

**Department of
Social Services**Human Resources
AdministrationDepartment of
Homeless Services**Office of Contracts**

September 11, 2020

Steven Banks
Commissioner**Martha A. Calhoun**
General Counsel**Vincent Pullo**
Agency Chief
Contracting Officer**150 Greenwich Street**
New York, NY 10007**929 221 6347**

Dear Prospective Bidders:

For your information, this **Addendum #1** for the contract to provide **On-Call Electrical Services at Shelters - Citywide PIN 19BCCDM00401 / EPIN 07119B0007** contains a copy of the attendance sheet from the pre-bid conference held on Tuesday, August 11, 2020, MWBE Presentation, PLA Presentation, a copy of current vendor's pricing information, and the new Renovation PLA and its notice (attached hereto as **Exhibit 1, 2, 3, 4, 5**).

The revised Schedule A page 15-R should replace the original pages in the solicitation.

The answers to questions received from prospective bidders are on Attachment A.

In addition, the bid due date is extended to Thursday, October 1, 2020 by the close of business day. Please note, the bid opening will be held on Thursday, October 8, 2020 at 11:00 am via Cisco WebEx platform.

Additionally, due to the COVID-19 pandemic, prospective bidders have the option to submit bids to the Department of Social Services (HRA/DHS) either electronically to **bids@dss.nyc.gov** (excluding construction services), the Office of Contracts/Front desk, 150 Greenwich Street, 37th Floor, New York, NY 10007 or to the HRA Mailroom, 150 Greenwich Street, 30th Floor, New York, NY 10007. Please be advised that DSS cannot accept any email in a size greater than 20 MB. If submitting electronically, it is strongly recommended that you send such email with enough time to determine whether the transmission has failed. Also, DSS strongly recommends that you follow up with an email to **bids@dss.nyc.gov** to confirm that the email was transmitted successfully.

Any bid or proposal that is not received prior to the deadline at the specified location will be considered late and will not be accepted.

Your interest in doing business with the City of New York is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Vincent Pullo', with a stylized flourish at the end.

Vincent Pullo

Exhibit:

1. Copy of the attendance sheet from the pre-bid conference held on Tuesday, August 11, 2020
2. Copy of MWBE Presentation
3. Copy of PLA Presentation
4. Copy of current vendor's pricing information
5. Copy of the new Renovation PLA and its notice

SCHEDULE A

GENERAL CONDITIONS TO CONSTRUCTION CONTRACT
(INCLUDING GENERAL CONDITIONS RELATING TO ARTICLE 22 -- INSURANCE)

PART I. REQUIRED INFORMATION

| | |
|--|---|
| <u>INFORMATION FOR BIDDERS</u> <u>BID BOND</u> | |
| The Contractor shall obtain a bid bond in the amount indicated to the right. | <u>5%</u> of the Contract price |
| <u>INFORMATION FOR BIDDERS</u> <u>PERFORMANCE AND PAYMENT BONDS</u> | |
| The Contractor shall obtain performance and payment bonds in the amount indicated to the right. | <u>100%</u> of the Contract price |
| <u>CONTRACT ARTICLE 14.</u> <u>DATE FOR SUBSTANTIAL COMPLETION</u> | |
| The Contractor shall substantially complete the Work in the number of calendar days indicated to the right. | <u>1095</u> consecutive calendar days |
| <u>CONTRACT ARTICLE 15.</u> <u>LIQUIDATED DAMAGES</u> | |
| If the Contractor fails to substantially complete the Work within the time fixed for substantial completion plus authorized time extensions or if the Contractor , in the sole determination of the Commissioner , has abandoned the Work , the Contractor shall pay to the City the amount indicated to the right. | See Specifications Article 23, Liquidated Damages |
| <u>CONTRACT ARTICLE 17.</u> <u>SUB-CONTRACTOR</u> | |
| The Contractor shall not make subcontracts totaling an amount more than the percentage of the total Contract price indicated to the right. | Not to exceed <u>50%</u> of the Contract price |
| <u>CONTRACT ARTICLE 21.</u> <u>RETAINAGE</u> | |
| The Commissioner shall deduct and retain until the substantial completion of the Work the percent value of the Work indicated to the right. | <u>5%</u> of the value of the Work |

**ADDENDUM #1
ATTACHEMENT A**

On-Call Electrical Services at Shelters - Citywide

PIN 19BCCDM00401 / EPIN 07119B0007

QUESTION 1

Please provide the list of locations where planned work is to be performed?

ANSWER 1

The locations are located within the Five (5) Boroughs (Citywide).

QUESTION 2

Will MEANS book or other industry standards be used for preparation of work order estimate?

ANSWER 2

Yes. MEANS book or other industry standard can be used for the work order estimate.

QUESTION 3

Does the Prevailing Wage cost of \$3.6 million include FICA, State & Local Taxes, Payroll Taxes, etc. or just as published on the government websites?

ANSWER 3

\$3.6 million is the estimated labor cost based upon prevailing wage rates. When preparing cost estimates, the most recent rates can be used.

QUESTION 4

Our company is enrolled in PASSport system and completed all the required documents online, do we still have to submit Vendor and Principal questionnaires with bid proposal?

ANSWER 4

**Yes. Vendor and Principal questionnaires are required with your bid submission.
(Please refer to Section 42 on page 13 in the Bid book)**

QUESTION 5

Do we have to submit payment and performance bond acknowledgement pages with bid submission?

ANSWER 5

Please refer to Section 42 on page 13 in the Bid book.

QUESTION 6

Please provide a complete list of documents/checklist that are necessary for bid submission?

ANSWER 6

Please refer to Section 42 on page 13 in the Bid book.

QUESTION 7

Please confirm that up to date 8/14/2020 there was no Addenda issued for this procurement?

ANSWER 7

The Department of Social Services (DSS) confirms, there was no Addenda issued for this procurement prior to August 14,2020.

QUESTION 8

In Schedule A of the bid documents, there is a requirement for the contractor to deposit a guarantee of 1% of the contract price. How much of the deposit, if any, is the contractor responsible for and will it be returned to contractor?

ANSWER 8

Please refer to PDF page 117, Article 24 in the Bid Book and specifically 24.4 and 24.6, respectively for the return or the retaining (by DHS) of the deposit.

QUESTION 9

How should a vendor submit their bid security bond?

ANSWER 9

The official security bond should be mailed, or hand delivered to the DSS/Office of Contracts 150 Greenwich Street, 37th Floor, New York, NY 10007 Attn: Polina Fuki or to the HRA Mailroom, 150 Greenwich Street, 30th Floor, New York, NY 10007 indicating the bid title and PIN in advance of the bid due date. If a vendor is submitting a bid via email, a copy of the security bond should accompany their bid. However, please ensure the official security bond has been sent to our office. DSS strongly recommends that you follow up with an email to bids@dss.nyc.gov to confirm that the security bond and bid was transmitted successfully. Please be advised that DSS cannot accept any email in a size greater than 20 MB.

Vendors who will hand deliver their security bond or bid should advise the agency in advance by Tuesday, September 15, 2020 by close of business to schedule an appointment. When delivering, all vendors are advised to allow for sufficient time to clear building security and comply with social distancing procedures. It is the bidders' responsibility for ensuring that all submissions are received at the correct location by the due date and time.

WebEx PRE-BID/PROPOSAL CONFERENCE ATTENDANCE SHEET

PIN # 19BCCDM EPIN # 07119B0007

PROJECT NAME: On-Call Electrical Services at Shelters - Citywide

DATE: August 11, 2020

On-Call Electrical Services at Shelters - Citywide

PLEASE PRINT CLEARLY

| COMPANY NAME | CERTIFIED | | STREET ADDRESS CITY, STATE, ZIP | NAME OF ATTENDEE | E-MAIL |
|---|-----------|-----|---|-----------------------|--|
| | MBE | WBE | | | |
| Approved Electrical Contractors, Inc. | | | 1436 Hylan Blvd. Staten Island, New York 10305 | Gennadiy Gakman | info@approvedec.com |
| ZHL Group | | | 2383 MCDONALD AVE, Brooklyn, NY 11223 | Lina Gusler | lina@zhlgroup.com |
| Palace Electrical Contractors, Inc | | | 3558 Park Ave, Wantagh, NY, 11793 | Bradley Helton | bhelton@palaceelectrical.com |
| DIAMOND POWER CONSULTANT GROUP, INC. | | | 384 EAST 35TH STREET, BROOKLYN, NY, 11203 | WOODY ANTHONY CHARLES | DIAMOND.POWER.CONSULTANCY@OUTLOOK.COM |
| Kemlot Global Associates Inc | X | X | 648 Dorothea Lane, Elmont, NY, 11003 | Cal Nwabudu | CalNwabudu@kemlot.com |
| Lerco Electric, LLC | X | | 370 E 146th Street, Bronx, NY, 10455 | Leoncio Reyes | lercoelect@yahoo.com |
| Electrical Contracting Solutions Corp | | | 84 South Bayles Avenue, Port Washington, NY, 11050 | Shidhant Sontakke | sid@nyecs.com |
| ALKEM ELECTRICAL CORP | X | X | 513 ALBANY AVENUE, BROOKLYN, NY, 11203 | ENSMAN ALEXANDER | alex@alkemelectric.com |
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M/WBE Officer / Designee Authorization

| | | |
|-------------|--------------|-------------|
| Lisa Morris | Director VIU | Lisa Morris |
| Name | Title | Signature |

New York City's Minority- and Women-owned Business Enterprise (M/WBE) Program, as codified in §6-129 of the New York City Administrative Code, was established to address evidence of discrimination in City contracting.

Accordingly, the M/WBE Program is intended to eliminate the disparity between the availability of M/WBEs and their utilization in City contracting.

The MWBE goal requirement for this solicitation requires vendors to subcontract 30% of the procurement opportunities to certified MWBE vendors.

Contractors may fulfill their M/WBE Participation Goal requirements in three ways:

1. Self-Performance as a City-certified M/WBE Prime contractor
2. Utilizing City-certified M/WBE Subcontractors
3. As a Qualified Joint Venture with a City-certified M/WBE Partner in which the percentage of profit or loss to which the certified firm is entitled or exposed to is at least 25%.

If a bidder doesn't think it can meet all or part of the M/WBE participation goal, it can apply for a Pre-Award Waiver.

Bidders must submit waiver request-Schedule B part III to the agency two weeks prior to the bid due date.

It is extremely important that every bidder follows the step-by-step instructions of the Schedule B, and provide all the information requested.

As part of a **responsive** bid, the bidder must complete and **sign** the Schedule B either agreeing to the proposed goals, or indicating that they received an approved waiver. Unless a vendor has obtained a Full Waiver, the vendor must complete the utilization plan section of the Schedule B identifying subcontracting areas and whether those areas are designated for an M/WBE vendor.

Most importantly, vendors must sign Part II of the Schedule B affirming and certifying, among other things, their understanding and adherence to the M/WBE participation goal requirements and that the information provided within their Schedule B, including their M/WBE Utilization Plan is accurate.

The Project Labor Agreement (PLA) is an agreement entered into between the City of New York, the Building and Construction Trades Council of Greater New York (BCTC) and the signatory unions, which are listed in Schedule A of this agreement. The agreement establishes the terms and conditions of employment for construction projects.

If you are a Union contractor, review the listing of approved unions to determine whether you can use your own employees, or have to hire workers from one of the PLA unions. If you have to reach out to a PLA union, contact the union's Business Agent who will guide you through the process of entering into an agreement and contributing to the union's employee benefits fund.

For Non-Union Contractors, you cannot use your own work force. You have to reach out to the respective PLA union and enter into an agreement. The PLA contains a provision which allows Non-Union Contractors to refer workers to the union; but, the 1st 7 workers needed on a job, must come from the PLA union & if an 8th worker is needed, the PLA union will hire a worker from a Non-Union Contractor, under a special hiring provision for this contract only. **Article 4 – Section 2 of the PLA provides further details.**

If you are determined the lowest bidder, prior to being awarded the contract, you must complete a 'Letter of Assent' form. This form is a pre-hire agreement that certifies your agreement to abide by all of the terms of the PLA agreement, and recognizes the PLA unions as the sole and exclusive bargaining representative for employees performing on-site program work. HRA/DHS will then forward a copy of the 'Letter of Assent' to the Building and Construction Trades Council and the Mayor's Office of Contract Services.

If you would like to hire a subcontractor, the sub must be first be approved by HRA/DHS. All sub requests and approvals are now made through an online system - called Payee Information Portal. If your subcontractor is approved, all payments made must also be entered into this online system. And since this is a PLA contract, subcontractors are required to complete the 'Letter of Assent' form, and can only use approved union workers.

Certified Payroll

Certified Payroll Reports must be in conformance with the format approved by the Comptroller's Office. Wages paid to employees are based upon collective bargaining agreements, which in general are in accordance with the prevailing wage rate schedule established by the Comptroller's Office. When submitting invoices to HRA/DHS, the daily sign-in sheets must be included and the certified payroll report should be clearly marked, 'PLA Project'.

Census Forms

- A. On a quarterly basis, the Mayor's Office requires that each contractor complete a trade worker census form. This form provides worker demographic and trade information. Trade worker census forms must be completed and given to the PM. Subcontractors are required to provide completed forms to the Prime.

PART IV

BID PAGE

NOTE TO BIDDERS: FAILURE TO COMPLETE THIS SECTION IN DETAIL
WILL RESULT IN REJECTION OF YOUR BID.

1. THE UNDERSIGNED agrees, if this bid is accepted, that it will, within 10 days after receipt of notice of award, furnish such performance bond, payment bond and executed copies of insurance policies as may be required, execute the Agreement set forth in Part III of this Proposal for Bid and will proceed, where directed to do so, with the work required hereunder in strict compliance with the terms and conditions set forth in this proposal for bid at the following bid price:

PIN: 071 13S 02 1420

DESCRIPTION: ON-CALL ELECTRICAL CONTRACT AT VARIOUS ADULT
AND FAMILY SHELTERS, CITYWIDE.

CONTRACT COST: \$ 6,880,000 -

CONTRACT COST IN WORDS: Six million eight hundred
eighty thousand dollars

_____ Dollars.

NOTE: In case of a discrepancy between the amount in figures and the amount in words the lesser amount will apply.

2. THE UNDERSIGNED, in submitting this bid, expressly states and represents as set forth in Section 7 of this Part III;

3. THE UNDERSIGNED hereby certifies to the truth and accuracy of all figures and answers contained in the Application for Qualification (Part IV - Bid Documents), and authorizes the Department to make any necessary examination of the books of accounts records and vouchers of the bidder or other investigation to determine its responsibility.

NAME OF BIDDER: P & M Electrical Contracting Corp

ADDRESS: 381 Sunrise Hwy, Suite 507, Lynbrook, NY 11563

TELEPHONE #: (718) 627-1483

NEW YORK CITY DEPARTMENT OF HOMELESS SERVICES
ON-CALL ELECTRICAL CONTRACT
CITYWIDE
BID PAGE

EXHIBIT 4

PIN # 071 135 02 1420

This agreement is for a period of thirty-six (36) months from the date of the Notice to Proceed or until all funds are expended. Each trade person shall receive wages from the Contractor which are in accordance with the Prevailing Wage under Labor Law 220.

Bid Price is the Contractors mark up to the current Comptroller issued Labor Law 220 Prevailing Wage Schedule for all trade classifications at the time of work initiation. Work Order Letters requesting Labor Trades not covered by the Labor Law 220 Prevailing Wage Schedule shall have their Schedule of Wages determined by the Comptroller in order to establish a proper classification for the work pursuant to Labor Law 220 (3-A) (a).

The Markup Bid by the Contractor for Labor is to be applied to all Prevailing Wage Rates for all Workers, Laborers and Mechanics engaged by the Contractor during the course of this contract.

Contractor mark up shall include all overhead, profit, travel, Insurance, permits, and all clerical and administrative expenses.

| A Item / Description | B Contractor's Markup Percentage | C Dollar Value ** | D Bid Amount *** (column B x column C) |
|-------------------------|--|----------------------|--|
| 1 Labor | Contractor Markup to be applied to all Prevailing Wage Rates: <u>1.2200</u> | X \$4,000,000.00 | \$ <u>4,880,000</u> |
| 2 Material | Contractor Markup to Material Mark up: <u>1.0000</u> Material mark up not to exceed 10% | X \$2,000,000.00 | \$ <u>2,000,000</u> |
| 3 Totals | Total Bid Price (1D + 2D = 3D) | | \$ <u>6,880,000</u> |

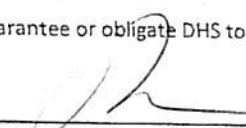
This is an On-Call Contract. DHS makes no representations as to total maximum work ordered.

**DOLLAR VALUES SHOWN ARE FOR BIDDING PURPOSES ONLY AND DO NOT REFLECT THE ACTUAL AMOUNTS THAT MAY BE AUTHORIZED.

*** COLUMNS 1B & 2B OF BID CHART WILL SERVE AS MULTIPLIER FOR LABOR AND MATERIAL COSTS.

Markup bid shall be carried to four (4) decimal places only.

The total budget for work to be done under this contract does not guarantee or obligate DHS to issue a required number of Work Orders in excess of the Guaranteed Minimum.

COMPANY REPRESENTATIVE SIGNATURE 
 PRINTED NAME Gregory Merschensky
 COMPANY P & M Electrical Contracting Corp.
 EIN # 11-2814029

98.2

APPENDIX VI

NOTICE TO BIDDERS AND PROJECT LABOR AGREEMENT

NOTICE TO BIDDERS

This contract is subject to a new 2020 Project Labor Agreement

This contract is subject to the attached Project Labor Agreement (“PLA”) entered into between the City and the Building and Construction Trades Council of Greater New York (“BCTC”) affiliated Local Unions. By submitting a bid, the Contractor agrees that if awarded the Contract the PLA is binding on the Contractor and all subcontractors of all tiers.

The bidder to be awarded the contract will be required to execute a Letter of Assent prior to award. The Contractor shall include in any subcontract a requirement that the subcontractor, and sub-subcontractors of all tiers, become signatory to and bound to the PLA with respect to the subcontracted work. The Contractor will also be required to have all subcontractors of all tiers execute a Letter of Assent prior to such subcontractors performing any Program Work.

Bidders are advised that the City of New York and City agencies have entered into multiple PLAs. The terms of each PLA, while similar, are not identical. Please also note that there are revisions between the 2020 Citywide Renovation PLA attached to this bid and the prior 2015 Citywide Renovation PLA.

All bidders are urged to review the entire 2020 Citywide Renovation PLA prior to submitting a bid.

To the extent that the terms of the PLA conflict with any other terms of the invitation for bids, including the Standard Construction Contract, the terms of the PLA shall govern. For example, the PLA section that authorizes the scheduling of a four-day week, ten hours per day on straight time at the commencement of the job, PLA Article 12, Section 1(A), overrides the Standard Construction Contract’s provision concerning a five-day work week with a maximum of eight hours in a day, Standard

Construction Contract Article 37.2.1. Where, however, the invitation for bids, including the Standard Construction Contract, requires the approval of the City/Department, the PLA does not supersede or eliminate that requirement.

This Contract is subject to the apprenticeship requirements of Labor Law § 222 and to apprenticeship requirements established by the Department pursuant to Labor Law § 816-b. Please be advised that the involved trades have apprenticeship programs that meet the statutory requirements of Labor Law § 222(e) and the requirements set by the Department pursuant to Labor Law § 816-b, Contractors and subcontractors who agree to perform the Work pursuant to the PLA are participating in such apprenticeship programs within the meaning of Labor Law § 222(e) and the Department's directive.

If this Contract is subject to the Minority-Owned and Women-Owned Business Enterprise ("M/WBE") program implemented pursuant to New York City Administrative Code § 6-129, the specific requirements of M/WBE participation for this Contract are set forth elsewhere in this bid package. If such requirements are included with this Contract, the City strongly advises Contractors to read those provisions, as well as PLA Article 4, Section 4. A list of certified M/WBE firms may be obtained from the Department of Small Business Services (DSBS) website at <http://mtprawvwsbswtp1-1.nyc.gov/>, emailing MWBE@sbs.nyc.gov, or by calling the DSBS certification hotline at (212) 513-6311, or by visiting or writing the DSBS at One Liberty Plaza, 11th Floor, New York, New York, 10006.

The local collective bargaining agreements (CBAs) that are incorporated into the PLA as PLA Schedule A Agreements are available from the Department's Agency Chief Contract Officer upon the request of any prospective bidder.

Please note that the "PLA Schedule A" is distinct from the Department's Schedule A that is a part of this invitation for bids.

2020 Citywide Renovation Project Labor Agreement
Frequently Asked Questions

- 1. Q.** Does a Contractor need to be signatory with the unions in the NYC Building and Construction Trades Council (“BCTC”) in order to bid on projects under the PLA?

A. No, any contractor may bid by signing and agreeing to the terms of the PLA. The contractor need not be signatory with these unions by any other labor agreement or for any other project.
- 2. Q.** Does a Contractor agreeing to the PLA and signing the Letter of Assent create a labor agreement with these unions outside of the project covered by the PLA?

A. No, the PLA applies only to those projects that the Contractor agrees to perform under the PLA and makes no labor agreement beyond those projects. Contractors do not need to sign any additional agreements (*e.g.*, a collective bargaining agreement) with a union aside from the Letter of Assent to work on a PLA project.
- 3. Q.** Do the provisions of the PLA apply equally to subcontractors as well as contractors and how does the PLA affect the subcontractors that a bidder may utilize on the project?

A. Yes, the PLA applies to subcontractors and all subcontractors performing Program Work must agree to become party to the PLA. Subject to the Agency’s approval of subcontractors pursuant to Article 17 of the Standard Construction Contract, a Contractor may use any subcontractor, union or non-union, as long as the subcontractor signs the Letter of Assent. See PLA Article 2, Section 8.
- 4. Q.** Are bidders required to submit Letters of Assent signed by proposed subcontractors with their bid in order to be found responsive?

A. No, bidders do not have to submit signed Letters of Assent from their subcontractors with their bid. However, subcontractors performing Program Work will be required to sign the Letter of Assent prior to being approved by the Agency.
- 5. Q.** May a Contractor or subcontractor use any of its existing employees to perform this work?

A. Generally, labor will be referred to the Contractor from the respective signatory local unions. However, Contractors and subcontractors may use up to 12% of their existing, qualifying labor force for this work. Certified M/WBEs for which participation goals are set pursuant to NYC Administrative Code § 6-129 that are not signatory to any Schedule A collective bargaining agreements (“CBAs”) may use their existing employees for the 2nd, 4th, 6th and 8th employee (per trade) needed on the job if their contracts are valued at or under \$2,000,000. Any additional workers will be referred to the Contractor in accordance with the 12% referral requirements set forth in the PLA. See PLA Article 4, Section 2.

6. **Q.** Must the City set M/WBE participation goals for the particular project or contract in order for a certified M/WBE to utilize the provisions of PLA Article 4, Section 2(C)?

A. No. PLA Article 4, Section 2(C) specifies what categories of M/WBEs are eligible to take advantage of this provision (i.e., those M/WBEs for which the City is authorized to set participation goals under § 6-129). For purposes of Article 4, Section 2(C), it is not necessary for the project to be subject to § 6-129 or for the City to have actually set participation goals for the particular contract or project. The result is the same where a project receives State funding and therefore is subject to the requirements of Article 15-A of the Executive Law.

7. **Q.** May a Contractor bring in union members from locals that are not signatory unions?

A. Referrals will be from the respective signatory locals and/or locals listed in Schedule A of the PLA. Contractors may utilize ‘traveler provisions’ contained in the local CBAs where such provisions exist and/or in accordance with the provisions of PLA Article 4, Section 2.

8. **Q.** Does a non-union employee working under the PLA automatically become a union member?

A. No, the non-union employee does not automatically become a union member by working on a project covered by the PLA and nothing in the PLA requires employees to join a union or pay dues or fees to a union as a condition of working on the covered project. This Agreement is not, however, intended to supersede independent requirements in applicable local union agreements as to contractors that are otherwise signatory to those agreements and as to employees of such employers performing covered work. Non-union employees will be enrolled in the appropriate benefit plans and earn credit toward various union benefit programs except in certain circumstances as set forth in the PLA. See PLA Article 4, Section 6 and Article 11.

9. **Q.** Are all Contractors and subcontractors working under the PLA, including non-union Contractors and Contractors signatory to CBAs with locals other than those that are signatories to the PLA, required to make contributions to designated employee benefit funds?

A. Except in certain circumstances, as described in the following paragraph, Contractors and subcontractors working under the PLA will be required to contribute on behalf of all employees covered by the PLA to established jointly trustee employee benefit funds designated in the Schedule A CBAs and required to be paid on public works under any applicable prevailing wage law. The Agency may withhold from amounts due the Contractor any amounts required to be paid, but not actually paid into any such fund by the Contractor or a subcontractor. See PLA Article 11, Section 2.

Non-union Contractors with bona fide private benefit plans that satisfy the requirements of Labor Law 220 will not be required to pay into union benefit funds for their employees working pursuant to Article 4, Section 2 (B) and (C) (“Core Employees”) who are already covered under their bona fide private benefit plans. Supplemental

benefit funds in excess of the annualized value of the private benefit plans will be paid directly to workers as additional wages in compliance with Labor Law § 220. At the time of contract award, the Contractor shall make available to the contracting Agency a complete set of plan documents for each private benefit plan into which contributions will be made and/or coverage provided. The Contractor shall also provide certification from a certified public accountant as to the annualized hourly value of such benefits consistent with the requirements of Labor Law § 220. See PLA Article 11, Section 2.

10. **Q.** When do Core Employees become eligible for union benefits?

A. Union benefit plans have their own plan documents that determine eligibility and workers will become eligible for certain benefits at different points in time. Contractors who will have Core Employees should speak with the respective union(s) as to benefit eligibility thresholds. Employees that may remain unaffiliated with any local union at the completion of their employment may apply for any distributions to which they may be entitled from the funds in accordance with the applicable rules and governing documents of the unions and the employee benefit funds.

11. **Q.** What happens if a Contractor or subcontractor fails to make a required payment to a designated employee benefit fund?

A. The PLA sets forth a process for unions to address a Contractor or a subcontractor's failure to make required payments. The process includes potentially the direct payment by the City to the benefit fund of monies owed and the corresponding withholding of payments to the Contractor. See PLA Article 11, Section 2.

Upon notification by a union or fringe benefit fund that a Contractor is delinquent in its payment of benefits and a determination by the Agency that the union or fund has submitted appropriate documentation of such delinquency, the Agency will thereafter require the Contractor to submit cancelled checks or other equivalent proof of payment of benefit contributions with certified payroll reports for work covered by this PLA on which the Contractor is engaged.

The City strongly advises Contractors to read these provisions carefully and to include appropriate provisions in subcontracts addressing these possibilities.

12. **Q.** Does signing on to the PLA satisfy the Apprenticeship Requirements established for this bid?

A. Yes. By agreeing to perform the Work subject to the PLA, the bidder demonstrates compliance with the apprenticeship requirements imposed by this Invitation for Bids.

13. **Q.** Who decides on the number of workers needed?

A. Except as expressly limited by a specific provision of the PLA, a Contractor retains full and exclusive authority for the management of their operations, including the determination as to the number of employees to be hired and the qualifications therefore and the promotion, transfer, and layoff of its employees. See PLA Article 6, Section 1.

14. **Q.** What happens if a union does not provide a worker within 48 hours from the request (Saturdays, Sundays, and holidays excepted)?
- A.** In the event that a Local Union does not 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.
15. **Q.** May a Contractor discharge a union referral for lack of productivity?
- A.** Except as expressly limited by a specific provision of the PLA, a Contractor retains full and exclusive authority for the management of their operations, including the right to discipline or discharge for just cause its employees. See PLA Article 6, Section 1.
16. **Q.** May a contractor assign a management person to site?
- A.** Yes. Managers are not subject to the provisions of the PLA, so there is no restriction on management and/or other non-trade personnel, as long as such personnel do not perform trade functions. See Article 3, Section 1.
17. **Q.** What type of work can Stewards perform?
- A.** All Stewards must be working Stewards (*i.e.*, they must be performing Program Work). In addition, Stewards may perform other tasks such as receiving complaints or grievances from other employees of the Steward's trade. Stewards may not determine when overtime is worked. Stewards are entitled to the same wages as other employees of that trade. See PLA Article 5, Sections 2 and 3.
18. **Q.** Can a Contractor utilize apprentices?
- A.** Contractors are permitted to utilize apprentices so long as the ratios between journeyman and apprentice do not exceed the allowable ratios set by the New York State Department of Labor ("NYSDOL"). Should a Contractor request that apprentices be provided for Program Work, the referring Local Union shall comply with that request so long as it is consistent with the maximum ratios permitted by NYSDOL.
19. **Q.** What is HireNYC Construction Careers?
- A.** HireNYC Construction Careers is an initiative to advance career opportunities within the construction industry. The initiative has a target goal of 30% of all hours worked on PLA projects are performed by workers who reside in NYCHA housing or zip codes where 15% or more of the residences are below poverty. When a Contractor requests employees, the trades will take into account the target goals when they refer additional workers.

20. **Q.** Does the PLA provide a standard work day across all the signatory trades?
- A.** Yes, all signatory trades will work an eight (8) hour day, Monday through Friday with a day shift at straight time as the standard work week. The PLA also permits a Contractor to schedule a four-day (within Monday through Friday) work week, ten (10) hours per day at straight time if announced at the commencement of the project. See PLA Article 12, Section 1. This is an example where the terms of the PLA override provisions of the Standard Construction Contract (compare with section 37.2 of the Standard Construction Contract). The standard work week may be reduced to 35 or 37 ½ hours of work in those limited circumstances where the City states in the bid documents that the Contractor will not be given access to the site to accommodate an 8-hour day. The 8 hour, 7 ½ hour or 7-hour work day must be established at the commencement of the project by the Agency and may not be altered by the Contractor.
21. **Q.** Does the PLA create a common holiday schedule for all the signatory trades?
- A.** Yes, the PLA recognizes nine common holidays. See PLA Article 12, Section 4.
22. **Q.** Are workers entitled to holiday pay if they do not work on the holiday?
- A.** No. Workers are only entitled to pay if they work on the holiday. See PLA Article 12, Section 4.
23. **Q.** Does the PLA provide for a standard policy for ‘shift work’ across all signatory trades?
- A.** Yes, second and third shifts may be worked with a standard 5% premium pay. In addition, a day shift does not have to be scheduled in order to work the second and third shifts at the 1.05 hourly pay rate. See PLA Article 12, Section 3.
24. **Q.** May the Contractor schedule overtime work, including work on a weekend?
- A.** Yes, the PLA permits the Contractor to schedule overtime work, including work on weekends. See PLA Article 12, Sections 2, 3, and 5. To the extent that the Agency’s approval is required before a Contractor may schedule or be paid for overtime, that approval is still required notwithstanding the PLA language.
25. **Q.** Are overtime payments affected by the PLA?
- A.** Yes, all overtime pay incurred Monday through Saturday will be at time and one half (1 ½). There will be no stacking or pyramiding of overtime pay under any circumstances. See PLA Article 12, Section 2. Sunday and holiday overtime will be paid according to each trade’s CBA.
26. **Q.** Are there special provisions for Saturday work when a day is ‘lost’ during the week due to weather, power failure or other emergency?
- A.** Yes, when this occurs the Contractor may schedule Saturday work at weekday rates. See PLA Article 12, Section 5.

27. **Q.** Does the PLA contain special provisions for the staffing of temporary services?
- A.** Yes. Where temporary services are required by specific request of the Agency or construction manager, they shall be provided by the Contractor's existing employees during working hours in which a shift is scheduled for employees of the Contractor. The need for temporary services during non-working hours will be determined by the Agency or construction manager. There will be no stacking of trades on temporary services. See PLA Article 15.
28. **Q.** What do the workers get paid when work is terminated early in a day due to inclement weather or otherwise cut short of 8 hours?
- A.** The PLA provides that employees who report to work pursuant to regular schedule and not given work will be paid two hours of straight time. Work terminated early for severe weather or emergency conditions will be paid only for time actually worked. In other instances where work is terminated early, the worker will be paid for a full day. See PLA Article 12, Sections 6 and 8. The usual reporting pay requirement of two hours for employees who report to their work location pursuant to their regular schedule does not apply when the National Weather Service issues a Weather Advisory and the Contractor speaks to the employee at least four hours before their shift starting time. See PLA Article 12, Section 6.
29. **Q.** Should a local collective bargaining agreement of a signatory union expire during the project will a work stoppage occur on a project subject to the PLA?
- A.** No. All the signatory unions are bound by the 'no strike' agreement as to the PLA work. Work will continue under the PLA and the otherwise expired local CBA(s) until the new local CBA(s) are negotiated and in effect. See PLA Articles 7 and 19.
30. **Q.** May a Contractor working under the PLA be subject to a strike or other boycott activity by a signatory union at another site while the Contractor is a signatory to the PLA?
- A.** Yes. The PLA applies ONLY to work under the PLA and does not regulate labor relations at other sites even if those sites are in close proximity to PLA work.
31. **Q.** If a Contractor has worked under other PLAs in the New York City area, are the provisions in this PLA generally the same as the others?
- A.** While PLAs often look similar to each other, and particular clauses are often used in multiple agreements, each PLA is a unique document and should be examined accordingly.
32. **Q.** What happens if a dispute occurs between the Contractor and an employee during the project?
- A.** The PLA contains a grievance and arbitration process to resolve disputes between the Contractor and the employees. See PLA Article 9.

33. **Q.** What happens if there is a dispute between locals as to which local gets to provide employees for a particular project or a particular aspect of a project?
- A.** The PLA provides for jurisdictional disputes to be resolved in accordance with the NY Plan. A copy of the NY Plan is available upon request from the Agency. The PLA provides that work is not to be disrupted or interrupted pending the resolution of any jurisdictional dispute. The work proceeds as assigned by the Contractor until the dispute is resolved. See PLA Article 10.
34. **Q.** Does the PLA contain special provisions for JOCS or task order-based Contracts?
- A.** The PLA does not apply to Task Orders or Work Orders that do not exceed \$250,000 issued under JOCS or Requirements Contracts. See PLA Article 3, Section 1.
35. **Q.** How do the referral rules work for Operating Engineers Locals 14 and 15?
- A.** If there is Program Work within the jurisdiction of Operating Engineers Locals 14 or 15, the contractor shall request labor from the appropriate local union. If the locals provide labor consistent with the referral provisions outlined in Article 4, Section 2, the terms of the Local 14 CBA or Local 15 CBA will apply to that work. However, if the locals do not provide labor for that work, the terms of the PLA will apply to such work.

2020 NYC AGENCY RENOVATION PROJECT LABOR AGREEMENT

**PROJECT LABOR AGREEMENT
COVERING SPECIFIED
RENOVATION & REHABILITATION
OF CITY OWNED BUILDINGS AND STRUCTURES**

2020 – 2024

2020 NYC AGENCY RENOVATION PROJECT LABOR AGREEMENT

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2020 NYC AGENCY RENOVATION PROJECT LABOR AGREEMENT

**PROJECT LABOR AGREEMENT COVERING SPECIFIED
RENOVATION & REHABILITATION OF NEW YORK CITY OWNED
BUILDINGS & STRUCTURES****ARTICLE 1 - PREAMBLE**

WHEREAS, the City of New York desires to provide for the cost efficient, safe, quality, and timely completion of certain rehabilitation and renovation work (“Program Work,” as defined in Article 3) in a manner designed to afford the lowest costs to the Agencies covered by this Agreement, 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, by the Building and Construction Trades Council of Greater New York and Vicinity and the signatory 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 covered Agencies’ ongoing operations at the facilities that are the subject of the Agreement;

(3) avoiding the costly delays of potential strikes, slowdowns, walkouts, picketing and other disruptions arising from work disputes, reducing jobsite friction on common situs worksites, and promoting labor harmony and peace for the duration of the Program Work;

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

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

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

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

(8) fostering increased participation by Minority and Women-owned Business Enterprises (“MWBEs”);

(9) encouraging the development of pathways to construction careers;

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- (10) ensuring a reliable source of skilled and experienced labor; and
- (11) securing applicable New York State Labor Law exemptions.

WHEREAS, the Building and Construction Trades Council of Greater New York and Vicinity, its participating affiliated Local Unions and their members, desire to assist the City in meeting these operational needs and objectives as well as to provide for stability, security and work opportunities which are afforded by this Project Labor Agreement; and

WHEREAS, the Parties desire to maximize Program Work safety conditions for both workers and the community in the project area.

NOW, THEREFORE, the Parties enter into this Agreement:

SECTION 1. PARTIES TO THE AGREEMENT

This is a Project Labor Agreement (“Agreement”) entered into by the City of New York (“City”), on behalf of itself and the Agencies covered herein, including in their capacity as construction manager of covered projects and/or on behalf of any third party construction manager which may be utilized, and the Building and Construction Trades Council of Greater New York and Vicinity (“Council” or “BCTC”) (on behalf of itself) and the signatory affiliated Local Unions (“Unions” or “Local Unions”). The Council and each signatory Local Union hereby warrant and represents that it has been duly authorized to enter into this Agreement.

ARTICLE 2 - GENERAL CONDITIONS

SECTION 1. DEFINITIONS

A. The term “Agency” means the following New York City agencies: the Department for the Aging (“DFTA”), Administration for Children’s Services (“ACS”), Department of Citywide Administrative Services (“DCAS”), Department of Correction (“DOC”), Department of Design and Construction (“DDC”), Fire Department (“FDNY”), Department of Homeless Services (“DHS”), Human Resources Administration (“HRA”), Department of Health and Mental Hygiene (“DOHMH”), Department of Parks and Recreation (“DPR”), Police Department (“NYPD”),

2020 NYC AGENCY RENOVATION PROJECT LABOR AGREEMENT

Department of Sanitation (“DSNY”); Department of Transportation (“DOT”), Department of Buildings (“DOB”); with respect to Program Work as defined in Article 3, the New York City Agency that awards a particular contract subject to this Agreement may be referred to hereafter as the “Agency”;

B. The term “Agreement” means this project labor agreement (“PLA”), the applicable Schedule “A” Collective Bargaining Agreements (each a “CBA”) identified in Schedule “A”, and each Exhibit hereto;

C. The term “BCTC” refers to the Building and Construction Trades Council of Greater New York and Vicinity. The terms “BCTC” and “Council” are used interchangeably;

D. The term “Contractor(s)” shall include any Construction Manager, General Contractor and all other contractors, and subcontractors of all tiers engaged in Program Work within the scope of this Agreement as defined in Article 3. When an Agency acts as Construction Manager, unless otherwise provided, it has the rights and obligations of a “Construction Manager” in addition to the rights and obligations of an Agency;

E. The term “Core Employee” means an employee that has been on a contractor’s payroll consistent with Article 4, Section 2(B) and (C);

F. The term “Minor Repair” means routine repair, service, or maintenance that is recurrent, day to day, periodic scheduled or routine work required to preserve or restore a building, facility or system to working order;

G. The term “HireNYC Construction Careers” refers to the PLA initiative to advance career opportunities for Program Hires;

H. The term “Program Work” is the work covered by this Agreement as defined in Article 3;

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I. The term “Program Hire” means an individual that resides in a zip code where at least 15% of the individuals residing in such zip code are below the federal poverty rate and residents of NYCHA housing regardless of zip codes; and

J. The term “Union(s)” or “Local Union(s)” refers to the various participating unions affiliated with the BCTC, singularly and collectively.

SECTION 2. CONDITIONS FOR AGREEMENT TO BECOME EFFECTIVE

This Agreement shall not become effective unless each of the following conditions are met: the Agreement is executed by (1) the Council, on behalf of itself, (2) the participating affiliated Local Unions; and (3) the mayor of the City of New York or their designee.

SECTION 3. ENTITIES BOUND & ADMINISTRATION OF AGREEMENT

This Agreement shall be binding on all participating Unions and their affiliates, the Construction Manager (in its capacity as such) and all Contractors of all tiers 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 all tiers, become signatory and bound by this Agreement with respect to that subcontracted work falling within the scope of Article 3 and all Contractors (including subcontractors) performing Program Work shall be required to sign a “Letter of Assent” in the form annexed hereto as Exhibit “A”. This Agreement shall be administered by the applicable Agency or a Construction Manager or such other designee as may be named by the Agency or Construction Manager, on behalf of all Contractors.

SECTION 4. SUPREMACY CLAUSE

This Agreement, together with the local Collective Bargaining Agreements (each a “CBA”) appended hereto as Schedule “A”, represents the complete understanding of all signatories and supersedes any national agreement, local agreement or other CBA of any type which would otherwise apply to this Program Work, in whole or in part, except for Program Work which falls

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within the jurisdiction of the Operating Engineers Locals 14 and 15. If Program Work falling within the jurisdiction of Operating Engineers Locals 14 and 15 is accepted by and performed by said locals, only then will such work be performed under the terms and conditions set out in the Schedule “A” agreements of Operating Engineers Locals 14 and 15. The CBAs of the affiliated local unions that cover the particular type of construction work to be performed by the contractor, and as set forth in the Schedule “A” list of agreements, shall be deemed the Schedule “A” Collective Bargaining Agreements (“Schedule “A” CBA”) under this Agreement. Where association and independent CBAs for a particular type of construction work are both set forth in Schedule “A”, association members shall treat the applicable association agreement as the Schedule “A” CBA and independent contractors shall treat the applicable independent agreement as the Schedule “A” CBA. Subject to the foregoing, where a subject covered by the provisions of this project labor agreement is also covered by a Schedule “A” CBA, the provisions of this project labor 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 with respect to Program Work unless endorsed in writing by the Construction Manager or such other designee as may be designated by the Agency. Nothing in this Agreement requires employees to join a union or pay dues or fees to a union as a condition of working on the covered project. This Agreement is not, however, intended to supersede independent requirements in applicable local union agreements as to contractors that are otherwise signatory to those agreements and as to employees of such employers performing covered 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 Manager and any Contractor shall not be liable for any

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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 AGENCY

The Agency (or Construction Manager where applicable) 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 tiers, become bound by, and signatory to, this Agreement. The Agency (or Construction 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 Agency or Construction Manager in determining which Contractors shall be awarded contracts for Program Work. It is further understood that the Agency or Construction Manager has sole discretion at any time to terminate, delay or suspend the Program Work, in whole or part, on any project.

**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 (or subcontractor of) Program Work who becomes signatory thereto, without regard to whether that successful bidder (or subcontractor) performs work at other sites on either a union or non-union basis and without regard to whether employees of such successful bidder (or subcontractor) 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.

SECTION 8. SUBCONTRACTING

Contractors will subcontract Program Work only to a person, firm or corporation who is or agrees to become party to this Agreement.

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

A. Program Work shall be limited to designated rehabilitation and renovation construction contracts bid and let by an Agency (or its Construction Manager where applicable) after the effective date of this Agreement with respect to rehabilitation and renovation work performed for an Agency on City-owned property under contracts advertised for public solicitation prior to December 31, 2024. Subject to the foregoing, and the exclusions below, such Program Work shall mean any and all contracts that predominantly involve the renovation, alteration, repair, rehabilitation or expansion of an existing City-owned building or structure within the five boroughs of New York City. Examples of Program Work include, but are not limited to, the renovation, repair, alteration and rehabilitation of an existing temporary or permanent structure, or an expansion of above ground structures located in the City on a City-owned building. Program Work shall also include job order contracts (“JOCS”), demolition work, painting services. Low voltage work, site work, elevator work, mold, asbestos and lead abatement, carpentry services, and carpet removal and installation shall be included as Program Work only when incidental to such building renovation and/or rehabilitation of City-owned buildings or structures and included in a contract that predominantly involves such renovation and/or rehabilitation.

B. It is understood that, except where the City specifically applies this Agreement to such work in its bid documents, Program Work does not include, and this Agreement shall not apply to, any other work, including:

1. Contracts that are let under a different project labor agreement with one of the defined City Agencies, and/or other Agencies and Authorities that have entered separate PLAs, such as DEP, NYCHA, H+H and SCA;

2. Contracts let and work performed in connection with projects carried over,

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recycled from, or performed under bids or rebids relating to work that were bid prior to the effective date of this Agreement or after December 31, 2024;

3. Contracts procured on an emergency basis;
4. Prime contracts that do not exceed \$3,000,000;
5. Contracts for work on streets and bridges and for the closing or environmental remediation of landfills;
6. Contracts with not-for-profit corporations where the City is not awarding or performing the work performed for that entity;
7. Contracts with governmental entities where the City is not awarding or performing the work performed for that entity;
8. Contracts with electric utilities, gas utilities, telephone companies, and railroads, except that it is understood and agreed that these entities may only install their work to a demarcation point, *e.g.*, a telephone closet or utility vault, the location of which is determined prior to construction and employees of such entities shall not be used to replace employees performing Program Work pursuant to this Agreement;
9. Contracts for installation of information technology that are not otherwise Program Work;
10. Task Orders or Work Orders issued under JOCS or Requirements Contracts that do not exceed \$250,000, and JOCS or Requirements Contracts where the monetary value of such contracts predominantly involves such Task Orders or Work Orders;
11. Contracts that predominantly involve Minor Repair work, as defined in Article 2, Section 1(F) above. Such work is to be paid under the applicable prevailing wage law for service or maintenance work;
12. Up to five percent (5%) of work performed by certified MWBE

2020 NYC AGENCY RENOVATION PROJECT LABOR AGREEMENT

subcontractors on prime contracts that are valued at \$25,000,000 or more and for which participation goals are set forth in the contract and where such MWBE subcontractor is not signatory to any Schedule “A” agreement (“Exempt Work”). Exempt Work shall be no more than \$500,000 or 15% (whichever is greater) of the value of the subcontracts for work in any particular union’s jurisdiction under any prime contract; and

13. On-site work performed on purchased equipment, which is required by the manufacturer to be performed by its staff or by its selected contractors as a condition of the continued effectiveness of the equipment warranty.

SECTION 2. TIME LIMITATIONS

In addition to falling within the scope of Article 3, Section 1, to be covered by this Agreement, Program Work must be (1) advertised and let for bid after the effective date of this Agreement, and (2) let for bid prior to December 31, 2024, 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 Article 3, 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 (except field surveyors on construction contracts, general and forepersons specifically covered by a craft’s Schedule “A” agreement are included), engineers, professional engineers and/or licensed architects engaged in inspection and testing, quality control/assurance personnel, timekeepers, mail carriers, clerks, office workers, messengers,

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guards, technicians, non-manual employees, and all professional, engineering, administrative and management persons;

B. Employees of the Agency, New York City, or any other municipal or State agency, authority or entity, or employees of any other public employer, even though working on the project 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, except to the extent they are lawfully included in the bargaining unit of a Schedule "A" agreement;

D. Employees of the Construction Manager (except that in the event the Agency engages a Contractor to serve as Construction Manager, then those employees of the Construction Manager performing manual, on site construction labor will be covered by this Agreement);

E. Employees engaged in on-site equipment warranty work including installation, repair or maintenance unless employees are already working on the site and are certified to perform 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 Agency, or any of the Agency's other professional consultants, and such laboratory, testing, inspection or surveying firms;

H. Employees engaged in on-site maintenance of installed equipment or systems which maintenance is awarded as part of a contract that includes Program Work, but which maintenance occurs after installation of such equipment or system and is not directly related to construction services; and

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I. Employees who perform work classified as Minor Repairs, and routine service and/or maintenance work.

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 Program Work. It is agreed that this Agreement does not have the effect of creating any joint employment, single employer or alter ego status among the Agency (including in its capacity as Construction Manager) or any Contractor. The Agreement shall further not apply to any New York City or other municipal or State agency, authority, or entity other than a listed Agency and nothing contained herein shall be construed to prohibit or restrict the Agency or its employees, or any State, New York City or other municipal or State authority, agency or entity and its employees, from performing on or off-site work related to Program Work.

As the contracts involving Program 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 Agency (or Construction Manager) for performance under the terms of this Agreement.

ARTICLE 4 - UNION RECOGNITION AND EMPLOYMENT

SECTION 1. PRE-HIRE RECOGNITION

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

SECTION 2. UNION REFERRAL

A. The Contractors agree to request, employ and hire craft employees, including

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Program Hires as defined in Article 2, Section 1(I), for Program Work covered by this Agreement through the job referral systems and hiring halls established in the Local Unions' area CBAs set forth in Schedule "A". Notwithstanding this, Contractors shall have sole right to determine the competency of all referrals; to determine the number of employees required; to 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 does not 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. Any employee hired by a Contractor because a Local Union does not fill a request for qualified employees within a 48 hour period (Saturdays, Sundays and holidays excepted) are not covered by this Agreement for purposes of Article 11, Section 2, unless they are or become a member or agency shop fee payor of an affiliated 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 ("Core Employees") and who meet the following 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 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.

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No more than twelve per centum (12%) 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. Notwithstanding Section 2(B), above, certified MWBE contractors for which participation goals are set forth in New York City Administrative Code §6-129, that are not signatory to any Schedule "A" CBAs, with subcontracts valued at or under two-million dollars (\$2,000,000), may request by name, and the Local will honor, referral of the second (2nd), fourth (4th), sixth (6th), and eighth (8th) Core Employee, who have applied to the Local for Program Work and who meet the following 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 3 years; and
- (3) were on the Contractor's active payroll for at least 60 out of the 365 calendar days prior to the contract award.

D. Where a certified MWBE Contractor voluntarily enters into a 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 hall and referral system 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

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against by any referral system or hiring hall because of the applicant's union membership, or lack thereof.

SECTION 4. MINORITY, FEMALE, LOCAL AND SECTION 3 REFERRALS

In the event a Local Union either fails, or is unable to refer qualified minority or female applicants in percentages equaling the workforce participation goals adopted by the City and set forth in the Agency's (or, if applicable, Construction Manager's) bid specifications, within 48 hours of the request for same, the Contractor may employ qualified minority or female applicants from any other available source.

The Local Unions agree to prioritize the referral of Program Hires in accordance with Article 13 and to the extent consistent with the law, rules applicable to the union referral systems and joint apprentice programs. Those unions that do not currently provide for zip code preferences in their referral systems will undertake to implement such preferences consistent with this Agreement and their governing documents. Please see Exhibit "C" for a non-exhaustive list of eligible zip codes. Employees from these zip codes that are already on a contractor's workforce, including Core Employees, and referral of apprentices, in accordance with Article 13, Section 1(A) below, shall count towards the referral goals of this Section.

For any Program Work that may become subject to requirements under Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992, and any rules, including new or revised rules, that may be published thereunder, the Local Unions acknowledge the Section 3 obligations of the Construction Manager or Contractor, as applicable, and agree to the zip code and NYCHA preferences described above to help implement this Article in a manner that would allow the Construction Manager or Contractor to meet its Section 3 obligations to the greatest extent feasible, and to post any required notices in the manner required by Section 3. The parties also acknowledge that the Construction Manager

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and Contractor may also fulfill its Section 3 requirements on Program Work by promoting opportunities for excluded employees, as defined by Article 3, Section 3 of this Agreement, on Program Work and, to the extent permitted by Section 3, by promoting opportunities for craft and other employees on non-Program Work.

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. 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" CBA, and provided that all craft forepersons shall be experienced and qualified journeypersons in their trade as determined by the appropriate Local Union. 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 CBA prohibits a foreperson from working when the craft persons, they are leading exceed a specified number.

SECTION 7. ON CALL REPAIR REFERRALS

A. When an Agency awards a contract under this Agreement that requires the Contractor to have employees available on short notice to make time-sensitive repairs with such contract requiring the Contractor to respond within as little as two hours from the time the Contractor is contacted by the Agency ("On Call, Repair Contract"), the Contractor will, within ten (10) days of being awarded an On Call, Repair Contract subject to this Agreement, notify the

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appropriate affiliated Union that would perform the work for a contractor that the Contractor has been awarded such a contract and immediately enter into good faith negotiations with such relevant affiliated Union to establish a procedure to receive time sensitive referrals from such affiliated Union(s).

B. In the event the Contractor and the relevant affiliated Union(s) are unable to negotiate a specific, mutually agreeable procedure for on call repair referral procedure within twenty (20) days of commencement of negotiations or prior to commencement of performance of the contract, whichever is earlier, the Contractor and the relevant affiliated Unions will follow the following procedure:

1. Upon notification by a Contractor that it has been awarded an On Call, Repair Contract pursuant to paragraph A above, each relevant affiliate Union shall provide the Contractor with the name and twenty-four (24) hour contact information of an On Call, Repair Contract contact person for urgent on call repair referrals.

2. The relevant affiliated Unions shall prepare a list of individuals eligible and prepared for referral on an immediate basis to respond to the on call repair contractor, which may include the affiliated Unions' service, repair and maintenance division workers where appropriate for repairs that can be made within 24 to 48 hours and paid at the appropriate prevailing wage rates for service and repair or maintenance work. Such list shall be provided to and in the possession of the designated-on call repair contact person for the affiliated Union and available for immediate reference.

3. Individuals on such list must be able to comply with the Contractor's response time pursuant to contract requirements.

4. The Union's On Call, Repair Contract contact person shall respond to a contractor's request for referrals within a reasonable time of the request so that compliance with

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the contract shall be possible.

C. In the event that the Contractor makes a request for an on call referral that is compliant with this procedure and a Union is not able to respond to the request, that Union will be deemed to have waived the forty-eight (48) hour referral rule contained in Section 2 above and the Contractor may employ qualified applicants from any other available source that can meet contract requirements for that time-sensitive on call repair work only; provided, however, that any work related to the repair work that is not of a time sensitive nature under the contract shall comply with Section 2. If a Union fails to timely refer a worker and the Contractor employs other workers, the Contractor will e-mail the Agency within 72 hours and the Agency will forward that e-mail to the designated Labor Management Committee contacts.

ARTICLE 5 - UNION REPRESENTATION**SECTION 1. LOCAL UNION REPRESENTATIVE**

Each Local Union representing on-site employees shall be entitled to designate in writing (copy to Contractor involved and Construction Manager) one representative, and/or the Business Manager, who shall be afforded access to the Program Worksite during such time as bargaining unit work is occurring and subject to otherwise applicable policies pertaining to visitors to the site.

SECTION 2. STEWARDS

A. Each affiliated Union shall have the sole discretion to designate any journey person as a Steward and an alternate Steward. The Union shall notify the Owner and/or Construction Manager as well as the Contractor 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. All Stewards shall be working Stewards.

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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 trade and, if applicable, subcontractors of their Contractor, but not with the employees of any other trade Contractor. No Contractor shall 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" CBA provision providing procedures for the equitable distribution of overtime.

SECTION 3. LAYOFF OF A STEWARD

Contractors agree to notify the appropriate Union 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, except in cases of discipline or discharge for just cause. 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; require compliance with the directives of the Agency including standard restrictions related to security and access to the site that are equally applicable to Agency employees, guests, or vendors; or the discipline or discharge for just cause of its employees; assign and schedule work; promulgate

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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, Agency and/or Construction 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 Contractor's 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, however, that where there is a Schedule "A" that includes a lawful union standards and practices clauses, then such clause as set forth in Schedule "A" agreements will be complied with, unless there is a lawful Agency specification (or specification issued by a Construction Manager which would be lawful if issued by the Agency directly) that would specifically limit or restrict the Contractor's 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, and which would prevent compliance with such Schedule "A" clause. 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

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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 similar 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 objectives of the Agency at any Program Work site. In addition, 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 where the failure to cross disrupts or interferes with the operation of Program Work 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, Agency or Construction Manager.

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

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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 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 J.J. Pierson or Richard Adelman; who shall alternate (beginning with Arbitrator J.J. Pierson) as Arbitrator under this expedited arbitration procedure. If the Arbitrator next on the list is not available to hear the matter within 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 Manager, hold a hearing within 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 24 hours after the notice 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 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 8 hours duration (no more than 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

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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 15 calendar days, but its issuance shall not delay compliance with, or enforcement of, the Award.

E. The Agency and Construction Manager (or such other designee of the Agency) may participate in full in all proceedings under this Article.

F. 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 Manager.

G. 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.

H. 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,

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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 (the “LMC”) 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 efforts to meet applicable participation goals for MWBEs and workforce participation goals for Program Hires, minority and female employees.

SECTION 2. COMPOSITION

The LMC shall be jointly chaired by a designee of the Agency and the President of the Council. It may include representatives of the Local Unions and Contractors involved in the issues being discussed. The parties shall mutually designate an MWBE representative to participate in appropriate Committee discussions. 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. Grievances shall include the City contract number and the Program Work

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address; such information is posted at the work site if already commenced and is available in the City Record and Notice to Proceed for projects not already commenced.

Local Union grievances as to whether a scope of work is included or excluded from this Agreement shall be submitted to the LMC in the first instance rather than Step 1 below. To be timely, such notice must be given no later than five days prior to the bid opening date advertised in the City Record and bid documents for that contract, or any adjourned date publicly noticed if the grievance is challenging a determination by an Agency that the contract is not subject to this Agreement. Compliance with this limit shall operate as a statute of limitations and shall be a condition precedent to arbitration. For other grievances as to contractor and/or subcontractor scope of work issues, notice of such challenges shall be submitted to the LMC within 7 calendar days after the act, occurrence or event giving rise to the grievance. If the scope of work grievance is not resolved within 21 days of its submission to the LMC, then the grievance may proceed directly to Step 3 below.

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 Manager. To be timely, such notice of the grievance must be given within 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 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 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

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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 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 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:

A Step 2 grievance shall be filed with the Agency, the BCTC, the Contractor, and, if the grievance is against a subcontractor, the subcontractor. The Business Manager or designee of the involved Local Union, together with representatives of the involved Contractor and/or a contractor association representative where appropriate, Council, the Construction Manager (or designee), and, if the grievance is against a subcontractor, the subcontractor, shall meet in Step 2 within 7 calendar days of service of the written grievance to arrive at a satisfactory settlement. The BCTC shall schedule the Step 2 meeting.

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 21 calendar days after the initial Step 2 meeting, submit the grievance in writing (copies to other participants, including the Construction Manager or designee) to the BCTC. In the event the matter is not resolved at Step 2, either J.J. Pierson or Richard Adelman, who shall act, alternately (beginning with Arbitrator J.J. Pierson), as the Arbitrator under this procedure, shall be designated at the Step 2 hearing and the BCTC will notify

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the arbitrator of his designation. After such notification by the BCTC, the local demanding arbitration shall within a reasonable time request the arbitrator to schedule the matter for an arbitration hearing date. 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 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, with the exception of those related to compliance with requirements to pay prevailing wages and supplements in accordance with federal or State law, may provide retroactivity of any kind exceeding 60 calendar days prior to the date of service of the written grievance on the Construction Manager and the involved Contractor or Local Union.

SECTION 3. PARTICIPATION BY AGENCY AND/OR CONSTRUCTION MANAGER

The Agency and Construction Manager (or such other designee of the Agency) 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.

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ARTICLE 10 - JURISDICTIONAL DISPUTES**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 Program Work assignments shall be made by the Contractor to unions affiliated with the BCTC consistent with the New York Plan for the Settlement of Jurisdictional Disputes (“New York Plan”) and its Greenbook decisions, if any. Where there are no applicable Greenbook decisions, assignments shall be made in accordance with the provisions of the New York Plan and local industry practice.

SECTION 3. NO INTERFERENCE WITH WORK

There shall be no interference or interruption of any kind with the Program 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 hourly wage rates applicable for those classifications as required by the applicable prevailing wage laws.

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SECTION 2. EMPLOYEE BENEFITS

A. The Contractors agree to pay on a timely basis contributions on behalf of all employees covered by this Agreement to those established jointly trustee employee benefit funds designated in the applicable CBA 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. Furthermore, employees that may remain unaffiliated with any local union at the completion of their employment under the terms of this Agreement may apply for any distributions to which they may be entitled from the funds in accordance with the applicable rules and governing documents of the unions and the employee benefit funds that they have participated in under the terms of this Agreement.

B. 1. Notwithstanding Section 2 (A) above, and subject to 2 (B)(2) below, Contractors who designate Core Employees pursuant to Article 4, Section 2 (B) and (C) that are not signatory to a Schedule "A" agreement and who maintain bona fide private benefit plans that satisfy the requirements of Section 220 of the New York State Labor Law, may satisfy the above benefit obligation with respect to those employees by providing those employees with coverage under their private benefit plans (to the extent consistent with Section 220). The total benefit payments to be made on behalf of each such employee must be equal to the total Section 220 supplement amount and any shortfall must be paid by cash supplement to the employee.

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2. A contractor that will satisfy its Section 220 obligations in accordance with subsection 2(B)(1) above shall make available to the Agency at the time of contract award a complete set of plan documents for each non-Schedule “A” benefit plan into which contributions will be made and/or coverage provided pursuant to the provisions of Section 2(B)(1) above. The Contractor shall also provide certification from a certified public accountant as to the annualized hourly value of such benefits consistent with the requirements of Section 220.

3. The City shall verify that the alternate benefit plan(s), together with any cash supplement to the employee, is compliant with Section 220 prior to awarding the Contractor a contract covered by this Agreement. In the event the Contractor’s alternate benefit plan(s), together with any cash supplement to the employee, is determined to be compliant with Section 220 and will be utilized by the Contractor on behalf of Article 4, Section 2(B) and (C) Core Employees, the Local Unions have no duty to enforce the Contractor’s obligations on the alternate benefit plan(s) as they are not party to the alternate plan(s) or privy to the terms and conditions of the plan obligations. In the event the City determines the alternate benefit plan(s), together with any cash supplement to the employee, is not compliant with Section 220, the Contractor may, upon executing a Letter of Assent, satisfy its obligations for all employees, including Core Employees, by contributing to the Schedule “A” benefit plans in accordance with the terms of the Schedule “A” agreements.

C. The Contractors agree to be bound by the written terms of the legally established jointly trusted 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.

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D. 1. To the extent consistent with New York City's Procurement Policy Board Rules with respect to prompt payment, as published at www.nyc.gov/ppb, §4-06(e), and 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 Agency agrees that where any such union and/or fringe benefit fund shall notify the Agency, the General Contractor, and the Delinquent Contractor in writing with back-up documentation that the Delinquent Contractor has failed to make fringe benefit contributions to it as provided herein and the Delinquent Contractor shall fail, within ten (10) 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 Agency 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, and 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 Agency, be deemed a payment by the Agency 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 City or non-City project.

2. In addition, where a union or employee benefit fund gives notice to the City that a Contractor is Delinquent as defined in subsection 2(D)(1) above and the City determines that the

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notice includes appropriate back-up documentation that the Contractor is delinquent, the City will promptly, but not later than twenty (20) days after receipt of the notice, provide a copy of said notice to City Agencies. In the event the City determines there is insufficient back-up documentation, it will notify the appropriate union and/or fringe benefit fund promptly, but not later than twenty (20) days after receipt of the Delinquency Notice, and shall include notice of what additional documentation is requested. Any determination by the City that there is insufficient back-up must be reasonable. This provision is intended to enhance compliance with the prevailing wage law and this Agreement with respect to the payment of fringe benefits and is not intended as a substitute for the resolution of a disputed claim pursuant to any applicable law or agreement.

The City and the relevant Agency(s) will thereafter require the Delinquent Contractor to provide cancelled checks or other equivalent proof of payment of benefit contributions that have come due, to be submitted with certified payroll reports for all Program Work covered by this Agreement on which the Delinquent Contractor is engaged, for at least a one-year period or such earlier period if the Contractor is ultimately determined not to be a Delinquent Contractor. Such proof of payment when required is a condition of payment of the Delinquent Contractor's invoices by any entity, including, but not limited to, the City, the relevant Agency(s), Construction Manager, General Contractor, the prime or higher level subcontractor, as is appropriate under the Delinquent Contractor's engagement. The union and the funds shall upon request receive copies of the certified payrolls, cancelled checks, or other proof of payment from the City and/or the relevant Agency(s).

E. In the event the General Contractor or Delinquent Contractor shall notify the Agency as above provided that the claim of the union or fringe benefit fund is in dispute, the Agency 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 that the union and/or fringe benefit fund claims

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to be due it, pending resolution of the dispute pursuant to the union's Schedule "A" agreement, and the amount shall be paid to the party or parties ultimately determined to be entitled thereto, or held until the Delinquent Contractor and union or employee 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 Agency 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 Agency, 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 Agency 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.

F. 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 Agency 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 Agency.

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

SECTION 1. WORK WEEK AND WORKDAY

A. The standard work week shall consist of 40 hours of work at straight time rates, Monday through Friday, 8 hours per day, plus ½ hour unpaid lunch period. The standard work week may be reduced to 35 or 37 ½ hours of work at straight time rates, Monday to Friday, 7 or 7

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½ hours per day, plus ½ hour unpaid lunch period in those limited circumstances where the City states in the bid documents that the Contractor will not be given access to the site to accommodate an 8 hour day. The 8 hour, 7 ½ hour or 7-hour workday must be established at the commencement of the project and may not be altered by the Contractor.

B. In accordance with project needs, there shall be flexible start times with advance notice from Contractor to the Union. 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 5:30 p.m., for an 8-hour day, and up to 7:30 p.m. for a 10-hour day. 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 Agency'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 Agency'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 - Except as provided above, Monday through Friday is the standard work week; 8 hours of work plus ½ hour unpaid lunch. Notwithstanding any other provision of this Agreement, a Contractor may schedule a four-day work week, 10 hours per day ("4/10") at straight time rates, plus a ½ hour unpaid lunch, at the commencement of the job.

D. Notice - Contractors shall provide not less than 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

Overtime shall be paid for any work (i) over an employee's regularly scheduled work day, i.e., work over eight (8) hours in a day where 5/8s is scheduled, work over ten (10) hours in a day where 4/10s is scheduled, or work over seven (7) or seven and one half (7½) hours where such

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hours are scheduled pursuant to Article 12, section 1(A) and (ii) over forty (40) hours in a week, or over thirty five (35) or thirty seven and one-half (37 ½) where such hours are scheduled pursuant to Article 12, section 1(A). Overtime shall be paid at time and one half (1½) Monday through Saturday. All overtime work performed on Sunday and Holidays will be paid pursuant to the applicable Schedule "A". There shall be no stacking or pyramiding of overtime pay under any circumstances. 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. 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 Program Work schedules and existing Program Work conditions including the minimization of interference with the mission of the Agency. 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 Agency or Construction Manager and must be scheduled with not less than five workdays' notice to the Local Union or such lesser notice as may be mutually agreed upon.

B. Second and/or Third Shifts - The second shift shall start between 3 p.m. and 6 p.m. and the third shift shall start between 10 p.m. and 2 a.m., subject to different times necessitated by the Agency phasing plans on specific projects. There shall be no reduction in shift hour work. With respect to second and third shift work there shall be a 5% shift premium, or the rate required by the applicable prevailing wage laws, whichever is less. No other premium or other payments for such

work shall be required unless such work is in excess of the employee's regularly scheduled work week, i.e., forty (40) hours in the week or thirty five (35) or thirty seven and one half (37 ½) pursuant to Article 12, Section 1(A). All employees within the same classification performing Program Work will be paid at the same wage rate regardless of the shift or work, subject only to the foregoing provisions.

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

SECTION 4. HOLIDAYS

A. Schedule - There shall be nine (9) recognized holidays on the project:

New Year's Day

Martin Luther King Day President's Day

Memorial Day Veteran's Day

Labor Day Thanksgiving Day

Independence Day Christmas Day

All said holidays shall be observed on the calendar date except those holidays which occur on Saturday shall be observed on the previous Friday and those that occur on Sunday shall be observed on the following Monday.

B. Payment - Regular holiday pay, if any, for work performed on such a PLA recognized holiday shall be in accordance with the applicable Schedule "A" for work performed on a holiday, even where the PLA holiday differs from the CBA holidays.

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

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SECTION 5. MAKE-UP DAYS

When severe weather, power failure, fire or natural disaster or other similar circumstances beyond the control of the Contractor prevent work from being performed on a regularly scheduled weekday, the Contractor may schedule a Saturday make-up day (or Friday make-up day in the case of a 4/10 schedule) and such time shall be scheduled and paid as if performed on a weekday. Any other Saturday work shall be paid at time and one-half (1½). 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.

SECTION 6. 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 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 their full shift. Contractors shall not be permitted to call, text or email or voicemail employees in advance of their regularly scheduled shift starting time to avoid reporting pay. Notwithstanding the above, in the event that the National Weather Service issues a weather advisory for the area in which the work location is situated, and the entire project is shut down as a result of the Weather Advisory, the Contractor shall be permitted to speak to employees no less than four (4) hours in advance of their shift starting time, unless the Local Union consents to a shorter notice in writing, to advise them not to report to work due to the National Weather Service advisory, and employees who are so notified shall not receive two (2) hours reporting pay if they report to the work location. The Contractor shall make every effort to notify each employee directly and confirm that notification has been received. Voice, text, and email messages left for employees without

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confirmation of delivery and receipt by employee do not constitute sufficient notice under this provision.

B. When an employee, who has completed their scheduled shift and left the Program 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 7. PAYMENT OF WAGES

A. 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 8. 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 Program 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.

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SECTION 9. INJURY/DISABILITY

An employee who, after commencing work, suffers a work-related injury or disability while performing work duties, shall receive no less than a full day's pay in accordance with the employee's regularly scheduled workday under Article 12, Section (1)(A). 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 10. TIME KEEPING

A Contractor may utilize systems to check employees in and out. Each employee must check in and out and sign a daily sign-in sheet, or other attendance methodology approved in writing by the Agency(s). The Contractor will provide adequate facilities for checking in and out in an expeditious manner.

SECTION 11. 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, or which provides for staggered lunch periods within a craft or trade. 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 12. 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. Where 4/10s are being worked there shall be a morning and an afternoon coffee break.

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ARTICLE 13 - APPRENTICES AND WORKFORCE DEVELOPMENT**SECTION 1. APPRENTICE RATIOS AND REFERRALS**

A. 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 by the New York State Department of Labor (“NYS DOL”) or the maximum allowed per trade. Apprentices and such other classifications as are appropriate shall be employed in a manner consistent with the provisions of the appropriate Schedule “A” agreement. The parties encourage, as an appropriate source of apprentice recruitment consistent with the rules and operations of the affiliated unions’ apprentice-programs, the use of the Edward J. Malloy Initiative for Construction Skills, Non-Traditional Employment for Women, New York Helmets to Hardhats, and Pathways to Apprenticeship (P2A). Should a Contractor request that apprentices be provided for Program Work, the referring Local Union shall comply with that request so long as it is consistent with the maximum ratios permitted by NYSDOL.

SECTION 2. WORKFORCE DEVELOPMENT

A. The parties to this Agreement recognize the mutual interest in increasing training and career opportunities for Program Hires. The parties are committed to (i) increasing opportunities for Program Hires in these zip codes in pre-apprenticeship and apprenticeship programs, and (ii) using the work opportunities provided by this Agreement to increase the career opportunities for qualified Program Hires, and (iii) to assure the continued availability of a skilled and qualified, readily available construction workforce for this program and future work. The parties agree to the Workforce Development Program set forth in Exhibit “D”.

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B. Specifically, the parties have established an initiative entitled HireNYC Construction Careers, which is an initiative to advance career opportunities for Program Hires.

C. The HireNYC Construction Careers initiative will work with the Mayor's Office of Workforce Development ("WKDEV") and its Workforce1 Centers to recruit Program Hires interested in employment in the construction industry.

D. HireNYC Construction Careers intends to capitalize on the work opportunities presented by this Agreement to create a pathway to career opportunities in the construction workforce. To this end the HireNYC Construction Careers initiative includes a workforce goal of at least 30% of all hours worked under this Agreement, including by subcontractors pursuant to Article 3, Section 1(B)(12), to be worked by workers residing within the specified zip codes or NYCHA housing. In order to encourage recruitment of new workers, HireNYC Construction Careers has established a goal that at least 30% of all of those hours are to be worked by apprentices from those zip codes or NYCHA housing.

E. The Contractors and Unions agree to cooperate and participate in the implementation of HireNYC Construction Careers to assist Program Hires with educational and training opportunities related to access to pre-apprenticeship, apprenticeship, and project work as set forth in this Agreement.

F. Reporting Requirements:

i. The Contractors shall report the residence zip code information on all certified payroll reports.

ii. The Local Unions, their referral systems, the affiliated pre-apprentice programs, and Contractors shall cooperate with any protocol developed for monitoring the HireNYC Construction Careers initiative.

iii. The Local Unions shall provide the WKDEV copies of the following

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reports when such reports are submitted to NYSDOL: *Apprentice Training Recruitment Notification and Minimum Qualifications (AT 505)*, *Apprentice Training Program Affirmative Action Plan (AT 603)*, *Apprenticeship Agreement (AT 401)*, or such alternate reporting system as the parties may negotiate during the term of this Agreement.

G. The City and BCTC agree that no less than annually, the LMC shall review the implementation of HireNYC Construction Careers, as well as Program Hire opportunities afforded as a result of the initiative. The City and BCTC will collaborate to develop monitoring protocol for the purpose of measuring the success of HireNYC Construction Careers. The City and BCTC may, on mutual consent, modify the goals, procedures and protocols, as necessary to afford continued opportunity to Program Hires.

H. To facilitate the commitments set forth in this Agreement, each Local Union shall designate a HireNYC Construction Careers lead representative to work in partnership with WKDEV to implement these workforce and apprenticeship provisions within the union and across City construction contracts.

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 Program Work site and the employees and Unions agree to cooperate fully with these efforts to the extent consistent with their rights and obligations under the law. Employees will cooperate with employer safety policies and will perform their work at all times in a safe manner and protect themselves and the property of the Contractor and Agency 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. The Construction Manager and/or Contractor may

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adopt, and the Unions shall agree to, the Drug and Alcohol Testing Policy attached as Schedule “B”.

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 Manager for Program Work. Such rules will be published and posted in conspicuous places throughout the Program Work sites. Any site security and access policies established by the Construction Manager or General Contractor intended for specific application to the construction workforce for Program Work and that are not established pursuant to an Agency directive shall be implemented only after notice to the BCTC and its affiliates and an opportunity for negotiation and resolution by the Labor Management Committee.

SECTION 3. INSPECTIONS

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

ARTICLE 15 - TEMPORARY SERVICES**SECTION 1.**

Temporary services, i.e. all temporary heat, climate control, water, power and light, shall only be required upon the determination of the Agency or Construction Manager, and when used shall be staffed and assigned to the appropriate trade(s) with jurisdiction. Temporary services shall be provided by the appropriate Contractors’ existing employees during working hours in which a shift is scheduled for employees of the Contractor. The Agency or Construction Manager may determine the need for temporary services requirements during non-working hours, and when used shall be staffed and assigned to the appropriate trades(s), and which may be limited to one person per applicable trade where practicable. There shall be no stacking of trades on temporary services,

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provided this does not constitute a waiver of primary trade jurisdiction. In the event a temporary system component is claimed by multiple trades, the matter shall be resolved through the New York Plan for Jurisdictional Disputes.

ARTICLE 16 - 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 creed, race, color, religion, sex, sexual orientation, national origin, marital status, citizenship status, disability, gender identity, age or any other status provided by law, in any manner prohibited by law or regulation.

SECTION 2. LANGUAGE OF AGREEMENT

Any words signifying any gender shall be interpreted to mean any or all gender identities.

ARTICLE 17 - GENERAL TERMS**SECTION 1. PROJECT RULES**

A. The Construction 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 Program 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 adopt and incorporate the BCTC's Standards of Excellence as annexed hereto as Exhibit "B".

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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 WORKDAY

Employees shall be at their work area at the starting time established by the Contractor, provided they are provided access to the work area. The signatories reaffirm their policy of a fair day's work for a fair day's wage.

SECTION 6. COOPERATION AND WAIVER

The Construction Manager, Contractors and the Unions will cooperate in seeking any NYSDOL, 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 participating 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 only for work within the scope of this Agreement, including specifically, but not limited to those provisions relating to shift, night,

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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 18 - 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 project funding or any New York State Labor Law exemption for all or any part of the Program Work, the provision or provisions involved (and/or its application to particular Program Work, 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 (and to the extent no funding or exemption is lost), unless the part or parts so found to be in violation of law or to cause such loss 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 trigger the foregoing, 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 Agency's (or Construction Manager's) bid specifications, or other action, requiring that a successful bidder (and subcontractor) become signatory to this Agreement is enjoined, on either an interlocutory or permanent basis, or is otherwise determined to be in violation of law, or may cause the loss of project funding or any New York State Labor Law exemption for all or any part of the Program Work, such requirement (and/or its application to particular Program Work, 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

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by law and to the extent no funding or exemption is lost. In such event, the Agreement shall remain in effect for contracts already bid and awarded or in construction only where the Agency and 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 Agency, the Construction Manager, any Contractor, nor 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 or a New York State Labor Law exemption 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 19 - 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 CBAs that are the basis for the Schedule "A" notify the Mayor's Office of Contract Services ("MOCS"), Agency and Construction Manager in writing by providing a copy of the updated CBA(s) incorporating the changes agreed to in that Area CBA which are applicable to work covered by this Agreement and their effective dates.

B. It is agreed that any provisions negotiated into Schedule "A" CBAs will not apply to work under this Agreement if such provisions are less favorable to those uniformly required of

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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 CBAs 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 CBAs nor shall there be any lock-out on such Program Work affecting a Local Union during the course of such renegotiations.

ARTICLE 20 - WORKERS’ COMPENSATION ADR

SECTION 1.

An Alternative Dispute Resolution (“ADR”) program may be negotiated and participation in the ADR program will be optional by trade.

ARTICLE 21 - HELMETS TO HARDHATS

SECTION 1.

The Contractors 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 Contractors and Unions agree to utilize the services of the New York City Helmets to Hardhats Program (“H2H”) 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.

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SECTION 2.

The Unions and Contractors agree to coordinate with H2H 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.

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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

BY: Gary LaBarbera
Gary LaBarbera
President

FOR NEW YORK CITY

BY: Dean Fuleihan
Dean Fuleihan
First Deputy Mayor

APPROVED AS TO FORM:

Steve Stein Auster
ACTING CORPORATION COUNSEL
NEW YORK CITY

| LIST OF SIGNATORY UNIONS |
|---|
| International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, AFL-CIO, Local Lodge No.5 |
| Bricklayers and Allied Craftworkers, Local Union No. 1 |
| Building Concrete & Excavating Laborers, Local Union No. 731 |
| N.Y.C. and Vicinity District Council of Carpenters |
| Cement Masons, Local Union No. 780 |
| Concrete Workers District Council No. 16 |
| Asbestos, Lead & Hazardous Waste, Laborers Local Union No. 78 |
| Construction & General Building Laborers Local Union No. 79 |
| Derrickmen and Riggers Local Union No. 197 |
| International Brotherhood of Electrical Workers, Local Union No. 3 |
| International Union of Elevator Constructors, Local Union No. 1 |
| Heat & Frost Insulators & Allied Workers, Local Union No. 12 |
| Heat & Frost Insulators & Allied Workers, Local Union No. 12A |
| Pavers & Road Builders, Laborers Local Union No. 1010 |
| New York State Iron Workers District Council |
| Structural Iron Workers, Local Union No. 40 |
| Structural Iron Workers, Local Union No. 361 |
| Mason Tenders District Council |
| Metallic Lathers & Reinforcing Ironworkers, Local No. 46 |
| Ornamental Iron Workers, Local Union No. 580 |
| Glaziers No. 1087, District Council 9 |
| Painters, District Council No. 9 |
| Metal Polishers, Local Union No. 8A-28A; District Council No. 9 |
| Drywall Tapers Local Union No 1974, District Council 9 |
| Bridge & Structural Steel Painters, Local Union No. 806, District Council 9 |
| Operative Plasterers Local Union No. 262 |
| UA Plumbers Local Union No. 1 |
| Private Sanitation, Teamsters Local Union No. 813 |
| Roofers & Waterproofers, Local Union No. 8 |
| Sheet Metal Workers, Local Union No. 28 |
| Sheet Metal Workers, Local Union No. 137 |
| UA Steamfitters, Local Union No. 638 |
| Teamsters, Local Union No. 282 |
| Tile, Marble & Terrazzo, B.A.C. Local Union No. 7 |

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SCHEDULE "A" - CBAs

| Union | Current Agreement w/ |
|---|---|
| Architectural and Ornamental Iron Workers Local Union 580, AFL-CIO | Allied Building Metal Industries, Inc. |
| Building, Concrete, Excavating & Common Laborers Local 731 | Independent |
| Building, Concrete, Excavating & Common Laborers Local 731 | Members of the General Contractors Association of New York, Inc. |
| Bricklayers Local 1 of the International Union of Bricklayers and Allied Craftworkers | Independent |
| District Council No. 9, I.U.P.A.T Glaziers Local 1087 | Window and Plate Glass Dealers Association |
| Drywall Tapers and Painters Local 1974, affiliated with International Union of Painters & Allied Trades and Drywall Taping Contractor's Association & Association of Wall-Ceiling & Carpentry Industries NY, Inc. | Independent |
| Enterprise Association of Steamfitters and Apprentices Local 638 | Mechanical Contractors Association of NY, Inc. |
| Enterprise Association of Steamfitters and Apprentices Local 638 | Independent |
| Elevator Constructors Local 1 of NY and NJ | ThyssenKrupp Elevator Corporation |
| Elevator Constructors Local 1 of NY and NJ | Independent |
| Highway Road and Street Laborers Local Union 1010 of the District Council of Pavers and Road Builders of the Laborers' International Union of North America AFL-CIO | Independent |
| Highway Road and Street Laborers Local Union 1010 of the District Council of Pavers and Road Builders of the Laborers' International Union of North America AFL-CIO | Member of the General Contractors Association of New York, Inc. |
| International Association of Heat and Frost Insulators and Allied Workers Local No. 12 of New York City | Independent |
| International Association of Heat and Frost Insulators and Allied Workers Local No. 12 of New York City | The Insulation Contractors Association of New York City, Inc. |
| International Association of Heat and Frost Insulators and Allied Workers Local No. 12A of New York City | Independent |

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| International Association of Heat and Frost Insulators and Allied Workers Local No. 12A of New York City | Environmental Contractors Association, Inc. |
| International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, AFL-CIO, Local Lodge No. 5 | Boilermakers Association of Greater New York |
| Local Union No. 3 International Brotherhood of Electrical Workers, AFL-CIO | New York Electrical Contractors Association |
| International Brotherhood of Teamsters, Local 282, High Rise Contract | Building Contractors Association & Independents |
| Local 46 Metallic Lathers Union and Reinforcing Iron Workers of NY and Vicinity of the International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers | Cement League |
| Local 46 Metallic Lathers Union and Reinforcing Iron Workers of NY and Vicinity of the International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers | Independent |
| Local 8 Roofers, Waterproofers & Allied Workers | Roofing and Waterproofing Contractors Association of New York and Vicinity |
| Local Union 1 of the United Association of Journeymen and Apprentices of the Pipe Fitting Industry of the United States and Canada | Association of Contracting Plumbers of the City of New York |
| Local Union Number 40 & 361 of Bridge, Structural Ornamental and Reinforcing Iron Workers AFL-CIO | Independent |
| Mason Tenders DC & Laborers' International Union – Local 78 & 79 | Building Contractors Association |
| Mason Tenders DC & Laborers' International Union – Local 78 & 79 | Interior Demolition Contractors Association |
| Mason Tenders DC & Laborers' International Union – Local 78 & 79 | Independent |
| Mason Tenders DC & Laborers' International Union – Local 78 & 79 | NYCDCA |
| Mason Tenders DC & Laborers' International Union – Local 78 & 79 | Environmental Contractors Association |
| Mason Tenders DC & Laborers' International Union – Local 78 & 79 | ABMC |

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| Operative Plasterers' and Cement Masons' International Association Local No. 262 | Independent |
| Painters and Allied Trades AFL-CIO, District Council No. 9 (Painting and Protective Coatings CBA) | Independent |
| Painters and Allied Trades AFL-CIO, District Council No. 9 (Painting and Protective Coatings CBA) | The Association of Master Painters & Decorators of NY, Inc. and The Association of Wall, Ceiling & Carpentry Industries of NY, Inc. and The Window and Plate Glass Dealers Association |
| Sheet Metal Workers' International Association, Local 28 | Sheet Metal & Air Conditioning Contractors Association of New York City, Inc. |
| Sheet Metal Workers' International Association, Local 137 | The Greater New York Sign Association |
| Structural Steel and Bridge Painters Local 806, DC 9 International Union of Painters and Allied Trades, AFL-CIO | New York Structural Steel Painting Contractors Association |
| Teamsters Local 813 | Independent |
| Teamsters Local 813 | IESI NY Corporation |
| The Cement Masons' Union, Local 780 | Cement League |
| The District Council of Cement and Concrete Workers (comprised of Local 6A; Local 18A and Local 20) | Cement League |
| The District Council of Cement and Concrete Workers (comprised of Local 6A; Local 18A and Local 20) | Independent |
| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America for Heavy Carpenters | GCA |
| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America for Dockbuilders Local No. 1556 | Concrete Contractors of NY |
| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America for Dockbuilders Local 1556 | Independent |
| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America for Millwright Local 740 | Independent |

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| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America for Timbermen Local 1556 | Independent |
| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America for Timbermen Local 1556 | GCA |
| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America for Heavy Carpenters | Independent |
| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America for Carpenters | Manufacturing Woodworkers Association of Greater New York Incorporated |
| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America | The Hoisting Trade Association of New York, Inc. |
| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America | The Test Boring Association |
| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America | Building Contractors Association |
| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America | The Association of Wall-Ceiling & Carpentry Industries of New York, Incorporated |
| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners | The Cement League |
| The District Council of NYC and Vicinity of the United Brotherhood of Carpenters and Joiners of America | New York City Millwright Association |
| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners | Greater New York Floor Covering Association |
| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America for Carpenters | Association of Architectural Metal & Glass |

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| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America for Carpenters | Concrete Contractors of NY |
| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America for Building Construction Carpenters | Independent |
| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America for Local 2287 | Independent |
| The District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America for Shop Carpenters | Independent |
| The Tile Setters and Tile Finishers Union of New York and New Jersey, Local 7 of the International Bricklayers and Allied Craftworkers | The Greater New York and New Jersey Contractors Association |
| United Derrickmen & Riggers Association, Local 197 of NY, LI, Westchester & Vicinity | Contracting Stonesetters Association Inc. |
| United Derrickmen & Riggers Association Local 197 of NY, LI, Westchester and Vicinity | Building Stone and Pre-cast Contractors Association |

2020 NYC AGENCY RENOVATION PROJECT LABOR AGREEMENT

Exhibit A

Project Labor Agreement - Letter of Assent

Dear: _____

The undersigned party confirms that it agrees to be a party to and be bound by the New York Agency, Project Labor Agreement as such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms. The terms of the Project Labor Agreement, its Schedules, Addenda and Exhibits are hereby incorporated by reference herein.

The undersigned, as a Contractor or Subcontractor (hereinafter Contractor) on the Project known as the NYC Agency Renovation and located at _____ (hereinafter PROJECT), for and in consideration of the award to it of a contract to perform work on said PROJECT, and in further consideration of the mutual promises made in the Project Labor Agreement, a copy of which was received and is acknowledged, hereby:

- (1) Accepts and agrees to be bound by the terms and conditions of the Agreement, together with any and all schedules; amendments and supplements now existing or which are later made thereto:
- (2) Agrees to be bound by the legally established collective bargaining agreements; local trust agreements for employee benefit funds; and trust documents for joint apprentice programs as well as apprentice program rules and procedures but only to the extent of Program Work and as required by the PLA.
- (3) Authorizes the parties to such local trust agreements to appoint trustees and successor trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor but only to the extent of Program Work as required by the PLA.
- (4) Certifies that it has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of said Agreement. The Contractor agrees to employ labor that can work in harmony with all other labor on the Project and shall require labor harmony from every lower tier subcontractor it has engaged or may engage to work on the Project. Labor harmony disputes/issues shall be subject to the Labor Management Committee provisions.
- (5) Agrees to secure from any Contractor(s) (as defined in said Agreement) which is or becomes a Subcontractor (of any tier), to it, a duly executed Agreement to be Bound in from identical to this document.

Provide description of the Work, identify craft jurisdiction(s) and all contract numbers below:

Local Union: _____

Description of Work: _____

Contract Number(s): _____

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Dated: _____

(Name of Contractor or subcontractor)

(Name of CM; GC; Contractor or
Higher Level Subcontractor)

(Authorized Officer & Title)

(Address)

(Signature)

(Phone) (Fax)

Contractor's State License

Sworn to before me this
____ day of _____,

Notary Public

2020 NYC AGENCY RENOVATION PROJECT LABOR AGREEMENT

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 day's 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.

2020 NYC AGENCY RENOVATION PROJECT LABOR AGREEMENT

Exhibit “C” - HireNYC Construction Careers*(August 2020 version)*

Non-exhaustive list of zip codes where at least 15% of the individuals are below the federal poverty rate
(Zip codes within ~100 mile radius of NYC)

| Zip Code | Borough | Neighborhood |
|-----------------|----------------|-------------------------------|
| 10001 | Manhattan | Midtown South |
| 10002 | Manhattan | Chinatown |
| 10009 | Manhattan | East Village |
| 10025 | Manhattan | Manhattan Valley |
| 10026 | Manhattan | Central Harlem |
| 10027 | Manhattan | Manhattanville |
| 10029 | Manhattan | East Harlem |
| 10030 | Manhattan | Central Harlem |
| 10031 | Manhattan | Hamilton Heights |
| 10032 | Manhattan | Inwood and Washington Heights |
| 10033 | Manhattan | Washington Heights |
| 10034 | Manhattan | Inwood |
| 10035 | Manhattan | East Harlem |
| 10037 | Manhattan | Central Harlem |
| 10038 | Manhattan | Lower Manhattan |
| 10039 | Manhattan | Central Harlem |
| 10040 | Manhattan | Inwood and Washington Heights |
| 10301 | Staten Island | St. George |
| 10302 | Staten Island | Port Richmond |
| 10303 | Staten Island | Mariner's Harbor |
| 10304 | Staten Island | Stapleton |
| 10310 | Staten Island | West Brighton |
| 10451 | Bronx | Concourse Village |
| 10452 | Bronx | High Bridge |
| 10453 | Bronx | University Heights |
| 10454 | Bronx | Mott Haven |
| 10455 | Bronx | Longwood |
| 10456 | Bronx | Melrose |
| 10457 | Bronx | Central Bronx |
| 10458 | Bronx | Bedford Park |
| 10459 | Bronx | Morrisania |
| 10460 | Bronx | East Tremont |
| 10462 | Bronx | Parkchester |
| 10463 | Bronx | Kingsbridge |
| 10466 | Bronx | Wakefield |
| 10467 | Bronx | Norwood |
| 10468 | Bronx | Bronx Park and Fordham |
| 10472 | Bronx | Unionport |
| 10473 | Bronx | Soundview |
| 10474 | Bronx | Hunts Point |

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PLA Exhibit C - HireNYC Construction Careers
(August 2020 version)

Non-exhaustive list of zip codes where at least 15% of the individuals are below the federal poverty rate
(Zip codes within ~100 mile radius of NYC)

| Zip Code | Borough | Neighborhood |
|----------|----------|-------------------------------|
| 11101 | Queens | Long Island City |
| 11102 | Queens | Northwest Queens |
| 11106 | Queens | Ravenswood |
| 11203 | Brooklyn | East Flatbush |
| 11204 | Brooklyn | Borough Park |
| 11205 | Brooklyn | Fort Greene |
| 11206 | Brooklyn | East Williamsburg |
| 11207 | Brooklyn | East New York |
| 11208 | Brooklyn | East New York / Cypress Hills |
| 11211 | Brooklyn | Williamsburg |
| 11212 | Brooklyn | Brownsville |
| 11213 | Brooklyn | Crown Heights |
| 11214 | Brooklyn | Bensonhurst |
| 11216 | Brooklyn | Central Brooklyn |
| 11218 | Brooklyn | Kensington |
| 11219 | Brooklyn | Borough Park |
| 11220 | Brooklyn | Sunset Park |
| 11221 | Brooklyn | Bushwick |
| 11223 | Brooklyn | Gravesend |
| 11224 | Brooklyn | Coney Island |
| 11225 | Brooklyn | Prospect Lefferts Gardens |
| 11226 | Brooklyn | Prospect Park South |
| 11230 | Brooklyn | Midwood |
| 11232 | Brooklyn | Sunset Park |
| 11233 | Brooklyn | Ocean Hill |
| 11235 | Brooklyn | Brighton Beach |
| 11237 | Brooklyn | Bushwick and Williamsburg |
| 11239 | Brooklyn | Starrett City |
| 11354 | Queens | Downtown Flushing |
| 11355 | Queens | Queensboro Hill |
| 11368 | Queens | South Corona |
| 11369 | Queens | East Elmhurst |
| 11373 | Queens | Elmhurst |
| 11416 | Queens | Southwest Queens |
| 11417 | Queens | Ozone Park |
| 11418 | Queens | Richmond Hill |
| 11430 | Queens | Ozone Park |
| 11432 | Queens | Jamaica Center |
| 11433 | Queens | South Jamaica |
| 11435 | Queens | Briarwood |
| 11691 | Queens | Far Rockaway |
| 11692 | Queens | Arverne |

Data Source: 2013-2017 American Community Survey 5-year estimates

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PLA Exhibit C - HireNYC Construction Careers
(August 2020 version)

Non-exhaustive list of zip codes where at least 15% of the individuals are below the federal poverty rate
(Zip codes within ~100 mile radius of NYC)

| Zip Code | State | City or Town |
|----------|-------|---------------|
| 06401 | CT | Ansonia |
| 06510 | CT | New Haven |
| 06511 | CT | New Haven |
| 06513 | CT | New Haven |
| 06515 | CT | New Haven |
| 06519 | CT | New Haven |
| 06604 | CT | Bridgeport |
| 06605 | CT | Bridgeport |
| 06607 | CT | Bridgeport |
| 06608 | CT | Bridgeport |
| 06610 | CT | Bridgeport |
| 06702 | CT | Waterbury |
| 06704 | CT | Waterbury |
| 06705 | CT | Waterbury |
| 06706 | CT | Waterbury |
| 06708 | CT | Waterbury |
| 06710 | CT | Waterbury |
| 06810 | CT | Danbury |
| 07002 | NJ | Bayonne |
| 07017 | NJ | East Orange |
| 07018 | NJ | East Orange |
| 07022 | NJ | Fairview |
| 07026 | NJ | Garfield |
| 07029 | NJ | Harrison |
| 07047 | NJ | North Bergen |
| 07050 | NJ | Orange |
| 07055 | NJ | Passaic |
| 07060 | NJ | Plainfield |
| 07062 | NJ | Plainfield |
| 07087 | NJ | Union City |
| 07093 | NJ | West New York |
| 07102 | NJ | Newark |
| 07103 | NJ | Newark |
| 07104 | NJ | Newark |
| 07105 | NJ | Newark |
| 07106 | NJ | Newark |
| 07107 | NJ | Newark |
| 07108 | NJ | Newark |
| 07111 | NJ | Irvington |
| 07112 | NJ | Newark |
| 07114 | NJ | Newark |
| 07201 | NJ | Elizabeth |
| 07202 | NJ | Elizabeth |
| 07206 | NJ | Elizabethport |
| 07208 | NJ | Elizabeth |
| 07304 | NJ | Jersey City |
| 07305 | NJ | Jersey City |
| 07306 | NJ | Jersey City |
| 07307 | NJ | Jersey City |
| 07310 | NJ | Jersey City |

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PLA Exhibit C - HireNYC Construction Careers
(August 2020 version)

Non-exhaustive list of zip codes where at least 15% of the individuals are below the federal poverty rate
(Zip codes within ~100 mile radius of NYC)

| Zip Code | State | City or Town |
|----------|-------|-----------------|
| 07501 | NJ | Paterson |
| 07502 | NJ | Paterson |
| 07503 | NJ | Paterson |
| 07504 | NJ | Paterson |
| 07505 | NJ | Paterson |
| 07513 | NJ | Paterson |
| 07514 | NJ | Paterson |
| 07522 | NJ | Paterson |
| 07524 | NJ | Paterson |
| 07608 | NJ | Teterboro |
| 07703 | NJ | Fort Monmouth |
| 07712 | NJ | Asbury Park |
| 07727 | NJ | Farmingdale |
| 07734 | NJ | Keansburg |
| 07740 | NJ | Long Branch |
| 07820 | NJ | Allamuchy |
| 07939 | NJ | Lyons |
| 08031 | NJ | Bellmawr |
| 08045 | NJ | Lawnside |
| 08095 | NJ | Winslow |
| 08102 | NJ | Camden |
| 08103 | NJ | Camden |
| 08104 | NJ | Camden |
| 08105 | NJ | Camden |
| 08110 | NJ | Pennsauken |
| 08217 | NJ | Elwood |
| 08224 | NJ | New Gretna |
| 08608 | NJ | Trenton |
| 08609 | NJ | Trenton |
| 08611 | NJ | Trenton |
| 08618 | NJ | Trenton |
| 08638 | NJ | Trenton |
| 08701 | NJ | Lakewood |
| 08751 | NJ | Seaside Heights |
| 08808 | NJ | Broadway |
| 08861 | NJ | Perth Amboy |
| 08901 | NJ | New Brunswick |
| 10545 | NY | Maryknoll |
| 10550 | NY | Mount Vernon |
| 10601 | NY | White Plains |
| 10701 | NY | Yonkers |
| 10703 | NY | Yonkers |
| 10705 | NY | Yonkers |
| 10801 | NY | New Rochelle |
| 10927 | NY | Haverstraw |
| 10932 | NY | Howells |
| 10940 | NY | Middletown |
| 10950 | NY | Monroe |
| 10952 | NY | Monsey |
| 10963 | NY | Otisville |
| 10977 | NY | Spring Valley |

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PLA Exhibit C - HireNYC Construction Careers

(August 2020 version)

Non-exhaustive list of zip codes where at least 15% of the individuals are below the federal poverty rate
(Zip codes within ~100 mile radius of NYC)

| Zip Code | State | City or Town |
|----------|-------|------------------|
| 11096 | NY | Inwood |
| 11550 | NY | Hempstead |
| 11556 | NY | Uniondale |
| 11713 | NY | Bellport |
| 11798 | NY | Wyandanch |
| 11951 | NY | Mastic Beach |
| 11970 | NY | South Jamesport |
| 12401 | NY | Kingston |
| 12416 | NY | Chichester |
| 12419 | NY | Cottkill |
| 12427 | NY | Elka Park |
| 12428 | NY | Ellenville |
| 12432 | NY | Glasco |
| 12457 | NY | Mount Tremper |
| 12475 | NY | Ruby |
| 12489 | NY | Wawarsing |
| 12490 | NY | West Camp |
| 12491 | NY | West Hurley |
| 12516 | NY | Copake |
| 12550 | NY | Newburgh |
| 12561 | NY | New Paltz |
| 12583 | NY | Tivoli |
| 12589 | NY | Wallkill |
| 12594 | NY | Wingdale |
| 12601 | NY | Poughkeepsie |
| 12701 | NY | Monticello |
| 12725 | NY | Claryville |
| 12729 | NY | Cuddebackville |
| 12732 | NY | Eldred |
| 12733 | NY | Fallsburg |
| 12743 | NY | Highland Lake |
| 12747 | NY | Hurleyville |
| 12749 | NY | Kauneonga Lake |
| 12751 | NY | Kiamesha Lake |
| 12754 | NY | Liberty |
| 12758 | NY | Livingston Manor |
| 12759 | NY | Loch Sheldrake |
| 12762 | NY | Mongaup Valley |
| 12763 | NY | Mountain Dale |
| 12779 | NY | South Fallsburg |
| 12780 | NY | Sparrow Bush |
| 19007 | PA | Bristol |
| 19123 | PA | Philadelphia |
| 19125 | PA | Philadelphia |
| 19134 | PA | Philadelphia |
| 19135 | PA | Philadelphia |
| 19136 | PA | Philadelphia |
| 19137 | PA | Philadelphia |

Data Source: 2013-2017 American Community Survey 5-year estimates

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EXHIBIT "D"
MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF UNDERSTANDING, entered into as of _____, between the City of New York ("City") with an office located at City Hall, New York, NY 10007, the Building and Construction Trades Council of Greater New York and Vicinity ("BCTC"), on its behalf and on behalf of its affiliated unions, with its principal place of business located at 350 West 31st Street, New York, NY 10001, and the Building Trade Employers' Association of New York City ("BTEA"), on its behalf and on behalf of its affiliated contractors, with its principal place of business located at 1325 Avenue of the Americas, New York, NY 10019.

WHEREAS, since 2009, the City, the BCTC, and the BTEA have entered into Memoranda of Understanding (each an "MOU"), contemporaneous to the City entering to Project Labor Agreements with the BCTC (each a "PLA"), setting goals on new apprenticeship opportunities for graduates of direct entry pre-apprenticeship programs for low-income New Yorkers, minorities, high school students, women, veterans, NYCHA residents, and qualified employees of Minority- and Women-Owned Business Enterprises ("M/WBEs") that become signatory to the union, and have provided increased opportunities for New Yorkers to have access to good union construction careers;

WHEREAS, in 2014, the City and the BCTC entered into an MOU related to the New York City Build It Back Program and committed to encourage contractors and subcontractors to employ Sandy-impacted residents and for the City and the BCTC to work together with community-based organizations to recruit and train New York City residents, with an emphasis on Sandy-impacted low income residents;

WHEREAS, the BCTC and the BTEA committed to: (i) promote the representation of veterans, women, high school graduates of the City's public schools, and New Yorkers in need of economic opportunity in apprenticeship programs jointly sponsored by BCTC unions and BTEA contractors, and (ii) improve workforce training and development for entrance into the construction industry;

WHEREAS, in 2014, the City of New York issued *Career Pathways: One City Working Together*, with a commitment to maximize local job opportunities through the City's contracts, and as such the City is committed to ensuring that low-income New Yorkers have access to the good jobs and careers that are created through the City's capital investments and through this MOU and contemporaneous PLA, the City the BCTC, and with the cooperation of the BTEA contractors can connect low-income New Yorkers to good prevailing wage construction careers;

WHEREAS, through this MOU and contemporaneous PLAs, the City, the BCTC, and the BTEA commit to recruiting in low-income communities, providing opportunities through pre-apprenticeship and apprenticeship programs for access to construction careers, and ensuring residents of low-income communities, including apprentices, are provided opportunities to work on publicly-funded and -assisted construction projects;

WHEREAS, pursuant to Local Law 1 of 2013, the City is also committed to its M/WBE program, and in partnership with the M/WBE Leadership Association seeks to encourage eligible companies to certify as M/WBEs, and provides a wide range of training and technical assistance to build the capacity of its certified companies to bid successfully for the City's contracts and subcontracts;

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WHEREAS, an important element in the success of pre-apprenticeship and apprenticeship programs, as well as in creating work opportunities for contractors and sub-contractors in New York City, is the availability of work on publicly funded and assisted projects; and

WHEREAS, the parties to this MOU desire to publicly state their intentions with respect to apprenticeship programs and the creation of contracting and other economic opportunities in the construction industry.

NOW, THEREFORE, the City, the BCTC, and the BTEA state as follows:

1. Scope. This MOU:

a. States the intentions of the City, the BCTC, and the BTEA regarding:

- a. the provision of opportunities in apprenticeship programs jointly sponsored by BCTC unions and BTEA contractors;
- b. the City's application of apprenticeship requirements in City construction contracts from the time of execution through December 31, 2024;
- c. the joint goal of the City, the BCTC, and the BTEA to create employment opportunities, including apprenticeships, in the construction industry; and

b. Shall terminate on December 31, 2024

2. To facilitate the commitments set forth in this MOU, each Local Union shall designate a HireNYC Construction Careers lead representative to work in partnership with the Mayor's Office of Workforce Development ("WKDEV") to implement these workforce and apprenticeship provisions within the union and across City construction contracts.
3. The BCTC and the BTEA shall work collaboratively with the City to reserve at least 500 new apprenticeship positions each calendar year through both the general recruitment and direct entry programs for New York City residents living in zip codes where at least 15% of the individuals in such zip code are below the federal poverty rate and NYCHA residents regardless of zip code.
4. The BCTC and BTEA shall work collaboratively with the City to reserve new apprenticeship positions each year for direct entry.
 - a. New York State Department of Labor ("NYSDOL") approved Direct Entry programs may be used by sponsors of Registered Apprenticeship programs as another way to bring apprentices into their programs. It is a tool to help sponsors reach underrepresented populations. Direct Entry provides individuals who successfully complete an apprenticeship preparation program, and who meet the minimum requirements for a NYS Registered Apprenticeship program, with the direct opportunity for an interview with the

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sponsor of a program bypassing the general recruitment scheduled for the Apprentices Programs.

5. Apprenticeship programs jointly sponsored by Local Unions and employers affiliated with the BTEA shall, subject to approval by the NYSDOL and to the extent consistent with applicable consent decrees, court orders or similar mandates, reserve up to the following percentages of their new apprenticeships (some apprentices may be counted in more than one category) for direct entry each year:
 - a. 20% for graduates of New York City public high school who have completed pre-apprenticeship training provided by The Edward J. Malloy Initiative for Construction Skills ("C-SKILLS");
 - b. 10% for veterans of the U.S. Armed Forces who are referred by New York City Helmets to Hardhats ("NYC H2H"), provided, however, that any veterans whose qualifications allow them to enter unions as journeypersons shall be counted toward the fulfillment of this percentage;
 - c. 15% for women who have completed pre-apprenticeship training provided by Nontraditional Employment for Women ("NEW");
 - d. 10% for NYCHA and Section 8 residents who have completed pre-apprenticeship training provided by C-SKILLS, NEW, the NYCHA Resident Training Academy ("NRTA"), or Pathways to Apprenticeships ("P2A");
 - e. 10% for justice-involved individuals who have completed pre-apprenticeship training provided by C-SKILLS, NEW, NRTA, or P2A; and
 - f. 5% for qualified employees of certified minority- and women-owned business enterprises and other employers not signatory to collective bargaining agreements of unions affiliated with the BCTC which become signatory to such collective bargaining agreements, provided, however, that any such employees whose qualifications allow them to enter unions as journeypersons shall be counted toward the fulfillment of this percentage.
6. To help reach the goals set forth in paragraph 3, 4, and 5, the City, the BCTC and the BTEA will work cooperatively to identify and pursue appropriate sources of public and private funds and resources, as needed, to provide pre-apprenticeship training scaled to support the goals targeting at least seven hundred (700) pre-apprenticeship positions cumulatively for all above named direct entry programs each year. The City will help coordinate recruitment within the zip codes and target populations identified in paragraphs 3, 4 and 5.
7. The goals in Paragraphs 3, 4, and 5 are aggregate goals for apprenticeship programs jointly sponsored by the Local Unions and BTEA contractors to achieve on an annual basis through their general recruitments and direct entry programs. The City recognizes that different apprenticeship programs face different circumstances and

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have varying capacities to meet the percentages set forth in each category; notwithstanding that, the BCTC and the BTEA agree to encourage and support meeting the goals in Paragraphs 3, 4, and 5, and to work with apprenticeship programs jointly sponsored by their affiliated unions and contractors to take affirmative steps to achieve that goal.

8. The City, BCTC, and BTEA acknowledge that on federally funded projects NYCHA, and the City on certain federally funded projects, must comply with Executive Order 11246 and federal regulations contained at 24 CFR Part 135 ("Section 3") regarding efforts to employ residents of NYCHA developments and other Section 3 populations.
9. The City, the BCTC, and the BTEA will jointly seek any necessary waivers from NYSDOL with respect to direct entry goals for the joint apprentice programs, as well as jointly support and encourage 100% participation of all affiliated joint apprentice programs.

10. Reporting.

- a. Each Local Union shall provide, or cause to be provided by their Apprentice Directors, copies of the following reports to WKDEV within thirty (30) days of the submission to NYSDOL:
 - i. *Apprentice Training Recruitment Notification and Minimum Qualifications (AT 505)* submissions to NYSDOL;
 - ii. *Apprentice Training Program Affirmative Action Plan (AT 603)* submissions to NYSDOL; and
 - iii. *Apprenticeship Agreement (AT 401)* submissions to NYSDOL.

- b. Pre-apprenticeship programs funded in part by the City will provide quarterly reports, beginning at the end of the first quarter after the first class is held, to the WKDEV with detailed information as required by NYC's Workforce Common Metrics reporting for all individuals trained in all classes.

- c. On an annual basis, beginning on January 1, 2021, the City shall provide an electronic report to the BCTC that contains a list of contracts registered in the previous full fiscal year that were subject to either a City Project Labor Agreement or the Apprenticeship Directive. Such list shall contain the following for each contract:
 - i. contracting agency
 - ii. contract name;
 - iii. prime contractor name;
 - iv. registered dollar amount; and
 - v. date of registration.

- d. Upon mutual agreement, the parties may modify these reporting requirements, as needed.

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- 11. City of New York Apprenticeship Directive.** As a means of expanding the pool of work available to apprentices and graduates of state-approved apprenticeship programs providing opportunities to the groups of individuals designated in Paragraphs 3 and 5 above, the City states its intention to implement, as may be amended from time to time, the Directive, attached as Exhibit A. The Directive directs City agencies, for construction contracts where either (i) the cost estimate of the contract exceeds \$3 million, or (ii) the cost estimate of the contract exceeds \$2 million on a project with a cost estimate of at least \$5 million, and for such other contracts as the bidding agency determines to be appropriate, to require the contractor and any of its subcontractors with subcontracts worth at least \$2 million to have apprenticeship agreements appropriate for the type and scope of work to be performed that have been registered with, and approved by, the New York State Commissioner of Labor, and shall have passed any required probationary period and recertification established by the New York State DOL.
- 12.** The City shall include a statement concerning the applicability of the Directive in every City Record notice of the solicitation or award of a contract for a public works project. Within five (5) days of the issuance of any waiver from the apprenticeship requirement, the City shall notify the BCTC and the BTEA, in writing or electronically, of the granting of such waiver and the reasons therefore.
- 13.** The City, the BCTC, and the BTEA look forward to working together and with the contractor community in a spirit of cooperation and good will toward the goal that all New Yorkers from diverse backgrounds, particularly minorities, women, returning veterans, recent public high school graduates, NYCHA residents, individuals in need of economic opportunity, and justice-involved individuals, are well-prepared for participation in the workforce and can gain access to good careers in the construction industry, in both the private and public sectors.

For the City of New York

By: _____
 First Deputy Mayor, Dean Fuleihan

For Building and Construction Trades Council of Greater New York and Vicinity

By: _____
 Gary LaBarbera, President

For Building Trades Employers' Association of New York City

By: _____
 Louis J. Coletti, President & CEO

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- 3. The Parties agree to make a good faith effort to resolve any other privacy concern of Project Personnel regarding this Policy, provided that any such concerns do not interfere with the purpose of this Policy.

ARTICLE 4 – GRIEVANCE

SECTION 4.1 - REPRESENTED WORKERS

Nothing in this Policy shall restrict a member of a signatory local union from filing a grievance in accordance with the member's collective bargaining agreement or a Project Labor Agreement, provided that the grievance shall be limited to whether the removal of a member for violation of this Policy was conducted in compliance with the terms and conditions set forth herein.

SECTION 4.2 - HOLD HARMLESS

The Construction Manager agrees to hold harmless and indemnify the Union/Council and its representatives from any liability that may be incurred as a result of the Company’s Drug and Alcohol Policy to the extent caused by the negligence or intentional misconduct of the Construction Manager.

IN WITNESS WHEREOF the parties have agreed to this Policy as of _____, 20__.

FOR [CONSTRUCTION MANAGER]

By: _____

Name: [INSERT NAME] _____

Title: [INSERT TITLE] _____

FOR GREATER NEW YORK CITY BUILDING TRADES COUNCIL

By: _____

Name: Gary LaBarbera _____

Title: President

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SCHEDULE “B” - DRUG AND ALCOHOL POLICY**PREAMBLE**

WHEREAS, [CONSTRUCTION MANAGER] (“Construction Manager”), for the construction project located at [PROJECT ADDRESS] (“Project”) desires to provide for a safe, drug and alcohol-free work site for the Project;

WHEREAS, the parties have entered into a separate Project Labor Agreement for the Project and have agreed to negotiate in good faith a Project Drug & Alcohol Testing Policy;

WHEREAS, this Testing Policy is collectively negotiated between the Construction Manager and the New York City Building and Construction Trades Council (“Council”) (the Construction Manager and BCTC are collectively referred to hereafter as the “Parties”);

WHEREAS, the Parties each currently have respective drug and alcohol policies, including the Projects' Zero-Tolerance policy;

WHEREAS, the Parties desire to maximize project safety conditions for the Project personnel and public, as well as deter violations of the Parties' respective drug and alcohol policies;

NOW, THEREFORE, the Parties agree to this Policy as of the date hereof,

ARTICLE 1 - PARTIES

This Drug & Alcohol Testing Policy (“Policy”) is hereby established by the Construction Manager and the Council, on behalf of itself and its affiliated local union members, and the signatory local unions on behalf of themselves and their members.

ARTICLE 2-GENERAL CONDITIONS**SECTION 2.1 - SUMMARY**

In order to reinforce the Parties' respective drug and alcohol policies, including the Projects' zero tolerance policy regarding the prohibition of the use of drugs and alcohol, and to deter Project personnel from violating those policies, the Parties agree that all Project Personnel (defined later) will be required to submit to drug and/or alcohol testing randomly, post-accident, and for reasonable suspicion.

Any individual on site that violates this Policy is subject to disciplinary action, including, without limitation, loss of site access privileges.

SECTION 2.2 - REVOCATION OF PROJECT ACCESS PRIVILEGES

Any one of the following occurrences will result in the immediate revocation of a Project Personnel's project access privileges:

1. An individual is found selling or using drugs or alcohol, or otherwise is under the influence of drugs or alcohol, subject to the other terms of this Policy, on a Project Site;
2. An individual has been convicted under any criminal drug or alcohol

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statute for a violation occurring in the workplace within the past two years;

3. An individual who refuses to abide by the Projects' drug and alcohol policy, or refuses to submit to a test in accordance with this Policy;
4. An individual who switches, adulterates, or in any way tampers with a specimen required to be submitted in accordance with this Policy.

SECTION 2.3 - DEFINITIONS

Confirmed Positive Test: The presence of drugs, drug metabolites, or alcohol in a person's body that equals or exceeds the established cut off levels as defined in Exhibit 1. For drugs, the sample will have undergone Laboratory screening and confirmation testing and must have been verified as positive by a Medical Review Officer. A positive test result for alcohol obtained through Evidential Breath Testing is considered a Confirmed Positive Test.

Employee Assistance Program (EAP): An EAP is generally considered a workplace-based, confidential program designed to help employees deal effectively with a variety of personal problems, and, of relevance to this policy, substance abuse problems. The EAP promotes assessments and short-term counseling. An EAP shall also include any similar education or rehabilitation program provided by the Councilor its respective members. The Project Personnel that are required to participate in the EAP shall be responsible for the cost of their consultation with an EAP and/or participation in any education or rehabilitation program.

Evidential Breath Testing Device (EBT): A device that is used to measure alcohol in the breath and which meets National Highway Traffic Safety Administration's specifications for precision and accuracy.

Laboratory: A laboratory that is SAMHSA (Substance Abuse and Mental Health Services Administration) certified for the testing of drugs.

Medical Review Officer (MRO): A licensed physician responsible for receiving laboratory results generated by an employer's drug testing plan who has knowledge of substance abuse disorders and medical training to interpret and evaluate a donor's confirmed positive test result together with his/her medical history and all other relevant information.

Previous Worker: All individuals whose employment relationship with the contractor, company or organization no longer exists.

Project Site: The construction area for respective Project.

Reasonable Suspicion: When a qualified trade contractor, the Developer or Construction Manager as set forth in Section 3.7, reasonably believes that an individual has violated this Policy. Reasonable suspicion is based upon (1) specific, current, behavioral or performance indicators, (2) the possible manufacture, distribution, consumption or possession of unauthorized drugs, drug paraphernalia, or alcohol, or (3) documented investigation by an agency retained by, or otherwise independent from, the Developer or Construction Manager.

SECTION 2.4 - INCLUDED SUBJECTS

This Policy shall cover all employees of the Owner, Construction Manager and Project

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trade contractors, their subcontractors and any other of their respective personnel at any level that are performing any activity at a Project Site, inclusive of managers, superintendents and supervisors, except as specifically excluded by Section 2.5 of this Policy (collectively and singularly, "Project Personnel").

SECTION 2.5 - EXCLUDED SUBJECTS

The following persons are not subject to the provisions of this Policy:

- A. Employees and entities engaged in off-site manufacture, modifications, repair, maintenance, assembly, painting, handling or fabrication of components, materials, equipment or machinery;
- B. Vendors and employees of vendors engaged on a Project Site in equipment testing, inspection, training, warranty work, or engaged in corrections of defective or nonconforming work, unless such employees are expressly included in the bargaining unit of a local signatory to this Agreement;
- C. Employees engaged in ancillary work on a Project which is performed by third parties, such as electric utilities, gas utilities, telephone companies, and railroads, or any other work not constituting Project work;
- D. Employees of any governmental authority (state, local or otherwise);
- E. Employees and contractors engaged in work on the Project Site as part of due diligence or monitoring, which work is ancillary to Project work; and
- F. Emergency responders.

SECTION 2.6 - PRESCRIPTION AND NON-PRESCRIPTION DRUGS

The use of prescription drugs not prescribed directly to Project Personnel is prohibited, including the use of drugs prescribed to a spouse or domestic partner. The use of non-prescription drugs that are sold outside the United States and that contain substances that are illegal or require a prescription in the United States are prohibited, unless prescribed by a licensed physician.

SECTION 2.7 - SEARCHES

In order for the Construction Manager to ensure the safety of Project Personnel and for the Construction Manager to protect its assets, the Construction Manager shall have the right upon good cause (such as reasonable suspicion of a violation of this Policy) to conduct reasonable searches for alcohol, drugs and related paraphernalia anywhere within the boundaries of a Project Site. A search may include any assets owned or leased by any Project Personnel that is on a Project Site, including without limitation, vehicles, lockers, gang boxes, desks and personal property brought onto a Project Site, but excluding personal body searches or physical contact with employees.

ARTICLE 3 - DRUG & ALCOHOL TESTING**SECTION 3.1 - COLLECTION PROCESS**

As of the execution date of this PLA, Project Personnel may be required to submit urine samples ("Preliminary Drug Screening") for the purpose of detecting the presence of drugs as part of the random, post-accident or reasonable suspicion testing, in accordance with

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chain of custody protocols as established by Substance Abuse and Mental Health Services Administration (SAMHSA), utilizing an instant result test cup for Preliminary Drug Screenings, such testing is to be performed on-site by an independent service provider. The results from the instant result test cup will be considered preliminary. The sample will be sent to a SAMHSA certified testing laboratory for confirmation.

As of the date hereof, all Project Personnel will be required to submit to an Evidential Breath Test (EBT) for the purpose of detecting the presence of alcohol when submitting to random, post-accident or reasonable suspicion testing. Alcohol testing will not be conducted for pre-access testing.

SECTION 3.2 - NEGATIVE PRELIMINARY DRUG SCREENING

Project Personnel with a negative Preliminary Drug Screening will be considered conditionally accepted for Project site access, pending confirming laboratory results. Site access privileges will be revoked if the subsequent laboratory results determine that the sample has tested positive for drugs or that the sample has been adulterated.

SECTION 3.3 POSITIVE PRELIMINARY DRUG SCREENING

If the Preliminary Drug Screening indicates a positive result, the individual will not be allowed access to the Project Site. The sample will be sent to the certified laboratory for analysis and, if applicable, reviewed by the Medical Review Officer (MRO). If the laboratory confirmation results are also positive, the individual will be considered in violation of this Policy and their site access will be revoked for at least 30 days. If the laboratory confirmation results are negative, the Project Personnel's site access will not be revoked.

SECTION 3.4 CONFIRMED POSITIVE TEST RESULTS

A. POSITIVE DRUG TEST

A drug test is considered positive if the test results exceed the limits shown in Exhibit 1, which is attached hereto and incorporated herein by reference. The test will be confirmed through a second analysis process and reviewed by an MRO before results are reported. Project Personnel with confirmed positive drug test results will have their site access revoked. In case of a "false positive" result, any such Personnel shall be entitled to the reimbursement of any wages lost during the suspension caused by any such false positive result.

B. POSITIVE EBT

An EBT is considered positive if the test results exceed .04 BrAC, or as otherwise set forth in Exhibit 1. Project Personnel with a positive alcohol test result will be subject to the remedies set forth in Exhibit 1.

C. REINSTATEMENT OF SITE ACCESS PRIVILEGES

(a) Subject to section 3.4(C)(a) immediately below, if the site access of a Project Personnel has been revoked pursuant to this Policy, then any such person may request that their site access be reinstated after 30 days, provided that all of the following conditions are met to the reasonable satisfaction of the Construction Manager. :

1. The individual has provided proof of wellness from an accredited rehabilitation

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facility or has provided proof that treatment isn't needed as attested to by a licensed health care provider specializing in the diagnosis and treatment of alcohol and drug abuse.

2. A current drug and alcohol test is obtained within three (3) days of the request for re-access to the site and proof of a negative test result has been received; and
3. The individual agrees to submit to multiple testing for two (2) full years from the date of gaining re-access to the project, the scheduling of which will be determined at the sole discretion of the Construction Manager. If all of these conditions have been met, the Construction Manager agrees that it will not unreasonably withhold their consent to any such request.

(b) Unlawful possession, concealment, use, purchase, sale, manufacture, dispensation or distribution of illegal drugs or un-prescribed controlled substances on the Project site will subject the Project Personnel Employee to immediate removal from the Project site and shall bar such Project Personnel Employee from returning for a minimum of three (3) months, which return shall, in any event, be subject to the reasonable approval by Construction Manager.

(c) All of the Parties agree that any such Project Personnel will only be entitled to any such reinstatement of site access privileges one time and that any subsequent violation of this Policy will result in the permanent termination of access to the Project Site.

SECTION 3.5 - RANDOM TESTING

A third-party provider designated by the Construction Manager will randomly select by an objective criteria a testing pool for random drug and/or alcohol testing from all Project Personnel with site access cards. Any individual selected for a random drug and/or alcohol test will be required to submit to an Evidential Breath Test (EBT) and/or drug test. Individuals may be tested more than once during any given time period. The Parties acknowledge and agree that an EBT may be required without a drug test and that a drug test may be required without an EBT, as solely determined by the Construction Manager.

If an individual is unable to attend the first scheduled random drug test as a result of being involved in a work-related task, such drug test will be rescheduled and will be completed at or before the conclusion of such employee's then current work shift. If the second drug test is missed for any reason, the incident will be reviewed by the Construction Manager, who shall have the right to terminate the site access privileges of any such Project Personnel until such time as that Project Personnel has complied with this Policy. If the individual refuses to take the test, their access privileges will be immediately terminated for cause.

SECTION 3.6 - POST ACCIDENT TESTING

After each work-related incident or injury requiring the services of a licensed health care provider, all Project Personnel involved with the incident will be required to submit to a drug and/or alcohol test immediately following the incident. In instances where emergency care is necessary, the drug and/or alcohol test shall be obtained by the care facility, if possible, within 24 hours after treatment is rendered. If more than 48 hours have passed before an injury is reported and treated by a licensed health care provider, an alcohol test will not be required.

In addition, any Project Personnel involved in a non-injury related incident at a Project Site

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with damages at or in excess of \$200 will be required to submit to a drug and/or alcohol test unless:

- A. It is determined, after conducting an investigation and interviewing all employees involved and any witnesses, that the employee's performance can be completely discounted as a contributing factor to the incident; or
- B. It is determined, after conducting an incident investigation and interviewing all employees and any witnesses that the incident was caused by inadequate equipment or system design, and/or premature failure of equipment or system components.

SECTION 3.7 - REASONABLE SUSPICION TESTING

All Project Personnel will be required to submit to a drug and/or alcohol test when there is reasonable suspicion the individual has violated this policy.

Reasonable suspicion includes, without limitation, the following:

- A. Violent or irrational behavior;
- B. Emotional or physical unsteadiness;
- C. Sensory or motor-skill malfunctions;
- D. Slurred speech;
- E. The odor of alcohol or drugs on clothing or breath in conjunction with other indicators;
- F. Possession of alcohol, unauthorized drugs or drug paraphernalia; or
- G. Documented evidence of an independent investigation regarding Project Personnel's consumption of what is reasonably believed to be an alcoholic beverage or drugs in violation of the Project's policies and/or this Policy.

Reasonable suspicion testing may only be ordered by supervisory personnel that: (a) have been trained to recognize the above referenced factors; or (b) have received credible documentary evidence from an independent investigator that a Project Personnel has violated a drug and/or alcohol policy. It is agreed that any certified training program shall satisfy the training requirement.

SECTION 3.8 - PRIVACY CONSIDERATIONS

The Parties agree to use reasonable efforts to conduct any testing pursuant to this Policy in accordance with the privacy concerns of Project Personnel. To address these concerns, the Parties agree that:

1. The testing station(s) shall be screened off, or otherwise closed off from public view.
2. All documents and information regarding the testing, including test results, shall be maintained by the respective custodian(s) of record in accordance with their respective privacy policies, which any Project Personnel shall be entitled to review upon timely request.

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EXHIBIT 1**CLASS OF DRUGS TESTED AND THEIR RESPECTIVE CUT-OFF LIMITS**

The cut-off limits established are those recommended by the U.S. Department of Health and Human Services in their mandatory Guidelines for Federal Workplace Drug Testing Programs.

| <u>Drug Class</u> | <u>Screening Cut-Off Limit (ng/ml)</u> | <u>Confirmation Cut-off Limit (ng/ml)</u> |
|---|--|---|
| Amphetamines | 1000 | 500 |
| Benzoylcegonine (Cocaine Metabolite) | 300 | 150 |
| Cannabinoids (THC) | 50 | 15 |
| *Opiates | 2000 | 10 |
| Phencyclidine (PCP) | 25 | 25 |

Confirmation screening is done by means of GC/MS analysis.

*The GC/MS confirmation for opiates will be for both codeine and morphine separately. If morphine is equal to or greater than 2,000ng/ml then the GC/MS confirmation analysis for 6- acetylmorphine (6-MAM) is at a cut-off level of 10ng/ml.

Alcohol Screening

All Project Personnel will be required to submit to an EBT under the random, post-accident, and reasonable suspicion test arenas, for the purpose of detecting presence of alcohol. If this test supports a positive result for presence of alcohol, the Project Personnel will be considered in violation of this Policy.

If the results of the EBT are:

1. Above 0.001 BrAC, but at or below 0.020 BrAC, a second test will be conducted within approximately 15 minutes.
 - If the second BrAC test is less than the first BrAC, the results will be deemed negative and the Project Personnel may return to work, if there are no other outstanding issues.
 - If the second BrAC is increasing, but below 0.04 BrAC, the results will be deemed negative, but the Project Personnel will be sent home for the day and the Construction Manager shall be notified. If a Project Personnel is sent home two times within a six-month period pursuant to this Section I, then any such Project Personnel shall be deemed to have tested positive and will be subject to the applicable remedies set forth in Section 2 below.
2. Above 0.02 BrAC, but below 0.06 BrAC, a second test will be conducted after approximately 15 minutes.

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- Notwithstanding anything set forth above to the contrary, a Project Personnel may elect to voluntarily go home for the day instead of taking a second test and the results will be deemed negative, provided that any such Project Personnel may not voluntarily go home more than once within a twelve month period.
 - If the second BrAC test is at or below 0.02 BrAC, the results will be deemed negative and the Project Personnel may return to work if there are no other outstanding issues.
 - If the second BrAC test is above 0.020, but below 0.06, the results will be deemed positive, the Project Personnel will be sent home for the day and their site access will be revoked for at least five [5] calendar days and until such time as the Project Personnel has been evaluated by an EAP professional skilled in substance abuse and confirmed fit for duty.
 - Any Project Personnel who is deemed positive two times within two years pursuant to this Section 2 will have their site access privileges terminated and will be entitled to the limited relief set forth in Section 3 .4(c) of the Policy.
3. At or above .06 BrAC, the Project Personnel will have their site access privileges terminated, after which they will be entitled to the limited relief set forth in Section 3.4(C) of the Policy.