



MONTEREY COUNTY WATER RESOURCES AGENCY

893 BLANCO CIRCLE
SALINAS, CA 93901
(831) 755.4860
(831) 424.7935 FAX

BOARD OF DIRECTORS

BOARD OF DIRECTORS

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Jesse Avila, Deputy County Counsel

NOTICE OF SPECIAL MEETING

DATE:	Wednesday, May 11, 2016
TIME:	9:30 AM
PLACE:	Monterey County Water Resources Agency - Board Room 893 Blanco Circle Salinas, CA 93901 (831) 755-4896

Staff reports relative to the agenda items listed below will be available for public review on the Agency's website by 7:00 PM by Monday, May 9, 2016 and at the Monterey County Water Resources Agency (Agency), 893 Blanco Circle, Salinas. If additional documents are produced by the Agency and provided to a majority of the Board regarding any item on the agenda after staff reports have been distributed, they will be available at the Agency during normal business hours and posted on the Agency website at http://www.mcwra.co.monterey.ca.us/BOD/BOD/AgendaCurrent_n.htm. For additional information, please contact Wini Chambliss, Clerk to the Board, at (831) 755-4896.

If requested, the agenda and associated documents shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 USC Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Individuals with a disability requiring a modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may make these requests to Wini Chambliss, Clerk to the Board, at (831) 755-4896. Please notify the Clerk to the Board at least 72 hours in advance to ensure availability of appropriate equipment.

May 11, 2016
9:30 A.M.

SPECIAL BOARD OF DIRECTORS MEETING

A G E N D A

1. **CALL TO ORDER/ESTABLISH QUORUM**
2. **ROLL CALL**
3. **PUBLIC COMMENTS**

*(Limited to three minutes per speaker within the jurisdiction of the Monterey County Water Resources Agency and **not listed** on the agenda. Members of the Public will have the opportunity to ask questions or make statements on itemized agenda items as they are addressed by the Board.)*

4. **ACTION ITEM**

A. Consider approving and recommending that the Monterey County Water Resources Agency Board of Supervisors approve Amendment No. 1 to the Project Labor Agreement among the Monterey County Water Resources Agency and the Monterey/Santa Cruz Counties Building and Construction Trades Council and the Tri-Counties Building and Construction Trades Council, relating to the Interlake Tunnel and Spillway Modification Projects; and, authorizing the Chair of the Board to execute Amendment No. 1 to the Project Labor Agreement.

5. **ADJOURNMENT**

**MONTEREY COUNTY WATER RESOURCES AGENCY
BOARD OF DIRECTORS**

MEETING DATE:	May 11, 2016	AGENDA ITEM:	
AGENDA TITLE:	Consider approving and recommending that the Monterey County Water Resources Agency Board of Supervisors approve Amendment No. 1 to the Project Labor Agreement among the Monterey County Water Resources Agency and the Monterey/Santa Cruz Counties Building and Construction Trades Council and the Tri-Counties Building and Construction Trades Council, relating to the Interlake Tunnel and Spillway Modification Projects; and, authorizing the Chair of the Board to execute Amendment No. 1 to the Project Labor Agreement.		
Consent ()		Action (X)	
Information ()			
SUBMITTED BY:	David E. Chardavoyne	PREPARED BY:	Jesse J. Avila
PHONE:	(831) 755-4860	PHONE:	(831) 755-5045
DEADLINE FOR BOARD ACTION:		May 11, 2016	

RECOMMENDED BOARD ACTION:

Approve and recommend that the Monterey County Water Resources Agency Board of Supervisors approve Amendment No. 1 to the Project Labor Agreement among the Monterey County Water Resources Agency and the Monterey/Santa Cruz Counties Building and Construction Trades Council and the Tri-Counties Building and Construction Trades Council, relating to the Interlake Tunnel and Spillway Modification Projects; and, authorizing the Chair of the Board to execute Amendment No. 1 to the Project Labor Agreement.

SUMMARY/DISCUSSION:

On April 12, 2016, Monterey County Water Resources Agency Board of Supervisors approved a Project Labor Agreement (PLA) for the Interlake Tunnel and Spillway Modification Project, among the Agency, the above referenced building trades councils, and their various participating craft and trades unions. The Board approved execution of the PLA subject to finalization of Addendum C, relating to a drug testing policy, and the list of unions required to participate and execute the PLA.

Since April 12, the construction trades councils have requested a modification of one section of the PLA. The section, 13.3, is reproduced below. The changes that the Councils request are shown between the brackets, and are underlined.

13.3 If a dispute arising under this Article involves the Northern California Carpenters Regional Council [“NCCRC”] or any of its subordinate bodies, [or the Southwest Regional Council of Carpenters (“SRCC”) or any of its subordinate bodies,] an Arbitrator shall be chosen by the procedures specified in Article V, Section 5, of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch, and Thomas Pagan, and the Arbitrator’s hearing on the dispute shall be held [for the NCCRC] at the offices of the California State Building and Construction Trades Council in Sacramento, California[, or for the SRCC at the

offices of the Tri Counties Building and Construction Trades Council,] within fourteen (14) days of the selection of the Arbitrator. All other procedures shall be as specified in the Plan.

Agency staff and counsel can recommend approval of the changes to Section 13.3. Section 13.3 provides that “jurisdictional disputes” (i.e., disputes as to which trade or craft should perform a particular task) involving certain named carpenter councils are to be decided by one of the arbitrators listed in Section 13.3. Section 13.3 also specifies where the arbitration takes place, depending on the carpenter council involved. The amendment language more specifically identifies the affected carpenter’s councils, and adds an additional site where arbitration will take place.

Amendment No. 1 language does not affect any obligations of the Agency because Section 13.3 relates to the handling of disputes among carpenter unions as to which union (member) has authority to perform a specific task.

OTHER AGENCY INVOLVEMENT:

County Counsel.

FINANCING:

There is no financial effect from approving Amendment No. 1 to the Project Labor Agreement.

FINANCIAL IMPACT:	YES ()	NO (X)
FUNDING SOURCE:		
COMMITTEE REVIEW AND RECOMMENDATION:	None	
ATTACHMENTS:	1. Board Order 2. Amendment No. 1 to the Project Labor Agreement 3. Approved Project Labor Agreement	
APPROVED:	 General Manager Date 5/14/16	



*Before the Board of Directors of the Monterey County Water Resources Agency
County of Monterey, State of California*

BOARD ORDER No. 16-XX

APPROVE AND RECOMMEND THAT THE MONTEREY COUNTY WATER)
RESOURCES AGENCY BOARD OF SUPERVISORS APPROVE AMENDMENT)
NO. 1 TO THE PROJECT LABOR AGREEMENT AMONG THE MONTEREY)
COUNTY WATER RESOURCES AGENCY AND THE MONTEREY/SANTA)
CRUZ COUNTIES BUILDING AND CONSTRUCTION TRADES COUNCIL)
AND THE TRI-COUNTIES BUILDING AND CONSTRUCTION TRADES)
COUNCIL, RELATING TO THE INTERLAKE TUNNEL AND SPILLWAY)
MODIFICATION PROJECTS; AND, AUTHORIZE THE CHAIR OF THE BOARD)
TO EXECUTE AMENDMENT NO 1 TO THE PROJECT LABOR AGREEMENT)

Upon motion of Director _____, seconded by Director _____, and carried by those members present, the Board of Directors hereby:

1. Approves and recommends that the Monterey County Water Resources Agency Board of Supervisors approve Amendment No. 1 to the Project Labor Agreement among the Monterey County Water Resources Agency and the Monterey/Santa Cruz Counties Building and Construction Trades Council and the Tri-Counties Building and Construction Trades Council, relating to the Interlake Tunnel and Spillway Modification Projects;
2. Authorizes the Chair of the Board to execute Amendment No. 1 to the Project Labor Agreement.

PASSED AND ADOPTED on this 11th day of May 2016, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

BY: David Hart, Chair
Board of Directors

ATTEST: David E. Chardavoine
General Manager

**AMENDMENT NO. 1 TO
PROJECT LABOR AGREEMENT
FOR THE INTERLAKE TUNNEL & SPILLWAY MODIFICATION PROJECTS**

THIS AMENDMENT NO. 1 is entered into this _____ day of _____ **2016**, by and between the Monterey County Water Resources Agency (hereinafter, the “Agency”), together with contractors and subcontractors, who become signatory to the Project Labor Agreement, and the Monterey/Santa Cruz Counties Building and Construction Trades Council and the Tri-Counties Building and Construction Trades Council (“Council” or “Councils”) and their affiliated local Unions that execute the Project Labor Agreement.

WHEREAS, the Monterey County Water Resources Agency Board of Supervisors approved the Project Labor Agreement for the Interlake Tunnel and Spillway Modification Projects (“PLA”) on April 12, 2016; and,

WHEREAS, upon subsequent review of the PLA by the National Building Trades Council, a rewording of Section 13.3 of the PLA was requested by the Councils;

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

Section 13.3 shall be changed to read as follows:

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

MONTEREY COUNTY WATER RESOURCES AGENCY

By _____ Date _____

MONTEREY/SANTA CRUZ COUNTIES BUILDING AND CONSTRUCTION TRADES COUNCIL,
AFL-CIO (COUNCIL)

By _____ Date _____

TRI-COUNTIES BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO (COUNCIL)

By _____ Date _____

**PROJECT LABOR AGREEMENT
FOR THE INTERLAKE TUNNEL & SPILLWAY MODIFICATION PROJECTS**

This Agreement is entered into this _____ day of _____, 2016, by and between the Monterey County Water Resources Agency (hereinafter, the “**Agency**”), together with contractors and subcontractors, who become signatory to this Agreement by signing the “**Agreement to be Bound**” (“**Addendum A**”) (all of whom are referred to herein as “**Contractor(s)/Employer(s)**”), and the Monterey/Santa Cruz Counties Building and Construction Trades Council and the Tri-Counties Building and Construction Trades Council (“**Council**” or “**Councils**”) and their affiliated local Unions that have executed this Agreement (all of whom are referred to collectively as “**Union**” or “**Unions**”).

The purpose of this Agreement is to promote efficiency of construction operations on the Interlake Tunnel & Spillway Modification Projects (the “**Project**”) as defined herein, and to provide for peaceful settlement of labor disputes and grievances without disruption caused by strikes or lockouts, thereby promoting the Agency’s interest in assuring the timely and economical completion of the Project. The Agency and the Councils may mutually agree in writing to add additional components to the Project’s scope of work to be covered under this PLA.

WHEREAS, the timely and successful completion of the Project is of the utmost importance to the Agency to meet the needs of the Agency and avoid increased costs resulting from delays in construction; and

WHEREAS, workers of various skills will be required in the performance of the construction work, including those to be represented by the Unions signatory to this Agreement and employed by contractors and subcontractors who are also signatory to this Agreement; and

WHEREAS, it is recognized that on a Project of this magnitude with multiple contractors and bargaining units on the job site at the same time, over two separate counties and an extended period of time, the potential for work disruption is substantial without an overriding commitment to maintain continuity of work and labor peace; and

WHEREAS, the interests of the general public, the Agency, the Unions and Contractor(s)/Employer(s) would be best served if the construction work proceeded in an orderly manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

WHEREAS, the Contractor(s)/Employer(s) and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the Project by the Contractor(s)/Employer(s), and further, to encourage close cooperation among the Contractor(s)/Employer(s) and the Union(s) so that a satisfactory, continuous and harmonious relationship will exist among the parties to this Agreement; and

WHEREAS, a central purpose of the parties in executing this Agreement is to guarantee labor peace on the Project by minimizing the jobsite friction that could arise at a common-situs

jobsite, and to avoid labor disputes that could delay completion of the Project and cause disruption of the work; and

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

WHEREAS, the Agency has the absolute right to select the lowest responsive and responsible or best-value bidder for the award of construction contract(s) on the Project consistent with applicable law (including, if applicable, Assembly Bill 155 (Alejo, 2014) (“AB 155”)); and

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

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

ARTICLE I DEFINITIONS

1.1 **“Agreement”** means this Project Labor Agreement.

1.2 **“Agency”** means the Monterey County Water Resources Agency and its public employees, including managerial personnel.

1.3 **“Completion”** of a Construction Contract means Agency final acceptance of the work thereunder. Completion may be of the entire Project or of either the Interlake Tunnel or Spillway Modification project.

1.4 **“Construction Contract”** means the public works or improvement contract(s) (including design-bid-build, design-build or other contracts under which construction of the Project is done), awarded by the Agency that are necessary to complete the Project (or portion thereof).

1.5 **“Contractor(s)/Employer(s)”** or **“Contractor(s)”** or **“Employer(s)”** means any individual, firm, partnership or corporation (including the prime employer, general contractor, construction manager, design-build entity, lease-leaseback entity or equivalent entity), or combination thereof, including joint ventures, and their successors and assigns, that is an independent business enterprise that enters into a contract with the Agency with respect to the construction of any part of the Project, under contract terms and conditions approved by the Agency and which incorporate this Agreement, and all contractors and subcontractors of any tier.

1.6 “**Council**” means the Monterey/Santa Cruz Counties Building and Construction Trades Council or the Tri-Counties Building and Construction Trades Council, and “**Councils**” means both of them.

1.7 “**Master Agreement**” or “**Schedule A**” means the Master Collective Bargaining Agreement of each craft Union signatory hereto, copies of which shall be provided to the Agency or the Prime Contractor/Employer promptly upon request.

1.8 “**Prime Contractor/Employer**” means an entity awarded the Project by the Agency.

1.9 “**Program Manager**” means the person(s) or business entity(ies) designated by the Agency to oversee all phases of construction on the Project and to oversee the implementation of this Agreement and who works under the guidance of the Agency’s Authorized Representative.

1.10 “**Project**” means the Interlake Tunnel & Spillway Modification Projects, consisting generally of:

- (1) an underground water conveyance tunnel with appropriate intake and outtake structures and controls connecting the Lake Nacimiento and Lake San Antonio reservoirs in San Luis Obispo and Monterey Counties respectively; and
- (2) Spillway modifications at Lake San Antonio as approved by the Division of Safety of Dams (“DSOD”) to increase reservoir storage capacity by approximately 60,000 acre feet.

The Agency and the Councils may mutually agree in writing to add or modify components to the Project’s scope of work to be covered under this Agreement.

1.11 “**Union**” or “**Unions**” means the Monterey/Santa Cruz Counties Building and Construction Trades Council, AFL-CIO, the Tri-Counties Building and Construction Trades Council, AFL-CIO, and the local Unions signatory to this Agreement, acting on their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement.

ARTICLE II SCOPE OF AGREEMENT

2.1 Parties: This Agreement shall apply to and is limited to all Contractor(s)/Employer(s) performing Construction Contracts on the Project (including subcontractors at any tier), the Agency, the Councils and the Unions signatory to this Agreement.

2.2 Project Description: This Agreement governs all Construction Contracts awarded on the Project. The Agency and the Council may mutually agree in writing to add or modify components to the Project’s scope of work to be covered under this PLA.

2.3 Covered Work: This Agreement covers, without limitation, all on-site site preparation, surveying, construction, alteration, demolition and installation improvement, painting or repair of buildings, structures and other works and related activities for the Project, that is within the craft jurisdiction of one of the Unions and which is directly or indirectly part of the Project, including, without limitation to the following examples, geotechnical and exploratory drilling, temporary HVAC, landscaping and temporary fencing, pipelines (including those in linear corridors built to serve the project), pumps, pump stations and modular furniture installation, upon the effectiveness of this Agreement as provided in Section 19.3.. On-site work includes work done for the Project in temporary yards, dedicated sites, or areas adjacent to the Project, and at any on-site or off-site batch plant constructed solely to supply materials to the Project. This scope of work includes all soils and materials testing and inspection where such testing and inspection is a classification in which a prevailing wage determination has been published.

2.3.1 This Agreement shall apply to any start-up, calibration, commissioning, performance testing, repair, and operational revisions to systems and/or subsystems performed for the Project (including, if performed by a third-party commissioning agent) after Completion that is within the scope of the Prime Contractor/Employer's Construction Contract, unless performed by Agency employees or excluded pursuant to Section 2.4(7).

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

2.3.3 The on-site installation or application of all items shall be performed by the craft having jurisdiction over such work as set forth under the provisions of this Agreement; provided, however,

(i) In limited circumstances requiring special knowledge of the particular item(s), if required to protect a manufacturer or vendor's warranty, installation of specialty items shall be performed by construction persons employed under this Agreement who may be under the supervision and direction of the Agency's Contractor(s)/Employer(s) and/or manufacturer or vendor's personnel.

(ii) Alternatively, in limited circumstances requiring special knowledge of the particular item(s), installation of specialty items may be performed by construction persons of the manufacturer or manufacturer-approved company where necessary to protect a manufacturer's warranty, provided the Contractor using the manufacturer can demonstrate by an enumeration of the specific tasks that the work cannot be performed by construction persons employed under this Agreement, and all such work shall be identified and discussed by the Contractor/Employer at the Pre-Construction Conference as provided in Article V of this Agreement. The issue of whether it is necessary to use construction persons of the manufacturer or manufacturer-approved company to protect

the manufacturer's warranty shall be subject to the grievance and arbitration clause of this Agreement.

(iii) The Unions agree that all specialty items described in subsections (i) and (ii) above shall be installed without the occurrence of any conduct described in Sections 4.1(1) and 4.1(2).

2.3.4 The furnishing of supplies, equipment or materials which are stockpiled for later use shall not be covered by this Agreement. However, construction trucking work, such as the delivery of ready-mix, asphalt, aggregate, sand or other fill or similar material which are incorporated into the construction process, as well as the off-hauling of debris and excess fill, material, spoils and/or mud, shall be covered by the terms and conditions of this Agreement. Contractor(s)/Employer(s), including brokers, of persons providing construction trucking work shall provide certified payroll records to the Agency within ten (10) days of written request or as required by bid specifications.

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

2.3.6 All of the foregoing work described in this Section 2.3 is within the scope of this Agreement and is referred to hereafter as "**Covered Work.**"

2.4 Exclusions: The following shall be excluded from the scope of this Agreement:

- (1) The Agreement is not intended to, and shall not, affect or govern the award of and/or construction under public works contracts by the Agency that are not included in the Project.
- (2) The Agreement is not intended to, and shall not, affect the operation or maintenance of any other public facilities within the Agency not part of the Construction Contract.
- (3) The Agreement shall not apply to a Contractor(s)/Employer(s)' non-construction craft employees, including but not limited to executives, managerial employees, engineering employees, superintendents, and supervisors above the level of General Foreman (except those covered by existing Master Agreements), staff engineers or other professional engineers, administrative and management personnel.
- (4) This Agreement shall not be construed to prohibit or restrict the Agency or its employees and consultants from performing non-Project work on or around the Project Site or from entering the Project Site for any purposes deemed necessary or appropriate by the Agency.

- (5) This Agreement shall not apply to any work performed on or near or leading to the site of work covered by this Agreement that is undertaken by state, county, city or other governmental bodies (other than the Agency) or their contractors; or by public or private utilities or their contractors.
- (6) This Agreement shall not apply to off-site maintenance of leased equipment and on-site supervision of such work. This Agreement shall not apply to persons engaged in on-site equipment warranty work unless covered by a Schedule A.
- (7) This Agreement shall not apply to quality assurance work performed by or on behalf of the Agency unless covered by a Schedule A or by a prevailing wage determination. In addition, this Agreement shall not apply to quality assurance work that is required by DSOD to be performed by persons not covered by this Agreement.
- (8) This Agreement shall not apply to training of Agency personnel after Completion of the Project. However, in the event such training is covered by a Schedule A or prevailing wage determination and performed within the scope of the Prime Contractor/Employer's Construction Contract (including, if performed by a third-party commissioning agent) , it shall be covered by this Agreement unless Section 2.4(7) applies.
- (9) Once a Construction Contract is completed, it is no longer covered by this Agreement except when a Contractor/Employer is directed to engage in repairs, warranty work or modifications required under the Construction Contract with the Agency.
- (10) This Agreement shall not apply to non-construction support services contracted by the Agency or any Contractor/Employer in connection with the Project. For purposes of clarification, the parties agree that "construction trucking" is not a non-construction support service
- (11) The Agency shall not be required to comply with this Agreement for any work performed with its own forces as permitted by the Public Contract Code.
- (12) Nothing in this Agreement shall limit the Agency's right to combine, consolidate, or cancel contracts for Project construction. However, should the Agency remove any work and/or contract from the Project and thereafter authorize that work and/or contract to be commenced, then such work and/or contract shall be performed under the terms of this Agreement.
- (13) This Agreement shall not apply to any off-site environmental mitigation work not performed under the Prime Contractor/Employer's Construction Contract.

2.5 Notwithstanding the foregoing, it is understood and agreed that Building/Construction Inspector and Field Soils and Material Testers (Inspectors) are a covered craft under this Agreement. This inclusion applies to the scope of work defined in the State of California Prevailing Wage Determination for that Craft. Every Inspector performing under these classifications pursuant to a professional services agreement or a Construction Contract shall be bound to all applicable requirements of this Agreement. Covered work as defined by this Agreement shall be performed pursuant to the terms and conditions of this Agreement regardless of the manner in which the work was awarded.

2.6 Award of Contracts: It is understood and agreed that the Agency has the absolute right to select any qualified bidder for the award of any Construction Contract consistent with applicable law. The bidder need only be willing, ready and able to execute and comply with this Agreement. It is further agreed that this Agreement shall be included in all invitations to bid or solicitations for proposals from contractors or subcontractors for work on the Project that are issued on and after the effective date of this Agreement. A copy of all invitations to bid shall be provided at time of issuance to the Councils.

ARTICLE III EFFECT OF AGREEMENT

3.1 By executing this Agreement, the Councils, Unions and the Agency agree to be bound by each and all of the provisions of the Agreement. The Councils, Unions and Agency acknowledge and agree that as the Project is not yet fully designed, this Agreement is based on currently known information, and in the event unknown issues or conditions are revealed, the parties agree to cooperate with each another to address those issues within this Agreement.

3.2 By accepting the award of work under a Construction Contract for the Project, the Contractor/Employer agrees to be bound by each and every provision of the Agreement and agrees that it will evidence its acceptance prior to the commencement of work by executing the **Agreement to be Bound** in the form attached hereto as **Addendum A**.

3.3 At the time that any Contractor/Employer enters into a subcontract with any subcontractor providing for performance under a Construction Contract, the Contractor/Employer shall provide a copy of this Agreement, as it may from time to time be modified, to said subcontractor and shall require the subcontractor as a condition of accepting an award of a construction subcontract to agree in writing, by executing the **Agreement to be Bound**, to be bound by each and every provision of this Agreement prior to the commencement of work. The obligations of a contractor may not be evaded by subcontracting.

3.4 This Agreement shall only be binding on the signatory parties hereto, and their successors and assigns, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party, or any public entity other than the Agency. Each Contractor/Employer shall alone be liable and responsible for its own individual acts and conduct and for any breach or alleged breach of this Agreement. Any dispute between the Union(s) and the Contractor/Employer respecting compliance with the terms of the Agreement, shall not affect the rights, liabilities, obligations and duties between the signatory Union(s) and other Contractor(s)/Employer(s) party to this Agreement.

3.5 It is mutually agreed by the parties that any liability by a signatory Union to this Agreement shall be several and not joint. Any alleged breach of this Agreement by a signatory Union shall not affect the rights, liabilities, obligations and duties between the signatory Contractor(s)/Employer(s) and the other Union(s) party to this Agreement.

3.6 The provisions of this Agreement, including the Schedule A agreements, shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement. Where a subject covered by the provisions of this Agreement is also covered by a 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.

ARTICLE IV WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS

4.1 The Councils, Unions, Agency and Contractor(s)/Employer(s) agree that for the duration of the Project:

- (1) There shall be no strikes, sympathy strikes, work stoppages, “work to rule,” sickouts, boycotts, picketing of any type (including area standard wage or informational picketing), hand billing, bannering or otherwise advising the public that a labor dispute exists, or slowdowns, by the Unions or employees employed on the Project, of any kind, for any reason, at the job site of the Project or at any other facility of the Agency because of a dispute on the Project. Disputes arising between the Unions and Contractor(s)/Employer(s) on other Agency projects are not governed by the terms of the Agreement or this Article.
- (2) No employee shall engage in activities that violate this Article. Any employee who violates this article shall be subject to disciplinary action, including up to discharge, and, if justifiably discharged for the above reasons, shall not be eligible for rehire on the Project for a period of not less than ninety (90) days.
- (3) There shall be no lockout of any kind by a Contractor/Employer of workers employed on the Project.
- (4) If a Master Agreement expires before the Contractor/Employer completes the performance of work under the Construction Contract and the Union or Contractor/Employer gives notice of demands for a new or modified Master Agreement, the Union agrees that it will not strike on work covered under this Agreement and the Union and the Contractor/Employer agree that the expired Master Agreement shall continue in full force and effect for work covered under this Agreement until a new or modified Master Agreement is reached. If the new or modified Master Agreement provides that any terms of the Master Agreement shall be retroactive, the Contractor/Employer agrees to comply with any retroactive terms of the new or modified Master Agreement which are applicable to employees who were employed on the Project during the interim, with

retroactive payment due within seven (7) days of the effective date of the modified Master Agreement.

- (5) In the case of nonpayment of wages or benefits (including without limitation applicable trust fund contributions) on the Project, the Union shall give the Agency and the Contractor/Employer(s) three (3) business days' notice when nonpayment of trust fund contributions has occurred and one (1) business day's notice when nonpayment of wages has occurred or when paychecks being tendered to a financial institution normally recognized to honor such paychecks will not honor such paycheck as a result of insufficient funds, of the intent to withhold labor from the Contractor/Employer(s)' or their subcontractor's workforce, during which time the Contractor/Employer shall have the opportunity to correct the default. In this instance, a Union's withholding of labor (but not picketing) from an Contractor/Employer who has failed to pay its fringe benefit contributions or failed to meet its weekly payroll shall not be considered a violation of this Article. Also in such event, the Prime Contractor/Employer shall have the right to replace such Contractor/Employer(s) or subcontractor with any other Contractor/Employer or subcontractor who executes the **Agreement to be Bound**.

4.2 Notification: If the Agency or Prime Contractor/Employer contends that any Union has violated this Article, it will notify in writing the Senior Executive of the applicable Council and the Senior Executive of the affected Union, setting forth the facts alleged to violate this Article, prior to instituting the expedited arbitration procedure set forth below. The Senior Executive of the Council will immediately use his best efforts to cause the cessation of any violation of this Article. The leadership of the Union will immediately instruct, order and use their best efforts to cause the cessation of any violation of the relevant article. A Union complying with this obligation shall not be responsible for unauthorized acts of employees it represents.

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

- (1) A party invoking this procedure shall notify Robert Hirsch as the permanent arbitrator, or Barry Winograd as the alternate arbitrator under this procedure. In the event that the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, then a selection shall be made from the list of arbitrators in Section 12.2. Notice to the arbitrator shall be by the most expeditious means available, with notices by facsimile, email or telephone to the Agency and the party alleged to be in violation and to the Councils and involved local Union if a Union is alleged to be in violation.
- (2) Upon receipt of said notice, the Agency will contact the designated arbitrator or his alternate who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

- (3) The arbitrator shall notify the parties by facsimile, email or telephone of the place and time for the hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party to attend said hearings shall not delay the hearing of evidence or the issuance of any award by the arbitrator.
- (4) The sole issue at the hearing shall be whether or not a violation of Section 4.1 of the Agreement has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with or enforcement of the award. The arbitrator may order cessation of the violation of this Article and other appropriate relief and such award shall be served on all parties by hand or registered mail upon issuance. Should a party found in violation of this Article fail to comply with an Arbitrator's award to cease the violation, the party in violation shall pay to the affected party as liquidated damages the sum of ten thousand dollars (\$10,000.00) per shift for which it failed to comply, or portion thereof, until such violation is ceased. The Arbitrator shall retain jurisdiction to resolve any disputes regarding the liquidated damages claimed under this section.
- (5) Such award may be enforced by any Court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the arbitrator's award as issued under Section 4.3(4) of this Article, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order or enforcement. The Court's order or orders enforcing the arbitrator's award shall be served on all parties by hand or delivered by certified mail.
- (6) Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure, or which interfere with compliance, are waived by the parties.
- (7) The fees and expenses of the arbitrator shall be divided equally between the party instituting the arbitration proceedings provided in this Article and the party alleged to be in breach of its obligation under this Article.

4.4 Should either the permanent or the alternate arbitrator listed above in subsection (1) no longer work as a labor arbitrator, the Agency and the Council shall mutually agree to a replacement. Additional arbitrators may be added to those identified in Section 4.3(1) by mutual agreement of the Councils and the Prime Contractor/Employer.

ARTICLE V
PRE-CONSTRUCTION CONFERENCE; JOINT LABOR/MANAGEMENT
ADMINISTRATIVE COMMITTEE

5.1. Timing: The Program Manager shall convene and conduct a pre-construction conference with representatives of all involved Contractors/Employers, who shall be prepared to announce craft assignments and to discuss in detail the scope of work and the other issues set forth below, and the Unions, at a location mutually agreeable to the Councils at least twenty-one (21) calendar days prior to:

- (1) The commencement of any Project Work, and
- (2) The commencement of Project Work on each subsequently awarded Construction Contract.

5.2 The conference shall be attended by a representative of each participating Contractor and each affected Union and the Councils and Agency may attend at their discretion. Additional job conferences may be called by the Agency, the Prime Contractor/Employer or the Councils as needed, but not more than once per quarter, or by mutual agreement. Job conferences shall not delay efficiency of the Project.

5.3 The pre-construction conference shall include but not be limited to the following subjects:

- (1) A listing of each Contractor's scope of work;
- (2) The craft assignments;
- (3) The estimated number of workers required to perform the work;
- (4) Transportation arrangements;
- (5) The estimated start and completion dates of the work;
- (6) Discussion of pre-fabricated materials; and
- (7) Discussion of manufacturer warranty issues as set forth in Section 2.3.3.

5.4 Labor/Management Administrative Committee: In order to ensure the terms of this Agreement are being fulfilled and concerns pertaining to the Agency, the Unions and the Contractors are addressed, a Joint Labor/Management Administrative Committee will be formed consisting of two (2) representatives selected by the Agency, one (1) of which shall be the Prime Contractor/Employer, and a representative of each Council. Each representative shall designate an alternate who shall serve in his or her absence for any purpose contemplated by this Agreement.

5.4.1 The Committee shall meet as required, but not less than once each calendar quarter. The purpose of these meetings is to review the implementation of the Agreement and

the progress of the Project. It is intended that the Committee serve as a forum to promote harmonious labor/management relations, ensure adequate communications between management and labor, advance the efficiency of the Project, and assist the Unions and the Contractor(s)/Employer(s) to complete the Project in an economic and efficient manner without interruption, delays or work stoppages. Committee meetings will also include discussion of the scheduling and productivity on the Project. The Committee shall have no authority to review grievances or disputes involving this Agreement.

5.4.2 Other Agency or Council representatives may attend at the request of the Agency or Council, respectively. The Committee may form subcommittees to consider and advise the full Committee on issues affecting the Project, including but not limited to, compliance with apprenticeship provisions of this Agreement.

5.5 The Agency, the Prime Contractor/Employer and the Councils agree to work together toward the efficient implementation of this Agreement.

ARTICLE VI NO DISCRIMINATION

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

ARTICLE VII UNION SECURITY

7.1 The Contractor(s)/Employer(s) recognize the Union(s) as the sole bargaining representative of all craft employees working within the scope of this Agreement.

7.2 All construction persons who are employed by the Contractor(s) shall, as a condition of employment, on or before the eighth (8th) day of consecutive or cumulative employment on the Project, be responsible for the payment of the applicable monthly working dues and any associated fees uniformly required for union membership in the applicable local Union signatory to this Agreement and shall stay current with such working dues and fees for the duration of work on the Project.

7.3 Authorized representatives of the Unions shall have access to the Projects whenever work covered by this Agreement is being, has been, or will be performed on the Project, provided they comply with all applicable site safety statutes and regulations.

ARTICLE VIII REFERRAL

8.1 Contractor(s)/Employer(s) performing Covered Work on the Project described in the Agreement shall, in filling craft job requirements, utilize and be bound by the registration facilities and referral systems established or authorized by the Unions signatory hereto. The Contractor/Employer(s) shall have the right to reject any applicant referred by the Union(s), in

accordance with the applicable Master Agreement, provided that the Contractor complies with Article VI (No-discrimination).

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

8.3 In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor/Employer for employees within a forty-eight (48) hour period (Saturdays, Sundays and Holidays excluded) after such requisition is made by the Contractor/Employer, the Contractor/Employer shall be free to obtain workers from any source. A Contractor/Employer who hires any worker(s) to perform Covered Work on the Project pursuant to this Section shall immediately provide the appropriate Union with the name and address of such employee(s) and shall immediately refer such employee(s) to the appropriate Union to satisfy the requirements of Article VII of this Agreement.

ARTICLE IX WAGES & BENEFITS

9.1 All Contractor(s)/Employer(s) agree to pay contributions to the vacation, pension and other form of deferred compensation plan, apprenticeship, worker protection and assistance, and health benefit funds established by the applicable Master Agreement for each hour worked on the Project in the amounts designated in the Master Agreements of the appropriate local Unions.

9.2 By signing this Agreement, the Contractor(s)/Employer(s) adopt and agree to be bound by the written terms of the legally established Trust Agreements, as described in Section 9.1, and which may from time to time be amended, specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds. The Contractors authorize the parties to such local trust agreements to appoint trustees and successor trustees to administer the trust funds and hereby ratify and accept the trustees so appointed as if made by the Contractor(s). The Contractor(s) agrees to execute a Subscription Agreement(s) for Trust Funds when such Trust Fund(s) requires such document(s).

9.3 Wages, Hours, Terms and Conditions of Employment: The wages, hours and other terms and conditions of employment on the Project shall be governed by the Master Agreement of the respective crafts, to the extent such Master Agreement is not inconsistent with this Agreement. Where a subject is covered by the Master Agreement and not covered by this Agreement, the Master Agreement will prevail. When a subject is covered by both the Master Agreement and this Agreement, to the extent there is any inconsistency, this Agreement will prevail.

9.4 Holidays: Holidays shall be in compliance with the applicable Schedule A.

**ARTICLE X
EMPLOYEE GRIEVANCE PROCEDURE**

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

**ARTICLE XI
COMPLIANCE**

11.1 It shall be the responsibility of the Contractors/Employers and Unions to investigate and monitor compliance with the provisions of the Agreement contained in Article IX. Nothing in this agreement shall be construed to interfere with or supersede the usual and customary legal remedies available to the Unions and/or employee benefit Trust Funds to collect delinquent Trust Fund contributions from Employers on the Project. The Agency shall monitor and enforce compliance with the prevailing wage requirements of the state, to the extent required by law, and Contractors/Employers' compliance with this Agreement.

**ARTICLE XII
GRIEVANCE ARBITRATION PROCEDURE**

12.1 Project Labor Disputes: Any question arising out of and during the term of this Agreement involving its interpretation and application (other than disputes under Article IV and jurisdictional disputes) shall be considered a grievance, and the parties agree to resolve disputes in accordance with the grievance arbitration provisions set forth in this Article.

12.2 All Project labor disputes involving the application or interpretation of a Master Agreement to which a signatory Contractor/Employer and a signatory Union are parties shall be resolved pursuant to the resolution procedures of the Master Agreement. All disputes relating to the interpretation or application of this Agreement shall be subject to resolution by the grievance arbitration procedures set forth herein.

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

12.4 Grievances shall be settled according to the following procedures:

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

Step 2: In the event that the representatives are unable to resolve the dispute within the five (5) business days after the meeting to resolve the dispute in Step 1, the Union and the Contractor involved shall meet within seven (7) working days of the referral of the dispute to this second step to arrive at a satisfactory settlement thereof. The Union(s) shall notify its international representative(s), which shall advise if it intends on participating in the Step 2 meeting. Meeting minutes shall be kept by the Contractor. The Program Manager and the Councils shall have the right to participate in any efforts to resolve the dispute at Step 2.

Step 3: If the grievance is not settled in Step 2, either party may request the dispute be submitted to arbitration within five (5) business days of the Step 2 meeting. The parties agree that if the permanent or alternate arbitrator is not available, the arbitrator shall be selected by the alternate striking method from the list of three (3) below. The order of striking names from the list of arbitrators shall be determined by a coin toss, the winner of which shall decide whether they wish to strike first or second.

1. William Riker
2. Carol Vendrillo
3. William Engler

12.5 The decision of the Arbitrator shall be final and binding on all parties. The Arbitrator shall have the authority to make decisions only on issues presented to him or her, and shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement. The expense of the Arbitrator shall be borne equally by both parties to the grievance. Other costs may be split by mutual agreement. The Arbitrator shall arrange for a hearing on the earliest available date from the date of his/her selection. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the arbitrator.

12.6 Consistent with the applicable Schedule A Agreement, the Arbitrator shall have the authority to decide whether, and on what date, an employee who is terminated for a knowing violation of an applicable drug policy or applicable safety or security policy, as identified in Section 15.2 or Section 17.2, shall be allowed to return to work on the Project. The Agency and Council shall have the right to provide input to the Arbitrator on this issue.

12.7 The Councils, Prime Contractor/Employer and Agency shall be notified of all actions at Steps 2 and 3 and shall, upon their request, be permitted to attend all proceedings at these steps.

12.8 The time limits specified in any step of the Grievance Procedure may be extended by mutual agreement of the parties. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without an agreed upon extension of time, shall be deemed a waiver of such grievance without prejudice, or without precedent to the processing of and/or resolution of like or similar grievances or disputes.

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

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

12.11 Should an arbitrator listed above no longer work as a labor arbitrator, the Agency and the Councils shall mutually agree to a replacement. In addition, the Councils and the Prime Contractor/Employer agree to meet and confer and choose two (2) additional arbitrators to the list of arbitrators in Step 3, above.

ARTICLE XIII WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

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

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

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

13.4 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Employer’s assignment shall be adhered to until the dispute is resolved. Individual employees violating this section shall be subject to immediate discharge. Each Employer will conduct a pre-job conference with the Council prior to commencing work. The Project Manager and Agency will be advised in advance of all such conferences. The Prime Contractor/Employer shall attend all such meetings and the Agency may participate if it wishes. Pre-job conferences for different Employers may be held together.

ARTICLE XIV APPRENTICES

14.1 Recognizing the need to develop adequate numbers of competent workers in the construction industry, the Contractor(s)/Employer(s) shall employ apprentices of a California State-approved Joint Apprenticeship Program in the respective crafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured.

14.2 The apprentice ratios will be, at a minimum, those required by the applicable provisions of the California Labor Code and Prevailing Wage Rate Determination.

14.3 Consistent with the Master Agreements, there shall be no restrictions on the utilization of apprentices in performing the work of their craft provided they are properly supervised.

ARTICLE XV MANAGEMENT RIGHTS

15.1 Consistent with the applicable Master Agreement:

15.1.1 The Contractor/Employer(s) shall retain full and exclusive authority for the management of their operations, including but not limited to hiring, promotion, transfer, lay-off or discharge for just cause, and the right to direct their work force in their sole discretion.

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

15.1.3 No rules, customs or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees, except that safety regulations and safety provisions in the Master Agreements, such as lawful manning provisions, shall be recognized.

15.2 The Contractor(s)/Employer(s) may require all employees to observe Project Security and Safety Regulations. These include, without limitation, the requirements of the Federal Energy Regulatory Commission ("FERC") and the Security Plan for Nacimiento Dam ("NACI") described in Addendum B, and other safety and security requirements of NACI, FERC, DSOD, the Department of Homeland Security, OSHA, and any other applicable governmental agency, and as required by the insurer for the Project. These Project Regulations shall be reviewed and mutually agreed upon at the Pre-Construction Conference, supplied to all employees at time of hire, and posted conspicuously on the jobsite.

**ARTICLE XVI
HELMETS TO HARDHATS**

16.1 The Contractor(s)/Employer(s) and the Unions recognize a desire to facilitate the entry into the building and construction trades of U.S. armed forces veterans and members of the National Guard and Reserves who are interested in careers in the building and construction industry. The Contractor(s)/Employer(s) and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter “**Center**”) and the Center’s “**Helmets to Hardhats**” program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

16.2 The Unions and Contractor(s)/Employer(s) agree to coordinate with the Center to participate in an integrated database of veterans and members of the National Guard and Reserves interested in working on the Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans and members of the National Guard and Reserves for bona fide, provable past experience.

**ARTICLE XVII
DRUG & ALCOHOL TESTING; PROJECT SITE SECURITY**

17.1 The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms at any time during the work day is prohibited.

17.2 Drug and alcohol testing shall be conducted in accordance with the Substance Abuse Prevention Policies authorized by each applicable Schedule A and in accordance with all regulations affecting the Scope of Work and the location, including but not limited to regulations promulgated by FERC and NACI or otherwise required by law.

17.3 All craft employees working on the Project must be subject to a reasonable substance abuse prevention policy that includes drug and alcohol testing. If a Schedule A agreement does not contain a reasonable drug and alcohol testing procedure, the procedures attached hereto as Addendum C or a sister Schedule A drug and alcohol testing procedure will apply. To be reasonable, the drug and alcohol testing procedure must comply with the insurance program governing the Project. If the Schedule A procedure is not in compliance, the parties agree to meet and confer for a program that is compliant. For testing administered under this Agreement, Contractors shall compensate employees for their time and cover costs of testing and any related expenses.

**ARTICLE XVIII
SAVINGS CLAUSE**

18.1 It is not the intention of either the Contractor(s)/Employer(s), the Council(s) or the Union(s) to violate any laws governing the subject matter of this Agreement. The parties agree that in the event any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void as being in contravention of any applicable law, by a court of

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

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

18.3 The parties acknowledge and agree that this Agreement satisfies the project labor agreement requirements of AB 155 (Water Code Section 52-11.1(d)) and AB 1585, as applicable.

**ARTICLE XIX
TERM**

19.1 This Agreement shall be included in the Bid Documents, Requests for Proposals or other equivalent project solicitations, which shall indicate that entering into this Agreement is a condition of the award of Construction Contracts for the Project.

19.2 This Agreement shall become effective upon execution by the Agency and the Councils, and satisfaction of the conditions in Section 19.3.

19.3 Notwithstanding any other provision of this Agreement, this Agreement will be effective upon award of the Design Build Contract if and only if: (i) the Project is awarded pursuant to the design/build authority set forth in AB155; (ii) the Agency receives at least \$25 million exclusive of IRWMP funding (or other adequate amount, as determined by the Agency Board of Supervisors) pursuant to AB 1585; and (iii) the Project obtains a favorable Prop 218 vote from the ratepayers (or other financing deemed adequate by the Board of Supervisors).

MONTEREY COUNTY WATER RESOURCES AGENCY

By _____ Date _____

MONTEREY/SANTA CRUZ COUNTIES BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO (COUNCIL)

By _____ Date _____

TRI-COUNTIES BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO (COUNCIL)

By _____ Date _____

[SIGNATURE BLOCKS FOR LOCAL UNIONS]

Addendum A

AGREEMENT TO BE BOUND

[Date]

[Addressee]

[Address]

Re: Project Labor Agreement for the Monterey County Water Resources Agency Interlake Tunnel & Spillway Modification Projects – Agreement To Be Bound

Dear Mr./Ms. _____:

The undersigned confirms that it agrees to be a party to and bound by the Interlake Tunnel & Spillway Modification Projects Labor Agreement as such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms.

By executing this **Agreement To Be Bound**, the undersigned party subscribes to, adopts and agrees to be bound by the written terms of the legally established trust agreements as set forth in Section 9.2, as they may from time to time be amended, specifying the detailed basis upon which contributions are to be made into, and benefits made out of, such trust funds, and ratifies and accepts the trustees appointed by the parties to such trust funds, and agrees to execute a separate Subscription Agreement when such Trust Fund(s) require(s) such document(s).

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

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

CONTRACTOR/SUBCONTRACTOR: _____

Contractor State License Number or Motor Carrier (CA) Permit Number: _____

Name of Authorized Person (print): _____

Signature of Authorized Person: _____

Title of Authorized Person: _____

Telephone # of Authorized Person: _____

Address of Authorized Person: _____

State Public Works Registration #: _____

Addendum B

Security Plan for Nacimiento Dam

- Perform a criminal background check on all security personnel, and all employees whose responsibilities would require access to the dam site or access to sensitive documents such as the Security Plan, EAP, or engineering reports and drawings. A rigorous background check should be performed prior to hiring new employees, or reassigning or promoting a current employee, to a sensitive position within MCWRA.
- Keep personnel informed of the current threat alert level.
- Periodically (at least every 6 months) remind employees to report suspicious activity to MCWRA authorities or security personnel, and to appropriate law enforcement. Suspicious activity might include any of the following:
 - Suspicious personnel observing, photographing, or asking questions about dam operations or security measures.
 - Unidentified vehicles parked on or near the dam site, or operated in a suspicious manner on or near the dam site.
 - Individuals where they should not be, especially at odd hours (early morning, evening, night)
 - Suspicious parcels or packages.
 - Indications of tampering with locks, lighting, facilities, wires, etc.

FERC Security Program

- Perform background checks (level of detail determined by the licensee) on any employees who could affect hydropower operations.
 - Keep personnel informed of alert levels and, at regular intervals, remind all personnel to report the following to appropriate law enforcement or security personnel.
 - A. Suspicious personnel observing, photographing, or asking questions about dam operations or security measures.
 - B. Unidentified vehicles parked or operated in a suspicious manner on, or in the vicinity, of Project facilities.
 - C. Suspicious parcels or packages.
 - D. Any other activity considered suspicious.

Addendum C