



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

June 21, 2005

Ordinance 15219

Proposed No. 2005-0201.2

Sponsors Edmonds and Phillips

1 AN ORDINANCE authorizing and adopting a project labor
2 agreement for the construction of the Brightwater
3 conveyance system as negotiated between and agreed to by
4 the King County department of natural resources and parks,
5 the Northwest Washington Building and Construction
6 Trades Council, the Seattle/King County Building and
7 Construction Trades Council and the Washington State
8 Building and Construction Trades Council.

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STATEMENT OF FACTS:

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1. The Brightwater project includes a thirty-six-million-gallon-per-day
13 (mgd) wastewater treatment plant and conveyance facilities to transport
14 untreated wastewater to the Brightwater treatment plant and discharge
15 treated wastewater to Puget Sound.

16

2. The Brightwater conveyance system includes a thirteen-mile, large-
17 diameter tunnel that combines two force main influent pipes, a gravity-

18 flow effluent pipe, and a reclaimed water pipeline. The system also
19 includes four access portals ranging in depth from forty feet to two
20 hundred fifteen feet, an influent pump station, two smaller tunnels that
21 link the existing wastewater conveyance system to the Brightwater
22 conveyance system, and an outfall to Puget Sound.

23 3. Constructing the Brightwater conveyance system will require a
24 continuous supply of qualified workers between 2006 and 2010.

25 4. The King County executive proposes the use of a project labor
26 agreement ("PLA") for the Brightwater conveyance system to help ensure
27 timely construction of the project.

28 5. Washington state executive order 96-08 states that project labor
29 agreements are of "great potential economic benefit for appropriate and
30 time sensitive major construction projects which will extend for a
31 substantial period of time, involve a substantial number of contractors,
32 subcontractors and trades and craft workers, and have a substantial dollar
33 value."

34 6. The King County labor policy committee developed labor policies
35 specific to PLAs, including labor policy 2002-022, which encourages the
36 county to explore use of a PLA for projects "that have a complex scope, a
37 multi-year schedule, a budget of significant size, and/or a clear public
38 benefit."

39 7. The King County executive explored the use of a PLA to construct the
40 Brightwater project, Attachment A to this ordinance, and found that the

41 Brightwater project meets the criteria regarding use of a PLA outlined in
42 Washington state executive order 96-08 and King County labor policy
43 2002-022.

44 8. The terms for a PLA for the Brightwater conveyance system were
45 negotiated between and agreed to by the King County department of
46 natural resources and parks, the Northwest Washington Building and
47 Construction Trades Council, the Seattle/King County Building and
48 Construction Trades Council and the Washington State Building and
49 Construction Trades Council.

50 9. The aforementioned parties agreed on a set of terms outlined in a
51 project labor agreement for the Brightwater conveyance system on March
52 18, 2005, Attachment B to this ordinance. This agreement establishes
53 uniform terms and conditions of employment for all employees for the
54 duration of the project, establishes realistic goals to ensure labor diversity
55 and apprenticeship opportunities and will help to ensure labor harmony
56 between trades and union and nonunion laborers. The agreement will also
57 increase opportunities for apprenticeships for minorities and women,
58 promote public interest by preventing labor disruptions, such as strikes,
59 lockouts, or slowdowns, which could adversely affect the completion of
60 the project.

61 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

62 SECTION 1. The King County council approves Attachment B to this ordinance,
63 Project Labor Agreement for the Brightwater Conveyance System, as negotiated between

64 and agreed to by the King County department of natural resources and parks, the
65 Northwest Washington Building and Construction Trades Council, the Seattle/King
66 County Building and Construction Trades Council and the Washington State Building
67 and Construction Trades Council.

68 SECTION 2. The terms of the negotiated project labor agreement for the
69 Brightwater conveyance system will be mandatory for all elements of the project that do
70 not receive federal funding and will be voluntary for elements of the project that do
71 receive federal funding.

72 SECTION 3. Terms and conditions of said agreement shall be effective from the
73 date this ordinance is adopted by the King County council and terminate after all phases
74 of construction of the Brightwater conveyance system are complete and King County
75 assumes ownership of the Brightwater conveyance system.

76 SECTION 4. The Brightwater project shall reimburse a nonunion small
77 economically disadvantaged business ("SEDB") for benefits only if: the SEDB provides
78 benefits that are duplicative of those in the union benefit plan; the SEDB provides copies
79 of the benefit program and proof of payment and the amount of premiums; and the SEDB
80 has completed its contracted work. For the purposes of this section, SEDB means a
81 business owned and controlled by a person or persons who are in a financial condition
82 which puts the business at a substantial disadvantage in attempting to compete for public
83 contracts. Specific eligibility criteria for SEDBs shall be established by the executive.

Ordinance 15219

84 The total amount of the reimbursement on the Brightwater project shall be capped at one
85 million dollars.

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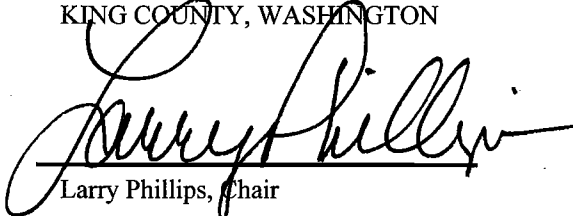
Ordinance 15219 was introduced on 5/2/2005 and passed as amended by the Metropolitan King County Council on 6/20/2005, by the following vote:

Yes: 7 - Mr. Phillips, Ms. Edmonds, Mr. Pelz, Mr. Ferguson, Mr. Gossett, Ms. Patterson and Mr. Constantine

No: 5 - Mr. von Reichbauer, Ms. Lambert, Mr. Dunn, Mr. Hammond and Mr. Irons

Excused: 1 - Ms. Hague

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Larry Phillips, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 20 day of June, 2005.



Ron Sims, County Executive

RECEIVED
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CLERK
KING COUNTY COUNCIL

Attachments

A. Issue Paper-Exploring the Use of a Project Labor Agreement to Construct the Brightwater Treatment System, B. Project Labor Agreement for the Brightwater Conveyance System, dated April 22, 2005

Issue Paper

Exploring the use of a Project
Labor Agreement to Construct
the
Brightwater Treatment System

February 2004



King County

Department of
Natural Resources and Parks

Wastewater Treatment Division

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Introduction

In November 2003, King County's Department of Natural Resource and Parks (DNRP) finalized a 4-year process to site a new 36-mgd wastewater treatment plant, its associated conveyance facilities, and a marine outfall in Puget Sound. These facilities, collectively termed Brightwater, will be located in north King and south Snohomish counties. Based on the findings from the final environmental impact statement and other information, the King County Executive selected the Route 9-195th Street system for Brightwater, which includes locating the treatment plant at the Route 9 site just north of Woodinville in unincorporated Snohomish County, the conveyance pipeline along Northeast 195th Street and the King/Snohomish County line, and the marine outfall off Point Wells. Design work on the selected system will take place through mid-2005 and construction will begin soon thereafter.

The labor requirements for constructing the \$1.35 billion Brightwater treatment system are considerable. This complex undertaking will require dozens of contractors and a large, highly skilled workforce constituting multiple (and specialty) trades. In addition, the expected five-year construction duration will necessitate a continuous supply of qualified workers. Given these circumstances, and understanding the negative financial consequences of workforce shortages or stoppages, the King County Executive has considered the use of a project labor agreement (PLA) to manage labor uncertainties during construction of the Brightwater treatment system.

The purpose of this paper is to outline the Executive's rationale for recommending the use of a PLA for constructing the Brightwater treatment system. The paper begins by providing background information on PLAs, including how they're defined, a brief history of their use, and examples of large construction projects in the Puget Sound Region that have used PLAs. It then reviews the legality of PLAs nationally and in Washington State and describes King County's policies regarding the use of a PLA. The paper then summarizes the major issues typically associated with PLAs with respect to their stated advantages and disadvantages. The final section presents the Executive's justifications for using a PLA to construct Brightwater and outlines his recommendations for tailoring a PLA to enhance their inherent benefits and mitigate their perceived risks and disadvantages.

Background

This section provides background on project labor agreements, including how they are defined, a brief history of their use, and some examples of PLAs in the Puget Sound Region.

What is a PLA?

A project labor agreement is a special kind of collective bargaining agreement specific to the construction industry. It is an agreement between the project owner/contractor, and the labor unions representing the trades needed for the project, usually including the local Building Trades Council. The PLA is a pre-hire agreement, negotiated before any employees are hired and included as part of the bid specification. All winning contractors and subcontractors—either union or open shop (non-union)—must agree to the provisions of the PLA before performing work on the project. The negotiated PLA remains in effect for the duration of the construction project.

The terms of a PLA can be customized to a specific project, but they generally identify uniform wages, work rules, working conditions, safety provisions, and benefits across all trades working on the project. PLAs also provide procedures for settling grievances, including no-strike and no-lockout provisions, and sanctions and mechanisms for resolving disputes. Typically, the contractor must also agree to hire workers through union hiring halls and pay prevailing wages and benefits.

Brief History

The first use of project labor agreements on publicly funded construction projects dates back to the 1930s and 1940s with the construction of the Grand Coulee Dam in Washington State and the Shasta Dam in California. In the 1960s and 1970s their use continued for several large private construction projects such as Disney World and the Trans-Alaska Pipeline.

By the late 1990s, the Federal Government Accounting Office (GAO) reported that PLAs had been used in all 50 states and the District of Columbia.¹ The recent widespread use of PLAs on public projects is due to a 1993 U.S. Supreme Court decision that upheld the use of PLAs for the construction industry. This decision addressed a challenge by the Associated Builders and Contractors of Massachusetts and Rhode Island (ABC) against the Massachusetts Water Resources Authority (MWRA), who sponsored a PLA for the Boston Harbor cleanup project. The ABC argued that state sponsorship of a PLA violated the National Labor Relations Act (NLRA). The Supreme Court found that Sections 8(e) and (f) of the NLRA were “intended to accommodate” conditions specific to the construction industry, such as “the short-term nature of employment, which makes post-hire collective bargaining difficult, the

¹ Government Accounting Office, “Project Labor Agreements,” p. 6.

contractor's need for predictable costs and a steady supply of labor, and a longstanding custom of pre-hire bargaining in the industry."² This ruling allows governmental entities to institute PLAs when they purchase services in the construction market, just as private purchasers do. Other legal issues of PLAs are still relevant however, such as violations of the 14th Amendment and federal & state antitrust laws.

In the Puget Sound region, project labor agreements have also become increasingly common for large public works projects. Some examples include:

- Seattle Central Library Project
- Sound Transit Sounder and Link Light Rail Projects
- Port of Seattle SeaTac International Airport Modernization
- Seattle Seahawks Football Stadium
- Safeco Field
- Port of Seattle Pier 66
- Seattle Public Utilities Tolt Treatment Facilities

In addition, the King County Council recently voted to allow the use of a PLA for the \$257 million Harborview Medical Center Seismic Stabilization and Critical Care Expansion Project. Likewise, the Seattle Monorail Board approved the use of a PLA for their 14-mile "Green Line" project, which is expected to cost \$1.749 billion.

Legal Authority

This section reviews the legality of PLAs nationally and in Washington State and describes King County policy related to PLAs. In general, federal law does not preclude PLAs but a recent Executive Order restricts federal funding for public projects employing PLAs. State law and King County policy direction encourage the consideration of PLAs for public projects that meet certain criteria.

Federal Law

Project labor agreements are not prohibited under the National Labor Relations Act (NLRA) (29 U.S.C. §158(f)), which states:

"It shall not be an unfair labor practice under subsections (a) and (b) of this section for an employer engaged primarily in the building and construction industry to make an agreement covering employees engaged in the building and construction industry with a labor organization of which building and construction employees are members . . ."

The NLRA guarantees workers the right to join unions without fear of management reprisal. It created the National Labor Relations Board (NLRB) to enforce this right and

² Building and Construction Trades Council v. Associated Builders and Contractors of Mass./Rhode Island, 113 S. Ct. 1190 (1993).

prohibited employers from committing unfair labor practices that might discourage organizing or prevent workers from negotiating a union contract.

Presidential Executive Order

On February 17, 2001, United States President George W. Bush signed Executive Order 13202 prohibiting the use of project labor agreements on federally funded construction projects. The Order was subsequently amended in April 2001 to allow exemptions for “grandfathered” projects that had labor agreements in place before the Order. Because of legal challenges, the long-term status of the Executive Order is uncertain. And while the Order is still in effect, the possibility exists that it may be lifted during the course of the Brightwater project. A potential impact of this Order on Brightwater is discussed under the “Cost Effectiveness” heading in the next section.

Washington Law

In 1996, Washington State Governor Mike Lowry signed Executive Order 96-08, supporting the use of PLAs on public works projects. The Order states that in appropriate circumstances, project labor agreements can facilitate the timely and efficient completion of such projects by making available a ready, reliable, and adequate supply of highly trained and skilled craft workers, permitting public and private owners and contractors to accurately determine project labor costs at the outset and to establish working conditions for the duration of the project, as well as provide a negotiated commitment as a legally enforceable means of assuring labor stability and avoiding disruptions such as strikes, lockouts, or slowdowns over the life of the project.

The Order further directs all state agencies to consider the following factors in making the decision whether to use a project labor agreement.

- The potential for labor disruptions, such as strikes, lockouts, or slowdowns which could affect completion of the project
- The number of trades and crafts anticipated to be used on the project
- The need and urgency of the project and the harm to the public if completion of the project is delayed
- The size and complexity of the project and the time needed for completion
- The benefits to the public from the use of a project labor agreement relative to cost, efficiency, quality, safety and timeliness

Executive Order 96-08 also states that the decision to use a project labor agreement in connection with a public works project by a state agency shall be made prior to selecting the method of contracting for the project and shall be supported by written findings which clearly demonstrate how the use of a project labor agreement will benefit the project and the interests of the public and the State from a cost, efficiency, quality, safety and timeliness standpoint. The fact that a project labor agreement will be used shall be set forth in the advertisement for bids issued for the project.

King County has selected the General Contractor/Construction Manager (GCCM) project delivery method for constructing the Brightwater Treatment Plant Facility and has recently issued a request for proposals (RFP) for GCCM firms. The RFP identified that a PLA may be established for construction work on the project; however, the county is still 1.5 to 2 years away from fully developing the contract packages and bidding documents.

King County Policy

In April 2002, the Labor Policy Committee developed Labor Policy 2002-022 specific to Project Labor Agreements.

The county shall explore the use of a project labor agreement (PLA) for county projects when appropriate. PLAs may be considered for projects that have a complex scope, a multi-year schedule, a budget of significant size, and/or a clear public benefit. When a PLA is implemented, the general contractor and relevant trade unions shall execute the PLA in a form acceptable to the county.

Major Issues Surrounding PLAs

This section summarizes the major issues typically associated with PLAs with respect to their perceived advantages and disadvantages. These issues include competitive bidding, cost effectiveness, labor harmony, labor diversity, labor supply, training, and wages.

It is important to point out that project labor agreements are very controversial subjects, and opinions tend to be either very much for or very much against their use, with little middle ground.³ This disparity is compounded by, or perhaps due to, the lack of systematic studies comparing similar projects constructed with and without PLAs. Such studies are difficult to conduct because of the diversity of projects and the consequent variety of factors that can affect their cost. And the studies that do exist are typically specific to building construction, which is relatively straightforward compared to constructing a wastewater system. As a result, many of the arguments for or against the use of PLAs are based on personal experience and anecdotal information.

Competitive Bidding

One important controversy over PLAs is whether they interfere with or restrict the ability of contractors to bid on construction projects. The primary legal challenges against PLAs contend that they violate state competitive bidding statutes by reducing the opportunity for non-union contractors to compete for work on a project. Although many states have found PLAs do not violate those statutes, others have upheld them. However, most state courts have agreed with the conclusion of the New York Court of Appeals that PLAs “are neither absolutely prohibited nor absolutely permitted in public construction projects,” and that a “PLA will be sustained for a particular project where the record supporting the determination to enter into such an agreement establishes that the PLA was justified by the interests underlying the competitive bidding laws.”⁴ At present, no Washington State court has addressed whether PLAs are valid under the state’s competitive bidding laws.

Arguments against PLAs

Many non-union contractors (especially smaller firms) argue that various PLA requirements, such as having to hire all or most of their employees through union hiring halls and pay union representation and benefits in addition to the benefits they already pay their employees, makes it difficult for them to compete because of high labor costs. This can result in fewer bids on a project, restricting competition and thus raising the

³ One “middle ground” opinion comes from Dr. John Schaufelberger, Associate Professor of Construction Management at the University of Washington, whose preliminary findings from his PLA study suggest that PLAs have an overall neutral effect, with no additional costs or no additional benefits attributable to the PLA (Telephone conversation, September 10, 2003).

⁴ *New York Chapter, Inc. v. New York State Thruway Authority*, 88 N.Y.2d 56, 666 N.E.2d 185, 188 (New York 1996).

final price of the project.⁵ For example, in the case of the Boston Hyde Park High School construction project, the number of bidders increased from 39 to 63 after a court disallowed the use of a PLA on the project.⁶

A related criticism is that PLAs tend to favor union over non-union employees, and that there is no guarantee that a non-union contractor will be able to use his employees for the job, since he must request employees through union dispatch procedures.

Arguments for PLAs

By law, all contractors, union and non-union, can bid for public PLA projects and there are many examples of non-union contractors who have successfully bid and worked under PLAs around the country. A 1999 study by Tucker Alan, Inc. reported that one local PLA project (Safeco Field) had 39 non-union contractors out of a total of 137 contractors on the job (28 percent), and that non-union contractors held approximately 25 percent of the subcontracts at the Tolt Treatment Facilities Project.⁷ A properly designed PLA will ensure that ALL contractors, whether they be large or small, union or non-union, are on an equal footing for submitting competitive bids.

Further, given the scope and complexity of the Brightwater project, there is likely to be significant participation by union contractors whether or not a PLA is utilized.

Cost Effectiveness

Whether or not PLAs are cost effective compared to similar projects without PLAs is the subject of great interest and debate. There are numerous conflicting opinions regarding the cost impact of PLAs: some credit PLAs with cost savings and others allege cost increases, though few of these opinions are based on quantified cost information. As mentioned, this is likely due to the difficulty in finding and comparing PLA and non-PLA projects of sufficiently similar cost, size, scope, and timing. As a result, the general consensus is that there is no conclusive evidence that PLAs are financially advantageous or disadvantageous—a finding supported nationally by the Government Accounting Office's May 1998 report to Congress and locally by the Tucker Alan Report prepared for Sound Transit.⁸

Arguments against PLAs

A March 2003 study from the Beacon Hill Institute (BHI) claims to be the first to provide formal statistical evidence on the cost of PLAs to cities and towns in Massachusetts for school construction. In its analysis of 54 school construction projects undertaken in the greater Boston area since 1995, BHI found that costs were \$37.88

⁵ Herbert R. Northrup and Linda E. Alario, "Government-mandated Project Labor Agreements in Construction, the Institutional Facts and Issues and Key Litigation," *Government Union Review*. pp. 20-22.

⁶ *ibid*, p. 53.

⁷ Tucker Alan Inc., *Issues Involving the Potential Use of Project Labor Agreements*, June 1999 (*"Tucker Alan Report"*). p. 11.

⁸ Tucker Alan Report, Executive Summary, p. 10.

higher per square foot (2001 dollars) when a school construction project was executed under a PLA relative to non-PLA projects, representing a 22 percent increase in costs for the average PLA project.⁹ However, given the relatively straightforward nature of building construction, it is unclear whether the findings in this study can be applied to PLA projects in general and to complex public works infrastructure projects in particular.

One potential cost impact to King County for using a PLA for the Brightwater project is Presidential Executive Order 13202, which restricts federal funding from public projects that use PLAs. King County is planning to finance Brightwater entirely through sewer revenue bonds, but the county typically applies for and receives low interest loans from the State Revolving Loan Fund (SRF)—part of which is federally funded. Because some of the SRF money is not federally supplied (it comes from interest and repayments on past SRF loans), the Brightwater project may still benefit from this low interest revenue (0.5 percent interest on SRF loans versus 5.25 percent on sewer bonds). For example, for each \$1 million borrowed from SRF funds instead of from sewer revenue bonds, the county would save approximately \$1 million in interest payments over the life of the loan. If King County were to obtain substantial federal funding for Brightwater, then the use of a PLA would need to be reconsidered.

Arguments for PLAs

One of the primary advantages touted by proponents of PLAs is that they promote efficiency and lower cost through formalized labor terms such as wages, benefits, work rules & hours, no-strike clauses, and dispute resolution procedures, especially on large projects. With a PLA in place, contractors know employment costs before they submit a bid, preventing overbidding and underbidding. A PLA also saves time and money because the project owner only negotiates labor terms once instead of multiple times for all the contractors and subcontractors.

In 1999, Sound Transit commissioned a study to analyze the cost impacts of using a PLA on Sound Transit Projects. The study, conducted by the Bechtel Construction Company, evaluated twelve labor issues typically included in collective bargaining agreements. The study identified six issues where cost savings would be realized using a PLA: apprenticeship utilization, crew size, industry funds, organized breaks, shift differentials/premiums (union savings), and show-up/reporting time; four issues with no cost impact: hours of work/work week, no strike/no lockout clause, overtime, and wage premiums; and three issues that would cost money: holidays, prevailing wage, and shift differential/shift premiums (non-union costs). Overall, Bechtel concluded that Sound Transit would save \$15.7 million using PLAs on Light Rail, Sound Commuter, and Regional Express projects.¹⁰ Based on interviews with project owners and construction managers of local PLAs (Safeco Field, Pier 66 Waterfront, and Tolt

⁹ Beacon Hill Institute Policy Study, "The Effects of Project Labor Agreements in Massachusetts," March 2003.

¹⁰ Bechtel Construction, *Project Labor Agreements Cost Study*, July 1999.

Treatment Facilities), the Tucker Alan study found that no additional costs could be attributable to PLAs and that they were generally beneficial.¹¹

Labor Harmony

One of the principle stated advantages of PLAs is the promise of no strikes or lockouts and clear dispute resolution procedures, which may avoid the costly and disruptive consequences of labor-related delays. However, opponents contend that PLAs are not needed to ensure labor harmony and that PLAs do not always guarantee labor peace.

Arguments against PLAs

Many non-PLA projects have been successfully constructed using both union and non-union contractors, while strikes have occurred on PLA projects. For example, in April 2000, despite a PLA containing a no-strike clause, a 15-shift strike by the Operating Engineers on the "Vision 2000" project of the Port of Oakland was supported by the entire work force. Although both the union and the arbitrator agreed that this was an illegal work stoppage, the contractor was compelled to give in to the strikers' demand for more workers on each shift.¹² Other strikes in violation of no-strike PLA agreements occurred in jobs at San Francisco Airport and at the Bath Iron Works (Maine) in 1999 and 2000, respectively.¹³

Arguments for PLAs

Project labor agreements ensure labor harmony by having all parties on the project agree to one comprehensive set of terms, including no-strike and no-lockout conditions that are backed by severe penalties and dispute resolution policies in the event of a violation. The Tucker Alan study suggested that while a "wildcat" strike may occur during a PLA, the consequences of that strike will be less disruptive than would a strike if no PLA was in place. In addition, the study pointed out past difficulties have led some owners to implement PLAs. For example, the Port of Seattle decided to implement a PLA on the Pier 66 Central Waterfront project to avoid the significant labor delays and cost claims that resulted from disharmony between union and non-union labor on the adjacent Pier 69 project.¹⁴ In general, while there are many assumed benefits from labor harmony, it is difficult to quantify the cost or efficiency resulting from "avoided" labor problems.

¹¹ Tucker Alan Report, Executive Summary, p. 10.

¹² Senator Tim Hutchinson, U.S. Senate Hearing, "Examining if Project Labor Agreements and Their Use of Public Funds are Really in the Best Interest of Taxpayers," pp. 9-10.

¹³ Northrup and Alario, p. 28.

¹⁴ Tucker Alan Report, Executive Summary, p 7.

Labor Diversity

Another key area of controversy over PLAs is whether they restrict participation by women, minority, and disadvantaged business enterprises.

Arguments against PLAs

Opponents of PLAs argue that they effectively discriminate against women, minority, and disadvantaged business enterprises because these entities are statistically less likely to be union members. By extension, because PLAs are claimed to discriminate against non-union contractors, the participation of women and minority workers in PLAs is likely to be severely limited.¹⁵

Arguments for PLAs

There is ample evidence suggesting that women, minority, and disadvantaged business enterprises are not discouraged from participating in PLAs and can in fact have significant roles in projects governed by PLAs. For example, in the Boston Harbor project, 324 subcontracts worth \$533 million were awarded to women and minority enterprises.¹⁶ On the local level, the Tucker Alan Study reviewed information from three local PLAs (Safeco Field, Pier 66 Projects & Tolt Treatment Facilities) found that both women and minorities, both union and non-union, had bid and were awarded contracts and participated on the workforce. At Safeco and Pier 66, for example, minorities comprised 21 percent and 16 percent of the workforce, respectively, with female labor representing about 5 percent on both projects. Women or minority-owned businesses represented 60 of the 137 contractors on Safeco Field, of which 34 were union and 26 were non-union.¹⁷

Labor Supply and Training

Complex, long-duration projects like Brightwater will require a large number of skilled construction workers representing various trades and specialties. One significant challenge for the county will be to secure and maintain a workforce of highly trained union and non-union workers, this is especially true given the significant number of large scale projects planned or that will be in progress during the construction of Brightwater. In terms of labor supply, there is little referenced information about the percentage of union versus non-union labor in the Puget Sound construction industry. Nationally, U.S. Department of Labor statistics show that 17.8 percent of the construction industry was represented by unions in 2002,¹⁸ while in Washington State

¹⁵ M. Baskin, *The Case Against Union-Only Project Agreements*, *The Construction Lawyer*, January 1999.

¹⁶ Statement of R. Georgine (President, Building and Construction Trades Department, AFL-CIO) before the U.S. House of Representatives Committee on Small Business, August 6, 1998.

¹⁷ Tucker Alan Report, Section 1.C., pp. 1-4.

¹⁸ United States Department of Labor, Bureau of Labor Statistics. Table 3. Union affiliation of employed wage and salary workers by occupation and industry.

approximately 21 percent of the workforce (not construction specific) is unionized.¹⁹ However, in the Puget Sound region, large and complex construction projects like Brightwater typically have a high percentage of union contractors. In its cost estimating study, Bechtel Construction assumed that 75 percent of the workforce for Sound Transit projects would be union.²⁰ Tucker also notes that union participation on large public projects in this area is likely to be significant.²¹

Arguments against PLAs

Opponents of PLAs suggest that because of the low percentage of construction workers belonging to unions, limiting competition from open shop contractors using a PLA will constrict the supply of qualified labor. Further, union deployment rules typically require skilled craftsmen to perform nearly all the work in an expansive definition of craft jobs, even though some of the work is semi-skilled or unskilled. Open-shop crew can do incidental work considered to “belong” to another craft, as long as they pay the proper wage scale, while a union job will require the work to be done by the appropriate craft journeyman.

As far as training, unions typically have more government-approved apprentice training programs, though larger open shop contractors do have systematic training programs for their employees.²² Many open shop contractors offer on-the-job and task or block training that is more flexible and efficient than conventional apprenticeships.²³ However, there is a concern that many of these individual contractor programs are not registered with the Washington State Apprenticeship Council and therefore those contractors must pay journeymen scale for the work performed by the unregistered trainees.

Arguments for PLAs

One assumed advantage of using a PLA is that they provide a steady supply of skilled workers through local union apprenticeship programs and hiring halls. The Tucker Alan Study suggests that PLAs can help secure an adequate supply of skilled labor in a high-demand labor market because unions may have an advantage in recruiting labor due to larger apprenticeship programs and the ability to secure experienced labor from outside the local area if necessary.²⁴ Further, proponents of PLAs point out that Union Apprenticeship programs provide well rounded, in depth instruction in all aspects of journeymen training rather than the limited task or block training provided by non-union programs. Tucker also found that PLAs increase cost competitiveness by allowing non-union contractors equal access to registered apprentice labor, so you don't have to pay journey level rates for workers not in approved apprenticeship programs.

¹⁹ Washington State Population Survey, Office of Financial Management, Forecasting Division, January 29, 1999.

²⁰ Bechtel Construction, *Project Labor Agreements Cost Study*, Section 1, July 1999.

²¹ Tucker Alan Report, Executive Summary, p. 6.

²² Herbert R. Northrup, *Open Shop Construction Revisited Philadelphia*: university of Pennsylvania, Industrial Research Unit, 1986.

²³ *ibid*, pp. 45–47.

²⁴ Tucker Alan Report, Executive Summary, p. 8.

Wages and Benefits

One stated advantage of PLAs is that they insure that workers are paid fair and livable wages and receive health, welfare, and retirement benefits. However, this is not necessarily an advantage in states with prevailing wage laws, such as Washington State.

Arguments against PLAs

In Washington State, PLAs are not needed to secure fair wages because Chapter 39.12 Revised Code of Washington requires the use of prevailing wages on public works projects. However, PLAs wages could be set higher than prevailing wages, which could hamper non-union contractors economically, as can the union fringe benefit funds required by PLAs that are often in addition to the contributions to their own companies benefit funds. Non-union workers hired under a PLA may have to pay union dues that they will not receive benefits from.

Arguments for PLAs

Apart from guaranteeing a livable wage, PLAs ensure that all workers receive health and retirement benefits that they might not otherwise receive. Again, if the PLA is properly designed it could allow for the waiver of double payments of fringe benefit contributions by non-union contractors who currently provide health & welfare and retirement benefits to their employees at substantially equal costs.

Executive Recommendations

This section presents the Executive's justification for why he considers a project labor agreement appropriate for managing labor on Brightwater. It also outlines the Executive's policy recommendations and terms for developing a cost effective and successful PLA by maximizing their inherent benefits and minimizing their potential drawbacks.

Justification for a Brightwater PLA

The King County Executive feels that the Brightwater project meets all the criteria outlined in Washington State Executive Order 96-08 and King County Labor Policy 2002-022 for considering the use of a PLA; namely, that construction projects:

- must be completed without delays (time sensitive)
- extend for a substantial period of time where local collective bargaining agreements may expire during construction
- involve a substantial number of contractors, subcontractors, and trades and craft workers
- have a substantial dollar value
- clearly benefit the public

Time Sensitive

Recent population estimates for the period 2000–2040 show that approximately 1 million new people will be living and working in the King County service area by 2040. At this rate of growth, King County will exceed the storage and conveyance capacity of the north-end wastewater system by 2010, if not sooner. If the Brightwater project is not completed by 2010, the region may face significant risks to human health and water quality from wastewater backups and overflows. The potential for serious economic impacts exists as well. In a May 1999 letter to King County, the Washington State Department of Ecology stated that if the county does not provide new conveyance and treatment capacity within the time proposed in the Regional Wastewater Service Plan (2010), the state may impose moratoriums on new sewer connections in jurisdictions tributary to areas of the sewer system that are overloaded.

Substantial Project Duration

Brightwater will be constructed over five years (2005–2010), which is sufficient to span multiple bargaining agreements. By setting labor terms for the entire period, the county can avoid potential labor-related disruptions from strikes and lock outs during renegotiations of expired bargaining agreements.

Substantial Workforce

The Brightwater project will require a substantial number of contractors, subcontractors, and trades to construct the complex array of wastewater facilities, including a wastewater treatment plant, miles of deep underground tunnels, and an underwater outfall deep in Puget Sound. Appendix A provides information on the major trades needed to construct Brightwater as well as an estimated number of workers in each trade.

Substantial Dollar Value

At a cost of approximately \$1.35 billion, the Brightwater project will be one of the largest public works projects constructed in the Puget Sound region.

Public Benefit

The public benefit for Brightwater is clear: the Brightwater treatment system will enable King County to continue to protect public health, preserve this region's vital water resources, and support regional economic growth for the next 30 years and beyond.

Recommended Policies and Terms for a Brightwater PLA

Based on the justification presented above, the Executive believes that the public will benefit from the use of a project labor agreement to cost effectively construct the Brightwater treatment system on time. However, he also recognizes that many people are concerned with the potential disadvantages of using a PLA. To help alleviate these concerns, the Executive developed a set of policy recommendations that would maximize the inherent advantages of using a PLA for Brightwater while minimizing the potential disadvantages and risks. These policies are supported by terms and conditions for inclusion in the Brightwater PLA to ensure that King County develops a successful, cost effective PLA process. The policy recommendations and suggested terms are presented according to the major issues discussed in this paper.

Competitive Bidding

Policy Recommendation: King County will ensure that small, non-union contractors can effectively compete for work on the Brightwater project.

Suggested PLA Terms:

- Allow a negotiated number of core employees for non-union contractors
- Allow non-union contractors that provide their own benefits to waive the duplicative union benefit requirements
- Waive union labor requirements on a case-by-case basis for regional minority and women's business enterprises and small disadvantaged businesses

Cost Effectiveness

Policy Recommendation: King County will ensure that the Brightwater PLA is cost effective by exploring ways to increase efficiency and reduce costs.

Suggested PLA Terms:

- Include elements of permit conditions in the collective bargaining agreement to streamline contract negotiations and improve cost efficiency. By waiting to negotiate the PLA until the SEPA review process is complete and permitting has begun, King County can negotiate with the trade unions as to how certain permit conditions will be implemented, such as transportation of workers to and from the work site and the shift schedules

Labor Harmony

Policy Recommendation: The Brightwater Project Labor Agreement will establish general work rules to ensure the timely completion of Brightwater construction.

Suggested PLA Terms

- Guarantee that project work will not be interrupted by strikes, picketing, lock-outs, slow downs, or other disruptive activity by the unions with provisions for liquidated damages for costs associated with labor disturbances or delays
- Agree on binding dispute resolution provisions to resolve all labor disputes between the general contractor/construction manager, subcontractors, and crafts

Labor Diversity

Policy Recommendation: The Brightwater Project Labor Agreement will include goals to achieve broad representation of minority, disadvantaged, and women's business enterprises and workers in the Brightwater workforce.

Suggested PLA Terms:

- Waive or reduce the duplicative union benefit requirement for certain minority, disadvantaged, and women's business enterprises who provide their own benefits
- Set goals for participation by underrepresented groups, including women and people of color

Labor Supply and Training

Policy Recommendation: The Brightwater Project Labor Agreement will help provide and maintain a continuous, highly trained construction workforce in the Puget Sound region.

Suggested PLA Terms:

- Have signatory unions jointly develop and implement apprenticeship programs to increase the skills of the Puget Sound workforce, including participation by women, people of color, low income, and underrepresented workers
- Have signatory unions jointly develop and implement pre-apprenticeship training programs to prepare unemployed and underemployed people to compete for entry level positions as apprentices
- Remove barriers that prevent women, people of color, and low income or underrepresented individuals from entering apprenticeship programs, e.g., non-standardized testing, apprenticeship application fees, and driver's license requirements when a license is not a requirement of the work

Worker Safety

Policy Recommendation: The Brightwater Project Labor Agreement will ensure safe working conditions and employee compliance with any safety rules established by King County and the contractor in accordance with applicable state and federal laws.

Suggested PLA Terms:

- Publish rules and distribute to each employee as part of the new hire orientation and post rules throughout the project. Subject employees to termination subject to violating these rules
- Establish a substance abuse prevention program to assure safe and productive working conditions

Wages and Benefits

Policy Recommendation: The Brightwater Project Labor Agreement will ensure that all workers are paid a livable wage and receive health, welfare, and retirement benefits.

Suggested PLA Terms:

- Reimburse workers in accordance with Washington's prevailing wage requirements under RCW Chapter 39.12
- Provide all workers with health, welfare, and retirement benefits per construction industry standards

Appendix A – Trades Needed to Construct Brightwater

In late 2002, URS Construction Services estimated the labor requirements for constructing the complete Brightwater system, including the treatment plant, conveyance system, and outfall. Their findings, shown in Table 1, estimate the number of hours and full time equivalents for each of the major construction trades needed to construct the Brightwater treatment system.

Table 1
Summary of Trades and Staffing for Constructing Brightwater

Trades	Estimated Hours	Full Time Equivalent (1,900 HRS/YR)
Millwright	268,000	141
Carpenter	2,706,000	1,424
Laborer	2,019,000	1,063
Tunnel	4,601,000	2,422
Electrician	311,000	164
Iron Worker	125,000	66
Plumber	352,000	185
Equipment Operator	248,000	131
Sprinkler	121,000	64
Sheet Metal	242,000	127
Brick	7,000	4
Glazier	2,000	1
Flooring	3,000	2
Elevator	14,000	7
Painter	58,000	31
Tile	1,000	1
Plaster	1,000	1
Diver	68,000	36
Roofer	12,000	6
Asbestos Abatement	10,000	5
TOTALS	11,169,000	5,878

Project Labor Agreement

for the

Brightwater Conveyance System

March 2005



King County

Department of
Natural Resources and Parks
Wastewater Treatment Division

PROJECT LABOR AGREEMENT

FOR THE

BRIGHTWATER CONVEYANCE SYSTEM

BETWEEN

**KING COUNTY
DEPARTMENT OF NATURAL RESOURCES AND PARKS
WASTEWATER TREATMENT DIVISION**

AND

NORTHWEST WASHINGTON BUILDING AND CONSTRUCTION TRADES COUNCIL

SEATTLE/KING COUNTY BUILDING AND CONSTRUCTION TRADES COUNCIL

WASHINGTON STATE BUILDING AND CONSTRUCTION TRADES COUNCIL

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EXHIBIT 6	MEMORANDUM OF UNDERSTANDING - BRIGHTWATER SMALL WORKS PROGRAM

ARTICLE 1 - PREAMBLE

1.1

This Project Labor Agreement (hereinafter, the "Agreement" or "PLA") is entered into on _____ by and between King County Department of Natural Resources and Parks, Wastewater Treatment Division (hereinafter, "King County" or the "Owner"), the Contractors selected for the Project, as defined in Article 5.1 herein, (hereinafter "Contractor(s)"), for and on behalf of the themselves and their subcontractors (hereinafter Subcontractor), and The Building and Construction Trades Department, AFL-CIO (hereinafter, "Department"), its affiliated National and International Unions who become signatory hereto, the Seattle/King County Building and Construction Trades Council and the Northwest Washington Building and Construction Trades Council (hereinafter, "Building Trades Councils") and the Local Unions who become signatory hereto (hereinafter, collectively called the "Union(s)" or "Local Union(s)") with respect to the construction of the Brightwater Treatment System Project (the "Project"), who become signatory hereto (hereinafter, collectively called the "Union(s)" or "Local Union(s)") with respect to the construction of the Brightwater Conveyance System.

1.2

It is understood by the parties to this Agreement that if this Agreement is acceptable to King County and approved by the King County Council, and signed by the King County Executive in the space provided on the signature page of this Agreement, it will become the policy of King County that the construction work covered by this Agreement will be contracted exclusively to Contractor(s) and its Subcontractors, of any tier, who agree to execute and be bound by the terms of this Agreement. Therefore, the Unions agree that any Contractor, acting as a subcontractor to a Contractor(s), shall execute this Agreement for purposes of covering such work. The Contractor(s) will monitor and administer the compliance with this Agreement by all subcontractors of every tier, who through their execution of a Letter of Assent binding them to this Agreement, shall have become bound hereto.

1.3

King County will implement this Agreement by including appropriate provisions in the bid documents, contract specifications and other contract documents for Covered Work, as hereinafter defined. As a result, the successful Contractor(s), and the various subcontractors, of any tier, performing covered work will become party to this Agreement. Therefore, this Agreement uses the terms "Contractors" or "Subcontractors" and specifies the rights and obligations of each such Contractor as if already party to this Agreement.

1.4

The Unions, the Contractor(s) and all signatory Subcontractors agree to abide by the terms and conditions contained in this Agreement. Contractor(s) and signatory Subcontractors are sometimes collectively referred to herein as Contractor(s).

This Agreement represents the complete understanding of the parties, and no Contractor or Subcontractor is or will be required to sign any other agreement with a signatory union as a condition of performing work within the scope of this Agreement. It is understood that this Agreement constitutes a self-contained, stand-alone agreement. No practice, understanding or agreement between a Contractor or Subcontractor and a Union party which is not specifically set forth in this Agreement will be binding on any other party.

1.5

The Unions agree that this Agreement will be made available to, and will fully apply to, any successful bidder for work who becomes signatory hereto, without regard to whether that successful bidder performs work at other sites on either a union or a non-union basis, and without regard to whether employees of such bidder are or are not members of any project or at any location other than the project site as defined in this Agreement. The Unions hereby pledge to work cooperatively with all businesses awarded work governed by this Agreement, despite any other dispute they may have with a business over, for example, trust or benefit payments that arose on non-covered work.

ARTICLE 2 – DEFINITIONS

2.1 Tunnel:

A tunnel is defined as an underground excavation (lined or unlined) subterranean in nature, whose length exceeds its width, the inclination of the grade of the excavation shall be no greater than 45 degrees from the horizontal; should the inclination of the grade from the horizontal exceed 45 degrees, the excavation as heretofore defined shall constitute a raise.

2.2 Shaft:

A shaft is defined as an excavation (lined or unlined) made from the surface of the earth, generally vertical in nature, but may decline up to 45 degrees from the vertical, and whose depth is generally greater than its largest horizontal dimension.

ARTICLE 3 - PURPOSE

3.1

The Brightwater Regional Wastewater Treatment System is a multi-year, comprehensive program of facility expansions estimated to cost \$1.48 billion. The timely and successful completion of this System is critical to the ability of King County to meet the needs of the Puget Sound Region's rapidly growing population in the coming years. The System will provide necessary capacity of an additional 36 million gallons per day (mgd) treatment plant to meet the anticipated regional growth. The purpose of the Project Labor Agreement is to insure that all construction work at the Project will proceed continuously and without interruption, efficiently, economically, and with due consideration for the protection of labor standards, wages and working conditions.

3.2

In recognition of the special needs of this Project and to maintain a spirit of harmony, labor-management peace and stability during the term of this Project Labor Agreement, the parties agree to establish and put into practice effective and binding methods for settlement of all misunderstandings, disputes or grievances that may arise between any Contractor and the Unions, or their members, to the end that the Owner is assured of complete continuity of operation without slowdown or interruption of any kind. The Owner shall monitor the compliance of this Agreement by all Contractors who, through their execution of the Agreement, or a Letter of Assent binding them to this Agreement, together with their subcontractors, shall have become bound hereto.

3.3

The parties are committed to providing open access to bidding opportunities for all Contractors and to assuring an adequate supply of craft workers possessing the requisite skills and training in order to provide the taxpayers a project of the highest quality. Further, the parties agree to cooperate throughout the term of this agreement to develop methods to reduce King County's construction and project administrative costs.

ARTICLE 4 RECOGNITION

4.1**Union Recognition**

The Contractor(s) recognize the signatory Unions as the sole and exclusive bargaining representatives of all craft employees within their respective jurisdictions working on the Project within the scope of this Agreement. This sub-section shall not alter the pre-existing legal status of any bargaining relationship between any individual Contractor and signatory Union.

ARTICLE 5 SCOPE OF AGREEMENT

5.1

This PLA shall apply and is limited to all new construction as defined in this article and performed by those Contractor(s) and their subcontractor(s) of any tier who have been awarded contracts for such work, or for whom bids have been received for contracts on or after the effective date of this PLA, and covering construction, including rework, and other construction related activities originating on site and necessary to the Brightwater Project as described herein. This Agreement shall also apply to any art work installed by the Contractor or its Subcontractors. This Agreement shall also apply to engineers performing survey work as defined by revised code of Washington 18.43.020.

The Project is specifically defined as and limited to:

- Conveyance System for the Brightwater Regional Wastewater Treatment System which includes Pipelines and Tunnels, but excludes that conveyance portion between Portal 19 and Portal 5 and the Marine Outfall
- Primary Portals # 5, 41, 44 and 46

- Permanent Facilities at Portals #41, 44 and 46
- Swamp Creek Trunk Connection
- North Creek Connector
- Brightwater System flow modifications that are completed by 2010 (Modifications required to existing facilities)

Note: Portions of the Brightwater conveyance system excluded from this agreement will be included if no federal funding is obtained for these segments. Contractors on these segments will be subject to the terms of the PLA on a voluntary basis.

5.2

Items specially excluded from the scope of the Agreement include the following:

- (a) Work of non-manual employees, including but not limited to, superintendents, supervisors, assistant supervisors, staff engineer inspectors, quality control and quality assurance personnel, timekeepers, mail carriers, clerks, office workers, including messengers, guards, safety personnel, emergency medical and first aid technicians, and other professional, engineering, administrative, community relations or public affairs, environmental compliance, supervisory and management employees.
- (b) Artists retained by the Owner during the course of the Project.
- (c) Furniture, fixture and equipment installers retained by the Owner to be performed after building trades subcontractors have completed construction related work and or contract completion date.
- (d) Employers and their Employees controlled by the Owner.
- (e) Employees engaged in any work performed on or near, or leading to or into, the Project site by state, county, city or other governmental bodies, their retained contractors, or by public utilities or their contractors, or by other public agencies or their contractors.
- (f) Employees engaged in maintenance on leased equipment and on-site supervision of such work.
- (g) Employees engaged in warranty functions and warranty work, and on-site supervision of such work:
- (h) Startup, testing and commissioning personnel employed by the Contractors or the Owner, Laboratory for specialty testing or inspections not ordinarily done by the signatory Local Unions.
- (i) All off-site manufacture of materials, equipment, or machinery.
- (j) Non-construction support services contracted by the Owner or the Contractor(s) in connection with this Project.

(k) All employees, subconsultants and agents of the design teams or any other consultants of the Owner for specialty testing, architectural/engineering design and other professional services.

5.3

None of the provisions of this Project Agreement shall apply to the Owner and nothing contained herein shall be construed to prohibit or restrict the Owner, or their employees from performing work not covered by this Agreement on the Project site. As areas and systems of the Project are inspected and construction tested by the Contractors and accepted by the Owner, the Agreement shall not have further force or effect on such items or areas, except when the Contractors is directed by the Owner to engage in repairs, modifications, checkout and/or warranty functions required by its contract.

5.4

The Owner or Contractors, as appropriate, has the absolute right to select any qualified bidder for the award of contracts on this Project without reference to the existence or non-existence of any Agreements between such bidder and any party to this Agreement: provided that, except as provided under Article 8 such bidder shall be willing, ready and able to execute and comply with this Project Labor Agreement should it be designated the successful bidder.

5.5

It is understood by the parties that the Owner may at any time and in its sole discretion determine to add, modify or delete facilities. If facilities are added to the Project scope, they would be automatically covered by this Agreement.

The provisions of this Project Agreement shall apply to the construction of the named Project, notwithstanding the provisions of local, area and/or national agreements which may conflict or differ from the terms of this Agreement. Where a subject covered by the provisions of this Project Agreement is also covered by a conflicting provision of a collective bargaining agreement, the provisions of this Project Agreement shall "*prevail*": otherwise the terms of applicable collective bargaining agreements shall apply except that the work of the INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS on this Project shall be performed under the terms of its NATIONAL AGREEMENT, provided that the provisions of ARTICLE(S) 14 CRAFT JURISDICTION AND JURISDICTIONAL DISPUTES ADJUSTMENT, 18 NO-STRIKE-NO LOCKOUT, and 19 -GRIEVANCE PROCEDURE, of this Project Agreement shall apply to such work.

5.6

This Agreement shall only be binding upon the signatory parties hereto and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party.

5.7

It is agreed that all Contractors, who have been awarded contracts for work covered by this Agreement that is bid and awarded after the effective date of this Agreement shall be required to accept and to be bound by the terms and conditions of this Project Labor Agreement, and shall evidence their acceptance by the execution of a Letter of Assent,

prior to the commencement of work. A copy of the Letter of Assent executed by the subcontractor shall be immediately transmitted to the signatory Local Unions prior to the dispatch of employees to the job site.

5.8

This Agreement shall be limited to the construction work originating on-site within the scope of this Agreement, as set forth in Section 1 of this Article, for which bids have been advertised after the effective date of this Agreement. Nothing contained herein shall be construed to prohibit, restrict, or interfere with the performance of any other operation, work or function awarded to any Contractor before the effective date of this Agreement or which may be performed or contracted by the Owner for its own account on the property or in and around the construction site.

5.9

The Unions agree that this Agreement does not have the effect of creating any joint employment status between or among the Owner, the Contractor(s) or any of their subcontractors.

5.10

None of the provisions of this Agreement shall apply to King County and nothing contained herein shall be construed to prohibit King County or its employees from performing their routine work on the Project site. King County employees will not perform work which is covered by the terms of this Agreement. As areas and systems of the Project are inspected and construction tested and accepted by King County, the Agreement shall have no further force or effect on such items or areas, except when the Contractor(s) or any of their subcontractors are directed to engage in repairs, modifications, check-out and/or warranty functions required by their contract(s).

5.11

It is understood that the Owner, at its sole option, may terminate, delay and/or suspend any and all portions of the covered work at any time.

ARTICLE 6 UNION REPRESENTATION

6.1

Authorized representatives of the Unions shall have reasonable access to the Project, provided they do not interfere with the work of employees, and further provided that such representatives fully comply with the visitor, safety and security rules and any environmental compliance requirements established for the Project, which shall be subject to review by the Project Administrative Committee (as described in Article 9). It is understood that because of the scope of the Project and the type of work being undertaken, all visitors will be required to check in and may be limited to certain times or areas. They may also be required to be accompanied at all times while on the Project site. However, in such circumstances, project workers shall be allowed to confer privately with their authorized Union representatives. The Contractors recognize the

right of access set forth in the Section and such access will not be unreasonably withheld from an authorized representative of the Union.

6.2

The Unions signatory hereto shall have the right to designate a steward for each subcontractor signatory with that craft type, one (1) working journeyman as Steward for all related craft personnel, who shall be recognized as the Union's representative for a signatory hereto. Such designated Stewards shall be a qualified worker assigned to a crew and shall perform the work of their craft. Under no circumstances shall there be a non-working Steward on the Project.

6.3

The working Steward will be paid at the applicable wage rate for the job classification in which he/she is employed.

6.4

The Union may appoint a Steward for each shift, should multiple shifts be utilized.

6.5

A Steward for each craft of the signatory Unions employed on the Project shall be permitted on the Project site at all times. They shall not be subjected to discrimination or discharge on account of proper union activities. The Unions agree that such activities shall not unreasonably interfere with the Steward's work for the Contractors or it's subcontractors.

6.6

It is recognized by the Contractor that the employee selected as Steward shall remain on the job as long as there is work within their craft for which they are qualified, willing and able to perform. The Contractor shall be notified in writing of the selection of each Steward. The Contractor shall be responsible for notifying the Unions prior to terminating a Steward as follows:

For Cause or Voluntary Quit	As soon as possible after it becomes known to the Contractor either by telephone call or electronic means.
Reduction in Force	48 Hours prior written notice.

6.7

The Steward may not cause or encourage work stoppage, and, if found guilty of instigating such action, will be subject to action by the Contractors, and/or the Contractor's subcontractors, up to and including discharge or/and removal from the project.

6.8

The Steward's duties shall not include hiring and termination, nor shall he/she cause any interference with work progress.

6.9

The Steward shall be given the option of working all reasonable overtime within his craft and shift providing he/she is qualified to perform the task assigned.

6.10

In addition to his/her work as an employee, the steward shall have the right to receive complaints or grievances and to discuss and assist in the adjustment of the same with the employee's appropriate supervisor.

6.11

A steward may not service more than one work location without the approval of the Contractor or its Subcontractor and the Union. When a Contractor has multiple work locations, the Contractor may request, and the Union shall appoint additional working stewards to provide independent coverage of one or more such locations.

ARTICLE 7 MANAGEMENT RIGHTS

7.1

The Contractors and the Contractor's subcontractors retain full and exclusive authority for the management of its operations. The Contractors and the Contractor's subcontractors shall direct their working forces at their sole prerogative, including, but not limited to, hiring, promotion, transfer, lay-off discipline or discharge for just cause; the selection of foremen and general foremen; the assignment and scheduling of work; the promulgation of reasonable work rules shall be subject to the review of the Project Administrative Committee (as described in Article 9); and, the requirement of overtime work, the determination of when it will be worked and the number and identity of employees engaged in such work. No rules, customs, or practices, which limit or restrict productivity, efficiency or the individual and/or joint working efforts of employees shall be permitted or observed.

7.2

No rules, customs, or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees. The Contractors and the Contractor's subcontractors may, in its sole discretion, utilize the most efficient method or techniques of construction, tools, or other labor-saving devices.

7.3

The foregoing enumeration of management rights shall not be deemed to exclude other functions not specifically set forth. The Contractors, and the Contractor's subcontractors therefore, retain all legal rights not specifically covered by this Agreement.

7.4

Except as otherwise expressly stated in this Agreement (*Attachment 2*) there shall be no limitation or restriction upon the Owner or the Contractor's choice of materials or design, nor, regardless of source or location upon the full use, and installation and

utilization of equipment, machinery, package units, pre-casts, pre-fabricated, pre-finished, or pre-assembled materials, tools, or other labor-saving devices. The Owner, or the Contractors may without restriction install or otherwise use materials, supplies or equipment regardless of their source. The on-site installation or application of such items shall be generally performed by the craft having jurisdiction over such work. Provided, however, it is recognized that other personnel having special talents or qualifications may participate in the installation, check-off or testing of specialized or unusual equipment. If there is any disagreement between the Contractors and the Union concerning the manner or implementation of such device or method of work, the implementation shall proceed as directed by the Contractor and the Union shall have the right to grieve and/or arbitrate the dispute as set forth in Article 19 of this Agreement.

ARTICLE 8 PRE-JOB CONFERENCES

8.1

The Contractors and the Contractor's subcontractors at all tier levels shall be required to hold a pre-job jurisdictional mark-up meeting prior to the commencement of construction activities on the Project. The Contractors agree that all subcontractors will be required to arrange such a pre-job conference through the Contractor's designated Labor Relations Representative. The Contractors further agree that the Contractor's Labor Relations Representative will attend and act as co-chairman with the Union's co-chair designee at all such pre-job conferences relative to this Project. In addition to the information developed relative to jurisdiction of work at the pre-job conference, the Contractors and his subcontractors will present all information available to the Contractors regarding starting date for the work, location of the Project, duration of job, estimated peak employment and any other conditions deemed peculiar to the particular contract or subcontract.

8.2

The Contractor and any of its Subcontractors who fail to hold such pre-job conference prior to the commencement of work shall be considered in violation of this Agreement. The appropriate Building Trades Council shall immediately advise the Owner's Representative of this violation who will take corrective action pursuant to the Owner's contract provisions with the Contractor.

ARTICLE 9 PROJECT ADMINISTRATIVE COMMITTEE

9.1

The parties to this Agreement hereby recognize the necessity of cooperation and the elimination of disputes, misunderstandings or unfair practices on the part of any party, and to secure this end, it is hereby agreed that a Project Administrative Committee shall be established to be comprised of the Contractor's representatives and/or representatives of subcontractors at every tier level, as may be required, the Unions party to the Agreement and a representative of the Building Trades Councils who shall

meet at the jobsite or other agreed location according to a mutually agreeable monthly schedule. The Unions shall at such meetings present facts concerning any violations of any part of the Agreement by the Contractors or its subcontractors. Additionally, the Unions agree to notify the Contractor's designated Labor Relations Representative upon discovery of a potential violation of this Agreement. They shall also bring up any practice by the Contractors or the Contractor's subcontractors, which in their opinion might lead to a misunderstanding or dispute between the parties. The Contractors, or the Contractor's subcontractors shall bring in any complaints regarding failure of any employee or employees, or of the Unions to carry out any and all provisions of the Agreement.

9.2

Any agreement or resolutions reached pursuant to the preceding paragraph shall not supersede, alter, modify, amend, add to or subtract from this Agreement unless specifically expressed elsewhere in this Agreement. Prior to being effective any amendments or revisions to this Agreement shall be in writing and signed by all the parties hereto.

9.3

All parties signatory to this Agreement acknowledge the importance of attendance and active support of the Project Administrative Committee and agree to participate in the meetings as their responsibility on the Project requires.

9.4

The chairmanship of the Administrative Committee shall alternate between the Contractor's designated representative and of the Unions.

9.5

The Administrative Committee shall meet as required, but not less than once each month, to review the operation of the Agreement.

9.6

This Committee shall be convened within 48 hours on an emergency basis at the request of any party to the Agreement.

9.7

The Owner is a party in interest and shall be sent contemporaneous copies of all notifications required under this article, and at their option, shall initiate or participate as a full party in any proceeding initiated under this Article.

ARTICLE 10 HIRING PROCEDURES

10.1

It is agreed that affirmative action shall be taken to afford equal employment opportunity to all qualified persons without regard to race, creed, color, sex, age, marital status, religion, sexual orientation, ancestry, veteran status, disability or national origin. This shall be applicable to all matters relating to hiring, training, promotion, transfer or termination of employees. Furthermore, the parties agree to cooperate to the fullest extent to achieve the intent and purpose of the applicable regulations of Title VII, Civil Rights Act of 1964, and Executive Order No. 11246, or such laws or Executive Orders as may supersede them. This Agreement is subordinate to the Equal Employment/Affirmative Action Resolutions and Apprenticeship Program requirements for the Project. To the extent the Contractors and its subcontractors, despite reasonable efforts, are unable to meet the objectives and requirements set forth in this Article 11 through use of craft employees represented by any Union signatory, the Contractors and its subcontractors shall be allowed to recruit from any other source and such recruits will have seven (7) days to join the applicable Local Union.

10.2

The Contractors shall have the right to determine the competency of all employees, the number of employees required and shall have the sole responsibility for selecting employees to be laid off, consistent with Article 10, Section 3 below.

10.3

- (a) For Local Unions now having a job referral system, the Contractors agree to comply with such system and it shall be used exclusively by all Contractors and their subcontractors. Such job referral system will be operated in a non-discriminatory manner and in full compliance with federal, state, and local laws and regulations which require equal employment opportunities and non-discrimination, and referrals shall not be affected by obligations of union membership or the lack thereof.

- (b) The Contractors may reject any referral for any lawful nondiscriminatory reason, provided they comply with Article 11, Section 9.

10.4

In the event that Local Unions are unable to fill any request for employees within forty-eight (48) hours after such request is made by any Contractor (Saturdays, Sundays, and holidays excepted), the Contractor may employ applicants from any other available source. The Contractor shall inform the Union in writing of the name and social security number of any applicants hired from other sources and shall refer the applicant to the Local Union for dispatch to the Project, and such applicant will have seven (7) days to join the Local Union.

10.5

Failure of an employee to pay or tender fees or dues as required by this Article shall, upon the request of the Union in writing, result in the immediate termination of such employee.

10.6

Except as required by law, the Local Unions shall not knowingly refer an employee currently employed by any Contractor working under this Agreement to any other Contractor.

10.7

The parties recognize the Owner's commitment to provide opportunities to participate on the Project to business enterprises which may not have previously had a relationship with the Unions signatory to this Agreement. To ensure that such enterprises will have an opportunity to employ their "core" employees on this Project, the parties agree that in those situations where any Contractor, not a party to a current collective bargaining agreement with the signatory Union having jurisdiction over the affected work is a successful bidder, such Contractor, or their subcontractor, may request by name, and the Local will honor, up to a maximum of five (5) persons, provided that the Contractor first demonstrate that those persons possess the following qualifications:

- (a) possess any license required by state or federal law for the Project work to be performed.
- (b) have worked a total of at least one thousand (1,000) hours in the construction craft during the prior three (3) years.
- (c) were on the Contractor's active payroll for at least sixty (60) out of the one hundred eighty (180) calendar days prior to the contract award.
- (d) have the ability to perform safely the basic functions of the applicable trade.

10.8

Core employees who meet the aforementioned qualifications will be dispatched as follows:

- (a) Contractors may request by name, and the Union will honor by referral up to a maximum of five (5) persons in each craft on an alternating basis with the Contractor selecting first.

- Core Employee
- Union Referral
- Core Employee
- Union Referral
- Core Employee
- Union Referral

- Core Employee
- Union Referral
- Core Employee

All subsequent referrals will be through the respective Union hiring hall.

- (b) It is agreed that specific terms and conditions governing hiring and assignment of union workers in supplement to small Contractors existing core employees (who would be displaced by the local referral procedure) may be negotiated jointly by the Contractor and applicable local Union.
- (c) For the duration of the Contractor's work the ratio of "Core" employees to hiring hall referrals shall be maintained and when the Contractor's workforce is reduced, employees shall be reduced in the same ratio as was applied in the initial hiring.
- (d) The Contractor and any of its Subcontractors attempting to circumvent the hiring provisions of this Agreement by misclassifying any of its employees as supervisors or foremen, shall forfeit their right to employ "Core" employees on this project.
- (e) No "Core" employee covered by this Agreement shall be required to join any Union as a condition of being employed on the Project; provided, however, that an employee who is a member of the referring union at the time of the referral shall maintain that membership in good standing while employed under the Agreement. All Core employees not currently a member of the appropriate Union signatory to this PLA shall, however, be required to pay a representational fee equal to 94% of the regular dues of the appropriate Union, for the period during which they are performing on-site work. The Contractors agree to deduct union dues or representation fees, whichever is applicable, from the pay of any employee who executes a voluntary authorization for such deductions and to remit the dues or fees to the Union(s).

10.9

The selection of craft foremen and/or general foremen and the number of such foremen and/or general foremen required shall be entirely the responsibility of the Contractors. Craft foremen shall be designated working foremen at the request of the Contractors. Craft workers covered by this Agreement will, in the normal day-to-day operations, take their direction and supervision from their foreman.

ARTICLE 11
HOURS OF WORK, OVERTIME, SHIFTS, HOLIDAYS

11.1**Hours of Work**

Eight (8) hours shall constitute a standard work day. Five days, Monday through Friday, shall constitute a standard work week. Standard shift workday shall be worked between the hours of 6:00 a.m. to 6:00 p.m. for first shift with one-half hour unpaid lunch period. The Contractor may vary the start time to take advantage of daylight hours, weather conditions or shifts, to permit an even and manageable flow of workers to the jobsite. Nothing herein shall be construed as guaranteeing any employee eight (8) hours per day or forty (40) hours per week. Notification of change in hours of work will be given to the union in writing five (5) days prior to implementation. Work hours shall be uniform for all crafts.

11.2

A Contractor may elect to work a four ten-hour day schedule ("4/10"), Monday through Thursday or Tuesday through Friday. Ten (10) hours, between 6:00 A. M., and 9:00 P.M., shall constitute a workday on a 4/10 schedule. Any 4/10 schedule must be worked for a minimum of two (2) weeks.

11.3**Starting Times**

Portal-to-Portal:

- (a) Employees working within a tunnel shall have their time start at the portal of the tunnel, at which he/she is directed by the Contractor or their Subcontractor to report for work on his/her shift and shall end at such portal.

- (b) Employees working within a shaft shall have their time start and end at the collar of the shaft.

11.4**Lunch Period**

The Contractor(s) and its Subcontractors will schedule an unpaid meal period of not more than one-half (1/2) hour's duration at the work location approximately at the midpoint of the scheduled work shift.

A penalty of one-half (1/2) hour at the applicable overtime rate shall be paid to employees who are denied a meal period at approximately the midpoint of an 8 hour or 10 hour shift. The same penalty shall apply if a second meal period is denied after 10 hours in a shift extending beyond 10 hours.

Break periods will be in accordance with applicable Washington State laws/rules and regulations.

11.5**Shifts**

- (a) Shift work may be performed at the option of the Contractor(s) upon three (3) working days' prior written notice to the Union(s), and shall continue for a period of not less than five (5) working days. Saturdays and Sundays, if worked, may be used for establishing the five (5) day minimum work shift. If two shifts are worked, each shall consist of eight (8) hours of continuous work exclusive of a one-half (1/2) hour non-paid lunch period and shall be paid at the regular rate of pay.
- (b) If the Contractor works two (2) ten (10) hour shifts, the first shift shall work ten (10) hours and the second shift shall work nine and one-half (9-1/2) hours. The pay for both shifts will be ten (10) hours at the employee's regular straight time rate of pay.
- (c) When three (3) shifts are worked, the first (day) shift will work eight (8) hours. The second shift will work seven and one-half (7 1/2) hours. The third shift will work seven (7) hours. The pay for all shifts will be eight (8) hours at the employee's regular straight-time rate of pay. The last shift starting on or before 6:00 P. M. Friday and carrying over to Saturday shall be considered Friday work time and the shift starting on or before 6:00 P. M. on Sunday and carrying over to Monday shall be considered Sunday work time. The shift starting at or after 6:00 A. M., is designated as the first shift with the second shift following.
- (d) Multiple shift (a two or three shift) operations will not be required on the entire project if at any time the Contractor(s) deems it advisable and necessary to work multiple shifts on a specific operation. When multiple shifts are worked, the number of employees on each shift of the operation may vary according to the conditions applicable to each shift and nothing shall require that there be "person-for-person" relief in successive shifts.
- (e) Maintenance Shifts. Due to the nature of tunnel work, the Contractor may establish a separate maintenance shift of eight (8) continuous hours, which may overlap any production shifts and such shift hours shall be paid at the straight time rate of pay. Work in excess of eight (8) hours shall be paid at the appropriate prevailing overtime rates. The starting time shall be determined by the Contractor.
- (f) When due to conditions beyond the control of the Contractor(s) or when contract specifications require that work can only be performed outside the regular day shift, then a special shift may be worked at the straight time rate of pay. The starting time of work will be arranged to fit the work conditions.
- (g) The parties acknowledge that certain construction activities may pose unique work scheduling issues, including a requirement for continuous work twenty-four (24) hours per day, seven (7) days a week. The parties agree to establish, in

good faith, hours of work provisions to assure uninterrupted work on any such operation in accordance with contract specifications for covered work.

11.6

Overtime

Except as otherwise required by the applicable prevailing wage determination, overtime will be paid at the rate of one and one-half (1 1/2) times the applicable straight-time hourly rate for work performed by an employee in excess of eight (8) hours daily, Monday through Friday on a five eight-hour day schedule, or for work performed in excess of ten (10) hours daily, Monday through Thursday or Tuesday through Friday, on a four ten-hour day schedule, or forty (40) hours per week. All work on Saturday, Sunday and holidays will be paid at the applicable overtime calculation rate as required by RCW 39.12. There will be no restriction on the Contractors' scheduling of overtime or the non-discriminatory designation of employees who will work the available overtime. There shall be no pyramiding of overtime pay under any circumstances.

11.7

Holidays

Recognized holidays shall be as follows: (1) New Year's Day, (2) Martin Luther King's Birthday, (3) Memorial Day, (4) Fourth of July, (5) Labor Day, (6) Thanksgiving Day and (7) Friday after Thanksgiving Day and (8) Christmas Day. Recognized holidays under this Agreement shall be celebrated on the date the holiday is celebrated by the Owner. Work may be performed on Labor Day when circumstances warrant, i.e., the preservation of life and/or serious property damage.

There shall be no paid holidays. If employees are required to work on a holiday, they shall receive the appropriate overtime rate as provided for by RCW 39.12.

11.8

It will not be a violation of the agreement when the contractors consider it necessary to shut down the project in whole or in part to avoid the possible loss of human life because of an emergency situation that could endanger the life and safety of an employee. In such cases, employees will be compensated only for the actual time worked. In the case of a situation described above whereby the contractors or the contractor's subcontractors requests employees to stand by, the employees will be compensated for the stand by time as per the provisions of Article 11.9(a).

11.9

Reporting Time (Show-up Time)

- (a) Reporting Pay. Employees reporting for work and for whom no work is provided, except when given notification not to report to work, shall receive two (2) hours pay at the regular straight-time hourly rate. Employees who are directed to start work shall receive four (4) hours pay at the regular straight time hourly rate. Employees who work beyond four (4) hours, shall be paid for actual hours worked. Whenever reporting pay is provided for employees, they may be required to remain at the Project site available for work for such time as they receive pay, unless released earlier by their supervisor. Each employee shall

furnish his/her Contractor with his/her current address and telephone number, and shall promptly report any changes in each to the Contractor. When an employee is sent to the jobsite from the union referral facility in response to a request from the Contractor for an employee for one (1) day and starts work at the designated starting time for his/her shift, the employee will be paid a minimum of eight (8) hours for that day.

- (b) **Make-up Day.** Should any of the Contractors be unable to work forty (40) hours in any workweek due to weather or other conditions over which they have no control, the Contractor(s) may, to the extent permitted by the applicable prevailing wage law, schedule a make-up day (Saturday for 5/8 schedule; Friday or Monday for 4/10 schedule). All hours worked on a make-up to complete the forty (40) hours for the standard workweek shall be paid at the straight time rate of pay. Any hours in excess of the standard workweek worked on Saturday shall be paid at time and one-half the straight time rate of pay. For make-up day work, the full crew must be scheduled. The make-up day may not be utilized on an individual employee basis or to make up holidays. Make-up days are voluntary and should a crew member decline the make-up day's work, the Contractor(s) may select a member of another crew as a replacement, or allow the crew to work without the regular crew member. All make-up day work will be scheduled for a full work day.
- (c) **Discharge Departure.** When an employee leaves the job or work location of his/her own volition or is discharged for cause or is not working as a result of any Contractor(s)'s invocation of Article 11.8, the employee shall be paid only for actual time worked.
- (d) **Premium Rate Day.** In all cases, if the employee is reporting on a day on which an overtime rate is paid, reporting pay shall be calculated at that rate.

ARTICLE 12 APPRENTICESHIP PROGRAM

12.1

The parties recognize the need to maintain continuing support of apprenticeship programs designed to develop adequate numbers of competent workers in the construction industry. Such programs enable workers to enter the labor pool fully qualified to earn a living wage on construction jobs. The Unions agree to support and to enhance such programs to provide training and job opportunities to these new work force entrants. The Contractors will employ apprentices in their respective craft to perform work customarily performed by the craft in which they are indentured and within their capabilities.

12.2**Pre-Screening Program**

The Parties hereto agree to jointly develop and implement a Pre-Screening Program that will increase the skill level and entry opportunities of new employees into the Puget Sound Region established (SAC) Apprenticeship Programs. This Pre-Screening Program will be specifically designed to assist women, people of color and individuals who are disadvantaged and under-represented in the workforce.

12.3.**Apprenticeship Goals**

Consistent with any restrictions contained in applicable state or federal law and regulations, including those governing equal employment opportunity, prevailing wage and apprenticeship requirements and limitations, the parties will jointly endeavor to meet or exceed the following Project goals for Apprenticeship utilization:

- (a) For the Conveyance System, a project-wide goal of fifteen percent (15%) of the project work hours to be comprised of apprentices.
- (b) Methods that will be used by the Project Administrative Committee to identify opportunities for the utilization of apprentices within individual contract packages.
- (c) Means and methods for reporting, collecting and analyzing data related to the utilization of apprentices on the Project.
- (d) Means and methods for monitoring and enforcing the apprenticeship efforts of the parties.
- (e) Means and methods for removing barriers to the inclusion of women, people of color and disadvantaged and under-represented individuals in the workforce in the apprenticeship and pre-apprenticeship programs.

12.4**Removing Barriers**

The Seattle/King County Building and Construction Trade Unions, the Northwest Washington Building and Construction Trades, and its affiliate member Unions, along with State Apprenticeship Council ("SAC") approved apprenticeship programs serving King and Snohomish Counties, will cooperate with the Owner to assist low-income residents to gain entrance to, and successful completion of, SAC apprenticeship programs. The Parties hereto will inform the coordinators and sponsors of the apprenticeship and training programs, as well as all Union representatives of the goals and activities covered by this Agreement, and will provide advocacy and assistance to encourage, support and involve the apprenticeship program coordinators in meeting these goals. Examples of the advocacy and assistance that will be provided include, but are not limited to:

- (a) Establishing and facilitating discussions between various SAC and other apprenticeship coordinators to identify policy or program enhancements to

increase the participation of people of color, women and disadvantaged and under-represented individuals in the workforce.

- (b) Immediate reporting from each SAC program indentures for the period 1999 – 2003 by class year the total number of indentured apprentices, numbers of males and females and racial breakdown.
- (c) Evaluating projected or actual apprenticeship class size by program and trade for the period 2003-2010.
- (d) Reporting their internal diversity goals and timelines for the participation of people of color, women and disadvantaged and under-represented individuals in the workforce.
- (e) Participating in a collaborative effort between the SAC programs and various community-based organizations to recruit people of color, women and disadvantage and/or under-represented individuals from within those communities along the conveyance system for inclusion in the workforce.

12.5

The parties shall exercise good faith and affirmative efforts to remove barriers that prevent people of color, women, disadvantaged and under-represented individuals in the apprenticeship programs. Barriers that need to be removed include, but are not limited to:

- (a) The requirement for a driver's license when a driver's license is not a bona fide requirement of the work.
- (b) Questions about criminal history when the work does not involve security requirements.
- (c) Requirement for apprenticeship application fees.

12.6

Pre-Apprenticeship Efforts

The parties to this Agreement endorse the efforts made by the Port of Seattle, Sound Transit, the Seattle Monorail and others in the development of programs which serve as a means for identifying, screening and preparing members of groups historically underrepresented in construction employment to enter and successfully complete the Local Union(s) apprenticeship programs. The Owner's bid specifications will encourage all Contractors to participate in these programs as may be deemed appropriate to provide the numbers of applicants to apprenticeship programs and to produce qualified apprentices to achieve the goals agreed by the parties for this Project.

12.7

During the initial construction-planning period, each Contractor shall prepare and submit a plan for participation of SAC-registered apprentices to the Owner. Each

Contractor shall estimate the total contract labor hours to be worked on the construction contract awarded to it and shall establish the anticipated apprenticeship participation by craft and hours to be submitted to the Owner at the pre-construction meeting.

Diversity goals for the apprenticeship program for all contractors shall be as follows:

- Women and people of color to perform at least 50% of all first year apprentice hours in all trades.
- Women and people of color to perform at least 33% of all apprentice hours worked.

During the contract construction phase, each Subcontractor shall provide a monthly report to the Owner on the numbers of apprentices used by craft and trade at each tier and level of work.

12.8

A funding mechanism consisting of an Apprenticeship Preparation Fund (APF) will be established and will continue in full force and effect during the term of this agreement. King County will make contributions in the sum of no less than five cents (\$.05) per hour worked by employees covered under this agreement into the APF. The APF will be administered by the Project Administrative Committee.

12.9

The Contractor and the signatory Unions agree to establish "Direct Entry" procedures for those crafts that allow for such entry procedures. Direct entry procedures shall include a specified number of direct entry slots, selection criteria, minimum specified employment duration for each slot, and dispute resolution. Crafts who do not allow direct entry under their current standards will work with their Joint Apprenticeship Training Committees in good faith efforts to achieve direct entry language in their standards.

Note: The following crafts have been named as "Direct Entry" programs – Laborers, Carpenters, Cement Masons, Iron Workers, Painters, Plumbers and Teamsters.

12.10

The Contractors and the signatory Unions desire to facilitate the entry of veterans into the building and construction trades who are interested in careers in the construction industry. The 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 of such veterans. The Unions agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on this Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans bona fide, provable past experience. The experience and practical knowledge of veterans will be reviewed and tested by applicable Joint Apprenticeship Training Committee (JATC). Applicants will be placed at

the appropriate stage of apprenticeship or at the journey level, as the case may be. Final decisions will be the responsibility of the applicable JATC.

12.11

The Contractors and the signatory Unions acknowledge that retention of apprentices in their craft training is a priority, and therefore agree to participate in the Apprentice Mentoring Program.

**ARTICLE 13
PAY DAY****13.1**

All employees covered by this Agreement may be paid by check and shall be paid no later than the end of the work shift Friday. Paychecks shall be drawn on a local bank, or the Contractors shall make local check-cashing facilities available to the employees. No more than five (5) days' wages may be withheld. Any employee who is discharged or laid off shall be entitled to receive all accrued wages immediately upon discharge or layoff. Notification of layoff shall be at the Contractor's discretion but shall not be given later than the end of the work shift on the date the layoff is to be effective. Such notification may be verbal.

13.2

A penalty of two (2) hours taxable, straight time pay for each 24 hour period or portion thereof (Saturdays and Sundays included) following the day in which the payroll became delinquent, shall be paid in addition to all wages due to the employee based upon when settlement is made up to, but not exceeding 2 weeks. Penalty payment may be made by jointly issued checks.

**ARTICLE 14
CRAFT JURISDICTION AND
JURISDICTIONAL DISPUTES ADJUSTMENT****14.1**

The assignment of 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 (Exhibit 5).

14.2

All jurisdictional disputes on this Project, between or among Building and Construction Trades Unions and employees, parties to this PLA, 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 and Unions parties to this PLA.

- (a) Where the work in dispute is not traditional building and construction work, or is claimed by any of the parties to the dispute not to be traditional building and construction work, and a difference exists among the parties as to the appropriate procedure with jurisdiction to resolve the dispute, the dispute will be settled in accordance with the following procedure. If the dispute is not resolved among the parties within seven (7) working days, the dispute shall be referred, within five (5) working days thereafter, by any one of the Unions or the involved Contractor to the International Unions with which the disputing Unions are affiliated. The International Unions and the involved Contractor shall meet promptly to resolve the dispute. Any resolution shall be reduced to writing and signed by representatives of the involved Contractor and the International Unions.
- (b) In the event that the respective International Unions of the disputing Local Unions and the involved Contractor are unable to resolve the dispute within fifteen (15) calendar days from the date of referral, the dispute shall be referred by any of the interested parties to or a mutually agreed arbitrator under this Article to hear and decide issues arising from the work assignment that is the basis of the dispute. The parties agree that the arbitrator shall, within twenty (20) calendar days of such referral, conduct a hearing and render a determination of the dispute.

14.3

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

14.4

Each Contractor will be required to conduct a pre-job conference with the appropriate Building and Construction Trades Council prior to the initial commencement of work, and on an as needed basis for projects with multiple phases and/on start dates. The purpose of this pre-job conference is to promote communication and provide the parties an opportunity to review the work prior to the start of construction. The Contractors will be advised in advance of all such conferences and shall participate.

14.5

Any award or resolution made pursuant to this procedure, shall be final and binding on the disputing Unions and the involved Contractor under this PLA only, and may be enforced in any court of competent jurisdiction in accordance with the Plan. Such award or resolution shall not establish a precedent on any construction work not covered by this PLA. In all disputes under this Article, the Contractor shall be considered a party in interest.

ARTICLE 15 WORK RULES

15.1

Employment begins and ends at the jobsite.

15.2

Employees shall be at their place of work at the designated starting time and shall remain at their place of work until the designated quitting time. Place of work shall mean gang boxes, change shacks or other designated tool storage areas or at assigned equipment. Employees shall remain on the Project and at their place of work through the work day except during breaks and lunch, at which time employees may access vending areas or snack trucks.

15.3

There shall be no limit on production by workmen nor restrictions on the full use of tools or equipment. Craftsmen using tools shall perform any of the work of the trade and shall work under supervision of craft foremen. There shall be no restrictions on efficient use of manpower other than as may be required by safety regulations: provided, however, legitimate manning practices that are a part of national and/or local agreements shall be followed.

15.4

Security procedures for control of tools, equipment and materials are solely the responsibility of the Contractors and/or its subcontractors. Employees having any company property or property of another employee in their possession without authorization are subject to immediate discharge. The Contractors will be responsible for the establishment of reasonable job security measures for the protection of personal company and client property.

15.5

Slowdowns, standby crews and featherbedding practices will not be tolerated.

15.6

Recognizing the nature of the work being conducted on the site, employee access by private automobile may be limited to certain roads and/or parking areas.

15.7

Specialized equipment may be installed, adjusted, tested and serviced by the Owner's employees, agents, or representatives prior to the occupancy of the Project, provided such installation is in accordance with Washington State prevailing wage laws. The on-site installation or application of such items shall be generally performed by the craft having jurisdiction over such work; provided, however, it is recognized that other personnel having special talents or qualifications may participate in the installation, check-off or testing of specialized or unusual equipment. Specialized equipment does not include installation of telecommunications cabling and related equipment.

15.8

The Owner or the Contractor(s) may establish reasonable Project rules, as they deem appropriate and not inconsistent with this Agreement, however, such rules shall be subject to review by the Joint Administration Committee. These rules will be explained at the pre-job conference and posted at the Project site by the Contractor(s) and may be amended thereafter as necessary. Failure to observe these rules and regulations by any employee may be grounds for discipline, including discharge.

ARTICLE 16 MISCELLANEOUS PROVISIONS

16.1

All inspection of incoming shipments of equipment, apparatus, machinery and construction materials of every kind shall be performed at the sole discretion of the Owner, or Contractors by persons of their choice.

16.2

The Owner or Contractors shall have the right to have equipment, apparatus, machinery and construction materials of every kind delivered to the jobsite by persons of their choice except as otherwise set out herein.

16.3

The Owner shall have the right to test, operate, maintain, remove and replace all equipment, apparatus or machinery installed, or to be used in connection with such installation on the work site with employees, agents or representatives of the Owner who shall work under the direct supervision of the Owner, as applicable if such supervision is deemed desirable.

16.4

All employees shall be subject to substance screening and testing procedures set forth within the Project's developed safety and insurance programs and substance screening program. Any employee who reports for work under the influence of alcoholic beverages or uses non-prescribed drugs on the jobsite or who reports to the jobsite with alcoholic beverages or non-prescribed drugs, shall be subject to immediate termination and/or removal from the project.

16.5

Any employee who willfully damages the work of any other employee, or any material equipment, apparatus, or machinery shall be subject to immediate termination.

16.6

In the interest of the future of the construction industry in the Puget Sound area, of which labor is a vital part, and to maintain the most efficient and competitive posture possible, the Unions pledge to work with management on this Project to produce the most efficient utilization of labor and equipment in accordance with this Agreement.

ARTICLE 17
SAFETY, HEALTH AND SANITATION

17.1

The Contractor, its Subcontractors and the Unions signatory to this Agreement will form a Joint Labor/Management Safety Committee consisting of equal numbers of Contractor and Union representatives, to be agreed upon by the parties, which shall be jointly chaired by the site representative of the Contractor (or designee) and an official of the Unions (or designee) appointed by the Unions. The Committee will meet at the call of the Joint Chairs of the monthly Labor/Management Meetings to receive reports on safety programs instituted by the Owner, the Contractor and the individual contractors on the Project site and to discuss and advise such parties of the Agreement with regard to recommended safety programs and procedures in order to maintain the highest level of occupational safety possible on the Project site.

17.2

The Contractors, the Contractor's subcontractors and their respective employees shall comply with all applicable provisions of State and Federal laws and regulations including the Occupational Safety and Health Act of 1970 as amended, including 29 CFR 1926.800 relating to Underground Construction and those regulations relating to job safety and safe working practices.

17.3

The Contractors or its subcontractors shall provide a convenient and sanitary supply of drinking water, cooled in the summer months, and sanitary drinking cups.

17.4

The Contractors or its subcontractors shall provide adequate sanitary toilet facilities, water and clean up facilities for the employees. The Contractors shall establish and maintain a change house within a reasonable walking distance from each portal or shaft which shall include showers, toilet facilities, lockers and heating and drying facilities in accordance with the amount of men and women in each crew. A separate women facility will be provided. Each change house shall be so constructed to provide that all clothing will dry between shifts. (Any questions raised regarding "reasonable walking distance" shall be subject to review by the Project Administrative Committee).

An employee on the day shift shall be designated as a change house attendant whose primary duties shall be to maintain sanitary conditions and see that adequate heat and ventilation is provided to properly dry clothes between shifts.

17.5

Violators of the safety program will be subject to termination for cause and may be rehired after 90 days.

17.6

All required safety equipment shall be provided by the Contractors or its subcontractors.

17.7**Safety**

- (a) Each operation shall have a check-in/check-out system that will provide positive identification of every employee underground. An accurate record of identification and location of the employees shall be kept on the surface. This procedure is not required when the construction of underground facilities designed for human occupancy has been sufficiently completed so that the permanent environmental controls are effective, and when the remaining construction activity will not cause any environmental hazard, or structural failure within the facilities.
- (b) The Contractor shall provide and maintain safe means of access and egress to all work stations.
- (c) Safety meetings shall be held at a minimum of once a week at the beginning of a shift. Copies of the topics, minutes, or agenda of the meetings with signed attendance sheets shall be maintained by the project Safety Engineer. Local area Fire Department personnel shall be invited to attend all safety meetings.

**ARTICLE 18
NO STRIKE - NO LOCKOUT**

18.1

During the term of this Agreement there shall be no strikes, picketing, work stoppages, slow downs or other disruptive activity for any reason by the Union, its applicable Local Union or by any employee, and there shall be no lockout by the Contractor. Failure of any Union, Local Union or employee to cross any picket line established at the Project site is a violation of this Article.

18.2

The Union and its applicable Local Union shall not sanction, aid or abet, encourage or continue any work stoppage, strike, picketing or other disruptive activity at the Contractor's project site and shall undertake all reasonable means to prevent or to terminate any such activity. No employee shall engage in activities which violate this Article. Any employee who participates in or encourages any activities which interfere with the normal operation of the Project shall be subject to disciplinary action, including discharge, and if justifiably discharged for the above reasons, shall not be eligible for rehire on the Project. for a period of not less than ninety (90) days.

18.3

Neither the Union nor its applicable Local Union shall be liable for acts of employees for whom it has no responsibility. The International Union General President or Presidents will immediately instruct, order and use the best efforts of his office to cause the Local Union or Unions to cease any violations of this Article. An International Union complying with this obligation shall not be liable for unauthorized acts of its Local Union.

The principal officer or officers of a Local Union will immediately instruct, order and use the best efforts of his office to cause the employees the Local Union represents to cease any violations of this Article. A Local Union complying with this obligation shall not be liable for unauthorized acts of employees it represents. The failure of the Contractor to exercise its right in any instance shall not be deemed a waiver of its right in any other instance.

18.4

In the event of any work stoppage, strike, picketing or other disruptive activity in violation of this Article, the Contractor may suspend all or any portion of the Project work affected by such activity at the Contractor's discretion and without penalty.

18.5

There shall be no strikes, picketing, work stoppages, slowdowns or other disruptive activity affecting the Project site during the duration of this PLA. Any Union or Local Union which initiates or participates in a work stoppage in violation of this Article, or which recognizes or supports the work stoppage of another Union or Local Union which is in violation of this Article, agrees as a remedy for said violation, to pay liquidated damages in accordance with Section 18.6 of this Article.

18.6

In Lieu of, or in addition to, any other action at law or equity, any party may institute the following procedure when a breach of this Article is alleged, after the Union(s) or Local Union(s) has been notified of the fact.

- (a) The party invoking this procedure shall notify (to be mutually determined) who the parties agree shall be the permanent Arbitrator under this procedure. In the event that the permanent Arbitrator is unavailable at any time, he or she shall appoint an alternate. Notice to the Arbitrator shall be by the most expeditious means available, with notice by facsimile, telegram or any other effective written means, to the party alleged to be in violation and the International Union President and/or Local Union.
- (b) Upon receipt of said notice, the Arbitrator named above shall set and hold a hearing within twenty-four (24) hours if it is contended the violation still exists.
- (c) The Arbitrator shall notify the parties by facsimile, telegram or any other effective written means, of the place and time he or she has chosen for this hearing. Said hearing shall be completed in one session. A failure of any party or parties to attend said hearing shall not delay the hearing of evidence or issuance of an Award by the Arbitrator.
- (d) The sole issue at the hearing shall be whether or not a violation of this Article has in fact occurred. The award shall be issued in writing within three (3) hours after the end of the hearing, and may be issued without an Opinion. If any party desires an 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 such Award shall be served on all parties by hand or registered mail upon issuance.

- (e) Such award may be enforced by any court of competent jurisdiction upon the filing of this PLA and all other relevant documents referred to herein above in the following manner. Facsimile or expedited mail or personal service 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 6 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 of enforcement. The Court's order or orders enforcing the Arbitrator's Award shall be served on all parties by hand or by delivery to their last known address by registered mail.
- (f) Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure, or which interfere with compliance therewith, are hereby waived by parties to whom they accrue.
- (g) The fees and expenses of the Arbitrator shall be borne by the party or parties found in violation, or in the event no violation is found, such fees and expenses shall be borne by the moving party.
- (h) If the Arbitrator determines that a work stoppage has occurred in accordance with Section 18.6 d above, the party or parties found to be in violation shall pay as liquidated damages the following amounts: For the first shift in which the violation occurred, \$10,000; for the second shift, \$15,000; for the third shift, \$20,000; for each shift thereafter on which the craft has not returned to work, \$25,000 per shift. The specific damages in this Section shall be paid to the Owner. The Arbitrator shall retain jurisdiction to determine compliance with this Section and Article.

18.7

The procedures contained in Section 18.6 through 18.6 (h) shall be applicable to violations of this Article. Disputes alleging violation of any other provision of this PLA, including any underlying disputes alleged to be in justification, explanation or mitigation of any violation of this Article, shall be resolved under the grievance adjudication procedures of Article 19 Grievance Procedure.

18.8

The Owner and Contractor are each a party of interest in all proceedings arising under this Article and Articles 14 and 19 and shall be sent copies of all notifications required under these Articles and shall initiate or participate as a full party in any proceeding initiated under this Article.

ARTICLE 19 GRIEVANCE PROCEDURE

19.1

This PLA is intended to provide close cooperation between management and labor. Each of the Unions will assign a representative to this Project for the purpose of completing the construction of the Project economically, efficiently, continuously, and without interruptions, delays, or work stoppages.

19.2

The Contractors, Unions, and the employees, collectively and individually, realize the importance to all parties to maintain continuous and uninterrupted performance of the work of the Project, and agree to resolve disputes in accordance with the grievance-arbitration provisions set forth in this Article.

19.3

Any question or dispute arising out of and during the term of this PLA (other than trade jurisdictional disputes) shall be considered a grievance and subject to resolution under the following steps:

- (a) Step 1. When any employee subject to the provisions of this PLA feels they have been aggrieved by a violation of this PLA, through their local union business representative or job steward, shall, within five (5) working days after the occurrence of the violation, give notice to the work-site representative of the involved Contractor stating the provision(s) alleged to have been violated. The business representative of the local union or the job steward and the work-site representative of the involved Contractor shall meet and endeavor to adjust the matter within three (3) working days after timely notice has been given. The representative of the Contractor shall keep the meeting minutes and shall respond to the Union representative in writing at the conclusion of the meeting but not later than twenty-four (24) hours thereafter. If they fail to resolve the matter within the prescribed period, the grieving party may, within forty-eight (48) hours thereafter, pursue Step 2 of the Grievance Procedure, provided the grievance is reduced to writing, setting forth the relevant information concerning the alleged grievance, including a short description thereof, the date on which the grievance occurred, and the provision(s) of the PLA alleged to have been violated. Should the Local Union(s) or any Contractor(s) have a dispute with the other party and, if after conferring, a settlement is not reached within three (3) working days, the dispute may be reduced to writing and proceed to Step 2 in the same manner as outlined herein for the adjustment of an employee complaint.
- (b) Step 2. The International Union Representative and the involved Contractor(s) shall meet within seven (7) working days of the referral of a dispute to this second step to arrive at a satisfactory settlement thereof. Meeting minutes shall be kept by the Contractor. If the parties fail to reach an agreement, the dispute may be appealed in writing in accordance with the provisions of Step 3 within seven (7) calendar days thereafter.

- (c) Step 3. If the grievance has been submitted but not adjusted under Step 2, either party may request in writing, within seven (7) calendar days thereafter, that the grievance be submitted to the mutually agreed upon Arbitrator. The decision of the Arbitrator shall be final and binding on all parties. The fee and expenses of such Arbitration shall be borne equally by the Contractor(s) and the involved Local Union(s).

Failure of the grieving party to adhere to the time limits established herein shall render the grievance null and void. The time limits established herein may be extended only by written consent of the parties involved at the particular step where the extension is agreed upon. The Arbitrator shall have the authority to make decisions only on issues presented, and shall not have authority to change, amend, add to or detract from any of the provisions of this PLA.

19.4

The Owner and Contractor shall be notified of all actions at Steps 2 and 3 and shall, upon their request, be permitted to participate in all proceedings at these steps.

ARTICLE 20 GENERAL SAVINGS CLAUSE

20.1

If any article or provisions of this Agreement shall be declared invalid, inoperative or unenforceable by any competent authority of the executive, legislative, judicial or administrative branch of the Federal or any State government (including such authorities as established within Project enabling legislation referred to under Article I within this Agreement), the Contractors and the Union shall suspend the operation of such article or provision during the period of its invalidity and shall substitute, by mutual consent, in its place and seal an article or provision which will meet the objections to its validity and which will be in accord with the Intent and purpose of the article or provision in question.

20.2

If any article or provision of this Agreement shall be held invalid, inoperative or unenforceable by operation of law or by any of the above mentioned tribunals of competent jurisdiction, the remainder of this agreement or the applications of such article or provision to persons or circumstances other than those as to which it has been held invalid, inoperative or unenforceable shall not be affected thereby.

ARTICLE 21 TERMS OF AGREEMENT

21.1

This Project Labor Agreement shall become effective on _____, and shall continue only until the Project is completed or abandoned by the Owner, or by the Contractors for the Project.

21.2

- (a) Turnover. Construction of any phase, portion, section or segment of the Project shall be deemed complete when such phase, portion, section or segments has been turned over to the Owner by the Contractor(s) and the Owner has accepted such phase, portion, section or segment. As areas and systems of the Project are inspected and construction tested and/or approved by the Owner, the Agreement shall have no further force or effect on such items or areas, except when a Subcontractor is directed by the Contractor(s) or the Owner to engage in repairs or modifications required by its contract(s) with the Owner.
- (b) Notice. Written notice of each final acceptance received by the Contractor(s) will be provided to the Building Trades Council(s) with a description of what portion, segment, etc. has been accepted. Final acceptance may be subject to a "punch list," and in such case, the Agreement will continue to apply to each such item on the list until it is completed to the satisfaction of the Owner and a letter of completion/Final Acceptance is given by the Owner to the Contractor(s). A copy of the "punch list" will be available to the unions.
- (c) Termination. Final termination of all obligations, rights and liabilities and disagreements shall occur upon receipt by the Building Trades Council(s) of a written notice from the Owner or Contractor(s) saying that no work remains within the scope of the Agreement for the Contractor(s) or their successor(s).

ARTICLE 22 WAGE SCALES AND FRINGE BENEFITS

22.1

In consideration of the desire of the Owner, the Contractors and the Unions for all construction work to proceed efficiently and economically and with due consideration for protection of labor standards, wages and working conditions, all parties agree that:

22.2

All employees covered by this Agreement shall be classified in accordance with work performed and paid the hourly wage rates for those classifications in compliance with the applicable prevailing rates as required by Chapter 39.12 of the Revised Code of Washington, as amended, and/or by the Davis-Bacon Act, 40 U.S.C.~276a et seq., whichever is greater. This requirement applies to laborers, workers and mechanics, employed by the Contractors, or by any other person who performs a portion of the work contemplated by this Agreement and which is covered by the terms hereof.

22.3

The Contractor(s) and its subcontractors will recognize the applicable Federal and/or State Prevailing Wage Rate Determinations as the minimum rates to be paid to all craft employees, including general foreman, foreman and apprentices during the life of the project. Further, the Contractor(s) and its subcontractors will recognize all changes of wages and fringes on the effective date(s) of the individual craft local collective bargaining agreement. It is further agreed that any retroactive increases will be recognized provided it is part of the negotiated settlement

22.4

The current Washington state prevailing wage rates (*PWR*) for the inception of this project are **dated March 1, 2005**. Such WASHINGTON PWR which have been provided to the parties hereto by the industrial statistician of the Washington State Department of Labor and Industries will be available for review at the L&I website at: <http://www.lni.wa.gov/prevailingwage/> and are incorporated into this Agreement as if set forth herein.

22.5

In case any dispute arises as to what are the prevailing rates of wages for work of a similar nature and such dispute cannot be adjusted by the parties in interest, including labor and management representatives the matter shall be referred for arbitration to the DIRECTOR OF THE DEPARTMENT OF LABOR AND INDUSTRIES of the State of Washington, and the Directors decision therein shall be final and conclusive and binding on all parties involved in the dispute, as provided for by Section 39.12.060 of the Revised Code of Washington as amended.

22.6

The Contractor(s) and its Subcontractors adopt and agree to be bound by the written terms of the legally established trust agreements, for each craft hired, specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds. The Contractor(s) and its Subcontractors authorize the parties to such Trust Funds to appoint Trustees and successor Trustees to administer the Trust Funds and hereby ratifies and accepts the Trustees so appointed as if made by the Contractor(s) or its Subcontractors.

22.7

If any Subcontractor is delinquent in any Trust Fund contributions, the Union or the Trust Fund shall first make every effort to resolve the delinquency. After all efforts have been exhausted, the Union or Trust Fund shall provide timely notification to the Owner and the Contractor(s), together with all documentary evidence of the delinquency endorsed by the Fund. Upon such notification, the Contractor(s) will attempt to resolve the delinquency among its Subcontractor, the Union and the Fund. If the delinquency is not resolved within ten (10) days thereafter, the Contractor(s) shall withhold an amount to cover the delinquency from any retained funds otherwise due and owing to the Subcontractor and shall not release such withholding until the Subcontractor is in compliance. If the delinquent amounts are undisputed in whole or in part between the

Fund and the delinquent Subcontractor, the Contractor(s) shall issue a joint check to the Fund and the Subcontractor in the amount of the undisputed delinquency.

22.8

Copies of the Union Trust Agreements are available upon request.

ARTICLE 23
DRUG FREE WORKPLACE

23.1

The parties to this Agreement agree to implement a Drug Free Workplace Policy and Program for the duration of this Agreement. Such policy will be administered in accordance with the provisions of the ALCOHOL AND DRUG POLICY included as ADDENDUMS to this Project Labor Agreement as identified in the TABLE ON CONTENTS herein. If a program is implemented and the unions party to this agreement have an existing drug and alcohol-testing program, that is equal to or better than the proposed program, that includes pre-employment, for cause and random testing, and is at the same or lower cost, the Contractor shall agree to use the Union program.

KING COUNTY ENDORSEMENT

The authorized signature by the undersigned affirms the approval of this Agreement by King County and its adoption of this Agreement as a bid specification for contracts covering all work within the scope of this Agreement.

FOR THE PARTIES:

King County:

Ron Sims
King County Executive

Seattle/King County Building and Construction
Trades Council, AFL-CIO

Peter Coates
Executive Secretary

Northwest Washington Building and Construction
Trades Council, AFL-CIO

Steve Koch
President

Affiliated International Unions

International Association of Heat and Frost
Insulators and Asbestos Workers
William G. Bernard

International Union of Elevator
Constructors
Edward C. Sullivan

International Union of Bricklayers and
Allied Craftworkers
John J. Flynn

United Union of Roofers, Water-
proofers and Allied Workers
Earl J. Kruse

International Brotherhood of Electrical
Workers

International Brotherhood of
Boilermakers, Iron Ship Builders,
Blacksmiths, Forgers, and
Helpers
Charles W. Jones

J.J. Barry

International Association of Bridge,
Structural and Ornamental Iron Workers
Jake West

United Brotherhood of Carpenters
and Joiners of America
Douglas J. McCarron

International Union of Operating Engineers

Operative Plasterers' and Cement
Masons' International Association
of the United States of America
John J. Dougherty

Frank Hanley

International Brotherhood of Teamsters
James P. Hoffa

International Union of Painters and Allied Trades
Michael E. Monroe

Sheet Metal Workers' International Association
Michael J. Sullivan

United Association of Journeymen and Apprentices of the
Plumbing and Pipe Fitting Industry of the United States and Canada
William P. Hite

Laborers' International Union of North America
Terrance O'Sullivan

And Their Affiliated Local Unions

International Association of Heat and Frost
Insulators and Asbestos Workers, Local No.7

Operative Plasterers' and Cement
Masons' International Association of
the United States of America,

	Plasterers Local No. 77
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, Local No. 502	International Brotherhood of Electrical Workers, Local No.46 and Local 191
United Brotherhood of Bricklayers and Allied Craftworkers, Local No. 1	International Brotherhood of Electrical Workers, Local No. 77
United Brotherhood of Carpenters and Joiners of America, Regional Council	International Association of Bridge, Structural and Ornamental Iron Workers, Local No. 86
Operative Plasterers' and Cement Masons' International Association of the United States of America, Cement Masons Local No. 528	Laborers' International Union of North America, Local No. 242
Laborers' International Union of North America, Locals No. 440 and 292	United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, Local No. 699
International Union of Operating Engineers Local No. 302	Sheet Metal Workers' International Association, Local No. 66
International Union of Elevator Constructors Local No. 19	United Union of Roofers, Water-proofers and Allied Workers, Local No. 54
International Union of Painters and Allied Trades, District Council	International Brotherhood of Teamsters, Locals No. 174 and 38
United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, Local No. 32 and Local 26	

APPENDIX A

SUBSTANCE ABUSE PREVENTION PROGRAM

1.1

The Union(s) signatory to the King County Wastewater Treatment Project Labor Agreement ("PLA") and the Contractor(s) have agreed on this Substance Abuse Prevention Program ("Program") for application to all craft personnel working on the Brightwater Project ("the Project"). This Program supersedes any policies negotiated for any other work outside of the Project by Contractors and the Unions that might otherwise apply. Nothing in this Agreement is intended to supersede or diminish more restrictive controlled substance or alcohol regulations imposed by federal or state agencies upon specific employee groups or categories of employees who are also covered by this Program. A summary of this Program shall be provided to all employees. The full Agreement shall be made available to any Union representative or to Project employees upon request.

1.2

The intention of this Program is to establish the Brightwater Wastewater Treatment Project as a drug-and alcohol-free workplace in order to assure safe and productive working conditions with due regard for the personal privacy interests of Project employees. It is not the intention of the parties that any Contractor intrude on off-duty activities of Project employees away from the Project site unless those activities have a job-related impact. The circumstances permitting controlled substance and alcohol testing in this Program have been carefully defined and intentionally restricted. The Contractor's Substance Abuse Coordinator ("Coordinator") will retain oversight over the Program and will monitor test procedures, as well as Subcontractor, Union and Third Party Administration policy compliance.

SUMMARY

1.3

The basic elements of the Program are simple. Unauthorized use, possession or sale of controlled substances or alcohol on the Project is prohibited. Persons who violate this rule or who are convicted for selling, using, or possessing controlled substances off the job will not be permitted to work on the Project. Applicants for Project employment will be subject to pre-employment controlled substance, alcohol and adulterant testing. Thereafter, employees will be subject to reasonable cause, post-accident, random and return-to-work testing for the presence of controlled substances, alcohol or adulterants in their systems. Employees who report for work with alcohol, adulterants or unauthorized controlled substances in their system will not be permitted to remain on the Project. Employees who violate the substance abuse policy and applicants who fail the pre-employment testing, will be denied employment and will not be eligible for reassignment to any contractor on the Project until a period of not less than ninety (90) calendar days has passed and the employee/applicant has successfully completed a Contractor(s) approved counseling or rehabilitation program, at the employee's expense. An employee/ applicant will be deemed to have "successfully completed" a

Contractor approved counseling or rehabilitation program when the Contractor(s) is provided written documentation from an approved agency/ organization that the employee/applicant has met all of the Program requirements. Such employees/applicants shall be subject to pre-employment, random and periodic controlled substance, adulterant or alcohol testing thereafter at the request of the Contractor(s) for up to one year. The program will apply to all craft personnel, union and non-union, at all construction sites covered by the Project Labor Agreement. Special safeguards have been undertaken to assure that testing will be conducted by licensed laboratories, under the strictest federal guidelines, with special provisions to assure test reliability, employee privacy and confidentiality. All testing will be conducted only by laboratories approved by the Substance Abuse and Mental Health Services Administration

1.4

("SAMHSA") (formerly the National Institute of Drug Abuse, or "NIDA") in accordance with the Mandatory Guidelines for Federal Workplace Testing Programs established by the U. S. Department of Health and Human Services, as amended.

CONTROLLED SUBSTANCES

1.5

For purposes of this Program, "controlled substances" shall include any illegal drugs, such as cocaine, marijuana, opiates, phencyclidine (PCP) and/or amphetamines, which may alter or affect an individual's motor functions or mental capacity. Threshold levels of categories of controlled substances listed by DOT constituting positive test results shall be determined using the applicable SAMHSA threshold levels in effect at the time of testing. The schedule of controlled substances to be tested for on this project and their threshold levels are listed in Appendix B and shall be updated periodically to reflect SAMHSA and industry threshold changes.

PRESCRIPTION AND OVER-THE-COUNTER MEDICATION ABUSE

1.6

Abuse of drug or medication prescribed by a duly licensed health care provider, over-the-counter drug or medication, health supplement or designer and synthetic drug which may alter or affect an individual's motor function or mental capacity is prohibited and will be treated for the purposes of this Program as a controlled substance.

1.7

Employees may maintain on Project premises prescription and over-the-counter medications provided:

1.7.1.

The prescription is written by a licensed health care provider for current use by the person in its possession and the medication is in its original container and in the employee's name.

1.7.2.

Employees must not consume prescribed or over-the-counter medications more often or in greater dosages than as prescribed by the employee's health care provider or as per the instructions and they must not allow any other person to consume the prescribed medication.

1.7.3.

Where an employee has been informed that the medication could cause adverse side effects while working or where the medication, either prescribed or over-the-counter, indicates such a warning, the employee must inform the Contractor prior to using such substances on the job. The use of a medication prescribed by a licensed health care provider for the individual employee is permitted, provided that it will not affect work performance. However, the Contractors at all times reserve the right to have a licensed health care provider determine if use of a prescription medication by an employee may produce effects which may increase the risk of injury to the employee or others while working. If such a finding is made, the Contractors may check with the prescribing health care provider (with permission of the employee) to see if other medications are available which would not seriously affect the employee's ability to work safely. If appropriate substitute medication is not available, the Contractors may limit or suspend the work activity of the employee during the period that the licensed health care provider advises that the employee's ability to perform his/her job safely may be adversely affected by the consumption of such medication.

1.7.4.

Any employee who tests positive for a prescribed medication or whose work site performance or behavior has been impaired or affected by the use of a prescribed or over-the-counter medication will be found in violation of this Agreement unless proper notice has been given as required by paragraph 3 above.

ADULTERATED, SUBSTITUTED OR DILUTE SPECIMENS**1.8.**

This Substance Abuse Prevention Policy will adhere to guidelines established in SAMHSA Public Document 035 dated September 28, 1998 for determining the validity of a specimen. This guideline is consistent with the Department of Transportation (DOT) regulations (49 CFR Part 40) that permit laboratories to conduct additional tests to determine the validity of a specimen.

1.9.

An employee/applicant submitting a specimen for which an approved testing laboratory reports the existence of an "adulterant", "interfering substance" and/or "masking agent" or sample is identified as a "substituted specimen" will be deemed in violation of this Agreement and will be processed as if the test result were positive. Those employees/applicants for whom the testing laboratory reports an "adulterated",

"interfering substance", "masking agent" or "substituted" specimen will be prohibited from the Project for not less than ninety (90) calendar days and the employee/applicant will be required to successfully complete a Contractor approved rehabilitation program. The guideline issued in PD 035, the SAMHSA September 28, 1998 memo uses the following reporting protocols:

(a.) Adulterated Specimen: PD 035 includes three definitions for Adulterated:

1.9.a(i) adulterated if the nitrite concentration is equal to or greater than 500 mcg/mL.

1.9.a(ii) adulterated if the pH is less than or equal to 3, or if it is greater than or equal to 11.

1.9.a(iii) adulterated if a foreign substance is present, or if an endogenous substance (one that is normally found in urine) is present at a concentration greater than the normal physiological concentration.

(b.) Substituted Specimen: one that has a creatinine of less than or equal to 5 mg/dL and specific gravity less than or equal to 1.001 or greater than or equal to 1.020. These specimens do not exhibit the clinical signs or characteristics associated with normal urine.

(c.) Dilute Tests: Protocol covering dilute specimens will follow guidelines established by SAMSHA PD 035 in their memo dated September 28, 1998. Specimens identified by the testing laboratory as dilute will require the employee/applicant to be re-tested. A second consecutive retest indicating a dilute specimen will require the employee/applicant to be prohibited from working on the Project for a minimum of ninety (90) calendar days. Refusal to retest or noncompliance with drug testing procedures will result in the employee being prohibited from working on the Project for at least ninety (90) calendar days. In all instances, such employee will not be allowed to work on the Project until he/she has successfully completed a drug and alcohol test. A "dilute specimen" is defined as: "one that has a creatinine reading less than 20 mg/dl, but greater than 5 mg/gl, and a specific gravity less than 1.003 but greater than 1.001.

JOB APPLICANTS

1.10.

The special circumstances of the Brightwater Project, including its unique construction activities and working conditions, warrant special assurances that all contractor personnel are certified as alcohol-and drug-free before they are eligible for regular employment. All offers of employment for Project positions will be conditional until the applicant has satisfactorily completed a controlled substance and alcohol test. Specimens will be collected during in-processing on the Project site or at a designated off-site location prior to the commencement of any work on the Project, but not more than twenty-four

(24) hours prior to the commencement of any work.

1.11.

Applicants for Project positions will be permitted conditional access to the Project pending receipt of final test results. If test results are confirmed positive for controlled substances without a valid prescription, alcohol or adulterants, the employee will be barred from the Project immediately. Such employees will be paid only for all time worked. An applicant with a confirmed positive test may request in writing from the Contractors' Substance Abuse Coordinator a copy of the drug test result.

1.12.

Any conditional employee so barred will not be eligible for reapplication for employment on the Brightwater Project until a period of not less than ninety (90) calendar days has passed and the employee has successfully completed a Contractor(s) approved counseling or rehabilitation program, at the employee's expense. Before being hired, any such employee must provide written documentation of successful passage of the counseling or rehabilitation program to the Contractors' Substance Abuse Coordinator and must complete a controlled substance and alcohol test conducted by a SAMHSA-approved laboratory at the employee's expense. Upon the successful completion of such a subsequent test, the applicant will be eligible for assignment to the Project provided the applicant further agrees in writing to submit thereafter to periodic controlled substance or alcohol testing at the Contractor(s)'s request. Such periodic testing will be conducted for up to one year after the applicant is assigned to the Project, in addition to any other testing provided for in this Agreement. The applicant will be responsible for any costs associated with the periodic tests.

1.13.

Any applicant who receives a negative result on his/her pre-employment controlled substance and alcohol test will not be required to submit a second pre-employment test within one (1) year of the first such test and will be issued a drug testing "clean card". The "clean card" may be linked to, and valid on, both the Sea-Tac Airport and Sound Transit Projects. If linkage with the Sea Tac and/or Sound Transit Project is approved, the Contractor(s) will provide notification to their Subcontractors. Re-employment after the anniversary date that the clean card is issued will require the applicant to submit to normal pre-employment requirements. An employee who is issued a clean card will continue to be subject to reasonable cause, post accident and random testing.

1.14.

Refusal on the part of any applicant or employee to comply with the testing procedure will disqualify the applicant or employee from consideration for continued employment on the Brightwater Project for not less than ninety (90) calendar days.

ACTIVE EMPLOYEES

1.15.

All regular employees are subject to a controlled substance or alcohol test while on the job or in a job status for the following reasons:

(a) Reasonable Cause Testing: An employee will be tested for reasonable cause when specific, reliable objective facts and circumstances are sufficient to warrant a prudent person to believe that the employee more probably than not may have used a controlled substance or alcohol as evidenced by work performance, behavior or appearance while on the job site. If cause results from an observation, the observation must be confirmed by a second member of that Contractor's supervision and those representatives will endeavor to consult with the Contractor(s)'s Safety Representative or Substance Abuse Coordinator within one (1) working day of directing the employee to a reasonable cause test.

(b) Post-Accident Testing: Any employee who is involved in an accident in the course of job duties which involved the use of vehicles, heavy equipment, power tools or other dangerous instrumentalities or working conditions and which resulted in injury or property damage may be tested in cases where the designated Contractor's safety representative or designee concludes that:

(b)1. The accident was caused by human error or could have been avoided by reasonably alert action; and

(b)2. The employee to be tested was an active participant in the accident circumstances; and

(b)3. Use of a controlled substance or alcohol or abuse of a prescription or over-the-counter drug cannot be discounted as a contributing factor. Any employee directed for post-accident testing shall be entitled to request the presence of a Union steward in pre-test meetings with the Contractor's representative, provided a Union steward is readily available and the circumstances allow. The Contractor will notify the Substance Abuse Coordinator within one (1) working day of directing the employee to drug and alcohol test following an accident.

(c) Random Testing: The Contractors' Substance Abuse Coordinator will conduct periodic random testing of regular employees for controlled substances and alcohol. Employees will be selected for testing by lottery; to be conducted solely by the Coordinator or a Project-designated Third Party Administrator (TPA). (Up to fifty percent (50%) of regular employees will be randomly tested annually.) Such testing will be in addition to any other testing permitted by this Agreement.

(d) Return-To-Work Testing: An employee who has submitted a positive drug, adulterant or alcohol test for work on the Project and who seeks to return to work on the Project after successfully completing all Program requirements, will consent and submit to periodic testing for up to one (1) year from his/her

return at the direction of the Contractors' Substance Abuse Coordinator. These test are in addition to any reasonable cause, post-accident and random testing requirements. Employees removed from duty for reasonable cause and post-accident testing will remain off duty until test results are received. If the employee tests negatively, the employee will be reinstated with full backpay for lost time. Employees required to present for random testing will remain on duty unless and until the employee tests positively for a controlled substance and/or alcohol. If the employee tests positively, the employee will be barred from the Project effective the date and time of the specimen collection. Any employee so barred will not be eligible for reemployment on the Brightwater Project until a period of not less than ninety (90) calendar days passed and the employee has successfully completed a Contractor(s) approved counseling or rehabilitation program, at the employee's expense. Before being rehired, any such employee must provide documentation of successful completion of the counseling or rehabilitation program to the Substance Abuse Coordinator and must complete a controlled substance test conducted by a Contractor(s) approved laboratory at the employee's expense. Such employees will be required to submit to periodic controlled substance and alcohol testing at the Contractor(s)'s request, for up to one year after they return to the Project. Any costs associated with the periodic testing will be the responsibility of the employee. The employee's consent to such periodic testing, which shall be conducted in addition to reasonable cause and random testing, is a condition of reemployment. Any employee/applicant convicted for selling, using, manufacturing or possessing a controlled substance in any court of law will notify the Contractors' Substance Abuse Coordinator within one (1) working day of the conviction. The conviction will be treated as a positive test result and the employee/applicant will be held to the same requirements set for this violation. Failure to report a conviction to the Substance Abuse Coordinator may lead to prohibition from the Project for up to one (1) year.

COLLECTION PROCEDURES

1.16.

An employee/applicant dispatched to the Project will present himself for collection of a specimen and breathalyzer test prior to the commencement of any work on the Project, but not earlier than one working day prior to the commencement of any work. The specimen will be divided into a split sample in the presence of the employee/applicant. Urine specimens shall be collected in such a manner as to give the employee/applicant as much privacy as possible without degrading the reliability of the test.

1.17.

An employee/applicant undergoing urine testing will be given a maximum of three hours at the collection site to produce a valid specimen. All breathalyzer tests shall be conducted immediately upon the employee's/applicant's presentation for the test. Failure to produce a valid specimen constituting no less than 45ml of urine in one void within this time frame or to submit to the breathalyzer test will result in the employee being considered as "refusing to test" and he/she will be prohibited from working on the project for not less than ninety (90) calendar days and until he/she successfully passes an approved drug and alcohol test. An employee/applicant who can not produce a valid

specimen within the three hour time frame may contact the Medical Review Officer (MRO) for review of his/her circumstance. The MRO may refer the employee/applicant for a medical evaluation to a physician designated by the MRO to determine if there is a valid medical reason that would prevent the employee/applicant from providing a sufficient specimen. If the MRO finds documented evidence of a valid medical reason for failing to provide a sufficient specimen, he/she may authorize the employee/applicant to present himself for a new collection. The employee/applicant is responsible for all expenses pertaining to the medical evaluation. The Contractor to whom the employee/applicant is dispatched, will be responsible for the expenses related to the new collection and drug and alcohol test.

TEST PROCEDURES

1.18.

Testing procedures, including controlled substances to be tested, specimen collection, chain of custody and threshold and confirmation test levels shall comport with the Mandatory Guidelines For Federal Workplace Testing Programs established by the U. S. Department of Health and Human Services, as amended and the Federal Motor Carrier Safety Act regulations, where applicable. Controlled substance tests shall be conducted only by laboratories licensed and approved by SAMHSA, which comply with the American Occupational Medical Association (AOMA) ethical standards. Controlled substance tests shall be by urinalysis and shall consist of two procedures, a screen test (EMIT or equivalent) and if that is positive, a confirmation test (GC/MS or equivalent). Alcohol test shall be by breathalyzer. Any test revealing a blood/alcohol level equal to or greater than .04 percent shall be positive and will be conducted under procedures consistent with Washington State law.

1.19.

An employee/applicant presenting himself at a Contractor(s)-approved drug collection site must have a minimum of one piece of government-issued photo identification and may not leave the collection site for any reason - unless authorized by the collection agency until he/she has fully completed all collection procedures. Failure to follow all collection procedures will result in the employee/applicant being classified as "refusing to test" and being prohibited from working on the Project for a minimum of ninety (90) calendar days from the date of the scheduled test.

TEST RESULTS

1.20.

Any positive test for controlled substances, alcohol or an adulterant shall be reported to a Medical Review Officer (MRO) appointed by the designated laboratory. The Medical Review Officer shall review the test results and any disclosure made by the employee/applicant and shall attempt to interview the employee/applicant to determine if there is any physiological or medical reason why the result should not be deemed positive. If no extenuating reasons exist, the MRO shall designate the test positive. The MRO will make good faith efforts to contact the employee/applicant, but failing to make contact within two (2) working days, may deem the employee's/applicant's result a "lab

positive". After the issuance of a lab positive, the employee/applicant will be barred from the Project until the employee/applicant makes contact with the MRO and the MRO sends the Contractors' Substance Abuse Coordinator a written confirmation of a negative result. If the MRO declares the test positive or adulterated, notification shall be provided, in writing, to the Contractors' Substance Abuse Coordinator. The Substance Abuse Coordinator shall keep test results in confidence. A limited notification will be provided to the employing Contractor, by the Coordinator, solely reporting that the employee is "ineligible" for further employment. The employing Contractor shall have no access to individual test files. In addition, the Coordinator shall contact the appropriate Union representative and advise him/her of the employee's eligibility status for continued work on the Project. The Unions shall keep the test results in confidence and only use the results to determine the eligibility of the member to be re-dispatched to the Brightwater Project. If written notification of termination is required, the Contractor will state that the employee is "in violation of Brightwater PLA Policy".

RE-TESTS

1.21.

In the event of a positive controlled substance test, an automatic confirmation test will be performed on the original specimen by the testing laboratory at no cost to the employee. In addition, the testing laboratory shall preserve a sufficient specimen to permit independent re-testing at the request of the employee at his/her expense. Re-tests may be conducted by the same or any other approved Contractor(s) laboratory. The laboratory shall endeavor to notify the MRO of positive controlled substance test results within five (5) working days after receipt of the specimen. The employee may request a re-test within five (5) working days from notice of a positive test result by the MRO. Costs of re-tests will be paid in advance by the requesting party.

CONSENT FORMS

1.22.

Employees must execute a written consent, in the form attached at Appendix C, to submit to the test and for the testing laboratory to release the report of test results to the Contractors' Substance Abuse Coordinator. Failure to sign the appropriate release form or to comply with testing procedures otherwise will result in the employee or applicant being barred from the Project for not less than ninety (90) calendar days.

SUBSTANCE ABUSE COORDINATOR

1.23.

The Contractor(s) shall designate a Substance Abuse Coordinator to monitor compliance with this Agreement and to provide assistance to Project employees with questions concerning controlled substance or alcohol test procedures, availability of a Contractor(s)-approved counseling or rehabilitation or any other substance-or-alcohol-related matters. All inquiries to the Coordinator will be confidential. The parties are eager to help employees with substance abuse problems. The Coordinator will be

prepared to assist employees in discussing insurance coverage and locating available counseling, rehabilitation and community resources.

EMPLOYEE ASSISTANCE PROGRAMS

1.24.

The Substance Abuse Coordinator will work with the signatory Unions to develop an "approved" list of counseling and rehabilitation programs to be used by employees/applicants who test positive for controlled substances, alcohol or adulterants. The cost of counseling and rehabilitation will be the responsibility of the employee/applicant.

APPEAL PROCEDURE

1.25.

Any disputes involving application of this Program shall be referred to the Dispute and Grievance Procedure established by Article 19 of the Project Labor Agreement. Such disputes may be initiated at Step 2. Nothing in the grievance procedure may void the application of this Substance Abuse Prevention Program on the Brightwater Project.

SAVINGS AND SEVERABILITY

1.26.

It is not the intention of the Unions, the Contractor(s) or the Owner to violate any applicable federal or state laws by enactment of this Program or in its application. In the event any provisions of the Program are held to be illegal or void as being in contravention of any law, the remaining provisions shall remain in full force and effect. The parties agree further to meet promptly to commence negotiations concerning the provision affected by such decision for the purpose of achieving conformity with the requirements of the applicable law and the intent of the parties hereto.

REVISIONS OR AMENDMENTS

1.27.

No revisions or amendments shall be made to this Program except with the written approval of the parties hereto. This Program shall be effective on the same date as the Project Labor Agreement and shall remain in effect for the duration of the Brightwater Project unless terminated or amended by mutual consent.

For The Signatory Unions:

For King County:

By _____
Peter Coates
Executive Secretary
Seattle/King County Building
and Construction Trades Council

By: _____
Ron Sims
King County Executive

By: _____
Steve Koch
President
Northwest Washington Building
and Construction Trades Council

APPENDIX B**SUBSTANCE ABUSE PREVENTION AND DETECTION
THRESHOLD LEVELS**

CONTROLLED SCREENING SUBSTANCE METHOD		SCREENING LEVEL
Amphetamines	EMIT	1000 ng/ml*
Barbiturates	EMIT	300 ng/ml
Benzodiazepines	EMIT	300 ng/ml
Cocaine	EMIT	300 ng/ml*
Methadone	EMIT	300 ng/ml
Methaqualone	EMIT	300 ng/ml
Opiates	EMIT	2000 ng/ml*
PCP	EMIT	25 ng/ml*
(Phencyclidine)		
THC	EMIT	50 ng/ml*
(Marijuana)		
Propoxyphene	EMIT	300 ng/ml
Alcohol	Breathalyzer	.04 Percent
CONFIRMATION METHOD	CONFIRMATION LEVEL	
Amphetamines	GC/MS	500 ng/ml*
Barbiturates	GC/MS	200 ng/ml
Benzodiazepines	GC/MS	300 ng/ml
Cocaine	GC/MS	150 ng/ml*
Methadone	GC/MS	100 ng/ml
Methaqualone	GC/MS	300 ng/ml
Opiates	GC/MS	2000 ng/ml*
PCP	GC/MS	25 ng/ml*
(Phencyclidine)		
THC	GC/MS	15 ng/ml*
(Marijuana)		
Propoxyphene	GC/MS	100 ng/ml
Alcohol	Breathalyzer	.04 Percent

All controlled substance including their metabolite components

*SAMHSA specified threshold

A sample reported positive contains the indicated drug at or above the cutoff level for that drug. A negative sample either contains no drug or contains a drug below the cutoff level. Testing levels may be changed to meet SAMSHA or revised industry standards.

EMIT - Enzyme immunoassay

GC/MS - Gas Chromatography/Mass Spectrometry

APPENDIX C**SUBSTANCE ABUSE PREVENTION PROGRAM****CONSENT FORM****Employee Acknowledgement/Authorization**

I am familiar with my obligations under the Brightwater Project Substance Abuse Prevention Program. I also understand that the Program specifically requires that:

Use, possession or sale of controlled substances or alcohol at the Project site is prohibited. Violation of this rule, or conviction for selling, using, or possessing controlled substances on or off the Project, will cause me to be barred from the Project.

Use of prescribed or over-the-counter medication is permitted if it will not affect work performance. If prescribed or over-the-counter medication could affect work performance I must notify my employer prior to using such substances on the job.

I must submit to screening/testing for controlled substances, adulterants and alcohol as requested by the Contractors' Substance Abuse Coordinator in accordance with the terms of the Program.

The presence of one or more of a controlled substance, adulterant or alcohol in my system at or above the defined threshold levels will result in termination of employment and ineligibility for reemployment for at least ninety (90) calendar days.

If terminated for failing a controlled substance, adulterant or alcohol test, I will be required to complete a Contractor(s)-approved counseling or rehabilitation program and to agree to periodic testing at the Contractors' request.

My submission of an adulterated, substituted or dilute specimen, or my refusal to submit to the alcohol and controlled substances screening tests required by this Program will subject me to all disciplinary procedures and/or prohibitions provided in the Program.

If I am employed, my refusal to submit to such testing will result in immediate termination of my employment.

I authorize the release of all test results to the Contractors' Substance Abuse Program Coordinator and my Union Representative. In addition, I authorize the release of my job eligibility status to my Contractor-employer and the appropriate Union Representative.

I am signing this acknowledgment/authorization voluntarily with full knowledge and understanding of the Brightwater Substance Abuse Prevention Program and I agree to be bound by its terms.

Employee Name (Print): _____

Employee Signature: _____

Date: _____

Name of Subcontractor: _____

King County Contract #:: _____

EXHIBIT 1

**LETTER OF ASSENT
PROJECT LABOR AGREEMENT
FOR THE
BRIGHTWATER TREATMENT SYSTEM**

The undersigned, as a Contractor or Subcontractor on a Contract which is part of the Brightwater Wastewater Treatment System Project, for and in consideration of the award of a Contract to perform work on said Project, and in further consideration of the mutual promises made in the Project Labor Agreement, a copy of which was received and is acknowledged, hereby:

- (1) On behalf of itself and all its employees, accepts and agrees to be bound by the terms and conditions of the Project Labor Agreement, together with any and all amendments and supplements now existing or which are later made thereto, and understands that any act of non-compliance with all such terms and conditions, including but not limited to, evidence of compliance with the pre-employment controlled substance testing, will subject the non-complying Contractor or employee(s) to being prohibited from the Project Site until full compliance is obtained.
- (2) Certifies that it has no commitments or agreements which would preclude its full compliance with the terms and conditions of said Project Labor Agreement.
- (3) Agrees to secure from any Subcontractor, of any tier (as defined in said Project Labor Agreement), a duly executed Letter of Assent in form identical to this document prior to commencement of any work.

Dated: _____

(Name of Contractor/Company)

(Signature of Authorized Representative)

(Print Name and Title)

(Phone Number)

(General Contractor)

(Billing Address)

(City, State and Zip Code)

(King County Contract Number)

**EXHIBIT 2
LETTER OF UNDERSTANDING
ON PREFABRICATION**

March 18, 2005

Peter Coates, Executive Secretary
Seattle/King County Building and Construction
Trades Council, AFL-CIO
6670 East Marginal Way South, Bldg. G
Seattle, Washington 98108

Steve Koch, President
Northwest Washington Building and Construction
Trades Council, AFL-CIO
1700 No. State Street
Bellingham, Washington 98225

Re: Brightwater Project Labor Agreement
Article VII Management Rights
Letter of Understanding

Gentlemen:

This letter will confirm the discussion we had during the negotiations of the PLA and the clarification we reached concerning the application of Article VII, Section 7.4 of the Agreement. Consistent with the provisions of that Article, the on-site installation or application of such items shall be generally performed by the craft having jurisdiction over such work.

Whenever the Owner or Contractor selects materials, equipment, machinery, package units, pre-casts, pre-fabricated, pre-finished, or pre-assembled materials, tools, or other labor-saving devices, which are non shelf items and are subject to Washington State Prevailing Wage Laws (RCW 39.12) or the Davis Bacon Act (Public Law 74-403 as amended), the Owner or Contractor agrees to make every effort possible to insure that such products, components, materials and/or equipment are made in full compliance with those laws.

The signatory crafts agree to install on-site any components fabricated pursuant to the terms of this letter without limitation. The parties will make every effort to keep an open channel of communications to insure that both parties are fully informed of the facts affecting the substance of this letter.

Letter of Understanding
Prefabrication
Peter Coates/Steve Koch
March 18, 2005
Page #2

If you agree that this letter accurately sets forth the substance of our understanding and provides the basis for resolving any questions concerning the interpretation and application of Article VII, Section 7.4, of the Project Labor Agreement, please indicate your acceptance in the space provided below.

Sincerely,

Christie True, Manager
Major Capital Improvement Program

AGREED AND ACCEPTED

Peter Coates, Executive Secretary
Seattle/King County Building and Construction Trades Council, AFL-CIO

Steve Koch, President
Northwest Washington Building and Construction Trades Council, AFL-CIO

EXHIBIT 3

**LETTER OF UNDERSTANDING ON
CEMENT MASON'S FRINGE BENEFIT
CONTRIBUTION TO TRUST**

March 18, 2005

Mr. Peter Coates, Executive Secretary
Seattle/King County Building and Construction
Trades Council, AFL-CIO
6670 East Marginal Way South, Bldg G
Seattle, Washington 98108

Mr. Steve Koch, President
Northwest Washington Building and Construction
Trades Council, AFL-CIO
1700 No. State Street
Bellingham, Washington 98225

Re: Letter of Understanding
Cement Mason's Trust Fund Payments

Gentlemen:

This letter is intended to clarify the agreement we reached in the negotiations of the King County Brightwater Conveyance PLA regarding the Cement Mason's Trust Fund Payments.

King County Brightwater recognizes that the Cement Mason's Trust Fund which are responsible for collection and distribution of all Trust Fund payments for work covered by Cement Mason's only accept payments based on one-half (1/2) hour increments.

Letter of Understanding
Cement Mason's Trust Fund
Peter Coates/Steve Koch
March 18, 2005
Page #2

Accordingly, King County Brightwater agrees to instruct all contractors signatory to this PLA that all Cement Trust Fund payments will be made on one-half (1/2) hour increments on the monthly submittal for each member listed on the form.

Should you have any questions regarding this clarification please feel free to contact the undersigned.

Very Truly Yours,

Christie True, Manager
Major Capital Improvement Program
King County Wastewater Division
Department of Natural Resources and Parks

EXHIBIT 4

**LETTER OF UNDERSTANDING
CONCRETE PLACEMENT**

March 18, 2005

Mr. Peter Coates, Executive Secretary
Seattle/King County Building and Construction
Trades Council, AFL-CIO
6670 East Marginal Way South, Bldg. G
Seattle, Washington 98108

Mr. Steve Koch, President
Northwest Washington Building and Construction
Trades Council, AFL-CIO
1700 No. State Street
Bellingham, Washington 98225

Re: Letter of Understanding
Concrete Placements

Gentlemen:

This letter is intended to clarify the agreement we reached in the negotiations of the King County Brightwater PLA regarding Cement Masons working on concrete placements.

Start of Placement: The Cement Mason crew must be on the project at the start of the shift in which finishing will be required and assist with the placement on slab work or work preparatory to concrete finishing coming within the jurisdiction of the Cement Masons.

Should you have any questions regarding this clarification please feel free to contact the undersigned.

Very Truly Yours,

Christie True, Manager
Major Capital Improvement Program
King County Wastewater Division
Department of Natural Resources and Parks

EXHIBIT 5**SETTLEMENT OF JURISDICTIONAL DISPUTES
IN THE CONSTRUCTION INDUSTRY
"THE PLAN"****THE PLAN FOR THE SETTLEMENT OF JURISDICTIONAL DISPUTES IN THE
CONSTRUCTION INDUSTRY**

The Building and Construction Trades Department, AFL-CIO, on behalf of its fifteen affiliated National and International Unions and their Local Unions, have joined with five employer associations 1 to establish the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the Plan). The jurisdictional disputes procedure has been in effect since 1984 and replaced such predecessor plans as the Impartial Jurisdictional Disputes Board and the National Joint Board. The Building and Construction Trades Department's Constitution requires all jurisdictional disputes between crafts to be settled pursuant to the Plan. As the Plan is a voluntary dispute resolution mechanism, however, a case will not be processed unless the employer agrees to be bound to the Plan.²

When a jurisdictional dispute arises, the National or International Unions have five days to resolve the matter. Anytime within the five day period, the involved National or International Unions or the contractor responsible for making the assignment may request the matter be arbitrated. The parties then have three days to select an arbitrator from a permanent panel of arbitrators knowledgeable in the construction industry. Once selected, the arbitrator must hold the hearing within seven days. The arbitrator issues a decision within three days of the close of the hearing.³ The arbitrator may not award back pay or damages for miss-assignment of work nor may any party bring an independent action for damages based on the arbitrator's award. The losing party pays the fees and expenses of the arbitrator. The arbitrator's decision is final and binding. There is no appeal procedure.

The plan prohibits work stoppages, slowdowns, NLRB and court actions, and grievances under a collective bargaining agreement where the issue involves a jurisdictional dispute or assignment of work by a stipulated contractor. If a union

engages in such activity, the Plan provides for expedited arbitration to resolve the matter. Upon notice by the contractor of an impediment to job progress, the Administrator informs the appropriate General President. If the General President is unable to stop the impediment, the Administrator selects an arbitrator to hold a hearing within 24 hours. The sole issues at the hearing is whether there has been an impediment to job progress. The arbitrator must issue a decision within three hours after the close of the hearing. If court enforcement of an arbitrator's decision is necessary, the Administrator is authorized to file a court action to enforce the decision.

1 Mechanical Contractors Association, National Constructors Association, National Electrical Contractors Association, National Erectors Association, and Sheet Metal and Air Conditioning Contractors National Association.

2 An employer may stipulate to the Plan by the terms of a collective bargaining agreement, signing a separate form, or by membership in an employers' association which binds its members to the Plan.

3 The criteria utilized by Plan arbitrators in rendering decisions are: 1) whether a previous decision or agreement of record between the parties to the dispute governs; 2) if not, whether there is an applicable agreement between the crafts governing the case; and 3) if not, the arbitrator then considers the established trade practice and prevailing practice in the locality. In addition, the Plan provides that because efficiency, cost or continuity and good management are essential to the well-being of the industry, the arbitrator shall not ignore the interest of the consumer or the past practice of the employer.

A third type of dispute processed under the Plan involves changes in original assignment. Under the Plan, a contractor may not change an assignment of work from one craft to another unless directed by a Plan arbitrator or there is agreement between the crafts involved. The Administrator decides all original assignment questions. The sole issue is whether there has been a change in assignment, not whether the assignment was correct. Any party may appeal an original assignment determination of the Administrator to a Plan arbitrator.

**EXHIBIT 6
MEMORANDUM OF UNDERSTANDING -
BRIGHTWATER SMALL WORKS PROGRAM**

MEMORANDUM OF UNDERSTANDING

By and between

KING COUNTY BRIGHTWATER

And

**SEATTLE/KING COUNTY BUILDING AND
CONSTRUCTION TRADES COUNCIL**

And

**NORTHWEST WASHINGTON BUILDING AND
CONSTRUCTION TRADES COUNCIL**

BRIGHTWATER SMALL WORKS PROGRAM

This memorandum of understanding will confirm the discussions and commitments made during the contract bargaining for the Brightwater Conveyance System Project Labor Agreement negotiations.

In consideration of King County's withdrawal of its proposal to withhold \$1.0 million for small works projects and have that work exempt from the terms of the Project Labor Agreement and;

In consideration of the parties agreeing to Article X Hiring Procedures (10.8 (b)) "It is agreed that specific terms and conditions governing hiring and assignment of union workers in supplement to small Contractors existing core employees (who would be displaced by the local referral procedures) may be negotiated jointly by the Contractor and applicable Union."

The parties agree that when work becomes available through the King County or Brightwater Small Works Program the Project Administrative Committee will review the staffing needs of a small works contractor(s). Such review will be in the spirit of past practice of recognizing the staffing needs of such contractor(s) and the continued effort to foster the growth and success of new and immerging contractors and small businesses.

Agreed upon this ___ day of March, 2005