

**PROJECT LABOR AGREEMENT  
COVERING SPECIFIED CONSTRUCTION  
WORK UNDER THE CAPITAL IMPROVEMENT  
PROGRAM FOR FISCAL YEARS 2009-2014**

**ON BEHALF OF THE NEW YORK CITY SCHOOL  
CONSTRUCTION AUTHORITY**

TABLE OF CONTENTS

ARTICLE 1 - PREAMBLE ..... 1

    SECTION 1. PARTIES TO THE AGREEMENT ..... 3

ARTICLE 2 - GENERAL CONDITIONS ..... 3

    SECTION 1. DEFINITIONS ..... 3

    SECTION 2. CONDITIONS FOR AGREEMENT TO BECOME EFFECTIVE ..... 4

    SECTION 3. ENTITIES BOUND & ADMINISTRATION OF AGREEMENT ..... 4

    SECTION 4. SUPREMACY CLAUSE ..... 4

    SECTION 5. LIABILITY ..... 5

    SECTION 6. THE AUTHORITY ..... 5

    SECTION 7. AVAILABILITY AND APPLICABILITY ..... 6

ARTICLE 3-SCOPE OF THE AGREEMENT ..... 6

    SECTION 1. WORKED COVERED ..... 6

    SECTION 2. TIME LIMITATIONS ..... 8

    SECTION 3. EXCLUDED EMPLOYEES ..... 8

    SECTION 4. NON-APPLICATION TO CERTAIN ENTITIES .....10

ARTICLE 4- UNION RECOGNITION AND EMPLOYMENT .....11

    SECTION 1. PRE-HIRE RECOGNITION .....11

    SECTION 2. UNION REFERRAL .....11

    SECTION 3. NON-DISCRIMINATION IN REFERRALS .....12

    SECTION 4. MINORITY AND FEMALE REFERRALS .....13

    SECTION 5. CROSS AND QUALIFIED REFERRALS .....13

    SECTION 6. UNION DUES .....13

SECTION 7. CRAFT FOREPERSONS AND GENERAL FOREPERSONS.....14

ARTICLE 5- UNION REPRESENTATION .....14

    SECTION 1. LOCAL UNION REPRESENTATIVE.....14

    SECTION 2. STEWARDS .....14

    SECTION 3. LAYOFF OF A STEWARD .....15

ARTICLE 6- MANAGEMENT’S RIGHTS .....15

    SECTION 1. RESERVATION OF RIGHTS .....15

    SECTION 2. MATERIALS, METHODS & EQUIPMENT .....16

ARTICLE 7- WORK STOPPAGES AND LOCKOUTS .....17

    SECTION 1. NO STRIKES-NO LOCK OUT.....17

    SECTION 2. DISCHARGE FOR VIOLATION .....17

    SECTION 3. NOTIFICATION .....17

    SECTION 4. EXPEDITED ARBITRATION.....18

    SECTION 5. ARBITRATION OF DISCHARGES FOR VIOLATION .....20

ARTICLE 8 - LABOR MANAGEMENT COMMITTEE .....20

    SECTION 1. SUBJECTS.....20

    SECTION 2. COMPOSITION .....21

ARTICLE 9- GRIEVANCE & ARBITRATION PROCEDURE.....21

    SECTION 1. PROCEDURE FOR RESOLUTION OF GRIEVANCES .....21

    SECTION 2. LIMITATION AS TO RETROACTIVITY .....23

    SECTION 3. PARTICIPATION BY CONSTRUCTION PROJECT MANAGER ...23

ARTICLE 10 - JURISDICTIONAL DISPUTES .....24

    SECTION 1. NO DISRUPTIONS .....24

SECTION 2. ASSIGNMENT .....24

SECTION 3. NO INTERFERENCE WITH WORK .....24

ARTICLE 11 - WAGES AND BENEFITS .....25

SECTION 1. CLASSIFICATION AND BASE HOURLY RATE .....25

SECTION 2. EMPLOYEE BENEFITS.....25

ARTICLE 12- HOURS OF WORK, PREMIUM PAYMENTS,.....28

SHIFTS AND HOLIDAYS.....28

SECTION 1. WORK WEEK AND WORK DAY .....28

SECTION 2. OVERTIME .....29

SECTION 3. SHIFTS.....30

SECTION 4. HOLIDAYS .....32

SECTION 5. REPORTING PAY .....32

SECTION 6. PAYMENT OF WAGES .....33

SECTION 7. EMERGENCY WORK SUSPENSION.....34

SECTION 8. INJURY/DISABILITY .....34

SECTION 9. TIME KEEPING.....34

SECTION 10. MEAL PERIOD .....34

SECTION 11. BREAK PERIODS .....35

ARTICLE 13 - APPRENTICES.....35

SECTION 1. RATIOS .....35

ARTICLE 14-SAFETY PROTECTION OF PERSON AND PROPERTY .....36

SECTION 1. SAFETY REQUIREMENTS .....36

SECTION 2. CONTRACTOR RULES .....36

SECTION 3. INSPECTIONS .....36

ARTICLE 15 - NO DISCRIMINATION .....36

    SECTION 1. COOPERATIVE EFFORTS .....36

    SECTION 2. LANGUAGE OF AGREEMENT.....37

ARTICLE 16- GENERAL TERMS .....37

    SECTION 1. PROJECT RULES .....37

    SECTION 2. TOOLS OF THE TRADE .....37

    SECTION 3. SUPERVISION .....38

    SECTION 4. TRAVEL ALLOWANCES .....38

    SECTION 5. FULL WORK DAY .....38

    SECTION 6. COOPERATION AND WAIVER .....38

ARTICLE 17. SAVINGS AND SEPARABILITY .....39

    SECTION 1. THIS AGREEMENT .....39

    SECTION 2. THE BID SPECIFICATIONS .....39

    SECTION 3. NON-LIABILITY.....40

    SECTION 4. NON-WAIVER .....40

ARTICLE 18- FUTURE CHANGES IN SCHEDULE A AREA CONTRACTS .....40

    SECTION 1. CHANGES TO AREA CONTRACTS .....40

    SECTION 2. LABOR DISPUTES DURING AREA CONTRACT NEGOTIATIONS  
.....41

ARTICLE 19 - WORKERS' COMPENSATION ADR .....41

    SECTION 1.....41

ARTICLE 20 – SUBCONTRACTING .....42

ARTICLE 21 - HELMETS TO HARDHATS.....42

SECTION 1.....42

SECTION 2.....43

**PROJECT LABOR AGREEMENT COVERING  
SPECIFIED CONSTRUCTION ON BEHALF OF THE  
NEW YORK CITY SCHOOL CONSTRUCTION AUTHORITY**

**ARTICLE 1 - PREAMBLE**

WHEREAS, the New York City School Construction Authority ('Authority), acting as its own Construction Manager, desires to provide for the cost efficient, safe, quality, and timely completion of certain rehabilitation and renovation work performed under the Authority's Capital Improvement Program ("CIP") and Restructuring Program ("Program Work," as defined in Article 3) for Fiscal Years 2010 to 2014 in a manner designed to afford the lowest costs to the Authority, and the Public it represents, and the advancement of permissible statutory objectives;

WHEREAS, this Project Labor Agreement will foster the achievement of these goals, inter alia, by:

(1) providing a mechanism for responding to the unique construction needs associated with this Program Work and achieving the most cost effective means of construction, including direct labor cost savings, the Building and Construction Trades Council of Greater New York and Vicinity, on its behalf and on behalf of its affiliated Local Unions and their members, waiving various shift and other hourly premiums and other work and pay practices which would otherwise apply to Program Work.

(2) expediting the construction process and otherwise minimizing the disruption to the educational environment of New York City public schools;

(3) promoting the statutory objectives stated in the Authority's enabling

legislation, Public Authorities Law § 1725 et seq., in a non-discriminatory manner designed to open construction opportunities to all qualified bidders;

(4) avoiding the costly delays of potential strikes, slowdowns, walkouts, picketing and other disruptions arising from work disputes and promoting labor harmony and peace for the duration of the Program Work;

(5) standardizing the terms and conditions governing the employment of labor on the Program Work

(6) permitting wide flexibility in work scheduling and shift hours and times to allow maximum work to be done during off-school hours yet at affordable pay rates;

(7) permitting adjustments to work rules and staffing requirements from those which otherwise might obtain;

(8) providing comprehensive and standardized mechanisms for the settlement of work disputes, including those relating to jurisdiction;

(9) furthering public policy objectives as to improved employment opportunities for minorities, women and the economically disadvantaged;

(10) ensuring a reliable source of skilled and experienced labor;

and, WHEREAS, the Building and Construction Trades Council of Greater New York and Vicinity, its affiliated Local Unions and their members, desire to assist the Authority in improving public education in the City of New York, as well as to provide for stability, security and work opportunities which are afforded by a Project Labor Agreement;

and, WHEREAS, the Parties desire to maximize Program Work safety

conditions for both workers and users of New York City Schools under construction;

NOW, THEREFORE, the Parties enter into this Agreement:

## SECTION 1. PARTIES TO THE AGREEMENT

This is a Project Labor Agreement ("Agreement") for rehabilitation and renovation work to be performed under the defined CIP and Restructuring Program entered into by the New York City School Construction Authority and the Building and Construction Trades Council of Greater New York and Vicinity ("Council") and its signatory affiliated Local Unions and their members) ("Local Unions").

## ARTICLE 2 - GENERAL CONDITIONS

### SECTION 1. DEFINITIONS

Throughout this Agreement, the various Union parties including the Building and Construction Trades Council of Greater New York and Vicinity and its affiliated Local Unions, are referred to singularly and collectively as "Union(s)"; where specific reference is made to "Local Unions," that phrase is sometimes used; the term "Contractor(s)" shall include any Construction Project Manager who may serve as a successor to the Authority in that role, to General Contractors and to all other contractors, and subcontractors of whatever tier, engaged in Program Work within the scope of this Agreement as defined in Article 3; the New York City School Construction Authority is referred to as the "Authority," except that when the Authority is referred to in its capacity as Construction Project Manager, it (or any successor to the Authority acting in that capacity) is referred to as "Construction Project Manager;" the Building and Construction Trades Council of Greater New York and Vicinity is referred to as the "Council"; and the work covered by this Agreement (as defined in Article 3) is referred to

as "Program Work".

## **SECTION 2. CONDITIONS FOR AGREEMENT TO BECOME EFFECTIVE**

This Agreement shall not become effective unless each of the following conditions are met: (1) the Agreement is signed by the Council, on behalf of itself, its affiliated Local Unions and their members; and (2) the Agreement is approved and signed by the President and Chief Executive Officer of the Authority.

## **SECTION 3. ENTITIES BOUND & ADMINISTRATION OF AGREEMENT**

This Agreement shall be binding on all Unions and their affiliates, the Construction Project Manager (in its capacity as such) and all Contractors performing Program Work, as defined in Article 3. The Contractors shall include in any subcontract that they let for performance during the term of this Agreement a requirement that their subcontractors, of whatever tier, become signatory and bound by this Agreement with respect to that subcontracted work falling within the scope of Article 3 and all Contractors and subcontractors performing Program Work shall be required to sign an Affidavit of Project Labor Agreement in the form annexed hereto as Exhibit "A". This Agreement shall be administered by the Construction Project Manager or such other designee as may be named by the Authority, on behalf of all Contractors.

## **SECTION 4. SUPREMACY CLAUSE**

This Agreement, together with the local Collective Bargaining Agreements appended hereto as Schedule A, represents the complete understanding of all signatories and supersedes any national agreement, local agreement or other collective bargaining agreement of any type which would otherwise apply to this Program Work, in whole or in part. Where a subject covered by the provisions, of this Agreement is also

covered by a Schedule A, the provisions of this Agreement shall prevail. It is further understood that no Contractor shall be required to sign any other agreement as a condition of performing Program Work. No practice, understanding or agreement between a Contractor and a Local Union which is not set forth in this Agreement shall be binding on this Program Work unless endorsed in writing by the Construction Project Manager or such other designee as may be designated by the Authority.

It is further agreed that, where there is a conflict, the terms and conditions of this Project Labor Agreement shall supersede and override terms and conditions of any and all other national, area, or local collective bargaining agreements, except for all work performed under the NTL Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, 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, and the National Agreement of the International Union of Elevator Constructors, with the exception of Articles 7, 9 and 10 of this Project Labor Agreement, which shall apply to such work.

#### **SECTION 5. LIABILITY**

The liability of any Contractor and the liability of any Union under this Agreement shall be several and not joint. The Construction Project Manager and any Contractor shall not be liable for any violations of this Agreement by any other Contractor; and the Council and Local Unions shall not be liable for any violations of this Agreement by any other Union.

#### **SECTION 6. THE AUTHORITY**

The Authority shall require in its bid specifications for all Program Work within the scope of Article 3 that all successful bidders, and their subcontractors of all

pg. 5

tiers, become bound by, and signatory to, this Agreement. The Authority (including in its role as Construction Project Manager) shall not be liable for any violation of this Agreement by any Contractor. It is understood that nothing in this Agreement shall be construed as limiting the sole discretion of the Authority (including in its role as Construction Project Manager) in determining which Contractors shall be awarded contracts for Program Work. It is further understood that the Authority (including in its role as Construction Project Manager) has sole discretion at any time to terminate, delay or suspend the Program Work, in whole or part, on any Program.

**SECTION 7. AVAILABILITY AND APPLICABILITY  
TO ALL SUCCESSFUL BIDDERS**

The Unions agree that this Agreement will be made available to, and will fully apply to, any successful bidder for Program Work who becomes signatory thereto, without regard to whether that successful bidder performs work at other sites on either a union or non-union basis and without regard to whether employees of such successful bidder are, or are not, members of any unions. This Agreement shall not apply to the work of any Contractor which is performed at any location other than the site of Program Work.

**ARTICLE 3-SCOPE OF THE AGREEMENT  
SECTION 1. WORKED COVERED**

Program Work shall be limited to designated rehabilitation and renovation construction contracts bid and let by the New York City School Construction Authority after the effective date of this Agreement for rehabilitation and renovation work performed on New York City Public Schools pursuant to funds authorized under the

Capital Improvement and Restructuring Programs for Fiscal Years 2010 to 2014. Subject to the foregoing, and the exclusions below, such Program Work generally shall include demolition, reconstruction, rehabilitation, renovation work associated with school improvement and restructuring, technology enhancement, safety enhancement, general enhancement, CIP and other programs and needs as set forth in the Capital Program.

It is understood that Program Work does not include, and this Project Labor Agreement shall not apply to, any other work, including:

1. Contracts let and work performed in connection with projects carried over, recycled from, or performed under bids or rebids relating to work initiated under Fiscal Years Programs prior to 2009, or to any contracts for Fiscal Year Programs after 2009 which have been bid prior to the effective date of this Agreement.
2. Contracts let and work performed in connection with any and all Mentor and Graduate Mentor Contracts involving minority and women contractors, provided such contracts have a value of \$1,000,000 or less; except to the extent that a Mentor Contractor not otherwise bound to a Schedule "A" chooses, on a job-by-job basis, to work under the terms of the PLA.
3. Contracts let by and work performed under the authority of New York City Department of Education or the New York City Department of Design and Construction.
4. Contracts let and work performed for lease build out construction.
5. Contracts let and work performed under the New Capacity Program of the Capital Plan (including new building construction, additions to existing facilities,

and lease build outs).

6. Contracts let and work performed under the Charter and Partnership Schools Program of the Capital Plan.

7. Contracts let and work performed for Maintenance and Janitorial work.

8. Technology Enhancements to the extent they do not involve construction services.

## SECTION 2. TIME LIMITATIONS

In addition to falling within the scope of Section 1, to be covered by this Agreement Program Work must be (1) let for bid after the effective date of this Agreement, and (2) let for bid prior to June 30, 2014, the expiration date of this Agreement. It is understood that this Agreement, together with all of its provisions, shall remain in effect for all such Program Work until completion, even if not completed by the expiration date of the Agreement. If Program Work otherwise falling within the scope of Section 1 is not let for bid by the expiration date of this Agreement, this Agreement may be extended to that work by mutual agreement of the parties.

## SECTION 3. EXCLUDED EMPLOYEES

The following persons are not subject to the provisions of this Agreement, even though performing Program Work:

- a. Superintendents, supervisors (excluding general and forepersons specifically covered by a craft's Schedule A), engineers, professional engineers and/or licensed architects engaged in inspection and testing, quality control/assurance personnel, timekeepers, mail carriers, clerks office workers, messengers, guards, technicians, non-manual

- employees, and all professional, engineering, administrative and management persons;
- b. Employees of the Authority, or of any New York City or other municipal or State agency, authority or entity (including but not limited to employees of the New York City Department of Education), or employees of any other public employer, even though working on the Program site while covered Program Work is underway;
  - c. Employees and entities engaged in off-site manufacture, modifications, repair, maintenance, assembly, painting, handling or fabrication of project components, materials, equipment or machinery or involved in deliveries to and from the Program site;
  - d. Employees of the Construction Project Manager (except that in the event the Authority engages a contractor to serve as Construction Project Manager, then those employees of the Construction Project Manager performing manual, on site construction labor will be covered by this Agreement);
  - e. Employees engaged in on-site equipment warranty work;
  - f. Employees engaged in geophysical testing other than boring for core samples;
  - g. Employees engaged in laboratory, specialty testing, or inspections, pursuant to a professional services agreement between the Authority, or any of the Authority's other professional consultants, and such laboratory, testing, inspection or surveying firm;
  - h. Employees engaged in work which is ancillary to Program Work and performed by third parties such as electric utilities, gas utilities, telephone companies, and railroads, provided such entities may only install their work up to a pre-determined demarcation point in a project, and provided further, the employees of such entities may not perform the work historically performed by the affiliated local unions.

- i. Employees engaged in technology installation (except to the extent they are involved in construction services in connection with such installation) and provided that all low voltage work from the pre-determined demarcation point (or points where there is a different demarcation point for voice and data) shall continue to be in jurisdiction of Local 3 electricians.

#### **SECTION 4. NON-APPLICATION TO CERTAIN ENTITIES**

This Agreement shall not apply to those parents, affiliates, subsidiaries, or other joint or sole ventures of any Contractor which do not perform work Project Work. It is agreed, for the purposes of this Agreement only, that this Agreement does not have the effect of creating any joint employment, single employer or alter ego status among the Authority (including in its capacity as Construction Project Manager) or any Contractor. The Agreement shall further not apply to the Authority or any New York City or other municipal or State agency, authority, or entity (including but not limited to the New York City Department of Education ("DOE") or the Department of Design & Construction), or any other public entity, and nothing contained herein shall be construed to prohibit or restrict the Authority or its employees or any State, New York City or other municipal or State authority, agency or entity (including but not limited to the DOE) and its employees from performing on or off-site work related to Programs. As the contracts involving covered work are completed and accepted, the Agreement shall not have further force or effect on such items or areas except where inspections, additions, repairs, modifications, check-out and/or warranty work are assigned in writing (copy to Local Union involved) by the Construction Project Manager for performance under the terms of this Agreement.

## ARTICLE 4- UNION RECOGNITION AND EMPLOYMENT

### SECTION 1. PRE-HIRE RECOGNITION

The Contractors recognize the Unions as the sole and exclusive bargaining representatives of all craft employees who are performing on-site Program Work, with respect to that work.

### SECTION 2. UNION REFERRAL

A. The Contractors agree to employ and hire craft employees for Program Work covered by this Agreement through the job referral systems and hiring halls (where the referrals meet the qualifications set forth in items 1, 2 and 4 of subparagraph B) established in the Local Unions' area collective bargaining agreements (attached as Schedule A to this Agreement). Notwithstanding this, Contractors shall have sole right to determine the competency of all referrals; to determine the number of employees required; select employees for layoff (subject to Article 5, Section 3); and the sole right to reject any applicant referred by a Local Union, subject to the show-up payments. In the event that a Local Union is unable to fill any request for qualified employees within a 48 hour period after such requisition is made by a Contractor (Saturdays, Sundays and holidays excepted), a Contractor may employ qualified applicants from any other available source. In the event that the Local Union does not have a job referral system, the Contractor shall give the Local Union first preference to refer applicants, subject to the other provisions of this Article. The Contractor shall notify the Local Union of craft employees hired for Program Work within its jurisdiction from any source other than referral by the Union.

B. A Contractor may request by name, and the Local will honor, referral of persons who have applied to the Local for Program Work and who meet the following

pg. 11

qualifications:

- (1) possess any license required by New York State law for the Program Work to be performed;
- (2) have worked a total of at least 1000 hours in the Construction field during the prior three (3) years; and
- (3) were on the Contractor's active payroll for at least 60 out of the 180 calendar days prior to the contract award.

No more than twelve (12%) percent of the employees covered by this Agreement, per Contractor by craft, shall be hired through the special provisions above. Under this provision, name referrals begin with the eighth employee needed and continue on that same basis.

C. Where a Graduate Mentor or Mentor contractor voluntarily enters into a Collective Bargaining Agreement ("CBA") with a BCTC Union, the employees of such contractor at the time the CBA is executed shall be allowed to join the union for the applicable trade subject to satisfying the union's basic standards of proficiency for admission.

### SECTION 3. NON-DISCRIMINATION IN REFERRALS

The Council represents that each Local Union hiring halls and referral systems will be operated in a non-discriminatory manner and in full compliance with all applicable federal, state and local laws and regulations which require equal

employment opportunities. Referrals shall not be affected in any way by the rules, regulations, bylaws, constitutional provisions or any other aspects or obligations of union membership, policies or requirements and shall be subject to such other conditions as are established in this Article. No employment applicant shall be discriminated against by any referral system or hiring hall because of the applicant's union membership, or lack thereof.

#### **SECTION 4. MINORITY AND FEMALE REFERRALS**

In the event a Local Union either fails, or is unable, to refer qualified minority or female applicants in percentages equaling affirmative action goals as set forth in the Authority's bid specifications, the Contractor may employ qualified minority or female applicants from any other available source.

#### **SECTION 5. CROSS AND QUALIFIED REFERRALS**

The Local Unions shall not knowingly refer to a Contractor an employee then employed by another Contractor working under this Agreement. The Local Unions will exert their utmost efforts to recruit sufficient numbers of skilled and qualified crafts employees to fulfill the requirements of the Contractor.

#### **SECTION 6. UNION DUES**

All employees covered by this Agreement shall be subject to the union security provisions contained in the applicable Schedule A local agreements, as amended from time to time, but only for the period of time during which they are performing on-site Program Work and only to the extent of tendering payment of the applicable union dues and assessments uniformly required for union membership in the Local Unions which represent the craft in which the employee is performing Program

Work. No employee shall be discriminated against at any Program Work site because of the employee's union membership or lack thereof. In the case of unaffiliated employees, the dues payment will be received by the Local Unions as an agency shop fee.

## **SECTION 7. CRAFT FOREPERSONS AND GENERAL FOREPERSONS**

The selection of craft forepersons and/or general forepersons and the number of forepersons required shall be solely the responsibility of the Contractor except where otherwise provided by specific provisions of an applicable Schedule A. All forepersons shall take orders exclusively from the designated Contractor representatives. Craft forepersons shall be designated as working forepersons at the request of the Contractor, except when an existing local Collective Bargaining Agreement prohibits a foreperson from working when the craftpersons he is leading exceed a specified number

## **ARTICLE 5- UNION REPRESENTATION**

### **SECTION 1. LOCAL UNION REPRESENTATIVE**

Each Local Union representing on-site Program Work employees shall be entitled to designate in writing (copy to Contractor involved and Construction Project Manager) one representative, and/or the Business Manager, who shall be afforded access to the Project Work site.

### **SECTION 2. STEWARDS**

(a) Each Local Union shall have the right to designate a working journey person as a Steward and an alternate, and shall notify the Contractor and Construction Project Manager of the identity of the designated Steward (and alternate) prior to the

assumption of such duties. Stewards shall not exercise supervisory functions and will receive the regular rate of pay for their craft classifications. There will be no non-working Stewards.

(b) In addition to their work as an employee, the Steward shall have the right to receive complaints or grievances and to discuss and assist in their adjustment with the Contractor's appropriate supervisor. Each Steward shall be concerned with the employees of the Steward's Contractor and, if applicable, subcontractors of that Contractor, but not with the employees of any other Contractor. The Contractor will not discriminate against the Steward in the proper performance of Union duties.

(c) The Stewards shall not have the right to determine when overtime shall be worked, or who shall work overtime except pursuant to a Schedule A provision providing procedures for the equitable distribution of overtime.

### **SECTION 3. LAYOFF OF A STEWARD**

Contractors agree to notify the appropriate Union twenty-four (24) hours prior to the layoff of a Steward, except in cases of discipline or discharge for just cause. If a Steward is protected against layoff by a Schedule A provision, such provision shall be recognized to the extent the Steward possesses the necessary qualifications to perform the work required. In any case in which a Steward is discharged or disciplined for just cause, the Local Union involved shall be notified immediately by the Contractor.

## **ARTICLE 6- MANAGEMENT'S RIGHTS**

### **SECTION 1. RESERVATION OF RIGHTS**

Except as expressly limited by a specific provision of this Agreement, Contractors retain full and exclusive authority for the management of their operations

including, but not limited to: the right to direct the work force, including determination as to the number of employees to be hired and the qualifications therefore; the promotion, transfer, layoff of its employees; or the discipline or discharge for just cause of its employees; the assignment and schedule of work; the promulgation of reasonable Program Work rules that are not inconsistent with this Agreement or rules common in the industry and are reasonably related to the nature of work; and, the requirement, timing and number of employees to be utilized for overtime work. No rules, customs, or practices which limit or restrict productivity or efficiency of the individual, as determined by the Contractor or Authority (including in its role as Construction Project Manager), and/or joint working efforts with other employees shall be permitted or observed.

## SECTION 2. MATERIALS, METHODS & EQUIPMENT

There shall be no limitation or restriction upon the Contractors' choice of materials, techniques, methods, technology or design, or, regardless of source or location, upon the use and installation of equipment, machinery, package units, pre-cast, pre-fabricated, pre-finished, or pre-assembled materials or products, tools, or other labor-saving devices. Contractors may, without restriction, install or use materials, supplies or equipment regardless of their source provided that they comply with lawful union standards clauses contained in Schedule "A" agreements. The on-site installation or application of such items shall be performed by the craft having jurisdiction over such work; provided, however, it is recognized that other personnel having special qualifications may participate, in a supervisory capacity, in the installation, check-off or testing of specialized or unusual equipment or facilities as designated by the Contractor. There shall be no restrictions as to work which is performed off-site for Program Work.

## ARTICLE 7- WORK STOPPAGES AND LOCKOUTS

### SECTION 1. NO STRIKES-NO LOCK OUT

There shall be no strikes, sympathy strikes, picketing, work stoppages, slowdowns, hand billing, demonstrations or other disruptive activity at the Program Work site for any reason by any Union or employee against any Contractor or employer. There shall be no other Union, or concerted or employee activity which disrupts or interferes with the operation of the Program Work or the educational mission and objectives of the New York City public schools at any Program Work site. Failure of any Union or employee to cross any picket line established by any Union, signatory or non-signatory to this Agreement, or the picket or demonstration line of any other organization, at or in proximity to a Program Work site is a violation of this Article. Should any employees breach this provision, the Unions will use their best efforts to try to immediately end that breach and return all employees to work. There shall be no lockout at a Program Work site by any signatory Contractor.

### SECTION 2. DISCHARGE FOR VIOLATION

A Contractor may discharge any employee violating Section 1, above, and any such employee will not be eligible thereafter for referral under this Agreement for a period of 100 days.

### SECTION 3. NOTIFICATION

If a Contractor contends that any Union has violated this Article, it will notify the Local Union involved advising of such fact, with copies of the notification to the Council. The Local Union shall instruct and order, the Council shall request, and each shall otherwise use their best efforts to cause, the employees (and where

necessary the Council shall use its best efforts to cause the Local Union), to immediately cease and desist from any violation of this Article. If the Council complies with these obligations it shall not be liable for the unauthorized acts of a Local Union or its members. Similarly, a Local Union and its members will not be liable for any unauthorized acts of the Council. Failure of a Contractor or the Construction Project Manager to give any notification set forth in this Article shall not excuse any violation of Section 1 of this Article.

#### SECTION 4. EXPEDITED ARBITRATION

Any Contractor or Union alleging a violation of Section 1 of this Article may utilize the expedited procedure set forth below (in lieu of, or in addition to, any actions at law or equity) that may be brought.

- a. A party invoking this procedure shall notify Richard Adelman or Richard C. Cooper who shall alternate (beginning with Arbitrator Richard Adelman) as Arbitrator under this expedited arbitration procedure. If the Arbitrator next on the list is not available to hear the matter within twenty-four (24) hours of notice, the next Arbitrator on the list shall be called. Copies of such notification will be simultaneously sent to the alleged violator and Council.
- b. The arbitrator shall thereupon, after notice as to time and place to the Contractor, the Local Union involved, the Council and the Construction Project Manager, hold a hearing within forty-eight (48) hours of receipt of the notice invoking the procedure if it is contended that the violation still exists. The hearing will not, however, be scheduled for less than twenty-four (24) hours after the notice to the district or area council required by Section 3, above.
- c. All notices pursuant to this Article may be provided by telephone, telegraph, hand

delivery, or fax, confirmed by overnight delivery, to the Arbitrator, Contractor, Construction Project Manager and Local Union involved. The hearing may be held on any day including Saturdays or Sundays. The hearing shall be completed in one session, which shall not exceed eight (8) hours duration (no more than four (4) hours being allowed to either side to present their case, and conduct their cross examination) unless otherwise agreed. A failure of any Union or Contractor to attend the hearing shall not delay the hearing of evidence by those present or the issuance of an award by the Arbitrator.

- d. The sole issue at the hearing shall be whether a violation of Section 1, above, occurred. If a violation is found to have occurred, the Arbitrator shall issue a Cease and Desist Award restraining such violation and serve copies on the Contractor and Union involved. The Arbitrator shall have no authority to consider any matter in justification, explanation or mitigation of such violation or to award damages (any damages issue is reserved solely for court proceedings, if any.) The Award shall be issued in writing within 3 hours after the close of the hearing, and may be issued without an Opinion. If any involved party desires an Opinion, one shall be issued within fifteen (15) calendar days, but its issuance shall not delay compliance with, or enforcement of, the Award.
- e. An Award issued under this procedure may be enforced by any court of competent jurisdiction upon the filing of this Agreement together with the Award. Notice of the filing of such enforcement proceedings shall be given to the Union or Contractor involved, and the Construction Project Manager. In any court proceeding to obtain a temporary or preliminary order enforcing the arbitrator's Award as issued under this expedited procedure, the involved Union and Contractor waive their right to a hearing and agree that such proceedings may be ex parte, provided notice is given to opposing counsel.

Such agreement does not waive any party's right to participate in a hearing for a final court order of enforcement or in any contempt proceeding.

- f. Any rights created by statute or law governing arbitration proceedings which are inconsistent with the procedure set forth in this Article, or which interfere with compliance thereto, are hereby waived by the Contractors and Unions to whom they accrue.
- g. The fees and expenses of the Arbitrator shall be equally divided between the involved Contractor and Union.

#### **SECTION 5. ARBITRATION OF DISCHARGES FOR VIOLATION**

Procedures contained in Article 9 shall not be applicable to any alleged violation of this Article, with the single exception that an employee discharged for violation of Section 1, above, may have recourse to the procedures of Article 9 to determine only if the employee did, in fact, violate the provisions of Section 1 of this Article; but not for the purpose of modifying the discipline imposed where a violation is found to have occurred.

#### **ARTICLE 8 - LABOR MANAGEMENT COMMITTEE**

##### **SECTION 1. SUBJECTS**

The Program Labor Management Committee will meet on a regular basis to: 1) promote harmonious relations among the Contractors and Unions; 2) enhance safety awareness, cost effectiveness and productivity of construction operations; 3) protect the public interests; 4) discuss matters relating to staffing and scheduling with safety and productivity as considerations; and 5) review Affirmative Action and equal employment opportunity matters pertaining to the Project Work.

## SECTION 2. COMPOSITION

The Committee shall be jointly chaired by a designee of the Authority and the Council. It may include representatives of the Local Unions and Contractors involved in the issues being discussed. The Committee may conduct business through mutually agreed upon sub-committees.

## ARTICLE 9- GRIEVANCE & ARBITRATION PROCEDURE

### SECTION 1. PROCEDURE FOR RESOLUTION OF GRIEVANCES

Any question, dispute or claim arising out of, or involving the interpretation or application of this Agreement (other than jurisdictional disputes or alleged violations of Article 7, Section 1) shall be considered a grievance and shall be resolved pursuant to the exclusive procedure of the steps described below, provided, in all cases, that the question, dispute or claim arose during the term of this Agreement.

#### Step 1:

(a) When any employee covered by this Agreement feels aggrieved by a claimed violation of this Agreement, the employee shall, through the Local Union business representative or job steward give notice of the claimed violation to the work site representative of the involved Contractor and the Construction Project Manager. To be timely, such notice of the grievance must be given within seven (7) calendar days after the act, occurrence or event giving rise to the grievance. 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 seven (7) calendar days after timely notice has been given. If they fail to resolve the matter within the prescribed period, the grieving party, may, within seven (7) calendar days

thereafter, pursue Step 2 of the grievance procedure by serving the involved Contractor with written copies of the grievance setting forth a description of the claimed violation, the date on which the grievance occurred, and the provisions of the Agreement alleged to have been violated. Grievances and disputes settled at Step 1 are non-precedential except as to the specific Local Union, employee and Contractor directly involved unless the settlement is accepted in writing by the Construction Project Manager (or designee) as creating a precedent.

(b) Should any signatory to this Agreement have a dispute (excepting jurisdictional disputes or alleged violations of Article 7, Section 1) with any other signatory to this Agreement and, if after conferring, a settlement is not reached within seven (7) calendar days, the dispute shall be reduced to writing and proceed to Step 2 in the same manner as outlined in subparagraph (a) for the adjustment of employee grievances.

**Step 2:**

The Business Manager or designee of the involved Local Union, together with representatives of the involved Contractor, Council and the Construction Project Manager (or designee), shall meet in Step 2 within seven (7) calendar days of service of the written grievance to arrive at a satisfactory settlement.

**Step 3:**

(a) If the grievance shall have been submitted but not resolved in Step 2, any of the participating Step 2 entities may, within twenty-one (21) calendar days after the initial Step 2 meeting, submit the grievance in writing (copies to other participants, including the Construction Project Manager or designee) to Richard Adelman or Richard C. Cooper who shall act, alternately (beginning with Arbitrator Richard

pg. 22

Adelman), as the Arbitrator under this procedure. The Labor Arbitration Rules of the American Arbitration Association shall govern the conduct of the arbitration hearing, at which all Step 2 participants shall be parties. The decision of the Arbitrator shall be final and binding on the involved Contractor, Local Union and employees and the fees and expenses of such arbitrations shall be borne equally by the involved Contractor and Local Union.

(b) Failure of the grieving party to adhere to the time limits set forth in this Article shall render the grievance null and void. These time limits may be extended only by written consent of the Construction Project Manager (or designee), involved Contractor and involved Local Union at the particular step where the extension is agreed upon. The Arbitrator shall have authority to make decisions only on the issues presented to him and shall not have the authority to change, add to, delete or modify any provision of this Agreement.

## **SECTION 2. LIMITATION AS TO RETROACTIVITY**

No arbitration decision or award may provide retroactivity of any kind exceeding 60 calendar days prior to the date of service of the written grievance on the Construction Project Manager and the involved Contractor or Local Union.

## **SECTION 3. PARTICIPATION BY CONSTRUCTION PROJECT MANAGER**

The Construction Project Manager (or such other designee of the Authority) shall be notified by the involved Contractor of all actions at Steps 2 and 3 and, at its election, may participate in full in all proceedings at these Steps, including Step 3 arbitration.

## ARTICLE 10 - JURISDICTIONAL DISPUTES

The New York Plan For the Settlement of Jurisdictional Disputes ("New York Plan") shall apply to the settlement of all jurisdictional disputes involving Program Work.

### SECTION 1. NO DISRUPTIONS

There will be no strikes, sympathy strikes, work stoppages, slowdowns, picketing or other disruptive activity of any kind arising out of any jurisdictional dispute. Pending the resolution of the dispute, the work shall continue uninterrupted and as assigned by the Contractor. No jurisdictional dispute shall excuse a violation of Article 7.

### SECTION 2. ASSIGNMENT

All Project Work assignments shall be made by the Contractor pursuant to the Greenbook decisions of the New York Plan. Where there are no applicable Greenbook decisions, assignments shall be made in accordance with the provisions of the New York Plan.

### SECTION 3. NO INTERFERENCE WITH WORK

There shall be no interference or interruption of any kind with the Project Work while any jurisdictional dispute is being resolved. The work shall proceed as assigned by the Contractor until finally resolved under the applicable procedure of this Article. The award shall be confirmed in writing to the involved parties. There shall be no strike, work stoppage or interruption in protest of any such award.

## ARTICLE 11 - WAGES AND BENEFITS

### SECTION 1. CLASSIFICATION AND BASE HOURLY RATE

All employees covered by this Agreement shall be classified in accordance with the work performed and paid the base, straight time hourly wage rates applicable for those classifications as required by the applicable prevailing wage laws.

### SECTION 2. EMPLOYEE BENEFITS

A. The Contractors agree to pay timely contributions on behalf of all employees covered by this Agreement to those established jointly trustee employee benefit funds designated in Schedule A (in the appropriate Schedule A amounts), provided that such benefits are required to be paid on public works under any applicable prevailing wage law. Bona fide jointly trustee fringe benefit plans established or negotiated through collective bargaining during the life of this Agreement may be added if similarly required under applicable prevailing wage law. Contractors, not otherwise contractually bound to do so, shall not be required to contribute to benefits, trusts, or plans of any kind which are not required by the prevailing wage law; provided however, that this provision does not relieve Contractors signatory to local collective bargaining agreement with any affiliated union from complying with the fringe benefit requirements for all funds contained in the CBA.

B. The Contractors agrees to be bound by the written terms of the legally established jointly trustee Trust Agreements specifying the detailed basis on which payments are to be paid into, and benefits paid out of, such Trust Funds but only with regard to Program Work done under this Agreement and only for those employees to whom this Agreement requires such benefit payments.

C. In consideration of the unions' waiver of their rights to withhold labor from a contractor or subcontractor delinquent in the payment of fringe benefits contributions ("Delinquent Contractor"); the SCA agrees that where any such union and/or fringe benefit fund shall notify the SCA, the General Contractor, and the Delinquent Contractor in writing that the Delinquent Contractor has failed to make fringe benefit contributions to it as provided herein and the Delinquent Contractor shall fail, within five (5) calendar days after receipt of such notice, to furnish either proof of such payment or notice that the amount claimed by the union and/or fringe benefit fund is in dispute, the SCA shall withhold from amounts then or thereafter becoming due and payable to the General Contractor, an amount equal to that portion of such payment due to the General Contractor that relates solely to the work performed by the Delinquent Contractor which the union or fringe benefit fund claims to be due it, shall remit the amount when and so withheld to the fringe benefit fund and deduct such payment from the amounts then otherwise due and payable to the General Contractor, which payment shall, as between the General Contractor and the SCA, be deemed a payment by the SCA to the General Contractor; provided however, that in any month, such withholding shall not exceed the amount contained in the General Contractor's monthly invoice for work performed by the Delinquent Contractor. The union or its employee benefit funds shall include in its notification of delinquent payment of fringe benefits only such amount it asserts the Delinquent Contractor failed to pay on the specific project against which the claim is made and the union or its employee benefit funds may not include in such notification any amount such Delinquent Contractor may have failed to pay on any other SCA or non-SCA project.

D. In the event the General Contractor or Delinquent Contractor shall

notify the SCA as above provided that the claim of the union or fringe benefit fund is in dispute, the SCA shall withhold from amounts then or thereafter becoming due and payable to the General Contractor, an amount equal to that portion of such payment due to the General Contractor that relates solely to the work performed by the Delinquent Contractor which the union and/or fringe benefit fund claims to be due it and deposit such amount when and so withheld in a separate interest-bearing account pending resolution of the dispute pursuant to the union's Schedule "A" agreement, and the amount so deposited together with the interest thereon shall be paid to the party or parties ultimately determined to be entitled thereto, or until the Delinquent Contractor and union or fringe benefit fund shall otherwise agree as to the disposition thereof; provided however, that such withholding shall not exceed the amount contained in the General Contractor's monthly invoice for work performed by the Delinquent Contractor. In the event the SCA shall be required to withhold amounts from a General Contractor for the benefit of more than one fringe benefit fund, the amounts so withheld in the manner and amount prescribed above shall be applied to or for such fund in the order in which the written notices of nonpayment have been received by the SCA, and if more than one such notice was received on the same day, proportionately based upon the amount of the union and/or fringe benefit fund claims received on such day. Nothing herein contained shall prevent the SCA from commencing an interpleader action to determine entitlement to a disputed payment in accordance with section one thousand six of the civil practice law and rules or any successor provision thereto.

E. Payment to a fringe benefit fund under this provision shall not relieve the General Contractor or Delinquent Contractor from responsibility for the work covered by the payment. Except as otherwise provided, nothing contained herein shall

create any obligation on the part of the SCA to pay any union or fringe benefit fund, nor shall anything provided herein serve to create any relationship in contract or otherwise, implied or expressed, between the union/fund and/or fringe benefit and the SCA.

**ARTICLE 12- HOURS OF WORK, PREMIUM PAYMENTS,  
SHIFTS AND HOLIDAYS**

**SECTION 1. WORK WEEK AND WORK DAY**

A. The standard work week shall consist of forty (40) hours of work at straight time rates per one of the following schedules:

(1) Five-Day Work Week: Five (5) days, Eight (8) hours plus 1/2 hour unpaid lunch period each day.

(2) Four-Day Work Week: Four (4) days, Ten (10) hours plus 1/2 hour unpaid lunch period each day.

B. In accordance with Program needs, the Day Shift shall commence between the hours of 6:00 a.m. and 9:00 a.m. and shall end between the hours of 2:30 p.m. and 7:30 p.m. The Evening Shift shall commence between the hours of 3:00 p.m. and 6:00 p.m., unless different times are necessitated by the Authority's phasing plans on specific projects. The Night Shift shall commence between the hours of 11:00 p.m. and 2:00 a.m., unless different times are necessitated by the Authority's phasing plans on specific projects. Subject to the foregoing, starting and quitting times shall occur at the Program Work site designated by the Contractor.

C. Scheduling - Monday through Friday is the standard work week. The Contractor shall have the option of scheduling either a five-day or four-day work week and work day hours consistent with work requirements and with emphasis on the

minimization of interference with the educational mission of the New York City public schools. (A Contractor may switch between five-day and four-day weeks only with notice to and approval of the Authority). When conditions beyond the control of the Contractor, such as severe weather, power failure, fire, or natural disaster, prevent the performance of Program Work on a regularly scheduled work day, the Contractor may, with mutual agreement of the Local Union on a craft-by-craft basis, schedule Friday (where on 4/10s) or schedule Saturday (where on 5/8s) during that calendar week in which a workday was lost, at straight time pay (subject to Section 3 B), provided the employees involved worked a total of forty (40) hours or less during that work week.

D. Notice - Contractors shall provide not less than five (5) days prior notice to the Local Union involved as to the work week and work hour schedules to be worked or such lesser notice as may be mutually agreed upon.

## SECTION 2. OVERTIME

Except as provided elsewhere in the PLA (e.g., Article 12, Section 1C and Article 12, Section 3B), overtime pay for hours outside of the standard work week and work day, described in paragraph A above, shall be paid in accordance with the applicable Schedule A. There will be no restriction upon the Contractor's scheduling of overtime or the nondiscriminatory designation of employees who shall be worked, including the use of employees, other than those who have worked the regular or scheduled work week, at straight time rates, except that, in order to promote efficiency, weekend overtime work shall be offered first to members of the crew which handled that work during the week. There shall be no pyramiding of overtime pay under any circumstances. The Contractor shall have the right to schedule work so as to minimize overtime or schedule overtime as to some, but not all, of the crafts and whether or not

of a continuous nature.

### SECTION 3. SHIFTS

A. Flexible Schedules - Scheduling of shift work, including Saturday and Sunday work, shall be within the discretion of the Contractor in order to meet Project Work schedules and existing Project Work conditions including the minimization of interference with the educational mission of the New York City public schools. It is not necessary to work a day shift in order to schedule a second or third shift, or a second shift in order to schedule a third shift, or to schedule all of the crafts when only certain crafts or employees are needed. Shifts must have prior approval of the Construction Project Manager, and must be scheduled with not less than five work days notice to the Local Union.

B. Second/or Third Shifts/Saturday and/or Sunday Work - The second shift shall start between 3 p.m. and 6 p.m. and the third shift shall start between 11 p.m. and 2 a.m., subject to different times necessitated by the Authority's phasing plans on specific projects. There shall be no reduction in shift hours work; however, with respect to second and third shift work there shall be a five (5%) percent shift differential premium.

1) This five (5%) percent shift differential premium shall also apply to second and/or third shift work performed on Saturdays or Sundays as make-up days, when necessitated by severe weather, power failure, fire or natural disaster or for similar circumstances beyond the Contractor's control. (The Contractor shall notify the Local Union on the missed day or as soon thereafter as practicable if such a make-up day is to be worked.) No other premium or other payments for such work shall be required unless such work is in excess of forty (40) hours in the week.

2) Weekend Work: Where a worker has not already worked 5/8 hour days or 4/10 hour days, in the week, work performed on weekend days, that are not make-up days, shall be paid at the Contract rate or Time and ½, whichever is less.

3) Weekend Overtime work: Where a worker has already worked forty (40) hours during the regular work week, work performed as weekend overtime work shall be paid pursuant to Schedule "A."

4) All employees within a classification performing Program Work will be paid at the same wage base rate regardless of the shift or work schedule, subject only to the foregoing provisions.

5) The parties acknowledge that the foregoing, providing for second and third shift work to be performed at a five (5%) percent differential above the labor costs of day shift work, is material to the purposes of this Agreement.

C. Flexible Starting Times - Shift starting times will be adjusted by the Contractor as necessary to fulfill Project Work requirements subject to the notice requirements of paragraph A.

D. Four Tens (4/10s) – Notwithstanding any other provision of this Agreement, when working a four-day work week, the standard work day shall consist of ten (10) hours work for ten (10) hours of pay at the straight time rate exclusive of an unpaid 1/2 hour meal period and regardless of the starting time, upon the proper approval by the NYS DOL, as necessary.

**SECTION 4. HOLIDAYS**

A. Schedule - There shall be eight (8) recognized holidays on the

Project:

New Years Day	Labor Day
Martin Luther King Day	President's Day
Memorial Day	Thanksgiving Day
Independence Day	Christmas Day

All said holidays shall be observed on the dates designated by New York State Law. In the absence of such designation, they shall be observed on the calendar date except those holidays which occur on Saturday or Sunday shall be observed on the following Monday.

B. Payment - Regular holiday pay, if any, for work performed on such a recognized holiday shall be in accordance with the applicable Schedule A.

C. Exclusivity - No holidays other than those listed in Section 4-A above shall be recognized or observed.

**SECTION 5. REPORTING PAY**

A. Employees who report to the work location pursuant to their regular schedule and who are not provided with work shall be paid two (2) hours reporting pay at straight time rates. An employee whose work is terminated early by a Contractor due to severe weather, power failure, fire or natural disaster or for similar circumstances beyond the Contractor's control, shall receive pay only for such time as is actually worked. In other instances in which an employee's work is terminated early (unless provided otherwise elsewhere in this Agreement), the employee shall be paid for his full

shift.

B. When an employee, who has completed their scheduled shift and left the Project Work site, is "called out" to perform special work of a casual, incidental or irregular nature, the employee shall receive overtime pay at the rate of time and one-half of the employee's straight time rate for hours actually worked.

C. When an employee leaves the job or work location of their own volition or is discharged for cause or is not working as a result of the Contractor's invocation of Section 7 below, they shall be paid only for the actual time worked.

D. Except as specifically set forth in this Article there shall be no premiums, bonuses, hazardous duty, high time or other special premium payments or reduction in shift hours of any kind.

E. There shall be no pay for time not actually worked except as specifically set forth in this Article and except where an applicable Schedule A requires a full weeks' pay for forepersons.

## SECTION 6. PAYMENT OF WAGES

A. Payday - To the extent not inconsistent with Schedule "A", payment shall be made by check, drawn on a New York bank with branches located within commuting distance of the job site. Paychecks shall be issued by the Contractor at the job site by 10 a.m. on Thursdays. In the event that the following Friday is a bank holiday, paychecks shall be issued on Wednesday of that week. Not more than 3 days wages shall be held back in any pay period. Paycheck stubs shall contain the name and business address of the Contractor, together with an itemization of deductions from gross wages.

B. Termination- Employees who are laid off or discharged for cause shall be paid in full for that which is due them at the time of termination. The Contractor shall also provide the employee with a written statement setting forth the date of lay off or discharge.

#### **SECTION 7. EMERGENCY WORK SUSPENSION**

A Contractor may, if considered necessary for the protection of life and/or safety of employees or others, suspend all or a portion of Project Work. In such instances, employees will be paid for actual time worked, except that when a Contractor requests that employees remain at the job site available for work, employees will be paid for that time at their hourly rate of pay.

#### **SECTION 8. INJURY/DISABILITY**

An employee who, after commencing work, suffers a work-related injury or disability while performing work duties, shall receive no less than eight (8) hours wages for that day. Further, the employee shall be rehired at such time as able to return to duties provided there is still Program Work available for which the employee is qualified and able to perform.

#### **SECTION 9. TIME KEEPING**

A Contractor may utilize brassing or other systems to check employees in and out. Each employee must check in and out. The Contractor will provide adequate facilities for checking in and out in an expeditious manner.

#### **SECTION 10. MEAL PERIOD**

A Contractor shall schedule an unpaid period of not more than 1/2 hour duration at the work location between the 3rd and 5th hour of the scheduled shift. A

Contractor may, for efficiency of operation, establish a schedule which coordinates the meal periods of two or more crafts. If an employee is required to work through the meal period, the employee shall be compensated in a manner established in the applicable Schedule A.

## **SECTION 11. BREAK PERIODS**

There will be no rest periods, organized coffee breaks or other non-working time established during working hours. Individual coffee containers will be permitted at the employee's work location.

## **ARTICLE 13 - APPRENTICES**

### **SECTION 1. RATIOS**

Recognizing the need to maintain continuing supportive programs designed to develop adequate numbers of competent workers in the construction industry and to provide craft entry opportunities for minorities, women and economically disadvantaged non-minority males, Contractors will employ apprentices in their respective crafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured. Contractors may utilize apprentices and such other appropriate classifications in the maximum ratio permitted under law, rule, or regulation of the New York State Department of Labor. Apprentices and such other classifications as are appropriate shall be employed in a manner consistent with the provisions of the appropriate Schedule A. The parties encourage the use of the Edward J. Malloy Initiative for Construction Skills, Non-Traditional Employment for Women ("N.E.W."); Helmets to Hardhats; as an appropriate source of apprentice recruitment.

**ARTICLE 14-SAFETY PROTECTION OF PERSON AND PROPERTY****SECTION 1. SAFETY REQUIREMENTS**

Each Contractor will ensure that applicable OSHA and safety requirements are at all times maintained on the Project Work site and the employees and Unions agree to cooperate fully with these efforts. Employees will perform their work at all times in a safe manner and protect themselves and the property of the Contractor and Authority from injury or harm to the extent consistent with their rights and obligations under the law. Failure to do so will be grounds for discipline, including discharge.

**SECTION 2. CONTRACTOR RULES**

Employees covered by this Agreement shall at all times be bound by the reasonable safety, security, and visitor rules as established by the Contractors and the Construction Project Manager for this Project Work. Such rules will be published and posted in conspicuous places throughout the Project Work sites.

**SECTION 3. INSPECTIONS**

The Contractors and Construction Project Manager retain the right to inspect incoming shipments of equipment, apparatus, machinery, and construction materials of every kind.

**ARTICLE 15 - NO DISCRIMINATION****SECTION 1. COOPERATIVE EFFORTS**

The Contractors and Unions agree that they will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, marital status, age or any other status provided by law, in any manner

prohibited by law or regulation.

## SECTION 2. LANGUAGE OF AGREEMENT

The use of the masculine or feminine gender in this Agreement shall be construed as including both genders.

## ARTICLE 16- GENERAL TERMS

### SECTION 1. PROJECT RULES

A. The Construction Project Manager and the Contractors shall establish such reasonable Program Work rules that are not inconsistent with this Agreement or rules common in the industry and are reasonably related to the nature of work. These rules will be explained at the pre-job conference and posted at the Project Work sites and may be amended thereafter as necessary, notice of amendments will be provided to the appropriate Local Union. Failure of an employee to observe these rules and regulations shall be grounds for discipline, including discharge. The fact that no order was posted prohibiting a certain type of misconduct shall not be a defense to an employee disciplined or discharged for such misconduct when the action taken is for cause.

B. The Parties to this Agreement adopt and incorporate by reference herein the BCTC's Standards of Excellence annexed hereto as Exhibit "B".

## SECTION 2. TOOLS OF THE TRADE

The welding/cutting torch and chain fall are tools of the trade having jurisdiction over the work performed. Employees using these tools shall perform any of the work of the trade. There shall be no restrictions on the emergency use of any tools or equipment by any qualified employee or on the use of any tools or equipment for the

performance of work within the employee's jurisdiction.

### **SECTION 3. SUPERVISION**

Employees shall work under the supervision of the craft foreperson or general foreperson.

### **SECTION 4. TRAVEL ALLOWANCES**

There shall be no payments for travel expenses, travel time, subsistence allowance or other such reimbursements or special pay except as expressly set forth in this Agreement.

### **SECTION 5. FULL WORK DAY**

Employees shall be at their work area at the starting time established by the Contractor. The signatories reaffirm their policy of a fair days work for a fair day's wage.

### **SECTION 6. COOPERATION AND WAIVER**

The Construction Project Manager, Contractors and the Unions will cooperate in seeking any NYS Department of Labor, or any other government, approvals that may be needed for implementation of any terms of this Agreement. In addition, the Council, on their own behalf and on behalf of its affiliated Local Unions and their individual members, intend the provisions of this Agreement to control to the greatest extent permitted by law, notwithstanding contrary provisions of any applicable prevailing wage, or other, law and intend this Agreement to constitute a waiver of any such prevailing wage, or other, law to the greatest extent permissible for work within the scope of this Agreement, including specifically, but not limited to those provisions relating to shift, night, and similar differentials and premiums. This Agreement does

not, however, constitute a waiver or modification of the prevailing wage schedules applicable to work not covered by this Agreement.

## ARTICLE 17. SAVINGS AND SEPARABILITY

### SECTION 1. THIS AGREEMENT

In the event that the application of any provision of this Agreement is enjoined, on either an interlocutory or permanent basis, or is otherwise determined to be in violation of law, or if such application may cause the loss of Program funding for all or any part of the Program, the provision involved (and/or its application to a particular part of the Program, as necessary) shall be rendered, temporarily or permanently, null and void, but where practicable the remainder of the Agreement shall remain in full force and effect to the extent allowed by law, unless the part or parts so found to be in violation of law are wholly inseparable from the remaining portions of the Agreement and/or are material to the purposes of the Agreement. In the event a court of competent jurisdiction finds any portion of the Agreement to be invalid, the parties will immediately enter into negotiations concerning the substance affected by such decision for the purpose of achieving conformity with the court determination and the intent of the parties hereto for contracts to be let in the future.

### SECTION 2. THE BID SPECIFICATIONS

In the event that the Authority's bid specifications, or other action, requiring that a successful bidder become signatory to this Agreement is enjoined, on either an interlocutory or permanent basis, is otherwise determined to be in violation of law, or may cause the loss of Program funding for all or any part of the Program, such requirement (and/or its application to a particular part of the Program, as necessary) shall be rendered, temporarily or permanently, null and void, but where practicable the

Agreement shall remain in full force and effect to the extent allowed by law. In such event, the Agreement shall remain in effect for contracts already bid and awarded or in construction only where the Contractor voluntarily accepts the Agreement. The parties will enter into negotiations as to modifications to the Agreement to reflect the court or other action taken and the intent of the parties for contracts to be let in the future.

### **SECTION 3. NON-LIABILITY**

In the event of an occurrence referenced in Section 1 or Section 2 of this Article, neither the Authority, the Construction Project Manager or any Contractor, or any Union shall be liable, directly or indirectly, for any action taken, or not taken, to comply with any court order or injunction, other determination, or in order to maintain funding for Program Work. Bid specifications will be issued in conformance with court orders then in effect and no retroactive payments or other action will be required if the original court determination is ultimately reversed.

### **SECTION 4. NON-WAIVER**

Nothing in this Article shall be construed as waiving the prohibitions of Article 7 as to signatory Contractors and signatory Unions.

## **ARTICLE 18- FUTURE CHANGES IN SCHEDULE A AREA CONTRACTS**

### **SECTION 1. CHANGES TO AREA CONTRACTS**

A. Schedule A to this Agreement shall continue in full force and effect until the Contractor and/or Union parties to the Area Collective Bargaining Agreements which are the basis for Schedule A notify the Construction Project Manager in writing of the hourly rate changes agreed to in that Area Collective Bargaining which are applicable to work covered by this Agreement and their effective dates.

B. It is agreed that any provisions negotiated into Schedule A collective bargaining agreements will not apply to work under this Agreement if such provisions are less favorable to those uniformly required of contractors for construction work normally covered by those agreements; nor shall any provision be recognized or applied on Program Work if it may be construed to apply exclusively, or predominantly, to work covered by this Agreement.

C. Any disagreement between signatories to this Agreement over the incorporation into Schedule A of provisions agreed upon in the renegotiation of Area Collective Bargaining Agreements shall be resolved in accordance with the procedure set forth in Article 9 of this Agreement.

## **SECTION 2. LABOR DISPUTES DURING AREA CONTRACT NEGOTIATIONS**

The Unions agree that there will be no strikes, work stoppages, sympathy actions, picketing, slowdowns or other disruptive activity or other violations of Article 7 affecting the Program Work by any Local Union involved in the renegotiation of Area Local Collective Bargaining Agreements nor shall there be any lock-out on such Program Work affecting a Local Union during the course of such renegotiations.

## **ARTICLE 19 - WORKERS' COMPENSATION ADR**

### **SECTION 1.**

The Authority is continuing to investigate the feasibility of utilizing a Workers Compensation ADR program under Section 25 (2-C) of the New York Workers Compensation Law, to be used in conjunction with its Owner Controlled Insurance Program ("OCIP") for Program Work. The Authority's current OCIP expires December 31, 2010, at which time the program will be renewed. The Authority agrees that it will

bargain with the Union over inclusion of a pilot Workers Compensation ADR program for use under its OCIP commencing January 1, 2011. This bargaining will include negotiations concerning the pilot program site, the availability of an ADR carrier with the necessary waivers or exemptions under the statute for the particular pilot program site, and other terms and conditions for such an ADR program. Contractors will be required to participate in any resulting program as determined by the Authority. In the event the pilot ADR program is successful and demonstrates meaningful savings for the Authority, the parties will negotiate regarding an ADR program on a Program wide basis. Notwithstanding the status of any of these negotiations, the remainder of this Agreement will remain in full force and effect.

#### **ARTICLE 20 - SUBCONTRACTING**

The Project Contractor agrees that neither it nor any of its contractors or subcontractors will subcontract any work to be done on the Project except to a person, firm or corporation who is or agrees to become party to this Agreement. Any contractor or subcontractor working on the Project shall, as a condition to working on said Project, become signatory to and perform all work under the terms of this Agreement.

#### **ARTICLE 21 - HELMETS TO HARDHATS**

##### **SECTION 1.**

The Employers and the Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Employers 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

pg. 42

apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

**SECTION 2.**

The Unions and Employers agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on this Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed and effective as of the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

FOR BUILDING AND CONSTRUCTION TRADES COUNCIL  
OF GREATER NEW YORK AND VICINITY I

BY: \_\_\_\_\_  
(Name/Title)

FOR NEW YORK CITY SCHOOL CONSTRUCTION AUTHORITY

BY: \_\_\_\_\_  
(Name/Title)

**AFFILIATES: See attached for signatory affiliates**

**AFFILIATES:**

**Boiler Makers Local No. 5**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Cement and Concrete Workers  
No. 18-A**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Derrickmen and Riggers  
Union No. 197**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Electrical Local No. 3**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Elevator Constructors No.1**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Heat & Frost Insulators  
Local Union No. 12**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Iron Workers District Council**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Carpenters District Council**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Cement Masons No. 780**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Drywall Tapers 1974**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Engineers Local Union No. 14**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Heat & Frost Insulators  
Local Union No. 12A**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Iron Workers No. 40**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Laborers Local No. 78 Asbestos  
& Lead Abatement**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Iron Workers No. 361**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Laborers Construction and  
General Building No. 79**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Mason Tenders District Council**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Metal Trades Division**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Ornamental Iron Workers  
No. 580**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Plumbers No. 1**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Roofers & Waterproofers No. 8**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Sheet Metal Workers Local No. 137**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Lathers Metallic Local No. 46**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Metal Polishers Local Union 8A  
Glaziers No. 1281**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Painters District Council No. 9**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Painters Structural Steel  
No. 806**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Plasters Local Union No. 262**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Sheet Metal Workers Local No. 28**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Steamfitters Local Union No. 638**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Teamsters Local Union 813**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Tile, Marble & Terrazzo  
B.A.C. Local Union No. 7**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Window Cleaners No. 2  
S.E.I.U. 32B-32J**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Teamsters Local Union 814**

By: \_\_\_\_\_

Date: \_\_\_\_\_

EXHIBIT "A"

Affidavit of Project Labor Agreement



NEW YORK CITY SCHOOL  
CONSTRUCTION AUTHORITY

**AFFIDAVIT OF PROJECT LABOR AGREEMENT**

**SOLICITATION NO: SCA05-«SolicitationNo»**

**«School»**

**«Description»**

I, \_\_\_\_\_, a duly authorized Officer of «Contractor», hereby attest that, «Contractor» and its subcontractors of any tier shall be signatory to, and be bound by, the provisions of the Project Labor Agreement executed on the 10<sup>th</sup> of November, 2004, with respect to all Work to be performed under this solicitation.

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Authorized Officer)

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Telephone: \_\_\_\_\_ Date: \_\_\_\_\_ Tax ID Number: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

) ss:

COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me personally came \_\_\_\_\_, to me known and known to me to be their person described in and who executed the foregoing instrument, and he/she duly acknowledged that he/she executed the same.

\_\_\_\_\_  
Notary Public

EXHIBIT "B"

## NEW YORK CITY BUILDING AND CONSTRUCTION TRADES COUNCIL

### STANDARDS OF EXCELLENCE

The purpose of this Standard of Excellence is to reinforce the pride of every construction worker and the commitment to be the most skilled, most productive and safest workforce available to construction employers and users in the City of New York. It is the commitment of every affiliated local union to use our training and skills to produce the highest quality work and to exercise safe and productive work practices.

The rank and file members represented by the affiliated local unions acknowledge and adopt the following standards:

- *Provide a full days work for a full days pay;*
- *Safely work towards the timely completion of the job;*
- *Arrive to work on time and work until the contractual quitting time;*
- *Adhere to contractual lunch and break times;*
- *Promote a drug and alcohol free work site;*
- *Work in accordance with all applicable safety rules and procedures;*
- *Allow union representatives to handle job site disputes and grievances without resort to slowdowns, or unlawful job disruptions;*
- *Respect management directives that are safe, reasonable and legitimate;*
- *Respect the rights of co-workers;*
- *Respect the property rights of the owner, management and contractors.*

The Unions affiliated with the New York City Building and Construction Trades Council will expect the signatory contractors to safely and efficiently manage their jobs and the unions see this as a corresponding obligation of the contractors under this Standard of Excellence. The affiliated unions will expect the following from its signatory contractors:

- *Management adherence to the collective bargaining agreements;*
- *Communication and cooperation with the trade foremen and stewards;*
- *Efficient, safe and sanitary management of the job site;*
- *Efficient job scheduling to mitigate and minimize unproductive time;*
- *Efficient and adequate staffing by properly trained employees by trade;*
- *Efficient delivery schedules and availability of equipment and tools to ensure efficient job progress;*
- *Ensure proper blueprints, specifications and layout instructions and material are available in a timely manner*
- *Promote job site dispute resolution and leadership skills to mitigate such disputes;*
- *Treatment of all employees in a respectful and dignified manner acknowledging their contributions to a successful project.*

The affiliated unions and their signatory contractors shall ensure that both the rank and file members and the management staff shall be properly trained in the obligations undertaken in the Standard of Excellence.

Memorandum of Agreement

## Signatory Addendum

The New York City School Construction Authority ("SCA") and the Building and Construction Trades Council of Greater New York and Vicinity ("Council") are parties to a Project Labor Agreement Covering Specified Construction Work Under the Department of Education's Capital Improvement and Restructuring Programs for Fiscal Years 2010-2014 ("PLA").

By signing below, the International Brotherhood of Bricklayers and Allied Craftworkers, Local Union No. 1 ("Local Union No. 1"), hereby agrees to be bound by the terms of that PLA for covered work as if it were an original signatory thereto and the PLA is adopted and incorporated as if fully set forth herein, and references in the PLA to "Union(s)" and/or "Local Union(s)" shall include reference to Local Union No. 1.

Dated:

\_\_\_\_\_  
International Union of Bricklayer and Allied  
Craftworkers, Local Union No. 1

\_\_\_\_\_  
NYC School Construction Authority