

COLLECTIVE BARGAINING AGREEMENT

between

AC First, LLC.

-and-

**International Union of Operating Engineers
Local 351, AFL-CIO**

October 1, 2011

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ARTICLES OF AGREEMENT

THIS COLLECTIVE BARGAINING AGREEMENT ("Agreement") made and entered into this 15th day of October, 2011 between AC First, LLC. (hereinafter referred to as "Employer" or "Company") located at Fort Bliss DOL Logistics, Bldg 2527, Room 2, and International Union of Operating Engineers Local 351, AFL-CIO with offices at 1200 Golden Key, Suite 365, El Paso, Texas 79925 and 111 E. Coolidge, Borger, Texas 79007 (hereinafter referred to as the "Union").

1. RECOGNITION

- 1.1 Employer recognizes LOCAL 351, INTERNATIONAL UNION OF OPERATING ENGINEERS AFL-CIO as the sole Collective Bargaining Agent for all employees within the scope of this agreement in all matters concerning wages, hours of work and other conditions of employment.
- 1.2 The words "employee" or "employees" as used in this Agreement shall refer only to all full-time and regular part-time bus and shuttle drivers employed by AC First, LLC. in Fort Bliss, Texas pursuant to Services Contract No. W911SE-07-D-0004-2L07; excluding all other employees, office clerical employees, guards, dispatchers, leads and supervisors as defined in the Act.

2. UNION SECURITY

- 2.1 All present employees who are members of the Union, on the effective date of this Agreement, shall remain members as a condition of employment. All present employees who are not members of the Union, and all new employees hired hereafter, shall as a condition of employment, become members of the Union as of the effective date of this Agreement, or not later than the 31st day of their employment, whichever occurs later. All employees shall remain members in good standing for the full term of this Agreement in accordance with Section 8(a) (3) of the Labor Management Relations Act and any amendments or additions thereto. Failure to comply with this requirement shall be a cause for discharge of the employee, upon written notification to the Company, by the Union, that an employee has failed to tender the appropriate dues and fees uniformly imposed upon all employees in the bargaining unit.
- 2.2 When the Union advises an employee in writing that he or she is delinquent in the tender of fees or dues as required, the Union shall send a copy of the notice to the Company.
- 2.3 The Union further agrees to save the Company harmless from any legal actions growing out of this Article that may be instituted by any employee involved therein before a court, the National Labor Relations Board, or any other body asserting or having jurisdiction, against the Company and

further agrees to reimburse the Company for any financial payment adjudged by a court, the National Labor Relations Board, or any other body asserting or having jurisdiction, against the Company as well as reasonable costs and expenses involved in defense of any such action as set forth in this paragraph.

3. CHECK-OFF AUTHORIZATION

- 3.1 Upon receipt of a signed authorization of the employee involved, the Company shall deduct from the employee's pay initiation fees and uniform monthly dues, payable to the Union on the fourth (4th) week of each month.
- 3.2 The Union will acknowledge receipt of the remittance in writing, deducted and remitted once they are paid to the Union.
- 3.3 The Union further agrees to save the Company harmless from any legal actions growing out of these check-off deductions that may be instituted by any employee involved therein before a court, the National Labor Relations Board, or any other body asserting or having jurisdiction, against the Company and further agrees to reimburse the Company for any financial payment adjudged by a court, the National Labor Relations Board, or any other body asserting or having jurisdiction, against the Company as well as reasonable costs and expenses involved in defense of any such action as set forth in this paragraph.

3.4 If any change in the amount of dues is made by the aforesaid Union during the term of this Agreement, the Union will give thirty (30) day advance written notice of such to the Company and the impacted employees.

4. SHOP STEWARD

4.1 The Union shall designate two (2) employees as shop stewards. Immediately following designation of said shop stewards, the Union shall confirm their appointment by written notice to the Employer.

4.2 In addition, one bargaining unit member may be designated Alternate Steward. The Union shall provide the name of the Alternate Stewart to the Company in writing.

4.3 The Alternate Steward may engage in activities in this Section only when a Shop Steward is on vacation or otherwise absent from work on a regularly scheduled workday.

4.4 The activities of the shop stewards shall not interfere with the performance of his/her work or the work of other employees of the Employer. Any time spent by the shop stewards on Union matters or acting in his/her capacity as shop stewards will not be compensated for by the Employer.

4.5 Shop stewards may not communicate with employees, the Union, or representatives of the Employer concerning Union business on working

time without first obtaining the permission of his/her immediate supervisor or other representative of the Employer.

4.6 Shop stewards may not communicate with the Union office by telephone during working time without first obtaining the permission of his/her immediate supervisor or other representative of the Employer.

4.7 The Union may communicate with the shop stewards during working hours by telephoning the shop steward's immediate supervisor or department manager.

4.8 The authority of the shop stewards so designated by the Union shall be limited to, and shall not exceed, the following duties and activities:

4.8.1 The investigation and presentation of grievances in accordance with the provisions of the collective bargaining agreement;

4.8.2 The transmission of such messages and information which shall originate with, and are authorized by, the Union or its officers, provided such messages and information:

4.8.2.1 Have been reduced to writing, or

4.8.2.2 If not reduced to writing, are of a routine nature and do not involve work stoppages, slow downs, refusal to work, or any other interference with the Employer's business.

4.9 None of the foregoing activities set forth in this Section may take place during working time without the express permission of the Employer.

4.10 Shop stewards have no authority to take strike action, or any other action interrupting the Employer's business, except as authorized by official action of the Union.

5. UNION VISITATION AND BULLETIN BOARDS

5.1 The business representative of the Union, or a duly authorized representative of the Union, may enter the Employer's premises at reasonable times during working hours to confer with the Employer, the shop steward and/or a unit employee for the purpose of administering the Agreement or other official union business, provided, however, such representative shall first telephone or write to the Employer or its designee to make mutually convenient arrangements for the visit. The Union representative shall advise the designee of his visit, the purpose therefore, and the individuals with whom he may wish to confer.

5.2 Upon arrival at the facility, the Union representative shall immediately report to the Employer or his designee. The Union representative shall advise the Employer of his visit, the purpose therefore and the individuals with whom he may wish to confer.

- 5.3 The Union representative shall, during the course of a visit, conduct himself so as not to cause any interference with the operation of the facility or the work of any employee.
- 5.4 An employee grievant or Union shop steward may be released from his/her duty without pay, to confer with the Union representative, at a time mutually convenient to the Employer, employee and Union representative. All such meetings shall be of reasonable duration and not be unduly prolonged so as to interfere with the operations of the Employer. In addition, all such conferences shall take place in a non-work area of the facility.
- 5.5 No Union meetings shall be held on the Employer's premises at any time.
- 5.6 The Employer shall provide a bulletin board which shall be used for the purpose of posting proper Union notices. The Union agrees that the Employer shall be provided with a copy of all notices 48 hours prior to posting and such posting shall require its prior approval for all notices.
- 5.7 Employees shall not engage in solicitation when either the employee soliciting or the employee solicited is on working time or in immediate passenger/client areas at any time. Employees shall not engage in distribution of literature during working times or in working areas of the facility, the vehicles, or in the immediate passenger/client areas at any time.

6. MANAGEMENT RIGHTS

6.1 The Employer retains the exclusive right to manage the business, to direct, control and schedule its operations and work force and to make any and all decisions affecting the business, whether or not specifically mentioned herein and whether or not heretofore exercised except as specifically limited by the express terms of this Agreement. Such prerogatives shall include, but not be limited to, the sole and exclusive rights to:

6.1.1 Hire, promote, demote, lay off, assign, transfer, suspend, discharge and discipline employees for just cause;

6.1.2 Select and determine the number of its employees, including the number assigned to any particular work and to increase or decrease that number;

6.1.3 Direct and schedule the work force;

6.1.4 Determine staffing levels and work shifts;

6.1.5 Determine the location and type of operation;

6.1.6 Determine and schedule when overtime shall be worked;

6.1.7 Install or remove equipment;

- 6.1.8 Discontinue the operation of the business, in whole or in part at any time;
- 6.1.9 Determine the methods, procedures, materials and operations to be utilized or to discontinue their performance by employees of the Employer and/or to subcontract the same provided the sole intent of such subcontracting is not to diminish the bargaining unit;
- 6.1.10 Transfer or relocate any or all of the operations or otherwise, in whole or in part, at any time;
- 6.1.11 Determine the work duties and responsibilities of employees;
- 6.1.12 Require employees to perform any and all work necessary;
- 6.1.13 Determine the work locations of employees;
- 6.1.14 Promulgate, post and enforce rules and regulations governing the conduct and acts of employees during working hours;
- 6.1.15 Require employees to perform duties other than those normally assigned within reason and the ability of the employee to perform that duty;
- 6.1.16 Select supervisory employees;
- 6.1.17 Train employees;

- 6.1.18 Discontinue or reorganize or combine any department or branch of operation with any consequent reduction or other change in the work force;
- 6.1.19 Introduce new or improved methods or facilities, regardless of whether or not the same cause a reduction in the working force;
- 6.1.20 Establish, change, combine or abolish job classifications;
- 6.1.21 Transfer employees, either temporarily or permanently, within programs and/or job classifications;
- 6.1.22 Determine employee qualifications and evaluate competency to maintain the efficiency of operations;
- 6.1.23 Determine the quality and quantity of work to be performed;
- 6.1.24 Implement incentives for special assignments;
- 6.1.25 Determine and redetermine job content and to describe jobs;
- 6.1.26 Discontinue jobs;
- 6.1.27 Determine which contracts to enter;
- 6.1.28 Select those with whom the Employer will do business;
- 6.1.29 Lay off employees for lack of work or for other legitimate reasons;

6.1.30 Subcontract any work, provided the sole intent of such subcontracting is not to diminish the bargaining unit.

6.1.31 Use the services of auxiliary, on-call or temporary employees;

6.1.32 Extend, maintain, curtail, or terminate all or any part of the Employer's operations, programs or facilities;

6.1.33 Determine job qualifications, work pace, work performance levels, standards of performance, and methods of evaluation of the employees; and

6.1.34 Carry out, in addition, the ordinary and customary functions of management, all without hindrance or interference by the Union except as specifically abridged, altered or modified by the express terms of this Agreement.

6.2 The provisions of this Agreement do not prohibit the Employer from directing any person not covered by this Agreement from performing any task. The Employer, therefore, has the right to schedule its management and supervisory personnel at any time. The selection of supervisory personnel shall be the sole responsibility of the Employer and shall not be subject to the grievance and arbitration provisions of this Agreement.

6.3 The foregoing statements of the rights of management and of Employer functions are not all-inclusive, but indicate the type of matters or rights

which belong to and are inherent in management and shall not be construed in any way to exclude other Employer functions not specifically enumerated.

- 6.4 All the rights, powers, discretion, authority and prerogatives possessed by the Employer prior to the execution of this Agreement, whether exercised or not, are retained by and are to remain exclusively with the Employer and may be exercised without prior notice to and consultation with the Union, except those specifically abridged or modified by the express terms of this Agreement and any supplementary Agreement that may hereinafter be made.
- 6.5 It is understood and agreed that the management rights specified herein, except those rights expressly abridged or limited by a specific provision of this Agreement, may not be impaired or limited by arbitration or an arbitrator, or by any other means except by mutual written agreement of the parties.
- 6.6 The exercise or non-exercise of rights hereby retained by the Employer shall not be deemed to waive such rights or the right to exercise them in some other way in the future.

7. SUPERVISORS AND BARGAINING UNIT WORK

7.1 The Union recognizes the right of the Company to exclusive choice in the selection of its supervisory employees. The Company agrees that employees not included in the bargaining unit will not perform work ordinarily performed by bargaining unit employees, with the following exceptions:

7.1.1 Work that would not replace or displace a bargaining unit employee;

7.1.2 Work that would be unreasonable to assign to a bargaining unit employee;

7.1.3 In experimental and/or developmental work;

7.1.4 To demonstrate, instruct, assist or train;

7.1.5 To overcome service difficulties and to avoid interruption of schedules;

7.1.6 To prevent an accident or injury or prevent equipment or production damage;

7.1.7 To make adjustments;

7.1.8 To verify the performance of equipment;

7.1.9 To assure the quality of services; and

7.1.10 When bargaining unit employees are not immediately available to perform the required work.

8. GRIEVANCE PROCEDURE

8.1 Any grievance or dispute arising out of the application or meaning of the terms of this Agreement during the term of this Agreement and not specifically excluded from the grievance and arbitration procedure by this or any other provision of this Agreement shall be taken up in the manner set forth below.

8.2 All grievances must be presented by the Union in writing to the Employer or his/her designee at every step. Such writing shall specify in detail the acts upon which the grievance is based and the particular provisions of this Agreement allegedly violated by said acts.

8.2.1 Failure to properly present a grievance in writing at any stage of the grievance procedure shall constitute a waiver of such grievance and bar all further action thereon.

8.2.2 Failure on the part of the Employer to answer a grievance at any step shall not be deemed acquiescence thereto and the Union may proceed to the next step.

8.3 It is mutually understood and agreed that nothing herein will prevent an employee from discussing any problem with his supervisor or other

representative of the Employer at any time, with or without his/her Union shop steward, prior to initiating a formal grievance.

- 8.4 Any grievance or dispute must be submitted to the Employer within five (5) calendar days after the occurrence of such grievance or within five (5) calendar days after the aggrieved party or employee, by use of reasonable diligence, could have known of the occurrence of the act upon which such grievance is based. Any grievance not initially raised within the said period of time and pursued thereafter in a timely manner as set forth below shall be deemed to be waived.
- 8.5 Where a grievance protests the discharge of an employee, the Company and the Union mutually agree to waive Steps 1 and 2 of the grievance Steps, so as to permit the grievance to be referred directly to step 3.

8.6 Grievance Steps

8.6.1 Step 1: The aggrieved employee and/or Union representative shall present the grievance to the employee's immediate supervisor within the time limits set forth in Section 8.4 herein. The supervisor shall respond within seven (7) calendar days after the initial presentation.

8.6.2 Step 2: If the grievance has not been adjusted in Step 1, or if the supervisor has not responded within the stated seven (7) calendar day period, the aggrieved employee, shop steward or union representative may present it, in writing, within the next seven (7) calendar days to the Employer's Human Resources Manager who shall respond within ten (10) calendar days.

8.6.3 Step 3: If the grievance has not been adjusted in Step 2, or if the Human Resources Manager has not responded within the stated ten (10) calendar day period, the aggrieved employee, shop steward or union representative may present it, in writing, within the next fourteen (14) calendar days to the Employer's Assistant Project Manager who shall respond within fourteen (14) calendar days.

8.6.4 The time limits herein may be extended by mutual agreement and neither party will unreasonably object to such request for an extension.

9. ARBITRATION PROCEDURE

9.1 If the grievance is not settled satisfactorily in Step 3 of Section 8.6.3, or if the Employer does not respond within the time limit established in Step 3 of Section 8.6.3, then within seven (7) calendar days from the receipt of the Employer's answer in Step 3, or from the date said answer was due, the Union will have the right to arbitrate the grievance, provided arbitration thereof is not precluded by this Agreement.

9.1.1 The Union's request for arbitration must be made in writing, by the seventh (7th) day, or the grievance will be deemed to have been resolved on the basis of the Employer's last answer and will not be arbitrable.

9.1.2 The Union's right to arbitrate shall be limited to the precise issues and provisions of this Agreement set forth in the Union's written statement of the grievance as initially presented to the Employer.

9.1.3 It is further understood and agreed that a decision of the Union not to exercise its right to request arbitration shall be final and binding upon the members of the bargaining unit, and further that the Union, through its designated representatives, has authority to settle any grievance at any step.

- 9.2 The Union shall submit the grievance in writing by registered letter to the Federal Mediation and Conciliation Services ("FMCS") and send a copy of such letter to the Employer. The Union shall specify the issues to be arbitrated and the clauses of the collective bargaining agreement upon which it bases its claim. In the letter to the FMCS, the Union shall request the FMCS to furnish it and the Employer identical lists of seven (7) persons eligible to serve as Arbitrators.
- 9.3 The Arbitrator may consider and decide only the particular grievance presented to him in a written stipulation by the Employer and the Union, and his decision shall be based solely upon an interpretation of the provisions of this Agreement. In deciding the issue, the Arbitrator shall not consider the effect his award would have upon employee morale, or whether employee tensions will be heightened or diminished. The award of the Arbitrator so appointed shall be final and binding upon the parties.
- 9.4 The Arbitrator shall have no authority to alter, amend, add to, subtract from or otherwise modify or change the terms and conditions of this Agreement.
- 9.5 Only one (1) grievance shall be submitted to the Arbitrator at a time, unless the parties mutually agree otherwise.
- 9.6 The cost of arbitration, which shall include the fees and expenses of the Arbitrator, and an original of the transcript where mutually agreed upon,

shall be borne equally by the parties. Each party shall pay any fees of its own representatives and witnesses for time lost, and the cost of the transcript where there is no mutual agreement to order it.

- 9.7 Any claim or suit for damages alleging a violation of Section 10 (No Strike Clause) of this Agreement shall not be subject to arbitration.

10. NO-STRIKE CLAUSE

- 10.1 During the life of this Agreement or any written extension hereof, the Union, on behalf of its officers, agents and members, agrees that it will not cause, sanction or take part in any strike (whether it be economic, unfair labor practice, sympathy or otherwise), slowdown, walkout, sit-down, picketing, stoppage of work, handbilling, leafleting, mass absenteeism, retarding of work or boycott, at any of the Employer's facilities whether it be of a primary or secondary nature, or any other activities which interfere, directly or indirectly, with the Employer's operations and/or the operation of any facilities for which the Employer provides services for any reason. The Employer agrees that there shall be no lockout during the life of this Agreement or a written extension hereof.

- 10.2 The term "strike" shall include a failure to report for work because of a primary or secondary picket line at the Employer's premises, or at a site at which the Employer is providing services to the client, whether established by this or any other union.

10.3 The Employer shall have the unqualified right to discharge or discipline any or all employees who engage in any conduct in violation of this Section.

10.4 Any claim, action or suit for damages and/or injunctive relief resulting from the Union's violation of this Section shall not be subject to the grievance and arbitration provisions of this Agreement.

10.5 In addition to the above, should any strike (whether it be economic, unfair labor practice, sympathy or otherwise), slowdown, walkout, sit-down, picketing, stoppage of work, handbilling, leafleting, mass absenteeism, retarding of work or boycott, whether it be of a primary or secondary nature, and/or any other activity which interferes, directly or indirectly, with the Employer's operation and/or the operation of any facilities for which the Employer provides services occur, the Union, within twenty-four (24) hours of a request by the Employer, shall:

10.5.1 Publicly disavow such action by the employees;

10.5.2 Notify the employees of its disapproval of such action and instruct such employees to cease such action and return to work immediately;

10.5.3 Post notices on Union bulletin boards advising that it disapproves such action, and instructing employees to return to work immediately.

11. NEW EMPLOYEES

- 11.1 All newly hired employees of the Employer who are hired on or after the effective date of this Agreement, whether or not previously employed by the Employer, shall be deemed probationary employees and shall be subject to a probationary period of ninety (90) working days commencing with the day first worked after hire. Days lost from work because of sickness or accident during the probationary period shall not be considered in computing the said ninety (90) day period.
- 11.2 Seniority shall not accrue to probationary employees during the probationary period. However, at the successful completion of the probationary period, the employee's seniority shall be considered to commence from the date first worked after hire.
- 11.3 Notwithstanding any other provision of this Agreement, the Employer may at any time during or on the last day of the probationary period, lay off, discipline or discharge such probationary employee, with or without cause, and no claim may be made by the Union or any of the employees that the layoff, discipline or discharge was improper. Moreover, the Employer's action with respect to such probationary employee shall not be made the subject matter of the grievance or arbitration procedure by the employee or Union.

11.4 Probationary employees are those who are employed for a period of ninety (90) calendar days or less with notification to the union.

12. SENIORITY

12.1 Seniority shall be defined as the employee's length of continuous service with the Employer in the bargaining unit commencing with the date and hour on which the employee began to work after last being hired by the Company or a previous contractor performing the services in accordance with the Service Contract Act.

12.2 Bargaining unit seniority shall apply in computation and determination of eligibility for all benefits where length of service is a factor pursuant to this Agreement, and layoffs as herein provided.

12.3 Classification and Company Seniority lists shall be prepared by the Company and shall be posted January 1st of each year and shall be revised each six (6) months thereafter. Such list shall be subject to correction upon protest and clarification, but if no complaint is made within fifteen (15) days of posting, the list published will be assumed to be correct. Such list shall be posted in a visible place where all the employees can see it.

12.4 Accrual of seniority:

12.4.1 Seniority shall not accrue to introductory employees during the introductory period. However, at the successful completion of the introductory period, the employee's seniority shall be considered to commence from the date first worked after hire, and shall accrue during his continuous employment with the Employer within the bargaining unit covered by this Agreement, provided the employee does not work less than fifty-two (52) hours in any calendar quarter.

12.4.2 Seniority shall accrue and not be lost during an employee's Vacation.

12.4.3 An employee shall not accrue seniority while on layoff or on an unpaid leave of absence, consistent with state and federal law.

12.5 Loss of seniority:

12.5.1 An employee shall lose accumulated seniority and seniority shall be broken for any of the following reasons:

12.5.1.1 Voluntary quit.

12.5.1.2 Discharge for just cause.

12.5.1.3 The employee has been laid off for less than six months and the employee does not return to the service on or before a date specified in a Registered Mail Letter from the Company, mailed to the employee's last known

address offering such employee re-employment, which date shall not be prior to five (5) days after mailing such notice, provided however, that this Article shall not apply to offers of temporary work.

12.5.1.4 Layoff which either extends (a) in excess of six (6) consecutive months, or (b) for the period of the employee's length of service, whichever is less.

12.5.1.5 Absence for a period of three (3) consecutive working days without notifying the Employer.

12.5.1.6 Unauthorized failure to report to work at the expiration of a leave of absence pursuant to this Agreement.

12.5.1.7 Failing to return to work at the conclusion of a leave of absence.

12.5.1.8 Taking employment elsewhere during the period of a contractual leave of absence without the express consent of the Employer.

12.5.1.9 Working less than fifty-two (52) hours in any calendar quarter.

12.5.2 An employee whose seniority is lost for any of the reasons outlined above shall be considered as a new employee if he is again employed by the Employer. The failure of the Employer to rehire said employee after the loss of seniority shall not be subject to the grievance and arbitration provisions of this Agreement.

12.6 Eligibility of employees to return from absences caused by sickness, accident or injury on the job:

12.6.1 Any employee eligible to return from a contractual leave of absence or from an absence caused by sickness, accident, injury on the job or Vacation shall be assigned to work by the Employer provided:

12.6.2 Any employee eligible to return from a contractual leave of absence or from an absence caused by sickness, accident, injury on the job or Vacation shall be assigned to work by the Employer provided:

12.6.2.1 There has been no layoff which would have included the employee.

12.6.2.2 The employee has not taken other employment at any time during absence caused by sickness, accident or injury on the job, or contractual leave of absence (excluding vacation).

12.6.2.3 The employee did not use the period of absence or contractual leave for any reason other than that given for the absence or in the request for the leave.

12.7 Layoffs:

12.7.1 The necessity for layoffs or reduction of staff shall be in the sole discretion of the Employer.

12.7.2 The determination of the number of employees to be laid off, from which areas and/or classifications of employees are to be laid off and the methods of layoff shall be in the sole discretion of the Employer.

12.7.3 In the event the Employer finds it necessary and desires to reduce its staff by laying off employees, it shall notify the Union as expeditiously as possible of its intention and shall inform the Union of the names of the employees who have been or who are to be laid off, as well as the effective date of the layoff.

12.7.4 In cases of layoff, introductory employees working in the affected classifications shall be laid off first without regard to their individual periods of employment. If further layoffs are required, the employee within the classification with the least performance rating, skill, knowledge and ability (as determined by the Employer) shall be laid off. If all qualifications of the individuals, in the sole judgment of the

Employer, are relatively equal, the employee with the least seniority working in the affected classification shall be laid off.

12.7.5 Whenever a vacancy occurs in a classification with employees on layoff, employees in that classification who are on layoff shall be recalled. Recalled first shall be the last person laid off in that classification. Recall shall thereafter continue, as above, in reverse order of layoff within the classification.

12.8 Nothing contained herein shall deprive the Employer of the right, at its discretion, to hire a temporary employee for the duration of an employee's contractual leave of absence or for the duration of an employee's absence as a result of sickness, accident, or injury on the job, Vacation or any other absence. Also, temporary employees may be hired for up to 120 calendar days to supplement regular employees. Unless otherwise specified in this Agreement, said temporary employee shall not be covered by the terms and conditions of this Agreement during this period of temporary employment.

12.9 Promotions of whatever kind and nature shall be the sole prerogative of the Employer and shall not be subject to the grievance and arbitration provisions of this Agreement.

12.10 In the event an employee is offered another job by the Employer outside the bargaining unit and the employee accepts such job and leaves the

bargaining unit, such employee shall lose all his seniority rights under this Agreement.

12.11 It shall be the responsibility of the employee to keep the Employer informed of his/her present address and telephone number and to notify the Employer, in writing, of any such changes within two (2) days of the date of any change.

13. WORKWEEK

13.1 A normal workweek of all full-time employees shall consist of forty (40) hours per week.

13.2 The recitation of this number of hours per week does not and shall not imply any guarantee of a forty (40) hour workweek or an eight (8) hour work day.

13.3 The hours of work shall be fixed by the Employer.

13.4 The specific starting and terminating times shall be assigned by a supervisor consistent with the needs of the Employer.

13.5 The normal workweek shall be Saturday through Friday inclusive.

13.6 The time designated for any rest period, as well as the number of employees taking the rest period at any given time, shall be determined solely by the Employer or its designees.

- 13.7 Drivers assigned to range duty will be paid eight (8) hours per day. Such drivers may eat their lunch and take breaks during their paid eight (8) hour shift provided such meal and break time does not interfere with their duties. Consistent with Section 13.2, this Section does not guarantee eight (8) hours pay each day. Rather, where a driver is on duty for range assignments for eight (8) hours, he will be paid for all eight (8) hours.
- 13.8 All regular employees, including introductory employees, reporting for work on their regularly scheduled shift, at their regularly scheduled work place, when no reasonable attempt has been made to notify them that work is unavailable, shall receive, at the Employer's discretion, either a minimum of two (2) hours work or two (2) hours pay at their regular rate, provided the Government agrees to reimburse the Employer for the cost incurred.
- 13.9 This Section 13 shall not apply when work is unavailable due to Acts of God, power failures, and structural damage to the Employer premises, fire, equipment failure or other circumstances beyond the Employer's control.
- 13.10 An employee assigned work, who refuses the work, will not be paid report-in pay.

14. WAGES

14.1 Wage rates which shall be effective during the term of this Agreement are set forth in Schedule "A".

15. OVERTIME

15.1 Actual time worked in excess of forty (40) hours in any work week shall be paid at the rate of one and one-half (1-1/2) their regular hourly rate of pay.

15.2 The scheduling of overtime shall be within the sole discretion of the Employer.

15.3 Employees are required to work any overtime assigned by the Employer.

15.3.1 An employee may be excused from working overtime if, in the sole discretion of the Employer, there are sufficient qualified less senior employees immediately available and willing to complete the work in the time required by the Employer.

15.4 No overtime shall be paid unless such overtime work has been specifically authorized by the Employer or his designated representative.

15.5 When the Employer determines overtime work is necessary, the overtime work will be assigned:

15.5.1 First, to the employee-on-the-job working regularly scheduled work hours in the classification requiring overtime work.

15.5.2 Second, where the employee-on-the-job cannot be identified or additional employees are needed, the overtime work will be assigned by seniority to those employees in that classification who, in the sole discretion of the Employer, are qualified to perform the required work and immediately available.

15.5.3 Third, if additional employees are needed, the Employer may have the work performed by individuals not subject to this Agreement.

16. SCHEDULING

- 16.1 The Company agrees to prepare work schedules in accordance with the following:

Weekends (Saturday and Sunday) may be assigned to the Part Time employees top to bottom on the basis of seniority with the longest mission to the most senior to shortest mission to less senior employees. If additional work is required, the Part Time On Call employees will be scheduled in the same manner as outlined above.

Scheduling for Monday through Friday will begin with the Full time employees on the basis of seniority with longest mission to the most senior each day to shortest mission to the least senior, and then to the Part Time employees with longest mission to the most senior each day to the shortest mission less senior, until all hours are exhausted.

- 16.2 An exception may be made if the length of the mission will result in overtime hours. The sole intent of the exception is to prevent unnecessary use of overtime hours.

Part time On Call employees will not be called upon until there is an insufficient number of personnel to support missions. The exception of fro the use of Part Time On call employees for Saturdays and Sundays is to accomodate the Full time employee's Monday through Friday schedule.

- 16.3 Company agrees to provide the Union with a weekly report of the final actual hours worked by all employees mentioned above.

- 16.4 The Scheduling process will comply with any state, federal or military law governing rest periods. As a general rule the current rest period in place is 10 hours. Any issues affecting such rule should be handled on case by case basis. The hours issued are based on the requirements identified by the Employer's customers. There is be no guarantee of scheduled hours. Missions may or may not exceed their estimated hours. The employee is required to make a reasonable attempt to notify a lead, dispatcher or supervisor should the mission requirements be adjusted during the course of his/her mission or upon arrival of the motor pool.

- 16.5 Refusal

An employee who is specifically scheduled for a mission, training, or for purposes deemed necessary for the operation, who has not made previous arrangements regarding their location, and who when called upon are nonresponsive shall be labeled as "NRNR" (no response no

reply), and such failure shall be considered a refusal for work.*

An employee who is not specifically scheduled for a mission, training, or for purposes deemed necessary for the operation but is called upon as a replacement or as specified for an add-on mission will be labeled as "NRNR" should no response no reply occur, but, will not be considered a refusal.

Any three (3) consecutive refusals in a work week will constitute disciplinary action.

Should an employee upon being called refuse a mission, disciplinary action will be issued after three (3) such refusals, consecutive or not within a thirty (30) day period.

In the event of a refusal, as described above, the estimated time of the mission will be calculated towards employee's time collective workweek. This time is recorded only, without compensation. This shall affect time scheduling, approved over-time or equalized time of hours based on seniority.

The TMP Management retains the right to discipline with just cause any refusal for reasons that constitute abuse/pattern or actions detrimental to the operation.

*Medical related circumstances will be labeled "SLP". Employee may be required to legitimize illness.

17. HOLIDAYS

17.1 The Company will pay eligible employees for the following holidays not worked:

New Year's Day

Labor Day

Martin L. King's Birthday

Columbus Day

President's Day

Veteran's Day

Memorial Day

Thanksgiving Day

Independence Day

Christmas Day

- 17.2 Work on holidays will be scheduled by seniority based on a volunteer list consisting of Part time employees and Part time employees on call. Should mission requirements exceed the number of volunteer employees; the scheduling process will start with the senior Part time employees after the volunteer list is exhausted.
- 17.3 In weeks during which a holiday occurs on a scheduled workday and an employee is assigned a day off, he/she shall receive a day's pay for that holiday. During such week(s) all work performed in excess of thirty-two (32) hours shall be paid for at one and one-half (1½) times the employee's basic rate of pay.
- 17.4 If an employee works on any of these holidays, he/she shall be paid the standard shift rate plus holiday pay (including applicable shift differential) for all hours worked. No employee shall be assigned to work less than eight (8) hours on a holiday.
- 17.5 If a holiday falls on a full-time employee's regularly scheduled day off and he/she is not required to work, he/she shall receive the regularly assigned hours' pay at his/her straight time rate. A part time employee will receive prorated holiday pay at their regular hourly rate times the average daily hours worked in the week preceding the holiday observance.

- 17.6 Should a holiday fall on a weekend, the day designated by the federal government shall be recognized as the holiday.
- 17.7 If another federal holiday is declared by the federal government and approved for contract personnel covered by this Agreement, such holiday shall be considered a holiday with pay under the terms of this Agreement.
- 17.8 If a holiday falls within an employee's vacation period, the employee shall be paid for their normal scheduled hours at straight time hourly rate in addition to vacation pay.
- 17.9 In order to be eligible for holiday pay, the employee must work his/her last scheduled work day immediately preceding the holiday, his first scheduled work day immediately following the holiday, and the holiday itself if scheduled to work on the holiday.
- 17.10 Part-time employees will receive prorated holiday pay based on their average number of hours worked each day during the previous quarter.

18. VACATION

18.1 An Employee who shall have attained the years of continuous service specified in the following table, shall receive a regular vacation corresponding to such years of continuous service with vacation pay as shown in the following table:

<u>Years of Service</u>	<u>Entitlement</u>
After One (1) Through Five (5) Years of Service	Ten (10) Days
After Five Years of Service	Fifteen (15) Days
After Fifteen (15) and Above Years of Service	Twenty (20) Days

18.2 The Company shall have the exclusive right to fix and determine the vacation schedule; however, whenever practicable the Company will give consideration to the wishes and Company Seniority of the employees in scheduling vacation, but such schedule will be governed by the operating requirements of the facility.

18.3 Vacation payment will be calculated on the basis of a regularly scheduled day at the employee's straight time rate in existence at the time of vacation.

18.4 Vacations shall be based on an employee's anniversary date.

18.5 Employees, who are laid off or otherwise removed from the payroll, shall be paid any accrued vacation.

18.6 Vacation can be used on 4-hour increments.

19. BEREAVEMENT PAY

19.1 Employees are authorized up to three (3) days of paid leave for a death in the immediate family. These 3 days must include the day of the funeral or burial, and they must be used consecutively. The maximum amount of bereavement leave that may be requested by an employee in any fiscal year is six (6) days.

19.2 For purposes of this Section, the immediate family includes: spouse, child (including stepchild), parent (including stepparents and in-laws), sibling (including in-laws), grandparent (including in-laws) and grandchild.

19.3 Proof of death and/or relationship to the deceased may be required.

19.4 No employee shall receive any part of funeral leave that occurs during previously scheduled or regular time off, or when the employee is absent from work for other reasons.

19.5 In no event shall pay for funeral leave be in excess of eight (8) hours per day at straight time.

19.6 Should an employee require more time off, the employee may use vacation leave such as in cases where travel is required, with management approval.

20. JURY DUTY

- 20.1 An employee summoned for jury duty to a court of record shall be allowed the necessary time off for such service. If an employee is not selected for jury duty he/she must report to work upon release by the court.
- 20.2 When an employee is selected for jury duty, he/she shall be compensated at his/her regular rate of pay for a maximum of eight (8) hours per day spent on jury duty for each scheduled work day missed, for up to five (5) days each fiscal year. Hours spent on jury duty shall not be considered hours worked and will not be used in the calculation of overtime. Employees working the afternoon and night shifts shall not be required to report to work while on jury duty.
- 20.3 Payment received from the court for jury duty shall be remitted to the Company. Employees shall present to the Company a statement from the clerk of the court showing the dates of such service and the amount of compensation thereof.

21. LEAVE OF ABSENCE

- 21.1 Employees with at least one year (1) of service may, at the discretion of the Company, be granted one leave of absence without pay for a period not to exceed thirty (30) calendar days in any one year.
- 21.2 The Company will endeavor to return the employee to his position and shift depending upon the operational needs of the Company at the time. However, the employee will be returned to an open position the employee is qualified to fill.
- 21.3 The employee must return to active duty at the end of his leave in order to retain employment. Failure to return from leave on the designated return date will result in the termination of the employee.
- 21.4 The employee may not work elsewhere during the leave. In the event an employee works during a leave the employee will be terminated.
- 21.5 LWOP (leave without pay) will be granted at the discretion of the employer. The estimated time of nay missed missions shall be calculated towards the employee's time collective workwee. This time is recorded ony, without compensation. This may also affect time scheduling, approved over-time or equalized time of hours based on seniority. These hours may be utilized should missions exceed personnel or to support no overtime directives.

21.5.1 All requests of more than three (3) days per calendar year require the approval of the PMO. The use of LWOP is generally discouraged but the Employer recognizes the need use in certain circumstances.

22. SEPARABILITY, CAPTIONS AND TERMS

22.1 In the event that any provision of this Agreement shall, at any time, be declared invalid or void by any court of competent jurisdiction or by any legislative enactment or by Federal or State statute enacted subsequent to the effective date of this Agreement, such decision, legislative enactment or statute shall not invalidate the entire Agreement, it being the express intention of the parties hereto that all other provisions not declared invalid or void shall remain in full force and effect.

22.2 In the event that any decision, legislative enactment or statute shall have the effect of invalidating or voiding any provision of this Agreement, the parties hereto shall meet solely for the purpose of negotiating with respect to the matter covered by the provision which may have been so declared invalid or void.

22.3 Captions or Articles of this Agreement are for convenience only and do not in any way limit or amplify the terms and provisions thereof. Whenever the singular or plural number is used herein, it shall equally include the other

and whenever the masculine or feminine gender is used, it shall equally include the other.

23. SCOPE OF BARGAINING

23.1 The Employer and the Union acknowledge that during the negotiations which resulted in this Agreement, each party had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.

23.2 The Employer and the Union, for the term of this Agreement, each voluntarily and unqualifiedly waive the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter not specifically referred to or covered in this Agreement, including fringe benefits even though such subject or matter may not have been within the knowledge or contemplation of the parties at the time they negotiated or signed this Agreement.

23.3 No agreement, alteration, understanding, variation, waiver or modification of any of the terms or conditions or covenants contained herein shall be made by any employee or group of employees with the Employer, and in no case shall it be binding upon the parties hereto, unless such agreement is made and executed in writing by the Employer and the Union.

23.4 It is the intent of the parties hereto that the provisions of this Agreement, which supersedes all prior agreements and understandings, oral or written, expressed or implied, between such parties, shall govern their entire relationship and shall be the sole source of any and all rights to claims which may be asserted in arbitration hereunder, or otherwise. Past practices which could be interpreted to contradict or modify this Agreement are null and void, and the language of this Agreement shall be controlling.

24. DURATION

24.1 This Agreement, signed this 15th day of October, 2011, shall become effective as of November 1, and shall remain in effect for a period of three (3) year(s).

IN WITNESS WHEREOF, each party has caused this Agreement to be executed on the day above written by its proper officers or duly designated representatives.

Local 351, International Union of Operating Engineers

BY: _____

[Name]

JUAN DE LA TORRE

AC First, LLC.

BY: _____

[Name]

Thomas R. Woods
Thomas R. Woods
Project Manager, AC First

SCHEDULE "A"

WAGE RATES

Job Classification	Current Rates	1/01/2012	1/01/2013	1/01/2014
Bus/Shuttle Driver	\$15.52	3.5%*	3%*	3%*
Health & Welfare	\$3.50	\$3.59*	\$3.59*	\$3.59*

*Or any higher amount set by a Wage Determination established by the United States Department of Labor.

Health & Welfare

The Health and Welfare benefit should be paid in accordance with the appropriate Area Wage Determination on behalf of the full time employee to the Employer's Health and Welfare Plan for all hours work not to exceed 2080 per year. The employee will be responsible for paying the difference should elected benefit premiums exceed health & welfare monies accrued through payroll deduction. In the event that the actual cost of the health insurance provided is less than this amount, the excess shall be deposited into the employee's 401 (K) account. Employees may elect to waive the medical, dental and vision and have their health and welfare contribution paid directly into the Employer 401 (K) plan.