

**AGREEMENT FOR UNDERGROUND SYSTEMS IN ESTABLISHED EASEMENTS
FOR UTILITY TRANSMISSION AND DISTRIBUTION SYSTEMS OWNED,
MAINTAINED AND OPERATED BY UTILITY COMPANIES, MUNICIPALITIES, OR
GOVERNMENTAL AGENCIES ENGAGED IN UTILITY OPERATIONS
CONSTRUCTION IN NORTHERN CALIFORNIA**

**BETWEEN
WESTERN LINE CONSTRUCTORS CHAPTER INC., NECA INC.**

AND

**LOCAL UNION 1245
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS
AFL-CIO**

**EFFECTIVE DATES
NOVEMBER 1, 2009 THROUGH OCTOBER 31, 2010**

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AGREEMENT

Agreement by and between the Western Line Constructors Chapter, Inc., NECA, Inc. and Local Union No. 1245, IBEW.

It shall apply to all firms who sign a Letter of Assent to be bound by the terms of this Agreement.

As used hereinafter in this Agreement, the term "Chapter" shall mean the Western Line Constructors Chapter, Inc., NECA, Inc. and the term "Union" shall mean Local Union No. 1245, IBEW.

The term "Employer" shall mean an individual firm who has been recognized by an assent to this Agreement.

SCOPE OF THE WORK

The scope of work covered by this Agreement shall be all work necessary for the installation of all types of underground ducts, or raceways used as enclosures for electrical conductors, whether power, control, communications, or street-lighting, and polygas lines and CATV including excavation and backfill.

It shall include all cutting, fitting and "bandaging" of such ducts and raceways, the cleaning and rodding and installation of "Fish and Pull Wires".

It shall include the grounding, setting, leveling and grouting of pre-cast manholes, handholes and pads, as well as the pouring of the concrete envelope, if there is such.

It shall include the laying of pre-assembled cables.

Residential services only, may be installed in duct. No secondary installations, nor work in or around energized equipment or conductor will be allowed.

It is the intent of this Agreement to include all the foregoing areas of work jurisdiction when such work is to be performed in underground systems as part of a common ditch; and/or to be performed in a single ditch in established easements.

ARTICLE I

EFFECTIVE DATE - CHANGES - TERM OF AGREEMENT

EFFECTIVE DATE:

Section 1.01 This Agreement shall take effect November 1, 2009, and shall remain in effect until October 31, 2010 unless otherwise specifically provided for herein. It shall continue in effect from year to year thereafter, from November 1 through October 31 of each year, unless changed or terminated in the way later provided herein.

CHANGES:

Section 1.02 (a) Either party or an Employer withdrawing representation from the Chapter or not represented by the Chapter, desiring to change or terminate this Agreement must provide written notification at least 90 days prior to the expiration date of the

Agreement or any anniversary date occurring thereafter.

(b) Whenever notice is given for changes, the nature of the changes desired must be specified in the notice, or no later than the first negotiating meeting unless mutually agreed otherwise.

(c) The existing provisions of the Agreement, including this Article, shall remain in full force and effect until a conclusion is reached in the matter of proposed changes.

(d) Unresolved issues or disputes arising out of the failure to negotiate a renewal or modification of this Agreement that remain on the 20th of the month preceding the next regular meeting of the Council on Industrial Relations for the Electrical Contracting Industry (CIR) may be submitted jointly or unilaterally to the Council for adjudication. Such unresolved issues or disputes shall be submitted no later than the next regular meeting of the Council following the expiration date of this agreement or any subsequent anniversary date. The Council's decisions shall be final and binding.

(e) When a case has been submitted to the Council, it shall be the responsibility of the negotiating committee to continue to meet weekly in an effort to reach a settlement on the local level prior to the meeting of the Council.

(f) Notice of a desire to terminate this Agreement shall be handled in the same manner as a proposed change.

Section 1.03 This Agreement shall be subject to change or supplement at any time by mutual consent of the parties thereto. Any such change or supplement agreed upon shall be reduced to writing, signed by the parties hereto, and submitted to the International Office of the IBEW for approval, the same as this Agreement.

Section 1.04 There shall be no stoppage of work either by strike or lockout because of any proposed changes in this Agreement or dispute over matters relating to this Agreement. All such matters must be handled as stated herein.

GRIEVANCES/DISPUTES

Section 1.05 There shall be a Labor-Management Committee of three representing the Union and three representing the Employers. It shall meet regularly at such stated times as it may decide. However, it shall also meet within forty-eight hours when notice is given by either party. It shall select its own Chairman and Secretary. The Local Union shall select the Union representatives and the Chapter shall select the management representatives.

Section 1.06 All grievances or questions in dispute shall be adjusted by the duly authorized representative of each of the parties to this Agreement. In the event that these two are unable to adjust any matter within 48 hours, they shall refer the same to the Labor-Management Committee.

Section 1.07 All matters coming before the Labor-Management Committee shall be decided by majority vote. Four members of the Committee, two from each of the parties hereto, shall be quorum for the transaction of business, but each party shall have the right to

cast the full vote of its membership and it shall be counted as though all were present voting.

Section 1.08 Should the Labor-Management Committee fail to agree or to adjust any matter, such shall then be referred to the Council on Industrial Relations for the Electrical Contracting Industry for adjudication. The Council's decisions shall be final and binding.

Section 1.09 When any matter in dispute has been referred to conciliation or arbitration for adjustment, the provisions and conditions prevailing prior to the time such matters arose shall not be changed or abrogated until agreement has been reached or a ruling has been made.

ARTICLE II

EMPLOYER RIGHTS - UNION RIGHTS

Section 2.01 (a) **CONTRACTOR QUALIFICATIONS.** Certain qualifications, knowledge, experience and financial responsibility are required of everyone desiring to be an Employer in the Electrical Industry. An Employer who contracts for electrical work is a firm (sole proprietorship, partnership or corporation) whose principal business is that of Electrical Contracting, having these qualifications, and maintaining a permanent place of business, and a suitable financial status to meet payroll requirements. The Employer's place of business shall be manned during the regular working hours or have connected thereto a telephone answering service.

(b) **LICENSE.** Members of the Union, except those meeting the requirement of "Employer" as defined herein, shall not contract for any electrical work. Any member of the IBEW possessing any valid state contractors license while subject to employment under terms of the Agreement, shall maintain same on an inactive status.

Section 2.02 **SURETY.** It is agreed that the Employer will post a surety bond or cash deposit in the amount of \$2,000.00 as surety for the foregoing, either in the form of cash or in the form of surety bond. If said sum be posted in cash, it shall be deposited in a Trust Account usable for the purpose outlined below.

The aforesaid cash or surety bond is specifically intended to assure payment forthwith, to the extent of said cash or bond pursuant to monetary awards by any or all of the following agencies:

1. The Trustees of the Line Construction Benefit Fund.
2. The National Employees Benefit Board for 3% pension payments to the National Electrical Benefit Fund.
3. The California State Labor Commissioner.

Section 2.03 **NON-RESIDENT EMPLOYEES.** An employer signatory to a collective bargaining agreement or to a letter of assent to an agreement with another IBEW Local Union, who signs an assent to this Agreement, may bring up to four bargaining unit employees employed in that Local Union's jurisdiction into this Local's jurisdiction

and up to two bargaining unit employees per job from that Local's jurisdiction to this Local's jurisdiction for specialty or service and maintenance work. All charges of violations of this section shall be considered as a dispute and shall be processed in accordance with the provisions of this agreement for the handling of grievances with the exception that any decision of a local labor-management committee that may be contrary to the intent of the parties to the National Agreement on Employee Portability, upon recommendation of either or both the appropriate IBEW International Vice President or NECA Regional Executive Director, is subject to review modification, or rescission by the Council on Industrial Relations.

Section 2.04 **STEWARDS.** Stewards may be appointed for all shops and jobs and the Union shall notify the Employer, in writing, the name of any Steward so appointed. Stewards may be appointed by, may be removed by, are subject to the authority of and shall report to the Business Manager. Employers have the right to discharge a Steward, but discharge shall not take place until after the Business Manager has been given forty-eight (48) hours notice, which shall be confirmed in writing. Disagreement on layoff shall be subjected to the grievance provision of this Agreement.

Section 2.05 **UNION REMOVAL.** This Agreement does not deny the right of the Union or its representative to render assistance to other organizations by removal of its members from jobs when necessary and when the Union or its proper representatives decide to do so, but no removal shall take place until forty-eight (48) hours written notice, excluding Saturdays and Sundays, is first given to the Employer involved.

Section 2.06 All workmen shall provide hand tools themselves with all hand tools necessary to perform their work. The Employer shall furnish all other necessary tools and equipment, including power tools.

Section 2.07 **ANNULMENT/SUBCONTRACTING.** The Local Union is a part of the International Brotherhood of Electrical Workers, and any violation or annulment by an individual Employer of the approved Agreement of this or any other Local Union of the IBEW, other than violations of Paragraph 2 of this Section, will be sufficient cause for the cancellation of this Agreement by the Local Union, after a finding has been made by the International President of the Union that such a violation or annulment has occurred.

The subletting, assigning, or transfer by an individual Employer of any work in connection with electrical work to any person, firm or corporation not recognizing the IBEW or one of its Local Unions as the collective bargaining representative of his employees on any electrical work in the jurisdiction of this or any other Local Union to be performed at the site of the construction, alteration, painting or repair of a building, structure or other work, will be deemed a material breach of this Agreement.

All charges of violations of Paragraph 2 of this Section shall be considered as a dispute and shall be processed in accordance with the provision of this Agreement covering the procedure for the handling of grievances and the final and binding resolution of disputes.

Section 2.08 **MANAGEMENT RIGHTS.** The Union understands the Employer is responsible to perform the work required by the owner. The Employer shall, therefore, have no restrictions except those specifically provided for in the collective bargaining agreement, in planning, directing and controlling the operation of all his work, in deciding the number and kind of employees to properly perform the work, in hiring and laying off employees, in transferring employees from job to job within the Local Union's geographical jurisdiction, in determining the need and number as well as the person who will act as Foreman, in requiring all employees to observe the Employer's and/or owner's rules and regulations not inconsistent with this Agreement, in requiring all employees to observe all safety regulations and in discharging employees for proper cause.

Section 2.09 **EQUIPMENT SIGNS.** All Employer equipment using public streets and driven by workmen under the terms of this Agreement shall bear permanent identification signs, seals, decals, or stickers in area visible from the outside of said equipment. These signs shall not be magnetic type.

Section 2.10 All employees covered by the terms of this Agreement shall be required to become and remain members of the Union as a condition of employment from and after the eighth day following the date of their employment or the effective date of this Agreement, whichever is later.

Section 2.11 **FAVORED NATIONS CLAUSE.** The Union agrees that if, during the life of this Agreement, it grants to any other Employer in the Electrical Contracting Industry on work covered by this Agreement, any better terms or conditions than those set forth in this Agreement, such better terms or conditions shall be made available to the Employer under this Agreement and the Union shall immediately notify the Employer of any such concession.

Section 2.12 **DUES DEDUCTION.** The Employer agrees to deduct and forward to the Financial Secretary of the Local Union-upon receipt of a voluntary written authorization-the additional working dues from the pay of each IBEW member. The amount to be deducted shall be the amount specified in the approved Local Union Bylaws. Such amount shall be certified to the Employer by the Local Union upon request by the Employer.

Section 2.13 The dangers and costs that alcohol and other chemical abuses can create in the electrical contracting industry in terms of safety and productivity are significant. The parties to this Agreement resolve to combat chemical abuse in any form and agree that, to be effective, programs to eliminate substance impairment should contain a strong rehabilitation component. The local parties recognize that the implementation of a drug and alcohol policy and program must be subject to all applicable federal, state, and local laws and regulations. Such policies and programs must also be administered in accordance with accepted scientific principles, and must incorporate procedural safeguards to ensure fairness in application and protection of legitimate

interests of privacy and confidentiality. To provide a drug-free workforce for the Electrical Construction Industry, each IBEW local union and NECA chapter shall implement an area-wide Substance Abuse Testing Policy. The policy shall include minimum standards as required by the IBEW and NECA. Should any of the required minimum standards fail to comply with federal, state, and/or local laws and regulations, they shall be modified by the local union and chapter to meet the requirements of those laws and regulations.

ARTICLE III

HOURS - WAGES - WORKING CONDITIONS

Section 3.01 HOURS AND OVERTIME.

(a) Eight (8) consecutive hours between 7:00 A.M. and 5:30 P.M. with thirty (30) minutes for a lunch period shall constitute a work day. The normal starting and quitting time shall be 7:00 A.M. and 3:30 P.M. respectively. The lunch period shall be between the hours of 11:00 A.M. and 1:30 P.M.

(b) If the majority of employees at a job location (75%) elect, 4-10's shall be allowed, provided the Employer and/or the customer agrees. If 4-10's are required by the customer, it shall be allowed without further approval process.

Overtime shall be paid for all hours outside normal work hours as provided for in the applicable section. Four-tens shall be limited to Monday through Thursday or Tuesday through Friday. If a crew desires to make up missed days due to inclement weather or holidays, and the Employer agrees, they will be allowed to do so within the five (5) days of Monday through Friday. Anyone not wishing to make up a day will not be required to do so and will not be discriminated against. All make-up days are to be scheduled for at least eight (8) hours.

(c) All overtime work shall be at one and one-half (1½) times the straight-time work for all employees covered by this Agreement.

(d) The following will be listed as holidays and if worked are to be paid at double the regular hourly rate: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, the day after Thanksgiving, and Christmas Day.

Section 3.02 BEAT THE HEAT. During the months of June 15 through September 15, because of high temperatures in the area, the starting time of the normal work day may be varied by mutual agreement between the Employer and a majority (75%) of the employees at a job site. During June 15 through September 15, to beat the heat the earliest starting time permitted shall be 5:00 A.M.

Section 3.03 LABOR DAY. No work shall be performed on Labor Day except to protect life or property.

Section 3.04 PAY DAY. Each Contractor shall post in his place of business a notice specifying a

day and hour, not later than quitting time as pay day (not Saturday, Sunday, or Holiday) and not more than five (5) days pay shall be held back unless special permission is obtained from the Business Manager of the Union. Further, employees shall be paid at the work site.

Section 3.05 (a) CLASSIFICATIONS / WAGES. The minimum hourly rate of wages shall be as follows:

Classification*	11/01/2009	NEAP Pension
Foreman	\$26.92	\$1.84
Under Ground Systems Equipment Man	\$25.53	\$1.62
Technician	\$18.10	\$1.08
U/G Technician	\$12.88	\$1.08

(b) Employees performing Gas Fusion Welding or supervising other employees shall be paid at least \$16.39 per hour as of November 1, 2009.

(c) No employee shall have his wage rate reduced by any of the applications of this Article.

*Utility Technician I's may be called by name.

Section 3.06 CREWS - SUPERVISION.

(a) Foreman may not supervise more employees than they can safely and adequately handle.

(b) Employees, other than Foreman, may supervise other employees, subject to the provisions of Section 3.05 (b). Such crew size shall be limited to no more than three (3) employees, including the supervising employee.

(c) Residential services only, may be installed in duct. No secondary installations, nor work in or around energized equipment or conductor will be allowed.

Section 3.07 SHIFT WORK. When so elected by the contractor, multiple shifts of at least five (5) days' duration may be worked. When two (2) or three (3) shifts are worked:

The first shift (day shift) shall be worked between the hours of 8:00 A.M. and 4:30 P.M. Workmen on the "day shift" shall receive eight (8) hours' pay at the regular

hourly rate for eight (8) hours' work.

The second shift (swing shift) shall be worked between the hours of 4:30 P.M. and 12:30 A.M. Workmen on the "swing shift" shall receive eight (8) hours' pay at the regular hourly rate plus 10% for seven and one-half (7½) hours' work.

The third shift (graveyard shift) shall be worked between the hours of 12:30 A.M. and 8:00 A.M. Workmen on the "graveyard shift" shall receive eight (8) hours' pay at the regular hourly rate plus 15% for seven (7) hours' work.

A lunch period of thirty (30) minutes shall be allowed on each shift. All overtime work required after the completion of a regular shift shall be paid at one and one-half times the "shift" hourly rate.

There shall be no pyramiding of overtime rates and double the straight rate shall be the maximum compensation for any hour worked. There shall be no requirement for a day shift when either the second or third shift is worked.

Section 3.08 LAY-OFF PAY. Any workman being laid off, not having been notified at least one (1) hour previous to the lay off, shall be paid the hourly rate for time necessary to collect his possessions and terminate.

Section 3.09 TERMINATION SLIPS. When workmen are terminated, they shall be given a termination slip stating the reason for such termination. These slips shall be furnished by the Union in quadruplicate with a copy forwarded to the Local Union Office and NECA Office. No discriminatory action will be taken by the Union against the Employer or his supervisors for recording the reasons for termination.

Nothing in this section shall prohibit the right of the Union or employee from using the grievance procedure.

Section 3.10 SAFETY. Adequate safety and protective devices shall be supplied workmen by the Employer in accord with applicable Safety Orders of the Division of Industrial Safety of the State of California and/or CAL-OSHA.

Section 3.11 SUBSISTENCE.

(a) Expenses will only be paid when: Employee is assigned to work 60 miles or more from the Employer's main office and/or Local 1245's Dispatch Point. Such mileage is radius in nature, not road miles.

(b) Company will pay actual lodging costs and \$20.00 per day meal allowance.

(c) Meal allowance is applicable only when employee is staying in company provided lodging.

Section 3.12 INCLEMENT WEATHER. Any employee reporting for work on a scheduled work day and does not start work due to any reason beyond his/her control, and not having been notified prior to one (1) hour before starting time, shall be paid for two (2) hours

at the applicable rate of pay. Employees may be required to perform duties, including safety meetings, at headquarters during these two (2) hours. However, if an employee chooses to suspend work after having started work, due to inclement weather, the employee shall be paid for time worked only.

It is agreed that, except in emergencies, employees shall not be required to work in the rain or other inclement weather. No individual workers of the crews shall be called in to work except in emergencies.

In the event employees have missed work during the current week due to inclement weather, or other reasons beyond their control, they shall be allowed to work Saturday to make up lost time (at the regular straight-time rate of pay, provided the employee has not exceeded forty (40) hours that week), provided the Employer and/or Customer agrees with such make up. No employees shall be required to work such make-up day.

ARTICLE IV

REFERRAL PROCEDURE

Section 4.01 In the interest of maintaining an efficient system of production in the industry, providing for an orderly procedure of referral of applicants for employment, preserving the legitimate interests of the employees in their employment status within the area and of eliminating discrimination in employment because of membership or non-membership in the Union, the parties hereto agree to the following system of referral of applicants for employment.

Section 4.02 The Union shall be the sole and exclusive source of referral of applicants for employment.

Section 4.03 The Employer shall have the right to reject any applicant for employment.

Section 4.04 The Union shall select and refer applicants for employment without discrimination against such applicants by reason of membership or non-membership in the Union and such selection and referral shall not be affected in any way by rules, regulations, bylaws, constitutional provisions or any other aspect or obligation of Union membership policies or requirements. All such selection and referral shall be in accord with the following procedure.

Section 4.05 The Union shall maintain a register of applicants for employment established on the basis of the Classifications and Groups listed below. Each applicant for employment shall be registered in the highest priority Group in the Classification or Classifications for which he qualifies.

CLASSIFICATION A - FOREMAN/UNDERGROUND SYSTEMS EQUIPMENT MAN

GROUP I. All applicants for employment who have two or more years experience in the trade, are residents of the geographical area constituting the normal construction labor market and who have been employed for a period of at least one year in the last two

years under a Collective Bargaining Agreement between the parties to this Agreement.

Group I status shall be limited to one Local Union at one time. An applicant who qualifies for Group I in a local union shall be so registered electronically and remain on Group I in that local union unless and until the applicant designates another local union as his or her Group I local union. If an applicant qualifies for Group I status in a local union other than his or her home local union and designates that local as his or her Group I local union, the business manager of the new group I status local union shall by electronic means notify the business manager of the applicant's former Group I status local union.

GROUP II. All applicants for employment who have two or more years experience in the trade.

GROUP III. All applicants for employment who have one or more years experience in the trade, are residents of the geographical area constituting the normal construction labor market area and who have been employed for at least six months in the last two years in the geographical area covered by the trade under a Collective Bargaining Agreement between the parties to this Agreement.

GROUP IV. All other applicants for employment who have experience in the trade and have the necessary qualifications pertaining to their classification.

CLASSIFICATION B - TECHNICIAN - UNDERGROUND TECHNICIAN

GROUP I. All applicants for employment who have two or more years experience in the trade, are residents of the geographical area constituting the normal construction labor market and who have been employed in the normal construction labor market area for a period of at least one year in the last two years under a Collective Bargaining Agreement between the parties to this Agreement.

GROUP II. All applicants for employment who have one or more years experience in the trade.

GROUP III. All applicants for employment who have six months or more experience in the trade, are residents of the geographical area constituting of the normal construction labor market area and who have been employed in the normal construction labor market area for at least six months in the last two years in the trade under a Collective Bargaining Agreement between the parties to this Agreement.

GROUP IV. All applicants for employment who have experience in the trade.

Section 4.06 If the registration list is exhausted and the Local Union is unable to refer applicants for employment to the Employer within 48 hours from the time of receiving the Employer's request, Saturdays, Sundays, and holidays excepted, the Employer shall be free to secure applicants without using the Referral Procedure but such applicants, if hired, shall have the status of "temporary employees".

Section 4.07 The Employer shall notify the Business Manager promptly of the names and Social

Security numbers of such "temporary employees" and shall replace such "temporary employees" as soon as registered applicants for employment are available under the Referral Procedure.

Section 4.08 "Normal construction labor market" is defined to mean the following geographical area plus the commuting distance adjacent thereto which includes the area from which the normal labor supply is secured:

(a) The State of California, except Siskiyou, Modoc, and Del Norte Counties; the State of Nevada, except Lincoln, Clark, and that part of Nye County south of the Mount Diablo base line, including the area determined by the Secretary of Labor and the commute distance adjacent to the geographical area.

(b) There shall be one (1) dispatching point established within the normal construction labor market area. 30 Orange Tree Circle, Vacaville, CA 95687 will be the dispatching point for applicants for employment in:

Counties in Nevada: White Pine, Churchill, Mineral, Lyon, Douglas, Storey, Washoe, Pershing, Lander, Eureka, Elko, Humboldt and Ormsby.

Counties in California:

Alameda	Kings	Placer	Solano
Alpine	Lake	Plumas	Sonoma
Amador	Lassen	Sacramento	Stanislaus
Butte	Madera	San Benito	Sutter
Calaveras	Marin	San Francisco	Tehama
Colusa	Mariposa	San Joaquin	Trinity
Contra Costa	Mendocino	San Mateo	Tulare
El Dorado	Merced	Santa Clara	Tuolumne
Fresno	Monterey	Santa Cruz	Yolo
Glenn	Napa	Shasta	Yuba
Humboldt	Nevada	Sierra	

Should the Local Union decide to move the dispatching office or establish new ones, they will notify the contractors thirty (30) days prior to such change.

The above geographical area is agreed upon by the parties to include the area defined by the Secretary of Labor to be the appropriate prevailing wage area under the Davis-Bacon Act to which the Agreement applies.

Section 4.09 "Resident" means a person who has maintained his permanent home in the above defined geographical area for a period of not less than one year or who, having had a permanent home in this area, has temporarily left with the intention of returning to this area as his permanent home.

Section 4.10 An "Examination" shall include experience rating tests if such examination shall have been given prior to the date of this procedure, but from and after the date of this procedure, shall include only written and/or practical examinations given by a duly

constituted Outside Construction Local Union of the I.B.E.W. Reasonable intervals of time for examinations are specified as ninety (90) days. An applicant shall be eligible for examination if he has three and one half (3 ½) year's experience in the trade.

Section 4.11 The Union shall maintain an "Out of Work List" which shall list the applicants within each Group in chronological order of the dates they register their availability for employment.

Section 4.12 An applicant who is hired and who receives, through no fault of his own, work of forty hours or less, shall, upon re-registration, be restored to his appropriate place within his Group.

Section 4.13 Employers shall advise the Business Manager of the Local Union of the number of applicants needed. The Business Manager shall refer applicants to the Employer by first referring applicants in Group I in the order of their place on the "Out of Work List" and then referring applicants in the same manner successively from the "Out of Work List" in Group II, then Group III, and then Group IV. Any applicant who is rejected by the Employer shall be returned to his appropriate place within his Group and shall be referred to other employment in accordance with the position of his Group and his place within his Group.

Section 4.14 **REPEATED DISCHARGE:** An applicant who is discharged for cause two times within a 12-month period shall be referred to the neutral member of the Appeals Committee for a determination as to the applicant's continued eligibility for referral. The neutral member of the Appeals Committee shall, within three* business days, review the qualifications of the applicant and the reasons for the discharges. The neutral member of the Appeals Committee may, in his or her sole discretion: (1) require the applicant to obtain further training from the JATC before again being eligible for referral; (2) disqualify the applicant for referral for a period of four weeks or longer depending on the seriousness of the conduct and/or repetitive nature of the conduct; (3) refer the applicant to an employee assistance program, if available, for evaluation and recommended action; or (4) restore the applicant to his/her appropriate place on the referral list.

Section 4.15 The only exceptions which shall be allowed in this order of referral are as follows:

(a) When the Employer states bona fide requirements for special skills and abilities in his request for applicants, the Business Manager shall refer the first on the register possessing such skills and abilities.

(b) The age ratio clause in the Agreement calls for the employment of an additional employee or employees on the basis of age. Therefore, the Business Manager shall refer the first applicant on the register satisfying the applicable age requirements provided, however, that all names in higher priority Groups, if any, shall first be exhausted before such overage reference can be made.

Section 4.16 An Appeals Committee is hereby established composed of one member appointed by the Union, one member appointed by the Employer or by the Association, as the case

may be, and a Public Member appointed by both these members.

Section 4.17 It shall be the function of the Appeals Committee to consider any complaint of any employee or applicant for employment arising out of the administration by the Local Union of Sections 4.04 through 4.15 of this Article. The Appeals Committee shall have the power to make a final and binding decision on any such complaint which shall be complied with by the Local Union. The Appeals Committee is authorized to issue procedural rules for the conduct of its business but it is not authorized to add to, subtract from, or modify any of the provisions of this Agreement and its decisions shall be in accord with this Agreement.

Section 4.18 A representative of the Employer or of the Association, as the case may be, designated to the Union in writing, shall be permitted to inspect the Referral Procedure records at any time during normal business hours.

Section 4.19 A copy of the Referral Procedure set forth in this Agreement shall be posted on the Bulletin Board in the offices of the Local Union and in the offices of the Employers who are parties to this Agreement.

ARTICLE V

FRINGE BENEFITS

Section 5.01 It is agreed that in accord with the Employees Benefit Agreement of the National Electrical Benefit Fund ("NEBF"), as entered into between the National Electrical Contractors Association and the International Brotherhood of Electrical Workers on September 3, 1946, as amended, and now delineated as the Restated Employees Benefit Agreement and Trust, that unless authorized otherwise by the NEBF the individual Employer will forward monthly to the NEBF's designated local collection agent an amount equal to 3% of the gross monthly labor payroll paid to, or accrued by, the employees in this bargaining unit, and a completed payroll report prescribed by the NEBF. The payment shall be made by check or draft and shall constitute a debt due and owing to the NEBF on the last day of each calendar month, which may be recovered by suit initiated by the NEBF or its assignee. The payment and the payroll report shall be mailed to reach the office of the appropriate local collection agent not later than fifteen (15) calendar days following the end of each calendar month.

The individual Employer hereby accepts, and agrees to be bound by, the Restated Employees Benefit Agreement and Trust.

An individual Employer who fails to remit as provided above shall be additionally subject to having this agreement terminated upon seventy-two (72) hours' notice in writing being served by the Union, provided the individual Employer fails to show satisfactory proof that the required payments have been paid to the local appropriate collection agent.

The failure of an individual Employer to comply with the applicable provisions of the Restated Employees Benefit Agreement and Trust shall also constitute a breach of

his labor agreement.

Section 5.02 HEALTH AND WELFARE. The Employer agrees to pay \$5.00 per hour effective November 1, 2009 for each hour worked by each employee covered by the terms of this Agreement to the Line Constructors Benefit Fund for the purpose of providing insurance benefits for eligible employees and/or their dependents.

All other increases in the required Health and Welfare contribution rate as set forth in the paragraph above will be paid by the Employee.

Section 5.03 EMPLOYER REPORTS.

(a) Each Employer shall report monthly to the Trustees in writing upon the forms provided and mailed to him by the Trustees, the names of all his employees during each month. The Employer shall include payment and such other information as may be properly required by the Trustees or carriers.

The parties recognize and acknowledge that the regular and prompt payment of Employer contributions to the Trust Fund is essential to the maintenance of these funds; therefore, any amount determined by the Trustees of such Trust Funds as liquidated damage shall be due and payable upon the day immediately following the date on which the contributions become delinquent.

(b) The Trustees, to the extent provided for in the Trust, shall be entitled to and may file legal action for the collection of any and all contributions and delinquency charges due and owing by any and all Employers hereunder and in the event such action is maintained and filed, in addition to recovering of payments due and owing, liquidated damages and legal rate of interest, the Employers hereunder agree to pay all costs of such suit or suits, together with reasonable attorney fees.

(c) Continued failure on the part of any Employer to make prompt payments of his contribution to the Trust or the failure to make the required reports and payment shall be deemed to be a breach of the Collective Bargaining Agreement and the Employer shall be subject to the grievance procedure as provided for in this Agreement. The parties to this Agreement shall require the Employer to make any and all payments due or to become due by him under the terms of this Agreement.

Section 5.04 It is agreed that in accord with the IBEW-District Ten-NECA Individual Equity Retirement Plan Agreement entered into between the National Electrical Contractors Association, Inc., and the International Brotherhood of Electrical Workers on December 11, 1973, as amended, and now delineated as the National Electrical Annuity Plan Agreement and Trust, that unless authorized otherwise by the National Electrical Annuity Plan (NEAP), the individual employer will forward monthly to NEAP's designated collection agent an amount equal to that listed in the Wage Schedule, for each hour worked, (the contribution obligation) together with a completed payroll report prescribed by the NEAP. The payment shall be made by check or draft and shall constitute a debt due and owing to NEAP on the last day of each calendar month, which may be recovered by suit initiated by NEAP or its assignee. The payment and the payroll report shall be mailed to reach NEAP not later than fifteen (15) calendar days following the end of each calendar month.

The individual Employer hereby accepts, and agrees to be bound by, the National Electrical Annuity Plan Agreement and Trust.

An individual Employer who fails to remit as provided above shall be additionally subject to having his agreement terminated upon 72 hours notice in writing being served by the Union, provided the individual employer fails to show satisfactory proof that the required payments have been paid to the appropriate collection agent.

The failure of an individual employer to comply with the applicable provisions of the National Electrical Annuity Plan Agreement and Trust shall also constitute a breach of his labor agreement.

Section 5.05 VACATION SAVINGS ACCOUNT. The employee may establish at a financial institution (selected by the employer) a vacation savings account. Upon the request of any employee the employer will withhold from the employee's check a specific amount, defined on quarterly basis by the employee that the employer will deposit into said account each pay period.

ARTICLE VI

ADMINISTRATIVE MAINTENANCE FUND

Section 6.01 ADMINISTRATIVE MAINTENANCE FUND (AMF). All employers signatory to this labor agreement shall contribute .5% of their gross monthly labor payroll payable to the Administrative Maintenance Fund for each hour worked by each employee covered by this Agreement. The monies are for the purpose of administration of the collective bargaining agreement, grievance handling, and all other management duties and responsibilities pursuant to this Agreement. The Administrative Maintenance Fund contribution shall be submitted with all other fringe benefits covered in the labor agreement by the 15th of the month. This fund shall be administered solely by the Chapter and will not be used to the detriment of the Local Union or the IBEW. Enforcement for delinquent payments to this fund shall be the sole responsibility of the fund.

Section 6.02 Each individual Employer shall contribute an amount not to exceed one percent (1%) nor less than .2 of 1% of the productive electrical payroll as determined by each local Chapter and approved by the Trustees with the following exclusions:

- (1) Twenty-five percent (25%) of all productive electrical payroll in excess of 75,000 man hours paid for electrical work in any one Chapter area during any one calendar year but not exceeding 150,000 man hours.
- (2) One hundred percent (100%) of all productive electrical payroll in excess of 150,000 man-hours paid for electrical work in any one Chapter area during any one calendar year.

(Productive electrical payroll is defined as the total wages including overtime paid with respect to all hours worked by all classes of electrical labor for which a rate is

established in the prevailing labor area where the business is transacted.)

Payment shall be forwarded monthly to the National Electrical Industry Fund in a form and manner prescribed by the Trustees no later than fifteen (15) calendar days following the last day of the month in which the labor was performed. Failure to do so will be considered a breach of this Agreement on the part of the individual Employer.

ARTICLE VII **CODE OF EXCELLENCE**

Section 7.01 The parties to this Agreement recognize that to meet the needs of our customers, both employer and employee must meet the highest levels of performance, professionalism, and productivity. The Code of Excellence has proven to be a vital element in meeting the customers' expectations. Therefore each IBEW local union and NECA chapter shall implement a Code of Excellence Program. The program shall include minimum standards as designed by the IBEW and NECA.

ARTICLE VIII **LOCAL LABOR-MANAGEMENT COOPERATION COMMITTEE (LMCC)**

Section 8.01 The parties agree to participate in a Labor-Management Cooperation Fund, under authority of Section 6(b) of the Labor Management Cooperation Act of 1978, 29 U.S.C. §175(a) and Section 302(c)(9) of the Labor Management Relations Act, 29 U.S.C. §186(c)(9). The purposes of this Fund include the following:

- 1) to improve communications between representatives of Labor and Management;
- 2) to provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;
- 3) to assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;
- 4) to study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the electrical construction industry;
- 5) to sponsor programs which improve job security, enhance economic and community development, and promote the general welfare of the community and industry;
- 6) to engage in research and development programs concerning various aspects of the industry, including, but not limited to, new technologies, occupational safety and health, labor relations, and new methods of improved production;
- 7) to engage in public education and other programs to expand the economic

development of the electrical construction industry;

- 8) to enhance the involvement of workers in making decisions that affect their working lives; and,
- 9) to engage in any other lawful activities incidental or related to the accomplishment of these purposes and goals.

Section 8.02 The Fund shall function in accordance with, and as provided in, its Agreement and Declaration of Trust and any amendments thereto and any other of its governing documents. Each Employer hereby accepts, agrees to be bound by, and shall be entitled to participate in the LMCC, as provided in said Agreement and Declaration of Trust.

Section 8.03 Each Employer shall contribute \$0.00. Payment shall be forwarded monthly, in a form and manner prescribed by the Trustees, no later than fifteen (15) calendar days following the last day of the month in which the labor was performed. The Western Line Constructors Chapter, NECA, or its designee, shall be the collection agent for this Fund.

Section 8.04 If an Employer fails to make the required contributions to the Fund, the Trustees shall have the right to take whatever steps are necessary to secure compliance. In the event the Employer is in default, the Employer shall be liable for a sum equal to 15% of the delinquent payment, but not less than the sum of twenty dollars (\$20), for each month payment of contributions is delinquent to the Fund, such amount being liquidated damages, and not a penalty, reflecting the reasonable damages incurred by the Fund due to the delinquency of the payments. Such amount shall be added to and become a part of the contributions due and payable, and the whole amount due shall bear interest at the rate of ten percent (10%) per annum until paid. The Employer shall also be liable for all costs of collecting the payment together with attorneys' fees.

ARTICLE IX **NLMCC**

Section 9.01 The parties agree to participate in the NECA-IBEW National Labor-Management Cooperation Fund, under authority of Section 6 (b) of the Labor-Management Cooperation Act of 1978, 29 U.S.C. §175 (a) and Section 302 (c) (9) of the Labor-Management Relations Act, 29 U.S.C. §186 (c) (9). The purposes of this Fund include the following:

- (1) to improve communication between representatives of labor and management;
- (2) to provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;
- (3) to assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

- (4) to study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the electrical construction industry;
- (5) to sponsor programs which improve job security, enhance economic and community development, and promote the general welfare of the community and the industry;
- (6) to encourage and support the initiation and operation of similarly constituted local labor-management cooperation committees;
- (7) to engage in research and development programs concerning various aspects of the industry, including, but not limited to, new technologies, occupational safety and health, labor relations, and new methods of improved production;
- (8) to engage in public education and other programs to expand the economic development of the electrical construction industry;
- (9) to enhance the involvement of workers in making decisions that affect their working lives; and
- (10) to engage in any other lawful activities incidental or related to the accomplishment of these purposes and goals.

Section 9.02 The Fund shall function in accordance with, and as provided in, its Agreement and Declaration of Trust, and any amendments thereto and any other of its governing documents. Each Employer hereby accepts, agrees to be bound by, and shall be entitled to participate in the NLMCC, as provided in said Agreement and Declaration of Trust.

Section 9.03 Each employer shall contribute one cent (1¢) per hour worked, up to a maximum of 150,000 hours per year, for work performed under the terms of IBEW Local Union agreements with the Western Line Constructors Chapter, Inc., NECA, Inc. Payment shall be forwarded monthly, in a form and manner prescribed by the Trustees, no later than fifteen (15) calendar days following the last day of the month in which the labor was performed. Western Line Constructors Chapter, Inc., NECA, Inc., or its designee, shall be the collection agent for this Fund.

Section 9.04 If an Employer fails to make the required contributions to the Fund, the Trustees shall have the right to take whatever steps are necessary to secure compliance. In the event the Employer is in default, the Employer shall be liable for a sum equal to 15% of the delinquent payment, but not less than the sum of twenty dollars (\$20), for each month payment of contributions is delinquent to the Fund, such amount being liquidated damages, and not a penalty, reflecting the reasonable damages incurred by the Fund due to the delinquency of the payments. Such amount shall be added to and become a part of the contributions due and payable, and the whole amount due shall bear interest at the rate of ten percent (10%) per annum until paid. The Employer shall also be liable for all costs of collecting the payment, together with attorney's fees.

ARTICLE X

SEPARABILITY CLAUSE AND NON-DISCRIMINATION

Section 10.01 SEPARABILITY CLAUSE. Should any provision of this Agreement be declared illegal by any court of competent jurisdiction, such provisions shall immediately become null and void, leaving the remainder of the Agreement in full force and effect and the parties shall, thereupon, seek to negotiate substitute provisions which are in conformity with the applicable laws.

Section 10.02 NON-DISCRIMINATION. It is the continuing policy of the Employer and the Union that the provisions of the Collective Bargaining Agreement shall be applied to all employees without regard to race, sex, age, color, religious creed or national origin.

ARTICLE XI

GRIEVANCE PROCEDURES

Section 11.01 STEP ONE: A Grievance must be filed no later than five (5) days after the date of action complained of, or the date employee became aware of the incident which is the basis for the Grievance, whichever is later.

Section 11.02 STEP TWO: All Grievances shall be presented orally by the aggrieved employee and a Shop Steward or a Union Business Representative to the aggrieved employee's immediate supervisor. Both parties shall put forth their best efforts to resolve the Grievance at this level within seventy-two (72) hours. If the Grievance is not resolved within seventy-two (72) hours of the oral discussion, Step Three shall be followed.

Section 11.03 STEP THREE: In the event that the Grievance is not settled by the procedure in Step Two, the Union Business Representative shall, not later than ten (10) calendar days after the completion of Step Two, present the Employer with the Grievance in written form, setting forth the following:

- a. A statement of the Grievance and the facts upon which it is based.
- b. The Section or Sections of the Agreement relied upon or claimed to have been violated.
- c. The remedy or correction which is desired.

In the event either party desires a meeting to discuss the Grievance, the parties shall meet within ten (10) calendar days from receipt of said Grievance for the purpose of discussing the Grievance. The party served with written notice of the Grievance shall within ten (10) calendar days after the aforementioned meeting, or in the event no meeting is held within ten (10) calendar days after the receipt of the Grievance, answer the Grievance in writing.


Section 11.04 **STEP FOUR:** In the event the Grievance is not settled in Step Three, it shall be referred to the Labor-Management Committee.

**AGREEMENT FOR UNDERGROUND SYSTEMS IN ESTABLISHED EASEMENTS
FOR UTILITY TRANSMISSION AND DISTRIBUTION SYSTEMS OWNED,
MAINTAINED AND OPERATED BY UTILITY COMPANIES, MUNICIPALITIES, OR
GOVERNMENTAL AGENCIES ENGAGED IN UTILITY OPERATIONS
CONSTRUCTION IN NORTHERN CALIFORNIA
BETWEEN WESTERN LINE CONSTRUCTORS CHAPTER, INC., NECA, INC.
AND LOCAL UNION 1245 OF THE INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
NOVEMBER 1, 2009 THROUGH OCTOBER 31, 2010**


IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written, acting by and through their duly authorized officers.

**WESTERN LINE CONSTRUCTORS
CHAPTER INC., NECA, INC.**

**LOCAL UNION 1245 OF THE
INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS, AFL-CIO**



Jules W. Weaver
Chapter Manager



Tom Dalzell
Business Manager