EXECUTIVE ORDER NO. 5 -95

PUBLIC WORKS PROJECT LABOR AGREEMENTS

WHEREAS, the City of Philadelphia has a compelling interest in awarding public works contracts so as to yield the lowest reasonable costs and the highest standard of quality and efficiency; and

WHEREAS, Project Labor Agreements, when appropriate and feasible, can ensure that a public works project is completed at the lowest reasonable cost; by the highest quality and most professional work force; and in a timely manner without labor disruptions such as strikes, lockouts or slowdowns; and

WHEREAS, the benefits of any proposed Project Labor Agreement must be carefully weighed with the effect the Project Labor Agreement would have on competitive bidding, project costs and the City's policy to advance women- and minority-owned businesses; and

WHEREAS, a Project Labor Agreement may be used on a particular project if such Agreement clearly benefits the interests of the City on the basis of cost, efficiency, quality, safety and/or timeliness;

NOW, THEREFORE, by the powers vested in me by the Philadelphia Home Rule Charter, it is hereby **ORDERED:**

1. Definitions.

(a) Appropriate Labor Organization. An organization representing, for purposes of collective bargaining, journeymen in one or more crafts or trades with a Federal or state certified approved apprenticeship training program and which:

(i) has entered into a labor agreement with an employer in the building and construction industry;

(ii) has represented journeymen, mechanics and apprentices employed on projects similar to the project for which a Project Labor Agreement is being considered; and

(iii) possesses the present ability to refer, provide or represent qualified journeymen in the crafts or trades required by the project, in sufficient numbers to perform the contracted work involved in the project.

(b) City agency. A City office, department, board, commission or other entity which procures goods and services through the City Procurement Department.

(c) Project Labor Agreement. A collective bargaining agreement between an employer and an Appropriate Labor Organization relating to work performed at the site of a particular construction project. Such an agreement sets forth the terms and conditions of employment for workers hired by the employer and sets forth certain work rules, no-strike clauses, jurisdictional determinations and other provisions that the employer deems important for the completion of the project. For purposes of this Executive Order, the form and manner of the Project Labor Agreement shall be substantially in the form attached hereto as the "Uniform City of Philadelphia Public Projects Labor Agreement," subject to the review and approval of the City Solicitor.

2. Project Labor Agreement Pilot Program.

There is hereby created a pilot program to test the appropriateness and feasibility of the use of Project Labor Agreements in major City public works projects. Such Project Labor Agreements may be used only in accordance with the terms of this Executive Order. Every Project Labor Agreement entered into pursuant to this Executive Order will be monitored and evaluated by the Advisory Committee established pursuant to paragraph 3 hereof. The duration of this pilot program will depend upon the findings and recommendations of the Advisory Committee as it monitors and evaluates each Project Labor Agreement.

3. Project Labor Agreement Advisory Committee.

(a) Composition. There is hereby created a Project Labor Agreement Advisory Committee consisting of the following persons:

(i) Procurement Commissioner or his/her designee;

(ii) C mmissioner of Public Property or his/her designee;

(iii) Director, Minority Business Enterprise Council;

(iv) Director of Aviation or his/her designee;

(v) Deputy Mayor for Labor;

(vi) Chair, Law Department's Corporate Group;

(vii) Managing Director or his/her designee; and

(viii) such other person or persons designated from time to time by the Mayor.

(b) Duties. The Advisory Committee shall:

(i) Make recommendations to the Mayor as to whether a City agency's request to use a Project Labor Agreement on a particular public works project should be approved as part of the Project Labor Agreement Pilot Program;

(ii) Monitor and evaluate every Project Labor Agreement entered into pursuant to this Executive Order;

(iii) Make periodic reports to the Mayor as to the status of the Project Labor Agreement Pilot Program;

(iv) Ensure compliance with the terms of this Executive Order;

(v) Make recommendations to the Mayor as to the continued feasibility of Project Labor Agreements in City public works contracts, including recommendations as to whether the Project Labor Agreement Pilot Program established under this Executive Order should be modified, ended, continued or made permanent; and

(vi) Perform such other duties as the Mayor may from time to time assign.

4. Scope.

This Executive Order shall apply to major public works projects governed by Section 17-107 of The Philadelphia Code (relating to prevailing wages) and which are for an amount in excess of $250,000 or such greater or lesser amount as may from time to time be recommended by the Advisory Committee and approved by the Mayor.

5. When City Agencies May Use Project Labor Agreements.

(a) A City agency may use a Project Labor Agreement in a particular public works project if and only if the City agency makes a prior written determination that

such an Agreement is appropriate and feasible with respect to the particular project, under the standards set forth in paragraph 5(b) hereof. The written determination must be sent to the Advisory Committee which shall review it and make a recommendation to the Mayor as to whether a Project Labor Agreement should be used for the specified public works project.

(b) A City agency's determination of the appropriateness and feasibility of using a Project Labor Agreement for a particular project shall set forth in detail the investigation, analysis and justification supporting the determination that the agreement will benefit and enhance the interests of the City on the basis of cost, efficiency, quality, safety and/or timeliness, and shall specifically address the following factors:

(i) The need for safe, timely and efficient completion of the project;

(ii) The need for predictable costs and enforcement of prevailing wage requirements;

(iii) The need for effective mechanisms for resolution of disputes;

(iv) The need for a ready and adequate supply of highly skilled and highly trained craft workers and the need to guarantee performance of the project in a workmanlike and professional manner; and

(v) The opportunity to provide significant employment opportunities for qualified City residents and for small, women- and minority-owned businesses, taking into consideration the market or pool of available women- and minority-owned businesses, and the effect a Project Labor Agreement would have on the City's policy to advance women- and minority-owned businesses.

(c) The written determination shall also make a finding as to the Appropriate Labor Organization, and shall specifically address whether there are labor organizations other than the Philadelphia, Pennsylvania Building and Trades Council that have the capacity to enter into a Project Labor Agreement within the project area.

(d) This Executive Order does not require the use of a Project Labor Agreement with respect to any particular project, nor does this Executive Order require the selection of any particular union, trade council or labor organization.

6. Required Provisions In Project Labor Agreements.

Any Project Labor Agreement entered into pursuant to this Executive Order shall:

(a) Contain guarantees against strikes, lockouts, slowdowns and similar actions; and

(b) Set forth effective, immediate and mutually binding procedures for resolving jurisdictional disputes arising before the completion of the work.

7. Bid Specifications and Procedures When Project Labor Agreements Are Used.

If a Project Labor Agreement is used pursuant to this Executive Order in any public works contracts, the following procedures shall be followed:

(a) The form and manner of the Project Labor Agreement shall be substantially in the form attached hereto as the "Uniform City of Philadelphia Public Projects Labor Agreement," subject to the review and approval of the City Solicitor. Such form and manner of Uniform City of Philadelphia Public Projects Labor Agreement shall be subject to modification or revision from time to time on the recommendation of the City Solicitor or the Advisory Committee.

(b) The Project Labor Agreement shall be negotiated and executed by the general contractor or project manager, subject to the review and approval of the City;

(c) The Instructions to Bidders shall provide that the City, the project manager and any contractor shall have the absolute right to select any qualified bidder for the award of project contracts without reference to whether the bidder was unionized, provided, however, that only a bidder willing to execute and comply with the Project Labor Agreement would be designated the successful bidder;

(d) The Instructions to Bidders shall provide that the Project Labor Agreement shall be made binding on all contractors and subcontractors on the project through inclusion of appropriate bid specifications in all relevant bid documents; and

(e) The public works project shall comply with all other provisions of law, including, but not limited to, the provisions of Executive Order 1-93 ("Antidiscrimination Policy").

8. Effective Date.

This Executive Order shall take effect immediately and shall apply only to public works project contracts executed after that date.

November 8, 1995
Date

Edward G. Rendell
Edward G. Rendell, Mayor

11/8/95

Uniform City of Philadelphia Public Projects Labor Agreement

THIS CITY OF PHILADELPHIA PUBLIC PROJECTS LABOR AGREEMENT (hereinafter the "Agreement"), is entered into this _____day of _____, 199_____, by and between:

_____

(hereinafter the "Project Contractor"), its successors or assigns,

and

_____

[Appropriate Labor Organization or Organizations] on behalf of its affiliated International Unions and their Local Unions, specifically including each of the following Local Unions, each acting in its own behalf and on behalf of its respective affiliates and members (hereinafter collectively called the "Unions"):

[INSERT]

pursuant to, and in accordance with, the Mayor's Executive Order No. 95- with respect to the public works project of and within the City of Philadelphia or City-owned facilities, described in Article II, Section 2 of this Agreement, and referred to herein as the "Public Works Project."

It is understood by the parties to this Agreement that it is the policy of the City of Philadelphia that construction work covered by this Agreement shall be contracted to Contractors who agree to execute and be bound by the terms of this Agreement. Therefore, the Unions agree that other non-Union Contractors may execute the Agreement for the purpose of covering that work. The Project Contractor shall monitor compliance with this Agreement by all Contractors who, though their execution of this Agreement, together with their subcontractors or transferees, have become bound hereto.

The term "Contractor" shall include all Contractors and subcontractors of whatever tier engaged in on-site construction work within the scope of this Agreement, including the Project Contractor or including a Project Manager when it performs construction work within the scope of this Agreement. Where a specific reference to _____ alone is intended, the term "Project Contractor" is used.

The Unions and the Project Contractor, its assigns, subcontractors and transferees, and all signatory Contractors agree to abide by the terms and conditions contained in this Agreement with respect to the administration of the Agreement by the Project Contractor and the performance of the construction by this Contractor of the City of Philadelphia Public Works Project covered by this Agreement. This Agreement represents the complete understanding of the parties, and it is further understood that no Contractor party is required to sign any other agreement as a condition of performing work within the scope of this Agreement. No practice, understanding or agreement between a Contractor and a Union party which is not explicitly set forth in this Agreement shall be binding on any other party unless endorsed in writing by the Project Contractor.

Article I
Purpose

As provided in Mayor's Executive Order No. 95-_____, the City of Philadelphia has a compelling interest in carrying out public works projects at the lowest reasonable cost, highest level of efficiency, and the highest degree of quality.

Further, it has been recognized by the City of Philadelphia that certain major public works projects can best be carried out through the use of Project Labor Agreements, as defined in Mayor's Executive Order No. 95-_____, which assure that labor disputes are resolved without disruptions resulting from strikes, lockouts or slowdowns and which provide for enforceable guarantees that the public works project will be carried out in an orderly and timely manner without strikes, lockouts or slowdowns and with provisions protecting the wages, hours, working conditions and safety of those workers whose skills are required to complete such projects.

Further, the City of Philadelphia has recognized that it can best accomplish these goals by permitting the use of Project Labor Agreements, as defined in Mayor's Executive Order No. 95-_____, in major public works projects, on a project by project basis, where the City has determined, based on thorough investigation, analysis and justification, pursuant to, and in accordance with, the procedures set forth in Mayor's Executive Order No. 95- _____, that the use of a Project Labor Agreement, Mayor's Executive Order No. 95-_____, will benefit and enhance the interest of the City of Philadelphia from a cost, efficiency, quality and/or safety standpoint.

Further, the City of Philadelphia has recognized that it can best accomplish these goals by requiring that in certain major public works projects

governed by Section 17-107 of the Philadelphia Code, a precondition regarding the award of a contract will be a requirement that the Project Manager or General Contractor enter into a Project Labor Agreement with an Appropriate Labor Organization or Organizations, as defined in Mayor's Executive Order No. 96-__, and its or their affiliated Unions requiring such Project Manager or General Contractor as well as all subcontractors, assignees or transferees to abide by an agreement setting forth the wages, hours and working conditions of the workers employed on such public works project.

Accordingly, the parties to this Agreement recognize that it is essential that the construction work on the Public Works Project covered by this Agreement be done in an efficient and economical manner in order to secure optimum productivity and to eliminate any delays in the work. In recognition of the needs of the Public Works Project covered by this Agreement, and to maintain a spirit of harmony, labor-management peace, and stability during the term of this Agreement, the parties agree to establish effective and binding methods for the settlement of all misunderstandings, disputes or grievances which may arise. Therefore, the Unions agree not to engage in any strike, slowdown or interruption of work and the Contractor agrees not to engage in any lockout.

Article II
Scope of the Agreement

Section 1. Scope of Agreement. This Agreement shall apply and is limited to all construction work under the direction of the signatory Contractors and performed by those Contractors of whatever tier which have contracts awarded for such work on and after the effective date of this Agreement, which may include the Project Contractor, for the City of Philadelphia, for the Public Works Project defined in Section 2 below.

Section 2. Public Works Project. The Public Works Project is generally described as the construction of:

_____
_____
_____
_____
_____
_____
_____
_____

Section 3. Award of Project Contracts.

(a) The City of Philadelphia, Project Contractor and/or Contractor, as appropriate, has the absolute right to select any qualified bidder for the award of contracts on this Public Works Project without reference to the existence or non-existence of any agreements between such bidder and any party to this Agreement provided, however, only that such bidder is ready, willing and able to execute and comply with this Agreement, should it be designated the successful bidder.

(b) It is agreed that all direct subcontractors of a Contractor, of whatever tier, who have been awarded contracts for work covered by this Agreement on or after the effective date of this Agreement shall be required to accept and be bound by the terms and conditions of this Project Labor Agreement.

Section 4. Order of Precedence; Interpretation.

(a) The provisions of this Agreement, including the Collective Bargaining Agreements which are listed on and collectively designated as Schedule A and the Philadelphia Labor Standards Unit Prevailing Wage Rate Schedule for Construction Work Done on Behalf of City of Philadelphia Including Repair, Alteration, and Remodeling Work set forth in Schedule B which is the applicable statement of prevailing rates and fringe benefit contributions, shall apply to the construction of the Public Works Project covered by this Agreement, notwithstanding the provisions of Local or International Agreements which may conflict or differ from the terms of this Agreement. Where a subject covered by the provisions of this Project Labor Agreement is also covered by any of the Collective Bargaining Agreements on Schedule A, the provisions of this Agreement shall prevail.

(b) Any dispute as to the applicable source, between this Agreement and Schedule A or Schedule B, for determining the wages, hours and working conditions of employees on the Project shall be resolved by submission to final and binding arbitration before [the Executive Director of the Philadelphia Association of Labor and Management.] It is understood that this Agreement, together with the referenced Schedule A and Schedule B, constitutes a self-contained, stand alone, Agreement and that by virtue of having become bound to this Agreement, the Contractor will not be obligated to sign any other Local, Area or National Agreement.

Section 4. Binding Effect. This Agreement shall only be binding on the signatory parties hereto and shall not apply to the parents, affilites, subsidiaries, or other ventures of any such party.

Section 5. Limitations. This Agreement shall be limited to work historically recognized as construction work, including, specifically, the site preparation and related demolition work necessary to prepare the site for construction, and such rehabilitation of existing facilities as is directed by the City of Philadelphia. Nothing contained herein shall be construed to prohibit, restrict or interfere with the performance of any other operation, work or function which may occur in or around the Public Works Project site or be associated with the development of the Public Works Project, or with the ongoing operations of the City of Philadelphia.

Section 6. Exclusions. Items specifically excluded from the scope of this Agreement include, but are not limited to, the following:

A. Work of non-manual employees, including but not limited to, superintendents, supervisors, staff engineers, surveyors (except where expressly covered by a current local Collective Bargaining Agreement which forms the basis for a collective bargaining agreement under Schedule A hereof), inspectors, quality control personnel, quality assurance personnel, timekeepers, mail carriers, clerks and office workers, including messengers, guards, emergency medical and first aid technicians and other professional, engineering, adminstrative, supervisory and management employees.

B. Equipment and machinery owned or controlled and operated by the City of Philadelphia.

C. All off-site handling of materials, equipment or machinery and all deliveries to and from the Public Works Project site.

D. All employees of the City of Philadelphia.

E. Any work performed on or near, or leading to or into, the Public Works Project site by state, county, city or other governmental bodies, or their Contractors; or by public utilities or their Contractors and/or by the City of Philadelphia, or its contractors, for work which is expressly not part of the Public Works Project covered by this Agreement.

F. Off-site maintenance on leased equipment and on-site supervision of such work.

G. Off-site warranty functions and warranty work and on-site supervision of such work.

H. Exploratory geophysical testing, except where expressly covered by a current Collective Bargaining Agreement which is included within Schedule A hereof.

I. Laboratory or specialty testing or inspections or monitoring activities not ordinarily done by the crafts.

Section 7. Applicability of Agreement. None of the provisions of this Agreement shall apply to the City of Philadelphia and nothing contained herein shall be construed to prohibit or restrict the City of Philadelphia or its employees from performing work not covered by this Agreement on the Public Works Project site. As areas and systems of the Public Works Project are inspected and construction tested by the City, Project Contractor or Project Manager and accepted by the City of Philadelphia, the Agreement shall not have further force or effect on such items or areas, except when the Project Contractor or Project Manager are directed by the City of Philadelphia to engage in repairs, modifications, check-out, and/or warranty functions required by their contract(s) with the City of Philadelphia.

Section 8. Termination, Delay or Suspension of Public Works Project. It is understood that the City of Philadelphia, at its sole option, may terminate, delay and or suspend any or all portions of the Public Works Project at any time.

Section 9. Contractor and Unions Liability. It is understood and agreed that the liability of any Contractor and the liability of separate Unions under this Agreement shall be several and not joint. The Unions agree that this Agreement does not have the effect of creating any joint employment status between or among the City of Philadelphia, Project Contractor and/or any Contractor.

Article III
Union Recognition and Employment

Section 1. Union Recognition. The Contractor recognizes the Unions as the sole and exclusive bargaining representatives of all craft employees working on facilities within the scope of this Agreement.

Section 2. Referrals. The Unions are recognized as a source of employment referrals. The approriate Unions will be contacted and shall refer all applicants for employment to this Public Works Project according to the standards or criteria uniformly applied to any public works project in the area. In the event that any Union is unable to fill any requisition for employees within a forty-eight (48) hour period after such requisition is made by the Contractor (Saturdays, Sundays and Holidays excepted), the Contractor may solicit and employ applicants from any other available source. The Contractor shall notify the Unions of employees hired by any source other than referral by the Unions.

Section 3. Referral Systems. Subject to the Contractor's right to call for a specific skill or ability, the job referral systems provided in the Collective Bargaining Agreements of the Local Unions set forth in Schedule A hereto, will be in effect for the purpose of initial employment only. Such job referral system must 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 in any way by the rules, regulations, by-laws, constitutional provisions or any other aspect or obligations of Union membership, policies or requirements and shall be subject to such other conditions as established in this Article.

Section 4. Competency. The Contractor shall have the right to determine the competence of all employees, the right to determine the number of employees required and have the sole responsibility for selecting the employees to be laid-off consistent with this Agreement regardless of membership or non-membership in the Unions. The Contractor shall also have the right to reject any applicant referred by the Local Unions.

Section 5. Union Security. It shall be a condition of employment that all employees of Contractor covered by this Agreement who are members of the Unions in good standing on the effective date of this Agreement or on the date of execution of this Agreement, whichever is later, shall remain members in good standing and those who are not members on the effective date shall, on the eighth (8th) day following emplyment, become and remain members in good standing in the Unions for the term of this Agreement.

Section 6. Skilled Craftsmen. The Local Unions will exert their utmost efforts to recruit sufficient numbers of skilled craftsmen to fulfill the manpower requirements of the Contractor.

Section 7. Selection of Foremen. The selection of craft foremen and/or general foremen and the number of foremen required shall be entirely the responsiblity of the Contractor. All foremen shall take orders exclusively from the designated Contractor representatives. Craft foremen shall be designated as working foremen by the Contractor, except when the Contractor determines that it is not possible for a particular foreman to be working foreman.

Section 10. Seniority. Individual seniority shall not be recognized or applied to employees working on the Public Works Project.

Article IV
Union Representation

Section 1. Access to Public Works Project Site. Authorized and designated representatives of the Unions shall have access to the Public Works Project, through established Contractor procedures, for the purpose of transacting business in connection with the job. Such representatives shall not interfere with the work of employees or cause unnecessary loss of time by the employees. Such representatives shall fully comply with the posted visitor and security and safety rules of the Public Works Project.

Section 2. Stewards.

(a) Each signatory Local Union shall have the right to designate a working journeyman as a steward, and shall notify the Contractor in writing of the identity of the designated steward prior to the assumption of his duties as steward and shall not appoint more than one steward per shift. Such designated steward shall not exercise any supervisory functions. There will be no non-working stewards. Stewards will receive the regular rate of pay of their respective crafts.

(b) In addition to his work as an employee, the steward shall be permitted to perform during working hours such of his Union duties as cannot be performed at other times. The Unions agree that such duties shall be performed as expeditiously as possible. The steward shall have the right to receive, but not solicit, complaints or grievances and to discuss and assist in the adjustment of the same with the employee's appropriate supervisor. Each steward shall be concerned with

the employees of the steward's contractor and, if applicable, subcontractors, and not with the employees of any other contractor. The stewards shall not have the right to determine when overtime shall be worked or who shall work overtime. The Contractor will not discriminate against the steward in the proper performance of his Union duties.

(c) The Contractor agrees to notify the appropriate Union twenty-four (24) hours prior to the layoff of a steward, except in the case of discipline or discharge for just cause. In any case in which a steward is discharged or disciplined for just cause, the appropriate Union shall be notified immediately by the Contractor.

(d) The steward duties shall not include hiring and termination nor shall the steward cause any interferences with work progress. Stewards shall not have the right to determine when overtime shall be worked or who shall work overtime, or require that he be entitled to work overtime because others in his craft are working overtime.

Section 4. Non-interference. On work where City of Philadelphia personnel or personnel of other contractors not signatory to this Agreement may be working in close proximity of the construction activities, the Unions agree that the Unions' representatives, stewards and individual workers will not interfere with the City of Philadelphia's personnel or the personnel of other contractors not signatory to this Agreement or with the work which is being performed by the City of Philadelphia's personnel or personnel of other contractors not signatory to this Agreement. There shall be no interference with on site concessionaires, vendor or supplier deliveries of equipment, apparatus, machinery, products and construction materials to the job site since such deliveries shall not fall under this Agreement.

Article V
Management Rights

Section 1. Mangement Rights. The Contractor retains full and exclusive authority for the management of its operation. The Contractor retains the right to (i) plan, direct and control the workforce and the operation of all of his work, including the hiring, promotion, demotion, transfer, layoff, suspension, discipline or discharge for just cause of its employees; (ii) select foremen, determine the size and make-up of each crew; (iii) assign and schedule work; (iv) promulgate work rules; (v) regulate the use of all equipment and other property of the Contractor, decide the amount of equipment to be used, the number of employees needed; and (vi) regulate overtime work, the determination of when it shall be worked, and the number and identity of employees engaged for 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. The Contractor shall have right to change or shift an operating engineer to as many pieces of equipment as is reasonable and safe, including back to his original piece of equipment. The Contractor may utilize any methods or techniques of construction.

Section 2. Choice of Materials. There shall be no limitation or restriction upon the Contractor's choice of materials or design, nor, subject to the principle of legitimate work preservation set forth in the following sentence, upon the full use and installation of equipment, machinery, package units, pre-cast, pre-fabricated, pre-finished, or pre-assembled materials, tools, or other labor-saving devices. The on-site installation or application of such items shall be performed by the craft having jurisdiction over such work: provided, however, it is recognized that other personnel having special talents or qualifications may participate in the installation, check-off or testing of specialized or unusual equipment or facilities.

Section 3. New Technology and Devices. It is recognized that the use of new technology, equipment, machinery, tools and/or labor saving devices and methods of performing work will be initiated by the Contractor from time to time during the Public Works Project. The Unions agree that they will not in any way restrict the implementation of such new devices or work methods. If there is any disagreement between the Contractor and the Unions concerning the manner or implementation of such device or method of work, the implementation shall proceed as directed by the Contractor, and the Unions shall have the right to grieve and/or arbitrate the dispute as set forth in Article XIII of this Agreement.

Article VI
Wages and Benefits

Section 1. Wage Rates. All employees covered by this Agreement shall be classified in accordance with work performed and paid the base hourly wage rates for those classifications as specified in Exhibit B. If, during the term of the Agreement, the Collective Bargaining Agreement expires, there shall be no stoppage or lockout. Employees will continue to be employed under the expired rates and fringe benefits.

Section 2. Benefits. The Contractor agrees to pay contributions to the established employee benefit funds in the amounts designated in the appropriate craft/Local Unions Collective Bargaining Agreements set forth in

Schedule A hereof; provided, however, that the Contractor and the Unions agree that only such bona fide employee benefits as accrue to the direct benefit of the employee (such pension and annuity, health and welfare, vacation, apprenticeship and training funds, etc.) shall be included in this requirement and paid by the Contractor on this Public Works Project. In appropriate circumstances, the Contractor and the Unions agree that certain requirements may be waived in order to ensure that the requirements do not unduly inhibit the ability of any Contractor to compete. Bona fide jointly trusted fringe benefit plans established or negotiated through collective bargaining during the life of this Agreement may be added. The Contractor adopts and agrees to be bound by the written terms of the legally-established Trust Agreements specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds. The Contractor authorizes the parties to such Trust Agreements to appoint trustees and successor trustees to administer the Trust Funds and hereby ratifies and accepts the Trustees so appointed as if made by the Contractor.

Article VII
Hours of Work, Overtime, Shifts and Holidays

Section 1. Work Week and Work Day. The work week shall consist of forty (40) hours Monday through Friday. The standard work day shall consist of eight (8) consecutive hours of work, with one-half hour unpaid lunch break, with no overtime. The standard work day, including unpaid lunch breaks, may be changed to accommodate job conditions on five (5) days' notice from the Project Contractor, or less notice as is mutually agreed upon. Starting time shall commence and quitting time shall occur at the employee's change shack.

Section 2. Overtime. All overtime worked over the standard work day shall be paid at 1 1/2 times the regular rate of pay. On Saturdays, all overtime shall be paid at 1 1/2 times the regular rate of pay. All overtime on Sundays and holidays shall be paid at 2 times the regular rate of pay. There will be no restriction upon the Contractor's scheduling of overtime or the non-discriminatory designation of employees who shall be worked. There shall be no pyramiding of overtime pay under any circumstances.

Section 3. Suspension of Job. It shall not be a violation of this Agreement if the Contractor considers it necessary to suspend all or a portion of the job to protect the life and safety of an employee. In such cases, employees will be compensated only for the actual time worked; provided, however, that where the

employer requests employees to remain at the site and available for work, the employees will be compensated for the standby time at their base hourly rate of pay.

Section 4. Shifts. The Contractor shall have the right to establish shift work arrangements for all or any portion of the work.

Section 5. Holidays. The following six (6) days shall constitute the recognized holidays within the terms of this Agreement: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day. If any of the above holidays fall on Sunday, Monday shall be observed as the holiday.

Section 6. Meal Period. The Contractor will schedule a meal period of not more than one-half (1/2) hour duration at the work location as close to the midpoint of a shift as practicable but in no event more than one hour before or after the midpoint of a shift, consistent with Section 1; provided, however, that the Contractor may, for efficiency of the operation, establish a schedule which coordinates the meal periods of two or more crafts.

Article VIII
Working Conditions

Section 1. Job Site Conditions. All job site working conditions, including rest periods, coffee breaks and work practices, shall be as determined by the Contractor.

Section 2. Public Works Project Rules. The Project Contractor and/or Contractor shall establish such other reasonable Public Works Project rules as each Project Contractor deems appropriate. All rules and regulations shall be observed by employees who, by virtue of their craft membership and coverage under an appropriate collective bargaining agreement, are made subject to such rules.

Article IX
Apprentices and Trainees

Section 1. Apprentices. Recognizing the need to maintain continuing supportive programs designed to develop adequate numbers of competent workers in the construction industry, the Contractor will employ apprentices and trainees in their respective crafts to perform such work as is within their capabilities which is customarily performed by the craft in which they are

indentured. The Contractor may utilize apprentices, trainees and such other appropriate classifications as are appropriate. Apprentices, trainees and such other classifications as are appropriate shall be employed in a manner consistent with the provisions of this Agreement.

Section 2. Employment Opportunities. The parties recognize that the size and scope of the City of Philadelphia Public Works Project covered by this Agreement, the number of craftsmen and others expected to be employed in order to complete the work in a timely fashion, and the extended period of time during which the construction will be underway should provide significant employment opportunities for qualified residents of the City of Philadelphia and surrounding areas.

Article X
Safety, Protection of Person and Property

Section 1. Safe Working Conditions. In accordance with the requirements of the Occupational Safety and Health Act, it shall be the exclusive responsibility of each Contractor on the job site to ensure safe working conditions for its employees and their compliance with any safety rules contained herein or established by the Contractor or Project Contractor, provided however, it is understood that the employees have an obligation as set forth in Section 2 below.

Section 2. Safe Performance of Work. Employees must use diligent care to perform their work in a safe manner and to protect themselves, other persons and the property of the Contractor or the City. Failure to do so will be grounds for discipline, including discharge.

Section 3. Safety, Security and Visitor Rules. Employees covered by the terms of this Agreement shall at all times while in the employ of the Contractor be bound by the safety, security and visitor rules as established by the City, the Contractor and/or the Project Contractor in accordance with applicable State and Federal safety and health statutes and regulations. These rules will be published and posted in conspicuous places through the Project.

Article XI
No Discrimination

Section 1. No Discrimination. The Contractor and Unionss agree that they will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or age in any manner prohibited

by law or regulation. It is recognized that special procedures may be established by joint agreement of the parties to this Agreement and governmental agencies for the training and employment of persons who have not previously qualified to be employed on construction projects of the type covered by this Agreement. The parties to this Agreement will make all good faith efforts to assist in the proper implementation of such orders, regulations or agreements for the benefit of the population within the jurisdiction of the Authority.

Section 2. Complaints. Any complaints regarding application of the provisions of Section 1 should be brought to the immediate attention of the involved Contractor for consideration and resolution.

Section 3. Masculine or Femine Gender. The use of the masculine or feminine gender in this Agreement shall be construed as including both genders.

Article XII
Work Stoppages And Lockouts

Section 1. There shall be no strike, picketing, work stoppages, slowdowns, sickouts or other disruptive activity for any reason by the Unions or employees against any Contractor covered under this Agreement, and there shall be no lockout by the Contractor. Failure of any of the Unions or any employee to cross any picket line established by any Union, signatory or non-signatory, or any other organization, at or in proximity to the Project site is a violation of this Article.

Section 2. The Contractor may discharge any employee violating Section 1 above, and any such employee will not be eligible for referral under this Agreement for a period of ninety (90) working days from the date of his discharge. The Contractor and the Unions shall take all steps necessary to obtain compliance with this Article and neither shall be held liable for conduct for which it is not responsible.

Section 3. If the Contractor contends that any Union has violated this Article, it will telegraph the International President(s) of the Local Unions(s) involved advising him of the fact, with copies of such telegram to the President of the Local Unions(s) involved and the [INSERT] President. The International President or Presidents will immediately instruct, order and use the best efforts of his office to cause the Local Unions or Unions to cease any violation of this Article. An International Union complying with this obligation shall not be liable for unauthorized acts of its Local Union.

Section 4. Any party, including the Project Contractor, may institute the following procedure, in lieu of or in addition to any other action at law or equity, when a breach of Section 1, above, is alleged:

a. A party invoking this procedure shall notify [Executive Director of the Philadelphia Association of Labor and Management], whom the parties agree shall be the permanent arbitrator under this procedure. In the event that the permanent arbitrator is unavailable at any time, he shall appoint his alternate. Notice to the arbitrator shall be by the most expeditious means available, with notices by telegram to the party alleged to be in violation and to the [INSERT] if it is a Union alleged to be in violation.

b. Upon receipt of said notice, the arbitrator named above or his alternate shall sit and hold a hearing within twenty-four (24) hours if it is contended that the violation still exists, but not before twenty-four (24) hours after the telegraph notice to the International President(s) required by Section 3 above.

c. The arbitrator shall notify the parties by telegram of the place and time he has chosen for this hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed 24 hours unless otherwise agreed upon by all parties. A failure of any party or parties to attend said hearings shall not delay the hearing of evidence or the issuance of any award by the arbitrator.

d. The sole issue at the hearing shall be whether or not a violation of Section 1, above, has in fact occurred, and, the arbitrator shall have no authority to consider any matter in justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The Award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without 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 other appropriate relief, 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 Agreement and all other relevant documents referred to hereinafter in the following manner. Telegraphic notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the arbitrator's Award as issued under Section

4(d) 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 or by registered mail.

f. Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance hereto are hereby waived by the parties to whom they accrue.

g. The fees and expenses of the arbitrator shall be equally divided between the parties.

Section 5. Procedures contained in Article XIII shall not be applicable to any alleged violation of this Article, with the single exception that any employee discharged for violation of Section 1., above, may resort to the procedures of Article XIII to determine only if he was, in fact, engaged in that violation.

Article XIII
Disputes and Grievances

Section 1. This Agreement is intended to provide close cooperation between management and labor. The Project Contractor and the [INSERT] shall each assign a representative to this Project for the purpose of assisting the Local Unions, together with the Contractor, to complete the construction of the Public Works Project economically, efficiently, continuously and without interruptions, delays or work stoppages.

Section 2. The Contractor, Unions, and employees collectively and individually, realize the importance to all parties to maintain continuous and uninterrupted performance of the work of the Public Works Project, and agree to resolve disputes in accordance with the arbitration provisions set forth in this Article.

Section 3. Any question arising out of and during the term of this Agreement involving its interpretation and application (other than trade jurisdictional disputes or alleged violations of Article XI, Section 1) shall be considered a grievance and subject to resolution under the following procedures:

Step 1

(a) When any employee subject to the provisions of this Agreement feels he is aggrieved by a violation of this Agreement, he shall, through his Local Union business representative or job steward, 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 resolve the matter within three (3) working days after timely notice has been given. 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 Agreement alleged to have been violated. Grievances and disputes settled at Step 1 shall be non-precedential except as to the parties directly involved unless endorsed by the Project Contractor within five (5) days after resolution has been reached and the terms of the resolution are set forth in writing to the Project Contractor.

(b) Should the Local Union(s) or Project Contractor or any other Contractor have a dispute with the other party and, if after conferring, a settlement is not reached within three (3) working days, the dispute shall be reduced to writing and proceed to Step 2 in the same manner as outlined herein for the adjustment of an employee complaint.

Step 2 The Business Manager or his designee of the involved Local Union, the site representative of the involved Contractor, and the labor relations representative of the Project Contractor shall meet within seven (7) working days of the referral of the dispute to this second step to arrive at a satisfactory settlement thereof. If the parties fail to reach an agreement, the dispute may be appealed in writing in accordance with the provisions of Step 3 within fourteen (14) calendar days after the initial meeting at Step 2.

Step 3

(a) If the grievance shall have been submitted but not adjusted under Step 2, either party may request, in writing, within fourteen (14) calendar days after the initial Step 2 meeting, that the grievance be submitted to an arbitrator selected by mutual agreement of the parties, but if they are unable to do so within fourteen (14) days after referral to them for arbitration, they shall request the

American Arbitration Association to provide them with a list of arbitrators from which the arbitrator shall be selected. The rules of the American Arbitration Association shall govern the conduct of the arbitration hearing. The decision of the arbitrator shall be final and binding on all parties and the fee and expenses of such arbitrations shall be borne equally by the involved Contractor and the involved Unions(s).

(b) The arbitrator shall have the authority to make decisions only on issues presented to him and he shall not have the authority to change, amend, add to or detract from any of the provisions of this Agreement.

Section 4. No adjustment or decision may provide retroactivity exceeding sixty (60) days prior to the date of the filing of a written grievance.

Section 5. The Project Contractor shall be notified by the involved Contractor of all actions at Steps 2 and 3 and shall, upon its request, be permitted to participate in full in all proceedings at these steps.

Article XIV
Jurisdictional Disputes

Section 1. There will be no strikes, work stoppages, slowdowns, or other disruptive activity arising out of any jurisdictional dispute. Pending the resolution of the dispute, the work shall continue uninterrupted as assigned by the Contractor.

Section 2.

(a) Building construction work shall be assigned by the Contractor in accordance with traditional craft and skill divisions recognized among the Local Unions who are party to this Agreement.

(b) It is recognized by the parties that certain portions of the construction work covered by this Agreement will not fall within the traditional definition of "building construction work" and shall be assigned by the Contractor in a manner consistent with the jurisdictional agreements, rules and practices applicable in the discipline involved.

Section 3. Any jurisdictional dispute over the Contractor's assignment of work shall be settled in accordance with one of the following procedures:

(a) Any jurisdictional dispute among the Local Unions party to this Agreement will be settled by reference to the [Executive Director of the Philadelphia Association of Labor and Management], whose decision on the Unions involved and the Contractor shall be final and binding.

(b) The [Executive Director of the Philadelphia Association of Labor and Management], shall be the permanent arbitrator under this Article to hear and decide issues arising from the work assignment which gives rise to a jurisdictional dispute between two or more Unions. The parties agree that the said arbitrator shall, within twenty (20) days of such referral, conduct a hearing and render a determination of the dispute. The fees and expenses of such hearing shall be shared equally by each Union and the involved contractor.

(c) In such hearing, the arbitrator shall first determine whether the work in dispute is covered by the appropriate discipline within which the work falls for purposes of jurisdictional assignment and whether there exists an agreed-upon method for the resolution of jurisdictional disputes in that discipline to which all parties to the dispute are bound. If the arbitrator determines an agreed-upon method exists to which all parties are bound, he shall refer the dispute to that procedure for resolution. In all other cases, the arbitrator shall proceed to resolve the dispute on the merits.

Section 4. Any Award or resolution made pursuant to Section 3 shall be final and binding on the disputing Unions and the involved Contractor on this Public Works Project only, and may be enforced in any court of competent jurisdiction. Such Award or resolution shall not establish a precedent on other construction work not covered by this Agreement. In all disputes under this Article, the Project Contractor shall be considered a party in interest.

Section 5. In making any determinations hereunder, there shall be no authority to assign work to a double crew, that is, to more employees than the minimum required to perform the work involved; nor to assign the work to employees who are not qualified to perform the work involved. This does not prohibit the establishment, with the agreement of the involved Contractor, of composite crews where more than one (1) employee is needed for the job. The aforesaid determinations shall decide only to whom the disputed work belongs.

Section 6. There shall be no work stoppage or interruption while any jurisdictional dispute is being resolved. The work shall proceed as assigned by the Contractor until finally resolved under the applicable procedure of this Article. The Award or resolution shall be confirmed in writing to the involved parties. There shall be no strike, work stoppage or interruption in protest of any such award or resolution.

Article XV
Savings and Separability

Section 1. It is not the intention of either the Contractor or the Union parties to violate any laws governing the subject matter of this Agreement. The parties hereto agree that in the event any provisions of the Agreement are finally held or determined to be illegal or void as being in contravention of any applicable law, the remainder of the Agreement shall remain in full force and effect unless the part or parts so found to be void are wholly inseparable from the remaining portions of this Agreement. Further, the Contractor and Unions agree that if and when any and all provisions of this Agreement are finally held or determined to be illegal or void by Court of competent jurisdiction, the parties will promptly enter into negotiations concerning the substance affected by such decision for the purpose of achieving conformity with the requirements of any applicable law and the intent of the parties hereto.

Section 2. This Article shall not be construed to waive the prohibitions of Article XII, and if the parties are unable to resolve their differences, the matter shall be referred to arbitration for resolution as provided for in the grievance-arbitration procedure of Article XIII.

Article XVI
Duration of the Agreement

This Agreement shall be effective the _____ day of _____, 199_, and shall continue in effect for the duration of the Public Works Project construction work described in Article II hereof. Construction of any phase, portion, section or segment of the Public Works Project shall be deemed complete when such phase, portion, section or segment has been turned over to the City of Philadelphia and has received the final acceptance from the City of Philadelphia's representative.

Each Collective Bargaining Agreement contained in Schedule A hereof attached to this Agreement shall continue in full force and effect until the Contractor(s) or Union(s) who are parties to such Agreement notify the Project Contractor of the mutually agreed upon changes in those provisions of such Agreements which are applicable to this Public Works Project, and the effective date thereof, which shall then become the effective date under this Agreement.

The parties agree that any provisions negotiated into any collective bargaining agreement contained in Schedule A hereof will not apply to work on this Public Works Project if such provisions are less favorable to the Contractor than those uniformly required of Contractors for construction work normally covered by such an agreement; nor shall any provision be recognized or applied on this Public Works Project if it may reasonably construed to apply exclusively to work covered by this Agreement.

The wage rates and fringe benefit amounts provided for in Schedule B hereof shall continue in full force and effect for the term of the Public Works Project.

In the renegotiation of any of the Collective Bargaining Agreements contained in Schedule A hereof, the Unions party to this Agreement agree that there will be no strikes, work stoppages, sympathy strikes, picketing, slowdowns or other disruptive activity affecting the Public Works Project covered by this Agreement because of or related to the renegotiation of any such Collective Bargaining Agreement contained in Schedule A hereof, nor shall there by any lockout on this Public Works Project affecting the Unions party to this Agreement during the course of such negotiations.

Any disagreement between the parties over the incorporation into any Collective Bargaining Agreement contained in Schedule A hereof of such provisions agreed upon in the renegotiation of any such Collective Bargaining Agreement as is contained in Schedule A, shall be referred to Article XIII hereof for resolution.

11/8/95

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and effective as of the day and year above written.

FOR THE UNIONS:

_____

_____

_____

_____

_____

_____

_____

FOR THE PROJECT CONTRACTOR/
PROJECT MANAGER:

_____

_____
Contractor

_____
Contractor

_____
Contractor

11/8/95

11/8/95

SCHEDULE A

Collective Bargaining Agreements

11/8/95

SCHEDULE B

Statement of Prevailing Wage Rates
and Fringe Benefit Agreements

City Of Philadelphia
Instruction To Bidders

The contract will be awarded to the lowest responsive, responsible and eligible general bidder complying with the conditions and requirements provided in these Instructions, the Home Rule Charter of the City of Philadelphia and all other applicable laws of the Commonwealth of Pennsylvania relating to and governing cities of the first class as well as, where applicable, such federal law and regulations as may pertain to the awarding of contracts.

An "eligible" bidder is a bidder who is able to meet the requirements for bidders set forth in the Home Rule Charter of the City of Philadelphia, or, where applicable, state or federal law and regulations and who shall certify that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work. In the interests of such harmony and the long-term supply of skilled manpower, each successful bidder and any and all levels of subcontractors, as a condition of being awarded a contract or subcontract, will agree to abide by the provisions of the Uniform City of Philadelphia Public Projects Labor Agreement as executed and effective the _____ day of _____, 199___, by and between _____, the Project Contractor on behalf of the City of Philadelphia, and the [Appropriate Labor Organization or Organizations], and will be bound by the provisions of that Agreement in the same manner as any other provision of the contract. A copy of that Agreement is included as part of the contract documents pertaining to the successful bidder. Schedule A and Schedule B to the Uniform City of Philadelphia Public Projects Labor Agreement are attached to the Agreement and are incorporated by reference as if fully set forth. Copies of the Collective Bargaining Agreements listed on Schedule A are on file and may be examined by the bidders at the office of the City of Philadelphia Labor Standards Unit, Room 630, Municipal Services Building, 1401 John F. Kennedy Boulevard, and are available upon request.