HAYWARD UNIFIED SCHOOL DISTRICT

Measure L CONSTRUCTION PROJECT STABILIZATION AGREEMENT

June 24, 2015

PROJECT STABILIZATION AGREEMENT
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PROJECT STABILIZATION AGREEMENT FOR THE

HAYWARD UNIFIED SCHOOL DISTRICT MEASURE L PROJECTS

The purpose of this Agreement is to promote efficiency of construction operations during the Hayward Unified School District Measure L New Construction and Modernization Projects ("Projects") as defined herein, and to provide for peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of the Projects, while also helping to increase training and employment opportunities for the District's students in the construction trades through apprenticeship and pre-apprentice programs as the students graduate from the District's schools.

WHEREAS, the successful completion of the Projects is of the utmost importance to the Hayward Unified School District ("District") to meet the educational needs of the District's students and to avoid increased costs resulting from delays in construction; and

WHEREAS, large numbers of workers of various skills will be required in the performance of the construction work, including those to be represented by the unions affiliated with the Building and Construction Trades Council of Alameda County ("Unions") and any other labor organization which is signatory to this Agreement employed by contractors and subcontractors who are signatory to this Agreement; and

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

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

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

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

WHEREAS, the contracts for construction work on the Projects will be awarded in accordance with the applicable provisions of the Public Contract Code, Education Code and other applicable California law; and

WHEREAS, nearly all of the funding for the construction of the Projects will come from Measure L, passed by the Hayward residents, and paid for by the Measure L special tax on the properties owned by Hayward residents, in contrast to typical California school projects, which are funded through a balance of local and State funds; and

WHEREAS, in recognition of the unique local Hayward funding of the Projects, the parties signatory to this Agreement realize that this Agreement should also be unique to Projects of this type in Hayward, and therefore is not to be considered a precedent for provisions sought in other future agreements outside of Hayward; and

WHEREAS, the District has the absolute right to select the lowest responsive and responsible bidder for the award of the construction contracts on the Projects; and

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

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

ARTICLE I

DEFINITIONS

1.1 "Agreement" means Project Stabilization Agreement.

1.2 "District" means the Hayward Unified School District, its employees, agents, and administrative staff under its Superintendent.

1.3 "Contractor/Employer(s)" means any individual, firm, partnership or corporation, or combination thereof, including joint ventures, which is an independent business enterprise and enters into a contract with the District not excluded in this Agreement or any of its contractors or subcontractors of any tier, with respect to the construction of any part of the Projects under contract terms and conditions approved by the District and which incorporate the Agreement.

1.4 "Construction Contracts" means the public works contracts not excluded in this Agreement which will be signed by the District and which are necessary to complete the Projects.

1.5 "Projects" means all of the Hayward Unified School District Measure L Projects identified in the Measure L project list.

1.6 "Union" or "Unions" means the Building and Construction Trades Council of Alameda County, AFL-CIO ("Council") and any other labor organization signatory to this Agreement, acting in their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement ("Signatory Unions").

1.7 "Project Manager" means the person(s) or business entity(ies) designated by the District to oversee all phases of construction on the Projects.

1.8 "Chief Facilities Officer" means the Chief Facilities Officer for the Hayward Unified School District.

1.9 "Master Agreement" means the Master Collective Bargaining Agreement of each craft Union signatory hereto.

1.10 "Hayward Resident" for purposes of this Agreement means any individual who at any time during the Projects' construction can certify through a utility bill, or other similar means acceptable to the parties to this Agreement, that the individual resided within either the boundaries of the Hayward Unified School District or the Hayward City limits both on the date of such certification and the effective date of this Agreement.

1.11 "District Graduate" is a Hayward Resident that has graduated from a Hayward Unified School District school within the last four years preceding the effective date of this Agreement.

1.12 "First Period Apprentice" is a first period apprentice who is enrolled in a State of California approved apprenticeship program that is a joint labor-management apprentice program.

1.13 "General Contractor" means the entity in contract with the District for construction of a particular Project, such as a prime contractor or lease-leaseback contractor.

1.14 "Allocated" regarding project funding means the point in time in which a project is defined enough to where a preliminary budget is created and established in the Measure L program budget tracking system managed by the Program Manager.

ARTICLE II

SCOPE OF AGREEMENT

2.1 **Parties**: The Agreement shall apply and is limited to all Contractors/Employer(s) performing construction contracts on the Projects, the District and the Building and Construction Trades Council of Alameda County, AFL-CIO ("Council") and any other labor organization signatory to this Agreement, acting in their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed

hereto and who have through their officers executed this Agreement ("Signatory Unions"). It is agreed that liability under this Agreement is several and not joint.

2.2 **Project Description**: The Agreement shall apply to all construction contracts identified by the District for the Projects. For the purposes of this Agreement, a construction contract shall be considered completed upon acceptance of the work by the District.

2.3 **Project Labor Disputes**: All project labor disputes involving the application or interpretation of a Master Agreement to which a signatory Contractor/Employer(s) and a signatory Union are parties shall be resolved pursuant to the resolution procedures of the Master Agreement. All disputes relating to the interpretation or application of the Project Stabilization Agreement shall be subject to resolution by the Joint Administrative Committee and the grievance arbitration procedure set forth in Article 13. Notwithstanding any specific dispute resolution procedures in this Agreement, all disputes arising from the Agreement shall be resolved by a neutral arbitrator.

2.4 This Agreement shall cover all public work or improvement for the Project including construction, alteration, demolition, installation and repair, site preparation, inspection, and surveying, that is part of a Construction Contracts and is covered by prevailing wage determinations of the DIR. This scope of work includes testing and inspection where such testing and inspection is work performed at the site of construction and is a classification in which a prevailing wage determination has been published, and on-site trucking and on-haul and off-hauling to the fullest extent provided by law and the prevailing wage determinations of the DIR. This Agreement covers all on-site fabrication work over which the District, the Contractor(s) or subcontractor(s) possess the right of control (including work done for a Project in any temporary yard or area established for a Project.) Additionally, this Agreement covers any off-site work, including fabrication necessary for the Project defined herein, that is covered by a current Schedule A Agreement or local addenda to a national agreement of the applicable Union that is in effect as of the execution date of this Agreement.

2.5 Work covered by the Project Stabilization Agreement within the craft jurisdiction of the Elevator Constructors will be performed under the terms of the National Agreement of the International Union of Elevator Constructors, except that Articles IV, XIII, and XIV of the Project Stabilization Agreement shall prevail and be applied to such work.

2.6 **Exclusions**:

1) The Agreement shall be limited to all Project work subject to both Public Contract Code public bidding requirements and prevailing wage requirements. This Agreement is not intended to and shall not govern any construction work that is bid or performed prior to the effective date of this Agreement or on any District public works project that is not explicitly subject to this Agreement. Work not subject to both Public Contract Code public bidding requirements and prevailing wage requirements may include, but is not limited to, work included in a Power Purchase Agreement, and work contracted through CMAS. Additionally, shop fabrication work not covered under state prevailing wage determinations is excluded from this Agreement, with the exception of the shop fabrication work identified in section 2.4 this Agreement.

2) It is agreed and understood that the District may find itself in the favorable position of having excess Measure L funds available at the completion of the Projects. At that time the district will meet and confer with the Building Trades about the potential use of those excess funds before those funds are allocated.

3) The Agreement is not intended to, and shall not affect or govern the award of public works contracts by the District which are outside the approved scope of the Projects.

4) The Agreement shall not apply to a Contractor/Employer's executives, managerial employees, engineering employees, supervisors (except those covered by existing building and construction trades collective bargaining agreements and whom would otherwise be subject to prevailing wage), and office and clerical employees.

Nor does the Agreement apply to or otherwise affect any Contractor/Employers' parent companies, subsidiaries, or affiliates.

5) The Agreement is not intended to, and shall not, affect the operation or maintenance of any school facilities within the District not expressly covered by the Project scope of work, nor shall the District be required to comply with this Agreement for any work performed with its own forces as permitted by the Public Contract Code and Education Code.

ARTICLE III

EFFECT OF AGREEMENT

3.1 By executing the Agreement, the Unions and the District agree to be bound by each and all of the provisions of the Agreement.

3.2 By accepting the award of a Construction Contract for the Projects, whether as contractor or subcontractor, the Contractor/Employer agrees to be bound by each and every provision of the Agreement and agrees that it will evidence its acceptance prior to the commencement of work by executing the Letter of Assent in the form attached hereto as Addendum A. This Agreement shall not be interpreted to prohibit or otherwise limit any non-union contractor or subcontractor from bidding on or submitting a proposal on any Project covered by this Agreement. PCC §2500.

3.3 At the time that any Contractor/Employer enters into a subcontract with any subcontractor providing for the performance of the Construction Contract, the Contractor/Employer(s) shall provide a copy of this Agreement, as it may from time to time be modified, to said subcontractor and shall require the subcontractor as a part of accepting an award of a construction subcontract to agree in writing to be bound by each and every provision of this Agreement prior to the commencement of work. This Agreement shall only be binding on the signatory parties hereto and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party.

ARTICLE IV

WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS

4.1 The Unions, District and Contractor/Employers covered by the Agreement agree that for the duration of the Projects:

1) There shall be no strikes, sympathy strikes, work stoppages, picketing, hand billing or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions, Contractor/Employers, or employees employed on the Projects, at the job site of the Projects or at any other facility of the District, as a result of or related to a dispute on the Projects. Disputes arising between the Unions and Contractor/Employers on District projects other than the Projects are not governed by the terms of the Agreement or this Article.

2) As to employees employed on the Projects, there shall be no lockout of any kind by a Contractor/Employer covered by the Agreement.

3) If a master collective bargaining agreement between a Contractor/Employer and the Union expires before the Contractor/Employer completes the performance of the Construction Contract and the Union or Contractor/Employer gives notice of demands for a new or modified master collective bargaining agreement, the Union agrees that it will not strike the Contractor/Employer on said contract for work covered under this Agreement and the Union and the Contractor/Employer agree that the expired master collective bargaining agreement shall continue in full force and effect for work covered under this Agreement until a new or modified master collective bargaining agreement is reached between the Union and Contractor/Employer. If the new or modified master collective bargaining agreement reached between the Union and Contractor/Employer provides that any terms of the master collective bargaining agreement shall be retroactive, the Contractor/Employer agrees to comply with any retroactive terms of the new or modified master collective bargaining agreement which are applicable to

employees who were employed on the projects during the interim with retroactive payment due within seven (7) days of the effective date of the modified Master Agreement.

4.2 In the case of nonpayment of trust fund contributions on the Projects, the Union shall give the District and the Contractor/Employer(s) notice of the intent to withhold labor from the Contractor/Employer(s)' or their subcontractor's workforce, during which time the Contractor/Employer shall have the opportunity to correct the default. If, after receipt of such notice, the Contractor/Employer(s) fail to remedy such nonpayment within five (5) business days, a Union's withholding of labor (but not picketing, striking, sympathy striking, stopping work, slowing down work, inducing or encouraging lockouts, hand billing or otherwise advising the public that a labor dispute exists) from a Contractor/Employer who has so failed to pay his/its required trust fund contributions shall not be considered a violation of this Article.

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

1) A party invoking this procedure shall notify, by facsimile, email or telephone, the party alleged to be in violation, the District representative, and the Building and Construction Trades Council of Alameda County and the involved local Union if a Union is alleged to be in violation.

2) Upon receipt of said notice, the recipient party shall notify William Riker, as the designated neutral arbitrator, or, Robert Clark, as the designated alternate neutral arbitrator under this procedure. In the event that the designated arbitrator is unavailable at any time, the designated alternate arbitrator will be contacted. If neither is available, then a selection shall be made from the list of arbitrators in Article 13.2. The designated arbitrator named above or his/her alternate will designate a place for, schedule and will convene a hearing within twenty-four (24) hours if it is contended that the violation still exists. It is further understood, that

the Joint Administrative Subcommittee (defined in Article 13.2), shall review the designated arbitrators named above, prior to the award of the first construction contract, and thereafter annually. The purpose of this review is to either confirm or re-designate the arbitrators from the list of arbitrators in Article 13.2)

3) The arbitrator shall notify the parties by facsimile, email or telephone of the place and time for the hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party to attend said hearings shall not delay the hearing of evidence or the issuance of any award by the arbitrator. The sole issue at the hearing shall be whether or not a violation of Article IV, Section 4.1 of the Agreement has occurred. The arbitrator shall retain jurisdiction to determine compliance with this Article and to establish the appropriate sum of damages, which shall not be less than one thousand dollars ($1,000.00) or more than fifteen thousand dollars ($15,000.00) for each shift.

4) The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with or enforcement of the award. The arbitrator may order cessation of the violation of this Article and other appropriate relief and such award shall be served on all parties by hand or registered mail upon issuance.

5) Such award may be enforced by any Court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the arbitrator's award as issued under Section 4.2(4) of this Article, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing

for a final order or enforcement. The Court's order or orders enforcing the arbitrator's award shall be served on all parties by hand or delivered by certified mail.

6) Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance are waived by the parties.

7) The fees and expenses of the arbitrator shall be divided equally between the parties, including, but not limited to, any cost associated with a requested written opinion of the arbitrator, as described above.

If, after final order by any Court of competent jurisdiction, the offending party continues to breach the terms of Article 4 of this Agreement, the non-offending party shall have the option to recover monetary damages associated with the breaching party's failure to comply with the Agreement and court order, including but not limited to delay damages and escalation costs.

ARTICLE V

PRE-CONSTRUCTION CONFERENCE

5.1 A pre-construction conference shall be held prior to the commencement of work under any Construction Contract. Such conference shall be attended by a representative each from the participating Contractor/Employer(s) and Union(s), and the District's Project Manager. All efforts will be made to hold the pre-job conference in sufficient time to ensure all parties the ability to properly raise and resolve any issue that may arise out of such meeting, with a goal that such conferences will be held at least 21 days before the work commences. All meetings shall be held at the offices of the Building Trades Council of Alameda County.

ARTICLE VI

NO DISCRIMINATION

6.1 The Contractor/Employer(s) and Union(s) agree not to engage in any form of discrimination on the ground or because of race, religion, political affiliation, membership or non-membership in a labor organization, color, creed, national origin, ancestry, age, sex, sexual orientation, disability or Acquired Immune Deficiency Syndrome or AIDS Related Condition (AIDS/ARC), or any other basis made illegal by law against any employee, or applicant for employment, on the Projects.

6.2 The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms at any time during the work day is prohibited. The Parties agree to recognize and use the Substance Abuse Prevention Program contained in each applicable Union's Schedule A Agreement.

ARTICLE VII

UNION SECURITY

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

7.2 All employees who are employed by the Contractor/Employer(s) on the Projects shall, as a condition of employment, on or before the eighth (8th) day of consecutive or cumulative employment on a Construction Contract subject to this Agreement, be responsible for the payment of the applicable monthly working dues and any associated fees uniformly required for union membership in the local union which is signatory to this Agreement. Further, there is nothing in this Agreement that would prevent non-union employees from joining the local union or that would require non-union employees to join the local union.

7.3 Authorized representatives of the Union(s) shall have access to the Projects whenever work covered by this Agreement is being, has been or will be performed on the Projects.

ARTICLE VIII

REFERRAL

8.1 The Union(s) shall be the primary source of all craft labor employed on the Projects. However, in the event that a Contractor/Employer has his/her own core workforce, the Contractor/Employer(s) may request by name, and the local shall honor, referral of persons who demonstrate the following qualifications:

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

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

3) were on the Contractor/Employer(s)' active payroll for at least sixty (60) out of the one hundred (100) calendar days prior to the contract award; and

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

8.2 The Union will refer to such Contractor/Employer(s) one journeyman employee from the hiring hall out-of-work list for the affected trade or craft, and will then refer one of such Contractor/Employer(s)' "core" employees as a journeyman and shall repeat the process, one and one, until such Contractor/Employer(s) crew requirements are met or until such Contractor has hired five (5) "core" employees, whichever occurs first. In the event that any number of these 5 core employees are Hayward Residents, the Contractor/Employer(s) may continue to request, and the Union will continue to refer, one additional "core" employee for each Hayward resident core employee referred, up to a maximum of 10 core employees total. All such additional core employees will be referred in the same one and one process as described above. Thereafter, all additional employees in the affected trade or craft shall be hired exclusively from the hiring hall out-of-work list(s). For the duration of the Contractor/Employer(s)' work the ratio shall be maintained and when the Contractor/Employer(s)' workforce is reduced, employees shall be reduced in the same ratio of core employees to hiring hall referrals as was

applied in the initial hiring. Contractor/Employer(s) signatory to a Local, Regional, and/or National collective bargaining agreements with Union(s) signatory hereto shall be bound to use the hiring hall provisions contained in the Master Agreement of the affected Union(s), and nothing in the referral provisions of this Agreement shall be construed to supersede the local hiring hall provisions of the Master Agreement(s) as they relate to such Contractor/Employer(s), except the provisions limiting the number of core employees and the provisions regarding the use of Hayward Residents as core employees.

8.3 Contractor/Employer(s) shall be bound by and utilize the registration facilities and referral systems established or authorized by the signatory Unions when such procedures are not in violation of Federal law.

8.4 In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor/Employer(s) for employees within a forty-eight (48) hour period, weekends and holidays excluded, after such requisition is made by the Contractor/Employer(s), the Contractor/Employer(s) shall be free to obtain work persons from any source. The Contractor/Employer(s) shall immediately notify the appropriate Union of the identity, including name, address, telephone number and social security number, of any such person(s) hired from an alternative source.

8.5 Unions will exert their utmost efforts to recruit sufficient numbers of skilled craft persons to fulfill the requirements of the Contractor/Employer(s), and document such efforts as required.

8.6 Subject to the limitation of applicable law, the parties to this Agreement support the development of increased numbers of skilled construction workers from the residents of the City of Hayward, to meet the needs of the Projects and the requirements of the industry generally. Toward that end, the Unions agree to encourage the referral and utilization, to the extent permitted by law and the hiring hall procedures of the Unions, of qualified Hayward Residents, as journeymen and apprentices on the Projects and entrance into such apprenticeship and training programs as may be operated by the signatory

Unions consistent with the applicable Apprenticeship Program's State-approved Standards.

8.7 If desired by the District, the District and the Building and Construction Trades Council of Alameda County, AFL-C10 ("Council") shall diligently and in good faith, cooperate to establish a District-based pre-apprenticeship/internship program for District high school students to provide these students with opportunity and access to careers in the trades. If desired by the District, the District and Council intend this program to be implemented within six (6) months from the date the District elects to establish this program.

ARTICLE IX

BENEFITS

9.1 All Contractor/Employer(s) agree to pay contributions to the established vacation, pension or other form of deferred compensation plan, apprenticeship, and health benefit funds for each hour worked on the Projects in the amounts designated in the Master Agreements of the appropriate local. The Contractor/Employer(s) shall not be required to pay contributions to any other trust funds or in amounts that are not contained in the published prevailing wage determination to satisfy their obligation under this Article except that Contractor/Employer(s) who are signatory to collective bargaining agreements with the respective trades shall continue to pay all trust fund contributions as outlined in such collective bargaining agreements.

9.2 By signing this Agreement, the Contractor/Employer(s) adopt and agree to be bound by the written terms of the legally established trust agreements, as described in 9.1, specifying the detailed basis on which payments are to be made into, and benefits paid out of, such trust funds.

9.3 Wages, Hours, Terms and Conditions of Employment: The wages, hours and other terms and conditions of employment on the Projects shall be governed by the Master Agreement of the respective crafts, copies of which shall be on file with the District, to

the extent such Master Agreement is not inconsistent with this Agreement. Where a subject is covered by the Master Agreement and not covered in this Agreement, the Master Collective Bargaining Agreement will prevail. When a subject is covered by both the Master Collective Bargaining Agreement and this Agreement, to the extent there is any inconsistency, this Agreement will prevail.

ARTICLE X

EMPLOYEE GRIEVANCE PROCEDURE

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

ARTICLE XI

COMPLIANCE

11.1 It shall be the responsibility of the Contractor/Employer(s) and Unions to investigate and monitor compliance with the provisions of the Agreement contained in Article IX. Nothing in this Agreement shall be construed to interfere with or supersede the usual and customary legal remedies available to the Unions and/or employee benefit trust funds to collect delinquent trust fund contributions from Contractor/Employers on the Projects. The District may also monitor and enforce compliance with the Agreement, and the Contractor/Employer(s) and Unions shall cooperate with the District in any such effort. The District shall monitor and enforce compliance with the prevailing wage requirements of the State, to the extent required by law, and Contractor/Employer(s)' compliance with this Project Stabilization Agreement.

ARTICLE XII

JOINT ADMINISTRATIVE COMMITTEE

12.1 The parties to this Agreement shall establish a nine (9) person Joint Administrative Committee. This Committee shall be comprised of three (3) representatives selected by the District; three (3) at large seats to be filled by consensus of the Unions and the District; and three (3) representatives selected by the Unions. Each representative shall designate an alternate who shall serve in his or her absence for any purpose contemplated by this Agreement.

The Joint Administrative Committee shall meet as required but not less than once each 3 months to review the implementation of the Agreement and the progress of the Projects. Any question regarding the meaning, interpretation, or application of the provisions of this Agreement shall be referred directly to the Joint Administrative Committee for review and recommendation.

ARTICLE XIII

GRIEVANCE ARBITRATION PROCEDURE

13.1 The parties understand and agree that in the event any dispute arises out of the meaning, interpretation or application of the provisions of this Agreement, the same shall be settled by means of the procedures set out herein. No grievance shall be recognized unless the grieving party (Local Union or District Council on its own behalf, or on behalf of an employee whom it represents, or a Contractor/Employer on its own behalf) provides notice in writing to the signatory party with whom it has a dispute within ten (10) business days after becoming aware of the dispute but in no event more than thirty (30) business days after it reasonably should have become aware of the event giving rise to the dispute. The time limits in Section 13.1 may be extended by mutual agreement (oral or written) of the parties.

13.2 Grievances shall be settled according to the following procedures:

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

Step 2: In the event that the representatives are unable to resolve the dispute within the five (5) business days after its referral to Step 1, either involved party may submit it within three (3) business days to the Joint Administrative Subcommittee (consisting of the District and Union representatives of the Joint Administrative Committee), which shall meet within five (5) business days after such referral (or such longer time as is mutually agreed upon by all representatives on the Joint Administrative Committee), to confer in an attempt to resolve the grievance. If the dispute is not resolved within such time five (5) business days after its referral or such longer time as mutually agreed upon, it may be referred within five (5) business days by either party to Step 3.

Step 3: Within five (5) business days after referral of a dispute to Step 3, the parties shall choose a mutually agreed upon neutral arbitrator for final and binding arbitration. If the parties cannot mutually agree on the selection of an arbitrator, the arbitrator shall be selected by the alternate striking method from the following list: Robert Hirsch, Barry Winograd, William Riker, Larry Kay, and Robert Clark. The order of striking names from the list of arbitrators shall be determined by a coin toss, the winner of which shall decide whether they wish to strike first or second. Such striking shall take place within three (3) days. If a party does not respond within three (3) days, this means any arbitrator from the list is acceptable. The decision of the arbitrator shall be binding on all parties. The arbitrator shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement. The expense of the arbitrator shall be borne equally by both parties. The arbitrator shall arrange for a hearing on the

earliest available date from the date of his/her selection. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the presiding arbitrator. The time limits specified in any step of the Grievance Procedure set forth in Section 13.2 may be extended by mutual agreement of the parties initiated by the written request of one party to the other, at the appropriate step of the Grievance Procedure. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without a request for an extension of time, shall be deemed a waiver of such grievance without prejudice, or without precedent to the processing of and/or resolution of like or similar grievances or disputes. In order to encourage the resolution of disputes and grievances at Steps 1 and 2 of this Grievance Procedure, the parties agree that such settlements shall not be precedent setting.

ARTICLE XIV

JURISDICTIONAL DISPUTES

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

14.2 All jurisdictional disputes on this Project between or among the Union(s) and the Contractor, parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department, or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Contractor and Union(s) parties to this Agreement.

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

14.4 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractor assignment shall be adhered to until the dispute is resolved. Individuals violating this Section shall be subject to immediate discharge.

14.5 Each Contractor shall conduct a Pre-Job Conference with the Council prior to commencing Covered Work. The Primary Employer and the District will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Contractor(s) may be held together.

ARTICLE XV

MANAGEMENT RIGHTS

15.1 The Contractor/Employer(s) shall retain full and exclusive authority for the management of their operations, including the right to direct their work force in their sole discretion. No rules, customs or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees except that lawful manning provisions in the Master Agreement shall be recognized.

ARTICLE XVI

SAVINGS CLAUSE

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

The parties also agree that in the event that a decision of a court of competent jurisdiction materially alters the terms of the Agreement such that the intent of the parties is defeated, then the entire Agreement shall be null and void. If a court of competent jurisdiction determines that all or part of the Agreement is invalid and/or enjoins the District from complying with all or part of its provisions and the District accordingly determines that the Agreement will not be required as part of an award to a Contractor/Employer, the unions will no longer be bound by the provisions of Article IV.

ARTICLE XVII

TERM

17.1 The Agreement shall be included as a condition of the award of all construction contracts for the Projects.

17.2 The Agreement shall continue in full force and effective until the completion of the Projects.

ARTICLE XVIII

LOCAL HAYWARD HIRE REQUIREMENTS

18.1 The Parties agree to a goal that Hayward Residents, and especially District Graduates, will perform a minimum of 30% of the hours worked, on a craft by craft basis on the Projects. The Contractor/Employer(s) shall make good faith efforts to reach this goal through the utilization of the Unions' hiring hall procedures. The Unions shall make good faith efforts in their recruiting and training of Hayward Resident workers and in their hiring hall procedures to facilitate this 30% goal on the Projects.

18.2 Should any of the contractors performing work on the Projects fail to meet this 30% goal and fail to demonstrate "good faith" efforts to do so, through a specific submittal process to be included in their contractual requirements, the contract's 5% retention will be held as a disputed amount until such time that this failure is remedied. Acceptable remedies to correct continued failure may include, but not be limited to the following remedies, as determined by the Joint Administrative Committee (as established in Section 12):

1. Classification as a non-qualified bidder on future District projects,

2. Commitment, with documentation, to employ Hayward residents on non-District projects for a determined number of work hours,

3. Bringing in Hayward residents as new apprentices and continuing their employment for up to 12 months.

18.3 A Contractor/Employer(s) who has employed a Hayward Resident for up to six months preceding the start of the District project for a minimum of at least 100 hours per month and has the ability to perform safely the basic functions of the applicable trade may receive credit for 50% of these hours towards the 30% goal. A Contractor/Employer may also receive credit for 50% of the documented hours performed by Hayward Residents on the Contractor's non-District projects, when such hours are concurrent with the Contractor's work on the Projects.

18.4 The maximum total combined credit that can be applied for in Section 18.3 above is half of the 30%.

18.5 Should any Contractor/Employer performing work on the Projects exceed the 30% local hire goal as set forth in this Agreement, they shall be acknowledged at the appropriate public, televised school board meeting for their efforts at the completion of their contract scope.

18.6 **Apprenticeship Provision**:

1) The General Contractor will be required to hire 1 Hayward Resident as a first period apprentice for every 5 million dollars of total construction cost. There can be no more than 2 entry-level apprentices for each craft, and the general contractor will be able to include entry-level apprentices hired by their subcontractor to meet this requirement. The District will refer names of former students or recent graduates to the Union and Contractor/Employers and the Unions will agree to cooperate with the Contractor/Employers in furnishing apprentices as requested and the hiring of the apprentices will be in accordance to the Apprenticeship provisions listed in the Master Agreements, and the apprentices shall be properly supervised and paid in accordance with provisions contained within the Master Agreements. The failure of the District to refer names and/or the Union to provide those apprentices upon request will relieve the Prime contractor of this Hayward Resident first period apprentice hiring responsibility.

2) The General Contractor or subcontractor who hires such Hayward Resident First Period Apprentices shall be credited with two work hours towards the 30% local work hours, for each hour worked by the first period Hayward Resident apprentices.

3) The intent of this provision is to work the new apprentices to the fullest extent permissible by state law and the Master Agreements. Failure of the General Contractor and their subcontractors to maintain qualified apprentices on the job

may be subject to Division of Apprenticeship Standards penalties, and further penalties as determined by the Joint Administrative Committee.

18.7 **Contract Bonus for Early Completion**:

The District and the public benefit if any of the Projects are successfully completed early, because of the earlier availability of the school facilities and the decrease in time and resources needed for District administration of the Projects. Should any General Contractor (1) exceed 40% local Hayward Resident work hours as a percentage of the total work hours on their contract scope as calculated at the completion of a project covered by this Agreement, and (2) complete their contract scope to the District's satisfaction at least one week ahead of the original contract completion date, the General Contractor will be entitled to receive a bonus payment of 2% of the Construction Contract amount, over and above the original contract total, as an early completion bonus.

ARTICLE XIX

MISCELLANEOUS PROVISIONS

19.1 **Integration**. This Agreement is intended by the parties as the final expression of their agreement with respect to such terms as are included herein and as the complete and exclusive statement of its terms and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement, nor explained or supplemented by evidence of consistent additional terms.

19.2 **No Representations or Warranties**. Each of the parties acknowledges no one has made any promise, representation or warranty whatsoever, express or implied, written or oral, not contained herein to induce them to execute this Agreement, and that this Agreement is not executed in reliance upon any such promise, representation or warranty.

19.3 **Modification**. Each of the parties acknowledges and agrees that this Agreement may be amended only by a writing signed by all of the parties.

19.4 **Interpretation**. Each of the parties acknowledges and agrees that this Agreement is to be construed as whole according to its fair meaning and not in favor of nor against any of the parties as draftsman or otherwise.

19.5 **Forum**. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the Superior Court of the State of California for the County of Alameda in accordance with the procedures set forth in this Agreement.

19.6 **Choice of Law**. This Agreement shall be governed by and interpreted under the laws of the State of California and the Federal laws of the United States of America as applicable to instruments, persons, transactions and subject matter which have legal contacts and relationships exclusively within the State of California.

19.7 **No Attorneys Fees**. No party shall be entitled to recover an award of attorneys' fees or costs with respect to any action or proceeding seeking relief under this Agreement.

19.8 **Counterparts**. This Agreement may be executed in counterparts, each of which shall constitute an original of the Agreement. Facsimile or electronic signature pages transmitted to other parties to this Agreement shall be deemed equivalent to original signatures on counterparts.

19.9 **Warranty of Authority**. Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the party indicated, and each of the parties by signing this Agreement warrants and represents that such party is legally authorized and entitled to enter into this Agreement.

19.10 **Ratification by Governing Board**. This Agreement shall not by binding on the District until it is approved or ratified by the Governing Board at a publicly noticed Governing Board meeting.

HUSD Board Approved: 6/24/15

Hayward Unified School District

By: _____ Date: 6/24/15

Stanley Dobbs; Superintendent/CEO

Building and Construction Trades Council of Alameda County

By: _____ Date: 6/24/15

Andreas Ferreira Cluver; Secretary-Treasurer

Addendum A

Agreed To Letter of Assent

[Date]

[Addressee]

[Address]

[City and State]

Re: Hayward Unified School District Measure L Projects, Project Stabilization Agreement.

Letter of Assent for _____
(Projects Name)

Dear Mr. /Ms. _____:

The undersigned party confirms that it agrees to be a party to and bound by the Hayward Unified School District Measure L Projects, Project Stabilization Agreement as such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms.

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

Such obligation to be a party to and bound by this Agreement shall extend to all work covered by said Agreement undertaken by the undersigned party on the Hayward Unified School District Measure L Projects. The undersigned party shall require all of its subcontractors, of whatever tier, to become similarly bound for all their work within the scope of this Agreement by signing an identical Letter of Assent.

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

CONTRACTOR/SUBCONTRACTOR: _____

Project Contract Number: _____

California State License Number: _____

Motor Carrier Number: _____

Name and Signature of

Authorized Person: _____
(Print Name)

_____
(Title)

_____
(Signature)