selected by the Port, in consultation with the Social Justice Committee, and mutually accepted by DSI/PCI and the Unions. The Subcommittee on Social Justice will be comprised of four (4) representatives of the community one of which will be primarily involved in preparatory training for prospective construction applicants, three (3) representatives from the Unions, three (3) contractor representatives, one (1) representative from DSI/PCI and one (1) representative from the Building Trades Council. Except for DSI/PCI and the representative for the Building Trades Council, the other members of the Subcommittee will serve for two years, except that half of them will serve initial terms of only one year, which terms shall be established by lot, and the terms will be two Community terms of two years and two of one year each, one Contractor term of two years and two of one year each, and one Union term of two years and two terms of one year each. The subcommittee's purpose shall be to promote and support on an ongoing basis the utilization on this Project, to the maximum extent possible, of Oakland-based small and historically disadvantaged businesses and the training, placement and retention of LIA residents, especially applicants who reside in Oakland and who are members of groups that have been historically disadvantaged in construction industry employment opportunities. To that end, it will administer, with the concurrence of the Joint Administrative Committee, funds received under Article XI, Section 3, to fund a Social Justice Program.

(b) The Subcommittee shall meet on a regularly scheduled monthly basis or at the call of DSI/PCI to discuss business, training and job opportunities, disposition of funds for the Social Justice Program, and any issues concerning alleged non-compliance with the Agreement's "social justice provisions" referred to it by the Social Justice Committee. DSI/PCI shall chair and be responsible for the scheduling of the meetings and the preparation of the agenda topics with input from the other Subcommittee members. Timely notice of the location and time of the meetings shall be given to all Subcommittee members, and the meetings shall be open to attendance by Social Justice Committee members, except that when the Subcommittee meets to consider matters involving an individual or a contractor that may involve personal or proprietary information, such meetings will be closed.

ARTICLE V UNION RECOGNITION AND EMPLOYMENT

- Section 1. The Contractor recognizes the Unions as the sole and exclusive bargaining representatives of all craft employees within their respective jurisdictions working on the Project within the scope of this Agreement.
- Section 2. The Contractor has the right to determine the competency of all employees, the number of employees required, subject to the lawful manning provisions of applicable local collective bargaining agreements (provided that such provisions will not be recognized if they unduly restrict the productivity or efficiency of the work and the full utilization of the workforce), and shall have the sole responsibility for selecting employees to be laid off, consistent with Article VI, Section 3 below.
- Section 3. (a) For Local Unions now having a job referral system as contained in Schedule A, the Contractor agrees to comply with such system and it shall be used exclusively by such Contractor, except as it may be modified by this Article. Such job referral system will be operated in a non-discriminatory manner and in full compliance with federal, state, and local laws and regulations which require equal employment opportunities and non-discrimination, and referrals shall not be affected by obligations of union membership or the lack thereof, except that nothing in this section shall preclude the lawful exercise of rights under the union security clause as to employees delinquent in their proper dues payments. All of the foregoing hiring procedures, including related practices affecting apprenticeship and training, will be operated so as to facilitate the ability of the contractors to meet any and all equal employment opportunity/affirmative action obligations, and to permit and facilitate compliance with the Port's Social Justice Program. The Contractor may reject any referral for any lawful reason, provided the Contractor complies with Article XII, Section 6(a).
- (b) To the extent permitted by law, the Unions will give credit for bona fide, provable past experience to applicants, including work for non-union contractors who become signatory to the PLA. The experience and practical knowledge of

applicants will be reviewed and tested by the applicable Joint Apprenticeship Training Committee. Applicants will be placed at the appropriate stage of apprenticeship or at the journey level, as the case may be. Final decisions will be the responsibility of the applicable Joint Apprenticeship Training Committee, subject to final review by the California Division of Apprenticeship Standards.

(c) From time to time or as requested, the appropriate Joint Apprenticeship Coordinator(s) will make progress reports on the number and disposition of applicants to the Social Justice Committee.

(d) The Port and the unions agree to establish one or more centers to facilitate the entry into and retention of Local Impact Area residents interested in careers in the building and construction trades. The center(s) will be known as "Community Resource Centers". The center(s) will serve as a resource for preliminary orientation; assessment of construction aptitude; referral to pre-apprenticeship and apprenticeship programs or hiring halls; needs assessment; counseling and mentoring; support network for women; employment opportunities and other needs as identified for prospective workers.

(e) The Unions agree to coordinate with the "Community Resource Centers" established in subsection (d) above to create and maintain an integrated database of hiring list members from the LIA and LBA, and agree that such local union out-of-work-list registrants may use the Community Resource Center(s) as a facility from which they may be referred for work covered under this Agreement, consistent with normal union hiring hall procedures. Further, the Parties agree, that a Contractor may use the Community Resource Center(s) as a resource for identifying LIA/LBA local union out-of-work-list registrants who could be made subject to name call for the purpose of meeting the LIA/LBA hiring goals. A Contractor will contact the applicable Union dispatcher to request a name-call worker, and the Union will agree to dispatch such a worker from the Union hall consistent with normal union hiring hall procedures. The Community Resource Center(s) will provide the necessary confirmation to the Union dispatcher that the worker has received and accepted the dispatch and will also provide confirmation to the Contractor. Unions that maintain dispatch facilities within the Port LIA, or which dispatch by telephone to the job, will not be required to utilize this provision for dispatch of workers.

Section 4. In the event that Local Unions are unable to fill any request for employees within forty-eight (48) hours after such request is made by the Contractor (Saturdays, Sundays, and holidays excepted), the Contractor may employ applicants from any other available source, including community-based organizations in the LIA. The Contractor shall inform the Union and DSI/PCI of the name and social security number of any applicants hired from other sources and shall refer the applicant to the Local Union for dispatch to the Project.

- Section 5. Except as required by law, the Local Unions shall not knowingly refer an employee currently employed by any Contractor working under this Agreement to any other Contractor.
- Section 6. The parties agree to a goal that residents of the Port's Local Impact Area defined as Alameda, Emeryville, Oakland and San Leandro) will perform fifty percent (50%) of all hours worked, on a craft-by-craft basis but, that if sufficient and qualified workers from the Local Impact Area are not available to achieve this goal, then residents of the Port's Local Business Area (defined as Alameda County and Contra Costa County) may be utilized. The Contractor shall make good faith efforts to reach this goal through the utilization of normal hiring hall procedures listed in the Schedule A agreements and the resources of the "Community Resource Centers" set out in Section 3 of this Article. Sanctions may be imposed for failure to meet the goals or demonstrate "good faith" effort to do so. In cases of alleged noncompliance, the issue may be referred by the Social Justice Committee to the Social Justice Subcommittee of the Labor/Management Cooperation Joint Administrative Committee for resolution. If a majority of the Subcommittee can make no resolution, the issue may then be referred by the Social Justice Subcommittee to Step 3 of the grievance procedure of Article IX for submission to an arbitrator for a final and binding determination. For purposes of resolution of any dispute arising under this Section, the Port shall be considered a party-in-interest with full right of participation in the arbitration proceeding.
- Section 7. In the event that a signatory Local Union does not have a job referral system as set forth in Section 3 above, the Contractor shall give the Union equal opportunity to refer applicants. The Contractor shall notify the Union of employees hired from any source other than referral by the Union.
- Section 8. The Unions will cooperate with the Port, the City of Oakland and other LIA communities, the Contractors and DSI/PCI in conducting outreach activities to recruit and refer local resident applicants to apprenticeship programs or on-the-job employment positions for which they are qualified or qualifiable. Working with the Joint Administrative Committee's Subcommittee on Social Justice, the Unions will, after their out-of-work lists are exhausted, use Community-based organizations (to be identified by the Port of Oakland/Community Social Justice Committee) or State-approved apprenticeship or training programs as a "First Source" for hiring qualified or qualifiable local residents, especially applicants from groups that have been historically disadvantaged in construction industry employment opportunities, before recruiting from other union locals not signatory to this Agreement.
- Section 9. No employee covered by this Agreement can be required to join any Union as a condition of being first employed on the Project; provided, however, that an employee who is a member of the referring union at the time of the referral shall maintain that membership while employed under the Agreement. All employees shall, however, comply with the union security provision of the applicable Schedule A Agreement for the period during which they are performing on-site Project work,

except as modified by this Agreement including the attached letter of understanding. The Contractor agrees to deduct initiation fees, union dues or representation fees from the pay of any employee who executes a voluntary authorization for such deductions and to remit the dues and fees to the applicable Union or Council.

Section 10. The Parties recognize the Owner's commitment to provide opportunities to participate on the Project to emerging business enterprises as well as other enterprises that may not have previously had a relationship with the Unions signatory to this Agreement. To ensure that such enterprises will have an opportunity to employ their "core" employees on this Project, the parties agree that in those situations where a Contractor not a party to a current collective bargaining agreement with the signatory Union having jurisdiction over the affected work is a successful bidder, the Contractor may request by name, and the local will honor, referral of persons who have applied to the local union for Project work and who demonstrate the following qualifications:

(1) possess any license required by state or federal law for the Project work to be performed;

(2) have worked a total of at least one thousand (1,000) hours in the construction craft during the prior three (3) years;

(3) were on the Contractor's active payroll for at least sixty (60) out of the one-hundred eighty (180) calendar days prior to the contract award; and

(4) have the ability to perform safely the basic functions of the applicable trade.

The Union will refer to such Contractor one journeyman employee from the hiring hall out-of-work list for the affected trade or craft, and will then refer one of such Contractor's "core" employees as a journeyman and shall repeat the process, one and one, until such Contractor's crew requirements are met or until such Contractor has hired ten (10) "core" employees, whichever occurs first. Thereafter, all additional employees in the affected trade or craft shall be hired exclusively from the hiring hall out-of-work list(s). For the duration of the Contractor's work the ratio shall be maintained and when the Contractor's workforce is reduced, employees shall be reduced in the same ratio of core employees to hiring hall referrals as was applied in the initial hiring.

Section 11. Except as provided in Article VI, Section 3, individual seniority will not be recognized or applied to employees working on the Project.

Section 12. The selection of craft foremen and/or general foremen and the number of foremen required shall be entirely the responsibility of the Contractor.

ARTICLE VI
UNION REPRESENTATION AND STEWARDS

- Section 1. Authorized representatives of the Union shall have access to the Project, provided that such representatives fully comply with posted visitor, security and safety rules and the environmental compliance requirements of the Project. It is understood that because of the geographical scope of the Project, and the type of work being undertaken on the Project site, visitors may be limited to certain times, or areas, or to being accompanied at all times while on the Project site; with this in mind, however, the Contractor recognizes the right of access set forth in this Section and such access will not be unreasonably withheld from an authorized representative of the Union.
- Section 2. (a) Each signatory Local Union shall have the right to designate a working journeyman as a steward for each shift, and shall notify the Contractor in writing of the identity of the designated steward or stewards prior to the assumption of such person's duties as steward. Such designated steward or stewards shall not exercise any supervisory functions. There will be no non-working stewards. Stewards will receive the regular rate of pay for their respective crafts.
- (b) In addition to his work as an employee, the steward shall have the right to receive, but not solicit, complaints or grievances and to discuss and assist in the adjustment of the same with the employee's appropriate supervisor. Each steward shall be concerned with the employees of the steward's Contractor and if applicable, subcontractors, and not with the employees of any other Contractor. The Contractor will not discriminate against the steward in the proper performance of his union duties.
- (c) When a Contractor has multiple, non-contiguous work locations on the site, the Contractor may request, and the Union shall appoint additional working stewards to provide independent coverage of one or more such locations. In such cases a steward may not service more than one work location without the approval of the Contractor and the Union.
- (d) The stewards shall not have the right to determine when overtime shall be worked or who shall work overtime.
- Section 3. The Contractor agrees to notify the appropriate Union forty-eight (48) hours prior to the layoff of a steward, except in the case of disciplinary discharge for just cause. If a steward is protected against such layoff by the provisions of any Schedule A, such provisions shall be recognized to the extent that the steward possesses the necessary qualifications to perform the work remaining. In any case in which a steward is discharged or disciplined for just cause, the appropriate Union shall be notified immediately prior to dismissal or discipline by the Contractor.

Section 4. On work where the personnel of the Port may be working in close proximity to the construction activities, the Union agrees that the Union representatives, stewards and individual workers will not interfere with the Port personnel.

ARTICLE VII MANAGEMENT'S RIGHTS

Section 1. The Contractor retains the full and exclusive authority for the management of its operations. Except as expressly limited by other provisions of this Agreement, the Contractor retains the right to direct the workforce, including the hiring, promotion, transfer, layoff, discipline or discharge for just cause of employees; the selection of foremen; the assignment and schedule of work; the promulgation of reasonable work rules; and, the requirement of overtime work, the determination of when it will be worked and the number and identity of employees engaged in such work. No rules, customs, or practices that limit or restrict productivity, efficiency or the individual and/or joint working efforts of employees shall be permitted or observed. The Contractor may utilize any methods or techniques of construction.

Section 2. There shall be no limitation or restriction by a signatory Union upon a Contractor's choice of materials, design or manufacture, nor, upon the full use and utilization of equipment, machinery, tools, or other labor saving devices. The on-site installation or application of all items shall be performed by the craft having jurisdiction over such work; provided, however, it is recognized that installation of specialty items which may be furnished by the Owner may be performed by employees employed under this Agreement who may be directed by other personnel in a supervisory role, or, in limited circumstances requiring special knowledge of the particular item(s), may be performed by employees of the vendor or other companies where necessary to protect a manufacturer's warranty or where the employees working under this Agreement lack the required skills to perform the work.

Section 3. The use of new technology, equipment, machinery, tools and/or laborsaving devices and methods of performing work may be initiated by the Contractor from time-to-time during the Project. Consistent with law and safe practices, the Union agrees that it will not in any way restrict the implementation of such new devices or work methods. If there is any disagreement between the Contractor and the Union concerning the manner or implementation of such device or method of work, the implementation shall proceed as directed by the Contractor, and the Union shall have the right to grieve and/or arbitrate the dispute as set forth in Article IX of this Agreement.

**ARTICLE VIII
WORK STOPPAGES AND LOCKOUTS**

- Section 1. There shall be no strikes, sympathy strikes, picketing, work stoppages, slowdowns or other disruptive activity for any reason (including disputes relating to the negotiation or renegotiation of the local collective bargaining agreements which serve as the basis for the Schedule As or disputes directed at non-construction services companies at the Project site) by the Union(s) or employees at or affecting the Project site or against any Contractor covered under this Agreement at this Project site and there shall be no lockout by the Contractor. Failure of any Union or employee to cross any picket line established by any Union, signatory or non-signatory to the Agreement, or by any other organization or individual at the Project construction site is a violation of this Article.
- Section 2. The Contractor may discharge any employee violating Section 1, above, and any such employee will not be eligible for rehire under this Agreement for a period of up to 120 days. The Union shall take all steps necessary to obtain immediate compliance with this Article but shall not be held liable for conduct for which it is not responsible.
- Section 3. (a) If the Contractor contends that any Union has violated this Article, Article X, Section 4 or Article XIX, Section 3, it will notify in writing the International President(s) of the Union(s) involved, advising him of the fact, with copies of such notice to the Local Union(s) involved, to the Building Trades Council and to the Building and Construction Trades Department, and to DSI/PCI. The International President or Presidents will immediately instruct, order and use the best efforts of his office to cause the Local Union(s) to cease any violation of this Article. An International Union complying with this obligation shall not be liable for unauthorized acts of its Local Union.
- (b) If the Union contends that any Contractor has violated this Article, it will notify the Contractor and DSI/PCI setting forth the facts which the Union contends violate the Agreement, at least twenty-four (24) hours prior to invoking the procedures of Section 5. It is agreed by the parties that the term "lockout" for purposes of this Agreement does not include discharge, termination or layoff of employees by the Contractor, nor does it include the contractor's decision to terminate or suspend work on the Project or any portion thereof for any reason, provided the Union is given thirty (30) days notice. This provision will not affect the contractor's right to suspend or terminate work on any portion of the Project for operational or special circumstances.
- Section 4. There shall be no strikes, picketing, work stoppages, slowdowns or other disruptive activity affecting the project site during the term of this Agreement. Any Union or Local Union which initiates or participates in a work stoppage in violation of this Article, or which recognizes or supports the work stoppage of another Union or

Local Union which is in violation of this Article, agrees as a remedy for said violation, to pay liquidated damages in accordance with Section 5(h).

Section 5. Any party, including the Owner, whom the parties agree is a party in interest for purposes of this Article, or DSI/PCI, may institute the following procedure, in lieu of or in addition to any other contractual procedure or any action at law or equity, when a breach of Section 1, above, Section 4 of Article X, or Section 3 of Article XIX is alleged:

(a) A party invoking this procedure shall notify Gerald McKay, Esq., who the parties agree shall be the permanent arbitrator under this procedure. In the event that the permanent arbitrator is unavailable at any time, he/she shall appoint an alternate. Invocation of this procedure and notification of the arbitrator on behalf of Contractor parties shall be made by DSI/PCI. Notice to the arbitrator shall be by the most expeditious means available, with notices to the party alleged to be in violation and to the Council if it is a Union alleged to be in violation. For purposes of this Article, written notice may be given by, facsimile, hand delivery or overnight mail but will be deemed effective upon receipt.

(b) Upon receipt of said notice, the arbitrator named above or his/her alternate shall sit and hold a hearing within twenty-four (24) hours if it is contended that the violation still exists, but not sooner than twenty-four (24) hours after the notice to the International President(s) required by Section 3, above.

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

(d) The sole issue at the hearing shall be whether or not a violation of Section 1, above, Section 4 of Article X, or Section 3 of Article XIX, has in fact occurred. The arbitrator shall have no authority to consider any matter in justification, explanation or mitigation of such violation or, except as expressly provided by Section 5(h) of this Article, to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without an opinion. If any party desires an opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with, or enforcement of, the Award. The arbitrator may order cessation of the violation of the Article and other appropriate relief, and such Award shall be served on all parties by hand or registered mail upon issuance.

(e) Such award shall be final and binding on all parties and may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to hereinabove in the following manner. Written

notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the arbitrator's Award as issued under Section 5(d) of this Article, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order of enforcement. The court's order or orders enforcing the arbitrator's award shall be served on all parties by hand or by delivery to their last known address by registered mail.

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

(g) The fees and expenses of the arbitrator shall be equally divided between the moving party or parties and the party or parties respondent.

(h) If the Arbitrator determines that a violation of Section 1, above, Section 4 of Article X, or Section 3 of Article XIX, has occurred in accordance with Section 5(d) above, the Union(s) shall, within eight (8) hours of receipt of the Award, direct all of the employees they represent on the Project to immediately return to work. If the trade involved does not return to work by the beginning of the next regularly scheduled shift following receipt of the Arbitrator's Award, and the Union(s) has not complied with Section 2 of this Article, then the Union(s) shall be required to pay liquidated damages to the Owner in an amount not less than \$10,000, or more than \$25,000, at the discretion of the arbitrator, and will be assessed an additional amount of not less than \$10,000 and up to \$25,000, at the discretion of the arbitrator, for each subsequent shift thereafter on which the trade has not returned to work. If the Arbitrator determines that a lockout has occurred in violation of Section 1, and the Contractor does not return the locked-out employees to work within eight (8) hours of the Contractor's receipt of the Award, then the Contractor shall be required to pay liquidated damages to the Owner in an amount not less than \$10,000, or more than \$25,000, at the discretion of the Arbitrator, and will be assessed an additional amount of not less than \$10,000 and up to \$25,000, at the discretion of the Arbitrator, for each subsequent shift thereafter on which the employees have not been returned to work. The Arbitrator is empowered to award back pay to the employees who were locked out. The Arbitrator shall retain jurisdiction to determine compliance with this section and Section 2 of this Article.

Section 6. Procedures contained in Article IX shall not be applicable to any alleged violation of this Article, with the single exception that any employee discharged for violation of Section 1, above, may resort to the procedures of Article IX to determine whether or not he was engaged in that violation and what remedy should be assessed.

Section 7. DSI/PCI is a party in interest in all proceedings arising under this Article and Articles IX and X and shall be sent contemporaneous copies of all notifications

required under these articles, and, at its option, may initiate or participate as a full party in any proceeding initiated under these articles.

ARTICLE IX DISPUTES AND GRIEVANCES

Section 1. (a) This Agreement is intended to provide close cooperation between management and labor. DSI/PCI and the Alameda County Building and Construction Trades Council, AFL-CIO, shall each assign a representative to this Project for the purpose of assisting the Department, the International and Local Unions, together with the Contractor, to complete the construction of the Project economically, efficiently, continuously and without interruption, delays or work stoppages.

(b) DSI/PCI, Contractors, Unions, and employees collectively and individually, realize the importance to all parties of assuring continuous and uninterrupted performance of the work on the Project, and agree to resolve disputes in accordance with the arbitration provisions set forth in this Article.

(c) DSI/PCI shall administer the processing of the grievance, including the scheduling and arrangement of facilities for meetings at Step 2 and above, the selection of the arbitrator to hear the case and any other administrative matters necessary to facilitate the timely disposition of the case.

Section 2. Any question arising out of and during the term of this Agreement involving its interpretation and application (other than trade jurisdictional disputes or alleged violations of Article VIII, Section 1, or Article X, Section 4) shall be considered a grievance and subject to resolution under the following procedures:

Step 1. (a) When any employee subject to the provisions of this Agreement feels aggrieved by a violation of this Agreement, the employee shall, if intending to grieve the Employee's complaint, give notice of the Employee's grievance through the Employee's Local Union business representative or job steward to the work site representative of the involved Contractor. Such notice, to be timely, shall be given within five (5) working days after the occurrence of the alleged violation, stating the provision(s) alleged to have been violated. The business representative of the Local Union or the job steward and the work site representative of the involved Contractor shall meet and endeavor to adjust the matter within three (3) working days after timely notice has been given. If they fail to resolve the matter within the prescribed period, the grieving party may, within forty-eight (48) hours thereafter, pursue Step 2 of the grievance procedure provided the grievance is reduced to writing, setting forth the relevant information concerning the alleged grievance, including a short description thereof, the date on which the grievance occurred, and the provision(s) of the Agreement alleged to have been violated. Grievances and disputes settled at Step 1 shall be non-precedental,

except as to the parties directly involved, unless endorsed in writing by DSI/PCI within five (5) days after resolution has been reached.

(b) Should the Local Union(s) or DSI/PCI or any other Contractor have a dispute with the other party and, if after conferring within ten (10) working days after the disputing party knew or should have known of the facts or occurrence giving rise to the dispute, a settlement is not reached within three (3) working days, the dispute shall be reduced to writing and proceed to Step 2 as outlined herein for the adjustment of an employee complaint.

Step 2. The Business Manager of the involved Local Union or the Business Manager's designee, together with the International Union representative or the International Union representative's designee of that Union, the site representative of the involved Contractor, and the labor relations representative of DSI/PCI shall meet within seven (7) working days of the referral of the dispute to this second step to arrive at a satisfactory settlement thereof. If the parties fail to reach an agreement, the dispute may be appealed in writing in accordance with the provisions of Step 3 within seven (7) calendar days after the initial meeting at Step 2.

Step 3. (a) If the grievance has been submitted but not resolved under Step 2, either party may request in writing within seven (7) calendar days after the initial Step 2 meeting, that the grievance be submitted to an arbitrator designated from a permanent panel of five (5) arbitrators to this Agreement. Designation of the arbitrator from the panel to hear any grievance will, consistent with arbitrator availability by rotation among the panel members and will be made jointly by DSI/PCI, in consultation with the involved Contractor, and the representative of the Alameda County Building Trades Council on behalf of the parties. If the panel has not been agreed upon by the parties, arbitrator selection shall be made pursuant to the rules of the American Arbitration Association, which shall also govern the conduct of the arbitration hearing. The decision of the arbitrator shall be final and binding on all parties and the fee and expenses of such arbitration shall be borne equally by the involved Contractor and the involved Union(s).

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

Section 3. No adjustment or decision may provide retroactivity exceeding sixty (60) days prior to the date of the filing of a written grievance.

Section 4. Any grievance involving a safety issue shall proceed under an expedited arbitration procedure and shall not be subject to the step requirements set forth above.

Section 5. DSI/PCI is a party in interest in all proceedings under this Article, and must be notified by the involved Contractor of all actions at Steps 2 and 3 and shall, upon its request, be permitted to participate fully in all proceedings at these steps.

ARTICLE X JURISDICTIONAL DISPUTES

Section 1. Work shall be assigned by the Contractor in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry Including Procedural Rules and Regulations (hereinafter the "Plan" or "The Green Book", a copy of which is on file with DSI/PCI), effective June 1, 1984, or any successor plan, and will be based upon the appropriate agreements of record, decisions of record and previously provided local written agreements between or among the Unions. Such assignments will be disclosed by the Contractor at a pre-job conference called by the Contractor and held in accordance with industry practice, which pre-job conference will include a representative of DSI/PCI.

Section 2. (a) The parties agree that all jurisdictional disputes over assignment of work will be settled in accordance with the procedural rules and regulations of the Plan. All Contractors on this project agree to assign work and be bound to the terms and conditions of the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry, and all signatory Unions agree that the assignments of the Contractors shall be followed until the dispute is resolved in accordance with this section.

(b) Any award or resolution made pursuant to this procedure, shall be final and binding on the disputing Unions and the involved Contractor under this Agreement only, and may be enforced in any court of competent jurisdiction in accordance with the Plan. Such award or resolution shall not establish a precedent on any construction work not covered by this Agreement. In all disputes under this Article, the Project Contractor shall be considered a party in interest, with a full right of participation.

Section 3. In making any determination hereunder, there shall be no authority to assign work to a double or composite crew, that is, to more employees than the minimum required to perform the work involved; nor to assign the work to employees who are not qualified to perform the work involved. The aforesaid determination shall decide only to whom the disputed work belongs.

Section 4. There will be no strikes, work stoppages, slowdowns, or other disruptive activity arising out of any jurisdictional dispute. Pending the resolution of the dispute, the work shall proceed as assigned by the Contractor. The award or resolution shall be

confirmed in writing to the involved parties. There shall be no strike, work stoppage or interruption in protest of any such award or any resolution.

ARTICLE XI WAGES AND BENEFITS

- Section 1. All employees covered by this Agreement shall be classified in accordance with work performed and paid the hourly wage rates for those classifications in compliance with the applicable prevailing rate determination. If a wage increase negotiated in a local agreement becomes the prevailing wage under state law, the Contractor will pay that rate retroactive to the effective date of the locally negotiated wage increase. If the prevailing wage laws are repealed during the term of this Agreement, the Contractor shall pay the wage rates established under the Schedule As, except as otherwise provided in this Agreement.
- Section 2. All employees covered by this Agreement shall be paid by check or at the employee's option by direct deposit and shall be paid no later than the end of the work shift on Friday. No more than three (3) day's wages may be withheld. Any employee who is discharged or laid off shall be entitled to receive all accrued wages immediately upon discharge or layoff. Notification of layoff shall be at the contractor's discretion but shall not be given later than the end of the work shift on the date that the layoff is to be effective. Such notification may be verbal.
- Section 3. The Contractor will pay contributions to the established employee benefits funds in the amounts designated in the appropriate prevailing wage determination for fringe benefit contributions and will make all employee-authorized deductions in the amounts designated; provided, however, that the Contractor and the Union agree that only such bona fide employee benefits as accrue to the direct benefit of the employees (such as pension and annuity, health and welfare, vacation, apprenticeship, training funds, etc.) shall be included in this requirement and be paid by the Contractor on this Project. With respect to other Fund contributions, such as, but not limited to, contract administration funds, contractors who are signatory to Schedule A agreements are not excused from making such contributions by virtue of this Project Labor Agreement. The Contractor shall make contributions only to those Funds that have submitted a written letter of commitment to contribute financial support to the Social Justice Program of this Agreement to help defray the costs of the Program, in an account of the Social Justice Subcommittee's designation, an account that will be established with the concurrence of the Joint Administrative Committee. Such level of commitment must be acceptable to the Port. The parties agree to use their best effort to secure such commitments of the Funds. Contractors who are not signatory to Schedule A agreements may voluntarily make payments to such Funds or, in lieu thereof, shall pay an equivalent amount monthly to the account established by the Project Labor Agreement Social Justice Subcommittee mentioned above. Bona fide jointly-trusted benefit plans or authorized employee deduction programs established or negotiated under the applicable Schedule A or by the parties to this Agreement

during the life of this Agreement may be added, subject to the limitations upon such negotiated changes contained in Article XIX, Section 2 of this Agreement. Such contributions shall be made in compliance with the applicable prevailing wage determination and shall be due and payable on the due date contained in the applicable Schedule A.

The Contractor adopts and agrees to be bound by the written terms of the legally established trust agreements specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds. The Contractor authorizes the parties to such Trust Funds to appoint Trustees and successor Trustees to administer the Trust Funds and hereby ratifies and accepts the Trustees so appointed as if made by the Contractor.

Section 4. Contractors of whatever tier shall make regular and timely contributions required by Section 3 of this Article in amounts required by this Agreement and on the time schedule set forth in the appropriate Schedule A.

ARTICLE XII HOURS OF WORK, OVERTIME, SHIFTS AND HOLIDAYS

Section 1. Work Day and Work Week. Eight (8) hours per day between the hours of 6:00 A.M. and 5:30 P.M., plus one-half (1/2) hour unpaid for lunch, approximately mid-way through the shift, shall constitute the standard workday. Forty (40) hours per week shall constitute a regular week's work. The workweek will start on Monday and conclude on Friday. A uniform starting time will be established for all crafts on each project or segment of the work. Nothing herein shall be construed as guaranteeing any employee eight (8) hours per day or forty (40) hours per week. The Union(s) shall be informed of the work starting time set by the Contractor at the pre-job conference, which may be changed thereafter upon three (3) working days' notice to the Union(s) and the workers and DSI/PCI.

Section 2. Paid Times.
(a) Employees shall be at their place of work at the starting time (as designated by the Contractor) performing their assigned functions. The parties reaffirm their policy of a fair day's work for a fair day's wage.

(b) A worker is entitled to pickup time at the end of each work day, the particular amount of such pickup time depending upon accessibility to the area to which the employee is assigned. The amount of pickup time will be determined by mutual agreement at a jobsite conference between representatives of the Unions, DSI/PCI and representatives of the Contractors.

Section 3. Overtime. Overtime will be paid in accordance with the requirements of the applicable General Prevailing Wage Determination. There will be no restriction on the contractor's scheduling of overtime or the non-discriminatory designation of employees who will work the available overtime. Steward overtime shall be as

provided in the applicable Schedule A, provided the steward is qualified to perform the work available. There shall be no pyramiding of overtime pay under any circumstances.

Section 4. (a) Shifts. Shift work may be performed at the option of the Contractor(s) upon three (3) days' prior notice to the Union, unless a shorter notice period is provided in the applicable Schedule A, and shall continue for a period of not less than five (5) working days. Saturdays and Sundays, if worked, may be used for establishing the five (5) day minimum work shift. If two shifts are worked, the first shift shall consist of eight (8) hours of continuous work exclusive of a one-half (1/2) hour non-paid lunch period and the second shift shall consist of seven and one-half (7-1/2) hours of continuous work exclusive of a one-half (1/2) hour non-paid lunch period. Any third shift shall consist of seven (7) hours of continuous work exclusive of one-half (1/2) hour non-paid lunch period. All shifts shall be paid eight (8) hours straight time pay with any premium or differential paid at the applicable Schedule A rate of pay. Multiple shifts, if worked, will not be required on the entire project. When multiple shifts are worked, the number of employees on each shift of the operation may vary according to the conditions applicable to each shift and nothing will require that there be a "man-for-man" relief in successive shifts.

The last shift starting on or before 6:00 P.M. Friday shall be considered Friday work time; while the first shift ending at or after 6:00 A.M. on Monday shall be considered Sunday work time. The shift starting at or after 6:00 A.M. is designated as the first shift, with the second shift following. Pay for the second shift shall be at the employee's base wage rate for first shift, plus the second shift differential, if any, established in the applicable Schedule A.

(b) Special shifts. The hours of work per work week day, including start times and end times, shall not apply with respect to work for which special hours of work have been established in contract specifications by the Owner where (1) necessary to accommodate Maritime or Airport operating requirements; (2) special construction requirements necessary to comply with regulations of state agencies having regulatory jurisdiction or permit authority over the work, or (3) mitigation measures specified in the final environmental impact report for the work. Any Contractor that performs work covered by a Schedule A that provides for a work week of less than forty (40) hours shall follow the provisions of that Schedule A regarding the work week and may stagger the crews so that it has a sufficient number of workers at the site for forty (40) hours per week, provided that the use of such work schedule may not interfere with the scheduling of other contractors or the full use of any other craft or crew.

(c) Tide Work. All work requiring a Contractor to establish a starting time or other special conditions which will vary from the regularly scheduled starting time set forth in this Agreement and which is established due to the tide schedule shall

perform such work under the applicable Schedule A "Tide Work" provisions of the Craft performing the work.

(d) Alternate Work Week. The Contractor may, upon five (5) days notice to the appropriate union(s), establish a work week of four (4) consecutive ten (10) hour work days (exclusive of one-half hour unpaid lunch, approximately midway through the shift). Such work week shall consist of the same four days each week, with a fifth day available as a make-up day if needed and if permitted by the applicable Schedule A. Compensation for such shifts will be at the straight-time rate of pay for the first ten (10) hours of work with the addition of shift premium, and overtime levels, if any required by the applicable prevailing wage determination.

(e) Uninterrupted Work. The parties acknowledge that certain construction activities may pose unique work scheduling issues, including a requirement for continuous work 24 hours per day, seven days a week, particularly during the placement of concrete. The parties agree to establish, in good faith, hours of work provisions to assure uninterrupted work on concrete placement in accordance with contract specifications for Qualifying Work.

Section 5. Holidays. Recognized holidays on this Project shall be New Year's Day, Martin Luther King's Birthday, Presidents Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day After Thanksgiving, and Christmas Day. Holidays that fall on a Saturday shall be observed on the preceding Friday and holidays that fall on a Sunday shall be observed on the following Monday

Section 6. (a) Reporting Pay. Employees reporting for work and for whom no work is provided, except when given notification pursuant to an applicable Schedule A not to report to work, will receive two (2) hours pay at the regular straight time hourly rate. Employees who work beyond two (2) hours but not more than four (4) hours will receive four (4) hours pay. Employees who work more than four hours but not more than eight hours will receive eight (8) hours pay. Employees who work beyond eight hours will be paid for actual hours worked. Whenever reporting pay is provided for employees, they will be required to remain at the Project site available for work for such time as they receive pay, unless released earlier by the principal supervisor of the Contractor(s) or their designated representative. Each employee shall furnish his Contractor with his current address and telephone number, and shall promptly report any changes in each to the Contractor.

(b) One-day Reporting Pay. When an employee is sent to the job site from the union referral facility in response to a request from the Contractor for an employee for one (1) day and starts work at the designated starting time for the shift, or when called out on the same day for one (1) day's work and appears within a reasonable time from the time of dispatch from the union referral facility, the employee will be paid eight (8) hours.

(c) Make Up Day. Make up day provisions contained in a local collective bargaining agreement that serve as a basis for a Schedule A shall be applied to work on this project.

(d) Call Out Pay. Any employee called out to work outside of his shift shall receive a minimum of four hours pay at the appropriate rate, including any applicable premium. This does not apply to time worked as an extension (before or after) of the employee's normal shift.

(e) Pay Under Discharge or Voluntary Departure from Job Site. When an employee leaves the job or work location of his own volition or is discharged for cause or is not working as a result of the Contractor's invocation of Article XIV, Section 3, the employee shall be paid only for the actual time worked.

(f) Premium Rate Calculated. In all cases, if the employee is reporting on a day on which a premium rate is paid, reporting pay shall be calculated at that rate.

Section 7. Time Keeping. The Contractor may utilize brassing systems to check employees in and out. Each employee must check himself in and out. The Contractor will provide adequate facilities for checking in and out in an expeditious manner.

Section 8. Meal Period. The Contractor will schedule a meal period not more than one-half (1/2) hour duration at the work location at approximately the mid-point of the scheduled work shift (five hours), consistent with Section 1; provided, however, that the Contractor may, for efficiency of the operation, establish a schedule which coordinates the meal periods of two or more crafts. If an employee is required to work through his meal period, he shall be compensated in a manner established in the applicable Schedule A.

ARTICLE XIII APPRENTICES

Section 1. The parties recognize the need to maintain continuing support of programs designed to develop adequate numbers of competent workers in the construction industry. The Port and the unions agree to provide financial and other assistance to enhance and sustain such programs through appropriate sources. The Contractor(s) will employ apprentices in the respective crafts, which are performing work on the project, and within the jurisdiction of the craft in which those apprentices are working.

Section 2 (a). Subject to any restrictions contained in law, the Parties agree to a goal that apprentices will perform up to twenty percent (20%) of the total craft work hours unless an applicable Schedule A provides for a greater percentage. The Union agrees to cooperate with the Contractor in furnishing apprentices as requested and they shall be properly supervised and paid in accordance with provisions contained within the Schedule A.

(b). The parties agree to a goal that only residents of the Port's Local Impact Area (LIA, defined as Alameda, Emeryville, Oakland and San Leandro) shall be utilized as apprentices but, that if sufficient and qualified apprentices from the LIA are not available to achieve this goal, then residents of the Port's Local Business Area (defined as Alameda County and Contra Costa County) may be utilized. The Contractor shall make good faith efforts to reach this goal through the utilization of normal hiring hall and apprentice procedures and, when appropriate, the identification of potentially qualified apprentices through community-based organizations working in collaboration with the apprentice programs.

(c) For the purposes of meeting the goal established in (b) above, a Contractor may qualify for up to one-half (1/2) of the goal by employing LIA-based apprentices on other work the Contractor is performing during the time it is working on Qualifying Work under this Agreement.

(d) Sanctions may be imposed for failure to meet the goals or demonstrate "good faith" effort to do so. In cases of alleged noncompliance, the issue may be referred to the Social Justice Subcommittee of the Labor/Management Cooperation Joint Administrative Committee for resolution. If a majority of the Subcommittee can make no resolution, the issue may then be referred by the Social Justice Subcommittee to Step 3 of the grievance procedure of Article IX for submission to an arbitrator for a final and binding determination. For purposes of resolution of any dispute arising under this Section, the Port and DSI/PCI shall be considered a party-in-interest with full right of participation in the arbitration proceeding.

ARTICLE XIV
SAFETY
PROTECTION OF PERSON AND PROPERTY
JOINT LABOR/MANAGEMENT SAFETY COMMITTEE

Section 1. Safety. (a) Safe working conditions. It shall be the responsibility of each contractor to ensure safe working conditions and employee compliance with any safety rules contained herein or established by the Owner, DSI/PCI or the Contractor. It is understood that the employees have an individual obligation to use diligent care to perform their work in a safe manner and to protect themselves and the property of the Contractor and the Owner.

(b) Rules. Employees shall be bound by the safety, security and visitor rules and environmental compliance requirements established by the Contractor, DSI/PCI or the Owner. These rules will be published and posted in conspicuous places throughout the work site. An Employee's failure to satisfy his obligations under this Section may subject him to discipline, including discharge.

(c) Prohibited Items. The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms at any time before or during the work day is prohibited. Accordingly, the parties agree to adopt appropriate procedures

and safeguards for the testing of employees for prohibited or controlled substances. It is agreed, with respect to such testing procedures, that:

(i) no person referred from the Union hiring hall shall be allowed on-site as an employee until such person has completed and passed any test(s) required under the program;

(ii) a person who is put to work immediately after having passed the tests shall be paid starting at the time the person reported for the test(s); and

(iii) where a contractor requests a person to report for purposes of a pre-hire substance abuse test, and does not intend to place the person in an active work position on that day, the person shall receive four (4) hours of pay at the regular straight-time hourly rate if the test is negative.

(iv) Once mutually agreed to, this uniform substance abuse prevention policy will become an Appendix to this Agreement.

(d) Smoking. The parties acknowledge that the environmental and safety restrictions governing conduct at the Project site may prohibit smoking at any time in any location or facility. Violation of this restriction by any person may constitute grounds for removal from the site and may result in termination.

(e) Security. The parties acknowledge that some work within the scope of this Agreement will occur in restricted security areas of an operating airport and that employees who will be required to work in such areas will, as a condition of employment on this Project, be subjected to a personal background check and security clearance pursuant to Federal Aviation Authority regulations governing the Oakland Airport. The Unions acknowledge that Union representatives will undergo the same clearance procedures as a condition to their access to these areas and therefore agree that such conditions will be imposed. Application and enforcement of such requirements may be grounds to terminate or deny an employee work on the Project or to deny access of their representatives to these Project areas.

Section 2. Inspections. The inspection of incoming shipments of equipment, machinery and construction materials of every kind shall be performed at the discretion of the Contractor by individuals of its choice. All employees shall comply with the security procedures established by the Owner, DSI/PCI and/or Contractor.

Section 3. Suspension of Work for Safety. A Contractor may suspend all or a portion of the job to protect the life and safety of an employee. In such cases, employees will be compensated only for the actual time worked; provided, however, that where the contractor requests employees to remain at the site and be available for work, the employees will be compensated for the standby time at their basic hourly rate of pay.

- Section 4. Water and Sanitary Facilities. The Contractor is responsible to provide adequate supplies of drinking water and sanitary facilities for all employees. Proper notification of this requirement shall be provided to the Contractor at the pre-bid and pre-job conference mark-up to insure compliance with this Section.
- Section 5. Joint Labor/Management Safety Committee. The parties to this Agreement will form a Joint Labor/management Safety Committee consisting of Contractor and Union representatives, which shall be jointly chaired by the site representative of DSI/PCI (or designee) and an official of the signatory Building and Construction Trades Council of Alameda County (or designee) appointed by the Union). The Committee shall meet at least monthly, or more often at the call of the Joint Chairs, to receive reports on safety programs instituted by the Port, DSI/PCI and the individual contractors on the Project site and to discuss and advise such parties to the Agreement with regard to recommended safety programs and procedures to maintain the highest level of occupational safety on the Project site. The Joint Chairs shall rotate the position of Meeting Chair on a monthly basis.
- Section 6. Workers' Compensation. All employees working under this Agreement shall be covered as required by the provisions of the California Labor Code affecting workers' compensation benefits (hereinafter "the Code"). The parties agree to develop a program, consistent with the California Labor Code, for efficient and economical handling of worker injuries and compensation claims pursuant to the commitments set forth in Appendix H – Letter of Understanding: Workers' Compensation.

ARTICLE XV NON-DISCRIMINATION

- Section 1. The Contractor and Union agree that they will not discriminate against any employee or applicant for employment because of race, sex (including pregnancy, childbirth, or related medical condition), creed, national origin, color, disability as defined by law, disabled veteran status, Vietnam veteran status, religion, age (40 and above), medical condition (cancer-related), marital status, ancestry, or sexual orientation in any manner prohibited by law or regulation. The Union shall cooperate with the Contractors' obligations to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to race, sex (including pregnancy, childbirth, or related medical condition), creed, national origin, color, disability as defined by law, disabled veteran status, Vietnam veteran status, religion, age (40 and above), medical condition (cancer-related), marital status, ancestry, or sexual orientation. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Any complaints regarding the application of this provision shall be brought to the immediate attention of the involved Contractor for consideration and resolution, with notice of such complaint brought to DSI/PCI and the Unions.

Section 2. It is recognized that special procedures may be established by joint agreement of the parties to this Agreement and governmental agencies for the training and employment of persons who have not previously qualified to be employed on construction projects of the type covered by this Agreement. The parties agree that they will make all good faith efforts to assist in the proper implementation of such orders, regulations or agreements for the general benefit of the residents of the Local Impact Area.

Section 3. It is recognized that the Port has certain policies and commitments for the utilization of emerging business enterprises. The parties shall jointly endeavor to assure that these commitments are fully met, consistent with commitments and all applicable federal and state laws and regulations relating to public contracting and employment and utilization of minorities and minority- and/or women-owned businesses. Copies of such policies and commitments shall be furnished to the Union.

ARTICLE XVI TRAVEL AND SUBSISTENCE

Travel expenses, travel time, subsistence allowance and/or zone rates and parking reimbursements will not be applicable to work under this Agreement except as expressly provided and to the extent provided for in any applicable prevailing wage determination.

The Contractor shall provide workers with safe and secure parking at the Project site. If such parking is not reasonably available, the Contractor shall provide a safe and secure remote parking site and transportation for workers between those remote parking area(s) and the employee's point of entry to the Project. Transportation for workers between such remote parking area(s) and the employee's point of entry shall be provided. Where employees are required to be transported to the Project site, time shall begin in accordance with the provisions of Article XII, Section 2 and shall end at the remote parking area. Compensated time between the project site and the parking area will be paid at the rate of pay (i.e., straight-time or overtime) at which the employee was working when the employee left the work site. Where an employee boards the last-scheduled vehicle for Contractor-provided transportation from the remote parking area before the scheduled starting time, the employee will be compensated from the starting time notwithstanding any unforeseen delay in arrival by the transport at the site.

ARTICLE XVII WORKING CONDITIONS

Section 1. There will be no organized breaks or other non-working time established during working hours unless provided for in a prevailing wage determination and/or Industrial Wage Order issued by the State of California. Individual nonalcoholic beverage containers will be permitted at the employee's work location.

- Section 2. The Owner and/or DSI/PCI shall establish such reasonable Project rules as the Owner or DSI/PCI deems appropriate and not inconsistent with this Agreement. These rules will be explained at the pre-job conference and posted at the Project site by the Contractor and may be amended thereafter as necessary. Failure to observe these rules and regulations by any employee may be grounds for discipline, including discharge. In any dispute over the application of a rule, the grieving party may contest the reasonableness of the rule, the fact of the alleged violation, and the appropriateness of any discipline imposed.
- Section 3. There shall be no restrictions on the emergency use of any tools by any qualified employee; or on the use of any tools or equipment for the performance of work within the jurisdiction, provided the employee can safely use the tools and/or the equipment involved.
- Section 4. Recognizing the nature of the work being conducted on the site, employee access by a private automobile may be limited to certain roads and/or parking areas.

ARTICLE XVIII SAVINGS AND SEPARABILITY

- Section 1. It is not the intention of either the Contractor or the Union parties to violate any laws governing the subject matter of this Agreement. The parties hereto agree that in the event any provisions of the Agreement are finally held or determined to be illegal or void as being in contravention of any applicable law, the remainder of the Agreement shall remain in full force and effect unless the part or parts so found to be void are wholly inseparable from the remaining portions of this Agreement. Further, the Contractor and Union agree that if and when any provisions of this Agreement are finally held or determined to be illegal or void by a court of competent jurisdiction, the parties will promptly enter into negotiations concerning the substance affected by such decision for the purpose of achieving conformity with the requirements of any applicable law and the intent of the parties hereto.
- Section 2. Should a court of competent jurisdiction issue any order which results, temporarily or permanently enjoining the use of the Agreement in the bidding, awarding, and/or construction work on the Project, the Owner may withdraw, at its absolute discretion, the inclusion of this Agreement as part of any bid specification affected by such court order for contract packages to be advertised. In the event of such court order, the Parties agree to enter into negotiations in an effort to conform the Agreement to the terms of the court order and otherwise to keep the Agreement in full force and effect on the Project, to the maximum extent legally possible for work in progress and for inclusion in bid specifications for future work.
- Section 3. If a court order invalidates only a part of the Agreement but permits the balance of the Agreement to remain in effect and operative on the Project, the provisions of Article VIII shall not be waived. If the effect of the court order is to invalidate or bar the use of the entire Agreement, during the negotiations between the parties to

achieve conformity with the requirements of the court order or applicable law, the Unions agree to continue to work without interruption for a period of at least thirty (30) days before exercising any right to engage in any strike, picketing or other disruption of the Project.

ARTICLE XIX DURATION OF THE AGREEMENT

This Project Labor Agreement shall be effective on the date approved by the Port, and shall continue in effect for the duration of the Project Construction work described in Article II hereof.

Section 1. Duration.

(a) Turnover. Construction of any phase, portion, section or segment of the Project shall be deemed complete when such phase, portion, section or segments has been turned over to the Owner by the Contractor and the Owner has accepted such phase, portion, section or segment. As areas and systems of the Project are inspected and construction tested and/or approved by the Construction Manager and accepted by the Owner or third parties with the approval of the Owner, the Agreement shall have no further force or effect on such items or areas, except when the Contractor is directed by the Construction Manager or Owner to engage in repairs or modifications required by its contract(s) with the Owner or the Construction Manager.

(b) Notice. Notice of each final acceptance received by the Contractor will be provided to the union with a description of what portion, segment, etc. has been accepted. Final acceptance may be subject to a "punch" list, and in such case, the Agreement will continue to apply to each such item on the list until it is completed to the satisfaction of the Owner and Notice of Acceptance is given by the Owner to the Contractor.

(c) Termination. (1) Final termination of all obligations, rights and liabilities and disagreements shall occur upon receipt by the Union of a notice from DSI/PCI or the Owner saying that no work remains within the scope of the Agreement for DSI/PCI or its successor.

(2) Any claim for non-payment of wages or fringe benefits shall be governed by the applicable statutes of limitation, i.e., the Labor Code, ERISA, etc. and shall not be affected by the provisions of this Section.

Section 2. Changes to Schedule As. (a) Incorporation. Schedule As incorporated as part of this Project Agreement shall continue in full force and effect until the contractor and/or union parties to the Collective Bargaining Agreements which are the basis for such Schedule As notify DSI/PCI of mutually agreed upon changes in such Agreements and their effective date(s).

(b) Limits to Incorporation. The parties agree to recognize and implement such changes on their effective dates, provided, however, that any provisions negotiated in said collective bargaining agreements will not apply to work covered by this Agreement if such provisions are less favorable to the Contractor for work covered by this Agreement than those uniformly required of contractors for construction work normally covered by those Agreements; nor shall any provision be recognized or applied if it may be construed to apply exclusively or predominantly to work covered by this Agreement.

(c) Retroactivity. As part of this understanding, the Contractor agrees and consents to pay the increased contributions to the relevant jointly administered trust funds pursuant to the provisions of any collective bargaining agreements negotiated by the unions during the work performed on the Project retroactively to the expiration date of the applicable Schedule A, provided, however, if the provisions of any such new collective bargaining agreement provide that said increases shall not become effective until a later date after the date following the expiration date, then that later date shall prevail, and provided, further, that such increased contribution does not exceed the corresponding fringe benefit component of the applicable prevailing wage rate then existing or as thereafter amended. In the event that the increased contribution exceeds the then-current prevailing wage fringe benefit component and the prevailing wage is subsequently adjusted upward, the fringe benefit contribution shall also be adjusted upward by an equal level to the applicable level of the Schedule A or the maximum prevailing wage determination level, whichever is less, and shall be paid retroactive to the effective date of the locally negotiated increase.

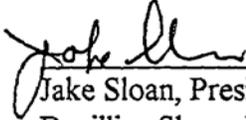
(d) Resolution of Disputes Concerning Incorporation. Any disagreement between the parties over the incorporation into a Schedule A of any such provision agreed upon in the negotiation of the local Collective Bargaining Agreement which serves as the basis for the Schedule A shall be referred to Gerald McKay, for resolution under the procedures established in Article IX.

Section 3. No Strike/Lockout During Negotiations. The Union agrees that there will be no strikes, work stoppages, sympathy strikes, picketing, slowdowns, or any other disruptive activity affecting the Project by any Union involved in the negotiation of such local Collective Bargaining Agreements and the resulting Schedule As, nor shall

there be any lockout on this Project affecting the Union during the course of such negotiations.

In witness whereof, the parties have caused this Agreement to be executed and effective as of the day and year first above written:

For the Project Contractor:



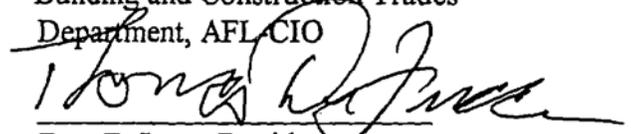
Jake Sloan, President
Davillier-Sloan, Inc.



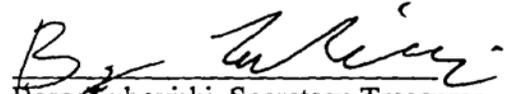
Michael W. D'Antuono, President
Parsons Constructors, Inc.

For the Unions:

Robert A. Georgine, President
Building and Construction Trades
Department, AFL-CIO



Tom DeLuca, President
Building and Construction Trades
Council of Alameda County



Barry Luboviski, Secretary-Treasurer
Building and Construction Trades
Council of Alameda County

Its Affiliated International Unions

International Association of Heat and Frost Insulators and Asbestos Workers

By: _____
William G. Bernard

International Union of Bricklayers and Allied Craftworkers

By: _____
John T. Joyce

International Brotherhood of Electrical Workers

By: _____
J.J. Barry

International Association of Bridge, Structural and Ornamental Iron Workers

By: _____
Jake West

International Union of Operating Engineers

By: _____
Frank Hanley

United Union of Roofers, Waterproofers and Allied Workers

By: _____
Earl J. Kruse

International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers

By: _____
Charles W. Jones

United Brotherhood of Carpenters and Joiners of America

By: _____
Douglas J. McCarron

Operative Plasterers' and Cement Masons' International Association of the United States of America

By: _____
John J. Dougherty

International Brotherhood of Teamsters

By: _____
James P. Hoffa

International Union of Painters and Allied Trades

By: _____
Michael E. Monroe

Sheet Metal Workers' International Association

By: _____
Michael J. Sullivan

United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada

By: _____
Martin J. Maddaloni

Laborers' International Union of North America

By: _____
Terrence O'Sullivan

International Union of Elevator Constructors

By: _____
Edward C. Sullivan

And Their Affiliated Local Unions:

International Association of Heat and Frost Insulators and Asbestos Workers, Local No. 16

By: *Joe De*

International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers,
Local No. 549

By: *Frank Seereet*

International Union of Bricklayers and Allied Craftworkers, Local. No. 3, Northern California

By: *Greg Miranda*

Northern California Carpenters' Regional Council

By: *John Casey*

Carpenters 46 Northern California Counties Conference Board

By: *Fred R. Wright*

District Council of Plasterers and Cement Masons of Northern California

By: *Phineas O'Leary*

Plasterers' and Shophands' Local Union No. 66

By: *Chet Murphy*

Plasterers' and Cement Masons' Local Union No. 300

By: Samuel Hawkins, III

International Brotherhood of Electrical Workers, Local No. 595

By: Arthur A. Reid

District Council of Iron Workers of the State of California and Vicinity

By: Richard Zampa

International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, Local No. 378

By: James B. White

Northern California District Council of Laborers'

By: Arthur Thomas

Construction and General Laborers' Union Local No. 304

By: Paul

Laborers' International Union of North America Local Union No. 67

By: Jim B.

Hod Carriers Local Union No. 166

By: Samuel Robinson

International Union of Operating Engineers, Local Union No. 3

By: Donald R. Dur

District Council No. 16, International Union of Painters and Allied Trades

By: _____

Local Union No. 342 of the United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL-CIO

By: Larry Blewins

Sprinkler Fitters and Apprentices, U.A. Local 483

By: Harley W. Smith

Sheet Metal Workers' International Association, Local Union No. 104

By: Bruce Wood

United Union of Roofers, Waterproofers & Allied Workers, Local No. 81

By: Douglas Ziegen

Teamsters Local 853

By: Pat Semm

International Union of Elevator Constructors Local Union No. 8

By: Michael J. Hopkins

Sign Display and Allied Crafts, Local 510

By: _____

Agreed to Letter of Assent

[Date]

[Addressee]

[Address]

[Address]

Subject: Port of Oakland Maritime and Aviation Project Labor Agreement - Letter of Assent

Dear Ms./Mr. _____:

The undersigned party confirms that it agrees to be a party to and bound by the Port of Oakland Maritime and Aviation Project Labor Agreement (the "Labor Agreement") as entered into by and between Davillier-Sloan, Inc./ Parsons Constructors Inc. ("DSI/PCI") on behalf of the Port of Oakland, its successors or assigns, and the Building and Construction Trades Department, AFL-CIO, the Building and Construction Trades Council of Alameda County, AFL-CIO, and their affiliated unions, executed _____, 2000, as such Labor Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms.

By executing this Letter of Assent, the undersigned party subscribes to, adopts and agrees to be bound by the written terms of the legally established trust agreements specifying the detailed basis upon which contributions are to be made into, and benefits made out of, such trust funds and ratifies and accepts the trustees appointed by the parties to such trust funds.

Such obligation to be a party to and bound by this Labor Agreement shall extend to all work covered by said Labor Agreement undertaken by the undersigned party on the Maritime and Aviation Project. The undersigned party shall require all of its subcontractors, of whatever tier, to become similarly bound for all their work within the scope of this Labor Agreement by signing an identical letter of Assent.

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

CONTRACTOR/SUBCONTRACTOR: _____

California State License Number: _____

Name and Signature of
Authorized Person:

(Printed Name)

(Title)

(Signature)

(Telephone Number)

Letter of Understanding re: Union Initiation Fees

February 28, 2000

Mr. Jake Sloan, President
Davillier-Sloan, Inc.
1630 12th Street
Oakland, CA 94607

Re: Port of Oakland Maritime and Aviation Project Labor Agreement: Union Initiation Fees

Dear Mr. Sloan:

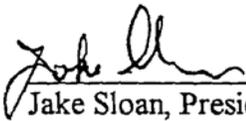
In our negotiations of the captioned Project Labor Agreement, the participating unions objected to any provision that would exempt employees from payment of legal uniformly required fees and, to the extent allowed by law, dues imposed upon members. This will, therefore, confirm the understanding we reached in negotiations that local unions and intermediate bodies will afford new member applicants the most liberal time payment and organizing entry fees otherwise available for new member applicants with respect to such local union or intermediate body.

Sincerely,



Barry Luboviski, Secretary-Treasurer,
Alameda County Building and Construction Trades Council
on behalf of the signatory Unions and Councils to the Project Labor Agreement

Acknowledged and agreed to this 10 day of March 2000:



Jake Sloan, President, Davillier-Sloan, Inc.
on behalf of the Project Contractor

Letter of Understanding re: Superintendents' Contributions

February 28, 2000

Mr. Barry Luboviski, Secretary-Treasurer
Alameda County Building and Construction Trades Council
8400 Enterprise Way, Room 101
Oakland, CA 94621

RE: Port of Oakland Maritime and Aviation Project Labor Agreement:
Benefit Plan Contributions for Superintendents

Dear Mr. Luboviski:

In our negotiations for the captioned Project Labor Agreement a questions was raised concerning the exclusion from the scope of the Agreement's coverage of "superintendents" contained in Article II, Section 2(a) of the Agreement. Specifically, your negotiating committee informed us that some of the local union collective bargaining agreements and applicable multiemployer plan documents provide for payment of contributions to such benefit plans for plan participants even when they are working as superintendents for the employer. We agreed that the exclusion from coverage of this classification would not preclude or supersede the provision of any current local collective bargaining agreement allowing for such contributions to be made on behalf of any plan participants who work as superintendents on this project, as and to the extent permitted under such plans.

It is, however, further understood that this agreement does not affect the exclusion of the superintendent classification from the coverage of the Agreement, nor does it require contributions on behalf of any superintendents who are not at the time of their work on the project current participants in the relevant plans.

I trust that this clarification is consistent with our discussion. If you agree that this letter accurately states the terms of our understanding, please indicate your agreement and acceptance on behalf of the Unions in the space provided below.

Sincerely,



Jake Sloan, President, Davillier-Sloan, Inc.
on behalf of the Project Contractor

AGREED AND ACCEPTED on behalf of the Alameda County Building and Construction Trades Council and the local unions signatory to the Port of Oakland Maritime and Aviation Project Labor Agreement. This
_____ day of _____ 2000.



Barry Luboviski, Secretary-Treasurer
Alameda County Building and Construction Trades Council

Letter of Understanding re: Inspectors and Testers

February 28, 2000

Mr. Don Doser, Business Manager
International Union of Operating Engineers, Local 3
1620 S. Loop Road
Alameda, CA 94502

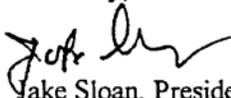
Re: Port of Oakland Maritime and Aviation Project Labor Agreement:
Coverage of Inspectors and Testers

Dear Mr. Doser:

This letter will confirm the understanding we reached in negotiations concerning the treatment of workers classified as "Inspectors" or "Testers" under the terms of the captioned project labor agreement. Specifically, Article II, Section 2(a) states that among the categories of employees who are excluded from the scope of the Agreement are "inspectors" and "testers." You have informed us that the Operating Engineers' local collective bargaining agreement covers inspectors and testers, whether the Contractor hires them directly or engages the services of an inspection or testing firm. Our review of the applicable language leaves that question open to interpretation based upon past industry practice under the Schedule A. However, we are agreed that the referenced exclusion applies only to the inspectors and testers that may be independently employed by the Port, but shall not apply to inspectors or testers directly employed by the execution Contractors in the classifications set out in the Schedule A. Moreover, we are agreed that a Contractor's or firm's obligations with regard to subcontracting inspector or tester personnel will be governed by the historic interpretation of this issue under the Schedule A agreement made part of this project labor agreement by reference and by any applicable provisions of law governing work away from the job site.

I trust that this clarification is consistent with our discussion. If you agree that this letter accurately states the terms of our understanding, please indicate your agreement and acceptance on behalf of the Union in the space provided below.

Sincerely,

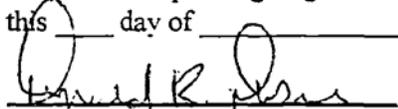


Jake Sloan, President, Davillier-Sloan, Inc.
on behalf of the Project Contractor

AGREED AND ACCEPTED

on behalf of Operating Engineers Local 3

this _____ day of _____ 2000



Don Doser, Business Manager



**Port of Oakland
Maritime and Aviation Project Labor Agreement**

**Construction Field Inspectors / Testers
Guidelines**

This document is intended to provide guidelines concerning field construction inspecting and testing services for the Port of Oakland on projects under its project labor agreement. It applies to the Port's testing and inspection services contractors, its construction managers or similar project managers or their subcontractors, its construction contractors and that work performed by the Port's tenant construction managers or their subcontractors and tenants construction contractors. It reflects the understanding reached between the Port, Parsons/DSI and Operating Engineer Local #3. Effective August 19, 2002 the following shall be required:

- All construction inspecting and field soils and material testing shall be performed under the terms and conditions of the project labor agreement. Firms are to sign a letter of assent to the project labor agreement.
- Individuals performing such field work shall be paid California prevailing wage. Currently this is the Group 6 classification of Operating Engineer #3 as shown in the prevailing wage determination.
- As the Operating Engineers do not have a hiring hall for referral in the classifications covered by this understanding, contractors may employ their workers from within their own ranks or from any source, except that the PLA requires that the contractors will give the union "equal opportunity" to refer qualified workers. Additionally, the limitation otherwise applicable in hiring hall referral situations whereby the contractor is allowed to employ "core" employees only on a set ratio with hiring hall referrals, does not apply to the employment of workers under this arrangement.
- No employee covered by the project labor agreement can be required to join Operating Engineer #3 as a condition of being first employed on the Project; provided, however, that an employee who is a member of Local #3 at the time of referral shall maintain that membership while employed under the project labor agreement.

All employees not members of Local #3 in good standing effective August 19, 2002 and all employees hired subsequent to that date, shall as a condition of continued employment, pay the required initiation fees and union dues on or after the thirty-first (31st) day following the beginning of their employment or August 19, 2002 whichever is later.

The inspecting/testing firm must notify Local #3's Job Placement Center within five (5) workdays after a new employee is put to field construction and testing work under the project labor agreement.

- This understanding between the Port, Parsons/DSI and Operating Engineers Local #3 does not modify any established collective bargaining agreements or rights between the Union and the testing and inspection services contractors relating to work performed off the site of construction and not covered by the Port's PLA.
- This understanding does not cover or apply to any off construction site testing facilities or off construction site activities of inspection or testing services contractors. It does not apply to "runners" whose duties may cause them to be present at the construction site to perform their normal work but not to perform any soils and material testing or inspection work at the construction site.

Please direct any questions to:

Ed Manning, Parsons
Project Labor Agreement Administrator
510-563-2756 (o) 510-867-7477 (c)

PORT OF OAKLAND MARITIME AND AVIATION PLA

Letter of Understanding re: Prefabrication

February 28, 2000

Mr. Bruce Word, Business Manager
Sheet Metal Workers' International Association, Local Union No. 104
1939 Market Street
San Francisco, CA 94103

Re: Port of Oakland Maritime and Aviation Project Labor Agreement, Article VII,
Management's Rights: Prefabrication

Dear Mr. Word:

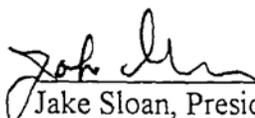
This letter will confirm the discussions we had during the negotiation of the captioned Project Labor Agreement and the clarifications we made concerning the application of Article VII, Section 2, of the Agreement. Consistent with the provisions of that Article, the on-site fabrication and installation of prefabricated duct and components which are customarily the work of the Sheet Metal Workers will continue to be recognized as such.

As you know from the discussions in negotiations, if fabrication work recognized by this letter as customarily the work of SMWIA members is to be done off-site, this work will be performed in the San Francisco Bay Area and in shops or at off-site assembly yards employing workers whose terms and conditions of employment equal or exceed those established in the area under the prevailing wage laws for employees represented by the Sheet Metal Workers International Association, unless such work is performed otherwise pursuant to the provisions of this letter.

The Sheet Metal Workers union recognizes that the timely completion of this project is vital to the Port and the Community it is intended to serve. Therefore, if the nature of the work or the project schedule make it necessary to obtain fabrication outside the region, the Sheet Metal Workers International Association agrees to make reasonable efforts to address timely requirements accommodating the reasonable needs of the Project. The Project Contractor and the Union agree to discuss such circumstances affecting off-site fabrication contracting purchases where an accommodation is sought and any reasons making it necessary to depart from the conditions set forth above. The Sheet Metal Workers International Association and Local 104 will not unreasonably withhold consent to such accommodations and Local 104 agrees to install on-site any components fabricated pursuant to the terms of this letter without limitation. The parties will make every effort to keep an open channel of communication to insure that both parties are fully informed of the facts affecting the substance of this letter.

If you agree that this letter accurately sets forth the substance of our understanding and provides the basis for resolving any questions concerning the interpretation and application of Article VII, Section 2, of the Project Labor Agreement, please indicate your acceptance in the space provided below.

Signed on behalf of the Project Contractor:



Jake Sloan, President, Davillier-Sloan, Inc.

Letter of Understanding re: Prefabrication

Page two of two

Agreed and accepted this ____ day of _____ 2000
on behalf of Sheet Metal Workers International Association
Local Union No. 104



Bruce Word

Letter of Understanding re: Prefabrication

February 28, 2000

Mr. Larry Blevins, Business Manager
United Association, Local 342
935 Detroit Avenue
Concord, CA

Re: Port of Oakland Maritime and Aviation Project Labor Agreement
Article VII, Management's Rights: Prefabrication

Dear Mr. Blevins:

This letter will confirm the discussions we had during the negotiation of the captioned Project Labor Agreement and the clarifications we made concerning the application of Article VII, Section 2, of the Agreement. Consistent with the provisions of that Article, the on-site fabrication and installation of pipe and pipe formations between manufactured components which are customarily the work of UA members will continue to be recognized as such.

As you know from the discussions in negotiations, if fabrication work recognized by this letter as customarily the work of U.A. members is to be done off-site, this work will be performed in the Port's Local Business Area and in shops or at off-site assembly yards employing workers whose terms and conditions of employment equal or exceed those established in the area under the prevailing wage laws for employees represented by the United Association, unless such work is performed otherwise pursuant to the provisions of this letter.

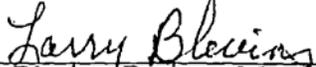
The United Association recognizes that the timely completion of this project is vital to the Port and the Community it is intended to serve. Therefore, if the nature of the work, the project schedule, or contracting circumstances make it necessary to obtain fabrication outside the region or under conditions different than those described above, the United Association agrees to cooperate in accommodating the reasonable needs of the Project. The Project Contractor and the Union agree to discuss such circumstances affecting off-site fabrication contracting purchases where an accommodation is sought and any reasons making it necessary to depart from the conditions set forth above. The United Association will not unreasonably withhold its consent to such accommodations and Local 342 agrees to install on-site any components fabricated pursuant to the terms of this letter without limitation. The parties will make every effort to keep an open channel of communication to insure that both parties are fully informed of the facts affecting the substance of this letter.

If you agree that this letter accurately sets forth the substance of our understanding and provides the basis for resolving any questions concerning the interpretation and application of Article VII, Section 2, of the Project Labor Agreement, please indicate your acceptance in the space provided below.

Very truly yours,


Jake Sloan, President, Davillier-Sloan, Inc.
on behalf of the Project Contractor

Agreed and accepted this _____ day of _____ 2000.
United Association Local 342

By: 
Larry Blevins, Business Manager

Letter of Understanding re: Small Business Utilization Program

February 28, 2000

Mr. Barry Luboviski, Secretary-Treasurer
Building and Construction Trades Council of Alameda County
8400 Enterprise Way, Room 101
Oakland, CA 94621

RE: Port of Oakland Non-Discrimination and Small Local Business Utilization Program
Port of Oakland Maritime and Aviation Project Labor Agreement

Dear Mr. Luboviski:

In our negotiations for the Maritime and Aviation Project Labor Agreement, we discussed the Port's desire to continue to utilize its Non-Discrimination and Small Local Business Utilization Program (hereafter Program) to assist qualifying small historically disadvantaged businesses to become capable of bidding and completing construction work. The parties understand that the Unions believe that such a program can operate completely within the framework of the Agreement, and that they have pledged to cooperate with the Port for the purpose of growing such local business capacity and overcoming the disadvantages that have resulted from the operation of various economic, social and cultural forces. The parties reach the following understanding concerning the utilization of Local Impact Area businesses that qualify as small businesses under the Program.

The parties agreed that for the purposes of this agreement, the term "advertised" in Article II, Section 1(a) does not include bid packages managed under the Program for work otherwise covered by the scope of this Agreement that have an estimated value before bidding at or below \$300,000 where in the sole discretion of the Owner such exclusion will further the goal of increasing the participation of small and historically disadvantaged Oakland-based construction businesses. The aggregate value of all bid packages chosen by the Owner for exclusion from the coverage of this Agreement will not exceed nine million dollars (\$9,000,000) over the duration of this Project Labor Agreement, except subject to the procedure outlined in this Letter of Understanding. However, if work awarded under the Port of Oakland Vision 2000 (1999 Facilities) Project Labor Agreement has not resulted in the utilization of the \$1,000,000 contained for such a program, the balance of such funds shall be available for use under this program in order to reach the \$10,000,000 original conceived for such efforts. All other contracts awarded under the Program will be covered by the terms of the Project Labor Agreement.

It was further agreed that where a contractor qualifying for this Small Business exclusion has received aggregate awards of \$150,000 or a single award that exceeds \$150,000 under the Program excluded from coverage of this Project Labor Agreement, that such contractor will thereafter be required to agree to comply with the PLA for all future contract awards within the Scope of this Agreement whether or not the bid package is reserved for bidding under the Program.

**Letter of Understanding re:
Small Local Business Utilization Program**

Page two of two

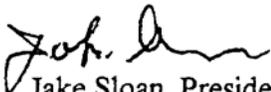
If, in the sole judgment of the Social Justice Subcommittee established under this agreement, the Subcommittee determines that the objectives outlined in this Letter of Understanding will be furthered by the addition of \$5,000,000 to the program's \$10,000,000 limit. It shall make such a decision, by majority vote. DSI/PCI shall give notice to all Subcommittee members when it determines that the \$10,000,000 program limit is being neared, and schedule the matter for inclusion on the Subcommittee's agenda.

It is further agreed that the Port, in managing this Program, will work with the signatory parties to this agreement to ensure that the operation of this understanding does not have significant disproportionate impact on any particular craft or upon small disadvantaged contractors signatory to Schedule As. Further, the Port pledges that in any event no more than 20% of the value of contracts awarded effecting any particular craft shall be issued under this understanding.

There shall be no strikes, sympathy strikes, picketing, work stoppages, slowdowns or other disruptive activity at the Project site for any reason (including disputes relating to the negotiation or renegotiation of the local collective bargaining agreements which serve as the basis for the Schedule As) or disputes directed at contractors exempt from coverage pursuant to the terms of this letter. This agreement in no way limits the rights of signatory Unions to seek to organize and utilize legal and administrative remedies not precluded by this letter, according to applicable federal and state law, to secure adherence to any such successful effort.

I trust that the foregoing accurately describes the understanding we reached on this Small Business Utilization Program treatment of successful bidders under the terms of this Project Labor Agreement.

Very truly yours,



Jake Sloan, President, Davillier-Sloan, Inc.
on behalf of the Project Contractor

Acknowledged and agreed to on behalf of the signatory Union parties this ____ dayth of _____ 2000



Barry Luboviski, Secretary-Treasurer
Alameda County Building and Construction Trades Council

APPENDIX G-1

Appendix G-1, modifying Appendix G: “Letter of Understanding re: Small Business Utilization Program”

Pursuant to settlement agreements reached among the Alameda County Building & Construction Trades Council, AFL-CIO, the Operating Engineers Local Union Number 3, AFL-CIO, Parsons Constructors, Inc., and the Port of Oakland, the Maritime and Aviation Project Labor Agreement, Appendix G (“Letter of Understanding re: Small Business Utilization Program”, dated February 28, 2000) has been modified as follows:

- 1. Letter of Understanding re: Small Business Utilization Program (02/28/2000), second paragraph:** A bid package with an estimated value before bidding of \$300,000 or less may be subject to the MAPLA Small Business exclusion, under which the contract awardee is exempted from compliance with the MAPLA.
Modified to: A bid package with an estimated value before bidding of \$1,000,000 or less may be subject to the MAPLA Small Business exclusion.
- 2. Letter of Understanding re: Small Business Utilization Program (02/28/2000), third paragraph:** A contractor is precluded from receiving further contracts under the MAPLA Small Business exclusion if the aggregate value of contracts already awarded to the contractor under the exclusion exceeds \$150,000.
Modified to: The aggregate value of all contracts awarded to a contractor under the MAPLA Small Business exclusion may not exceed \$1,000,000.
- 3. Letter of Understanding re: Small Business Utilization Program (02/28/2000), fifth paragraph:** No more than 20% of any particular craft’s work may be subject to the MAPLA Small Business exclusion.
Modified to: No more than 20% of any particular craft’s work may be subject to the MAPLA Small Business exclusion. No more than \$300,000 in testing and inspection work may be subject to the exclusion. If the Social Justice Subcommittee increases the aggregate value of all bid packages that may be subject to the exclusion from \$10,000,000 to \$15,000,000, an additional \$100,000 in testing and inspection work may be subject to the exclusion.

NOTE: The provisions of Appendices G and G-1 apply to subcontractors of any tier, as well as to the prime contractor. If a subcontractor receives work under a contract subject to the MAPLA Small Business exclusion, and if said subcontractor would exceed the aggregation limit, it must sign the Letter of Assent to the MAPLA, and the contractor issuing the subcontract must so notify the subcontractor. The provisions of Appendices G and G-1 do not, in any way, limit the eligibility of any contractor to bid for and receive work that is covered by MAPLA.

Letter of Understanding: Workers' Compensation

February 28, 2000

Mr. Barry Luboviski, Secretary-Treasurer
Building and Construction Trades Council of Alameda County
8400 Enterprise Way, Room 101
Oakland, CA 94621

RE: Port of Oakland Maritime and Aviation Project Labor Agreement: Workers' Compensation

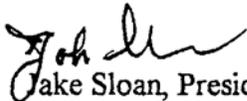
Dear Mr. Luboviski:

During our negotiations on the above captioned Agreement the Union side objected strenuously to our proposals for an alternative dispute resolution mechanism that would substitute for the provisions of the California Labor Code governing the processing of workers' compensation claims.

This will confirm, therefore, our agreement that the Unions and DSI/PCI (with input from the Owner's workers' compensation insurance carrier) will agree to a workers' compensation program within the constraints of the State Labor Code, which preserves the substantive and procedural rights of the employees under the Code, and which is designed to insure a safe work environment on the Project, prompt and effective treatment of worker injuries, and efficient and effective claims handling. An integral component of the program will be the effective communication to employees of information about their rights and obligations under the State workers compensation structure.

If you agree that this accurately reflects the understanding reached during our negotiations, please acknowledge by signing this letter in the space provided below.

Sincerely,



Jake Sloan, President
Davillier-Sloan, Inc.
On behalf of the Project Contractor

Acknowledged and agreed to on behalf off the signatory Union parties this ___ day of _____ =
2000.



Barry Luboviski, Secretary-Treasurer, Alameda County Building and Construction Trades Council

Letter of Understanding: Tenant Improvements

February 28, 2000

Mr. Barry Luboviski, Secretary-Treasurer
Building and Construction Trades Council of Alameda County
8400 Enterprise Way, Room 101
Oakland, CA 94621

RE: Port of Oakland Maritime and Aviation Project Labor Agreement: Tenant Improvements

Dear Mr. Luboviski:

During our negotiations of the above-captioned Agreement, the Unions sought commitments from the Port to cover construction improvements that may be done by Port and Airport tenants during the life of the Project Labor Agreement. You and we acknowledged that we could not impose such a commitment on the tenants for both legal and practical reasons. At the same time, we recognize that without the unique protections that a project labor agreement offers, there is no way to insulate tenant contractors from the kinds of disruptions that come about in circumstances where local bargaining results in a strike against the contractors in the area or when union workers work alongside nonunion workers.

The Unions have advised us that the PLA protections will not be extended to any work that is not expressly covered by the Agreement. That is, you have specifically reserved the Unions' normal rights to conduct lawful concerted and protected activities at the Project site directed at any entities not covered by the Agreement. We have, in turn, expressed our position that the Unions have the ability (and the obligation) to manage any disputes that may arise in a manner calculated not to disrupt covered work under the Agreement. You have agreed that it is not the Unions' intent to disrupt the Project work in any way.

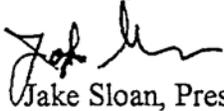
We therefore share a mutual desire for the Project site to be free from such potential labor tensions and disruption. In the interest of promoting labor harmony and recognizing that the Port is not legally or practically empowered to compel its tenants to adopt and adhere to the terms of a PLA, the Port will notify each of its tenants when they undertake construction work on their leased premises of the importance of maintaining labor stability in the performance of their work. This notification will specifically include a description of the PLA and its benefits as one means for achieving stability. The Unions agree that this PLA or one of comparable terms (including specifically the commitments not to engage in strikes, picketing or other economic pressure) will be made available to the tenants for their work if they should choose to have such an agreement for their work.

Letter of Understanding: Tenant Improvements
Page two of two

Attached to this letter is the notice the Port will give to its tenants when it is advised that a tenant is contemplating construction work during the term of this PLA. I trust that this letter accurately states the positions of the parties and the understanding we have reached to resolve this difficult issue.

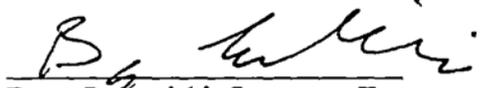
Please indicate your acceptance and agreement to this letter in the space provided below.

Sincerely,



Jake Sloan, President
Davillier-Sloan, Inc.
On behalf of the Project Contractor

Acknowledged and agreed to on behalf off the signatory Union parties this ___ day of _____
2000.



Barry Laboviski, Secretary-Treasurer
Alameda County Building and Construction Trades Council

“Notice to Tenant”

“It has come to our attention that you are contemplating construction activities on Port property. That work is proposed to be conducted in proximity with and during the time that work is being performed by the Port under the terms of a Project Labor Agreement (“PLA”) with the Building and Construction Trades Council of Alameda County (“the Council”).

“As you know, the Council and its affiliated unions have a strong interest in the work that is done on Port property and the contractors that are engaged to do the work. This is particularly true if nonunion contractors are brought to the site. Disputes that one or more unions may have with those contractors could be brought to the site and result in strikes, picketing or other forms of disruption. Similarly, any strikes or economic action directed at union contractors during the renegotiation of local collective bargaining agreements can also affect the labor stability for union work on the project. The PLA immunizes us from the occurrence of such disputes directed at our work. It cannot, however, insure that the occurrence of disputes directed at contiguous or proximate work will not adversely affect Port work.

“Therefore, we ask that you give careful consideration to this potential for disruption on Port property that may be caused by the work you undertake and urge that you further consider how you will schedule work and select contractors to minimize this risk. You should know that the PLA (or one like it) and the unique protections it affords can be extended to your work should you choose to adopt it. Your choices in this regard are, of course, yours to make, but the consequences can be significant for you and the Port.

“We would be pleased to discuss with you the concerns that we have raised here and the options for addressing these concerns based upon our dealings with the interested unions. Regardless of your conclusion, we would ask that you advise Ms. Cheryl Perry-League, the director of our Office of Equal Opportunity, as to your decision. She may be reached at our headquarters: 530 Water Street, Oakland, CA 94607 or by telephoning 510-627-1417.”

Letter of Understanding: Union Hiring Hall Procedures

February 28, 2000

Mr. Barry Luboviski, Secretary-Treasurer
Building and Construction Trades Council of Alameda County
8400 Enterprise Way, Room 101
Oakland, CA 94621

RE: Port of Oakland Maritime and Aviation Project Labor Agreement:
Union Hiring Hall Procedures

Dear Mr. Luboviski:

During our negotiations, the local unions raised concerns that their agreement to the provisions of the Project Labor Agreement sought by the Owner to enhance employment and contracting opportunities for local workers and businesses could give rise to potential fair representation claims by members. There were concerns that the local hire goals contained in Article V, Section 6, whereby 50% of all craft hours would be performed by Local Impact Area residents, could expose the local unions to claims by workers on the local unions' out-of-work lists.

During our discussions with the Union negotiating committee and in explanatory conversations with concerned Locals, we confirmed the intent and effect of that Article to be that the identified social justice goals are to be pursued and achieved only in the context of the established hiring hall procedures and their normal operation. No Local Union is being asked to alter or dispense with their hiring hall procedures. Article V, Section 6 makes it plain that: "The Contractor shall make good faith efforts to reach this goal through the utilization of normal hiring hall procedures listed in the Schedule A agreements and the resources of the "Community Resource Centers" set out in Section 3 of this Article." (See also, Section 3(e), "...to request a name call consistent with normal union hiring hall procedures. (Emphasis added.)) Additionally, Section 8 of that Article states the Unions will use the Community-based organizations as a source for hiring qualified local residents only, "after their out-of-work lists are exhausted".

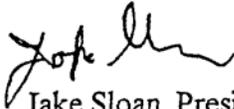
The Unions have agreed to partner with the Owner and the Project Contractor in many valuable areas of cooperation to achieve these mutual and agreed upon goals. They have been asked only to respond to dispatch requests, consistent with their hiring hall procedures, in a manner that will enhance the Contractors' ability to meet these goals.

I trust that this accurately describes our agreement on this issue. If you and the Union Negotiating Committee agree that these comments are consistent with your understanding of our

Letter of Understanding: Union Hiring Hall Procedures
Page two of two

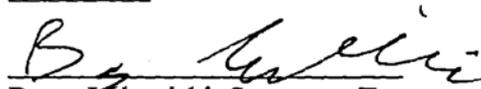
agreement, please indicate your concurrence and acceptance on behalf of the Committee in the space provided below.

Sincerely,



Jake Sloan, President
Davillier-Sloan, Inc.
On behalf of the Project Contractor

Letter acknowledged and agreed to on behalf off the signatory Union parties this ___ day of _____ 2000.



Barry Luboviski, Secretary-Treasurer
Alameda County Building and Construction Trades Council

**Letter of Understanding: Contractor Fringe Benefit Contribution Delinquencies
Draft**

Mr. Barry Luboviski
Secretary-Treasurer
Building and Construction Trades Council of Alameda, AFL-CIO
8400 Enterprise Way, Room 101
Oakland, CA 94621

RE: Port of Oakland Maritime and Aviation Project Labor Agreement
Contractor Fringe Benefit Fund Contribution Delinquencies

Dear Mr. Luboviski:

In our negotiations for the captioned Project Labor Agreement, the Unions expressed concerns about their ability to recover unpaid fringe benefit contributions from delinquent contractors if they agreed, as part of the general commitment not to strike or otherwise disrupt the project or the work of a Contractor, to waive the right reserved in some local collective bargaining agreements to withdraw labor from a delinquent contractor. We emphasized the importance of an unqualified no-strike clause and the removal of any basis for economic action against any Contractor or the Project generally.

In consideration of the Unions' agreement to the commitments contained in Article X of the Project Labor Agreement and their waiver of the right to withhold labor in delinquency circumstances on this Project, the Port of Oakland will agree to a procedure to assist in the recovery of delinquent payments. The Port agrees, consistent with the General Conditions of its contract with the Contractor, to hold retainage monies owed to a delinquent Contractor and to issue joint checks to the applicable trust funds to cover demonstrated delinquencies under the following conditions. This commitment is independent of and does not interfere with the contractual remedies that may otherwise be available to the Unions against such Contractors or the general contractor of a delinquent subcontractor under the applicable Schedule As.

Any trust fund claiming that a Contractor is delinquent in its fringe benefit contributions to the fund, will provide written notice of the alleged delinquency to the affected Contractor, with copies to DSI/PCI and the Port. The notice will indicate the amount of delinquency asserted and the period that the delinquency covers.

Upon request by the Port, the trust fund or the involved Union will provide documentation of the delinquency sufficient to establish the fact and amount of the delinquency. If the Contractor acknowledges the delinquency and agrees that the payment may be made from retained funds, or

Letter of Understanding: Contractor Fringe Benefit Contribution Delinquencies
Page two of two

if the delinquency is disputed but has not been satisfactorily resolved by the parties within thirty days following the notice required above, a joint check (or checks) payable to the Contractor and the applicable trust fund(s) will be issued. The checks to be issued by the Port will not exceed the value of any retainage held by the Port for the delinquent contractor.

I trust that this procedure is consistent with the understanding reached by the parties in the negotiations. If the terms of this letter and the procedure it contains are agreeable to the signatory Unions, please indicate your acceptance in the space provided below.

Sincerely,

On behalf of the Port of Oakland

AGREED and ACCEPTED on behalf of the Building and Construction Trades Council of Alameda, AFL-CIO and the local unions signatory to the Port of Oakland Maritime and Aviation Project Labor Agreement this _____ day of _____, 2000



Barry Luboviski, Secretary-Treasurer

PORT OF OAKLAND
MARITIME AND AVIATION
PROJECT LABOR AGREEMENT
UNIFORM SUBSTANCE ABUSE PREVENTION POLICY

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**PORT OF OAKLAND
MARITIME AND AVIATION
PROJECT LABOR AGREEMENT
UNIFORM SUBSTANCE ABUSE PREVENTION POLICY**

This Uniform Substance Abuse Prevention Policy, hereinafter referred to as “Policy,” has been adopted by the Davillier-Sloan Inc./Parsons Constructors, Inc. (hereinafter “DSI/PCI”) and their successors or assigns, for and on behalf of themselves and the Port of Oakland, and the Building and Construction Trades Council of Alameda County, the Local Unions or Councils and the Building and Construction Trades Department, AFL-CIO (hereinafter the “Department”), its affiliated National and International Unions that become signatory to the Agreement, (collectively referred to as “Unions”) and is binding on the Contractors who agree to be bound by the Port of Oakland Maritime and Aviation Project Labor Agreement.

The Parties agree and acknowledge that the United States Government may require differing testing and detection standards than those that are contained in this policy for certain projects that will be constructed under the Project Labor Agreement. To the degree that these federal policies differ in substance or procedure (including the use of random testing) the Parties acknowledge that the federal policies will prevail where required by law or regulation. Violation of any federal policy will result in the same consequences as a violation of this policy.

POLICY

The Contractors and the Union are committed to protecting the health and safety of individual employees, their co-workers, and the public at large from the hazards caused by the misuse of drugs and alcohol on the job. The safety of the public, as well as the safety of fellow employees, dictates that employees not be permitted to perform their duties while under the influence of drugs or alcohol.

This program supersedes any policies negotiated for any other work outside of the Project by Contractors and the Unions that might otherwise apply. Nothing in this Agreement is intended to supersede or diminish more restrictive controlled substance or alcohol regulations imposed by federal or state agencies upon specific employee groups or categories of employees who are also covered by this Program. A summary of this Program will be provided to all dispatched employees. The full Agreement will be made available to any Union representative or to Project employees upon request.

The intention of this Program is to comply with the Port of Oakland's Aviation and Maritime Project requirement of maintaining a drug and alcohol free workplace in order to assure safe and productive working conditions with due regard for the personal privacy interests of Project employees. It is not the intention of the parties that any Contractor intrude on off-duty activities of Project employees away from the Project site unless those activities have a job-related impact. The circumstances permitting controlled substance and alcohol testing in this Program have been carefully defined and intentionally restricted. The Substance Abuse Prevention Coordinator will retain oversight over the Programs and will monitor test procedures for consistency and policy compliance.

In order to implement this Policy, the following Agreements have been reached:

1. No employee may purchase, sell, transfer, furnish, possess, use or be under the influence of illegal drugs or any alcoholic beverage while working on any Project job site in connection with work performed under the Project Labor Agreement, or when using any Contractor vehicle.
2. The proper use of prescription drugs or over-the-counter medication as part of a medical treatment program and consistent with the terms of this Policy is not a violation of this Policy. The improper use of prescription drugs, over-the-counter medication or the use of designer or synthetic drugs that alters or affects an individual's motor function or mental capacity is prohibited and is a violation of this Policy. Employees who believe or have been informed that their use of any prescription drug or over-the-counter medication may present a safety risk are to report such use to the Contractor's supervision to insure the safety of themselves, other employees, and Contractor or Project property or vehicles.
3. Any employee, while employed on the Project, who tests positive for drug or alcohol abuse or who is convicted for selling illegal drugs off the Project will not be permitted to work on the Project and will be subject to discipline up to and including discharge, subject to the provisions of this policy. Employees engaged in the sale, purchase or use of illegal drugs during the employee's working hours will be subject to immediate termination and removed from the project and will not be eligible for rehire.
4. Any prospective or dispatched worker who fails the pre-employment testing required pursuant to this Policy will be denied employment and will not be eligible for referral to any Contractor on the Project until a period of not less than sixty (60) calendar days has passed and the applicant has provided a certification of rehabilitation and satisfactory participation in an approved counseling or rehabilitation program, which will be at the employee's expense.
5. Any prospective or dispatched worker/employee who refuses to submit to a properly administered drug or alcohol test will be treated as having tested positive on the test and will be subject to removal from the Project and will not be granted permission for a second drug or alcohol test for a period of ninety (90) days.

NOTICE

1. When calling the Union hiring hall for workers, the Contractor shall advise the Union dispatcher that the Contractor will require any dispatched worker to take a pre-employment drug and alcohol test, and that worker(s) will be subject to further testing in accordance with specified circumstances outlined in this policy.
2. At the commencement of a contract, the Contractor shall also provide notice in advance of the first dispatch request either by certified mail, by facsimile transmission or by hand delivery.
3. The Contractor shall provide written notice to each employee, attached hereto as Appendix C, of the major provisions of the drug and alcohol testing policy and its consequences.

4. A contractor that fails to provide notice to the dispatcher shall be liable for two hours show up pay for any dispatched worker that refuses to take a pre-employment test, and a dispatched worker's refusal to take the test may not be used in any adverse manner against that worker, except that no dispatched worker will be hired without having taken a pre-employment drug test.

TERMS / DEFINITIONS

For purposes of this Policy, the following terms/conditions will apply:

1. **Illegal Drugs:**

For the purpose of this Policy, the terms "illegal drugs" or "drugs" refer to those drugs listed in Appendix A, except in those circumstances where they are prescribed by a duly licensed health care provider. Appendix A lists the illegal drugs and alcohol and the threshold levels for which an employee/applicant will be tested. Threshold levels of categories of drugs and alcohol constituting positive test results will be determined using the applicable Substance Abuse and Mental Health Services Administration ("SAMHSA") (formerly the National Institute of Drug Abuse, or "NIDA") threshold levels, or U.S. government required thresholds where required, in effect at the time of testing. Appendix A will be updated periodically to reflect the SAMHSA or the U.S. Government threshold changes, subject to mutual agreement of the parties.

2. **Prescription Drug:**

A drug or medication prescribed by a duly licensed health care provider for current use by the person possessing it that is lawfully available for retail purchase only with a prescription.

3. **Reasonable Cause:**

Reasonable cause to test (which test must be conducted pursuant to this Policy's Identification and Consent Procedures outlined below) an employee for illegal drugs or alcohol will exist when specific, reliable objective facts and circumstances are sufficient for a prudent person to believe that the employee more probably than not has used a drug or alcohol as evidenced by work performance, behavior or appearance while on the jobsite. These indicators will be recognized and accepted symptoms of intoxication or impairment caused by drugs or alcohol, and will be indicators not reasonably explained as resulting from causes other than the use of such controlled substances (such as, but not by way of limitation, fatigue, lack of sleep, side effects of proper use of prescription drugs, reaction to noxious fumes or smoke, etc.) If cause results from an observation, the observation must be confirmed by a second member of the Individual Contractor's supervision and those Contractor representatives will endeavor to consult with the Contractor's Safety Representative or a jobsite management representative, one who must be trained in detection of drug use, and whose training will be documented. The specific behavioral, performance or on-the-spot physical indicators of being under the influence of drugs or alcohol on the job will be substantiated in writing by the use of an Incident Report Form (attached as Appendix E).

The following may constitute some of the reasonable causes to believe that an employee is under the influence of drugs or alcohol.

- (a) Incoherent, slurred speech;
- (b) Odor of alcohol on the breath;
- (c) Staggering gait, disorientation, or loss of balance;
- (d) Red and watery eyes, if not explained by environmental causes;
- (e) Paranoid or bizarre behavior; or
- (f) Unexplained drowsiness.

4. Post-Accident Testing

A Contractor will require that an employee who is involved in an accident in the course of job duties resulting in serious damage to plant, property or equipment or injury to him/herself or others as defined below may be tested (which test must be conducted pursuant to this Policy's Identification and Consent Procedures outlined below) for drugs or alcohol where the Contractor safety representative or designee concludes that:

- (a) the accident may have resulted from human error or could have been avoided by reasonably alert action; and
- (b) the employer's representative reasonably concluded that the employee(s) to be tested caused or contributed to the following circumstances:
 - (i) An OSHA recordable injury, i.e., medical treatment case, restricted work case or lost workday case;
 - (ii) Damage to equipment, vehicles, structures, or guarding resulting in repair costs that in the judgment of the Contractor will exceed \$2,500.00;
 - (iii) Loss of material containment resulting in an environmental spill notification; or
 - (iv) Any incident resulting in job site shutdown or involving a fatality; and
- (c) a basis exists to believe that the employee was under the influence of a drug or alcohol at the time of the accident.

5. Adulterated, Substituted or Dilute Specimens

This Substance Abuse Prevention Policy adheres to guidelines established in SAMHSA Public Document 035 dated September 28, 1998 for determining the validity of a specimen. This guideline is consistent with the Department of Transportation (DOT) regulations (49 CFR Part 40 and 382) that permit laboratories to conduct additional tests to determine the validity of a specimen.

An employee/applicant submitting a specimen for which an approved testing laboratory reports the existence of an "adulterant", "interfering substance" and/or "masking agent" or the sample is identified as a "substituted specimen" will be deemed a violation of this Project Labor Agreement and Policy and will be processed as if the test result were positive. Those employees/applicants for whom the testing laboratory reports an "adulterated", "interfering substance", "masking agent", or "substituted" specimen will be prohibited from the Project for not less than ninety (90) calendar days and the employee/applicant shall be required to show certification of rehabilitation and satisfactory

participation in a Substance Abuse Prevention Coordinator-approved rehabilitation program, not at the expense of the Contractor or Owner, as a condition of the employee's return to work at that time.

The guideline issued in PD 035, in the SAMHSA September 28, 1998 memo uses the following reporting protocols:

- (a) Adulterated Specimen: PD035 includes three definitions for Adulterated:
 - (i) if the nitrite concentration is equal to or greater than 500 mcg/mL.
 - (ii) If the pH is less than or equal to 3, or if it is greater than or equal to 11.
 - (iii) If a foreign substance is present, or if an endogenous substance (one that is normally found in urine) is present at a concentration greater than the normal physiological concentration.
- (b) Substituted Specimen: one that has a creatinine of less than or equal to 5mg/dL and a specific gravity less than or equal to 1.001 or greater than or equal to 1.020. These specimens do not exhibit the clinical signs or characteristics associated with normal urine.
- (c) Dilute Tests: Protocol covering dilute specimens will follow guidelines established by SAMSHA PD 035 in their memo dated September 28, 1998. Specimens identified by the testing laboratory as dilute will require the employee/applicant to be retested. A second test due to a dilute specimen will require the employee/applicant to submit to an observed test. Refusal to retest or noncompliance with drug testing procedures will result in the employee/applicant being prohibited from working on the Project for ninety (90) calendar days and the employee/applicant will be required to successfully complete a Substance Abuse Prevention Coordinator-approved rehabilitation program at his/her own expense as a condition of the employee's return to work at that time.

A "dilute specimen" is defined as: "one that has a creatinine reading less than 20 mg/dL, but greater than 5 mg/dL, and a specific gravity less than 1.003 but greater than 1.001.

6. Project.

The Project is defined as any construction activity that is undertaken under the terms of the Port of Oakland Maritime and Aviation Project Labor Agreement.

IDENTIFICATION AND CONSENT PROCEDURES

1. When a prospective employee or dispatched worker arrives at the job site for potential employment, he/she will be shown and sign a copy of the Pre-Employment Substance Abuse Prevention Testing Consent/Waiver Form attached as Appendix D before taking a pre-employment drug or alcohol screening test. An employee who is working on the Project and has submitted to the pre-employment drug and alcohol test and has tested negative may thereafter be required to submit to drug or alcohol testing only if the Contractor has "reasonable cause" to believe that the employee is under the influence of drugs or alcohol in violation of this Policy or in connection with an accident as set out above in this Policy. The Contractor may order urine (or in the case of alcohol, breathalyzer) testing only.
2. If a management representative (preferably not in the bargaining unit) makes observations of an employee which may constitute reasonable cause for drug or alcohol testing, the supervisor shall

immediately take the following actions:

- A. Inform the employee that he/she may have a Union Representative present, if reasonably available. The employee will be shown the Substance Abuse Prevention Testing Consent/Waiver Form attached as Appendix B.
 - B. Fill out the Incident Report Form, including a statement of the specific facts constituting reasonable cause to believe that the employee is under the influence of drugs or alcohol, and the names of the person(s) making the supporting observations;
 - C. Provide a completed copy of this Incident Report Form to the bargaining unit employee before he/she is required to be tested, (and one copy made available to the Union Representative, if present). After being given a copy of the Incident Report Form, the bargaining unit employee will be allowed enough time to read the entire document, to understand the reasons for the test.
 - D. Provide the employee with an opportunity to provide an explanation of his/her condition, including providing evidence (e.g., doctor's prescription or note, or prescription container) of existing medical treatment or reaction to a prescribed drug. If available, the Union Representative shall be present during such explanation; and will be entitled to confer with the employee before the explanation is required;
 - E. If the Management representative(s), after observing the employee, and hearing any explanation, concludes that there is in fact reasonable cause to believe that the employee is under the influence of drugs or alcohol, the employee may be ordered to submit to a drug and/or alcohol test and will be asked to sign the Consent/Waiver Form attached as Appendix B.
3. Failure to follow any of these procedures will result in the elimination of the test results as if no test had been administered; the test results will be destroyed and no discipline shall be imposed against the bargaining unit employee. Refusal of the employee to submit to the test where these procedures have been followed will be treated as a positive test and subject the employee to discipline including removal from the Project and discharge.
 4. Unless there is reason to believe that the person being tested has previously altered a sample, or unless there is agreement in writing, an individual will be allowed to provide the required specimen in the privacy of a stall or partitioned area.
 5. A worker initially dispatched to a Project jobsite where this Policy is in effect will be required to submit to testing for illegal drugs or alcohol as defined in this Policy. The testing of such workers must be conducted in compliance with the "Drug Testing Procedures" described in this Policy, and be required of dispatched workers only on the first day of reporting to the initial jobsite. The urine drug and alcohol testing of these dispatched workers, is the only testing allowed under this Policy other than for "reasonable cause" or in connection with an accident as set out above in this Policy. Notwithstanding this provision, if a rehabilitation program or drug treatment program determines that periodic testing is appropriate or necessary for the employee who has tested positive under this Policy, then that employee will be subject to future urine drug testing as recommended by the rehabilitation program.

Except as set out in the Notice provision above, a worker initially dispatched to such jobsite who refuses to submit a urine sample for drug/alcohol testing will not be entitled to show-up pay for that day, and will be denied employment on the Project for a period of ninety (90) calendar days. If a worker who has refused a test returns to the same jobsite within ninety (90) calendar days, and is denied work, that worker will not be entitled to show-up pay. If a worker initially dispatched to the jobsite refuses to submit a urine sample or to take a breathalyzer test for drug/alcohol testing, and that worker is denied employment for ninety (90) calendar days, this Individual Contractor action will not be grievable under the Project Labor Agreement. If the worker tests negative for drugs and alcohol, he/she will not be drug tested again while employed by the Individual Contractor at any jobsite except for reasonable cause or post-accident as described in this Policy.

6. If the Individual Contractor has reasonable cause to believe an employee is under the influence of drugs or alcohol, or requires a post accident drug or alcohol test, as set forth in this Policy, and the employee refuses to submit to a drug test, the refusal shall be treated as a positive test result and the employee/applicant shall be subject to discipline, including removal from the Project and discharge.
7. The following rules control the pay for dispatched workers tested on the first day of their employment:
 - A. A dispatched worker who is put to work immediately after having passed the test shall be paid starting at the time the worker reported for the test(s).
 - B. Where a contractor requests a dispatched worker to report for purposes of a pre-hire substance abuse test, and does not intend to place the worker in an active work position on that day, the worker shall receive four (4) hours of pay at the regular straight-time hourly rate if the test is negative.
 - C. If the dispatched worker is not allowed to work until the results of the drug test are received, and the test results are positive, the dispatched worker is not entitled to any form of pay (including show-up pay).
 - D. If the dispatched worker is put to work, that dispatched worker is entitled to pay and benefits under the Project Labor Agreement for all hours worked, regardless of the results of the drug test.
 - E. Where a contractor fails to provide notice, pursuant to this Policy, to the Union hiring hall that the job site is a drug and alcohol testing site, a dispatched worker who refuses to take the pre-employment test will be paid two hours show up pay, except that no dispatched worker will be hired without having taken a pre-employment drug test.

DRUG TESTING PROCEDURES

1. The testing shall be done at a certified laboratory located in California. The collective bargaining parties retain the right to inspect the laboratory to determine conformity with the standards described

in this policy. The laboratory will only test for alcohol and the illegal drugs listed in the Definition Section of this Policy and Appendix A. All testing will be at the Contractor's expense.

Testing procedures, including controlled substances to be tested, specimen collection, chain of custody and threshold and confirmation test levels shall comport with the Mandatory Guidelines For Federal Workplace Testing Programs established by the U.S. Department of Health and Human Services, as amended and the Federal Motor Carrier Safety Act regulations, where applicable. Controlled substance tests shall be conducted only by laboratories licensed and approved by SAMHSA which comply with the American Occupational Medical Association (AOMA) ethical standards. Controlled substance tests shall be by urinalysis and shall consist of two procedures, a screen test (EMIT or equivalent) and if that is positive, a confirmation test (GC/MS). Alcohol tests shall be by breathalyzer. Any test revealing a blood/alcohol level equal to or greater than 0.08 or the established California State standard for non-commercial motor vehicle operations, or when operating a moving vehicle or crane any test revealing a blood/alcohol level equal to or greater than 0.04 or the established California State standard for commercial motor vehicle operations, percent shall be positive and will be conducted under procedures consistent with California State law.

An employee/applicant presenting himself/herself at a Substance Abuse Prevention Coordinator-approved drug collection site must have a minimum of one piece of government-issued photo identification and may not leave the collection site for any reason – unless authorized by the collection agency – until he/she has fully completed all collection procedures. Failure to follow all collection procedures will result in the employee/applicant being classified as “refusing to test” and being prohibited from working on the Project for a minimum of ninety (90) calendar days from the date of the scheduled test.

At the time the urine specimens are collected, two (2) separate samples shall be placed in separate sealed containers. One (1) of the samples collected in a separate container shall be kept refrigerated at the site where the sample is given. Upon request, this second sample shall be made available to the employee for testing by a certified laboratory selected by the employee at the employee's expense.

2. The specific required procedure is as follows:
 - A. Urine will be obtained directly in a tamper-resistant urine bottle. Alternatively, the urine specimen may be collected at the employee's option in a wide-mouthed clinic specimen container that must remain in full view of the employee until transferred to, sealed and initialed, in separate tamper-resistant urine bottles.
 - B. Immediately after the specimen is collected, it will be divided into two (2) urine bottles which, in the presence of the employee, will be labeled and then initialed by the employee and witness. If the sample must be collected at a site other than the drug and/or alcohol-testing laboratory, the specimens must then be placed in a transportation container. The container shall be sealed in the employee's presence and the employee must be asked to initial or sign the container. The container will be sent to the designated testing laboratory on that day or the earliest business day by the fastest available method.

- C. A chain of possession form must be completed by the hospital, laboratory and/or clinic personnel during the specimen collection and attached to and mailed with the specimens.
3. The initial test of all urine specimens will utilize immunoassay techniques. All specimens identified as positive in the initial screen must be confirmed utilizing gas chromatography/mass spectrometry (GC/MS) technique that identifies at least three (3) ions. In order to be considered "positive" for reporting by the laboratory to the employer, both samples must be tested separately in separate batches and must also show positive results on the GC /MS confirmatory test.
 4. All positive drug, alcohol or adulterant test results must be reported to a Medical Review Officer (MRO) appointed by the designated testing laboratory. The MRO shall review the test results and any disclosure made by the employee/prospective or dispatched worker and shall attempt to interview the employee/ prospective or dispatched worker to determine if there is any physiological or medical reason why the result should not be deemed positive. If no extenuating reasons exist, the MRO shall designate the test positive. The MRO shall make good faith efforts to contact the employee/applicant, but failing to make contact within two (2) working days, may deem the employee/applicant's result a "lab positive." After the issuance of a "lab positive", the employee/applicant will be barred from the Project until the employee/applicant makes contact with the MRO and the MRO sends the Substance Abuse Prevention Coordinator a written confirmation of a negative result.
 5. If the testing procedures confirm a positive result, as described above, the employee/dispatched worker and the Substance Abuse Prevention Coordinator will be notified of the results in writing by the MRO, including the specific quantities. If requested by the employee or the Union, (with the written consent of the member), the laboratory will provide copies of all laboratory reports, forensic opinions, laboratory work sheets, procedure sheets, acceptance criteria and laboratory procedures.
 6. In the event of a positive drug or alcohol test, an automatic confirmation test will be performed on the original specimen by the testing laboratory at no cost to the employee. In addition, the testing laboratory shall preserve a sufficient specimen to permit an independent re-testing at the request of the employee at his/her expense. Re-tests may be conducted by the same or any other approved laboratory. The laboratory shall endeavor to notify the MRO of positive drug, alcohol or adulterant tests results within five (5) working days after receipt of the specimen. The employee may request a re-test within five (5) working days from notice of a positive test result by the MRO. Costs of re-tests will be paid in advance by the requesting party.
 7. The Substance Abuse Prevention Coordinator shall assure that all specimens confirmed positive will be retained and placed in properly secured long-term frozen storage for a minimum of one (1) year, and be made available for retest as part of any administrative proceedings.
 8. All information from an employee's or dispatched worker's drug and alcohol test is confidential for purposes other than determining whether this Policy has been violated. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee or applicant. The results of a positive drug test shall not be released until the results are confirmed.

9. Every effort will be made to insure that all employee substance abuse problems will be discussed in private and actions taken will not be made known to anyone other than those directly involved in taking the action, or who are required to be involved in any disciplinary procedure, and those persons will be identified in writing at the time of the procedure.

No laboratory or medical test results will appear in the employee's Personnel File. Information of this nature will be kept in a separate, confidential file.

All necessary measures shall be taken to keep the fact and the results of the test confidential.

CONSEQUENCES FOR VIOLATING THE RULES AND PROVISIONS OF THIS POLICY

1. Prospective or dispatched workers: Dispatched workers who test positive to the pre-employment drug and alcohol test conducted pursuant to this Policy will be denied employment by the Individual Contractor until their test is confirmed to the dispatched worker in writing. Dispatched workers will be informed in writing if they are rejected on the basis of a confirmed positive drug test result. A dispatched worker may utilize the Project Labor Agreement grievance procedure to challenge the validity of a positive test result.
2. Employees: If the initial results of a drug or alcohol test administered by the Individual Contractor show that the employee was under the influence of drugs or alcohol while on duty, the employee will be removed from the Project until the test results have been confirmed by the procedures contained in this Policy.
 - (a) If the final test is negative, the employee will be reinstated with full backpay for lost time.
 - (b) If the initial positive test result is confirmed, the employee will be barred from the Project effective the date and time of the collection of the test specimen. The employee is subject to termination, subject to the provisions of this section below.
 - (c) Discipline imposed for a first positive test for an employee subjected to reasonable-cause testing, or subject to post-accident testing when in fact drugs or alcohol played no role in the accident, and any grievance filed in response thereto, will be held in abeyance pending voluntary participation by the employee in a Substance Abuse Prevention Coordinator-approved treatment program during an unpaid leave of absence.
 - (d) The employee may return to work if work is available after a certificate of either rehabilitation or satisfactory participation in the program. If the program determines that periodic testing is appropriate or necessary, the employee will be subject to future urine drug or alcohol testing, even on a random basis.

- (e) If the employee successfully completes or participates in such a program or is not disciplined for substance use, possession or being under the influence of drugs or alcohol for twenty-four (24) months following the initial confirmed positive test, the discipline shall be revoked.
- (f) A second positive test will result in the imposition of discipline, including termination and removal from the Project and the lifting of any suspension regarding discipline imposed for a first test less than twenty-four months preceding the date of the second positive test.

NOTICE AND CONSENT/WAIVER FORMS

Employees must execute a written consent and waiver to submit to the drug and alcohol tests and for the testing laboratory to release the report of test results to the Contractor. The individual to be tested will sign the form attached as Appendix D at the time of submitting to a pre-employment test and the form attached as Appendix B for any subsequent test. Signing the Consent/Waiver Form will not waive any individual rights available to the employee under federal or state law. The employee must also sign at the time of employment the Notice Form, attached as Appendix C, describing the employee's obligations under this Uniform Substance Abuse Prevention Policy.

SUBSTANCE ABUSE PREVENTION COORDINATOR

The Port will designate a Substance Abuse Prevention Coordinator from candidates nominated by the parties to the Project Labor Agreement to monitor compliance with this Policy and to provide assistance to Project employees with questions concerning drug or alcohol test procedures, availability of approved counseling or rehabilitation or any other drug or alcohol matters. All inquiries to the Coordinator will be confidential. The parties are eager to help employees with drug and alcohol abuse problems. The Coordinator will be prepared to assist employees in discussing insurance coverage and locating available counseling, rehabilitation and community resources.

SUPERVISOR TRAINING

The Contractor shall develop and implement a program of training to assist Management representatives and stewards in identifying factors which constitute reasonable cause for drug testing, as well as a detailed explanation and emphasis on the terms and conditions of the drug policy.

EMPLOYEE VOLUNTARY SELF-HELP PROGRAM

An employee who engages in drug/alcohol abuse is encouraged to participate in an Employee Voluntary Self-Help Program. Employees who seek voluntary assistance for alcohol and/or substance abuse not arising out of or in connection with the occurrence of any testing incident or related disciplinary action may not be disciplined for seeking such assistance. Request by employees for such assistance shall remain confidential and shall not be revealed to other employees or management personnel without the employee's consent. Such Voluntary Self-Help Program will not be at the expense of the Owner or Contractor. An Employee Voluntary Self-Help Program Counselor shall not disclose information on

drug/alcohol use received from an employee for any purpose or under any circumstances, unless specifically authorized in writing by the employee.

The Contractor shall offer an employee affected by alcohol or drug dependency an unpaid medical Leave of Absence, for the purpose of enrolling and participating in a drug or alcohol rehabilitation program. Any employee who voluntarily submits to such Voluntary Self-Help Program may return to employment on the project upon successful completion of such a program, or upon a certification of rehabilitation and satisfactory participation in such a program, and provided that the employee passes a drug and alcohol test upon return to the project and agrees for a period of one (1) year thereafter, to submit to periodic drug and alcohol testing which shall be conducted in addition to any reasonable cause or post-accident testing otherwise conducted, if considered appropriate or necessary by the rehabilitation program.

The Substance Abuse Prevention Coordinator will work with the signatory Unions to develop an “approved” list of counseling and rehabilitation programs to be used by employees/applicants who test positive for illegal drugs, alcohol, adulterants or misuse of prescription drugs. The cost of counseling and rehabilitation will not be the responsibility of the Contractor or Owner.

GRIEVANCE PROCEDURE

All disputes concerning the interpretation or application of this Policy shall be subject to the Disputes and Grievances Procedure established by Article IX of the Project Labor Agreement. Such disputes may be initiated at Step 2 of the Procedure. Nothing in the grievance procedure may void this Uniform Substance Abuse Policy on the Port of Oakland Maritime and Aviation Project from continued utilization on Project work.

SAVINGS CLAUSE

The establishment or operation of this Policy shall not curtail any right of any employee found in any law, rule or regulation. Should any part of this Policy be determined contrary to law, such invalidation of that part or portion of this Policy will not invalidate the remaining portions. In the event of such determination, the parties to the Project Labor Agreement agree meet promptly to commence negotiations concerning the provision affected by such decision for the purpose of achieving conformity with the requirements of the applicable law and the intent of the parties hereto.

TERM OF AGREEMENT

This Policy constitutes the only Agreement in effect between the parties to the Project Labor Agreement concerning drug abuse, prevention and drug testing. No revisions or amendments will be made to this Policy except with the written approval of the parties hereto. This Policy shall become effective for all work covered by the Project Labor Agreement (and, to the current work covered by the Port of Oakland Vision 2000 (1999 Facilities) Project Labor Agreement, pursuant to the terms of Section 1(c) of Article XIV, “Safety, Protection of Person and Property Joint Labor/Management Safety Committee”, of that Agreement) upon the effective date of the Project Labor Agreement and shall remain in effect for the duration of the Agreement unless terminated or amended by the mutual consent of the parties hereto.

The parties to the Project Labor Agreement agree to meet on an annual basis to review this Policy, to

bring it into compliance with the law, if necessary, and to review other considerations which may arise during the course of this Agreement. Changes in this Policy may be made only if mandated by law or agreed upon by the collective bargaining parties.

APPENDIX A

**SUBSTANCE ABUSE PREVENTION AND DETECTION
THRESHOLD LEVELS**

| CONTROLLED SUBSTANCE* | SCREENING METHOD | SCREENING LEVEL** | CONFIRMATION METHOD | CONFIRMATION LEVEL |
|------------------------------|-------------------------|-------------------------------|----------------------------|-------------------------------|
| Amphetamines | EMIT | 1000 ng/ml** | GC/MS | 500 ng/ml** |
| Barbiturates | EMIT | 300 ng/ml | GC/MS | 200 ng/ml |
| Benzodiazepines | EMIT | 300 ng/ml | GC/MS | 300 ng/ml |
| Cocaine | EMIT | 300 ng/ml** | GC/MS | 150 ng/ml** |
| Methadone | EMIT | 300 ng/ml | GC/MS | 100 ng/ml |
| Methaqualone | EMIT | 300 ng/ml | GC/MS | 300 ng/ml |
| Opiates | EMIT | 2000 ng/ml** | GC/MS | 2000 ng/ml** |
| PCP (Phencyclidine) | EMIT | 25 ng/ml** | GC/MS | 25 ng/ml** |
| THC (Marijuana) | EMIT | 50 ng/ml** | GC/MS | 15 ng/ml** |
| Propoxyphene | EMIT | 300 ng/ml | GC/MS | 100 ng/ml |
| Alcohol | EMIT | 0.08 or 0.04 % as required | GC/MS | 0.08 or 0.04 % as required |

* All controlled substances including their metabolite components

** SAMHSA specified threshold

*** A sample reported positive contains the indicated drug at or above the cutoff level for that drug. A negative sample either contains no drug or contains a drug below the cutoff level. Testing levels may be changed to meet revised industry standards subject to mutual agreement.

EMIT – Enzyme immunoassay

GC/MS – Gas Chromatography/Mass Spectrometry

**APPENDIX B
EMPLOYEE DRUG TEST
CONSENT/WAIVER FORM**

TO: (Name of Contractor/Employer) _____
FOR: (Project Name) _____

Name of Dispatched Worker/Employee: _____
Social Security Number: _____
Home Address: _____
City: _____ **State:** _____ **Zip code:** _____
Home Telephone: _____
Other phone numbers: Pager _____ **Mobile** _____

Consent for Testing

I (write your name) _____ understand that my Employer has determined that there is probable cause to believe that I have been working at the job site under the influence of alcohol or drugs. In response to this, my Employer requires that I provide a urine (or breathalyzer) sample as is allowed under the Project drug testing policy.

These tests will be used to detect the presence of alcohol, marijuana and/or other drugs in my body. I understand that if these drugs are found to be present in my body that I will be subject to discipline including discharge from employment.

I hereby consent and agree to give specimens of my urine or to take the breathalyzer test. **My refusal to provide such a specimen or take such a test will lead to termination of my employment.**

All charges for these tests will be paid for by the Employer and not by me.

Waiver: The results of any test I am required to take may be furnished, in accordance with the terms of this policy, to the Medical Review Officer, the Substance Abuse Prevention Coordinator and my employer. The company may inform the Union that I failed the test only if a grievance is filed in my behalf.

I have read, understand and agree to the above:

Witness Signature
Date: _____

Employee Signature
Date: _____

**APPENDIX D
PORT OF OAKLAND PROJECT
PRE-EMPLOYMENT DRUG TEST
CONSENT/WAIVER FORM**

TO: (Name of Contractor/Employer) _____
FOR: (Project Name) _____

Name of Dispatched Worker/Employee: _____

Social Security Number: _____

Home Address: _____

City: _____ **State:** _____ **Zip code:** _____

Home Telephone: _____

Other phone numbers: Pager _____ **Mobile** _____

Consent for Testing

I (write your name) _____ understand that the Port of Oakland Project to which I have been dispatched, or for which I am seeking employment, requires pre-employment drug and alcohol testing. The company to which I have been dispatched requires that I take and pass this test prior to commencing employment.

These tests will be used to detect the presence of alcohol, marijuana and/or other drugs in my body. I understand that if these drugs are found to be present in my body that I will be ineligible for employment on the Project and will not be able to take a new drug or alcohol test for ninety (90) days.

I hereby consent and agree to give specimens of my urine. **My refusal to provide such a specimen will prevent me from gaining employment on the Project for ninety (90) days.**

All charges for these tests will be paid for by the Employer and not by me.

Waiver: The results of any test I am required to take may be furnished, in accordance with the terms of this policy, to the Medical Review Officer, the Substance Abuse Prevention Coordinator and my employer. The company may inform the Union that I failed the test only if a grievance is filed in my behalf.

I have read, understand and agree to the above:

Witness Signature
Date: _____

Prospective/Dispatched Worker
Date: _____

APPENDIX E

INCIDENT REPORT FORM

Employer _____

Employee Involved _____

Date of Incident _____ Time of Incident _____

Location of Incident _____

Employee's Job Assignment/Position _____

Has employee been notified of his/her right to Union representation? _____

Date/Time Notified _____
DATE TIME

Employee's Initials _____

Witness to Incident _____

OBSERVATIONS _____

EMPLOYEE'S EXPLANATION _____

Action Recommended: _____

Action Taken _____

1. _____ 2. _____

Signature Signature
Employer Representative Union Representative (if present)

Title: _____ Title: _____

Date/Time/Action Taken: _____

APPENDIX N

Notice: Modification of Termination Dates
MAPLA Article II, Section 1.a.

September 20, 2004

Pursuant to a settlement agreement reached on August 2, 2002, between the Port of Oakland with Parsons Constructors, Inc./Davillier-Sloan, Inc. and the Building and Construction Trades Council of Alameda County, AFL-CIO regarding among other things, application of the Maritime and Aviation Project Labor Agreement (MAPLA) to Port of Oakland tenant construction projects, application of MAPLA was extended to certain Port projects as set forth in Section 7 of the Settlement Agreement, which reads as follows:

- “7.a. The Parties acknowledge that Port-owned construction projects defined in MAPLA, Article II Section 1.a. as Maritime Division Program Vision 2000 (1999 Facilities) Project Labor Agreement and Vision 2000 additional facilities projects and as Aviation Development Program Terminal Expansion, Landside Access and Airline and Airport Support projects remain subject to MAPLA until completed, according to the terms of MAPLA.

- “b. The Parties agree to extend MAPLA coverage of other Port-owned Maritime and Aviation division construction projects (defined in MAPLA, Article II, Section 1.a. as “Other Maritime Division expansion and modernization” or “Other Aviation Division expansion and modernization”) through December 31, 2006 subject to the other provisions of those two paragraphs.

Please take note of these changes to the Port of Oakland Maritime and Aviation Project Labor Agreement.