

**PROJECT LABOR AGREEMENT  
COVERING  
ADDITION AND RENOVATIONS FOR  
WESTERN NEW YORK CHILDREN'S PSYCHIATRIC CENTER**

**between**

**THE BUILDING AND CONSTRUCTION TRADES DEPARTMENT,  
AFL-CIO;**

**THE BUILDING AND CONSTRUCTION TRADES COUNCIL  
OF BUFFALO, NEW YORK AND VICINITY, AFL-CIO;**

**and**

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**GENERAL CONTRACTOR**

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## PREAMBLE

**WHEREAS**, the Dormitory Authority of the State of New York (hereinafter "DASNY") and its General Contractor (defined herein) desire to provide for the cost efficient, safe, quality, and timely completion of certain construction work;

**WHEREAS**, DASNY has studied whether the use of a Project Labor Agreement will best serve DASNY's and the Office of Mental Health's interest in obtaining the best work at the lowest possible price, preventing favoritism, fraud, corruption, and other considerations such as the impact of delay, the possibility of cost saving advantages, and any local history of labor unrest; and

**WHEREAS**, this Project Labor Agreement will foster the achievement of these goals, inter alia, by:

- (1) expediting the construction process and otherwise minimizing the disruption to the project;
- (2) avoiding the costly delays of potential strikes, slowdowns, and walkouts arising from work disputes and promoting labor harmony and peace for the duration of the project;
- (3) standardizing the terms and conditions governing the employment of labor on the project;
- (4) permitting flexibility in work scheduling where necessary at affordable pay rates;
- (5) permitting adjustments to work rules and staffing requirements from those which otherwise might obtain;
- (6) providing comprehensive and standardized mechanisms for the settlement of work disputes, including those relating to jurisdiction;
- (7) ensuring a reliable source of skilled and experienced labor; and

**WHEREAS**, the New York State Building and Construction Trades Council, its affiliated Local Unions and their members, desire to provide for stability, security and work opportunities which are afforded by a Project Labor Agreement; and

**WHEREAS**, the Parties desire to maximize project safety conditions for both workers and others;

**NOW, THEREFORE**, the Parties enter into this Agreement:

## PROJECT AGREEMENT

This Project Labor Agreement (hereinafter, the "Agreement") is entered into by and between \_\_\_\_\_ (hereinafter, "General Contractor"), and the Building and Construction Trades Council of Buffalo, New York and Vicinity, AFL-CIO (hereinafter "Council"); its affiliated Local Unions (hereinafter, collectively called the "Union" or "Unions") with respect to the building construction work within the scope of this Agreement and under the direction of DASNY for the Addition and Renovations of an existing facility at Western New York Children's Psychiatric Center (hereinafter, "the Project").

It is understood by the General Contractor that the construction work covered by this Agreement subcontracted to others shall be subcontracted to Subcontractors (defined herein) agreeing to execute and be bound by the terms of this Agreement. The Unions agree that other contractors and Subcontractors may execute the Agreement for the purpose of covering the Project. The General Contractor shall monitor compliance with this Agreement by all Subcontractors, who through their execution of this Agreement, together with their Subcontractors, have become bound hereto.

The Unions, the General Contractor and all signatory Contractors and Subcontractors agree to abide by the terms and conditions contained in this Agreement. This Agreement represents the complete understanding of the parties.

No Contractor or Subcontractor is required to sign any other union collective bargaining agreement as a condition of performing work within the scope of this Agreement. This is a stand-alone Agreement.

It is understood that one of the objectives of this PLA is the furthering of public policy objectives for the improvement of employment opportunities for minorities and women.



No practice, understanding or agreement between a Contractor or Subcontractor and a Union which is not specifically set forth in this Agreement shall be binding unless endorsed in writing by the General Contractor.

It is understood and agreed that the General Contractor has signed this Agreement at the behest and direction of DASNY, and that nothing herein shall be construed to in any way whatsoever obligate or bind the General Contractor with regard to any of its other work outside the Project.

This Agreement shall not become effective unless each of the following conditions are met: (1) the Agreement is signed by the Buffalo Building & Construction Trades Council and the Local Unions having jurisdiction over the Project Work; (2) the Agreement is approved by the Building & Construction Trades Department, AFL-CIO; (3) the Agreement is approved by the NYS Building & Construction Trades Council; and (4) the Agreement is signed by the General Contractor.

#### ARTICLE I.

#### DEFINITIONS

The term "Contractor" shall include all construction contractors including the General Contractor engaged in on-site construction work within the scope of this Agreement.

The term "Subcontractor" shall include any construction company of a tier lower than the "Contractor," hired by the "Contractor" and engaged in on-site construction work within the scope of this Agreement.

The term "DASNY" shall refer to the Dormitory Authority of the State of New York.

The term "Labor Organization", "Labor Organizations", "Union", or "Unions" as used in this Agreement shall refer to the Building and Construction Trades Council of Buffalo, New York and Vicinity and any other labor union which is signatory to this Agreement and affiliated with

the National Plan for the Settlement of Jurisdictional Disputes.

The term "Engineer" shall refer to the Architect, their Sub-Consultants and any Construction Monitoring Firm retained on the Project.

The term "Project" shall refer to the construction necessary for construction of the Western New York Children's Psychiatric Center Renovations and Addition.

The term "Scope of Work" shall refer to work defined in the bid documents for the Addition and Renovations at Western New York Children's Psychiatric Center.

The term "WNY CPC" shall refer to the Western New York Children's Psychiatric Center.

"Schedule A" shall contain the collective bargaining agreements (CBAs) for the local signatory unions having jurisdiction over work on the Project.

## ARTICLE II.

### PURPOSE

The purpose of this Project is a new Addition and Renovations of an existing facility at Western New York Children's Psychiatric Center in West Seneca, New York.

The work includes renovations to the existing facility (single story) of approximately 60,000 square feet and the construction of a new addition (single story) of approximately 46,300 square feet for the Children and Youth Residential and Program Spaces. In addition, new Children and Youth secure outdoor recreation areas will be created between the wings of the new addition.

The Addition and Renovation work will include concrete, masonry, steel, roofing, interior walls, doors, windows, finishes, plumbing, mechanical, electrical, fire protection, fire alarm (by NYS JCI), security (by NYS JCI), data/telephone (by NYS ITS), and site/civil work including utilities, stormwater management, and site improvements.

Asbestos Abatement includes drywall (ACM joint compound), floor tile and mastic, sheet



flooring and mastic, mastic associated with ductwork insulation, flexible fabric HVAC joints, window glazing compound, mudded fittings, pipe insulation, HVAC vibrations dampeners and Hazardous Materials Abatement of PCB caulk and sealants.

Construction duration is anticipated to be twenty-four (24) months, with a preliminary construction cost estimate between thirty-four million dollars (\$34,000,000) and thirty-six million dollars (\$36,000,000).

### **ARTICLE III.**

#### **SCOPE OF THE AGREEMENT**

**Section 1.** This Agreement shall apply and is limited to certain construction, as described herein, under the direction of the signatory Contractors and performed by those Contractor(s) of whatever tier which have contracts awarded for such work. This Agreement shall cover and apply to such contracts, which shall be referred to in this Agreement as the "covered work."

This Agreement shall not apply to those contracts and that work specifically excluded below. Items specifically excluded from the scope of this Agreement include the following:

a. Any projects by DASNY other than the Project specifically identified above, and any work performed by the Office of Mental Health of the State of New York (hereinafter, "OMH") or by WNY CPC.

b. Work by employees of DASNY and DASNY contractors on projects other than the Project specifically identified above, WNY CPC and WNY CPC contractors, OMH and OMH contractors the Office of General Services, and work by Construction Managers, Architects/Engineers, Professional Surveyors, Testing and Inspection firms, and other such professional services organizations on the same site.

c. Non-project work and/or activity by employees of DASNY, OMH or WNY CPC.

d. Work of non-manual employees, including but not limited to: superintendents, supervisors, staff engineers, inspectors, quality control and quality assurance personnel,

timekeepers, mail carriers, clerks, office workers, including messengers, guards, security personnel, safety personnel, emergency medical and first aid technicians, and other professional, engineering, administrative, supervisory and management employees.

e. All off-site work, including delivery of any material fabricated off-site except for dedicated lay-down storage areas and delivery between such dedicated sites and the Project site.

f. The transportation off-site of scrap, surplus, spoilage, and waste materials.

g. All work associated with fixtures (excluding plumbing and lighting fixtures), furnishings and equipment and office furniture and equipment unless specifically provided otherwise in this Agreement.

h. Work by employees of firms making deliveries to the Project, including dropping of materials on the jobsite during the delivery process.

i. All work done by public utility companies whether on-site or off-site (e.g., telephone, cable TV, gas, water, electric, sewer, etc.).

j. All work done by government agencies such as but not limited to the Erie County Water Authority, the Dormitory Authority of the State of New York, and the Office of General Services.

k. All non-construction support services performed in connection with this Project.

l. Any work done in DASNY, OMH and WNY CPC controlled areas of the buildings/sites after DASNY, OMH or BPC take occupancy or early occupancy of a phase or a portion of a phase of the Project.

m. All work done by technical representatives performing startup-related services for permanent equipment.



n. Employees engaged in on-site equipment warranty work, unless a current employee of a contractor is on site and certified by the relevant manufacturer to make warranty repairs on the contractor's equipment.

**Section 2.**

**Preservation of Primary Bargaining Work:** It is agreed and understood that the preservation of work described in the Schedule A's, which contains the applicable Collective Bargaining Agreements is paramount.

Accordingly, Bargaining Unit work is to be performed only by employees covered by the applicable agreement. For waste removal work, the Schedule A Waste Removal Agreement commercial rate is applicable. For redi-mix concrete work, the Schedule A Redi-Mix Agreement is applicable. For deliveries of aggregates, the Dump Truck Schedule A is applicable. For all other work, the Associated General Contractors Agreement is applicable. Such work may not be subcontracted or assigned to others except in accordance with the following conditions:

a. Other work: Local deliveries to the project site of redi-mix concrete, and all other aggregates, shall not be subcontracted or assigned except to a person, firm, corporation or entity who observes the standard of wages and benefits provided by the Agreement and Redi-Mix Collective Bargaining agreement set out in Schedule A, with respect to such work. The removal and replacement of dumpsters shall not subcontracted or assigned except to a person, firm, corporation or entity who observes the standard of wages and benefits provided by the Waste Removal Agreement set out in Schedule A, with respect to such work.

**Section 3.** DASNY is not a party to this Agreement and shall not be liable in any manner under this Agreement; but DASNY is an intended third-party beneficiary of this Agreement.

#### **Section 4.**

a. DASNY and/or the Contractors, as appropriate, have the absolute right to select any qualified contractor for the award of contracts or subcontracts on this Project notwithstanding the existence or non-existence of any agreements between such contractor and any Union, provided only that such contractor is willing, ready and able to execute and comply with this Agreement should it be designated the successful contractor.

b. It is agreed that all direct Subcontractors of a Contractor, of any 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 Agreement and shall evidence their acceptance by the execution of this Agreement or a letter of assent provided to the Contractor prior to commencement of work. A copy of the Agreement or letter of assent executed by the Contractor or Subcontractor shall be available for review by the Union.

#### **Section 5.**

a. The provisions of this Project Labor Agreement (including the collective bargaining agreements in Schedule A, which are the local collective bargaining agreements of the signatory unions having jurisdiction over work on the Project) shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement, except that in the event a Contractor is signatory to the NTL Article of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, or the National Agreement of the International Union of Elevator Constructors those agreements shall apply (except that notwithstanding the foregoing National Agreements, Articles VIII, X and XI of this Agreement shall still apply). Where a subject covered by the provisions, explicit or implicit, of this Agreement is also covered by a provision in Schedule A, the provisions of this Agreement shall prevail. It is further understood that no Contractor shall be required to sign any other labor



agreement as a condition of performing work on the Project.

b. Any timely dispute as to the applicable source between this Agreement and any Schedule A agreement for determining the wages, hours and working conditions of employees on the Project shall be resolved in accordance with the grievance and arbitration procedures of this Agreement. It is understood that this Agreement, together with the referenced Schedule A local collective bargaining agreements, constitute a self-contained, stand-alone Agreement and that, by virtue of having become bound to this Agreement, neither the General Contractor nor any Contractor will be obligated to sign or in any way be bound by any other local, area or national agreement.

**Section 6.** This Agreement shall be binding on the signatory parties hereto and shall not apply to the parents, affiliates, subsidiaries, or other venues of any such party.

**Section 7.** The construction work covered by this Agreement shall be awarded only to Contractors who agree to execute and be bound by the terms of this Agreement.

**Section 8.** Except as expressly set forth in this Agreement, it is understood that nothing herein shall be construed as limiting the sole discretion of DASNY or the General Contractor in determining which Contractors shall be awarded contracts for this Project. It is also understood that DASNY, in its sole, exclusive, and non-reviewable discretion, may, for any reason, cancel, terminate, delay, modify or suspend any work to be performed on this Project, including any and all covered work, in whole or in part.

**Section 9.** Nothing in this Agreement shall be construed to prohibit or restrict employees of DASNY or contractors of DASNY on projects other than the Project specifically identified above, or employees or contractors of WNY CPC, OMH, or the Office of General Services from performing on or off-site work related to the Project. Further DASNY shall not be liable, directly or indirectly, to any party, for any act or omission of any Contractor(s), the General Contractor, the Building Trades Council, or any Labor Organization, including, but not limited to, any violation or breach of this Agreement by any Contractor(s), the General

Contractor the Building Trades Council, or any Labor Organization.

**Section 10.** It is understood that the liability of any Contractor and the liability of the 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 DASNY, WNY CPC, OMH and/or the General Contractor or any Contractor.

**Section 11.** None of the provisions of this Agreement shall be construed to prohibit or restrict employees or contractors of DASNY, WNY CPC, or the Office of General Services, from performing work not covered by this Agreement on or around the construction site. As areas and systems of the covered work on the Project are inspected and tested by the Contractor, approved by the Engineer, and accepted by DASNY, the Agreement shall have no further force or effect on such items or areas, except when the Contractor is directed by the Engineer/DASNY to engage in repairs, modifications, checkout, and/or warranty functions related to such items or areas required by its contract(s).

#### ARTICLE IV.

##### UNION RECOGNITION AND EMPLOYMENT

**Section 1.** The Contractors recognize the Unions as the sole and exclusive bargaining representatives of all craft employees working on the Project within the scope of this Agreement.

**Section 2.** A Contractor shall, consistent with the applicable Schedule A collective bargaining agreement, 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 Section 3(f) of this Article.

**Section 3.**

a. Subject to the provisions of this Agreement, the Contractors agree to hire employees for covered work through the job referral systems provided for below. This 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 nondiscrimination, and referrals shall not be affected in any way by the rules, regulations, by-laws, constitutional provisions or any other aspects or obligations of union membership, policies or requirement and shall be subject to such other conditions as established in this Article. A Contractor shall hire two (2) journeyperson employees referred by the affected trade or craft, and then may hire one core employee who is employed by the Contractor and shall repeat the process, two and one, until the crew requirements for that craft are met. It is agreed and understood that if the Contractor does not have a regular core employee available, it must seek a referral of an employee from the affected trade, consistent with the provisions of subsection (e) below. The Contractor shall have the right to reject any referral based on competency. This procedure will be followed by all Contractors except a New York State certified MBE, WBE or service-disabled veteran owned ("SDVOB") Contractor who is not a signatory to a collective bargaining agreement in Schedule A and who has a prime contract of \$3,000,000 or less or a subcontract of \$2,000,000 or less; such a Contractor shall hire one (1) journeyperson employee referred by the affected trade or craft, and then may hire one core employee who is employed by the Contractor and shall repeat the process, one and one, until there is a crew of ten for that craft. Thereafter such Contractor shall follow the procedure set forth above for all other Contractors.

b. Contractors may be asked to demonstrate that "core" employees mentioned in paragraph (a) meet the following qualifications:

- (1) possess any license required by NYS law for the Project Work to be performed;
- (2) have worked a total of at least 1000 hours in the Construction craft during the prior 3 years;
- (3) were on the Contractor's active payroll for at least 60 out of the 180 calendar days prior to the contract award; and
- (4) have the ability to safely perform the basic functions of the applicable trade.

c. In the event that a Local 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) a Contractor may employ applicants from any other available source.

d. **Workforce Development and Diversity**

The Unions agree to the following terms to meet the affirmative action, workforce development and diversity goals of the Project:

(1) The Contractor(s) shall strive, with the assistance of the applicable craft, to satisfy the affirmative action, workforce developments, and diversity goals contained in its contracts. To this end, the Contractor(s) and the applicable craft will work together to attain the good faith effort goals of 18% minority and 12% women workforce. If a Contractor's minority employee mix is not sufficient to meet those goals, and the Union is unable to refer minority or women employees, the Contractor may add additional minority or women employees in order to achieve those goals without regard to the "one and one" procedure set forth in paragraph (a), above. So too, if the Union has minority or women referrals available who will enable a Contractor to achieve minority and women hiring goals, and the available core employees of a Contractor are not minority or women core employees, the Contractor shall be obligated to hire those Union minority or women referrals without regard to the "one and one" procedure set forth in paragraph (a), above.

(2) Each Union will provide to DASNY and the General Contractor, not less than quarterly, a census report of its members. Such census report will provide information regarding the number of minority and women members and the status of those members as to apprenticeship and journeyman classification. The first such census reports shall be delivered prior to execution of this Agreement.

(3) The Unions agree that their good faith enrollment goals for all apprenticeship



classes will be 20% minority and 5% women as permitted by NYSDOL procedures.

(4) The Unions agree that seniority or other preference rules may not be utilized to frustrate the diversity goals of the Project the affirmative action, workforce development, and diversity provisions of this Agreement.

(5) The Unions agree that individuals with construction industry experience outside of a unionized workforce who desire to become members of the various trade unions will be admitted at the status and grade commensurate with the skills acquired from their experience in the trade. Individuals who require additional training to achieve journeyman status will receive such training from the Unions.

e. **Minority and Women Owned Business Participation**

The Unions acknowledge that other good faith effort goals of the Project are to achieve participation in the work of the Project by minority-owned and women-owned businesses. The minority-owned and women-owned and "SDVOB" business participation goals of 18%, 12% and 6% respectively, will be established for each construction contract prior to the contract being advertised for bid. The Unions agree that this Agreement will be implemented in a manner to assist minority-owned and woman-owned businesses to participate in Project Work. To that end, the Unions agree to:

(1) Facilitate, where possible, the retention of core employees employed by non-union minority, women owned, and service-disabled veteran-owned businesses.

(2) Help stabilize minority-owned, women-owned, and service-disabled veteran-owned businesses to enable continued participation.

f. In the event a reduction in force is required for a Contractor, that Contractor shall have the discretion to select individuals of the Contractors choosing for layoff, provided

that ratios of core employees and non-core employees are otherwise in accordance with this Agreement and be conducted in a manner as to preserve the workforce diversity as set forth in the Agreement. In the case of a single employee reduction in force, the Contractor will lay off either a core employee or union employees, depending upon which was the category of employee last hired.

g. Should a Contractor desire apprentices, he shall request them from the affected Union. Notwithstanding any restrictions on the referral of apprentices set forth in the local collective bargaining agreements in Schedule A, apprentices may be employed in numbers permitted by the New York State Department of Labor. Hired Union apprentices shall be counted the same as journeymen for the "two and one" and "one and one" procedure set forth in paragraph (a), above.

**Section 4.** Nothing in this Agreement requires employees to join a union or pay dues or fees to a union as a condition of working on the Project. This Agreement is not, however, intended to supersede independent requirements in applicable local union agreements as to contractors that are otherwise signatory to those agreements and as to employees of such employers performing covered work with respect to the requirement of those specific contractor and employees to pay dues or fees to the applicable local union.

**Section 5.** The Local Union shall not knowingly refer employees to a Contractor under this Agreement who are currently employed by another Contractor working under this Agreement.

**Section 6.** The Local Unions will exert their utmost efforts to recruit sufficient numbers of skilled craft workers to fulfill the manpower requirements of the Contractor(s).

**Section 7.** Except as provided in Section 3(f) of this Article and Article V, Section 3, individual seniority shall not be recognized or applied to employees working on the Project.

**Section 8.** The selection of craft foremen and/or general foremen shall be the sole



responsibility of a Contractor. A Contractor may determine the number of foremen to be utilized on the job, subject to safety considerations. All foremen shall take orders exclusively from the designated Contractors' representatives and shall be compensated in accordance with the applicable local collective bargaining agreement. Craft foremen shall be designated as working foremen at the discretion of the Contractor(s). Craft foremen shall receive premium pay when required by Article XIII, Section 3 and Section 4.

**Section 9.** Employees who have been terminated for cause who are subsequently referred by the Union for rehire may be rehired or not rehired in a Contractor's discretion, provided DASNY approves of the employee returning to the job site.

#### ARTICLE V.

#### UNION REPRESENTATION AND STEWARDS

**Section 1.** Authorized representatives of the Union shall have access to the Project, provided they do not interfere with work of employees and further provided that such representatives fully comply with the visitor and security and safety rules of the Project which may be established by DASNY or the General Contractor, each in its sole discretion. A copy of those rules and any amendments thereto shall be provided to the Unions by DASNY or the General Contractor within fifteen (15) days of their effective date.

#### **Section 2**

a. Each signatory Local Union shall have the right to dispatch a working journeyman as a steward for each shift and shall notify the Contractor(s) in writing of the identity of the designated steward or stewards prior to the assumption of duties as steward. Such designated steward or stewards 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 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 Contractor(s) will not discriminate against the steward with regard to the proper performance of his Union duties.

c. Stewards shall not have the right to determine when overtime shall be worked, but stewards may determine who shall work overtime in the event this decision is afforded to stewards pursuant to any Schedule A collective bargaining agreement, and in the event overtime is required.

**Section 3.** The Contractor(s) agree 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. If a steward is protected against such layoff by the provisions of any Schedule A collective bargaining agreement, such provisions shall be recognized to the extent that the steward possesses the necessary qualifications to perform the work remaining. In any case in which a steward is discharged or disciplined for just cause, the appropriate Union shall be notified immediately by the Contractor(s).

**Section 4.** On work where the personnel of DASNY and DASNY contractors, WNY CPC and WNY CPC contractors, OMH and OMH contractors the Office of General Services, and/or of Contractors for segments of the Project not covered by the scope of this Agreement may be working in close proximity to the covered work construction activities, the Unions agree that employees will cooperate with efforts to coordinate work activities that are ongoing at the site. This requirement to cooperate extends specifically, but not only, to those projects identified in Article III, Section 1 a, above.

## **ARTICLE VI.**

### **UNION STANDARDS**



The BCTC and its affiliates have a legitimate interest in preventing the undermining of the work opportunities and standards gained through collective bargaining and desire to preserve and protect work opportunities for its members. Therefore, the parties agree that, pursuant to this Agreement and prevailing industry practice, *off-site work covered under the annexed local agreements may be contracted or subcontracted and performed off-site only if the contracted or subcontracted employees performing the covered off-site work enjoy the same or greater wages and benefits as trade members employed on the Project. Under no circumstances shall such employees engaged in off-site work covered the annexed local agreements receive wages and benefits less than that required under this Agreement and its annexed local agreements, including but not limited to wages, fringe benefits and any other economic benefits provided therein. The parties recognize and acknowledge that this provision is a legitimate union standards clause and shall be interpreted, applied or enforced so as not to violate Section 8(e) of the NLRA. Disputes, if any, with regard to the interpretation, application and/or enforcement of this provision shall be subject to the grievance procedure set forth in Article X, herein.*

## **ARTICLE VII.**

### **MANAGEMENT'S RIGHTS**

**Section 1.** The Contractor(s) retains the full and exclusive authority for the management of its operation. Except as expressly limited by other provisions of this Agreement, the Contractor(s) retains the right to direct the work force, including the hiring, promotion, transfer, lay-off, discipline or discharge for just cause of its employees; the selection of foremen; the assignment and scheduling of work; the promulgation of reasonable work rules; and, the requirement for overtime work, the determination of when it will be worked, and the number and identity of employees engaged for such work. The Contractor(s) may utilize any methods or techniques of construction.

**Section 2.** There shall be no limitation or restriction upon a Contractor's choice of materials or design; nor, regardless of source or location, 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. Further, nothing in any Schedule A agreement shall restrict the Contractor's choice of materials based upon the identity of the supplier of the material, the supplier's location, or any other criteria not allowed by law. The on-site installation or application of all items shall be performed by the craft having jurisdiction over such work; provided, however, it is recognized that installation of specialty items which may be furnished by DASNY, WNY CPC, OMH, the Office of General Services, , or the Erie County Water Authority may be performed by employees employed under this Agreement with the participation of other personnel in a supervisory role, or, in limited circumstances requiring special knowledge of the particular items(s), or where required to protect a guarantee or warranty, may be performed by employees of the vendor or other companies where employees working under this Agreement lack the required skills or cannot protect a guarantee or warranty offered by the vendor. In those limited circumstances, the Contractors shall disclose to the building trades at the pre-installation conference the special knowledge requirements for the specialty item, and/or the required certifications and licenses necessary to protect a guarantee or warranty, in order to provide ample opportunity for the building trades to provide qualified workers to meet those requirements.

**Section 3.** Except as otherwise expressly stated in this Agreement, 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(s) from time to time during the 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(s) and the Unions concerning the manner or implementation of such a device or method of work, the implementation shall proceed as directed by the Contractor(s), and the Union(s) shall have the right to grieve and/or arbitrate the dispute as set forth in this Agreement.

## **ARTICLE VIII.**

### **WORK STOPPAGES AND LOCKOUTS**

**Section 1.** There shall be no strikes, picketing, work stoppages, slowdowns or other



disruptive activity for any reason (including disputes relating to the negotiation or renegotiation of the local collective bargaining agreements contained in Schedule A) by any Union or by any employees on or with respect to Project work and/or work at the Project site. Likewise, there shall be no lockout by any Contractor on or with respect to Project work at the Project site. Failure of any Union or employee to cross any picket line established by any Union, signatory or non-signatory to the Agreement, or by any other organization at or in proximity to the Project construction site is a violation of this Article.

**Section 2.** The Contractor(s) may discharge any employee violating Section 1 above and any such employee will not be eligible for referral under this Agreement. The General 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.**

a. If a Contractor contends that any Union and/or any employee has violated this Article or the provisions of Article XXI, Section 3, it will notify in writing the International President(s) of the Local Union(s) involved with copies of such notice to the Local Union(s) involved and the Building Trades Council. Such notice shall be made by any means, including fax, hand delivery, or overnight delivery. The International President(s) will immediately instruct, order and use the best efforts of his office to cause the Local Union or Unions, and/or employees, 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 or its members.

b. If the Union contends that any Contractor has violated this Article, it will notify that Contractor and the Construction Manager setting forth the facts which the Union contends violate the Agreement.

**Section 4.** Any party in interest for purposes of this Article, or the Construction Manager, 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, or Section 3 of Article XXI is alleged:



a. A party invoking this procedure shall request the selection of an arbitrator from the Project Labor Management Committee, whom the parties agree shall be the permanent arbitrator under this procedure. In the event that the permanent arbitrator is unavailable at any time, the Project Labor Management Committee will select an alternate. Notice to the arbitrator shall be by the most expeditious means available, with notices to the party alleged to be in violation and to the Building Trades Council if it is a Union alleged to be in violation. For purposes of this Article, written notice may be given by hand delivery or overnight mail and will be deemed effective upon receipt. Copies of such notification will be simultaneously sent to the alleged violator and, if a Local Union is alleged to be in violation, its International affiliate, the Building and Construction Trades Department, and the GC.

b. Upon receipt of said notice, the arbitrator named above or his alternate shall sit and conduct a hearing as soon as possible if it is contended that the violation still exists.

c. The arbitrator shall notify the parties of the place and time he has chosen for the hearing. Said hearing shall be completed in one (1) session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party or parties to attend said hearing 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 or of Section 3 of Article XXI, has in fact occurred. 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 the Article and other appropriate relief (except an award of damages), and such Award shall be served on all parties by hand, fax, or overnight delivery upon issuance.



e. Such Award shall be final and binding on all parties and may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above. Written notice of the filing of such enforcement proceedings shall be given to the other party. In any 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 an 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 in the manner designated by the court, or if not designated by the court, it may be served by hand, fax or by overnight delivery to their last known address or fax number.

f. Any rights created by statutes 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 involved Contractor and the Union.

**Section 5.** Procedures contained in Article VIII 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 VIII to determine only if he was, in fact, engaged in that violation.

**Section 6.** The General Contractor is a party in interest in all proceedings arising under this Article and Articles VIII and IX and shall be sent contemporaneous copies of all notifications required under these Articles, and, at their option, may participate as a full party in any proceeding initiated under these Articles.

#### ARTICLE IX.

#### LABOR MANAGEMENT COMMITTEE

## **SECTION 1. SUBJECTS**

The Project Labor Management Committee will meet on a regular basis to: 1) promote harmonious relations among the Contractors and Unions; 2) enhance safety awareness, cost effectiveness and productivity of construction operations; 3) protect the public interest; 4) discuss matters relating to staffing and scheduling with safety and productivity as considerations; and 5) review Affirmative Action and equal employment opportunity matters pertaining to the Project Work.

## **SECTION 2. COMPOSITION**

The Committee shall be comprised of three designees of DASNY (at least one of which will come from the General Contractor), and representatives of the Local Unions and Contractors involved in the issues being discussed. The Committee may elect its own chair. The Committee may conduct business through mutually agreed sub-committees.

## **ARTICLE X.**

### **DISPUTES AND GRIEVANCES**

**Section 1.** This Agreement is intended to provide close cooperation between management and labor. The parties shall each assign a representative to this Project for the purpose of assisting the Council, the International and Local Unions, together with the Contractor(s), to complete the construction of the Project economically, efficiently, continuously and without interruption, delays or work stoppages.

**Section 2.** The Contractor(s), 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 procedures 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 VII, Section 1) shall be considered a grievance and subject to resolution under the following procedures:

**Step 1.** (a) When an 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) work 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 and the GC (if it so chooses) shall meet and endeavor to adjust the matter within three (3) workdays 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 General Contractor within five (5) days after resolution has been reached.

(b) Should the Local Union(s) or General Contractor or any other Contractor have a dispute with another signatory party, and, if after conferring, a settlement is not reached within three (3) work 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 of the involved Local Union or his designee, together with the International Union representative of that Union, if available, the site representative of the

involved Contractor, and the labor relations representative of the General Contractor shall meet within seven (7) work 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 seven (7) 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 seven (7) calendar days after the initial Step 2 meeting, that the grievance be submitted to an arbitrator who shall be selected by the Project Labor Management Committee on a rotational basis.

The decision of the arbitrator shall be final and binding on all parties and the fees and expenses of such arbitrations shall be borne equally by the Contractor and the Involved Local Union(s).

**(b)** 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 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.** The General 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 fully in all proceedings at these steps.

#### ARTICLE XI.

#### JURISDICTIONAL DISPUTES

**Section 1.** All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, slow-down, or disruptive activity of any nature, and the Contractor's assignment shall be adhered to, and the work continued uninterrupted as assigned, until the



dispute is resolved.

**Section 2.** 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.

**Section 3. Notification of Work.**

a. Upon being awarded a contract for Project work, the successful Contractor shall supply written notice to the President of the Building and Construction Trades Council of Buffalo, New York and Vicinity containing an accurate description of the work awarded and the expected date to begin work.

b. Each Contractor will conduct a pre-job conference with the Building and Construction Trades Council prior to commencing work. The General Contractor and DASNY will be advised in advance of all such conferences. The General Contractor will attend. DASNY may attend at its discretion. At least two (2) days' notice prior to the meeting date shall be given.

c. At the pre-job meeting, the successful Contractor and the Unions will attempt to agree upon all job assignments. If two or more Unions claiming the same portions of the work agree between themselves concerning such assignments, the Contractor shall accept such agreement in making the assignments. If the Unions cannot agree, the Contractor will make the assignment after a reasonable opportunity has been given each contending Union to present its views and arguments.

d. In the event a Subcontractor's scope of work has not been discussed at the Contractor's pre-job conference, the subcontractor shall be obligated to the above provisions.

**Section 4.** All jurisdictional disputes on this Project, between or among Building and Construction Trades Unions and employers, parties to this Agreement, shall be settled and

adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Contractors and Unions parties to this Agreement.

**Section 5.** In making any determination 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.

## ARTICLE XII.

### WAGES AND BENEFITS

**Section 1.** **CLASSIFICATION AND HOURLY RATE:** All employees covered by this Agreement shall be classified in accordance with the work performed and paid the wage rates applicable for those classifications as required by the Schedule A (s) applicable to the work.

All employees covered by this Agreement shall be paid no later than the standard quitting time on Thursday of each week. Contractors may pay by check provided such Contractors have obtained certification from the New York State Department of Labor. Any employee who is discharged or laid off shall be entitled to receive all accrued wages upon such discharge or layoff.

### **Section 2.**

a. Contractor(s) agrees to pay contributions to the established employee benefit funds in the amounts designated in the appropriate Schedule A collective bargaining agreement and to make all employee-authorized deductions in the amounts designated in the appropriate Schedule A agreement; provided, however, the Contractor(s) and the Union agree that only such bona fide employee benefits as accrue to the direct benefit of the employee (such as pension and annuity, health and welfare, vacation, apprenticeship, training funds, etc.) and are required by law as Prevailing Supplements shall be included in this requirement and paid by the



Contractor(s) on this Project. Bona fide jointly trusteeed fringe benefit plans or an authorized employee deduction program established or negotiated through collective bargaining during the life of this Agreement may be added subject to the limitation upon such negotiated changes contained in Article XXI, Section 2 of this Agreement.

b. However, Contractor(s) who designate "core" employees as defined in Article IV, Section 3(b), and who maintain bona fide private benefit plans which satisfy the requirements of Section 220 of the Labor Law, may satisfy the above benefit obligation with respect to those employees by providing those employees with coverage under their private benefit plans (to the extent consistent with Section 220) or by electing to pay into the applicable jointly trusteeed funds designated in Schedule A agreements on their behalf, at a Contractor's option. The total benefit payments to be made by a Contractor(s) on behalf of each such employee must equal the total Section 220 supplement amount and any shortfall must be paid by cash supplement to the employee.

c. The Contractor(s) agrees to be bound by the written terms of the legally-established jointly trusteeed Trust Agreements specifying the detailed basis on which payments are to be paid into, and benefits paid out of such Trust Funds but only with regard to work done on this Project and only for those employees for whom this Agreement requires such benefit Payments. The Contractor(s) authorizes the parties to such Trust Agreements to appoint trustees and successor trustees to administer the Trust Funds and hereby ratifies and accepts the Trustee so appointed as if made by the Contractor(s).

The Unions agree that all Schedule A Trust Agreements will be made available for inspection, on both a pre-bid and post-bid basis, to any Contractor who may be, or is, awarded Project work. Inspections shall be made on a craft basis, during regular business hours (M-F, 9-5) and at the following locations:

Boilers Makers Local #7

Operating Engineers Local #17

5745 Big Tree Road  
Orchard Park, NY 14127

Bricklayers Local #3  
Niagara Falls/Buffalo Chapter  
1175 Williams  
Buffalo, NY 14206

Carpenters Local #276  
1159 Maryvale Drive  
Cheektowaga, NY 14225

Cement Masons Local #111  
111 Wales Ave  
Tonawanda, NY 14150

Electricians Local 41  
S-3546 California Road  
Orchard Park, NY 14127

Elevator Constructors Local #14  
3527 Harlem Road (Suite 10)  
Cheektowaga, NY 14225

Heat and Frost Insulators and  
Allied Workers Local #4  
2484 Seneca Street  
Buffalo, NY 14210

Ironworkers Local 6  
196 Orchard Park Road  
West Seneca, NY 14224

Laborers Local #210  
25 Tyrol Dr.  
Cheektowaga, NY 14227

Millwrights 1163  
3247 Vickery Road  
Syracuse, NY 13212

5959 Versailles Road  
Lakeview, NY 14085

Painters District Council #4  
Glaziers Local #660  
585 Aero Drive  
Cheektowaga, NY 14225

Plasterers Local #9  
168 Robinson St.  
N. Tonawanda, NY 14120

Plumber & Fitters Local 22  
120 Gardenville Pkwy  
West Seneca, NY 14224

Roofers Local #74  
2800 Clinton Street  
West Seneca, NY 14224

Sheetmetal Workers Local #71  
24 Liberty Avenue  
Buffalo, NY 14215

Sprinkler Fitters Local 669  
P.O. Box 610  
Manlius, NY 13104

Teamsters Local #449  
2175 William Street  
Buffalo, NY 14206

Technical Engineers Local 17D  
5959 Versailles Road  
Lakeview, NY 14085



The Unions further agree to meet, in a timely fashion, with any Contractor for the purpose of answering any questions germane to the Trust Agreements/Funds or the operations thereof.

d. Upon execution of this Agreement (or a letter of assent, as the case may be) the Contractor(s) shall make available to the appropriate Union(s) a complete set of plan documents for each non-Schedule A private benefit plan into which contribution may be made pursuant to the provisions of Section 2(b) above. Further, for each bargaining unit employee on whose behalf contributions are thereafter made to a private benefit plan, evidence of each such contribution shall be provided, upon written request, to the appropriate Union(s) in a form and manner acceptable to the Union(s).

e. **Wages and Benefits:** When benefits are due according to Schedule A's to a union trust fund and regular benefit payments are considered delinquent under the applicable trades trust document, the applicable union shall have the right to request joint check payments arranged directly to the trust funds from the General Contractor.

**Section 1. Waiver of Industry Fund Obligations.** It is agreed and understood that Industry Promotion Monies, which would otherwise be due under the applicable collective bargaining agreements in Schedule A, shall not be due for any work performed on the Project. Such Industry Promotion Fund obligations are waived for all Union signatories to this Agreement.

### ARTICLE XIII.

#### HOURS OF WORK, OVERTIME, SHIFTS AND HOLIDAYS

**Section 1. Work Week and Workday.** The normal work week shall consist of forty (40) hours, Monday through Friday. The work week for payroll purposes will commence at 0001 Monday (12:01 a.m.) and end at 2400 Sunday (Midnight). The standard workday shall consist of eight (8) hours of work, exclusive of one-half (½) hour unpaid lunch period.

**Section 2.** Recognizing the importance of coordinating the Project construction, the Unions hereby agree that the regular work shift shall be between the hours of 7:00 a.m. and 5:00 p.m., with a project start time uniformly set for all contractors between 7:00 a.m. and 8:30 a.m., with one-half (½) hour unpaid lunch period to commence no earlier than four (4) hours after the start of the shift and no later than five (5) hours after the start of the shift. If operational considerations warrant, the start of the work day may be moved to as early as 6:00 a.m. and as late as 9:00 a.m. by the General Contractor, provided at least three (3) days' notice is given by the General Contractor to the Contractor(s) and the Union and the affected employees, which notice shall contain the signature of a representative of the General Contractor. Further changes to the start and finish of the work day or times of the lunch periods may be made by agreement between the involved Union(s) and the Contractor(s), and such agreement shall not be unreasonably withheld.

Employees shall be at their actual work area ready to commence work at their regularly scheduled starting time.

**Section 3. Overtime.** Work performed outside normal working hours during the normal work week and all work performed on Saturdays (except for make-up work within the scope of Section 11 of the Article) will be at time and one-half. Work performed on Sundays and/or holidays will be paid in accordance with applicable Schedule A Collective Bargaining Agreement. There will be no restriction on a Contractor's scheduling of overtime or the non-discriminatory designation of employees who will work. There shall be no pyramiding of overtime pay under any circumstances.

Steward overtime work shall be as provided in the applicable Schedule A collective bargaining agreement, provided the Steward is qualified to perform the work available.

**Section 4. Shifts.** Shift work may be performed at the option of a Contractor upon three (3) working days' prior notice to the Union unless a shorter notice period is provided in the applicable collective bargaining agreement in Schedule A. A second shift may start as early as 1400 (2:00 p.m.) or as late as 1600 (4:00 p.m.). A third shift may start as early as 2200 (10:00 p.m.) or as late as 2400 (midnight). There shall be no penalty or premium if a Contractor works



a second shift without working the first shift, or if a Contractor works a third shift without working a first or second. There shall be a 10% premium for second shift work and a 15% premium for third shift work unless the applicable Schedule A collective bargaining agreement specifies a lower premium for the applicable shift in which case such lower premium shall apply.

**Section 5. Special Shift.** If it is necessary to facilitate construction of the Project, the General Contractor may establish a special shift for a crew of any craft or trade. Provided three (3) working days' prior notice is provided by the General Contractor to the Union and a Contractor, there shall be no penalty or premium to a Contractor working a special shift at the direction of the General Contractor.

There shall be no intermingling of separate crews who are on different shift hours to defeat overtime.

**Section 6.** In the event that timely notice is not provided as called for in Sections 4 and 5 above, the shift premium otherwise due under the applicable Schedule A shall apply.

**Section 7. Holidays.** Recognized holidays on this Project shall be: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day. All said holidays shall be observed on the dates designated by New York State Law. In absence of such designation, they shall be observed on the calendar date except those holidays which occur on a Saturday shall be recognized on the preceding Friday and those which occur on a Sunday, shall be recognized on the following Monday. Holidays shall be unpaid unless Project Work is performed on the recognized holiday. Regular Holiday pay, if any, and/or premium pay for work performed on such a recognized holiday shall be in accordance with the applicable schedule A. There shall be no change in the established holiday schedules, and the days upon which those holidays are celebrated, except by mutual agreement.

**Section 8. Reporting Pay.**

a. Employees who report to the work location and who are not provided with work

shall be compensated in accordance with the reporting pay provision of the applicable Schedule A in effect.

b. In all cases, if the employee is reporting on a day which a premium rate is paid, reporting pay shall be calculated at that rate.

c. When an employee has completed his scheduled shift and is "called out" to perform special work of a casual, incidental or irregular nature, the employee shall receive pay for actual hours worked with a minimum guarantee, as may be required by the applicable Schedule A, at the employee's straight time rate, unless overtime rates otherwise apply.

d. When an employee leaves or is dismissed from or is laid off from the job or work location for any reason, the employee shall be paid only for the actual time worked. Except where provided for in another section of this Agreement, including Schedule A as attached hereto, there shall not be any notice requirement prior to dismissal or layoff.

e. Termination- Employees who are laid off or discharged for cause shall be paid in full for that which is due them at the time of termination. The Contractor shall also provide the employee with a written statement setting forth the date of lay off or discharge.

**Section 9. Timekeeping.** A Contractor may utilize any system to check employees in and out. Each employee must check himself in and out. A Contractor will provide adequate facilities for checking in and out in an expeditious manner.

**Section 10. Meal Period.** Each Contractor will schedule a meal period of not more than one-half (½) hour's duration at the work location at approximately four (4) to five (5) hours into the scheduled work shift, consistent with Section 1; provided, however, that a Contractor may, for efficiency of the operation, establish a schedule which coordinates the meal periods of two (2) or more crafts.

**Section 11. Saturday Make-Up Day.** When conditions beyond control of the



Contractor(s), such as severe and inclement weather, power failure, fire or natural disaster, prevent the performance of a particular Project work operation(s) or the entire Project on a regularly scheduled work day, the Contractor(s) may schedule the Saturday of the calendar week during which work was prevented as a make-up day at straight time pay.

When conditions on the Project cause the Contractor(s) to stop work or to be unable to commence work on the day in question, the Contractor(s) will notify the Union and the employees at that time that Saturday will be a make-up day for the affected operation(s) and the Saturday work will then be at straight time for the day or any portion of the work day for which work was stopped. The balance of the eight (8) hour day on Saturday, if any, shall be at time and one-half the straight time rate of pay. If a Contractor seeks to cancel a day's work in advance of that day, and to schedule the following Saturday as a make-up day, the determination of whether a Contractor is unable to perform the affected work operation(s) shall be made jointly between that Contractor and the Union and the Union's agreement shall not be unreasonably withheld.

#### **ARTICLE XIV.**

#### **APPRENTICES**

**Section 1.** Recognizing the need to maintain continuing supportive programs designed to develop adequate numbers of competent workers in the construction industry, at the request of the Contractor, the Unions agree to refer apprentices in numbers up to those permitted by the New York State Department of Labor.

**Section 2.** Subject to the requirements of the Apprenticeship Department of the New York State Department of Labor, the Unions pledge their full support and cooperation to the Contractor(s) to accept into their apprenticeship programs qualified minorities and females so that equal employment opportunity goals, as contained in the construction bid specification documents, are attained and maintained on the Project.

#### **ARTICLE XV.**

#### **SAFETY, PROTECTION OF PERSON AND PROPERTY**

**Section 1.**

a. It shall be the responsibility of each Contractor to ensure safe working conditions and employee compliance with any safety rules contained herein or established by that Contractor or the General Contractor. It is understood that the employees have an individual obligation to use diligent care to perform their work in a safe manner and to protect themselves and the property of the Contractor, DASNY, OMH and WNY CPC. Contractors and Unions are encouraged to have safety meetings on a regular basis.

b. Employees shall be bound by the safety, security and visitor rules established by the Contractor(s) and the General Contractor. An employee's failure to satisfy his obligations under this Section will subject him to discipline, including discharge.

c. If DASNY wishes to implement substance abuse testing on this Project and does not previously have an agreement with a Union concerning such testing DASNY may institute a reasonable substance abuse policy which meets the minimum standards established for drug testing by the Department of Transportation.

**Section 2.** A Contractor or the General Contractor may suspend all or a portion of the job to protect the life and safety of an employee. In such cases, employees will be compensated for only the actual time worked; provided, however, that where a Contractor 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 including fringe benefits.

**Section 3.** The Contractor(s) shall provide adequate supplies of drinking water and sanitary facilities for all employees.

**Section 4.** In an effort to eliminate serious hazards and achieve a high level of worker safety and health on the Project, the General Contractor, the Contractor(s), and the Unions agree to enter into and participate in a comprehensive partnering agreement with the office of Occupational Safety and Health Administration ("OSHA").



**ARTICLE XVI.**

**SECURITY OF MATERIAL EQUIPMENT AND TOOLS**

The inspection of incoming shipments of equipment, apparatus, machinery and construction materials of every kind shall be performed at the discretion of a Contractor by individuals of its choice. All employees shall comply with the security procedures established by the General Contractor and/or the Contractor(s).

**ARTICLE XVII.**

**NO DISCRIMINATION**

**Section 1.** The Contractor(s) and Unions agree that they will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, national origin, age, union affiliation, marital status, or physical or mental disability, or any other statutorily protected category, in any manner prohibited by law or regulation.

**Section 2.** All entities bound by this agreement may be required to conduct background checks of employees on the Project for purposes of determining whether any of the aforementioned employees is a registered sex offender.

**Section 3.** Any complaints regarding discrimination in violation of Section 1 should be brought to the immediate attention of the involved Contractor for investigation and resolution.

**Section 4.** The use of the masculine or feminine gender in this Agreement shall be construed as including both genders.

**ARTICLE XVIII.**

**TRAVEL, SUBSISTENCE AND PARKING**

Travel expenses, travel time, subsistence allowance and/or zone rates, and parking reimbursement shall not be applicable to Project Work under this Agreement unless specified in the attached Schedule A agreements.

**ARTICLE XIX.**

**WORKING CONDITIONS**

**Section 1.** There will be no rest periods, organized coffee breaks or other non-working time established during working hours. Individual coffee containers will be permitted at the employee's work location.

**Section 2.** The General Contractor shall establish such reasonable Project rules as the General Contractor deems appropriate and not inconsistent with this



Agreement. 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.

**Section 3. Tools of the Trade.** The welding/cutting torch and chain fall are tools of the trade having jurisdiction over the work performed. Employees using these tools shall perform any of the work of that trade. There shall be no restrictions on the emergency use of any tools by any qualified employee or on the use of any tools or equipment for the performance of work within the jurisdiction, provided the employee can safely use the tools and/or equipment involved.

**Section 4.** Employees work under the supervision of the craft foreman or general foreman.

**Section 5. Work Rules.** Subject to the discretion and control of the Contractor(s):

- a. As required by the National Labor Relations Act, as amended, there shall be no featherbedding.
- b. Foremen and stewards will perform work as directed by the Contractor(s).
- c. Contractor(s) may use their own employees in key management positions such as Superintendents or Assistant Superintendents. Alternatively, they may request by name and employ members of the Trades for these positions.
- e. There will be no non-working stewards.
- f. There shall be no stand-by electricians unless requested by Contractor.
- g. There will be no stand-by personnel for mechanical systems unless requested by Contractor or DASNY, OMH or WNY CPC.

**ARTICLE XX.**

**HELMETS TO HARDHATS**

**Section 1.** The Contractors and the Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Contractors and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center") and the Center's "Helmets to hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

**Section 2.** The Unions and Contractors 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 for bona fide, provable past experience.

**ARTICLE XXI.**

**SAVINGS AND SEPARABILITY**

**Section 1.** It is not the intent of the parties to this Agreement to violate any federal, state or local law governing the subject matter contained herein. Whenever possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law, but in the event the application of any provision of this Agreement is held to be prohibited by or invalid under applicable law or is enjoined, on either an interlocutory or permanent basis, such provisions will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. Such ineffective provision shall be rendered, temporarily or permanently, null and void. In such event, the Agreement shall remain in effect for contracts already bid and awarded or for construction where the Contractor(s) voluntarily accepts the Agreement, and the parties to this Agreement will then enter into negotiations for a substitute provision in



conformity with the law and the intent of the parties for contracts to be let in the future. In the event that the parties are unable to negotiate a substitute provision in conformity with the law and the intent of the parties within fourteen (14) days of a court order, or no later than three (3) days prior to the deadline for receipt of bids, whichever is earlier, either party shall have the option to declare this entire Agreement null, void, and without effect.

**Section 2. Non-Liability.** In the event of an occurrence referenced in Section 1 of this Article, neither DASNY, nor the General Contractor, nor any Contractor, nor any Union shall be liable, directly or indirectly, for any action taken, or not taken, to comply with any court order, injunction or determination. Project bid specifications will be issued in conformance with court orders then in effect and no retroactive payments or other action will be required if the original court determination is ultimately reversed or upheld.

## ARTICLE XXII.

### DURATION OF THE AGREEMENT

This Project Labor Agreement shall be entered into on the date it is signed by the General Contractor below and shall continue in effect for the duration of the Project and the covered work.

#### **Section 1.**

a. **Turnover.** Construction of any phase, portion, section or segment of the Project shall be deemed complete when such phase, portion, section, or segment has been turned over to DASNY by the Contractor(s). As areas and systems of the covered work on the Project are completed by the Contractor(s), approved by the Engineer, and accepted by DASNY, the Agreement shall have no further force or effect on such items or areas, except when the Contractor(s) is directed by the Engineer or DASNY to engage in repairs, modifications, check-out and/or warranty functions required by its contract(s).

b. **Notice.** A copy of the notice of substantial completion issued by DASNY and received by the Contractor(s) will be provided to the Union. "Substantial Completion" may be made

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 Architect/Engineer/DASNY and Notice of Completion and Acceptance is given by the Architect/Engineer/DASNY to the Contractor(s).

c. **Termination.** Final termination of all obligations, rights and liabilities under this Agreement shall occur when no covered work remains under this Agreement.

**Section 2.** Schedule A collective bargaining agreements incorporated as part of this Agreement shall continue in full force and effect until the Contractor(s) and/or Union parties to the collective bargaining agreements which are the basis for such Schedule A collective bargaining agreements notify the General Contractor of the mutually agreed upon changes in such agreements and their effective date(s).

The Contractor(s) agrees and consents to pay the increased wages and the increased contributions to the relevant Jointly Administered Trust Funds pursuant to the provisions of any collective bargaining agreements negotiated by the Unions during the work performed on the Project retroactively to the expiration date of the attached Schedule A collective bargaining agreement, provided, however, if the provisions of any such new collective bargaining agreement provide that the said increases shall not become effective until a later date after the date following the expiration date, then that later date shall prevail, and provided further that the increased wages and increased contributions do not exceed the adjusted Prevailing Wage and Supplement rates.

The parties agree that any such provisions or changes in rates of pay or fringe benefit trust fund contributions negotiated into said Schedule A collective bargaining agreements will not apply to work covered by this Agreement if such provisions are less favorable to the Contractor(s) than those uniformly required of contractors for construction work normally covered by those agreements; nor shall any provision be recognized or applied if it may be construed to apply exclusively or predominantly to work covered by this Agreement. Any



disagreement between the parties over the incorporation into Schedule A collective bargaining agreement of such provisions agreed upon in the negotiation of the local collective bargaining agreement which serves as the basis for the Schedule A agreement shall be referred to the appropriate arbitrator in line under Article VIII for resolution.

**Section 3.** Regardless of any language to the contrary in any Schedule A collective bargaining agreement, it is understood and agreed that Contractors may hire either union or non-union Subcontractors for any Project work. As otherwise stated in the Agreement, all Subcontractors shall be required to accept and be bound by the terms and conditions of the Agreement and shall evidence their acceptance by execution of the Agreement or a letter of assent provided to the General Contractor prior to commencement of work.

**Section 4.** This Agreement may be amended or supplemented only by mutual consent of the parties hereto, reduced to writing and duly signed by each.

In witness whereof, the parties have caused this Agreement to be executed and effective as of the day and year the General Contractor signs below..



**NEW YORK STATE  
BUILDING AND CONSTRUCTION TRADES COUNCIL**

AFFILIATED WITH BUILDING AND CONSTRUCTION TRADES DEPARTMENT AFL-CIO  
113 State Street, 1st Floor, Albany, NY 12207 • Phone 518/435-9108 • Fax 518/435-9204

Gary LaBarbera, President

Albert Catalano, Secretary-Treasurer

## PLA Determination

**PLA:** Western NY Children's Psychiatric Center

**Submitted by:** Paul Brown, Buffalo BTC

**Date:** 1/20/2021

Please be advised that the NYS Building & Construction Trades Council has reviewed the above-referenced Project Labor Agreement and has made the following determination:

- The PLA is APPROVED
- The PLA will be approved once the following changes are made:
- The PLA cannot be approved at this time. Please refer to concerns listed below:

Sincerely,

Gary LaBarbera  
President







North America's **Building Trades** Unions

#BuildingTradesWhateverItTakes

Sean McGarvey  
*President*

Brent Booker  
*Secretary-Treasurer*

Newton B. Jones  
*Boilermakers*

Kinsey M. Robinson  
*Roofers*

James P. Hoffa  
*Teamsters*

Terry O'Sullivan  
*LUNA*

Frank J. Christensen  
*Elevator Constructors*

Kenneth E. Rigmaiden  
*Painters and Allied Trades*

James T. Callahan  
*Operating Engineers*

Joseph Sellers, Jr.  
*SMART*

Lonnie R. Stephenson  
*IBEW*

Eric M. Dean  
*Ironworkers*

Daniel E. Stepano  
*Plasterers' and  
Cement Masons*

Mark McManus  
*UA*

Timothy J. Driscoll  
*BAC*

Gregory T. Revard  
*Insulators*

January 25, 2021

**SENT ELECTRONICALLY**

Paul Brown, President  
Buffalo & Vicinity Building and  
Construction Trades Council  
325 Oliver Street  
West Seneca, NY 14224  
[plasterers9@aol.com](mailto:plasterers9@aol.com)

Dear Brother Brown:

We are in receipt of your proposed Project Labor Agreement for the Western New York Children's Psychiatric Center in Buffalo, NY (#2789-21).

After careful review of your submitted PLA, the Committee recommended its approval. Therefore, NABTU also gives its approval to proceed.

It is the duty and responsibility of your Council to notify all affiliates of the pre-job conference, whether they have any equity in the project or not. The affiliates can make the decision to attend or not, based on the nature of the pre-job.

With kind personal regards, I am

Sincerely and fraternally,

Brent Booker  
Secretary-Treasurer

cc: Project Review Committee



**FOR THE BUILDING AND CONSTRUCTION TRADES COUNCIL OF BUFFALO, NEW YORK AND VICINITY, AFL-CIO**

BY: \_\_\_\_\_

**FOR THE LOCAL UNIONS:**

**BOILERMAKERS LOCAL # 7**

BY: Manoel Bay

**BRICKLAYERS LOCAL #3**

BY: \_\_\_\_\_

**CARPENTERS LOCAL #276**

BY: \_\_\_\_\_

**CEMENT MASONS LOCAL #111**

BY: \_\_\_\_\_

**ELECTRICIANS LOCAL #41**

BY: \_\_\_\_\_



**FOR THE BUILDING AND CONSTRUCTION TRADES COUNCIL OF BUFFALO, NEW YORK AND VICINITY, AFL-CIO**

BY: \_\_\_\_\_

**FOR THE LOCAL UNIONS:**

**BOILERMAKERS LOCAL # 7**

BY: \_\_\_\_\_

**BRICKLAYERS LOCAL #3**

BY: *Frank [Signature]* *VICE President*

**CARPENTERS LOCAL #276**

BY: \_\_\_\_\_

**CEMENT MASONS LOCAL #111**

BY: \_\_\_\_\_

**ELECTRICIANS LOCAL #41**

BY: \_\_\_\_\_

**FOR THE BUILDING AND CONSTRUCTION TRADES COUNCIL OF BUFFALO, NEW YORK AND VICINITY, AFL-CIO**

BY: \_\_\_\_\_

**FOR THE LOCAL UNIONS:**

**BOILERMAKERS LOCAL # 7**

BY: \_\_\_\_\_

**BRICKLAYERS LOCAL #3**

BY: \_\_\_\_\_

**CARPENTERS LOCAL #276**

BY: Christopher L. Aron 1-26-2021

**CEMENT MASONS LOCAL #111**

BY: \_\_\_\_\_

**ELECTRICIANS LOCAL #41**

BY: \_\_\_\_\_



**FOR THE BUILDING AND CONSTRUCTION TRADES COUNCIL OF BUFFALO, NEW YORK AND VICINITY, AFL-CIO**

BY: Paul Krue

**FOR THE LOCAL UNIONS:**

**BOILERMAKERS LOCAL # 7**

BY: \_\_\_\_\_

**BRICKLAYERS LOCAL #3**

BY: \_\_\_\_\_

**CARPENTERS LOCAL #276**

BY: \_\_\_\_\_

**OPERATIVE PLASTERERS + CEMENT MASONS**  
**CEMENT MASONS LOCAL #111** # 111

BY: Charles R. [Signature]

**ELECTRICIANS LOCAL #41**

BY: \_\_\_\_\_

**FOR THE BUILDING AND CONSTRUCTION TRADES COUNCIL OF BUFFALO, NEW YORK AND VICINITY, AFL-CIO**

BY: \_\_\_\_\_

**FOR THE LOCAL UNIONS:**

**BOILERMAKERS LOCAL # 7**

BY: \_\_\_\_\_

**BRICKLAYERS LOCAL #3**

BY: \_\_\_\_\_

**CARPENTERS LOCAL #276**

BY: \_\_\_\_\_

**CEMENT MASONS LOCAL #111**

BY: \_\_\_\_\_

**ELECTRICIANS LOCAL #41**

BY: Michael J. Amis



ELEVATOR CONSTRUCTORS LOCAL #14

BY: Ronald J. Standa BUSINESS REP.

HEAT AND FROST INSULATORS AND  
ALLIED WORKERS LOCAL #4

BY: \_\_\_\_\_

IRONWORKERS LOCAL 6

BY: \_\_\_\_\_

LABORERS LOCAL #210

BY: \_\_\_\_\_

MILLWRIGHTS LOCAL #1163

BY: \_\_\_\_\_

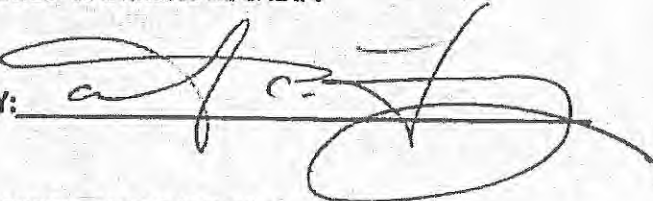
OPERATING ENGINEERS LOCAL #17 and #17d

BY: \_\_\_\_\_

**ELEVATOR CONSTRUCTORS LOCAL #14**

BY: \_\_\_\_\_

**HEAT AND FROST INSULATORS AND  
ALLIED WORKERS LOCAL #4**

BY:  \_\_\_\_\_

**IRONWORKERS LOCAL 6**

BY: \_\_\_\_\_

**LABORERS LOCAL #210**

BY: \_\_\_\_\_

**MILLWRIGHTS LOCAL #1163**

BY: \_\_\_\_\_

**OPERATING ENGINEERS LOCAL #17 and #17d**

BY: \_\_\_\_\_



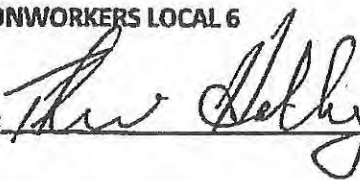
**ELEVATOR CONSTRUCTORS LOCAL #14**

BY: \_\_\_\_\_

**HEAT AND FROST INSULATORS AND  
ALLIED WORKERS LOCAL #4**

BY: \_\_\_\_\_

**IRONWORKERS LOCAL 6**

BY:  \_\_\_\_\_

**LABORERS LOCAL #210**

BY: \_\_\_\_\_

**MILLWRIGHTS LOCAL #1163**

BY: \_\_\_\_\_

**OPERATING ENGINEERS LOCAL #17 and #17d**

BY: \_\_\_\_\_

**ELEVATOR CONSTRUCTORS LOCAL #14**

BY: \_\_\_\_\_

**HEAT AND FROST INSULATORS AND  
ALLIED WORKERS LOCAL #4**

BY: \_\_\_\_\_

**IRONWORKERS LOCAL 6**

BY: \_\_\_\_\_

**LABORERS LOCAL #210**

BY: *Peter Caputo*

Children Psychiatric Center  
PLA

**MILLWRIGHTS LOCAL #1163**

BY: \_\_\_\_\_

**OPERATING ENGINEERS LOCAL #17 and #17d**

BY: \_\_\_\_\_



**ELEVATOR CONSTRUCTORS LOCAL #14**

BY: \_\_\_\_\_

**HEAT AND FROST INSULATORS AND  
ALLIED WORKERS LOCAL #4**

BY: \_\_\_\_\_

**IRONWORKERS LOCAL 6**

BY: \_\_\_\_\_

**LABORERS LOCAL #210**

BY: \_\_\_\_\_

**MILLWRIGHTS LOCAL #1163**

BY: Hyle Tot Council Rep

**OPERATING ENGINEERS LOCAL #17 and #17d**

BY: \_\_\_\_\_

**ELEVATOR CONSTRUCTORS LOCAL #14**

BY: \_\_\_\_\_

**HEAT AND FROST INSULATORS AND  
ALLIED WORKERS LOCAL #4**

BY: \_\_\_\_\_

**IRONWORKERS LOCAL 6**

BY: \_\_\_\_\_

**LABORERS LOCAL #210**

BY: \_\_\_\_\_

**MILLWRIGHTS LOCAL #1163**

BY: \_\_\_\_\_

**OPERATING ENGINEERS LOCAL #17 and #17d**

BY: Ray R. Swartz



**PAINTERS DISTRICT COUNCIL #4**

BY: *Michael Hogan* BA/ST  
MICHAEL HOGAN 1-26-2021

WNY CHILDREN'S PSYCHIATRIC CENTER  
ADDITION + RENOVATIONS  
PROJECT LABOR AGREEMENT

**PLASTERERS LOCAL #9**

BY: *Paul Brown*

**PLUMBER & FITTERS LOCAL 22**

BY: \_\_\_\_\_

**ROOFERS LOCAL #74**

BY: \_\_\_\_\_

**SHEET METAL WORKERS LOCAL #71**

BY: \_\_\_\_\_

**FOR THE GENERAL CONTRACTOR:**

\_\_\_\_\_

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

**PAINTERS DISTRICT COUNCIL #4**

BY: \_\_\_\_\_

**PLASTERERS LOCAL #9**

BY: \_\_\_\_\_

**PLUMBER & FITTERS LOCAL 22**

BY: *Ben White*

**ROOFERS LOCAL #74**

BY: \_\_\_\_\_

**SHEET METAL WORKERS LOCAL #71**

BY: \_\_\_\_\_

**FOR THE GENERAL CONTRACTOR:**

\_\_\_\_\_

BY: \_\_\_\_\_

DATE: \_\_\_\_\_



**PAINTERS DISTRICT COUNCIL #4**

BY: \_\_\_\_\_

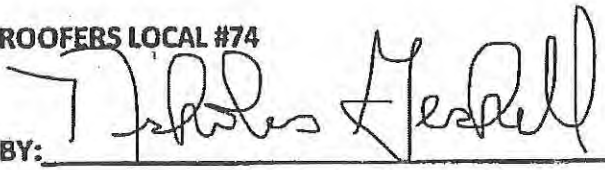
**PLASTERERS LOCAL #9**

BY: \_\_\_\_\_

**PLUMBER & FITTERS LOCAL 22**

BY: \_\_\_\_\_

**ROOFERS LOCAL #74**

BY: 

**SHEET METAL WORKERS LOCAL #71**

BY: \_\_\_\_\_

**FOR THE GENERAL CONTRACTOR:**

\_\_\_\_\_

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

**PAINTERS DISTRICT COUNCIL #4**

**BY:** \_\_\_\_\_

**PLASTERERS LOCAL #9**

**BY:** \_\_\_\_\_

**PLUMBER & FITTERS LOCAL 22**

**BY:** \_\_\_\_\_

**ROOFERS LOCAL #74**

**BY:** \_\_\_\_\_

**SHEET METAL WORKERS LOCAL #71**

**BY:** Pal [Signature]

**FOR THE GENERAL CONTRACTOR:**

\_\_\_\_\_

**BY:** \_\_\_\_\_

**DATE:** \_\_\_\_\_



**ROAD SPRINKLERFITTERS LOCAL #669**

BY:     *M. J. [unclear]* Business Agent    

**TEAMSTERS LOCAL #449**

BY: \_\_\_\_\_

**FOR THE GENERAL CONTRACTOR:**

\_\_\_\_\_

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

**ROAD SPRINKLERFITTERS LOCAL #669**

BY: \_\_\_\_\_

**TEAMSTERS LOCAL #449**

BY: George E. Harner

**FOR THE GENERAL CONTRACTOR:**

\_\_\_\_\_

BY: \_\_\_\_\_

DATE: \_\_\_\_\_