

AGREEMENT

between

PACIFIC AQUASCAPES, INC.

and

LABORERS' INTERNATIONAL UNION OF  
NORTH AMERICA, LOCAL 368

As effective October 1, 2020 to and including September 30, 2025

## TABLE OF CONTENTS

Section/Title	Page
1. Duration	1
2. Coverage	1
3. Recognition	1
4. Mutual Obligations and Responsibilities	2
5. Union Security	2
6. Authorized Deductions	2
7. No Strike or Lockout	3
8. Discipline or Discharge	4
9. Pre-Job Conference	4
10. Wages	5
11. Hours and Overtime	6
12. Temporary Transfer	12
13. Holidays	12
14. Employee Benefits and Contractor Payments	13
15. Seniority and Authorized Leave of Absence Without Pay	20
16. Safety and Protective Devices	21
17. Transportation	22
18. Subsistence and Travel (Neighbor Islands)	23
19. Access to Job	26
20. Union Steward	26
21. Grievance Procedure and Arbitration	27
22. Subcontracting	29
23. Hiring and Referral Procedure	29
24. No Piece Work, Contract Work or Moonlighting	30
25. Successors and Assigns	30
26. General Savings Clause	31
27. Modification of Agreement	31
28. Representations	31
 Listing of Exhibits	
Exhibit "A" -- Classification and Minimum Hourly Wage Schedule	32
Exhibit "B" -- Waterscape Industry Trainee Program	36
Exhibit "C" -- Assignment of Wages to Cover Union Initiation Fee (or Re-admission Fee), Dues, Hourly Supplemental Dues and Assessments	38
Exhibit "D" -- Notification to Laborers' Union Regarding Saturday or Sunday as a Straight Time "Make-Up" Day, and/or Workweek of other than Five 8-Hour Days, and/or Night Work	39
Exhibit "E" -- Notification to Union and to Employees Regarding "Switching" and/or Substitution of Holidays	40

THIS AGREEMENT is made and entered into by and between Pacific Aquascapes, Inc., hereinafter referred to as the "Contractor," and the Laborers' International Union of North America, Local 368, hereinafter referred to as the "Union."

### **Section 1. Duration**

This Agreement shall be binding upon the respective parties effective October 1, 2020 to and including September 30, 2025, and shall be considered as renewed from year to year thereafter unless either party hereto shall give written notice to the other of its desire to modify, amend, or terminate the same. Any such notice must be given by the parties desiring to modify, amend, or terminate the Agreement, at least ninety (90) calendar days prior to the expiration date, but not more than one hundred twenty (120) calendar days prior to the expiration date. In the event such notice is given, and only in such event, negotiations for a new agreement shall commence as soon as possible. If such notice is not given, the Agreement shall be deemed to automatically renew for the succeeding year.

### **Section 2. Coverage**

2.1 Work Covered. The work covered by this Agreement shall be any and all work involved in the construction, renovation and/or repair of waterscapes or water features, pools, ponds, spas, decking, equipment/maintenance rooms or enclosures, and any and all like or similar construction, renovation and/or repair, including all incidental and supplemental work thereof. Such work shall include, but not be limited to, excavation, forming, pumping, placement and shaping of gunite and/or shotcrete, steel work, liner work, rockwork, waterproofing, grouting, tiling, coping tile installation, pool plastering, installation of pumps, filtration systems, pool lights and control systems, slides and all other on-site work activities. It shall include the fabrication, installation and finishing of all related products at the project site.

2.2 Employees Covered. The employees covered by this Agreement are all employees of the Contractor employed in the State of Hawaii performing the Work Covered by this Agreement and except for office clerical employees, confidential employees, professional employees, watchmen and supervisors as defined in the National Labor Relations Act, as amended. The classifications are set forth in the classification and hourly wage schedule which is attached hereto as Exhibit "A."

2.3 Masculine Includes Feminine. The use of masculine or feminine pronouns and suffixes and/or "men" or "women" wherever used in this Agreement shall apply to members of either sex.

### **Section 3. Recognition**

Recognition of Union. The Contractor covered hereby recognizes the Union as the exclusive collective bargaining representative of all employees covered by this Agreement for purposes of collective bargaining regarding rates of pay, wages, hours of employment, or other terms and conditions of employment. Furthermore, upon a showing of majority support, the Employer agrees to recognize the Union in accordance with 29 USC 159. The Contractor agrees to consult with the

Union at least thirty (30) calendar days prior to implementing any changes in personnel policies, practices or other matters affecting working conditions.

#### **Section 4. Mutual Obligations and Responsibilities**

4.1 By ratification of this Agreement, the Contractor guarantees that he will pay specified wage rates, make certain contributions toward employee benefits, and provide certain terms and conditions in return for the services and labor of employees covered hereby.

4.2 In consideration of the above, each employee covered by this Agreement has a definite obligation and responsibility to better his efficiency, to upgrade his skills, and to perform a full eight hours of productive work each and every work day.

4.3 In line with this, the Union and the Contractor hereby commit themselves to cooperate with one another in the development of ways, means, and programs that will make for a more efficient, productive, and responsible work force, and which will otherwise bring rightful pride and recognition to the Laborers' craft as an important and integral part of Hawaii's Construction Industry.

4.4 Also, it is the desire of the Union and the Contractor to maintain a harmonious working relationship between themselves and to cooperate to the extent possible in attempting to resolve mutual problems that face Hawaii's Construction Industry.

#### **Section 5. Union Security**

5.1 Each employee covered by this Agreement shall, as a condition of employment, become a member of the Union not later than the eighth (8th) day following the date of his employment or the execution date of this Agreement, whichever is later, and he shall thereafter maintain such membership in good standing by continuing to tender dues to the Union for the duration of this Agreement.

5.2 For purposes of this Section, a "member in good standing" shall be defined as one who has completed payment of the regular Union initiation fee, or readmission fee or who is paying said fee in accordance with the administrative procedures of the Union, and who tenders the regular Union dues which are uniformly required as a condition of retaining membership in the Union.

5.3 The Union agrees to consider for membership all present and future employees who apply for membership. If an applicant is denied membership by the Union, he shall not be required to comply with the provisions of this Section.

5.4 Upon written notice from the Union of failure on the part of any individual to complete membership in the Union as required above, or of failure to continue payment of dues to the Union, the Contractor shall, within five (5) working days of such notice, discharge said employee.

#### **Section 6. Authorized Deductions**

6.1 If an employee signs a proper authorization form (sample copy of which is attached as Exhibit "C"), the Contractor shall deduct from the wages of said employee all Union dues, Union initiation fee and Union assessments which are due from said employee.

6.2 In requesting deductions for "assessments," the Union shall restrict such request to assessments assessed on all members of the Union employed by the Contractor covered hereby or signatory hereto on a uniform basis as an incident of membership in the Union.

6.3 The Union's monthly dues shall be deducted on a once-a-month/one month-in-advance basis and shall be transmitted by the Contractor to the Union so that they are received by the Union by the 15th day of the month immediately following the month in which the deductions was made (e.g., dues which are due on June 1 shall be deducted during the month of May and shall be transmitted by the Contractor to the Union so that they are received by the Union by June 15). When an Employer fails to timely transmit Union deductions to the Union, he shall be deemed delinquent and shall pay a late fee of fifteen per cent (15%) of the total delinquent amount, including any previous late fees, for each month he is delinquent. The Union is not limited to the grievance procedure under this Agreement in seeking the collection of any delinquent payments under this Section.

6.4 The Union's per-hour dues and any other deductible amounts which are based on hours worked by an employee, shall be deducted on a weekly basis and shall be transmitted by the Contractor to the Union at the same time as Trust Fund payments are transmitted. The Contractor acknowledges that dues deductions are employee wages and that failure to transmit said dues once deducted is an unlawful retention of monies that do not belong to the Contractor.

6.5 Transmittal of any and all amounts deducted pursuant to this Section shall be by way of check drawn to the order of the Union. Upon issue of such check(s) and the transmission of same to the Union, all responsibility on the part of the Contractor shall cease with respect to any amount so deducted so long as such check(s) is honored on being presented for payment. The Union hereby undertakes to indemnify and hold the Contractor harmless from any claim that may be made upon said Contractor for or on account of any such deduction from the wages of any employee.

### **Section 7. No Strike or Lockout**

7.1 The parties agree that during the term of this Agreement there shall be no lockout by the Contractor, no strike, stoppage of work, or slowdown on the part of the Union or its representatives or on the part of any employee covered by the terms of this Agreement, except as provided under paragraphs 7.2, 7.3, and 7.4, below.

7.2 Nothing in this Agreement shall be construed as giving a Contractor the right to require his employees to cross a legitimate picket line. A legitimate picket line is one that is not in violation of the law. Employees who exercise their option of refusing to cross a legitimate picket line shall not be disciplined, discriminated against, or suffer any other adverse treatment by the Employer.

7.3 If the Contractor fails to make timely payment to any of the Trust funds provided for in this Agreement, OR if he fails to make timely transmittal of amounts deducted for Union dues, initiation fees, assessments, and/or Union supplemental hourly dues as provided for under Section

6 (Authorized Deductions), and so long as either of these conditions continue, it shall not be a violation of this Agreement for the Union to withdraw its members from the performance of work for the Contractor. In each case, the Union shall give written notice to the Contractor of its intent to withdraw its members, and the Contractor shall be given five working days from receipt of said notice in which to make necessary full payment. If such payment is not made within said five-day period, the Union shall then be free to withdraw its members and to continue said withdrawal until full payment is made.

7.4 Actions taken under and pursuant to Section 23.3 (Hiring and Referral Procedure) of this Agreement shall also not be considered as a violation of this Section or of this Agreement.

7.5 It is mutually understood and agreed that neither the Contractor nor the Union shall be liable for damages caused by the acts or conduct of any individual or groups of individuals who are acting or conducting themselves in violation of the terms of this Agreement, provided that such action or conduct has not been specifically authorized, participated in, fomented, or condoned by the Contractor or the Union, as the case may be.

7.6 In the event of any unauthorized violation of the terms of this Agreement, responsible and authorized representatives of the Union or the Contractor, as the case may be, shall promptly take such affirmative action as is within their power to correct and terminate such violation for the purpose of bringing such unauthorized persons into compliance with the terms of this Agreement. Such individuals acting or conducting themselves in violation of the terms of this Agreement shall be subject to discipline, up to and including discharge.

### **Section 8. Discipline or Discharge**

8.1 Employees shall be subject to discipline or discharge for just cause.

8.2 A probationary period of thirty (30) calendar days shall be established for all new employees and such new employees may be summarily discharged.

8.3 Any discharged employee, other than probationary employees, shall, upon request, be furnished the reason(s) for his discharge in writing within two (2) working days after the request is made.

8.4 If the Contractor takes action under this Section which the employee or the Union believes is improper or unjustified, the employee and/or the Union shall have the right to process such grievance through the grievance procedure as provided under Section 21 (Grievance Procedure and Arbitration).

### **Section 9. Pre-Job Conference**

9.1 Upon the request of either party, a Pre-Job Conference will be held prior to the start of work on any job or project.

9.2 If requested by the Union, the Contractor will supply the Union with a written list of names,

addresses, and telephone numbers of all subcontractors (regardless of tier) who will be performing Laborers work covered by this Agreement on said project.

9.3 All understandings reached at such Pre-Job Conference shall be within the scope and terms of this Agreement and shall be reduced to writing and signed by the Contractor and the Union.

### **Section 10. Wages**

10.1 Wage Schedule. Attached as Exhibit "A" and made a part of this Agreement is the Classification & Hourly Wage Schedule which shall be effective for the term of this Agreement.

#### 10.2 Payment of Wages

(a) Each employee covered by this Agreement shall be paid not later than quitting time by Friday of each week; provided, however, that in no event shall more than one calendar week's wages be withheld at any one time. In the event Friday falls on any holiday (whether recognized under this Agreement or not) on which local banks will be closed, the Contractor will make every effort to provide the employees with their paychecks by Thursday of that week.

(b) Accompanying each payment of wages shall be a statement identifying the individual employee, the date of payment, and the pay period covered and showing: (a) a computation of straight time and overtime earnings, (b) the amount and purpose of each deduction made therefrom, and (c) net earnings.

(c) Unless due to an emergency situation or other verifiable circumstances where the Contractor does not have his/her employees' paychecks available for pick up by Friday (by Thursday if Friday is a holiday), the employee or employees affected shall be entitled to a lump sum penalty payment of twenty dollars (\$20.00) for each calendar day that said paycheck(s) is not available (to include the day by which payment was due). The Contractor shall also pay or reimburse an employee for any finance charges, penalties, and other direct costs (such as checking account overdraw charges, late payment charges, interest penalties and the like) that are charged to an employee as a result of a late paycheck or a paycheck "bouncing" due to insufficient funds. The Contractor shall also reimburse the employee for the cost of any long-distance telephone calls relating to the matter as may be made by the employee.

(d) When an employee is laid-off for lack of work, said employee shall be paid all wages earned and due as of the time of separation.

(e) When an employee quits, said employee shall be paid all wages due no later than the next regular pay day either through regular pay channels, or, if requested by the employee, by mail. However, if an employee gives at least five (5) working days' notice of his intention to quit, the Contractor shall pay all wages earned and due to said employee at the time of separation.

(f) When an employee is discharged for cause, said employee shall be paid all wages

due at the time of discharge. However, if the discharge occurs at a time and under conditions which prevent the Contractor from making immediate payment, then all wages due must be paid to the employee no later than the working day following the discharge.

(g) Inasmuch as the provisions of paragraphs (d), (e) and (f), above, are requirements of State law, it is incumbent upon the Contractor to develop and maintain appropriate procedures for payment of same.

10.3 Records and Requests. The Contractor shall provide a proper means for registering time, working time, and quitting time. In the event of a dispute over time, wages, or fringe benefits, such records will be promptly accessible to the Business Representatives of the Union during working hours.

#### 10.4 New Job Classifications

(a) Nothing in this Agreement shall prevent the Contractor from negotiating or making agreement with the Union covering any new job classifications which falls within the jurisdiction of the Union but which are not presently covered by this Agreement. If and when such new job classifications are contemplated, authorized representatives of the Contractor and of the Union shall immediately enter into negotiations to establish proper wage rates for such classification(s).

(b) In the event the parties are unable to reach agreement on the matter, either party may proceed to Arbitration in accordance with the provisions of Section 21 (Grievance Procedure and Arbitration).

(c) Pending the establishment of such wage rate, the Contractor may introduce and use said classification(s) at a temporary rate of pay as determined by him. Should a higher rate of pay be established for said classification(s) by the Arbitrator, the affected employee(s) shall be made whole with the retroactive application of the higher wage rate.

### **Section 11. Hours and Overtime**

#### 11.1 Workweek

NOTE: At the present time, Section 11.1(b), 11.1(c) and 11.1(d) are applicable ONLY on PRIVATE and FEDERAL jobs. The law would have to be changed in order for said paragraphs to be applicable on State or County projects.

(a) The standard workweek shall be Monday through Friday, inclusive; provided, however, that the Contractor may, at his option, schedule a Tuesday through Saturday workweek for certain employees or operations. An employee shall be given at least five (5) working days notice prior to any change in his or her scheduled workweek.

(b) In the event that weather, equipment breakdown, power failure, accident, and/or any other condition or circumstance which is beyond the control of the Contractor prevents employees from starting work on any one or more of the regularly scheduled Monday

through Friday workdays or prevents employees from working a full shift on any of said days, then Saturday, at the Contractor's option, may be scheduled as a make-up day at the employee's regular straight time rate. On said Saturday, the straight time rate shall apply for the employee's first eight hours of work or upon completion of forty straight time hours of work for that week, whichever occurs first; one-and-one-half times the employee's regular straight time rate for all hours worked thereafter.

(c) For employees who are working a scheduled Tuesday through Saturday workweek, Sunday may, at the Contractor's option, be scheduled as a straight time make-up day under the same circumstances and conditions as set forth in paragraph (b), immediately above; provided, however, that an employee scheduled to work on a Sunday who gives the Contractor advance notice of his inability to work due to a previous commitment shall be excused from said Sunday work.

(d) On a project-by-project basis, the Contractor may also elect, at his option, to schedule:

(1) four consecutive ten hour days during the period from Monday through Friday which shall be paid for at the regular straight time hourly rates, or

(2) four nine hour days (Monday through Thursday) plus four hours on Friday, all of which hours shall be paid for at regular straight time rates, or

(3) In either of such events, either Friday and/or Saturday may, at the Contractor's option, be scheduled as a straight time make-up under the same conditions as set forth in paragraph (b), above.

(e) By use of the notification form attached as Exhibit "E" (or by other written means which provides the same information), the Contractor will notify the Union whenever he utilizes the provisions of Sections 11.1(b), 11.1(c), and/or 11.1(d). This notification is for informational purposes only (monitoring and record-keeping). It is specifically understood and agreed that advance approval by the Union of such scheduling is not required; however, the Union would appreciate an advance courtesy call whenever it is possible for the Contractor to do so.

(f) The provisions of Sections 11.1(b), 11.1(c), and 11.1(d)(3), above, are designed to allow a Contractor the flexibility of "making up" time during that same workweek for time lost on his project(s) due to the causes listed, as well as to provide employees the opportunity to secure additional work hours during that week which would not otherwise be made available to them. In that connection, the use of the phrase "any other condition or circumstance which is beyond the control of the Contractor" is intended to cover situations of a substantive and verifiable nature, and not those of a frivolous or surreptitiously-contrived nature. Also, by their terms, the provisions of Sections 11.1(d)(1) and (2), above, must be applied on a project-by-project basis and it is not intended that said provisions will be implemented or administered in such a manner wherein employees will be re-scheduled from a workday of one duration to another on a daily basis.

(g) Complaints, problems, and/or allegations that a Contractor has misused or abused

the provisions of Section 11.1(b), 11.1(c), and/or 11.1(d), or has violated the intent(s) thereof as set forth in paragraph (f), above, shall be processed through the grievance procedure as provided for under Section 21 (Grievance Procedure and Arbitration).

11.2 Workday. The normal workday shall begin between the hours of 6:00 a.m. and 8:00 a.m.; provided, however, that if a State law, local ordinance or job specification requires that work not commence until a later hour, then the starting time for such job shall be established in accordance with said law, ordinance, or job specification, and provided, further that other starting times, also without payment of overtime, may be established by mutual agreement between the Contractor and the Union.

### 11.3 Overtime

(a) Overtime Rate. Overtime at one-and-one-half (1-1/2) times the employee's regular straight time rate shall be paid for:

(1) All work performed in excess of eight (8) straight time hours in any one day  
OR:

(i) in excess of ten straight time hours in any one day where a workweek of four consecutive ten hour days has been scheduled by the Contractor, or

(ii) in excess of nine straight time hours, Monday through Thursday, and four hours on Friday where such a workweek has been scheduled by the Contractor pursuant to the provisions of Section 11.1(d)(2).

(2) All work performed in excess of forty (40) straight time hours in any one week.

(3) All work performed on Saturdays, except where Saturday is part of an employee's scheduled Tuesday through Saturday workweek or where such Saturday has been scheduled as a make-up day by the Contractor pursuant to the provisions of Section 11.1(b), in which case overtime shall be paid after the employee's completion of eight straight time hours of work on said Saturday make-up day or after the completion of forty straight time hours of work for that week, whichever occurs first.

(4) All work performed on Sundays, except where such Sunday has been scheduled as a make-up day by the Contractor pursuant to the provisions of Section 11.1(c), in which case overtime shall be paid after the employee's completion of eight straight time hours of work on said Sunday make-up day or after the completion of forty straight time hours of work for that week, whichever occurs first. An employee scheduled to work on a Sunday who gives the Contractor advance notice of his inability to work due to a previous commitment shall be excused from said Sunday work.

(5) All work performed on holidays as listed in Section 13 (Holidays). An

employee scheduled to work on a holiday who gives the Contractor advance notice of his inability to work due to a previous commitment shall be excused from said holiday work.

(b) Reckoning of Overtime Hours. Overtime hours shall be reckoned to the nearest fifteen minutes.

(c) No Pyramiding. Whenever two or more overtime or premium rates are applicable to the same hour or hours worked, there shall be no pyramiding or adding together of such rates and only the higher of the applicable rates shall be applied.

(d) Assignment of Overtime Work

(1) If overtime work is to be assigned, the work shall be assigned to the members of the crew (to the extent needed) who, during the regular workday, have been performing the particular work involved.

(2) Whenever overtime work is scheduled on a Saturday, Sunday or holiday, the Union Steward, if any on the project involved, will be afforded the opportunity to be included in that work provided he is qualified to perform the work required.

#### 11.4 Meal Period

(a) An employee covered by this Agreement shall be afforded a meal period of at least thirty (30) minutes to begin within the period from the third through the fifth hour of a shift. If an employee is required to work more than five hours without starting a meal period, said employee shall be paid at one-and-one-half times his regular straight time rate for all time worked after said fifth hour until such time as he is afforded the opportunity to eat.

(b) If the employee is already being paid at the time-and-one-half rate by reasons of Saturday, Sunday, or holiday work, he shall receive two (2) times his regular straight time rate for all time worked after said fifth hour until such time as he is offered the opportunity to eat.

(c) Whenever overtime work exceeds two-and-one-half hours past the quitting time of their shift, employees will be afforded a meal period of at least one-half hour at the end of said two-and-one-half hour period of overtime work. Said meal period shall not be paid for or counted as time worked. If overtime work continues for four hours after the conclusion of said meal period, the employees will be afforded a similar meal period at the end of said four hour period and at the end of each similarly measured four hour period thereafter.

(d) If the employee is not afforded a meal period as provided for in paragraph (c), above, he shall be paid at two times his regular straight time rate for all time worked after the applicable period of overtime work until such time as he is afforded the opportunity to eat.

(e) If an employee qualifies for a meal period as provided for in paragraph (c), above,

the Contractor shall provide a meal. Such meal shall be of good quality and nutritious.

#### 11.5 Show-Up Time

(a) Employees ordered to report to work at a job site for whom no employment is provided shall be entitled to one hour pay, unless prevented from working for reasons beyond the control of the Contractor (including inclement weather).

(b) In the event the Contractor requires an employee to remain on the job pending possible abatement or cessation of inclement weather or other cause which has prevented work from starting, said employee shall be paid at his regular straight time rate for actual waiting time (standby time) spent but in no case shall that payment be less than one hour pay. Said waiting time (standby time) shall not be considered as hours worked for purposes of making Contractor contributions to the various Trust and other Funds as provided for in this Agreement; provided, however, that if, after standing-by, said employee is put to work, then said waiting time (standby time) shall be counted as hours worked for the purpose of making Contractor contributions to the various Trust and other Funds as provided for in this Agreement.

(c) In the event the employee starts work, but such work is subsequently shut down by reason of weather, equipment breakdown, power failure, accident or other condition or circumstance which is beyond the control of the Contractor, said employee shall be paid for actual time worked, but in no case shall that payment be less than one hour pay.

#### 11.6 Shift Work

(a) Two-Shift Operation. Where a two-shift operation is scheduled, an employee's first eight hours of work per day on his shift (exclusive of meal period) shall be paid for at said employee's regular straight time rate; provided, however, that where a two-shift operation is scheduled on the basis of a work week of four consecutive ten-hour days, then the straight time rate shall be paid for the employee's first ten hours of work per day on his shift (exclusive of meal period).

(b) Three-Shift Operation. Where a three-shift operation is scheduled, an employee's first eight hours of work per day on his shift (exclusive of meal period) shall be paid for at said employee's regular straight time rate. The length and schedule of working hours on any shift (whether 8, 7-1/2, or 7 hours) shall be determined and scheduled at the Contractor's option; provided, however:

(1) that on each shift (whether scheduled on an 8, 7-1/2, or 7 hour basis), the Contractor shall nevertheless afford the affected employees with eight straight time hours of work opportunity (exclusive of meal periods) or pay for same, unless the employee quits, voluntarily lays off, or is suspended or discharged prior to the completion of said eight hour period, or the Contractor is unable to provide such work due to weather conditions, equipment breakdown, power failure, accident, or other reasons outside of his control, and

(2) that where shifts of less than eight straight time hours are scheduled and

worked, Contractor payments to the Trust and other Funds as provided for in this Agreement shall be at eight hours.

(c) Applicable To Both Two-Shift and Three-Shift Operation. On shift work: (a) men working a shift who come off work on Saturday morning are to be considered working Friday; (b) men working a shift coming off work on Sunday morning are to be considered working Saturday; and (c) men working a shift coming off work on Monday morning are to be considered working Sunday.

#### 11.7 Night Work

(a) When night work is scheduled, an employee's first eight hours of work per day on said work (exclusive of meal period) shall be paid for at the employee's regular straight time rate; provided, however, that where such work is scheduled on the basis of a workweek of four consecutive ten-hour days (or on the basis of four nine-hour days Monday through Thursday plus four hours on Friday), then the straight time rate shall be paid in accordance with that schedule.

(b) By use of the notification form attached as Exhibit "E" (or by other written means which provides the same information), the Contractor will notify the Union whenever he schedules night work pursuant to the above provisions. This notification is for informational purposes only (monitoring and record-keeping), it being specifically understood and agreed that advance approval by the Union of such scheduling is not required. However, the Union would appreciate an advance courtesy call whenever it is possible for the Contractor to do so.

11.8 Wages on Day of Injury. Whenever an employee sustains an industrial injury or illness covered under the State of Hawaii Workers' Compensation Law, he shall be paid for the same number of hours as worked on that day by other employees in his same crew, but not to exceed eight hours at his applicable rate of pay; provided, however, that said employee provided the Contractor with a physician's statement verifying his treatment and disability for the remainder of the day. The employee shall be allowed to go to a physician of his choice. If the employee requires transportation in securing the aforesaid medical treatment, such transportation shall be provided by the Contractor.

#### 11.9 Emergency Call-Out

(a) Any employee called out to perform emergency work, and who so reports at the time specified, shall be paid at the applicable overtime rate for all hours worked on such emergency call-out. Such employee shall receive a minimum of two hours' work, or if two hours' work is not furnished, a minimum of two hours' pay; provided, however, that such two-hour minimum shall not apply if the employee quits, voluntarily lays off, or is suspended or discharged prior to the completion of said two-hour period. Said two-hour minimum shall also not apply if the emergency work for which he is called out continues up to his normal starting time, in which event the employee shall be paid at the overtime rate only for the actual number of hours worked up to his normal starting time.

(b) In computing time spent on emergency call out, such time shall include time spent

in traveling from the employee's home or the place from which he was called, as the case may be, directly to the job site, but shall not include the return trip.

(c) The provisions of Section 11.4 (Meal Period) shall apply to employees who are performing Emergency Call-Out Work.

11.10 Clean-Up Time. An employee shall be allowed ten minutes for tool clean up prior to quitting time when working with concrete or gunite.

### **Section 12. Temporary Transfer**

When an employee covered by this Agreement is required to work in a higher-rated classification covered by this Agreement, such employee shall receive the rate of pay for the higher classification in accordance with the actual number of hours worked in such classification. Should an employee be required to work in a lower-rated classification, he shall receive his regular rate of pay, unless such a transfer is made permanent; provided, however, that transfers to a lower-paid classification made at the request of, or for the convenience of the employee shall not be deemed a temporary transfer irrespective of the duration of such transfer and shall be paid for at the rate applicable to the work being performed.

### **Section 13. Holidays**

13.1 Holidays.

(a) The following days shall be considered holidays and work performed on such days shall be compensated for at one-and-one-half times the employee's regular straight time rate:

New Year's Day	Memorial Day	Veterans' Day
Martin Luther King Jr. Day	Kamehameha Day	Thanksgiving Day
President's Day	Fourth of July	Christmas Day

(b) Labor Day. No work shall be performed on Labor Day except in case of emergency. In the event an employee is requested or required by the Contractor or a representative of the Contractor to work on Labor Day, such employee shall be paid at three (3) times the employee's regular straight time hourly rate of pay for all hours so worked.

13.2 Holidays Falling on Saturday or Sunday. In the event any of the above holidays falls on a Saturday, the preceding Friday shall be considered the holiday. In the event any of the above holidays falls on a Sunday, the following Monday shall be considered the holiday.

13.3 Holiday Work. An employee scheduled to work on a holiday who gives the Contractor advance notice of his inability to work due to a previous commitment shall be excused from said holiday work.

#### 13.4 "Switching" and/or Substitution of Holidays

(a) Whenever **Kamehameha Day** or **Fourth of July** falls on a Tuesday, Wednesday, or Thursday, said holiday may, at the Contractor's option and discretion, be "switched" to either Monday or Friday:

(b) The Contractor shall also have the option, at his discretion, of substituting the Day After Thanksgiving as a holiday in place of Veterans' Day.

NOTE: At the present time, paragraphs (a) and (b), immediately above, are applicable ONLY to PRIVATE and FEDERAL projects. The law would have to be changed in order for said paragraphs to be applicable on State and County projects.

(c) By use of the notification form attached as Exhibit "F" (or by other written means which provides the same information), the Union, as well as the employees affected, will be notified in writing at least five working days prior to the effective date of any "switch" and/or substitution of holidays as may be made pursuant to paragraphs (a) and (b), above.

13.5 Additions/Revisions to Schedule of Holidays. In the event that, during the term of this Agreement, the Holiday Schedule as issued by the General Contractors Association of Hawaii is added to or otherwise revised, then the holidays listed above shall be deemed automatically and simultaneously amended so as to incorporate said revisions or additions.

### **Section 14. Employee Benefits and Contractor Payments**

#### 14.1 General Provisions

(a) Payments to be Made Only for Actual Hours Worked. Contractor payments to the various Trust and other Funds as specified in the Agreement shall be paid only for actual hours worked. Time which is paid for, but not worked, such as time paid for under Section 11.5 (Show Up Time) and Section 11.8 (Wages on Day of Injury), as well as "driving time hours" as provided for under Sections 17.1(b) and 17.2(a) (Transportation) shall not be counted as hours worked for purposes of making Contractor payments to the various Trust and other Funds as provided for in this Agreement.

(b) Coverage of Employees of the Union, the Hawaii Laborers' Training Center, the Trust Fund Administrative Office and/or any of the Trust Funds. If the Union Administrative Office (if one should be established), the Hawaii Laborers' Training Center or any of the Trust Funds as established under this Agreement chooses to cover their employees under any of the Trust Funds listed below, its contributions to said Fund(s) shall be made in the same manner and under same conditions as set forth in Section 14.9 (Contractor Payments) of this Agreement, but shall be computed on a monthly basis at the applicable hourly rate of contribution times 173 hours per month.

(c) Benefit Contributions for Foreman. Contractor contributions to the various Trust Funds as provided for in this Section 14 (Employee Benefits and Contractor Payments) shall be made on behalf of Foremen covered by this Agreement in the same amount and in

the same manner as for all other employees covered by this Agreement.

(d) Benefit Contributions for Supervisory Personnel Above the Rank of Foreman. A Contractor at his option may cover his supervisory personnel above the rank of Foreman in the Hawaii Laborers' Health & Welfare Trust Fund and in the Hawaii Laborers' Pension Trust Fund by paying into the aforementioned Trusts monthly on the basis of 173 hours (regardless of the number of hours worked by such persons during the month) at the per-hour rate of contribution as set forth in this Section. Having made one such payment on behalf of said person, the Contractor shall continue to make such payments as long as said person is in his employ.

#### 14.2 Health & Welfare Fund

(a) The Contractor shall participate in the Hawaii Laborers' Health & Welfare Fund (hereinafter referred to as the "health and welfare fund") under the terms and conditions as set forth in the "Agreement and Declaration of Trust Establishing Hawaii Laborers' Health & Welfare Trust" as executed December 28, 1977 and as it may be amended in the future.

(b) Effective as of the dates listed below, the Contractor shall contribute to the health & welfare fund for each hour worked by each employee covered by this Agreement the following amounts:

Effective October 5, 2020:	\$7.75 per hour
Effective October 4, 2021:	\$8.25 per hour
Effective October 3, 2022:	\$8.75 per hour
Effective October 2, 2023:	\$9.20 per hour
Effective September 30, 2024:	\$9.65 per hour

(c) Should this Agreement be extended beyond the expiration date, the Contractor will thereafter continue payment of contributions at the same uniform rate that the Hawaii Landscape and Irrigation Contractors Council is contributing into the health and welfare fund in order that benefit coverage will continue for the term of this Agreement.

#### 14.3 Pension Fund

(a) The Contractor shall participate in the Hawaii Laborers' Pension Fund (hereinafter referred to as the "pension fund") under the terms and conditions as set forth in the "Agreement and Declaration of Trust Establishing Hawaii Laborers' Pension Trust" as executed December 28, 1977 and as it may be amended in the future.

(b) Effective as of the date listed below, the Contractor shall contribute to the pension fund for each hour worked by such employee covered by this Agreement the following amount:

Effective October 5, 2020:	\$2.40 per hour
Effective October 4, 2021:	\$2.70 per hour
Effective October 3, 2022:	\$2.80 per hour
Effective October 2, 2023:	\$2.90 per hour

Effective September 30, 2024: \$3.00 per hour

(c) Should this Agreement be extended beyond the expiration date, the Contractor will thereafter continue payment of contributions at the same uniform rate that employers are contributing under the collective bargaining agreement between Hawaii Landscape and Irrigation Contractors' Council and the Union for the term of this Agreement.

#### 14.4 Annuity Fund

(a) The Contractor shall participate in the Hawaii Laborers' Annuity Fund (hereinafter referred to as the "annuity fund") under the terms and conditions as set forth in the "Agreement and Declaration of Trust Establishing Hawaii Laborers' Annuity Trust" as executed December 28, 1977 and as said Trust Agreement may be amended in the future.

(b) Effective as of the dates listed below, the Contractor shall contribute to the annuity fund for each hour worked by each employee covered by this Agreement the following amount:

Effective October 5, 2020:	\$1.55 per hour
Effective October 4, 2021:	\$1.60 per hour
Effective October 3, 2022:	\$1.65 per hour
Effective October 2, 2023:	\$1.70 per hour
Effective September 30, 2024:	\$1.75 per hour

#### 14.5 Vacation and Holiday Fund

(a) The Contractor shall participate in the Hawaii Laborers' Vacation and Holiday Fund (hereinafter referred to as the "vacation and holiday fund") under the terms and conditions as set forth in the "Agreement and Declaration of Trust Establishing Hawaii Laborers' Vacation and Holiday Trust" as executed December 28, 1977 and as it may be amended in the future.

(b) Effective as of the dates listed below, the Contractor shall contribute to the vacation and holiday fund on behalf of each employee covered by this Agreement the following amount:

Effective October 5, 2020:	\$3.05 per hour
Effective October 4, 2021:	\$3.10 per hour
Effective October 3, 2022:	\$3.15 per hour
Effective October 2, 2023:	\$3.20 per hour
Effective September 30, 2024:	\$3.25 per hour

(c) In addition to the above, the Contractor shall contribute \$0.04 per hour to the Vacation and Holiday administrative account. This contribution is not a direct employee benefit and therefore not taxable.

(d) All taxes due from each employee by reason of payments under this vacation and holiday fund shall be deducted by each Contractor from each employee's wages and such

total tax deductions, together with the amount payable under this vacation and holiday fund, shall be separately noted on the employee's paycheck.

(e) Interest earned on vacation and holiday funds as deposited by the Administrative Office in accordance with the directions and actions of the Trustees shall be transferred to a revolving account which shall be used to pay Trustee-approved expenses of implementing and administering the vacation and holiday fund.

(f) Vacation and Holiday payments shall be made in accordance with the rules and procedures as adopted from time to time by the Trustees of the vacation and holiday fund.

(g) The respective Negotiating Committees of the parties hereto are hereby authorized to change, at any time during the term of this Agreement, the Vacation and Holiday Fund to a Fund Manager-administered type of program, thus eliminating the need for Contractor and Union Trustees (or the current number of thereof) and the expenses relating thereto. Any such change shall comply with all State of Hawaii and Federal laws, rules and regulations and shall only be made if it will result in lesser overall expenses to the Vacation and Holiday Fund than at present (i.e., no loss of benefits to any employee covered hereby). Should such a change be made, the provisions of this Section 14.5 which may be affected by said change shall be deemed as automatically and simultaneously amended effective as of the date such change is made.

#### 14.6 Training Fund

(a) The Contractor shall participate in the Hawaii Laborers' Training Fund (hereinafter referred to as the "training fund") under the terms and conditions as set forth in the "Agreement and Declaration of Trust Establishing Hawaii Laborers' Training Trust" as executed December 28, 1977, and as it may be amended in the future.

(b) Effective as of the date listed below, the Contractor shall contribute to the training fund for each hour worked by each employee covered by this Agreement the following amount:

Effective October 5, 2020:                      \$.05 per hour

#### 14.7 Hawaii Laborers' and Employers' Cooperative Education Trust Fund

(a) Each Contractor shall participate in the Hawaii Laborers' and Employers' Cooperation and Education Trust Fund (hereinafter referred to as LECET fund) under the terms and conditions of the Trust Agreement Establishing the Hawaii Laborers' and Employers' Cooperation and Education Trust Fund, executed June 8, 1993, but effective December 1, 1993, and as said Trust Agreement may be amended.

(b) Effective as of the date(s) listed below, the Contractor shall contribute to the LECET fund for each hour worked by each employee covered by this Agreement the following amount:

Effective October 5, 2020:                      \$.05 per hour

14.8 Trust Documents. Each of the Declaration of Trust Agreements as referred to above are, by reference, incorporated herein and the Contractor agrees that he shall be bound by all the terms and conditions of said documents and any future amendments. The Contractor further agrees to the appointment of the Trustees of said Funds as designated by the Contractor Associations and hereby designates said Contractor Trustees to serve as his representatives and to act as his agent in all matters concerning the Funds.

#### 14.9 Contractor Payments

##### (a) Transmittal of Contributions

(1) Contributions to Health & Welfare Trust Fund must be reported and paid by the 20th of each month. Because employee eligibility for health and welfare benefits is determined on a monthly basis, Contractor contributions to the Health & Welfare Trust Fund as specified and provided for above shall be reported and paid (postmarked) no later than the 20th day of the month immediately following the month for which the contributions are due.

(2) Contributions to all other Trusts and other Funds. Contractor contributions to all other Funds as specified and provided for above shall also be due and payable on the 20th day of the month immediately following the month for which the contributions are due, but a Contractor shall not be deemed delinquent if full payment of amounts due is made or postmarked and mailed by the 25th day of said month.

(3) A consolidated transmittal and report form as provided by the Administrative Office, showing, among other things, the monthly total of hours worked by each employee covered by this Agreement, shall be submitted each month and accompany such payment, if any.

(4) The consolidated transmittal form must be submitted or postmarked by the 25th day of the month immediately following the month being reported even if no employees were employed by the Contractor.

(b) Information and Audit. Each Contractor shall provide the appropriate Trustees or their authorized representative(s) with all information and records necessary to carry out the purposes of and in connection with the proper administration of the various Funds and shall permit an audit of his payroll records by authorized representative(s) of the Administrative Office or the Trustees to ascertain whether all contributions due have been paid. Every Contractor shall maintain records in the State of Hawaii with respect to each of the Contractor's employees covered by the collective bargaining agreement sufficient to determine the benefits due or which may become due to such employees.

(c) Authority of Trustees to Reduce Contributions. The Trustees of each of the Trust Funds are hereby given authority to, and may at their discretion, temporarily reduce the rate or amount of contribution to any of said Trust Funds or order a temporary discontinuance of payments into any of said Trust Funds if in their judgment an unjustified surplus is being accumulated in any of said Funds.

(d) Delinquent Contributions and Collections

(1) When the Contractor's contributions to any of the Trust Funds provided for under this Agreement are not paid or postmarked and mailed by the 25th day of the month immediately following the month for which the contributions are due, such contributions are delinquent and the Contractor shall be deemed to be in violation of this Agreement and the aforementioned Trust Agreements. The Trustees, on behalf of the Trust Funds, are authorized to bring whatever legal action deemed necessary to recover delinquent Trust Fund contributions, liquidated damages and interest including but not limited to the institution of any action against a Contractor, surety or co-obligor to recover monies owed by the delinquent Contractor to the Trust Funds and to the assertion, perfection and foreclosure of any lien rising from the providing of labor by employees of the delinquent Contractor. A Contractor responsible for such delinquent contributions shall pay to each respective Fund:

(a) the unpaid contributions;

(b) interest on the unpaid contributions at the rate of twelve percent per annum or the rate prescribed under Section 6621 of the Internal Revenue Code of 1954, as amended, whichever is greater, provided however, that should such delinquent Trust Fund contributions be paid in a timely fashion as provided for herein, no interest shall be charged. Interest shall be computed from the first day following the month for which Trust Fund contributions are owed;

(c) an amount equal to the greater of:

(i) interest on the unpaid contributions, or

(ii) liquidated damages in the amount of twenty percent (20%) of such delinquent and unpaid contributions due to each respective Fund or twenty dollars whichever is greater, for each and every delinquent monthly contribution;

(d) all audit and collection costs; and,

(e) if the delinquency is turned over to an attorney for collection, reasonable attorney's fees and costs of the action as provided for by the Employee Retirement Income Security Act, as amended, together with all other reasonable expenses incurred in connection with such suit or claim including any appellate proceedings therein.

(2) The amount specified in subsection (c)(ii), above, shall be due and payable to each respective Fund upon the day immediately following the date such contribution becomes delinquent and shall be in addition to the total amount of the delinquent contributions. Said amount is payable as and for liquidated damages, and not as a penalty, in that the failure of the Contractor to make the required timely

payment of contributions imposes additional burden and expenses upon the Trustees in the collection thereof; in the administration of the Trust Funds, including but not limited to the processing of late contribution reports, correspondence and other communication with said Contractor; and, in addition thereto may cause a loss of benefits to employees, and loss of benefit of the use of the amounts required to be paid, all of which are difficult to accurately ascertain.

(e) Weekly Reports and Payments by Delinquent Contractor. Any other provision to the contrary notwithstanding, if the Contractor is responsible for delinquent contributions he may be required by the Trustees of the various Funds to make and submit weekly detailed reports and payments for current contributions no later than the Friday immediately following the end of each and every week until such time as all delinquent amounts due and payable to each of the respective Funds are brought current. In the event Friday falls on any holiday on which local banks will be closed, the report and payments shall be made and submitted by Thursday of that week.

(f) Bond or Cash-In-Escrow by Delinquent Contractor. If the delinquent contribution, liquidated damages, interest, attorney's fees, and costs due to any respective Fund are not paid within 30 calendar days after the due date, the delinquent Contractor, to secure the payment of future contributions, may be required to post with the Trustees of each respective Fund within five working days thereafter and for a period of up to one year from the date of delinquency a surety bond or cash-in-escrow in an amount equal to the last three months contributions or \$5,000, whichever is greater.

(g) Application/Non-Application of Section 21 (Grievance Procedure and Arbitration). All matters involving the payment, collection, and enforcement of Contractor contributions, liquidated damages, and/or interest due to the various Funds provided for in this Agreement shall be handled by and in the manner as prescribed by the Trustees of the various Funds in accordance with the Trust Documents establishing said Funds and shall not be subject to the provisions of Section 21 (Grievance Procedure and Arbitration); provided, however, that any questions relating thereto as may arise pursuant to a Union action under Section 7.3 of this Agreement and any questions relating to whether a particular person or group of persons are employees as defined under Section 2 (Coverage) of this Agreement for whom contributions are due shall be subject to the provisions of Section 21 (Grievance Procedure and Arbitration).

(h) Relationship to Section 7.3. Nothing in Section 14 shall be construed as being in conflict with the provisions of Section 7.3 of this Agreement, nor shall anything in Section 14 be deemed a condition precedent to any action that the Union may take under the provisions of Section 7.3.

#### 14.10 Costs Incurred Due to Non-payment of Health and Welfare Contributions

(a) Should a Contractor become delinquent in his Health and Welfare contributions and result in an employee incurring costs he would not have otherwise not incurred, the Contractor shall make the employee whole by reimbursing the employee for all such costs. These costs shall include, but not be limited to, the cost of COBRA or self-pay coverage, any medical bills that would have been covered under the employee's medical coverage,

and any interest or penalties related to such medical bills.

(b) The employee may be required to submit a copy of the bills incurred to the Contractor. The employee may black out any personal or medical information on such bills prior to submitting for reimbursement.

(c) Alleged violations of this subsection will be processed under Section 21 (Grievance Procedure and Arbitration).

**Section 15. Seniority and Authorized Leave of Absence Without Pay**

15.1 Seniority

(a) The principle of seniority shall not apply to a new employee until he shall have completed his probationary period with the Contractor. At the end of the probationary period, the seniority date of said employee shall be his date of hire.

(b) Seniority shall be considered broken by:

(1) Discharge.

(2) Resignation.

(3) Twelve consecutive months of absence from work by reason of illness or injury or by reason of layoff for lack of work.

(4) Twelve consecutive months of absence from work by reason of leave of absence as authorized by the Contractor in writing; provided, however, that said twelve-month period of leave of absence may be extended by mutual agreement between the Contractor and the Union which shall be confirmed in writing.

(c) In making layoffs and recalls after layoffs, employees below the rank of Foreman/Working Foreman/Leadman who have the least seniority will be laid off first, and the laid off employee with the most seniority will be recalled first; provided, however, that the employee is competent to perform the job to which he may be entitled under the aforesaid seniority principle.

15.2 Authorized Leave Of Absence Without Pay

(a) Any employee covered by this Agreement may request an authorized leave of absence without pay in accordance with the following schedule:

After one year of continuous service with the Contractor.....One Week

After two or more years of continuous service with the Contractor.....Two Weeks

(b) If an employee's choice of authorized leave of absence would cause a hardship upon the Contractor due to the workload, or due to the number of employees who would be on

authorized leave of absence, the Contractor reserves the right to assign some other authorized leave of absence period than that requested unless authorized leave is for Union business. In the administration of this provision, employees with greater seniority shall be given preference of choice of any authorized leave of absence over employees with lesser seniority.

### **Section 16. Safety and Protective Devices**

16.1 Except for construction hard hats, construction safety shoes and calf-high rubber boots which each employee shall secure on his own as part of the tools of his trade, the Contractor shall furnish all other tools and their accessories as may be required by the Contractor, as well as all safety and protective equipment as may be required by applicable State or Federal safety regulations for the work being performed.

16.2 Where a special type or color of hard hat is required either by State or Federal safety regulations or by the Contractor, said special type or color of hard hat shall be supplied by the Contractor.

16.3 The Contractor agrees to provide and maintain safe working conditions for each employee covered hereby in accordance with Federal and State safety and health laws and regulations.

16.4 Employees shall perform their duties in each operation in such a manner as to promote safe and efficient operation of each particular duty and of any job as a whole, not in conflict with the provisions of this Agreement.

16.5 Employees shall use and shall properly care for and maintain such safety and health equipment as is issued or assigned to them and they shall return same to the Contractor upon completion of its use.

16.6 When respirators are used, the Contractor shall provide an adequate supply of proper replacement filters (in accordance with MSDS requirements) on hand at the jobsite at which such respirators shall be used, and the Contractor shall sanitize respirators prior to their re-issuance to another employee.

16.7 Safety meetings as scheduled by the Contractor shall be attended by the employees and may be attended by a representative of the Union.

16.8 The Union shall be notified whenever an accident of a serious nature occurs involving an employee covered by this Agreement.

16.9 A copy of any accident report(s) required by the State of Hawaii or Federal Government to be completed by the Contractor shall be made available by the Contractor to the Union upon request by the Union.

16.10 No employee shall be required to perform job-site maintenance work on equipment after sunset or before sunrise unless he is accompanied by another individual.

16.11 An adequate supply of fresh, potable water cooled by ice shall be available to employees at convenient locations on all job sites at the start of each work day, but in no event any later than one-half (1/2) hour after the start of the shift. When water is supplied in containers, said containers shall be clean and the Contractor shall furnish paper cups or have an OSHA-approved type of drinking fountain with rim guard to prevent the possible spread of disease.

16.12 Whenever toxic chemical are either sprayed or applied to either the ground or construction materials, the Contractor shall conduct a meeting to inform all employees of the specific chemical to be used, the dangers of said chemicals, and the safety precautions required. In every instance, employees shall be furnished with proper safety equipment prior to working.

16.13 The Contractor shall be responsible to either call an ambulance, or transport the employee to a physician or emergency facility immediately upon being notified of those industrial accidents requiring medical treatment from a health care facility or other licensed medical care provider.

16.14 Light Duty Work. Employees who are assigned light duty work due to doctor's orders shall be assigned work in compliance with the limitations established by the doctor. Employees not covered by this Agreement who may be assigned light duty work shall not be assigned any work covered by this Agreement.

### **Section 17. Transportation**

17.1 Transportation from the Contractor's Shop or Office to the Job Site.

(a) Transportation of employees covered by this Agreement from the Contractor's shop or office to the job site shall be arranged so that it will arrive on the job site by the start of the regular workday.

(b) Drivers utilized to so transport the employees shall be paid at one-and-one-half times their regular straight time rate of pay for time spent in driving prior to the start of the regular work day. Said "driving time," however, shall not be considered as hours worked for the purpose of making Contractor contributions to the various Trust and other Funds that are provided for in this Agreement.

(c) An employee traveling (riding) to the job site shall not be paid for said riding time unless the workday has already commenced.

17.2 Transportation from the Job Site to the Contractor's Shop or Office.

(a) Drivers utilized to transport employees on the return trip (from the job site back to the Contractor's shop or office) shall be paid at one-and-one-half times their regular straight time rate for time spent in driving after eight straight time hours of work for that day (two times their regular straight time rate for time spent in driving after a total of twelve hours of work for that day). Said "driving time" shall not be considered as hours worked for the purpose of making Contractor contributions to the various Trust and other Funds that are provided for in this Agreement.

(b) Employees traveling (riding) from the job site to the Contractor's shop or office shall not be paid for said riding time unless said time exceeds two hours, in which case the employee shall be paid at the applicable overtime rate of pay for said time.

**Section 18. Subsistence and Travel (Neighbor Island Work)**

18.1 Subsistence and Travel

(a) When an employee is required by the Contractor to leave the island on which he resides to report to work on a Neighbor Island project, the Contractor will provide transportation to and from said island.

(b) Employees shall be reimbursed for travel expenses as approved by the Contractor which are incidental to the trip.

(c) While traveling to and from said island on a regular workday, the employee will receive his regular straight time rate of pay not to exceed eight hours in any one twenty-four hour period including time worked. If work is not provided for the employee at the time of his arrival at his destination, he shall nevertheless be paid eight straight time hours.

(d) If required by the Contractor to travel to and from said island on a non-workday, the employee shall receive a minimum of two hours' pay at one-and-one-half times his regular straight time rate.

(e) Transportation of any personal baggage (exclusive of tools required by the Contractor) in excess of the weight and size that is included in the normal fare shall be paid for by the employee, unless he receives express permission from the Contractor to take excess baggage. Should the airline charge a fee for all baggage, the Contractor shall pay the baggage fee for a reasonable number of bags.

(f) If the employee is required to remain on the island, the Contractor shall be required to provide either:

- (1) meals and lodging of good quality (no more than two persons per room\*),
- (2) OR, provide lodging of good quality (no more than two persons per room\*) plus pay a per diem meal allowance in the following amount:

Effective October 1, 2020:	\$44.00 per day
Effective October 4, 2021:	\$45.00 per day
Effective October 3, 2022:	\$46.00 per day
Effective October 2, 2023:	\$47.00 per day

*Thereafter: Amount of per diem meal allowance to be the same as that which is included in the Master Agreement Covering Construction Laborers in the State of Hawaii, with said amount to be effective as of the first Monday of the month following the month in which it becomes effective under said Master Agreement.*

(3) OR, pay a per diem allowance in the following amount:

Effective October 1, 2020:	\$82.00 per day
Effective October 4, 2021:	\$84.00 per day
Effective October 3, 2022:	\$86.00 per day
Effective October 2, 2023:	\$88.00 per day

*Thereafter: Amount of per diem allowance to be the same as that which is included in the Master Agreement Covering Construction Laborers in the State of Hawaii, with said amount to be effective as of the first Monday of the month following the month in which it becomes effective under said Master Agreement.*

This option can only be taken at the request of the employee and shall apply for the duration of that project.

The applicable per diem allowance shall be paid weekly no later than the next payday.

NOTE\* The term "room" as used in paragraphs (f)(1) and (2), above, shall include the living room in addition to the bedroom. For example, six employees may be housed in a two bedroom house, eight employees may be housed in a three bedroom house, etc.

(g) Where a camp set-up which meets County and State Department of Health standards is being made available and two or more employees of the Contractor are being sent to the project involved, said employees must utilize those facilities. If they do not, they shall not be entitled to any subsistence or per diem allowance.

(h) Meals and lodging or the applicable per diem allowance, as the case may be, shall be provided for seven days a week; provided, however, that an employee who absents himself from work without the approval of the Contractor shall pay the applicable per diem allowance as specified above for the cost of his meals and lodging or shall have the applicable per diem allowance deducted from his per diem pay, as the case may be, for each day of absence.

(i) Meals and lodging or the applicable per diem allowance, as the case may be, shall automatically cease in the event the employee refuses to work or is suspended or discharged for cause prior to the completion of the work project. If an employee who is suspended or discharged for cause leaves the Island on the day of his suspension or discharge, the Contractor will pay or reimburse the employee for his return transportation, but not for return travel time. An employee who quits or otherwise refuses to work shall pay his own return transportation and shall also not be paid for return travel time.

(j) In the event of death or serious illness or injury involving an employee's immediate family (spouse, child, brother, sister, parents, mother-in-law, or father-in-law), the Contractor shall pay for the cost of an employee's return transportation to his home island.

(k) In the event an employee is injured or becomes ill and a duly-licensed medical physician certifies that said employee's condition requires that he be returned to his home

island, the Contractor shall pay for the cost of said return transportation. An employee whose injury or illness is caused by his own misconduct (fighting in which said employee was the aggressor, use of intoxicants or hallucinogenic or other non-prescription drugs, etc.) shall be subject to discipline or discharge.

(l) This subsection shall not apply to bona fide residents of the Island on which the work is being performed.

(m) The Contractor shall not make any individual agreement or arrangements of any sort with any employee or group of employees which conflict with the provisions of this Section, and no employee covered by this Agreement who is eligible for subsistence allowance shall receive a lesser amount for subsistence allowance than any other employee covered by this Agreement who is working for the same Contractor on the same project.

## 18.2 Application of Subsistence to Bona Fide Residents of Neighbor Islands who are Required by the Contractor to Live Away From Home on the Same Island.

(a) When an employee who is a bona fide resident of any Neighbor Island is required by the Contractor to live away from home elsewhere on the same Island, the Contractor shall provide either meals and lodging of good quality (no more than two persons per room), or, if not so furnished a per diem subsistence allowance in the same amounts as specified under Section 18.1, above.

(b) The determination of whether to provide meals and lodging or the applicable per diem allowance rests with the Contractor; provided, however, that where only one employee of the Contractor is required by the Contractor to live away from home elsewhere on the same Island, then said employee shall have the right of choice as to which of the options he desires. Once exercised, this option shall apply for the duration of the project unless changed with the consent of the Contractor.

(c) Where a camp set-up which meets County and State Department of Health standards is being made available and two or more employees of the Contractor are being sent to the project involved, said employees must utilize those facilities. If they do not, they shall not be entitled to any subsistence or per diem allowance.

(d) Such meals and lodging or applicable per diem allowance, as the case may be, shall be provided for five days a week; provided, however, that where said employee is required by the Contractor to work a six or seven day workweek, said employee shall receive meals and lodging or the applicable per diem allowance, as the case may be, for said six or seven days. Where the work is scheduled by the Contractor on the basis of four consecutive ten-hour days OR on the basis of four nine-hour days (Monday through Thursday) plus four hours on Friday, then meals and lodging or the applicable per diem allowance, as the case may be, shall be provided for four days (Monday through Thursday) plus fifty percent of the meal allowance amount specified in paragraph 18.1(f)(2), above, to cover the employee's breakfast and lunch on Friday.

(e) If the employee requires transportation in returning to and from home for the weekend, the Contractor will provide or arrange for said transportation.

(f) An employee who absents himself from work without the approval of the Contractor shall pay or shall have the applicable per diem allowance or per diem meal allowance deducted from his per diem pay, as the case may be, for each day of absence.

(g) Such meals and lodging or the applicable per diem allowance, as the case may be, shall automatically cease in the event the employee refuses to work or is suspended for cause or discharged or quits prior to the completion of the work project.

### **Section 19. Access to Job**

19.1 Representatives of the Union shall have access to the Contractor's premises and job sites for purposes of investigating grievances that have arisen and ascertaining whether or not this Agreement is being observed. Such representatives shall make every reasonable effort to advise the project superintendent or his authorized representative of his presence on the project. Such visits shall be exercised reasonably and shall not interfere with the conduct of the Contractor's operations or cause employees to neglect their work.

19.2 For purposes of gaining entry to job sites located on military bases and/or other restricted/security areas, the Contractor will include the name of the assigned Union Representative on its list of persons who are permitted entry to the project and will otherwise provide assistance in gaining such entry. The Union shall indemnify and hold the Contractor harmless against any and all costs, claims, or other actions against the Contractor or any other entity as a result, whether directly or indirectly, of said entry and presence on the project.

### **Section 20. Union Steward**

20.1 The Union shall have the right to elect or appoint a company Steward. The Union shall give written notice to the Contractor of the name of said Steward.

20.2 The Steward shall be given reasonable time during regular working hours to contact employees covered by this Agreement who are employed on the project on which the Steward is working; provided, however, that time so spent shall be exercised reasonably and shall not interfere with the conduct of the Contractor's operations or cause employees to neglect their work.

20.3 The Steward shall also be allowed to attend and participate in grievance meetings held on the project on which he is working and he shall suffer no loss of pay as a result of such participation.

20.4 It is specifically understood that such Steward shall not under any circumstances leave the project to which he has been assigned in order to perform his Steward duties.

20.5 The Contractor shall not discharge or discriminate against the Steward or any other employee for presenting a grievance or giving evidence with respect to an alleged violation of this Agreement. When the Steward or any other employee alleges a violation of this Agreement, the complaint will be processed as provided under Section 21 (Grievance Procedure and Arbitration).

20.6 Whenever overtime work is scheduled on a Saturday, Sunday, or holiday, the Union Steward, if any on the project involved, will be afforded the opportunity to be included in that work provided he is qualified and competent to perform the work required.

20.7 In the event of a layoff due to lack of work, the Steward shall, as long as there is an employee below the rank of Foreman/Working Foreman/Leadman still employed by the Contractor, be the last employee within his classification to be laid off provided he is qualified and competent to perform the work available.

20.8 In the event the Union Steward is to be laid off for lack of work, the Contractor shall notify the Union at least one working day before the layoff is to be made.

### **Section 21. Grievance Procedure and Arbitration**

#### 21.1 General Conditions

(a) A grievance shall be defined as any dispute between the parties to this Agreement or between the Contractor and an employee. Should a grievance arise, the aggrieved party shall be required to follow the procedure hereinafter set forth in presenting the grievance and having the grievance investigated and the merits thereof determined.

(b) Grievances shall be presented to the Contractor allegedly at fault within twenty (20) working days after the alleged violation occurred or first became known to the grieving party; provided, however, that in cases of discharge, the grievance shall be submitted within ten (10) working days of the discharge. Failure to so present the grievance shall be deemed as a waiver of remedy.

(c) If, however, the grievance involves nonpayment or partial payment of wages and/or nonpayment or partial payment of amounts due under Section 18 (Subsistence and Travel) and such nonpayment or partial payment was not raised as a grievance by reason of the promise of the Contractor to make full payment at a later date but which promise was not fulfilled, then said grievance shall be recognized.

(d) By mutual agreement of the parties, the time limits within any step of the procedure as hereinafter provided may be extended. Any such extension shall be confirmed in writing.

(e) Failure of the Contractor or such Contractor's designated representative(s) to respond to any step of the grievance procedure within the time limits prescribed at any step of the grievance procedure shall permit reference of the case to the succeeding step of the procedure following the expiration of time limits.

(f) Pertinent and relevant information in the possession of any party to the grievance which is needed by the other party to investigate and process a grievance shall be accessible to the requesting party within three working days of the request for such information.

21.2 First Step. The grievance may be presented by the complainant to the lowest supervisory

or management official with authority to resolve the complaint, who will give his answer either orally or in writing within two (2) working days following the presentation of the grievance. In this step, the grievance may be submitted either orally or in writing.

21.3 Second Step. If the grievance is not disposed of in the first step, the grievance may be presented in writing to the Contractor. If the grievance is not presented to Step 2 within five (5) working days from the date of the Contractor's answer in Step 1, the Contractor shall not be required to further consider the grievance. Upon such presentation, a meeting shall be held within three (3) working days thereafter by the Contractor and the Union's representative. The Contractor will answer the grievance in writing within one (1) calendar week following the meeting.

#### 21.4 Third Step (Arbitration)

(a) If the grievance is not disposed of in the second step, it may be arbitrated as set forth below, at the sole choice and discretion of the Union. If the grievance is to be arbitrated, the Union shall, within fifteen (15) working days after receipt of the Employer's written answer in Step 2, serve written notice upon the Employer of desire to arbitrate the grievance.

(b) Within five (5) working days after receipt of the Union's written notice to arbitrate a grievance, the parties shall confer to mutually select an Arbitrator. If the parties are unable to mutually agree on the name of an Arbitrator, then the Arbitrator shall be selected from amongst the following five (5) persons: Thomas Cestare, Karl Sakamoto, Patrick Yim, Louis Chang, and Walter Ikeda. From that list, one Arbitrator shall be chosen as follows: the Union and the Employer shall each strike two names from said list, each striking alternately, the first to strike to be determined by lot. The Arbitrator whose name remains shall serve in the case.

(c) Within three (3) working days after selection of the Arbitrator, the complainant shall give written notice to him requesting arbitration of the grievance, together with a statement of the issues to be arbitrated. Thereupon the Arbitrator shall set the time and place for the arbitration hearing. The date of the hearing fixed by the Arbitrator shall be within thirty (30) calendar days from the receipt of such notice.

(d) All decisions of the Arbitrator shall be limited expressly to the interpretation of the terms and provisions of this Agreement, and in no event may the terms and provisions of the Agreement be altered, amended, or modified by the Arbitrator. All decisions of the Arbitrator shall be in writing and a copy thereof shall be submitted to each of the parties hereto. All decisions of the Arbitrator shall be final and binding upon the parties.

(e) The Arbitrator shall receive for his services such remuneration as from time to time shall be acceptable to him and agreed upon by the parties. All fees and expenses of the Arbitrator shall be borne equally by the Union and the Employer. Each party shall bear the expenses of the presentation of its own case.

(f) The retroactive application of any remedy of the arbitrator shall be limited to twenty (20) working days from the time the Contractor had notice of the grievance; provided, however, that in grievances involving the situation mentioned in Section 21.1(c), above,

the Arbitrator is empowered to grant full restitution of unpaid amounts. In cases involving suspension or discharge, if the Arbitrator finds that a discharge or suspension was improper, such discharge or suspension may be set aside, reduced, or otherwise changed by the Arbitrator. If the penalty is set aside, reduced, or otherwise changed, the Arbitrator, at his discretion, may award back pay to compensate the employee, wholly or partially for wages and/or benefits (including contractor payments to various trust and other funds as provided in the agreement) lost because of the discharge or suspension. If a back pay award is made, wages received from any other employment or any sums received as unemployment compensation while the penalty is in effect shall be deducted by the Arbitrator in determining the amount of the award.

## **Section 22. Subcontracting**

Regardless of tier, work covered by this Agreement may be subcontracted out only to a Company, person, or other entity who is signatory to a valid and current collective bargaining agreement with the Laborers' Union.

## **Section 23. Hiring and Referral Procedure**

23.1 Union Referrals. The Contractor agrees that the Union hiring and referral procedure shall be the sole procedure used to obtain additional employees. The Union will provide the Contractor a full copy of the current hiring and referral procedure upon request.

23.2 Notice of Quits, Lay-offs, and/or Terminations. A Contractor shall notify the Union promptly of the names of those employees who have quit, been permanently laid off or have been terminated during the previous workweek. This notification shall be given by means of a standard notification form. or by other written means which provides the same information

(a) For the purposes of this Agreement, the term "laid off" shall be defined as:

Temporary layoff: Layoffs of no more than four (4) calendar weeks.  
Permanent layoff: Layoffs greater than four (4) calendar weeks.

(b) The Employer shall convert an employee who is on a temporary layoff due to lack of work to a permanent lay off due to lack of work upon request by such an employee in order to make that employee eligible for the Union's hiring and referral procedures.

23.3 Failure to Adhere to Referral and Hiring Procedure. If a Contractor fails to adhere to the provisions of this Section, the Union may, upon appropriate written notice to the Contractor as specified below, withdraw its members from the performance of work for said Contractor and/or take other economic action against him; and said withdrawal of employees and/or other economic action shall not be a violation of this Agreement. In each case, the Union shall give written notice to the Contractor involved of its intent to withdraw his employees and/or take other economic action against him, and the Contractor shall be given three working days from receipt of said notice to rectify the situation. If not so rectified, the Union shall then be free to withdraw his employees

and/or take other economic action against him.

#### **Section 24. No Piece Work or Contract Work**

##### 24.1 No Piece Work or Contract Work

(a) No employee shall perform work covered by this Agreement on a "piece work" or contract work basis, nor shall any employee perform work within the jurisdiction of this Agreement except as an employee of the Contractor.

(b) The Contractor shall not allow any employee to perform work covered by this Agreement on a "piece work" or contract work basis, nor shall the Contractor allow any employee to perform work within the jurisdiction of this Agreement except as an employee covered by this Agreement.

24.2 Violations of this Subsection. Each occurrence of an alleged violation of this Section may be processed under Section 21 (Grievance Procedure and Arbitration). In the event it is found that a violation of this Section has in fact occurred, the violator shall be subject to the following fines for each day such violation continues to occur:

First Offense:	A fine of \$500
Second Offense:	A fine of \$1,000
Third Offense And Thereafter:	A fine of \$1,500

#### **Section 25. Successors and Assigns**

This Agreement shall be binding upon both parties, their successors, heirs, and assigns to the full extent required by the National Labor Relations Act, as amended.

#### **Section 26. General Savings Clause**

It is not the intent of either party hereto to violate any laws, rulings, or regulations of any Governmental authority or agency having jurisdiction of the subject matter of this Agreement, and the parties hereto agree that in the event any provisions of this Agreement are finally held or determined to be illegal or void as being in contravention of any such laws, rulings, or regulations; nevertheless, the remainder of the Agreement shall remain in full force and effect, unless the parts so found to be void are wholly inseparable from the remaining portions of this Agreement. The parties agree that if and when any provisions of this Agreement are finally held or determined to be illegal or void they will promptly enter into negotiations concerning the substance thereof, it being understood that the provisions of Section 7 (No Strike or Lockout) shall continue to remain in full force and effect.

#### **Section 27. Modification of Agreement**

27.1 This Agreement shall not be modified except by written document signed by the parties.

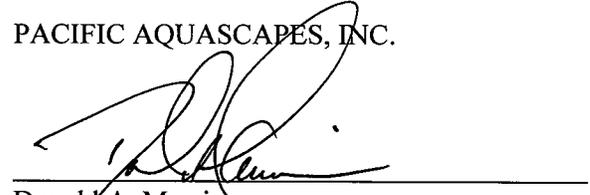
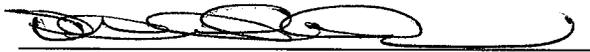
27.2 No agreement which conflicts with this Agreement, or any amendments thereto, shall be entered into between the Contractor and any employee covered by this Agreement.

**Section 28. Representations**

This document contains the entire Agreement of the parties and neither party has made representations to the other which are not contained herein.

LABORERS' INTERNATIONAL UNION OF  
NORTH AMERICA, LOCAL 368

PACIFIC AQUASCAPES, INC.



Peter A. Ganaban  
Business Manager

Donald A. Morrison  
CFO / Secretary-Treasurer



Alfonso Oliver  
President

Street Address of Above Contractor:

91-170 Olai St.

Kapolei, HI 96707

Mailing Address of Above Contractor:

Same as above

Date signed: Sept 25<sup>th</sup>, 2020

Phone Number: 682-1020 / 682-7269 (fax)

State Contractors License Number: C-10771

EXHIBIT "A"

CLASSIFICATION AND MINIMUM HOURLY WAGE SCHEDULE

I. The following are the classifications and minimum hourly rates of pay that shall apply to employees covered by this Agreement in the performance of Waterscape/Waterfeature work. Waterscape/waterfeature work includes pools, spas, ponds, waterfalls, rockwork, decking, equipment/maintenance rooms, equipment/maintenance room enclosures and all associated work, and all work described in Section 2.2.

<b>HOURLY WAGE</b>	Effective 10/5/2020	Effective 10/4/2021	Effective 10/3/2022	Effective 10/2/2023	Effective 9/30/2024
Waterscape Laborer I	\$33.45	\$34.10	\$35.15	\$36.20	\$37.25
Waterscape Laborer II	\$32.00	\$32.65	\$33.70	\$34.75	\$35.80

LABORER FOREPERSON – Supervision of employees covered by this Agreement shall be accomplished by a Laborer Foreperson covered by this Agreement who shall receive a minimum of one dollar fifty cents (\$1.50) per hour more than the Laborer I classification.

GUNITE NOZZLEMAN AND FINISHER – including pumping grout or shooting gunite or shotcrete and the use of trowels to shape, carve or smooth gunite and/or like materials shall receive an addition one dollar (\$1.00) per hour for all hours so worked in the performance of such work more than the Laborer I classification

WATERSCAPE LABORER I - Lead-person/Laborer I is a skilled and experienced laborer who has the knowledge on how a specific task is to be completed in a safe and proper manner to achieve the desired outcome.

1. Lead-person in signaling (including the use of a walkie-talkie), choke setting and rigging in connection with Laborers' work (except demolition).
2. Shooting of grade elevations (instrument use).
3. Lead-person concrete pump machine/plaster machine operator (laying, coupling, uncoupling of all connections and cleaning of equipment).
4. Lead-person coring holes: walls, footings, piers or other obstructions for passage of pipes or conduits for any purpose and the pouring of concrete to secure the hole.
5. Grout: spreading for any purpose.
6. Heat welder of liner (when work involves waterproofing for ponds, waterfalls, artificial lakes and reservoir and landfill or other uses).
7. High pressure nozzleman – hydraulic monitor (over 100# pressure).
8. Installation of water feature systems. This work includes the installation of: hydraulic and electrical controllers and equipment, pumps, filters as well as the installation of PVC or other plastic pipe (gluing) and other equipment.
9. Making of pressure test kits.
10. Mechanical Room Equipment Installation (except for cutting pipe, installation of hangers,

- rods, inserts and supports) to include pipe gluing, setup of equipment, control systems.
11. Nozzleman (sandblasting and/or water blasting) handling, placing and operation of nozzle (not pressure washer).
  12. Operation (when used in connection with Waterscape Work) of Skid-Steer Loaders (Bobcat and similar), Cranes (Bantam, Grove, and similar), Hoptoes, Backhoes, Loaders, Excavators, Rollers, Gradall and Dozers (Case, John Deere, and similar), Trucks requiring a State of Hawaii Public Utilities Commission Type 7 license, and including but not limited to, other self-propelled, sit-down operated machines.
  13. Plaster – trowel finish (except for mixing or tending hose)
  14. Pumping grout or shooting gunite/shotcrete (except for tending hose) and the use of trowels to shape, carve, or smooth gunite and/or like materials for ponds or pools and synthetic rock forms (GFRC/GFRP).
  15. Lead-person rock slinger (includes placement of stacked concrete, wet or dry and loading, unloading, signaling, slinging and setting of other similar materials).
  16. Rockwork – the texturing and carving.
  17. Scaffold erector lead-person.
  18. Stripping and setting forms lead-person
  19. Tile/stone/coping stone – setting tile using trowel, grouting tile/stone
  20. Vibra-Screed (bull float in connection with Laborers' work).
  21. Steel work – lead-person.
  22. Tiling, including coping tile installation.
  23. Installation of pumps, filtration systems, pool lights and control systems.

**WATERSCAPE LABORER II** – performs basic waterscape laborer skills and follows the lead of the Laborer I in performing waterscape/waterfeature work.

1. Boring Machine Helper
2. Chainman, rodmen and grade markers
3. Choke-setting, signaling, and rigging for natural and synthetic rock placement (not leadman).
4. Compactor operation (Jackson, Jumping Jack and similar)
5. Concrete bucket dumpman
6. Concrete chipping
7. Concrete chuteman, hoseman(pouring concrete)(the handling of the chute from ready-mix trucks for such jobs as walls, slabs, decks, floors, foundations, footings, curbs, gutters, and sidewalks)
8. Concrete core cutter (walls, floors and ceiling)
9. Concrete curer (impervious membrane and form oiler)
10. Concrete grinding or sanding
11. Concrete: mixing, handling, conveying, pouring, vibrating, otherwise placing of concrete or aggregates or by any other process.
12. Concrete pump machine/plaster machine assistant operator (not lead-person): laying, coupling, uncoupling of all connections and cleaning of equipment.
13. Concrete saw (walking or hand type): cutting walls or flatwork, scoring old or new concrete, cutting for expansion joints, streets and ways for laying of pipe, cable, conduit for all purposes.

14. Concrete shovelers/laborers (wet or dry).
15. Concrete screeding for rough strike-off: rodding or striking-off, by hand or mechanical means prior to finishing.
16. Concrete vibrator operator.
17. Concrete work (wet or dry), including concrete bucket and hose tending, and operation of concrete vibrator, concrete and/or gunite/shotcrete pump machine, plaster pump, concrete saw cutter (hand-held or walking type), and concrete and/or gunite/shotcrete/plaster mixer. This work includes the setting of rock, stone or riprap in connection with waterscape work. Mixing of concrete/plaster/mortar/grout for waterscape work.
18. Concrete bucket tender (groundman) hooking and unhooking of bucket.
19. Forming (other than lead-person): stripping, setting, moving, cleaning, oiling and carrying to the next point of erection of all forms.
20. Dry-packing of concrete (plugging and filling of she-bolt holes).
21. Exterior plumbing for water feature installation to include hauling/cutting pipe, pulling strings for electrical conduit and cutting pipe for mechanical rooms, installation of hangers, rods, inserts and supports
22. Forklift operation.
23. Finegrader.
24. Gas, pneumatic and electric tools not listed in Laborer I.
25. General excavation, grading and backfilling (all labor connected therewith): digging of trenches, ditches and manholes and leveling, grading and other preparation prior to laying pipe or conduit for any purpose. Excavations and foundations for buildings, piers, foundation and holes and all other construction.
26. General laborer – cleaning and clearing of all debris, material handling and supply acquisition.
27. Grubbing, pick and shovel/manual excavation and hand rolling or tamping.
28. Gunite/shotcrete operator helper.
29. Hose tending for gunite/shotcrete/plaster applications.
30. Installation of steel reinforcing for concrete waterfeature/waterscape work (other than lead-person)
31. Laser beam “target man” in connection with Laborers’ work.
32. Layout person for liner (when work involves waterproofing for waterponds, waterfalls, artificial lakes and reservoirs and landfill).
33. Magnesite and mastic workers (wet and dry), including mixer operator.
34. Mortar mixer (block, brick, masonry and plastering).
35. Mixing and installation of soil cement to pond and stream edges
36. Mobilization and clean-up/demobilization.
37. Operation of hand-held gas, air, electric, or self-powered tools and equipment such as: Jackhammers, busters, mud guns, jumping jacks, post hole diggers, rototillers, scarifiers, jackson and similar-type Tampers, ramsets, etc.
38. Operation of pressure washer.
39. Placement of synthetic rock forms (GFRC, GFRP) and/or natural rock, and securing same.
40. Placing and/or installing of lake membranes (liner) to include gluing seams, heat gun welding of seams or other waterproofing application/materials in connection with water feature installations.
41. Plasterer laborer (including hot carrier).

42. Pulling tape for layout, holding surveying poles.
43. Recording pressure test results.
44. Rubbish trucks in connection with building construction projects (excluding clearing, grubbing and excavating).
45. Scaffolds: Erection, planking and removal of all scaffolds used for support for lathers, plasters, brick layers, masons and other construction trades/crafts.
46. Scaffolds: (specially designed by carpenters) Laborers shall tend said carpenter on erection and dismantling thereof, preparation for foundation or mudsills, maintenance.
47. Screeds: handling of all screeds to be reused, handling dismantling and conveyance of screeds.
48. Setting: leveling and securing or bracing of metal or other road forms and expansion joints.
49. Setting/forming of wood or metal concrete forms in connection with water feature and related elements installations and forming equipment room enclosures.
50. Slurry seal crews (mixer operator, applicator, squeegee man, shuttle man, top man)
51. Snapping of wall ties and removal of tie rods.
52. Spraying/applying stains and paints on synthetic rockwork (GFRC, GFRP, positive).
53. Steel work other than lead-person.
54. Synthetic panel manufacturing (GFRC/GFRP).
55. Trucks smaller than those covered in the Laborer I classification.
56. Waterslide/waterplay, sand beach, trim (handrail, light, fittings) installation.
57. Water man.
58. Wire mesh pulling (all concrete pouring operations).
59. Wrecking, stripping, dismantling and handling concrete forms and false work.

EXHIBIT "B"  
WATERSCAPE INDUSTRY TRAINEE PROGRAM

1. The provisions of this Waterscape Industry Trainee Program ("Program") shall apply only to private projects. This Program shall not be applicable for work on any projects subject to prevailing wage laws.
2. This Program is entered into for the purpose of ensuring that members of the Union who are in the employ of the Contractor are provided adequate training in the waterscape/waterfeature industry. To this end, it is mutually agreed that the Contractor shall offer continuous employment opportunity to those individuals designated as Trainees for training purposes; provided, however, that this provision shall in no manner constitute a guarantee of employment of such Trainees.
3. The terms and conditions of the Agreement shall apply to all individuals designated as Trainee. For the purposes of this Program, the term "Trainee" shall be defined as all employees of the Contractor, or those dispatched through the Union's Hiring and Referral procedure, who do not have experience in waterscape/waterfeature work and/or have not yet worked the hours specified below.
4. If there are no Trainees available for dispatch through the Union's out-of-work list, the Contractor may make a specific request for a Trainee under Section 5 (h) of the Union's hiring and referral procedures. The Union shall give serious consideration to such requests.
5. Advancement of a Trainee and the accompanying wage rate increase shall become effective as of the first Monday of the week following the week in which the required number of hours has been met.
6. Contractor contributions to the various Trust Funds made on behalf of Trainee employees covered under the Agreement for work performed which is covered by the Agreement shall be made at the rate of fringe benefit contributions as set forth in the Agreement.
7. Revocation. This Program was developed in response to a special request made by the Contractor and is being extended by the Union as a privilege, NOT as a right. In line with this tenet:
  - a. The Union has the unqualified right at its sole discretion to revoke this privilege at any time, with or without notice, if in its opinion said privilege is being abused;
  - b. The Union also has the unqualified right at its sole discretion to revoke this privilege at any time, with or without notice, if the Contractor is found employing individuals who are not a member of the Union and who are performing work which is covered by the Agreement;
  - c. This privilege shall automatically be revoked if the Contractor should become delinquent in the payment of contributions to any of the Hawaii Laborers' Trust Funds, as set forth in the Agreement, on behalf of the Contractor's regularly employed Laborers (i.e.,

Exhibit "C"

ASSIGNMENT OF WAGES TO COVER UNION INITIATION FEE (OR RE-ADMISSION FEE),  
DUES, HOURLY SUPPLEMENTAL DUES AND ASSESSMENTS

To: \_\_\_\_\_ (Contractor)

I, the undersigned, hereby assign to the LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 368, and do hereby authorize you to deduct from my wages in the amount as certified to you in writing by the Union:

- (a) the Union initiation fee or re-admission fee;
- (b) monthly Union dues, including any delinquent Union dues;
- (c) supplemental dues, including any delinquent supplemental dues; and
- (d) Union assessments, including any delinquent Union assessments, if and when authorized in accordance with the Union's Constitution and By-Laws and applicable State and Federal laws,

and I authorize the payment to the Union of the amount(s) so deducted.

This assignment shall be irrevocable until one year from the date below, or until the termination date of the applicable collective bargaining agreement, whichever occurs sooner, and shall be automatically renewed, and shall be irrevocable for successive periods of one year each or for the period of each succeeding applicable collective bargaining agreement, whichever shall be shorter, unless at least ten days and not more than twenty days before the expiration of each period of one year or of each applicable collective bargaining agreement, whichever occurs sooner, I give written notice to the Employer of my desire to revoke this assignment, or unless the same shall be automatically cancelled when my employment ends or when I cease to be employed in a capacity represented by the bargaining unit.

There shall be no obligation on the part of the Employer to make any deduction beyond the original term of the collective bargaining agreement existing at the date of this assignment, unless the agreement is extended or a new agreement has been negotiated containing an authorization for Union deductions as provided in the agreement existing at the date of this assignment.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
PRINT: Name of Employee

\_\_\_\_\_  
Date

EXHIBIT "D"  
NOTIFICATION TO LABORERS' UNION REGARDING:

- SATURDAY OR SUNDAY AS A STRAIGHT TIME "MAKE UP" DAY, AND/OR
- WORKWEEK OF OTHER THAN FIVE 8-HOUR DAYS, AND/OR
- NIGHT WORK

Date of Submittal \_\_\_\_\_

Laborers' International Union of  
North America, Local 368  
1617 Palama Street  
Honolulu, HI 96817

This is to advise you:

A. SATURDAY "MAKE-UP" DAY (Applicable ONLY On PRIVATE and FEDERAL Projects)

that Saturday, \_\_\_\_\_, was scheduled as a straight time make-up day on the following project:

\_\_\_\_\_  
Name and Location of Project

B. SUNDAY "MAKE-UP" DAY (Applicable ONLY WHERE EMPLOYEE HAS BEEN WORKING A SCHEDULED TUESDAY THROUGH SATURDAY WORKWEEK and ONLY on PRIVATE and FEDERAL Projects)

that Sunday, \_\_\_\_\_, was scheduled as a straight time make-up day on the following project:

\_\_\_\_\_  
Name and Location of Project

C. WORKWEEK OF OTHER THAN FIVE 8-HOUR DAYS (Applicable Only On PRIVATE and FEDERAL Projects)

1.  that a workweek of four consecutive ten-hour days ( Monday through Thursday;  Tuesday through Friday) has been scheduled on the following project:

\_\_\_\_\_  
Name and Location of Project

2.  that a workweek of four nine-hour days, Monday through Thursday, plus four hours on Friday has been scheduled on the following project:

\_\_\_\_\_  
Name and Location of Project

D. NIGHT WORK (Applicable To Government, As Well As Private Projects)

that Night Work, with a scheduled starting time of \_\_\_\_\_ and a scheduled quitting time of \_\_\_\_\_ has been scheduled for the following period \_\_\_\_\_ on the following project:

\_\_\_\_\_  
Name and Location of Project

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Signature of Contractor's Representative

Telephone Number: \_\_\_\_\_

\_\_\_\_\_  
PRINT: Name of Above Representative

FAX Number: \_\_\_\_\_

EXHIBIT "E"

NOTIFICATION TO UNION AND TO EMPLOYEES REGARDING "SWITCHING"  
AND/OR SUBSTITUTION OF HOLIDAYS

This notification MUST be given to the Union and to the employees affected at least five working days BEFORE the effective date of any "switch and/or substitution of holidays.

Date of Submittal \_\_\_\_\_

To: Laborers' International Union of  
North America, Local 368  
1617 Palama Street  
Honolulu, HI 96817

This is to advise you:

A. "SWITCHING" OF KAMEHAMEHA DAY OR FOURTH OF JULY (Applicable Only On PRIVATE and FEDERAL Projects)

[ ] That the project(s) listed below will work on \_\_\_\_\_ at a regular straight time rate of pay.  
(Name of Holiday)

Said holiday will instead be observed on: [ ] Monday [ ] Friday \_\_\_\_\_,  
Date

with any work performed on that substitute day to be paid for at one-and-one-half times the employees' regular straight time rates of pay.

Name and Location of Project: \_\_\_\_\_

Name and Location of Project: \_\_\_\_\_

B. SUBSTITUTION OF THE DAY AFTER THANKSGIVING AS A HOLIDAY IN PLACE OF VETERANS' DAY (Applicable Only To PRIVATE And FEDERAL Projects)

[ ] That the project(s) listed below will work on \_\_\_\_\_ (Veterans' Day) at regular straight  
Day and Date  
time rates of pay. The Veterans' Day holiday will instead be observed on Friday, November \_\_\_\_\_ (Day After Thanksgiving),  
with any work performed on said Day After Thanksgiving to be paid for at one-and-one-half times the employees' regular straight  
time rates of pay.

Name and Location of Project: \_\_\_\_\_

Name and Location of Project: \_\_\_\_\_

Contractor: \_\_\_\_\_

Signature of Contractor's Representative: \_\_\_\_\_

PRINT: Name of above Representative: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

## LETTER OF AGREEMENT

This Letter Of Agreement ("LOA") by and between the Laborers' International Union of North America, Local 368, ("Union"), and **Pacific Aquascapes, Inc.** ("Employer"), amends, clarifies and/or supplements the collective bargaining agreement between the parties, effective to and including September 30, 2020 ("Agreement").

The parties hereby agree to the following:

1. Private Residential Work where the owner, developer, or general contractor that contracts the Employer not signatory to the Union or has not agreed to use Union contractors for the project, shall be excluded from coverage under the Agreement from the effective date of this LOA, notwithstanding any provision in the Agreement.
2. For the purpose of this LOA, the term "private residential work" shall be defined as any and all work (construction, maintenance, renovation and repair) performed or to be performed on single or multiple family dwellings (including common recreation areas), whether through an individual owner, a homeowner's association or a real estate developer.
3. Commercial renovation work where the owner, developer, or general contractor that contracts the Employ is no signatory to the Union or has not agreed to use Union contractors for the project, shall be excluded from coverage under the Agreement form the effective date of this LOA, notwithstanding any provision in the Agreement.
4. This LOA shall be effective upon execution for the term of the Agreement. All extensions shall be in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have caused this Letter Of Agreement to be executed this 25<sup>th</sup> day of September, 2020.

LABORERS' INTERNATIONAL UNION OF  
NORTH AMERICA, LOCAL 368

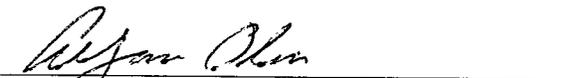


Peter A. Ganaban  
Business Manager/Secretary-Treasurer

PACIFIC AQUASCAPES, INC.



Donald A. Morrison  
CFO / Secretary-Treasurer



Alfonso Oliver  
President

## LETTER OF AGREEMENT

This Letter Of Agreement ("LOA") by and between the Laborers' International Union of North America, Local 368, ("Union"), and **Pacific Aquascapes, Inc.** ("Employer"), amends, clarifies and/or supplements the collective bargaining agreement between the parties, effective to and including September 30, 2020 ("Agreement").

The parties hereby agree to the following:

1. Private Residential Work where the owner, developer, or general contractor that contracts the Employer not signatory to the Union or has not agreed to use Union contractors for the project, shall be excluded from coverage under the Agreement from the effective date of this LOA, notwithstanding any provision in the Agreement.
2. For the purpose of this LOA, the term "private residential work" shall be defined as any and all work (construction, maintenance, renovation and repair) performed or to be performed on single or multiple family dwellings (including common recreation areas), whether through an individual owner, a homeowner's association or a real estate developer.
3. Commercial renovation work where the owner, developer, or general contractor that contracts the Employ is no signatory to the Union or has not agreed to use Union contractors for the project, shall be excluded from coverage under the Agreement form the effective date of this LOA, notwithstanding any provision in the Agreement.
4. This LOA shall be effective upon execution for the term of the Agreement. All extensions shall be in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have caused this Letter Of Agreement to be executed this 25<sup>th</sup> day of September, 2020.

LABORERS' INTERNATIONAL UNION OF  
NORTH AMERICA, LOCAL 368



Peter A. Ganaban  
Business Manager/Secretary-Treasurer



Alfonso Oliver  
President

PACIFIC AQUASCAPES, INC.



Donald A. Morrison  
CFO / Secretary-Treasurer