

TEMPLATE- SUBJECT TO MODIFICIATION ON PROJECT BY PROJECT BASIS

Project Labor Agreement

Between

City of Dayton

and

**Dayton Building & Construction Trades Council and its
affiliated members**

and

(Construction Manager/General Contractor/Contractors)

Covering

(INSERT PROJECT NAME)

This Project Labor Agreement ("Agreement") is entered into this XX day of _____, 20____ by and between the City of Dayton ("Owner"), and the Dayton Building & Construction Trades Council, AFL-CIO ("DBCTC") acting on its own behalf and on behalf of all affiliates and members ("Unions") whose names are subscribed hereto, and who have, through their duly authorized officers, executed this Agreement with respect to the construction of the INSERT PROJECT DESCRIPTION ("the Project"). The term Contractor shall include all contractors/employers, of whatever tier, engaged in construction work within the scope of this Agreement.

This Agreement shall be incorporated into the bid specifications for the Project. Further, this Agreement shall be in addition, but shall not modify, supplant or replace, any licensing, prequalification, or other construction contracting procurement requirements in place for construction projects owned and bid by the Owner.

ARTICLE I

INTENT AND PURPOSE

- 1.1 The Parties to this Agreement express their mutual and sincere commitment to the families and quality of life within the City of Dayton by (a) helping to ensure that local building tradespersons and their families directly benefit from the construction of the region's public and civic infrastructure; (b) supporting a diverse, inclusive local building trades workforce; and (c) supporting the investment made in training local building tradespersons to ensure the highest quality construction.
- 1.2 The purpose of this Agreement is to establish conditions for the prompt and efficient completion of construction work on the Project and to secure optimum productivity by providing close cooperation among the Contractor(s), Owner, City of Dayton community, and the DBCTC.
- 1.3 An incentive for entering into this project-specific Agreement is elimination of the risk of delays and disruption caused by labor disputes and unrest. This Agreement creates effective and binding methods for the settlement of all disputes or grievances which may arise on the Project.

ARTICLE II

SCOPE OF AGREEMENT

- 2.1 For the purposes of this Agreement, the term "Contractor" includes all construction Contractors and Subcontractors of whatever tier engaged in onsite construction work within

the scope of this Agreement, except for those Contractors and Subcontractors specifically excluded from the Agreement. A contractor may only be excluded from this Agreement by mutual consent of the Owner and the DBCTC. A contractor that refuses to become signatory to this Agreement shall not be the basis for exclusion. The term "Contractor" shall also include a Construction manager and/or as Design Build firm when it self-performs services that fall within the historical definition of construction. The term "Employer" includes any Contractor and Subcontractor signatory to this Agreement who employs individuals covered by this Agreement. The term "Owner" refers to the City of Dayton alone. The term "applicable Local Collective Bargaining Agreement" means the labor agreement of an affiliated local Union to the DBCTC that covers the work being performed on the Project within its work jurisdiction/scope of work, copies of which can be reviewed upon request made to DBCTC.

- 2.2 This Agreement is a stand-alone agreement limited to the original construction of the Project and shall have no force or effect after the completion of the Project.
- 2.3 Except as restricted by applicable laws and regulations, Owner and Construction Manager ("CM") have executed a Construction Manager at Risk Contract dated ##/##/### which provides for the qualification and selection of contractors for this Project. The CM and the Owner mutually agree to amend said Contract to include this PLA. The City of Dayton will exercise this right without regard to whether the successful bidder performs work at other sites on either a union or non-union basis and without regard to whether employees and subcontractors of such bidder are or are not members of any union.
- 2.4 Except to the extent the City has already executed a Contract, the Owner shall require all Contractors, as a condition of being awarded contracts for work covered by this Agreement, to accept, execute and be bound by the terms and conditions of this Agreement prior to commencing work on the Project. Proof of compliance with this Section 2.4 shall be via the Contractor executing a Letter of Assent as prescribed by the Owner (see Attachment A - Letter of Assent). Except as otherwise provided herein, every Contractor, of whatever tier, shall become signatory to this Agreement and abide by its terms. The terms and conditions of the applicable Local Collective Bargaining Agreements of the Unions signatory to this Agreement covering the craftwork being performed shall govern the terms and conditions of employees on the Project, other than as explicitly set forth herein.
- 2.5 This Agreement shall apply to and is limited to all work recognized and accepted within historical definitions of new construction work and/or covered by a collective bargaining agreement of a signatory union under the direction of and performed by the Contractor(s), of any tier level, who have contracts awarded for such work on the Project, except for any work or Contractors specifically excluded from this Agreement.

2.6 This Agreement does not apply to the following:

- A. Work performed by non-manual or professional employees, included, but not limited to, architects, construction managers, maintenance plan advisors, commissioning agents, geotechnical consultants, superintendents, supervisors, engineers, field engineers, surveyors, quality assurance and quality inspectors, technicians, office workers, messengers, persons making deliveries to and from the Project site, warehouse employees, guards (or Security Personnel), medical personnel, emergency vehicle operators and employees similarly classified by the Owner; or any Contractor excluded by the Owner;
- B. All Owner operations and activities that do not fall within the historical definition of construction;
- C. Work designated as being for technically unique services or skills that is sole source or warranty work, whether performed at the discretion of the Contractor, of any tier, or by the Owner's assigns or successors, the (INSERT CM/General Contractor/Design Build) shall notify DBCTC and the Owner at least twenty one (21) days in writing that work on the project will be performed under 2.6 (C) prior to the commencement of the work. The written notification clearly identification the justification that the scope falls within 2.6 (C). If the DBCTC disagrees with the justification it shall file a grievance under this agreement. The work shall not commence until the grievance is fully adjudicated under this Agreement.

2.7 Nothing contained herein shall be construed to prohibit or restrict the Owner or its employees from performing work not covered by this Agreement on the Project site.

ARTICLE III

MANAGEMENT RIGHTS

- 3.1 The Owner, its successor or assigns, and Contractors, of whatever tier, retain all rights and authority not expressly excluded or limited by this Agreement.
- 3.2 The Owner may, in accordance with the CM Agreement or other contractual agreement, terminate, delay, modify, suspend, or issue, or approve or disapprove a change order for, any or all portions of the Project at any time.
- 3.3 Except as expressly limited by a specific provision of this Agreement, Contractors, of any tier, and the Owner, and its successors or assigns, maintain the following management rights including, but not limited to:
 - A. Hire and lay off employees as the Contractor feels appropriate to meet work scope requirements, and to retain necessary skills and trained resources for the workforce on the

Project;

- B. Plan, direct and control the execution and assignment of all work;
- C. Determine the size of crews and the number of foremen and general foremen needed per the applicable Local Collective Bargaining Agreement;
- D. Transfer employees from job to job on or outside of the Project without limitation or restriction and from shift to shift at per the applicable Local Collective Bargaining Agreement and the CM Agreement;
- E. Determine work methods and procedures necessary for the Project per the applicable Local Collective Bargaining Agreement and the CM Agreement; and
- F. Discharge, suspend, or discipline employees per the requirements of this Agreement and the Local Collective Bargaining Agreement and the CM Agreement.

ARTICLE IV

UNION/DBCTC RIGHTS AND RESPONSIBILITIES

- 4.1 The Contractor(s) recognize the signatory Union(s) as the sole and exclusive bargaining representatives of all craft employees within their respective jurisdictions working within the scope of this Agreement on the Project. Such recognition shall be strictly limited to the term of this Project.
- 4.2 Nothing in this Agreement requires employees to join or pay dues or fees to a union as a condition of working on the Project. However, this Agreement is not 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.
- 4.3 Contractor(s) shall provide Unions with access to, and meeting time with, any worker referred or assigned to the Project that is not a member of the appropriate Union prior to the commencement of their employment on the Project or within seven (7) days of such employee's first date of reporting for work at the Project location. The Unions shall be permitted access at the Project location at such times and locations as Contractor identifies to assure Project safety and are permitted to present benefits of union membership including, but not limited to, retirement, healthcare, and training benefits. The Unions may conduct such employee meetings without the presence of any Contractor(s) representative. The Unions shall coordinate such meeting with the Contractor(s) during work hours and ensure minimal disruption to work schedules.

- 4.4 Upon being presented with a signed voluntary written authorization form by an employee covered by this Agreement, the Employer will deduct from the wages of such employee and remit to the applicable Union all dues, fees and assessments in accordance with the signed voluntary written authorization.
- 4.5 The DBCTC and its members, agents, representatives and employees shall not allow, incite, encourage, condone, aid or abet, continue, or participate in any strike, walkout, slowdown, picketing, disruptive activity, sympathy strike or other work stoppage of any nature whatsoever for any cause whatsoever, whether jurisdictional or otherwise, or observe any picket of any nature during the term of this Agreement. Any such action by the DBCTC or its members, agents, representatives and employees shall constitute a material breach of this Agreement. The DBCTC and its members, agents, representatives and employees shall forthwith undertake all reasonable means to prevent or to terminate any of the aforesaid activity.
- 4.6 All employees shall continue to work and to perform all their obligations on the Project despite the expiration of any Local Collective Bargaining Agreement.
- 4.7 Any employee who participates in or encourages activities in violation of this Article shall be subject to disciplinary action, including discharge.
- 4.8 All parties agree that in the event that a Union violates the provisions of this Article, the Owner or Contractor will have the right to seek an immediate injunction from the appropriate court without obligation to post bond or other security.
- 4.9 There shall be no lockout by any Contractor during the term of this Agreement. All parties agree that in the event a Contractor violates the provisions of this Article, the Owner or affected Union will have the right to seek an immediate injunction from the appropriate court. In addition, the Owner may terminate the CM Agreement in accordance with the terms of the CM Agreement.
(This Section shall be modified based on construction procurement method)
- 4.10 The Unions shall have the right to designate one working employee on the Project as a steward. Such designated steward shall be a qualified employee performing the work of that craft and shall not exercise any supervisory functions. There shall be no non-working stewards.
- 4.11 In addition to their work as an employee, the designated steward shall have the right to receive complaints and to discuss and assist in their adjustment with the Contractor's appropriate supervisor per Article VI of this Agreement. The Contractor will not seek to hinder or discriminate

against the steward in the proper performance of their union duties.

4.12 For all employee referral from Union hiring halls, the following shall apply:

- A. The DBCTC shall require its member Unions to make all reasonable efforts to refer suitable persons that reside in the City of Dayton, subject to local Union hiring hall referral policies and bylaws, and the requirements of the National Labor Relations Act, for work on the Project.
- B. Selection of applicants for referral to jobs under the scope of this Agreement shall be on a non-discriminatory basis and shall not be based on, or in any way affected by, union membership, bylaws, rules, regulations, constitutional provisions, or any other aspect or obligation of union membership, policies or requirements. There shall be no discrimination against an employee or applicant for employment based on his or her membership or non-membership in a union, or based upon such employee or applicant's race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, family or military status, or any other status that is protected by federal, state, or local law or ordinance.
- C. For the purposes of this agreement, a suitable person shall mean a person who meets all of the following: is qualified and able to perform the work, meets the safety requirements of the Construction Manager, submits to drug testing prior to employment on the project and is not rejected by the Contractor or Owner for past performance. A suitable person may be subject to background checks instituted by employer and employment of any candidate will be subject to employer's acceptance of the results of any such check. If no suitable person is available, the Union shall immediately notify the Contractor.

(This Section shall be modified based on construction procurement method)

- D. If a suitable person is not referred within a forty-eight (48) hour period after a requisition is made (Saturdays, Sundays, and holidays excluded), the Contractor, of whatever tier, may hire an employee to fill the requisition from any source, provided the Contractor makes a good faith effort to hire person residing within a thirty (30) mile drive of the City of Dayton community or within the City of Dayton.

ARTICLE V

WAGES AND FRINGE BENEFITS; WORK RULES

- 5.1 The Contractor shall pay employees subject to this Agreement the prevailing wage rate as set forth in ORC §4115 for work performed on the Project, including fringe benefit contributions. Cash

payments to employees in lieu of fringe benefit contributions are not permitted under this Agreement.

- 5.2 Upon notice to the Owner that a Contractor is delinquent in its obligation to make fringe benefit contributions, where applicable, the Owner shall provide written notice to the CM and contractor and provide reasonable time and opportunity to remedy in accordance with the CM Agreement. In the event the CM and contractor fail to remedy, the Owner may withhold such sums from the monthly progress payment(s) to the Contractor and shall pay such sums directly to the appropriate fringe benefit fund(s).
- 5.3 The Owner, or any Contractor authorized by the Owner, may establish uniform site work rules/procedures and security, health and safety rules/procedures in compliance with federal, state, and local regulations and as established by the CM (controlling contractor). All Unions, Contractors, Subcontractors, and employees agree to abide by these rules, and violation of job site rules may result in disciplinary action up to and including suspension or discharge as provided in the CM Agreement and per the sole discretion of the CM.

(This Section shall be modified based on construction procurement method.)

ARTICLE VI

SETTLEMENT OF GRIEVANCES AND DISPUTES

- 6.1 This Agreement is intended to provide close cooperation between management and labor. Each of the Unions will assign a representative to this Project for the purpose of completing the construction of the Project economically, efficiently, continuously, safely and in compliance with the terms of this Agreement and the CM Agreement.

(This Section shall be modified based on construction procurement method.)

- 6.2 The Contractors, DBCTC, Unions, and the employees, collectively and individually, realize the importance to all parties to maintain continuous and uninterrupted performance of the work of the Project, and agree to resolve disputes in accordance with the grievance-arbitration provisions set forth in this Article.
- 6.3 Any question or dispute arising out of and during the term of this Agreement, other than the rights

set forth in Article V or VII, or otherwise limited or excluded from this Agreement, shall be considered a grievance and subject to resolution under the following procedures:

A. Step 1.

1. When any employee subject to the provisions of this Agreement feels he or she is aggrieved by a violation of this Agreement, the employee, through their steward or local Union representative, shall, within five (5) working days after the occurrence of the violation, give notice to the Project representative of the involved Contractor stating the provision(s) alleged to have been violated. The parties 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, the grieving party may, within forty-eight (48) hours thereafter, reduce the grievance to writing and pursue Step 2 of the Grievance Procedure.
2. Should the Local Unions(s) or the CM or any Contractor have a dispute with the other party and, if after conferring, a settlement is not reached within three (3) working days, the dispute may be reduced to writing and proceed to Step 2 in the same manner as outlined herein for the adjustment of an employee complaint.

B. Step 2.

The Union Representative and the involved Contractor shall meet within seven (7) working days of the referral of a 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 thereafter.

C. Step 3.

1. If the grievance has been submitted but not resolved under Step 2, either party may request in writing, within seven (7) calendar days thereafter, that the grievance be submitted to an Arbitrator mutually agreed upon by them. The Contractor and the involved Unions shall attempt mutually to select an arbitrator, but if they are unable to do so, 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. The fee and expenses of such Arbitration shall be borne equally by the Contractor and the involved Local Unions(s).
2. 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 or her, and he or she shall not have authority to change, amend, add to or detract from any of the provisions of this Agreement.

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

(This Section shall be modified based on the construction procurement method.)

ARTICLE VII

JURISDICTIONAL DISPUTES

- 7.1 The assignment of work will be the sole responsibility of the Contractor performing the work involved, unless specifically assigned by the Owner prior to award of the contract; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan"), approved by the Building and Construction Trades Department, AFL-CIO, June 1984 As Amended Through May 2011, a copy of which is included in Attachment B, or any successor Plan. In the event a successor plan is not approved, such disputes shall be resolved by the then existing legal procedure.
- 7.2 All jurisdictional disputes on this Project, between or among DBCTC members and Contractors that are parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department, AFL-CIO. In the event such Board ceases to exist or any successor plan is not approved such disputes shall be resolved by the then existing legal procedures. Decisions rendered shall be final, binding and conclusive on the Contractors and Unions which are parties to this Agreement.
- 7.3 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractor's assignment shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.
- 7.3 Each Contractor will conduct a pre-job conference with the DBCTC and the appropriate local Union prior to commencing work. The Owner, and, where applicable, the Owner's assigns or successors, will be advised in advance of all such conferences and may participate if they wish.
- 7.4 If a Union is not signatory to this Agreement, it shall not have any jurisdiction claim to a scope of work on the Project.

ARTICLE VIII

SAFETY

- 8.1 The Contractor and their employees shall comply with all applicable federal, state and local laws, ordinances and regulations relating to safety and health and the CM's safety protocols, processes and requirements. All employees shall comply with the safety regulations as established by the Owner and CM.

ARTICLE IX

SITE ACCESS

- 9.1 The designated representative(s) of each local Unions signatory to this Agreement shall be communicated in writing to the designee of the CM or General Contractor. Those representatives shall be permitted to enter and move around on the Project site without an escort, provided that such representative(s) sign in and out for every visit to the site,; that such designated representative(s) will not disrupt the efficient operation of the Project; that such representative(s) give the Project Executive advance notice; and that the privilege to enter will not be abused.
- 9.2 Notwithstanding any other provision to the contrary, visitors, including Union representatives and agents, shall not interfere with the work of the employees and shall fully comply with the visitor safety and security rules established for the Project.

ARTICLE X

SUBCONTRACTING

- 10.1 Except as provided in 2.4 and 2.6, the Project Contractor agrees that neither it nor any of its contractors or subcontractors will subcontract any work to be done on the Project except to a person, firm or corporation who is or agrees to become party to this Agreement. Any contractor or subcontractor working on the Project shall, as a condition of working said Project, become signatory to and perform all work under the terms of this Agreement. The applicable Union shall be informed by any contractor or subcontractor of any tier of any subcontract of covered work prior to the subcontractor commencing work on the Project.

ARTICLE XI

HELMETS TO HARDHATS

- 11.1 The Contractor 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 Contractor 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 parties and to participate in controlling contractor's safety orientation program.
- 11.2 The Unions and Contractor 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 XII

LOCAL WORKFORCE GOALS

- 12.1 It is the intent of the parties to establish goals for the employment of the residents of the City of Dayton on the Project and to work in good faith and cooperatively to achieve such goals. The Project has an aspirational goal of (INSERT NUMBER) or more of the total Project work hours to be worked by residents of the City of Dayton. For the purposes of this Article, resident of the City of Dayton shall mean the following: a person permanently residing in the City of Dayton; or a person working from a pool of labor located in or having jurisdiction in such limits. In furtherance of these goals, and consistent with DBCTC and its affiliates' commitment to economic prosperity for all working people and diverse and inclusive trade unions, DBCTC and its affiliates will engage in community outreach directly and in partnership with community organizations, utilize apprenticeship readiness programs and pre-apprenticeship programs.
- 12.2 All Contractors and Subcontractors shall report the total hours worked and wage rates received by its employees subject to this Agreement and residing in the City of Dayton to City of Dayton.

ARTICLE XIII

COMMUNITY APPRENTICESHIP GOALS

- 13.1 The Owner and DBCTC recognize the need for a trained and skilled local construction workforce. It is the desire of the Owner to utilize this Project as a training tool for its residents enrolled in apprenticeship programs certified by the Ohio Apprenticeship Council or the U.S. Department of Labor.
- 13.2 The Parties acknowledge historical underrepresentation of disadvantaged individuals, in construction apprenticeship programs. To remedy historical underrepresentation in construction apprenticeship programs the members of the DBCTC have agreed to host an apprenticeship recruitment event in designated neighborhoods within the City of Dayton during the construction of the Project.

ARTICLE XIV

UNION PER CAPITA REQUIREMENT

- 14.1 All Unions signatory to this Agreement are required to comply with the payment of per capita tax to the DBCTC and the Ohio State Building & Construction Trades Council for hours worked on the Project. Any Union that fails to make timely payments of per capita tax for hours worked on the Project may lose any rights under the terms of the Agreement, including the jurisdictional right to claim portions of the scope of work of the Project.

ARTICLE XV

TERM OF AGREEMENT

- 15.1 This Agreement shall become effective on the XX day of XXXXX, XXXX, and shall remain in full force and effect as to each part or phase of construction work until all parts and phases have been accepted by the Owner. It is understood that the liability of any Employer 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 employer status between or among the Owner, Contractor(s), Subcontractor(s) or any Employer. This Agreement shall only be binding on

this project, on the signatory parties hereto and does not apply to their parents, affiliates or subsidiaries.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall be deemed effective as of the date stated in Article XV Where any collective bargaining unit does not execute this agreement the agreement will not be enforced for that collective bargaining unit.

City of Dayton

Signature

Print Name/Title

DAYTON BUILDING AND CONSTRUCTION TRADES COUNCIL AFL-CIO:

Signature

Print Name/Title

CRAFT UNION:

Electrical Workers Local

Signature

Print Name/Title

CRAFT UNION:

United Brotherhood of Carpenters

Local

Signature

Print Name/Title

CRAFT UNION:

Laborers Int'l Union of North America

Local

Signature

Print Name/Title

CRAFT UNION:

United Association-Sprinkler

Fitters Local 669

Signature

Print Name/Title

CRAFT UNION:

United Association

Plumbers & Pipefitters Local

Signature

CRAFT UNION:

Sheet Metal Workers Local 24

Print Name/Title

Signature

Print Name/Title

CRAFT UNION:

Bricklayers and Allied Craftworkers

Local 23

Signature

Print Name/Title

CRAFT UNION:

Painters and Allied Trades - Glaziers

Local

Signature

Print Name/Title

CRAFT UNION:

Operative Plasters'

& Cement Masons' Intl Association Local 132

Signature

Print Name/Title

CRAFT UNION:

Roofers, Waterproofers and Allied Workers

Local

Signature

Print Name/Title

CRAFT UNION:

Painters and Allied Trades Local

Signature

Print Name/Title

CRAFT UNION:

International Union of Operating

Engineers Local 18

Signature

Print Name/Title

CRAFT UNION:

Heat & Frost Insulators and Allied

Workers Local

Signature

Print Name/Title

CRAFT UNION:

International Union of Elevator

Constructors Local

Signature

Print Name/Title

CRAFT UNION:

Bridge, Structural, Ornamental, &

Reinforcing Iron Workers Local

Signature

Print Name/Title

CRAFT UNION:

Boilermakers, Iron Ship

Builders, Blacksmiths, Forgers & Helpers Local

Signature

Print Name/Title

CRAFT UNION:

Int'l Brotherhood of Teamsters Local

Signature

Print Name/Title

CRAFT UNION:

United Brotherhood of Carpenters-Millwrights

Local

Signature

Print Name/Title

DRAFT