

PROJECT LABOR AGREEMENT FOR DELTA DIABLO

This Project Labor Agreement (“**Agreement**”) is effective as of March ____, 2023 (“**Effective Date**”) and is among the following parties: (1) Delta Diablo (hereinafter the “**District**”); (2) the Contra Costa Building and Construction Trades Council (“**Council**”) and its affiliated local Unions that have executed this Agreement (referred to collectively herein as the “**Unions**”); and (3) the contractors and subcontractors of all tiers that become signatory to this Agreement by signing the “**Agreement to be Bound**” (**Addendum A**) (“**Contractors/Employers**”).

A. The purpose of this Agreement is to promote the efficiency of construction operations for Delta Diablo through the use of skilled labor resulting in quality construction outcomes, and to provide for the peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of any Projects (as defined below) covered by this Agreement.

B. The timely and successful completion of District Projects is of the utmost importance to meet the needs of the District and avoid increased costs resulting from delays in construction.

C. Workers of various skills will be required in the performance of construction work on District Projects and will be represented by the Unions who are signatory to this Agreement and employed by the Contractors/Employers and subcontractors who are also signatory to this Agreement.

D. The use of skilled labor on construction work increases the safety of construction projects as well as the quality of completed work.

E. On Projects with multiple Contractors and Union bargaining units on the job site at the same time over an extended period of time, the potential for work disruption may be substantial unless there is an overriding commitment to maintain continuity of work.

F. One of the primary purposes of this Agreement is to avoid labor disputes that could delay completion of Projects.

G. The interests of the general public, the District, the Unions, and the Contractors/Employers would be best served if the construction work on Projects proceeds in an orderly manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns, or other interferences with work.

H. The Contractors/Employers and the Unions desire to stabilize wages, establish hours and working conditions for the workers employed on the Projects, and to encourage close cooperation among the Contractors/Employers and the Unions so that a satisfactory, continuous and harmonious relationship will exist.

I. The parties agree that one of the primary purposes of this Agreement is to avoid the tensions that might arise on the Project if Union and non-union workers of different

employers were to work side by side on the Project, potentially leading to labor disputes that could delay completion of the Project.

J. This Agreement is not intended to replace, interfere with, abrogate, diminish or modify existing local or national collective bargaining agreements (“CBAs”) in effect during the duration of a Project, insofar as a legally binding agreement exists between the Contractors/Employers and the Unions, except to the extent that the provisions of this Agreement are inconsistent with said CBAs, in which event the provisions of this Agreement will prevail.

K. The District strongly supports and encourages the development of comprehensive programs for the recruitment, training and employment of local area residents and military veterans, and recognizes the ability of local pre-apprenticeship and apprenticeship programs to provide meaningful and sustainable career pathways in the waste/wastewater and construction industries.

L. The District has the absolute right to select the lowest responsive and responsible bidder (or the Best Value submission for design-build work) for the award of construction contracts on a Project.

M. The contract(s) for construction work on the Project will be awarded in accordance with the applicable provisions of the Public Contract Code and state, local and federal laws.

N. The parties to this Agreement pledge their full good faith and trust to work toward the mutually satisfactory completion of a Project.

THEREFORE, THE PARTIES AGREE AS FOLLOWS:

ARTICLE I
DEFINITIONS

1.1 "Agreement" means this Project Labor Agreement.

1.2 "Agreement to be Bound" means the agreement (attached hereto as Addendum A) that shall be executed by each and every Contractor/Employer as a condition of working on a Project.

1.3 "Completion" means that point at which there is final acceptance by the District of a Construction Contract, and the District has filed a Notice of Completion.

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

1.5 "Contractor(s)/Employer(s)" or "Contractor(s)" or "Employer(s)" means any individual, firm, partnership or corporation (including the prime contractor, general contractor, design-build entity, lease-leaseback entity or equivalent entity), or combination thereof, including joint ventures, and their successors and assigns, that is an independent business enterprise and enters into a contract with the District for the construction of any part of the

Project, and all contractors and subcontractors of any tier, but does not include design and/or consulting firms performing non-craft work.

1.6 “Council” means the Contra Costa Building and Construction Trades Council.

1.7 “District” means Delta Diablo and its employees, officials, and agents.

1.8 “District Service Area” means the City of Antioch, the City of Pittsburg, and the unincorporated community of Bay Point.

1.9 “Local Area” means Contra Costa County.

1.10 “Master Agreement” or “Schedule A” means the Master Collective Bargaining Agreement(s) of each craft Union signatory hereto.

1.11 "Project" means any District public works construction contract project subject to the Public Contract Code, in which the engineer’s estimate of the total cost of that project (not including budget contingencies) exceeds one million dollars (\$1,000,000). The District agrees not to divide projects for the purpose of avoiding coverage under this Agreement. All Construction Contracts required to complete an integrated Project shall be considered in determining whether this threshold is met. The District and the Council may mutually agree in writing to add or waive additional projects or components to be covered by this Agreement. The term “Project” applies to each and all projects as defined in this section, whether used in the singular or plural.

1.12 “Project Manager” means the person(s) or entity(ies) designated by the District to oversee all phases of construction on a Project and the implementation of this Agreement.

1.13 “Union” or “Unions” means the Contra Costa Building and Construction Trades Council and its affiliated Unions signatory to this Agreement, acting on their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement.

ARTICLE II **SCOPE OF AGREEMENT**

2.1 Parties: This Agreement applies to and is limited to all Contractors/Employers performing Construction Contracts on a Project (including subcontractors at any tier), and their successors and assigns, the District, the Council, and its affiliated Unions signatory to this Agreement.

2.2 Applicability: This Agreement governs all Construction Contracts awarded on any Project. For purposes of this Agreement, Construction Contracts shall be considered Completed as set forth in Section 1.3, except when the District directs a Contractor to engage in repairs, warranty work, modifications, or punch list work under a Construction Contract or when a Contractor performs work under a change order for a Construction Contract.

2.3 Covered Work: This Agreement covers, without limitation, all site preparation, surveying, construction, alteration, demolition, installation, improvement, remediation, retrofit,

painting or repair of buildings, structures and other works, and related activities for a Project that is within the craft jurisdiction of one of the Unions and that is directly or indirectly part of the Project, including, without limitation to the following examples: geotechnical and exploratory drilling, soils and materials testing and inspection, temporary HVAC, landscaping and temporary fencing, pipelines (including those in linear corridors built to serve a Project), pumps, pump stations, start-up, modular furniture installation, and final clean-up. Covered Work includes work done for a Project in temporary yards, dedicated sites, or areas adjacent to the Project, and at any on-site or off-site batch plant constructed to supply materials to the Project.

2.3.1 This Agreement applies to any start-up, calibration, commissioning, performance testing, repair, maintenance, and operational revisions to systems and/or subsystems for the Project performed after Completion, unless performed by District employees.

2.3.2 This Agreement covers all on-site fabrication work over which the District or Contractor(s)/Employer(s) or subcontractor(s) possess the right of control (including work done for the Project in any temporary yard or area established for the Project). This Agreement also covers any off-site work, including fabrication, that is traditionally performed by the Union(s) and is directly or indirectly part of the Project, provided such work is covered by a Master Agreement or local addenda to a national agreement of the applicable Union(s).

2.3.3 Except for the delivery of supplies, equipment or materials that are stockpiled for later use, this Agreement covers all construction trucking work, including the hauling and delivery of ready-mix, asphalt, aggregate, sand, soil or other fill or similar material that is directly incorporated into the construction process as well as the off-hauling of soil, sand, gravel, rocks, concrete, asphalt, excavation materials, construction debris and excess fill, material and/or mud. Contractors/Employers, including brokers, of persons providing construction trucking work shall provide certified payroll records to the District within ten (10) days of written request, as required by the bid specifications.

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

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

2.4.1 This Agreement shall not apply to work performed by the District's own employees as permitted by the Public Contract Code.

2.4.2 This Agreement shall not apply to a Contractor/Employer's non-construction craft employees, including, but not limited to, executives, managerial employees, administrative personnel, office and clerical employees, engineering employees, architects, quality control/assurance personnel, inspectors, guards, and supervisors above the level of general foreman (unless covered by a Master Agreement). This Agreement shall not

apply to soils and materials testing and inspection work that is not: (1) within the craft jurisdiction of one of the Unions; and (2) directly or indirectly part of the Project.

2.4.3 This Agreement shall not apply to any non-Project work performed on or near or leading to a Project site that is undertaken by state, county, city, or other governmental bodies or their contractors. Work performed by public or private utilities or their contractors including all electrical utility, voice-data-video, and security installation work ahead of and up to the electrical service entry connection or the main point of entry into the building shall be excluded from this Agreement. All electrical utility, voice-data-video, and security installation work performed after the electrical utility service entrance or the main point of entry is Covered Work if otherwise included in the definition of Project and not otherwise excluded under this Agreement. Additionally, all contracted work performed ahead of the service entrance connection and main point of entry that is inside the property line and provides for access to the building via a conduit or series of conduits is Covered Work.

2.4.4 This Agreement shall not apply to the off-site maintenance of leased equipment and on-site supervision of such work.

2.4.5 In limited circumstances involving a manufacturer's warranty or guarantee, Project Work may be performed by persons not covered by this Agreement provided that the Contractor/Employer or manufacturer responsible for such Project Work demonstrates by an enumeration of specific tasks that those tasks cannot be performed by craft workers covered by this Agreement. All such work shall be identified and discussed by the Contractor/Employer or manufacturer at the Pre-Job Conference as provided in Article V, or, if not known at the time of the Pre-Job Conference, shall be identified and discussed with the Council and the relevant Union(s) once the work becomes known, including by holding a Pre-Job Conference if requested by the Council.

2.4.6 This Agreement does not apply to factory manufacturing of equipment.

2.4.7 This Agreement does not apply to work that is jointly performed with another public agency, unless the District is the lead agency, or the work is awarded by the District, or if application of this Agreement is otherwise agreed to by the parties on a case-by-case basis. With respect to work jointly performed with another public agency properly excluded under this Section, the District will make a request, in writing, to the other public agency to apply this Agreement, or in the alternative, request that the other public agency meet with the District and Council to discuss application of this Agreement.

2.4.8 This Agreement does not apply to work substantially funded by any federal, state, local or other public agency that prohibits the use of project labor agreements on projects receiving its funding, or the funding of projects on which such agreements are used. With respect to such work, the District agrees to make a reasonable effort to defend the application of this Agreement, including by making a written request to the funding source. Notwithstanding the foregoing, should only a specific provision of the Agreement be prohibited by the funding source, then, upon mutual agreement by the Council, the District will modify the requirements of this Agreement for the affected Project only to allow this Agreement to remain in place and to advance the purposes of this Agreement to the maximum extent feasible.

2.5 Award of Contracts: The District has the right to select any qualified bidder (or best-value design-build proposer) for the award of Construction Contracts under this Agreement. The bidder need only be willing, ready, and able to execute and comply with this Agreement. The District shall include this Agreement (in its entirety or by reference) in all invitations to bid or solicitations for proposals from contractors or subcontractors for work on the Project. A copy of all invitations to bid shall be provided to the Council within fourteen (14) days of issuance. This Agreement is not intended to, and will not, affect or govern the award of contracts by the District that are not part of a Project as defined by Section 1.11.

2.6 Combining, Consolidating, or Canceling Projects: The District has the sole and absolute right to combine, consolidate, or cancel a Project or any portion of the Project's scope. However, Covered Projects and Construction Contracts will not be split, divided or otherwise separated for the purpose of avoiding application of this Agreement. Additionally, if the District cancels a Project or Project Work and then reauthorizes that work, then that work shall be performed under the terms and conditions of this Agreement.

ARTICLE III **EFFECT OF AGREEMENT**

3.1 By executing this Agreement, the Council, 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 work under a Construction Contract for the Project, whether as a Contractor or subcontractor thereunder, all Contractors/Employers agree to be bound by each and every provision of this Agreement and agree, to evidence their acceptance prior to the commencement of work, by executing the **Agreement to be Bound** in the form attached hereto as **Addendum A**.

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

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

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

3.6 The provisions of this Agreement, including any Schedule A incorporated herein by reference, shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement. To the extent a provision of this Agreement conflicts with a Schedule A, the provision of this Agreement shall prevail. Where a provision of a Schedule A does not conflict with this Agreement, the provision of the Schedule A shall apply.

ARTICLE IV **WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS**

4.1. The Unions, the District, and the Contractor(s)/Employer(s) covered by this Agreement agree that for the duration of the Project:

4.1.1 There shall be no strikes, sympathy strikes, work stoppages, picketing, handbilling, withholding of work, unlawful refusals to work, lockouts, sickouts, walk-offs, sit-downs, stand-ins, boycotts, or other work stoppages, or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions or employees employed on the Project, at the job site of the Project or any other facility of District because of a dispute on the Project. Disputes arising between the Unions and Contractor(s)/ Employer(s) on other District projects are not governed by the terms of the Agreement or this Article.

4.1.2 There shall be no lockout of any kind by a Contractor/Employer of workers employed on the Project.

4.1.3 Neither the Council nor local Unions may sanction, aid or abet, encourage or continue any work stoppage, strike, picketing or other disruptive activity prohibited by Section 4.1.1 at any Project site and they shall make a good faith effort to prevent or to terminate any such activity. Any employee who engages in activities that violate this Article may be subject to disciplinary action, up to and including discharge.

4.1.4 If a Master Agreement expires before the Contractor/Employer completes the performance of work under a Construction Contract and the Union or Contractor/Employer gives notice of a demand for a new or modified Master Agreement, the Union agrees that it shall not strike on work covered by this Agreement or engage in any activity described in Section 4.1.1 and the Union and the Contractor/Employer agree that the expired Master Agreement will continue in full force and effect for work covered under this Agreement until a new or modified Master Agreement is reached. If the new or modified Master Agreement provides that any terms of the Master Agreement shall be retroactive, the Contractor/ Employer agrees to comply with any retroactive terms of the new or modified Master Agreement that are applicable to any employee(s) during the interim, with retroactive payment due within seven (7) calendar days of the effective date of the new or modified Master Agreement.

4.1.5 In the case of nonpayment of wages or trust fund contributions on a Project, the Union shall give the District and the Contractor/Employer three (3) business days' notice when nonpayment of trust fund contributions has occurred, and two (2) business days' notice when nonpayment of wages has occurred or when paychecks being tendered to a financial institution normally recognized to honor such paychecks will not honor such paycheck, of the intent to withhold labor from the Contractor/Employers' or their subcontractor's workforce, during which time the Contractor/Employer may correct the default. In this instance, a Union's withholding of labor (but not picketing) from a Contractor/Employer who has failed to pay its fringe benefit contributions or failed to meet its weekly payroll shall not be considered a violation of this Article.

4.1.6 Notification: If the District or any Contractor(s)/Employer(s) contends that any Union has violated this Article, it will so notify in writing the Senior Executive of the Council and the Senior Executive of the Union, setting forth the facts alleged to violate the Article, prior to instituting the expedited arbitration procedure set forth below. The Council will immediately use its best efforts to cause the cessation of any violation of this Article. The leadership of the Union will immediately inform the workers of their obligations under this Article.

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

4.2.1 A party invoking this procedure shall notify Robert Hirsch, as the permanent arbitrator, or Barry Winograd, as the alternate arbitrator, under this procedure. In the event the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, the parties shall select the arbitrator from the list in Section 12.4. Notice to the arbitrator shall be by the most expeditious means available, with notice by email and telephone to the District, the involved Contractor, and the party alleged to be in violation, and to the Council and involved local Union if a Union is alleged to be in violation.

4.2.2 Upon receipt of said notice, the District will contact the permanent arbitrator named above, or the alternate if the permanent arbitrator is not available, who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

4.2.3 The arbitrator shall notify the parties by email and 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 an award by the arbitrator.

4.2.4 The sole issue at the hearing shall be whether or not a violation of Section 4.1 of the Agreement has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a

written opinion, one shall be issued within fifteen (15) calendar days, but the parties shall not delay compliance with or enforcement of the award due to the issuance of a written opinion. The arbitrator may order cessation of the violation of this Article, and the arbitrator's award shall be served on all parties by hand, certified mail, or via email upon issuance. Should a party found in violation of this Article fail to comply with the arbitrator's award ordering the party to cease the violation, the party in violation shall pay to the affected party as liquidated damages the sum of ten thousand dollars (\$10,000.00) per shift for which it failed to comply, or portion thereof, until such violation is ceased. The arbitrator shall retain jurisdiction to resolve any disputes regarding the liquidated damages claimed under this section.

4.2.5 The arbitrator's award shall be final and binding and 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. The party filing such enforcement proceedings shall give written notice to the other party. In a proceeding to obtain a temporary order enforcing the arbitrator's award as issued under this Article, all parties waive the right to a hearing and agree that such proceeding may be *ex parte*. However, such agreement does not waive any party's right to seek or participate in a hearing for a final order of enforcement. Any court order enforcing the arbitrator's award shall be served on all parties by hand or delivered by certified mail.

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

4.2.7 The fees and expenses of the arbitrator shall be divided equally between the party instituting the arbitration proceedings provided in this Article and the party alleged to be in breach of its obligation under this Article.

4.2.8 Should either the permanent or the alternate arbitrator identified above no longer work as a labor arbitrator, the District, and the Council shall mutually agree to a replacement.

ARTICLE V **PRE-JOB CONFERENCES**

5.1 **Timing:** The Project Manager or the Council shall convene and conduct, at a mutually agreeable location and time, a pre-job conference with the Unions and the representatives of all involved Contractors/Employers, who shall be prepared to announce craft assignments and discuss in detail the scope of work and the other issues set forth below, at least fourteen (14) calendar days prior to:

- (a) The commencement of any Project work, and
- (b) The commencement of Project work on any subsequently awarded Construction Contract.

5.2 The pre-job conference shall be attended by a representative of each participating Contractor(s)/Employer(s) and each affected Union, and the Council and District may attend at their discretion.

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

- (a) A listing of each Contractor's scope of work;
- (b) The craft assignments;
- (c) The estimated number of craft workers required to perform the work;
- (d) Transportation arrangements;
- (e) The estimated start and completion dates of the work; and
- (f) Discussion of pre-fabricated materials.
- (g) Discussion of any items covered by Section 2.4.5.

5.4 Review Meetings: In order to ensure the terms of this Agreement are being fulfilled and all concerns pertaining to the District, the Unions, and the Contractor(s)/Employer(s) are addressed, the Project Manager, General Contractor, and Senior Executive of the Council, or designated representatives thereof, will meet on a periodic basis during the term of this Agreement. The District and the Council shall have the right to call these meetings and invite the appropriate parties.

ARTICLE VI **NO DISCRIMINATION**

6.1 The Contractors/Employers and the Unions shall agree to comply with all anti-discrimination provisions of federal, state, and local law, to protect employees and applicants for employment, on the Project.

6.2 The Contractor(s)/Employer(s) shall ensure and maintain a working environment free from harassment, intimidation, and coercion at all times, and at all facilities at which the Contractor(s)/Employer(s)' employees are assigned to work. The Contractor(s)/Employer(s) shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor/Employer's obligations to maintain such a working environment. The Contractor/Employer will be required to remove and replace such supervisory personnel if they fail to maintain such a working environment.

ARTICLE VII **UNION REPRESENTATION AND REFERRAL**

7.1 The Contractors/Employers recognize the Unions as the sole bargaining representative of all craft employees working within the scope of this Agreement, and all such employees must be represented by a Union for the duration of their employment on the Project.

7.2 The Contractor(s)/Employer(s) shall make and transmit all deductions for Union dues, fees, and assessments that have been voluntarily authorized by employees in writing in accordance with the applicable Master Agreement. This Agreement does not require any employee of a non-Union contractor to join a Union or to pay dues or fees to a Union as a condition of working on a Covered Project; however, nothing in this Article is intended to supersede the requirements of the applicable Master Agreement(s) as to those Contractors otherwise signatory to such Master Agreements and as to the employees of those Contractors.

7.3 Authorized representatives of the Unions shall have access to the Project whenever work covered by this Agreement is being, has been, or will be performed on the Project.

7.4 Contractor(s)/Employer(s) performing construction work on the Project shall, in filling craft job requirements, utilize and be bound by the registration facilities and referral systems established or authorized by the Unions signatory hereto. The Contractor(s)/Employer(s) shall have the right to reject any applicant referred by the Union(s), in accordance with the applicable Master Agreement.

7.5 Contractor(s)/Employer(s) shall have the unqualified right to select and hire directly all supervisors above the level of general foreman it considers necessary and desirable, without such persons being referred by the Union(s), unless such craft construction employee is covered by a Master Agreement.

7.6 In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor/Employer for employees within a forty-eight (48) hour period (Saturdays, Sundays and Holidays excluded) after such requisition is made by the Contractor/Employer, the Contractor/Employer shall be free to obtain the worker(s) from any source. A Contractor/Employer who hires worker(s) to perform work on a Project pursuant to this section shall immediately provide the appropriate Union with the name and address of such worker(s) and shall immediately direct such worker(s) to the appropriate Union hiring hall to be referred for work on the Project.

7.7 It is in the interest of the parties to this Agreement to facilitate employment of Local Area residents and to use resources in the Local Area, as defined in Section 1.9, in construction of the Project, with priority given to residents of the District's Service Area, as defined in Section 1.8. The Unions will exert their utmost efforts to recruit sufficient numbers of craft persons to fulfill the referral requirements of the Contractor(s)/Employer(s). To the extent allowed by law, and consistent with the Unions' hiring hall provisions, and as long as they possess the requisite skills and qualifications, residents of the Local Area, including journeymen and apprentices, shall be referred for Project work covered by this Agreement.

ARTICLE VIII **WAGES AND BENEFITS**

8.1 The Contractors/Employers agree to pay contributions to the vacation, pension and/or other deferred compensation plan, apprenticeship, worker protection and assistance, and

health benefit funds established by the applicable Master Agreement(s) for each hour worked on the Project, in the amounts designated in the applicable Master Agreement(s).

8.2 By signing the **Agreement to be Bound**, the Contractors/Employers adopt and agree to be bound by the written terms of the legally established Trust Agreements described in Section 8.1, which may from time to time be amended, specifying the detailed basis upon which payments are to be made into, and benefits paid out of, such Trust Funds. The Contractors/Employers authorize the parties to such local Trust Agreements to appoint trustees and successor trustees to administer the Trust Funds and hereby ratify and accept the trustees so appointed as if they were appointed by the Contractors/Employers. The Contractors/Employers agree to execute a separate subscription agreement(s) when such Trust Fund(s) requires such document(s).

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

8.4 Holidays: Holidays shall be as set forth in the applicable Master Agreement.

ARTICLE IX APPRENTICES

9.1 Recognizing the need to develop adequate numbers of competent workers in the construction industry, including on public works projects, the Contractors/Employers shall employ apprentices from a California state-approved Joint Apprenticeship Training Program in their respective crafts, to perform such work as is within their capabilities and that is customarily performed by the craft in which they are indentured.

9.2 Apprentice ratios will be in compliance with the provisions of the California Labor Code and the applicable state prevailing wage determination.

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

ARTICLE X HELMETS TO HARDHATS

10.1 The Contractors/Employers and 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/Employers and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring

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

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

ARTICLE XI **COMPLIANCE**

11.1 It shall be the responsibility of the Contractors/Employers and Unions to investigate and monitor compliance with the provisions of Article VIII of this Agreement. 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 wages or Trust Fund contributions from Contractors/Employers on the Project.

ARTICLE XII **GRIEVANCE ARBITRATION PROCEDURE**

12.1 Project Labor Disputes: All disputes involving the application or interpretation of a Master Agreement to which a Contractor/Employer and a Union are parties shall be resolved pursuant to the resolution procedures of the Master Agreement. All disputes relating to the interpretation or application of this Agreement as between a Contractor/Employer and a Union, other than disputes under Article IV and Article XIII, shall be subject to resolution by the grievance arbitration procedures set forth in this Article.

12.2 Employee Discipline: All disputes involving the discipline and/or discharge of an employee working on the Project shall be resolved through the grievance and arbitration provisions contained in the Master Agreement for the craft of the affected employee. No Contractor/Employer's employee working on the Project shall be disciplined or discharged without just cause.

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

12.4 Grievances shall be settled according to the following procedures:

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

Step 2: If the grievance is not resolved at Step 1, within five (5) business days of the Step 1 meeting or the conclusion of efforts to resolve the grievance at Step 1, the alleged grievance may be referred in writing by either involved party to the Business Manager(s) of the affected Union(s) involved and the Labor Relations Manager of the Contractor/Employer, or the Contractor/Employer's designated representative, for discussion and resolution. This time limit may be extended by mutual written consent of both parties. Regardless of which party has initiated the grievance, the Union shall notify its International Union representative prior to the Step 2 meeting, and the International Union representative shall advise if it intends to participate in the Step 2 meeting. The Project Manager and the Council shall have the right to participate in any efforts to resolve the dispute at Step 2.

Step 3: If the grievance is not resolved at Step 2, either party may request the dispute be submitted to arbitration within five (5) business days of the Step 2 meeting or the conclusion of efforts to resolve the grievance at Step 2. This time limit may be extended by mutual written consent of both parties. Within five (5) business days after referral of a dispute to arbitration, the representatives shall notify the permanent arbitrator designated in Article IV, or if not available, the alternate arbitrator designated in Article IV, or if not available, the alternate arbitrator designated in Article IV, for final and binding arbitration. If the permanent arbitrator or the alternate is not available, an arbitrator shall be selected by the alternate striking method from the list of three (3) below. The order of striking names from the list of arbitrators shall be determined by a coin toss, the winner of which shall decide whether they wish to strike first or second.

1. William Riker
2. Carol Vendrillo
3. Morris Davis

12.5 The decision of the arbitrator shall be final and 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.

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

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

12.8 Retention: At the time a grievance is submitted under this Agreement or any Master Agreement, the Union(s) may request that the District withhold and retain an amount

from what is due and owing to the Contractor/Employer(s) against whom the grievance is filed, or its higher-tier Contractor, sufficient to cover the damages alleged in the grievance, should the Union(s) prevail. The amount shall be retained by the District until such time as the underlying grievance giving rise to the retention is withdrawn, settled, or otherwise resolved, unless the District is prohibited from retaining such funds by law or contract, and the retained amount shall be paid to whomever the parties to the grievance shall decide, or to whomever an arbitrator shall so order.

12.9 Should any of the arbitrators listed in this Article or Article IV no longer work as a labor arbitrator, the District and the Council shall mutually agree to a replacement.

12.10 In the event of a dispute between the Council or Union(s) and the District in connection with this Agreement, the Parties will meet and confer in an attempt to resolve the dispute, and if unsuccessful, may utilize the arbitration procedure set forth in this Article.

ARTICLE XIII **WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES**

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

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

13.3 If a dispute arising under this Article involves the Northern California Carpenters Regional Council or any of its subordinate bodies, an arbitrator shall be chosen by the procedures specified in Article V, Section 5 of the Plan from a list composed of John Kagel, 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.

13.4 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractor/Employer’s assignment shall be adhered to until the dispute is resolved. Individual employees violating this section shall be subject to immediate discharge.

ARTICLE XIV **MANAGEMENT RIGHTS**

14.1 Consistent with the Schedule A agreements, the Contractor(s)/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 all lawful manning provisions in the Master Agreement shall be recognized.

14.2 In addition to the rights of Contractors/Employers specifically enumerated in this Agreement, Contractors/Employers expressly reserve their management rights and all the rights conferred upon them by law, consistent with the Schedule A agreements, including but not limited to, the right to:

- i. Plan, direct, and control operations of all work;
- ii. Hire, promote, transfer, and layoff their employees, as deemed appropriate to satisfy work and/or skill requirements;
- iii. Promulgate and require all employees to observe reasonable, uniformly applicable job rules and security and safety regulations;
- iv. Discharge, suspend, or discipline their employees, subject to applicable Master Agreement procedures;
- v. Utilize, in accordance with the District's approval (to the extent required and allowable by the applicable Construction Contract(s), any work methods, procedures, and techniques;
- vi. Assign and schedule work at their discretion;
- vii. Assign appropriately paid overtime, determine when it will be worked, and the number and identity of employees who will engage in such work, subject to such provisions in the applicable Master Agreement requiring such assignments be equalized or otherwise made in a nondiscriminatory manner; and
- viii. Except as set forth in Section 2.3.2, they may select, purchase, and use materials, equipment, and systems from any source.

ARTICLE XV **DRUG AND ALCOHOL TESTING**

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

15.2 Drug and alcohol testing shall be conducted in accordance with the substance abuse prevention policies set forth in the applicable Schedule A.

ARTICLE XVI **SAVINGS CLAUSE**

16.1 If any article, provision, clause, sentence, or word of this 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 that will meet the objections to its validity and will be in accordance with its original intent.

16.2 In the event a decision of a court of competent jurisdiction materially alters the terms of this Agreement such that the intent of the parties is defeated, then the entire Agreement shall be null and void.

16.3 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 the Agreement's provisions, and the District accordingly determines that compliance with this Agreement will not be required in order to perform work under a Construction Contract, the Unions will no longer be bound by the provisions of Article IV.

ARTICLE XVII **TERM**

17.1 This Agreement shall be included in all bid documents, requests for proposals, or other equivalent Project solicitations, which shall indicate that entering into this Agreement is a condition of the award of a Construction Contract(s) for the Project.

17.2 This Agreement shall apply until the Completion of each Project in accordance with Sections 1.3 and 2.2.

17.3 This Agreement shall become effective on the day it is executed by the District and the Council, as indicated by the date of the later-signing party's signature. This Agreement shall expire five (5) years from the Effective Date. Prior to each five (5) year anniversary of the Effective Date of this Agreement, the District and the Council shall meet to discuss proposed changes, if any, to the Agreement. Absent a request for changes or termination, the Agreement will roll over for an additional five (5) years.

ARTICLE XVIII **MISCELLANEOUS PROVISIONS**

18.1 The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement. All defined terms used in this Agreement shall be deemed to refer to the singular and/or plural, in each instance as the context and/or particular facts may require.

18.2 This Agreement may be executed in counterparts, such that original signatures may appear on separate pages and when bound together all necessary signatures shall constitute an original. Electronic or digital signatures shall be deemed the equivalent of original signatures.

18.3 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 signing this Agreement warrants and represents that such party is legally authorized and entitled to enter into this Agreement.

18.4 The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

18.5 All defined terms used in this Agreement shall be deemed to refer to the singular and/or plural, in each instance as the context and/or particular facts may require.

[SIGNATURES TO FOLLOW]

DELTA DIABLO

By: _____

Date: _____

CONTRA COSTA BUILDING AND CONSTRUCTION
TRADES COUNCIL

By: _____

Date: _____

APPROVED AS TO FORM:

THOMAS L. GEIGER, CHIEF ASSISTANT
COUNTY COUNSEL

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: _____
David F. Schmidt
Deputy County Counsel

By: _____
Alex Milne

Legal Counsel for Delta Diablo (District)

Legal Counsel for Contra Costa Building and
Construction Trades Council (Council)

UNION SIGNATURES

Asbestos Workers Local #16

Teamsters Local #315

Boilermakers Local #549

Roofers and Waterproofers Local #81

Bricklayers Local #3

Iron Workers Local #378

Elevator Constructors Local #8

Northern California District Council of Laborers, for itself and its affiliated Local Unions

Sheet Metal Workers Local #104

Cement Masons Local #300

Operating Engineers Local #3

International Brotherhood of Electrical Workers Local #302

District Council #16, Painters and Allied Trades, for itself and its affiliated Local Unions

Northern California Carpenters Regional Council, for itself and its affiliated Local Unions

Sprinklerfitters Local #483

United Association Local #159

United Association Local #342

United Association Local #355

Plasterers Local #66

Addendum A
AGREEMENT TO BE BOUND

[Date]
[Addressee]
[Address]

Re: Delta Diablo Project Stabilization Agreement
Agreement to be Bound

Dear _____:

The undersigned confirms that it agrees to be a party to and bound by the Delta Diablo Project Stabilization Agreement (“Agreement”) as such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms.

By executing this Agreement to be Bound, the undersigned subscribes to, adopts and agrees to be bound by the written terms of the legally established trust fund documents as set forth in Section 8.1 of the Agreement, as they may from time to time be amended, specifying the detailed basis upon which contributions are to be made into, and benefits made out of, such trust funds, and ratifies and accepts the trustees appointed by the parties to such trust funds. The undersigned agrees to execute a separate subscription agreement(s) for such trust funds when such trust fund(s) require(s) such document(s).

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

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

CONTRACTOR/SUBCONTRACTOR: _____

California Contractor State License No. or Motor Carrier (CA) Permit No.: _____

Name of Authorized Person (print): _____

Signature of Authorized Person: _____

Title of Authorized Person: _____

Telephone Number of Authorized Person: _____

Address of Authorized Person: _____

State Public Works Registration Number: _____

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