

SOUTHERN CALIFORNIA LABORERS'

WORKERS' COMPENSATION TRUST

ALTERNATIVE DISPUTE RESOLUTION SYSTEM

Shogren
Ombudsperson
Services

Barbara Shogren Lies, M.A., C.R.C., N.C.C.
Ombudsperson

7177 Brockton Ave., Suite 101 • Riverside, CA 92506
(951) 788-9910 • FAX: (951) 788-0320

Toll Free (800) 905-7595
Email: shogren@earthlink.net

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION
1515 Clay Street 17th Floor
Oakland, CA 94612
(510) 286-7100

MAILING ADDRESS:
P. O. Box 420603
San Francisco, CA 94142-0603



July 31, 2008

Mr. Chris R. Reinhardt, CIC, Program Administrator
Laborers Health and Welfare Trust for Southern California
P.O. Box 1
Moreno Valley, CA 92556

Ms. Barbara Shogren-Lies
7177 Brockton Avenue #101
Riverside, CA 92506

Re: Construction Laborers of Southern California
Renewal of Letter of Eligibility

Dear Mr. Reinhardt and Ms. Shogren-Lies:

I am pleased to advise you that as requested in your letter dated July 23, 2008, I have found the parties to this agreement continue to meet the eligibility requirements of Labor Code section 3201.5. The terms and conditions for continued eligibility and record keeping and reporting requirements outlined in prior letters of eligibility remain in full force and effect.

This letter will permit you to continue to maintain an alternative dispute resolution system governing disputes concerning workers' compensation. It will also permit you to maintain an exclusive list of providers of medical treatment, medical evaluation, and vocational rehabilitation. Please submit a letter annually outlining any changes as provided by California Code of Regulations §10204(a). This letter is not a determination that the collective bargaining agreement itself or any part of it is in compliance with Section 3201.5.

This letter of eligibility is effective July 31, 2008, the date of the expiration of the prior letter of eligibility and will expire on July 31, 2011.

Respectfully,

A handwritten signature in cursive script that reads "Carrie Nevans".

Carrie Nevans
Administrative Director

CN/lt

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102-3660
(415) 703-4600

MAILING ADDRESS:
P. O. Box 420603
San Francisco, CA 94142-0603



May 5, 2005

Mr. Lawrence P. Gallagher
Gallagher Consulting, Inc.
9006 Laramie Avenue
Bakersfield, CA 93312

Ms. Barbara Shogren-Lies
7177 Brockton Avenue #101
Riverside, CA 92506

Re: Construction Laborers Letter of Eligibility

Dear Mr. Gallagher and Ms. Shogren-Lies:

I am pleased to advise you that as requested in your letter dated February 17, 2005 (received May 4, 2005), I have found the parties to this agreement continue to meet the eligibility requirements of Labor Code section 3201.5. I also find that the District Council is a bona fide labor organization.

This letter will permit you to continue to maintain an alternative dispute resolution system governing disputes concerning workers' compensation. It will also permit you to maintain an exclusive list of providers of medical treatment, medical evaluation, and vocational rehabilitation. Please submit a letter annually outlining any changes as provided by California Code of Regulations §10204(a). This letter is not a determination that the collective bargaining agreement itself or any part of it is in compliance with Section 3201.5.

This letter of eligibility is effective July 31, 2005, the date of the expiration of the prior letter of eligibility and will expire on July 31, 2008.

Sincerely,


Andrea Lynn Hoch
Administrative Director

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
(415) 703-4600

MAILING ADDRESS:
P. O. Box 420603
San Francisco, CA 94142-0603



August 19, 2002

Mr. Lawrence P. Gallagher
9006 Laramie Avenue
Bakersfield, CA 93312

Ms. Barbara Shogren-Lies
7177 Brockton Avenue #101
Riverside, CA 92506

Re: Construction Laborers Letter of Eligibility

Dear Mr. Gallagher and Ms. Shogren-Lies:

I am pleased to advise you that as requested in your letter dated April 4, 2002, I have found the parties to this agreement continue to meet the eligibility requirements of Labor Code section 3201.5. I also find that the District Council is a bona fide labor organization.

This letter will permit you to continue to maintain an alternative dispute resolution system governing disputes concerning workers' compensation. It will also permit you to maintain an exclusive list of providers of medical treatment, medical evaluation, and vocational rehabilitation. Please submit a letter annually outlining any changes as provided by California Code of Regulations §10204(a). This letter is not a determination that the collective bargaining agreement itself or any part of it is in compliance with Section 3201.5.

This letter of eligibility is effective July 31, 2002, the date of the expiration of the prior letter of eligibility and will expire on July 31, 2005.

Respectfully,

A handwritten signature in cursive script that reads "Richard Gannon".

Richard Gannon
Administrative Director

AUTHORITY

Section 3201.5, California Labor Code, authorizes negotiated workers' compensation programs between building trade unions and employers.

§3201.5 **Validity of collective bargaining agreements—Prohibitions; applicability; premium rate; filing with Director; reports to Department, Legislature; confidentiality.**

(a) Except as provided in subdivisions (b) and (c), the Department of Industrial Relations and the courts of this state shall recognize as valid and binding any provision in a collective bargaining agreement between a private employer or groups of employers engaged in construction, construction maintenance, or activities limited to rock, sand, gravel, cement and asphalt operations, heavy-duty mechanics, surveying, and construction inspection and a union that is the recognized or certified exclusive bargaining representative that establishes any of the following:

- (1) An alternative dispute resolution system governing disputes between employees and employers or their insurers that supplements or replaces all or part of those dispute resolution processes contained in this division, including, but not limited to, mediation and arbitration. Any system of arbitration shall provide that the decision of the arbiter or board of arbitration is subject to review by the appeals board in the same manner as provided for reconsideration of a final order, decision, or award made and filed by a workers' compensation judge pursuant to the procedures set forth in Article 1 (commencing with Section 5900) of Chapter 7 of Part 4 of Division 4, and the court of appeals pursuant to the procedures set forth in Article 2 (commencing with Section 5950) of Chapter 7 of Part 4 of Division 4, governing orders, decisions, or awards of the appeals board. The findings of fact, award, order, or decision of the arbitrator shall have the same force and effect as an award, order, or decision of a workers' compensation judge. Any provision for arbitration established pursuant to this section shall not be subject to Sections 5270, 5270.5, 5271, 5272, 5273, 5275, and 5277.
- (2) The use of an agreed list of providers of medical treatment that may be the exclusive source of all medical treatment provided under this division.
- (3) The use of an agreed, limited list of qualified medical evaluators and agreed medical evaluators that may be the exclusive source of qualified medical evaluators and agreed medical evaluators under this division.
- (4) Joint labor management safety committees.
- (5) A light-duty, modified job or return-to-work program.
- (6) A vocational rehabilitation or retraining program utilizing an agreed list of providers of rehabilitation services that may be the exclusive source of providers of rehabilitation services under this division.

(b) Nothing in this section shall allow a collective bargaining agreement that diminishes the entitlement of an employee to compensation payments for total or partial disability, temporary disability, vocational rehabilitation, or medical treatment fully paid by the employer as otherwise provided in this division. The portion of any agreement that violates this subdivision shall be declared null and void.

(c) Subdivision (a) shall apply only to the following:

- (1) An employer developing or projecting an annual workers' compensation insurance premium, in California, of two hundred fifty thousand dollars (\$250,000) or more, or any employer that paid an annual workers'

compensation insurance premium, in California, of two hundred fifty thousand dollars (\$250,000) in at least one of the previous three years.

- (2) Groups of employers engaged in a workers' compensation safety group complying with Sections 11656.6 and 11656.7 of the Insurance Code, and established pursuant to a joint labor management safety committee or committees, which develops or projects annual workers' compensation insurance premiums of two million dollars (\$2,000,000) or more.
 - (3) Employers or groups of employers that are self-insured in compliance with Section 3700 that would have projected annual workers' compensation costs that meet the requirements of, and that meet the other requirements of, paragraph (1) in the case of employers, or paragraph (2) in the case of groups of employers.
 - (4) Employers covered by an owner or general contractor provided wrap-up insurance policy applicable to a single construction site that develops workers' compensation insurance premiums of two million dollars (\$2,000,000) or more with respect to those employees covered by that wrap-up insurance policy.
- (d) Employers and labor representatives who meet the eligibility requirements of this section shall be issued a letter by the administrative director advising each employer and labor representative that, based upon the review of all documents and materials submitted as required by the administrative director, each has met the eligibility requirements of this section.
- (e) The premium rate for a policy of insurance issued pursuant to this section shall not be subject to the requirements of Section 11732 or 11732.4 of the Insurance Code.
- (f) No employer may establish or continue a program established under this section until it has provided the administrative director with all of the following:
- (1) Upon its original application and whenever it is renegotiated thereafter, a copy of the collective bargaining agreement and the approximate number of employees who will be covered thereby.
 - (2) Upon its original application and annually thereafter, a valid and active license where that license is required by law as a condition of doing business in the state within the industries set forth in subdivision (a) of Section 3201.5.
 - (3) Upon its original application and annually thereafter, a statement signed under penalty of perjury, that no action has been taken by any administrative agency or court of the United States to invalidate the collective bargaining agreement.
 - (4) The name, address, and telephone number of the contact person of the employer.
 - (5) Any other information that the administrative director deems necessary to further the purposes of this section.
- (g) No collective bargaining representative may establish or continue to participate in a program established under this section unless all of the following requirements are met:
- (1) Upon its original application and annually thereafter, it has provided to the administrative director a copy of its most recent LM-2 or LM-3 filing with the United States Department of Labor, along with a statement, signed under penalty or perjury, that the document is a true and correct copy.

- (2) It has provided to the administrative director the name, address, and telephone number of the contact person or persons of the collective bargaining representative or representatives.
- (h) Commencing July 1, 1995, and annually thereafter, the Division of Workers' Compensation shall report to the Director of the Department of Industrial Relations the number of collective bargaining agreements received and the number of employees covered by these agreements.
 - (i) By June 30, 1996, and annually thereafter, the Administrative Director of the Division of Workers' Compensation shall prepare and notify Members of the Legislature that a report authorized by this section is available upon request. The report based upon aggregate data shall include the following:
 - (1) Person hours and payroll covered by agreements filed.
 - (2) The number of claims filed.
 - (3) The average cost per claim shall be reported by cost components whenever practicable.
 - (4) The number of litigated claims, including the number of claims submitted to mediation, the appeals board, or the court of appeals.
 - (5) The number of contested claims resolved prior to arbitration.
 - (6) The projected incurred costs and actual costs of claims.
 - (7) Safety history.
 - (8) The number of workers participating in vocational rehabilitation.
 - (9) The number of workers participating in light-duty program.The division shall have the authority to require those employers and groups of employers listed in subdivision (c) to provide the data listed above.
 - (j) The data obtained by the administrative director pursuant to this section shall be confidential and not subject to public disclosure under any law of this state. However, the Division of Workers' Compensation shall create derivative works pursuant to subdivisions (h) and (i) based on the collective bargaining agreements and data. Those derivative works shall not be confidential, but shall be public. On a monthly basis the administrative director shall make available an updated list of employers and unions entering into collective bargaining agreements containing provisions authorized by this section.

ELIGIBILITY & ADR STATE REPORT

1. The State Department of Industrial Relations is charged with determining the eligibility of a program.
2. Aggregate State Report to Department of Industrial Relations due each year by March 30th by each authorized and approved ADR Program.
3. The State now requires an individual report from each employer involved in the program as well as an aggregate report.

WORKERS' COMPENSATION AGREEMENT

SECTION 1.0. This Agreement is entered into between the Associated General Contractors of California, Inc., the Building Industry Association of Southern California, Inc., the Southern California Contractors Association, Inc., the Engineering Contractors Association, Inc. ("Associations") and the Southern California District Council of Laborers on behalf of itself and its affiliated local unions ("Union"), pursuant to California Labor Code Section 3201.5. It is the intent of the parties to improve the delivery of benefits to injured workers entitled to Workers' Compensation benefits under the laws of the State of California and to reduce the waste and excessive cost which have historically been associated with those benefits. Nothing in this Agreement diminishes the entitlement of an employee covered by this Agreement to compensation payments for total or partial disability, temporary disability, vocational rehabilitation, medical treatment and other benefits as required by California law fully paid for by the employer through the purchase of a policy of Workers' Compensation insurance from an insurer authorized to issue such a policy in the State of California.

SECTION 1.1. The Associations are a group of employers that:

- (a) are private employers primarily engaged in construction, construction maintenance and related activities;
- (b) are part of a Workers' Compensation safety group that is established pursuant to a joint labor management committee and which safety group complies with Sections 11656.6 and 11656.7 of the California Insurance Code to the extent required by California Labor Code Section 3201.5;
- (c) project annual collective California Workers' Compensation premiums of Two Million Dollars or more on wages paid and to be paid to employees covered by this Agreement.

This agreement shall be available only to those employers who are signatory to an appropriate Union Collective bargaining agreement. If the employer is a member of an Association, it shall be bound to this Agreement upon written authorization to the appropriate Association. The Associations shall provide a list to the Union of those members who have authorized the Association to represent them under the terms of this Agreement. If the Employer is not a member of an Association, it shall be bound to this Agreement upon its written consent in a form acceptable to the Union.

Each individual employer shall have the right to select its own insurance broker or carrier for participation under this Agreement, or have the right to be self-insured.

SECTION 1.2. The Union:

(a) is the recognized or certified exclusive bargaining representative of the employees covered by this Agreement;

(b) participates in the joint labor management committee which has established the Workers' Compensation safety group which complies with Sections 11656.6 and 11656.7 of the California Insurance Code to the extent required by California Labor Code Section 3201.5.

SECTION 1.3. This Agreement shall apply only to employees whose employment is or was covered by an appropriate Union collective bargaining agreement and this Agreement and any successor Agreements and shall apply only to employees' claims for Workers' Compensation benefits payable by an employer bound to this Agreement and which claims are subject to the laws of the State of California. This Agreement shall not

be applicable to the employees of any employer which discontinues participation in the safety group described above and after the date of such discontinuance. An employer's discontinuance in the safety group program described above in no fashion relieves the employer of any and all liabilities to continue to provide benefits to injured workers in accord with the laws of the State of California. Only employers bound to this Agreement may participate in the safety group described above.

SECTION 1.4. Upon execution of this Agreement, the parties shall assure that a copy and appropriate information is transmitted to the Administrative Director of the Division of Workers' Compensation of the State of California in accord with California Labor Code Section 3201.5(e) and 3201.5(g).

SECTION 2.0. The parties to the Agreement shall establish a preferred provider network of health care providers which includes hospitals, physicians, pharmacies, chiropractors, psychiatrists, therapists, laboratories and other health care providers. Subject to the exceptions set forth in Section 2.1 and/or as modified by mutual Agreement, the providers in this network shall be the exclusive source of all medical treatment required under California Labor Code Section 4600. Attached hereto and marked Attachment "A" is a listing of the current network providers. The parties hereby agree that on the first working day of each month, Attachment "A" shall be revised to incorporate additions and deletions to the network of exclusive providers. In no event shall the deletion of a provider disrupt the ongoing treatment of an employee receiving treatment from that provider at the time of deletion. Except as provided above, in terms of discontinued providers, and in Section 2.1, medical care procured from a provider not included in the network shall not be provided at the expense of the employer. Nothing in this Agreement shall be construed to create a right for an employee to receive care at

employer expense which is not reasonably required to cure or relieve a work-related injury.

SECTION 2.1. The restrictions of Section 2.0 shall not apply in any of the following instances:

(a) in the event of the need for emergency medical treatment of a work-related injury, the injured employee may receive that emergency treatment from any provider qualified to provide that emergency treatment;

(b) in the event an injured employee requires care required under California Labor Code Section 4600 which is not available from any provider within the network established under Section 2.0, the employee shall receive that required treatment from a provider qualified to provide that treatment;

(c) in the event an injured employee requires care required under California Labor Code Section 4600 and does not reside within 40 miles of any network provider of that care, the worker may elect to receive that required care from a provider qualified to provide that care which is located within a reasonable distance from the injured employee's residence;

(d) if an employee has notified his or her employer in writing prior to the date of a work-related injury that the employee has a personal physician and such physician is within the plan network, the employee shall have the right to be treated by that physician from the date of injury.

SECTION 2.2. The employer shall have the statutorily provided period of control over the election of providers contained within the network of providers established pursuant to Section 2.0. The employer may exercise control over the selection of providers pursuant to Section 2.1(a), (b) and (c), as provided by statute.

SECTION 2.3. No provision of this Agreement shall be construed to relieve the employer from its responsibility under California Labor Code Section 4600 to provide care which is reasonably required to cure or relieve a work-related injury. Should the employee not exercise the employee's right to select a provider from the network established under Section 2.0, the Administrator shall promptly assign an appropriate provider from the network of providers established pursuant to Section 2.0. It is the employer's responsibility to arrange for the care set forth in Section 2.1(a), (b) and (c).

SECTION 2.4. In accord with the requirements of California Labor Code Section 4061.5, the treating physician primarily responsible for managing the care of the injured employee, or the physician designated by that treating physician, shall render opinions on all medical issues necessary to determine eligibility for compensation in accordance with the rules promulgated and to be promulgated by the Administrative Director of the Division of Workers' Compensation of the State of California. In the event that there is more than one treating physician, a single report shall be prepared by the physician primarily responsible for managing the injured employee's care that incorporates the findings of the various treating physicians.

SECTION 2.5. In no event shall the Laborers' Health & Welfare Fund be liable for the cost of medical care required to be provided by the employer pursuant to California Labor Code Section 4600. The costs of such care required to be provided by the

employer pursuant to California law shall be the liability of the insurer from whom the employer has purchased a policy of Workers' Compensation insurance. Nothing in this Agreement in any fashion limits the lien rights of the Laborers' health & Welfare Fund, or any other lien holder, to recover amounts paid related to medical care or other benefits which is properly the liability of the employer's Workers' Compensation insurer. Nothing in this Agreement shall result in benefits that exceed those provided by law.

SECTION 3.0. The parties hereto acknowledge that the provisions of California law governing the adjudication of disputed Workers' Compensation claims have resulted in delay, increased expense and other inefficiencies which result in undue detriment to employees and employers. In recognition of the foregoing, the parties establish the exclusive alternative dispute resolution system set forth below.

The parties recognize that adequate funding is essential in assuring the success of the alternative dispute resolution process established under this Agreement. It is the intent of the parties that there shall be an Administrator appointed and that the Administrator shall employ an ombudsperson who shall serve in that capacity as a full-time employee of the Administrator. There is a need to pay the costs associated with the Administrator, ombudsperson and the alternative dispute resolution system.

In order to provide adequate funding for the alternative resolution dispute system established by this Agreement, the parties bound to this Agreement have established the Laborers' Workers' Compensation Trust Fund. The employers bound to this Agreement shall pay to the Laborers' Workers' Compensation Trust Fund an agreed upon user fee or a monthly contribution based on all hours worked by or paid to employees covered by this Agreement; provided, however, that no contributions for hours worked or paid on

any jobsite where the owner requires participation in a wrap up insurance policy that prohibits use of the alternative dispute resolution system provided for in this Agreement. Such user free or monthly contributions shall be payable in accord with the provisions contained within the Trust Agreement establishing the Laborers' Workers' Compensation Trust Fund, and in an amount agreed upon by the parties to this Agreement.

The monthly contributions shall be effective beginning the month following execution of this Agreement and shall be held in an escrow or similar account until the alternative dispute procedure, including the provider networks and other procedures and panels described in this Agreement, are fully agreed upon and operational. In the event the alternative dispute procedure does not become operational within six months of the date of execution of this Agreement, the contributions, less any administrative cost, shall be returned to the employers making contributions upon written request by the employers. The parties to this Agreement shall also arrange for the payment of annual contributions by insurance companies and other interested parties.

The Laborers' Workers' Compensation Trust Fund shall advise the parties hereto quarterly of contributions received and expenditures made related to this alternative dispute resolution system, the parties agree to meet and negotiate solely for the purpose of negotiating a contribution which will be sufficient to pay the expense of the alternative dispute resolution system established by this Agreement. Should the parties be unable to negotiate a contribution which is sufficient to pay the expense of the alternative dispute resolution system established by this Agreement, the alternative dispute resolution system shall be suspended until such time as the parties are able to negotiate a sufficient contribution. During periods of any such suspension, employees covered by

this Agreement shall utilize the dispute resolution system set forth in the California Labor Code and the Rules and Regulations related thereto.

The parties bound to this Agreement shall be bound by all of the terms and provisions of the Trust Agreement establishing the Laborers' Workers' Compensation Trust Fund.

The Trustees and the Laborers' Workers' Compensation Fund shall oversee the administration of the provisions and procedures contained in this Agreement and may amend the Trust Agreement to carry out this responsibility; provided, however, the Trustees shall not make fundamental modifications to the provisions or procedures contained in this Agreement.

SECTION 3.1. The Trustees of the Laborers' Workers' Compensation Trust Fund shall appoint an Administrator. The Administrator shall employ, with the approval of the Trustees, at least one individual to serve as an ombudsperson. The ombudsperson shall, upon request of an employee, assist the employee in filing claims related to alleged work-related injuries subject to this Agreement. The ombudsperson shall receive complaints from employees who have filed claims for Workers' Compensation Benefits subject to this Agreement and upon the request of the employee shall assist the employee in attempting to resolve those disputes with the Workers' Compensation insurer of an employer subject to this Agreement. If the employee and/or the ombudsperson cannot resolve the employee's claim within a reasonable time, and in no event more than 90 days from the date of filing, the Administrator shall immediately notify the employee of his or her right to arbitration.

The ombudsperson is an employee at will of the Administrator and as such may be discharged/removed by the Administrator upon mutual agreement of the trustees. A

vote of the trustees of the Laborers' Workers' Compensation Trust fund shall serve to effect any personnel action deemed necessary.

SECTION 3.3. It is the parties' intent to retain the services of a professional arbitration service. Attached hereto and marked Attachment "B" is a list of arbiters selected jointly by the Union and employers. If a dispute related to a claim has not been resolved pursuant to Section 3.2, the worker or employer may request the Administrator of the Laborers' Workers' Compensation Trust Fund to appoint an arbiter from the list to arbitrate the dispute. Absent extraordinary circumstances, arbitration must be requested no later than 60 days after the employee and/or ombudsperson concludes attempts to resolve the dispute with the employer's insurer.

The administrator shall appoint an arbiter from the list within three (3) working days of receipt of a request. Arbiters shall be appointed on a rotating basis, however, no arbiter who is unable to arbitrate the dispute within 20 working days of appointment shall be appointed to arbitrate that dispute absent a contrary stipulation between the employee and employer. Should the employee and employer so stipulate, the employee and employer may jointly request appointment of a specific arbiter from the panel or arbitrators.

Upon request by the employees, the ombudsperson shall assist the employee in the arbitration. An employee receiving assistance from an ombudsperson but who is not represented in the arbitration proceeding by an attorney, shall be considered by the arbiter to be an "unrepresented worker."

In conducting the arbitration, the arbiter shall apply the same presumptions of compensability, statutory construction and rules of admissibility of evidence that would be applied by a Workers' Compensation Referee conducting a proceeding under the California Labor Code. The arbiter shall have the same authority as a Workers' Compensation Referee over discovery, the production of documents, the issuance of subpoenas and other procedural matters related to the arbitration hearing.

All arbitration proceedings shall be electronically recorded. The original tape and record of the proceeding shall be retained by the administrator of the Laborers' Workers' Compensation Trust Fund. Copies of the recording and record shall be supplied to the employee and employer upon request of the arbiter, employee or employer.

If the employer contends that the employee's injury or illness is not covered by the workers' compensation laws or this Agreement, the Arbitrator shall bifurcate the arbitration, upon request of the employer or employee, to decide the issue of liability first, and only if the injury is covered shall the arbiter decide the remaining issues regarding compensation.

Within ten (10) working days following the conclusion of the arbitration, the arbiter shall issue his or her written findings of fact, decision, order and, if applicable, award. The Arbitrator's decision shall include minutes of the arbitration; a summary of the oral testimony, if any; and the reasons for the decision. The arbiter is authorized to include in any award all relief available from a Workers' Compensation Referee including, but not limited to, enhancements to compensation due to any unreasonable delay in the payment of compensation by the insurer as provided for by law, and attorney's fees and costs. The arbiter is also authorized to assess the costs of the alternative dispute

resolution process contained in this Agreement against the employer, including the arbiter's fees, pursuant to the guidelines established by the parties to this Agreement. The arbiter is authorized to resolve all liens not settled by the parties, provided that written notice of the time and place of the arbitration is given to the lienholders advising them of their right to appear and present argument and testimony in support of their lien claim.

Any findings of fact, award, order or decision of the arbiter shall have the same force and effect as findings of fact, an award, order or decision of a California Workers' Compensation Referee.

The decision of the arbiter shall be subject to review pursuant to California Labor Code Section 3201.5 (a) (1) by the California Workers' Compensation Appeals Board in the same manner as provided for reconsideration of a final order, decision or award made and filed by a Workers' Compensation Referee and by the California Court of Appeal pursuant to the procedures set forth in California Labor Code Section 3201.5 (a) (1).

SECTION 3.4. Nothing in this alternative dispute resolution process shall prevent an employee from retaining an attorney to represent the employee in any and all stages of the alternative dispute resolution process established by this Agreement. Such retention of an attorney is the sole and absolute choice of the employee. In no event shall the Laborers' Workers' Compensation Trust Fund be liable for the expense of such representation. The terms and conditions of any Agreement between an employee and the employee's retained counsel are not subject to this Agreement nor does this Agreement in any fashion alter or replace any or all California law applicable to an

Agreement between an attorney and a worker pursuing Workers' Compensation benefits.

SECTION 4.0. The Union and employers have jointly approved the Qualified Medical Evaluators listed on Attachment "C" hereto. They shall serve as the exclusive source of comprehensive medical-legal evaluations, other than those received from treating physicians, to be obtained by employees covered by this Agreement and the insurers of employers who are parties to this Agreement as to claims for Workers' Compensation benefits which are subject to this Agreement. Any Qualified Medical Evaluator who does not continue to be a Qualified Medical Evaluator within the meaning of California Labor Code Section 139.2 shall be deleted from the pool of Qualified Medical Evaluators upon loss of status as a Qualified Medical Evaluator under California Labor Code Section 139.2.

Notwithstanding any other provision of this Agreement, no physician who has been involved in the examination or treatment of the employee may act as a Qualified Medical Evaluator in the employee's case.

SECTION 4.1. All notices of denial of claims and all notices required under the California Labor Code which require advice of an employee's right to a comprehensive medical-legal evaluation shall include a list of the Qualified Medical Evaluator panel including the addresses and telephone numbers of panel members. The notice shall include a copy of Sections 4.0, 4.1, 4.2, 4.3, 4.4, 4.5 and 4.6 of this Article.

SECTION 4.2. If the employee is not represented by an attorney and is entitled to a comprehensive medical-legal evaluation under the standards of California Labor Code

Sections 4060, 4061, or 4062 and all related sections of the California Labor Code, the employee, with the assistance of an ombudsperson, may obtain a comprehensive medical-legal evaluation from any one Qualified Medical Evaluator included in the panel. The Qualified Medical Evaluator selected by the employee shall consult with any Qualified Medical Evaluator on the panel of Qualified Medical Evaluators if in his or her opinion such consultation is necessary for a complete comprehensive medical-legal evaluation, provided that the Qualified Medical Evaluator shall notify the Administrator in writing prior to such consultation.

In cases subject to California Labor Code Section 4060 involving unrepresented employees, the employer may also obtain a comprehensive medical-legal evaluation from any Qualified Medical Evaluator included in the panel. In such cases, the Qualified Medical Evaluator selected by the insurer shall consult with any Qualified Medical Evaluator on the panel of Qualified Medical Evaluators if in his or her opinion such consultation is necessary for a complete comprehensive medical-legal evaluation, provided that the Qualified Medical Evaluator shall notify the Administrator in writing prior to such consultation.

In cases subject to California Labor Code Section 4060 involving unrepresented employees, the reports and testimony of the treating physician or physicians, the comprehensive medical-legal evaluation obtained by the employee from a panel member, the comprehensive medical-legal evaluation obtained by the insurer from a panel member and the testimony of those panel members shall be the only medical evidence admissible in a proceeding before the arbiter.

SECTION 4.3. If the employee is represented by an attorney and is entitled to a comprehensive medical-legal evaluation under the standards of California Labor Code Sections 4060, 4061 or 4062 and all related sections of the California Labor Code, neither the employee nor the insurer of the employer shall obtain any comprehensive medical-legal evaluation, other than that of a treating physician or physicians, prior to the expiration of a ten (10) working day period during which the employee and insurer shall attempt to agree upon a single Qualified Medical Evaluator from the panel of Qualified Medical Evaluators. If agreement on a Qualified Medical Evaluator is not reached within the ten (10) working day period, the employee and employer then may each select a Qualified Medical Evaluator from the panel of Qualified Medical Evaluators. The Agreed Medical Evaluator or Qualified Medical Evaluators selected shall prepare comprehensive medical-legal evaluations and shall consult with any Qualified Medical Evaluator on the panel of Qualified Medical Evaluators if in his or her opinion such consultation is necessary for a complete comprehensive medical-legal evaluation, provided that the Agreed Medical Evaluator or Qualified Medical Evaluators notify the Administrator in writing prior to such consultation. In cases involving employees represented by attorneys, the reports and testimony of the treating physician or physicians, the comprehensive medical-legal evaluations obtained pursuant to the foregoing procedure and the testimony of those panel members or Agreed Medical Evaluator shall be the only medical evidence admissible in a proceeding before the arbiter.

SECTION 4.4. Qualified Medical Evaluators on the panel established by the parties to this Agreement shall prepare a complete examination and comprehensive medical-legal evaluations within 30 days, provided, however, the Qualified Medical Evaluators may obtain an extension for good cause upon the approval of the Administrator. Each

comprehensive medical-legal evaluation shall address all contested medical issues in dispute at the time the evaluation is prepared.

SECTION 4.5. An employee who obtains a qualified medical-legal evaluation while not represented by an attorney shall not be entitled to any additional comprehensive medical-legal evaluation merely due to the fact that the employee subsequently retains an attorney.

SECTION 4.6. In accord with California Labor Code Section 4064, the employer, through its insurer, shall be liable for the cost of each reasonable and necessary comprehensive medical-legal evaluation obtained by the employee pursuant to this Agreement. The employer shall not be liable for the cost of any comprehensive medical-legal evaluation obtained by its employee other than those authorized pursuant to this Agreement. In no event shall the employer be liable for any comprehensive medical-legal evaluation performed by other than the treating physician or physicians, either in whole or in part, prior to the employee's filing of a claim form and prior to the time the claim is denied or becomes presumptively compensable under California Labor Code Section 5402. Nothing in this Agreement prevents the employer or employee from obtaining any additional comprehensive medical-legal evaluation or consultation at the employer's, insurer's or employee's own expense, but in no event shall such additional comprehensive medical-legal evaluations or consultations be admissible in a proceeding before the arbiter under this Agreement.

SECTION 5.0. The Union and Employer Associations have created a joint labor management safety committee consisting of an equal number of Employer and Union representatives. The committee has established the Workers' Compensation safety

group referenced in this Agreement. The committee shall assure that the Workers' Compensation safety group complies with all provisions of California Insurance Code Sections 11656.6 and 11656.7 to the extent required by California Labor Code Section 3201.5. Any employer not signatory to this Agreement or its successors may not participate in the Workers' Compensation safety group established by the committee.

SECTION 6.0. Attached hereto and marked Attachment "D" is a list of exclusive qualified rehabilitation representatives and independent vocational evaluators approved by the Union and employers. Should an injured worker subject to this Article be determined to be a "qualified injured worker" within the meaning of California Labor Code Section 4635 and should the injured employee desire vocation rehabilitation benefits, the injured employee, with the assistance of the ombudsperson, shall select a panel member to provide vocational services and assistance in the creation of a vocational rehabilitation plan. All disputed matters regarding vocational rehabilitation benefits shall be processed through the alternative dispute resolution process contained in this Agreement.

SECTION 7.0. The parties have developed a light-duty modified job and return-to-work program which is attached hereto as Attachment "E". The employer may implement or discontinue this program at the employer's sole discretion.

SECTION 8.0. Nothing in this Agreement replaces or supersedes any provision of the California Labor Code related to the apportionment of injuries, the availability of the Office of Benefit Determination in terms of permanent partial disability ratings, the commutation of benefits, or the compromise and release of claims. Since the release of future medical coverage may cause substantial hardship to employees and in

recognition of that hardship, the employer or its insurer must provide the ombudsperson with notification of any proposal by an insurer to an employee subject to this Agreement which calls for the release of future medical coverage by the employee.

SECTION 9.0. This Agreement shall not apply to any injury occurring before its effective date. The effective date of this Agreement shall be established by mutual agreement of the parties.

SECTION 10.0. The provisions of this Agreement are severable. Any provision of this Agreement deemed invalid by an entity with authority under law to make that determination shall be deemed severed. Should any provision of this Agreement be deemed invalid, the parties agree to commence negotiations solely for the purpose of replacing that provision deemed invalid by an entity with authority under law to make that determination.

SECTION 11.0. Attached hereto as Attachment "F" is a listing of the individual employer members of each Association executing this Agreement. Each of those signing for each Association below expressly warrants that the signer is authorized to execute this Agreement on behalf of the Association listed over the signer's signature and warrants that the members of that Association listed on Attachment "F" are parties to, and bound by their terms and provisions set forth in this addendum. Any employer that joins a signatory Association subsequent to the execution of this Agreement and any existing member of an Association not set forth on Attachment "F" hereto may become a party to the Agreement.

SECTION 12.0. This Agreement shall remain in full force and effect during the term of the current Master Labor Agreement between the Union and the Employer Associations, and during any extension, modification or renewal term thereof, and during any post-contract period in which employers bound to the Agreement are obligated to maintain the wages, hours and working conditions prescribed by the Master Labor Agreement, and for a period of one hundred eighty (180) days after the last of such periods.

Individual employers may, at their option, terminate this Agreement during its term upon 60 days notice to the parties.

execution of this Agreement and any existing member of an Association not set forth on Attachment "F" hereto may become a party to the Agreement.

SECTION 12.0. This Agreement shall remain in full force and effect during the term of the current Master Labor Agreement between the Union and the Employer Associations, and during any extension, modification or renewal term thereof, and during any post-contract period in which employers bound to the Agreement are obligated to maintain the wages, hours and working conditions prescribed by the Master Labor Agreement, and for a period of one hundred eighty (180) days after the last of such periods. Individual employers may, at their option, terminate this Agreement during its term upon 60 days notice to the parties.

Executed this 31st day of December, 1994,
at Los Angeles, California.

Associations:

ASSOCIATED GENERAL CONTRACTORS OF
CALIFORNIA, INC.

BY Malbourne E. Joseph

BUILDING INDUSTRY ASSOCIATION OF
SOUTHERN CALIFORNIA, INC.

By 

ENGINEERING CONTRACTORS' ASSOCIATION,
INC.

By 

SOUTHERN CALIFORNIA CONTRACTORS'
ASSOCIATION, INC.

By 

Union:

SOUTHERN CALIFORNIA DISTRICT COUNCIL
OF LABORERS

By 

ADDENDUM TO WORKERS'
COMPENSATION AGREEMENT

Pursuant to California Labor Code Section 3201.5, the Associated General Contractors of California, Inc., the Building Industry Association of Southern California, Inc., the Southern California Contractors' Association, Inc., the Engineering Contractors Association, Inc. ("Associations") and the Southern California District Council of Laborers ("Union") have entered into a Workers Compensation Agreement, dated December 31, 1994. By this Addendum, the parties amend the Agreement as follows:

1. Add as new last sentence to Section 1.0:

This Agreement sets forth the mechanism for resolution of all issues involving workers compensation claims to the extent permissible under Labor Code § 3201.5.

2. Add as new last paragraph to Section 1.1:

An eligible employer may participate under this Agreement either as part of a safety group, or the employer may participate without joining a safety group if qualified to do so and projects California Workers' Compensation premiums in excess of \$250,000.00 for the year.

3. Add as Section 3.2:

SECTION 3.2 Attached hereto and marked Attachment "A-1" is a list of mediators selected jointly by the Union and employers subject to this Article. If a dispute related to a claim governed by this Article is not resolved pursuant to

Section 3.1, the employee may request the administrator of the Laborers' Workers' Compensation Trust Fund to appoint a mediator to provide mediation services. Further, the Workers' Compensation insurer of an employer subject to this agreement may also request the administrator of the Laborers' Workers' Compensation Trust Fund to appoint a mediator to provide mediation services related to any claim for benefits subject to this Article.

The administrator shall appoint a mediator from the list within three (3) working days of receipt of a request for an appointment of a mediator. Mediators shall be appointed on a rotating basis, however, no mediator who is unable to meet with the employee and representative of the insurer within five (5) working days of appointment by the administrator shall be appointed to mediate that dispute. Upon request by the employee, the ombudsman shall assist the employee in any mediation proceedings.

The mediator shall contact the employee and the employer. Both the employee and employer shall supply the mediator with requested information. The mediator shall meet separately with the employee and the employer. The mediator may schedule a mediation session to be attended by both the employee and the representative of the insurer. The mediator is authorized to mediate all issues related to the workers compensation dispute, including but not limited to attorneys fees; serious and wilful misconduct; claims under Labor Code § 132a, other sanctions such as those contained in Labor Code § 5814; Stipulations with Request for Award, Compromise & Release; and Vocational

Rehabilitation Orders or Plans. If the dispute is not resolved within fifteen (15) working days of the appointment of the mediator, the mediation process shall be deemed exhausted absent a contrary stipulation between the employee and the representative of the insurer.

All time limits contained in this section may be extended by mutual agreement of the parties involved in the dispute.

Where the term "employer" is used in this Section, it shall also refer to and include the employer's insurer. Where the term "insurer" is used in this Section, it shall also refer to and include the employer.

4. Add as new last paragraph to Section 3.3 on page 16:

Where the term "employer" is used in this Section, it shall also refer to and include the employer's insurer. Where the term "insurer" is used in this Section, it shall also refer to and include the employer.

5. Add as new last sentence to third paragraph on page 14, Section 3.3:

The Arbitrator shall have the same authority as a Workers Compensation Referee over all issues related to the workers compensation dispute, including but not limited to attorneys fees; serious and willful misconduct; claims under Labor Code § 132a; other sanctions such as those contained in Labor Code § 5814; Stipulations with Request for Award, Compromise & Release; and Vocational Rehabilitation Orders or Plans.

All time limits contained in this Section may be extended by mutual agreement of the parties involved in the Dispute.

Executed this ____ day of _____, 1997, at _____, California.

Associated General Contractors of California, Inc.

Southern California District Council of Laborers

By: [Signature]

By: [Signature]

Dated: 1/12/98

Dated: _____

Building Industry Association of Southern California, Inc.

By: [Signature]

Dated: 12/10/97

Engineering Contractors' Association, Inc.

By: [Signature]

Dated: 12/10/97

Southern California Contractors' Association, Inc.

By: [Signature] [Signature]

Dated: 12-10-97

Agreement of Association

Rules and Regulations

The following will be adopted for the Southern California Laborers' & Southern California Contractors and Contractor Associations Safety Group and is the statement with regard to the reduction or forfeiture of members' rights to distribution of dividend funds.

Any distribution of funds to any members in good standing, derived from a dividend, shall not be reduced or forfeited except for the reason set forth below:

1. No dividend will be paid to a member who is delinquent in the payment of his workers' compensation Southern California Laborers' & Southern California Contractors and Contractor Associations Safety Group has the right to use the said dividends to pay delinquent premium or group fees, if any.
2. Group fees shall include the fee to maintain the Alternative Dispute Resolution program and the services of an ombudsman.


Participation in the Group Workers' Compensation Insurance Program is at the discretion of the group and/or the underwriter of said group Program. Membership in the group is not a guaranteed right to participation in the Workers' Compensation Insurance Program.

Individual members will be provided with a copy of these "Rules and Regulations" and a copy of the Workers' Compensation Agreement, along with any other Resolution regarding the group program.

Executed this _____ day of _____, 1997, at _____, California.

Associations:

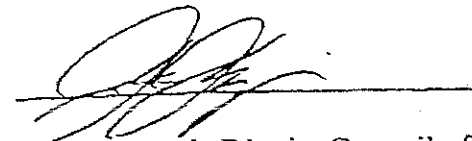
Associated General Contractors of
California, Inc.

By 

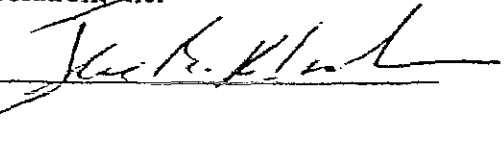
Building Industry Association of
Southern California, Inc.

By 

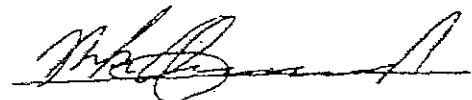
Engineering Contractors' Association, Inc.

By 

Southern California Contractors'
Association, Inc.

By 

Southern California District Council of Laborers'

By 

Southern California Laborers' Workers' Compensation - Alternative Dispute Resolution

4401 Santa Anita Avenue
 El Monte, CA 91731-1607
 Telephone: (626) 575-2581 - Pager: (800) 780-6086
 Facsimile: (626) 448-0367

RULES OF THE ALTERNATIVE DISPUTE RESOLUTION PROGRAM

Pursuant to the provisions of California Labor Code Section 3201.5 the Southern California Laborers Workers Compensation Alternative Dispute Resolution Program (ADR) replaces all of those dispute resolution processes contained in Division 4 of the California Labor Code. The Board of Trustees of the Southern California Health & Welfare Trust may change these rules at any time. These rules are intended to facilitate and expedite the resolution of disputes involving work-related injuries.

ARTICLE I. Pre-Arbitration Discovery:

Section 1. Pre-Arbitration discovery shall be allowed in the same manner as discovery is permitted in California Labor Code Section 5710. Provided any references therein to the appeals board or the workers' compensation judges or referees shall be deemed to be references to the Administrator, Trust, Mediators or Arbitrators as the context so requires.

Section 2. Upon the filing of a claim of workers' compensation injury with any contributing member of the Trust, it shall be the duty of all parties to immediately serve upon all opposing parties, as the case may be, copies of all medical reports in their possession or under their control, or that may come into their possession or under their control.

ARTICLE II. Ombudsman

Section 3. For evidentiary and discovery purposes, the Ombudsman shall be considered a mediator pursuant to Sections 703.5 and 1152.5 of the California Evidence Code.

ARTICLE III. Commencing Mediation:

Section 4. Provided a dispute has been submitted to the Ombudsman and it has not been resolved within 10 working days, or such period mutually agreed upon between the employee and the employer, either party may commence mediation. When used in any of the mediation and arbitration rules, policies, and procedures, the word "employer" also refers to the employer's workers' compensation insurance carrier. Failure to timely file a "Request for Mediation" shall bar any further right to adjudicate the issue or issues submitted to the Ombudsman, including the right to arbitration or review by the Workers' Compensation Appeals Board.

Section 5. Either party may request the Ombudsman to assist in the filing of a request for mediation.

Section 6. The "Request for Mediation" shall be filed with the Trust Administrator on the "Request for Mediation" form. A copy of which is attached to these procedures.

Section 7. The Ombudsman shall sign the "Request for Mediation" certifying that the dispute or issue which is the subject of the Mediation request was presented to the Ombudsman for resolution but the Ombudsman was unable to resolve same, and that the "Request for Mediation" is or is not being filed timely (not more than 60 days following notification to the Ombudsman of the dispute). The Ombudsman may extend the time for filing the "Request for Mediation" for good cause shown filed in writing with the Ombudsman.

Section 8. At the time of filing the "Request for Mediation" the filing party shall serve a copy of the "Request for Mediation" by mail, facsimile transmission, or other means to assure receipt within 3 days upon the other party or parties.

Article IV. Processing the "Request for Mediation":

Section 9. Upon receipt of the "Request for Mediation" form the Trust Administrator shall:

a. Endorse the Request as filed and assign a Trust Mediation number to the case.

b. Within 3 working days assign a mediator to the case from the list of mediators approved by the Trust and send notification to the Mediator of such assignment together with a copy of the "Request for

Mediation". The proposed Mediator shall advise the Trust within 5 days of his or her acceptance of assignment. If the Mediator does not accept the assignment, another mediator shall be assigned in the same manner as set forth herein, until a mediator accepts the assignment. Mediators shall be appointed on a rotating basis.

ARTICLE V. Mediator:

Section 10. The Mediator shall promptly contact the parties involved in the dispute in a manner consistent with resolving the dispute within 15 days from the date of acceptance of the assignment. If the dispute is not resolved within 15 working days of acceptance of appointment, the mediation process shall be deemed exhausted absent a contrary stipulation between the employee and the employer.

Section 11. The parties shall be personally involved in the Mediation process and may not address the Mediator through a representative, provided however, the employer may be represented by the claims examiner assigned to the employee's claim. Further, upon request by the employee, the ombudsman shall assist the employee in any mediation proceedings.

Section 12. The Mediator shall take whatever steps the Mediator deems reasonable to bring the dispute to an agreed conclusion within the time allowed for completing the Mediation, including scheduling mediation sessions, implementing means to discuss the dispute with the parties individually or collectively, requiring a party or parties to provide additional documentation or information, or appointing an authorized health care professional to assist in the resolution of any medical issue.

Section 13. The mediator is authorized to mediate all issues related to the workers compensation dispute, including but not limited to attorney's fees, serious and willful misconduct, claims under Labor Code Section 132a, other sanctions such as those contained in Labor Code Section 5814, Stipulations with Request for Award, Compromise & Release, and Vocational Rehabilitation Orders and Plans.

Section 14. Within 10 days of completion of the Mediation, the Mediator shall file with the Trust the "Mediator's Statement of Completion and Result" and serve a copy of it on the parties.

ARTICLE VI. Arbitration:

Section 15. The Arbitrator shall have the same authority as a workers' compensation judge or referee over all issues related to the workers compensation dispute, including but not limited to attorney's fees, sermons and willful misconduct, claims under Labor Code Section 132a, other sanctions such as those contained in Labor Code Section 5813, 5814, 5814.5 including those sections relating to bad faith actions or tactics, liability for additional expenses, and unreasonable delay or refusal of payment of compensation, Stipulations with Request for Award, Compromise & Release, and Vocational Rehabilitation Orders and Plans.

Section 16. The Arbitrator or Arbitrators (hereinafter referred to as "the Arbitrator") approved by the Trustees of the Southern California Laborers Health & Welfare Trust is or are vested with full power and authority and jurisdiction to try and determine finally all the matters specified in Section 5300 of the California Labor Code, subject only to the review by the Workers' Compensation Appeals Board of the State of California and the courts specified in Division 4 of the California Labor Code as having powers of review of determinations of the appeals board. The Arbitrator shall apply California law, both decisional and statutory, except as modified herein under the authority of California Labor Code Section 3201.3, in rendering his or her decision. The rules of Arbitration herein are in lieu of the rules of the American Arbitration Association.

Section 17. All orders, rules, findings, decisions, and awards of the Arbitrator shall be prima facie lawful and conclusively presumed to be reasonable and lawful, until and unless they are modified or set aside by the appeals board or upon review by the courts within the time and in the manner specified in Division 4 of the California Labor Code.

Section 18. There is but one cause of action for each injury coming within the Southern California Laborers Workers' Compensation Alternative Dispute Resolution program (hereinafter "the Program"). All claims brought for medical expense, disability payments, death benefits, burial expense, liens, or any other matter arising out of such injury may, in the discretion of the Arbitrator, be joined in the same proceeding at any time; provided, however, that no injury, whether specific or cumulative, shall for any purpose whatsoever, merge into or form a part of another injury; nor shall any award based on a cumulative injury include disability caused by a

specific injury or by any other cumulative injury causing or contributing to the existing disability, need for medical treatment or death. Notwithstanding the foregoing, the rule established in the case of Wilkerson v WCAB (1977) 19 C3d 491, 138 CR 696, 42 CCC 406, shall govern combining permanent disabilities that become permanent and stationary at the same time.

Section 19. The Arbitrator has jurisdiction over any controversy relating to or arising out of medical and hospital treatment as between the parties and others.

Section 20. The Arbitrator has jurisdiction over all controversies arising out of injuries suffered without the territorial limits of California in those cases where the injured employee is a resident of this state at the time of the injury and the contract for hire was made in this state. Any such employee or his dependents shall be entitled to the compensation or death benefits provided by the Program.

Section 21. The death of an employer subsequent to the sustaining of any injury by an employee shall not impair the right of the employee to proceed within the Program against the estate of the employer, and the failure of the employee or his dependents to cause the claim to be presented to the executor or administrator of the estate shall not in any way bar or suspend such right.

Section 22. The Arbitrator may appoint a trustee or guardian ad litem to appear for and represent any minor or incompetent upon the terms and conditions which he or she deems proper.

Section 23. The Arbitrator may provide for the joinder in the same proceeding of all persons interested therein, whether as employer, insurer, employee, dependent, creditor, service provider or otherwise.

ARTICLE VII. Settlements:

Section 24. Any case may be settled upon submission of the proposed settlement to the Trust Administrator. The proposed settlement set forth either upon the forms approved by the Trust and entitled "Compromise & Release Agreement" or "Stipulation with Request for Award." Upon receipt of a fully executed proposed settlement, the Ombudsman shall forward same to an Arbitrator for review for adequacy and approval.

Section 25. Upon receipt of a proposed settlement, the Arbitrator shall act independently and, in issuing orders or awards, shall either:

a. Approve the proposal as submitted and issue an appropriate order or award and serve same on the parties and the Trust Administrator;

b. Reject the proposal and specify the reasons therefor in writing and serve same on the parties and the Trust Administrator; or

c. Contact the parties by telephone or writing and suggest amendments that would qualify the proposal for approval.

If the Arbitrator elects to proceed under subsection "c." above, the parties shall have 5 working days to notify the Arbitrator of his, its, or her acceptance or rejection of the suggested amendments. If accepted, the Arbitrator shall hold the file for not more than 20 working days for receipt of the appropriately amended agreement. If rejected, the Arbitrator shall immediately return the file to the Trust Administrator and advise the parties and the Ombudsman in writing that the proposed settlement was unacceptable and state the reasons therefor.

ARTICLE VIII. Commencing Arbitration:

Section 26. Within 30 calendar days following the filing of the "Mediator's Statement of Completion Result" any party not satisfied with the outcome of Mediation may file with the Trust a request that the matter be referred to Arbitration. Failure to timely file the request for referral to arbitration of the disputed issue or issues submitted to the Mediator shall bar any further right to adjudicate such disputed issue or issues. The time for filing the request for arbitration may be extended upon a showing of good cause filed in writing with the Trust and approved by an Arbitrator.

ARTICLE IX. Processing the Request for Arbitration:

Section 27. Upon receipt of the Request For Arbitration The Trust shall:

a. Endorse the request as filed and assign a Trust Arbitration number to the case and forthwith serve a copy thereof upon all adverse parties.

b. Within 5 working days assign an arbitrator from the list of arbitrators approved by the Trust and send notification to the proposed Arbitrator of such

assignment together with a copy of the Request for Arbitration. The proposed Arbitrator shall advise the Trust within 10 days of the sending of notification of his or her acceptance of the assignment. If the Arbitrator does not accept the assignment, another arbitrator shall be assigned in the same manner as set forth herein, until an arbitrator accepts the assignment.

Section 28. Upon receipt of notice of acceptance of the assignment from the Arbitrator to the Trust Administrator, the Trust Administrator shall consult with the parties and allow them 30 days to retain and/or consult with legal counsel. The Trust Administrator shall set the date of hearing not more than 60 days from the date the Arbitrator accepts assignment and give notice of the date, time and place for hearing. Notwithstanding the foregoing, the hearing date may be set at anytime if agreed upon by the parties and approved by the Arbitrator.

a. The Trust Administrator shall fix the place of hearing in a locale giving priority consideration to the county of residence of the employee.

b. Notice of time and place for hearing shall be given by the Trust Administrator by mailing to each party notice thereof at least 20 calendar days in advance, unless the parties agree otherwise.

c. An attorney may represent any party to the hearing. A party intending to be represented by an attorney shall notify the other party or parties and the Ombudsman of the name and address of such attorney not less than 5 days prior to the date set for the hearing at which the attorney is first to appear.

ARTICLE X. Hearing:

Section 29. The Trust Administrator shall arrange for a stenographic record to be made of the proceedings at hearing, the cost of which shall be paid by the employer. The cost of any transcription shall be borne by the requesting party.

Section 30. It shall be the responsibility of any party producing a witness requiring an interpreter to arrange for the presence of a qualified interpreter as such is defined in California Labor Code Section 5811(b) and fees shall be allowed in accordance with said Labor Code Section.

Section 31. The Arbitrator shall maintain the privacy of the hearing unless the law provides to the contrary. Any person having a direct interest in the arbitration is entitled to attend the hearing. The

Arbitrator shall otherwise have the power to require the exclusion of any witness, other than a party or other essential person, during the testimony of any other witness. It shall be discretionary with the Arbitrator to determine the propriety of the attendance of any other person.

Section 32. The Arbitrator may, for good cause, postpone the hearing upon the request of a party or upon the arbitrator's own initiative, and shall grant such postponement when all of the parties agree thereto.

Section 33. Before proceeding with the first hearing the Arbitrator shall take an oath of office. The Arbitrator may require witnesses to testify under oath administered by any duly qualified person and, if required by law or requested by either party, shall do so.

Section 34. Unless the law provides to the contrary, the arbitration may proceed in the absence of any party or counsel who, after due notice, fails to be present or fails to obtain an adjournment. An award shall not be made solely on the default of a party. The Arbitrator shall require the party who is present to submit such evidence as is deemed necessary for the making of an award.

Section 35. If a Request for Arbitration shows upon its face that the requestor is not entitled to compensation, the Arbitrator may, after opportunity to the requestor to be heard orally or to submit his or her claim or argument in writing dismiss the Request for Arbitration without any hearing thereon. Such dismissal may be upon the motion of the Arbitrator or upon the motion of the adverse party. The pendency of such motion or notice of intended dismissal shall not, unless otherwise ordered by the Arbitrator, delay the hearing on the Request for Arbitration upon its merits.

Section 36. Order of Proceedings:

a. The hearing shall be opened by the filing of the oath of the Arbitrator, where required; by the recording of the place, time and date of the hearing and the presence of the Arbitrator, the parties, and counsel, if any; and by the receipt by the Arbitrator of the statement of the claim and answer, if any.

b. The Arbitrator may, at the beginning of the hearing, ask for the statements clarifying the issues involved. The claimant shall then present its claims, proofs, and witnesses, who shall submit to questions or other examination. The Arbitrator has discretion to

vary this procedure but shall afford full and equal opportunity to the parties for the presentation of any material or relevant proofs. The Arbitrator shall fully develop the record.

c. Exhibits, when offered by either party, may be received in evidence by the Arbitrator.

d. The name and addresses of all witnesses and exhibits in the order received shall be made part of the record.

e. The parties may, by written agreement, provide for waiver of oral hearings.

Section 37. Evidence:

a. The parties may offer such evidence as is relevant and material to the dispute and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the dispute. The Arbitrator is authorized to subpoena witnesses or documents and may do so upon the request of any party or independently.

b. The Arbitrator shall be the judge of the relevance and materiality of the evidence offered, and conformity to legal rules of evidence shall not be necessary. All of the evidence shall be taken in the presence of the Arbitrator and all of the parties, except where any of the parties is absent in default or waives the right to be present.

c. Any party intending to offer any medical report or record at the hearing must provide the other party with a copy at least 20 days in advance thereof, unless the Arbitrator finds good cause for failure to do so.

d. The Arbitrator may receive and consider the evidence of witnesses by affidavit, but shall give it only such weight as the Arbitrator deems it entitled to after consideration of any objection made to its admission.

e. If the parties agree or the Arbitrator directs that documents are to be submitted to the Arbitrator after the hearing, they shall be filed with the Trust for transmission to the Arbitrator. The filing party shall serve the other party or parties with copies of same at the time of filing.

f. The Arbitrator may in his or her sole discretion appoint an authorized health care professional to assist in the resolution of any medical issue.

Section 38. Unless the parties otherwise agree, the arbitration proceeding shall be completed within 30 days after the first hearing which is deemed to be the date of referral. The Arbitrator shall specifically inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, or if satisfied that the record is complete, the Arbitrator shall declare the hearing closed and submitted for decision and such closing and submission shall be made a part of the record of proceedings. If briefs are to be filed, the hearing shall be declared to be closed and submitted as of the final date set by the Arbitrator for receipt of briefs. If post-hearing filing of evidentiary documents is allowed by the Arbitrator and the date set for their receipt is later than that set for the receipt of briefs, the later date shall be the date of closing the hearing and submission for decision. The time limit within which the Arbitrator is required to make the award shall commence to run, in the absence of other agreements by the parties, upon the closing of the hearing and submission for decision.

Section 39. The hearing may be reopened by the Arbitrator at his or her discretion, or for good cause upon the application of any party at any time before the Arbitrator files his or her decision and award. However, if reopening the hearing would extend completion of the proceedings beyond 30 days from the date of the first hearing the hearing shall not be reopened, unless the parties agree otherwise.

Section 40. The Arbitrator shall, within 10 calendar days of closing the hearing and submission of the case, make and file findings upon all facts involved in the controversy and an award, order, or decision stating the determination as to the rights of the parties. Together with the findings, decision, order or award, there shall be served upon all the parties to the proceedings a summary of the evidence received and relied upon and the reasons or grounds upon which the determination was made.

ARTICLE XI Findings and Awards:

Section 41. All awards of the Arbitrator either for payment of compensation or for the payment of death benefits, shall carry interest at the same rate as judgements in civil actions on all due and unpaid payments from the date of the making and filing of such award. Such interest shall run from the date of making and filing of an award. As to amounts which by the terms of the award subsequently become due in installments or otherwise, such interest shall run from the date each such amount becomes due and payable.

Section 42. The Arbitrator in his or her award may fix and determine the total amount of compensation to be paid and specify the manner of payment, or may fix and determine the weekly disability payment to be made and order payment thereof during the continuance of disability.

Section 43. The Program has continuing jurisdiction over all orders, decisions, and awards made and entered under its authority and pursuant to the provisions of California Labor Code Section 3201.5. At any time, upon notice and after an opportunity to be heard is given to the parties in interest, the Arbitrator may rescind, alter, or amend any order, decision or award, good cause appearing therefor. This power includes the right to review, grant or regrant, diminish, increase or terminate, within limits prescribed for workers' compensation judges or referees by Division 4 of the California Labor Code, any compensation awarded, upon the grounds that the disability of the person in whose favor the award was made has either recurred, increased, diminished, or terminated.

Section 44. The certified copy of the findings and order, decision, or award of the Arbitrator as filed with the Trust Administrator and a copy of the judgement constitute the judgement-roll of the Trust Administrator. The pleadings, all orders of the Arbitrator, Arbitrator's original findings and order, decision or award, and all other papers and documents filed in the cause shall remain on file in the office of the Trust Administrator.

Section 45. Every order, decision or award, other than an order merely appointing a trustee or guardian, shall contain a determination of all issues presented for determination by the Arbitrator prior thereto and not theretofore determined. Any issue not so determined will be deemed decided adversely as to the party in whose interest such issue was raised.

ARTICLE XII. Attorney Fees:

Section 46. Pursuant to the collective bargaining process the parties to the Program have determined the reasonable attorney's fees is an amount not greater than 12% of the permanent disability award.

Section 47. None of the parties will be permitted to be represented by legal counsel at the ombudsman stage or mediation stage of the proceedings. All the communications between the

ombudsman or mediator and any of the parties shall be directly with the parties, and not through legal counsel. This provision is not intended to limit any party's right to obtain legal advice. Any party has a right to legal advice at such party's own expense. The participation of legal counsel during the proceedings under this program is limited to the Arbitration, provided a written request for Arbitration has been timely filed with the Trust Administrator.

Section 48. The Arbitrator shall make a finding as to which party is the prevailing party in the arbitration proceeding. If the employee is found to be the prevailing party the Arbitrator shall set the attorney's fee at no greater than 12% of the permanent disability award and order attorney's fee to be paid by the employer. If the employee is not found to be the prevailing party, the Arbitrator shall set the attorney's fee at no greater than 12% of the permanent disability award and order the attorney's fee to be withheld from the employee's compensation and paid to the employee's attorney.

Section 49. The employee and the attorney may agree to a fee in excess of the 12% maximum, provided the attorney submits evidence, including a copy of a written fee agreement between the employee and the attorney, and itemization of personal time involved in activities relating to advancing the employee's cause, which shall include good faith settlement efforts, to the Arbitrator justifying such excess fee, and the Arbitrator makes specific findings of fact to support an order granting such excess fee. Any excess fee shall be withheld from the employee's compensation and paid to the attorney.

ARTICLE XIII. Division 4 of California Labor Code - Provisions Included Herein by Reference:

Section 50. The following additional provisions of Division 4 of the California Labor Code are included herein by this reference, provided whenever the terms appeals board and workers' compensation judge or referee are used therein they shall refer to the Arbitrator and/or the Program as the context so requires:

Labor Code Section and/or reference:

§3201.5 and those Sections referenced therein;

§3202 Liberal Construction;

§3202.5 No Relief From Meeting Burden of Proof;

§3204 Definitions Govern Construction;

Part 1, Chapter 1 and Chapter 2 Definitions contained therein;

§3208.2 Multiple Injuries – Questions of Fact, Law Separately Determined;

§3208.3 Psychiatric Injury – Determination of Compensability;

§3208.4 Injury Arising Out of Alleged Sexual Conduct – Relevance of Past Sexual Conduct;

§3209.7 Employee Injuries – Agreements for Additional Treatment;

§3209.8 Treatment Shall Include Counseling; Part

§3600 Compensation Liability – Requirements;

§3601 Compensation Exclusive Remedy;

§3602 Concurrence of Conditions of Compensation;

§3603 Payment of Compensation – Discharges all Claims;

§3604 Violations of Employee Hiring Laws – No Defense;

§3605 Minors – Payment of Compensation;

Part 2, Chapters 1 and 2 Definitions and indemnity compensation schedules contained therein;

§4061 Medical evaluation of permanent impairment or limitations;

§4551 Employee Misconduct – Compensation Reduction;

§4552 Compensation Reduction – Arbitrator Determination;

§4553 Employer Misconduct – Compensation Increase;

§4553.1 Employer Misconduct – Required Findings;

§4555.5 Petition for Award Reduction – Denial;

§4556 Increases Not Limited;

§4557 Illegally Employed Minors – Compensation Increased;

§4903 Allowable Liens Against Compensation;

§4903.1 Compromise of Claims – Reimbursement for Benefits Paid;

§4907 Privilege to Appear in Appeals Board Proceedings – Denial;

§5001 Release of Liability – Approval Required;

§5002 Release, Compromise Agreement – Filing;

§5300 Proceedings to be Instituted Before the Appeals Board;

Part 4, Chapter 2 Limitations of Proceedings;

§5710 Deposition of Witnesses.

ARTICLE XIV. Selection of Qualified Medical Evaluator.

Section 51. Notwithstanding any provision in these Rules or the law to the contrary, the procedure for selecting a second medical opinion arising from a dispute over the treating physician's findings shall be as follows:

a. The party disputing the physician's findings shall contact the Ombudsman and describe the nature of the dispute. The Ombudsman shall thereupon assist in the completion of a *Request for Qualified Medical Evaluation* and provide such request to the Trust.

b. The Trust shall forthwith provide a panel of three physicians, each certified by the State of California, Industrial Medical Council to be a Qualified Medical Evaluator (QME), to the injured worker. The injured worker shall select a physician from the panel to prepare a medical evaluation on all related issues in dispute.

c. The injured worker shall be responsible for making an appointment with the selected QME as soon as reasonably possible, and shall immediately notify the Trust of the QME selected, and the date and time of the appointment.

ARTICLE XV. Informal Ratings.

Section 52. Notwithstanding any provision in these Rules or the law to the contrary, the procedure for obtaining an informal rating shall be as follows:

a. An informal rating will be prepared by a qualified Independent Rating Consultant upon the request of the employee and/or his/her representative and the employer, or at the request of the Ombudsman providing the necessary information. Such requests shall be submitted on a "Request For Informal Rating Determination" form. A copy of which is attached to these procedures. Informal ratings shall be issued only in those instances where a "Request For Mediation" or "Request For Arbitration" has not been filed with the Ombudsman.

b. The Independent Rating Consultant will issue the informal rating on an "Informal Rating Determination" form. A copy of which is attached to these procedures. The form will contain a statement that the informal rating is not: 1) a finding, award, order or decision of the Mediator or Arbitrator, and 2) evidence as to the existence of the factors of disability.

c. Where the informal rating indicates a life pension or provision for future medical treatment appears indicated the Independent Rating Consultant will forward a copy of the rating to the Ombudsman for the purpose of obtaining a stipulated award or other action as may be appropriate.

d. Self-ratings prepared by the employer are not acceptable substitutes for informal ratings prepared by an Independent Rating Consultant.

Section 53. The "Request For Informal Rating Determination" form shall be presented to the Ombudsman, along with copies of all medical reports. The Ombudsman shall forward the "Request For Informal Rating" form along with all medical reports to an Independent Rating Consultant for preparation of an *Informal Rating Determination*.

Section 54. The Independent Rating Consultant shall promptly review the information provided and prepare an *Informal Rating Determination* within 5 business days of receipt. The Independent Rating Consultant may contact the Ombudsman in order to obtain additional information necessary to prepare an informal rating. The Independent Rating Consultant shall not communicate directly with any of the parties involved in the claim.

Section 57. Upon completion of the *Informal Rating Determination*, the Independent Rating Consultant shall forward the original informal rating to the Ombudsman, along with a statement of charges to be presented to the employer for payment. The Ombudsman will serve copies of the *Informal Rating Determination* on all parties.

Agreement of Association

Rules and Regulations

The following will be adopted for the Southern California Laborers' & Southern California Contractors and Contractor Associations Safety Group and is the statement with regard to the reduction or forfeiture of members' rights to distribution of dividend funds.

Any distribution of funds to any members in good standing, derived from a dividend, shall not be reduced or forfeited except for the reason set forth below:

1. No dividend will be paid to a member who is delinquent in the payment of his workers' compensation Southern California Laborers' & Southern California Contractors and Contractor Associations Safety Group has the right to use the said dividends to pay delinquent premium or group fees, if any.
2. Group fees shall include the fee to maintain the Alternative Dispute Resolution program and the services of an ombudsman.

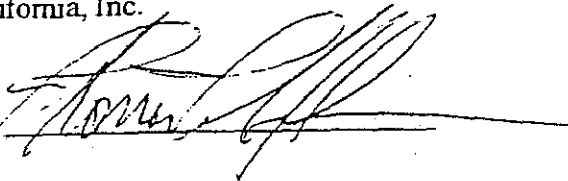
Participation in the Group Workers' Compensation Insurance Program is at the discretion of the group and/or the underwriter of said group Program. Membership in the group is not a guaranteed right to participation in the Workers' Compensation Insurance Program.

Individual members will be provided with a copy of these "Rules and Regulations" and a copy of the Workers' Compensation Agreement, along with any other Resolution regarding the group program.

Executed this _____ day of _____, 1997, at _____, California.

Associations:

Associated General Contractors of
California, Inc.

By 

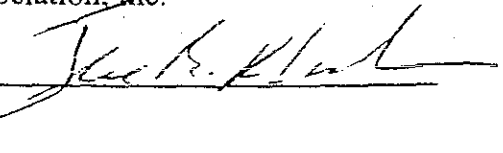
Building Industry Association of
Southern California, Inc.

By 

Engineering Contractors' Association, Inc.

By 

Southern California Contractors'
Association, Inc.

By 

Southern California District Council of Laborers'

By 



**SOUTHERN CALIFORNIA LABORER'S
WORKERS' COMPENSATION PROGRAM**

**ALTERNATIVE DISPUTE RESOLUTION SYSTEM
Pursuant to California Labor code Section 3201.5**

MEMORANDUM OF UNDERSTANDING

In signing this Memorandum of Understanding (MOU), the undersigned firm hereby agrees to be bound by all the terms and provisions of the Agreement on the Workers' Compensation Dispute Resolution Procedure (hereinafter "Workers' Compensation Agreement") between the LABORER'S HEALTH AND WELFARE TRUST FOR SOUTHERN CALIFORNIA and the signatory Contractors Association. This MOU shall become effective on the effective date of the insurance policy listed below. It shall remain in effect until the earlier of the termination of the MOU of the Workers' Compensation Agreement, or change in Insurance companies in the manner provided in the Workers' Compensation Agreement.

The undersigned firm agrees to be bound by the terms of the Southern California Laborer's Workers' Compensation Trust Agreement and Funding Agreement.

Date: _____

Name: _____ Signature: _____

Company: _____

Address: _____

Telephone: _____ Fax: _____

Email: _____

Contractor's License Number: _____

FEIN: _____

Insurance Company: _____

Policy Number: _____

Effective Date: _____

Broker/Agent: _____

Address: _____

Telephone: _____ Fax: _____

ADR Administrator Endorsement

Signature:

Date:

Chris R. Reinhardt, CIC
(800) 864-6623 | fax: (909) 494-4164
chris@unionadr.com | <http://laborersadr.com>

APPROVED MEDICAL PROVIDERS

1. List of clinics with current names, addresses, phone numbers and current physician in charge.
2. Laborers' Union Trust Medical provider books available through Trust Administrator:

ATPA, Inc.
4399 Santa Anita Avenue, suite 200
El Monte, California 91731
Tel.: 626-279-3000
Fax: 626-350-8041

Mailing address: P O Box 8025
El Monte, CA 91734-8025

QUALIFIED MEDICAL EXAMINERS

- 1. Those physicians appointed by, and in good standing with, the Industrial Medical Council of the State of California (IMC), as qualified medical evaluators (QMEs) and as agreed medical evaluators (AMEs) may be selected for the purpose of evaluating medical issues. This list can be modified at any time by mutual agreement of the parties.**