

# WORKSAFE!

A California Coalition for Worker Occupational Safety & Health Protection

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## WORKSAFE! FACT SHEET

### ADDENDUM to 8 CCR 3203 IIPP

#### JOINT LABOR-MANAGEMENT SAFETY & HEALTH COMMITTEES

**LABOR-MANAGEMENT or UNION COMMITTEE?** There is a distinction between a joint labor-management safety and health committee and a local union safety and health committee. Both are important to worker protection.

The joint labor-management safety and health committee is established by negotiation with an employer. Additionally, if it meets minimum regulatory requirements, an employer's injury and illness prevention program will be considered in compliance with the communications aspect of the regulation.

In contrast, the local union safety and health committee is established by the union. More discussion about union safety and health committees is found in the WORKSAFE! Fact Sheet on A Union Activist's Role on page 77 of the BA Guide.

The sample contract language below can be used for a multi-craft program on a particular jobsite. It outlines the PURPOSE, RIGHTS, COMPOSITION, and TRAINING OF a joint labor-management safety and health committee.

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### Addendum to Collective Bargaining Agreement

#### COOPERATIVE INJURY & ILLNESS PREVENTION PROGRAM (CIIPP)

It is hereby agreed by and between the parties that:

#### ARTICLE I

**PURPOSE.** In order to assist in reducing occupational injuries and illnesses and to provide as far as possible a safe and healthful workplace and in order to thereby reduce the human and financial costs to employers and employees of work related injuries, the parties agree to participate in a Cooperative Injury & Illness Prevention Program [hereafter CIIPP].

#### ARTICLE II

**RELATIONSHIP TO COLLECTIVE BARGAINING AGREEMENTS.** This Agreement shall be read so as to supersede any conflicting clauses concerning occupational safety and health which may exist in any collective bargaining agreement. However, should the collective bargaining agreement provide more protection than this Agreement, then as to those clauses, the collective bargaining agreement shall supersede this Agreement for members of the Union.

### ARTICLE III

LEGAL LIABILITY FOR OCCUPATIONAL SAFETY AND HEALTH. Individual employees, employee representatives and/or the Union or Council do not assume any responsibility to ensure safety and health by participating in the CIIPP. The CIIPP will operate in conjunction with the Injury & Illness Prevention Program [hereafter IIPP] of each individual employer who is a party to this Addendum. The Construction Manager and/or General Contractor and/or Employer and/or Employer Association agree to hold harmless any individual employee, employee representative, the Union or the Council for personal injury, property damage, or other liability that may arise from any act or omission related to the functions of the CIIPP. Participation by the individual employees, employee representatives and/or the Union or Council in the CIIPP shall not create any duty, obligation, responsibility or liability for personal injury, property damage, or other damage that may arise from any act or omission related to the functions, wording conditions and/or practices of the CIIPP.

### ARTICLE IV

Injury & Illness Prevention Program [hereafter IIPP]. Every employer of every employee in California has the exclusive right and responsibility to ensure the safety and health for those employees and compliance by them with all occupational safety and health laws, regulations and orders whether established by law or by the employer. The CIIPP will operate in conjunction with the employers' IIPP. The IIPP shall be in compliance with the California Labor Code Section 6401.7 and all related regulations.

### ARTICLE V

SUBCONTRACTORS' Injury & Illness Prevention Program. Any construction manager and/or general contractor shall require all subcontractors to participate in the CIIPP as a condition to any subcontract. Among other things, the construction manager and/or general contractor shall assure that all subcontractors shall implement an IIPP in compliance with the Labor Code or adopt that of the construction manager and/or general contractor.

### ARTICLE VI

JOINT LABOR-MANAGEMENT COMMITTEES. The parties agree to establish a system for assuring joint labor-management participation in health and safety as part of the CIIPP. The key component shall be a joint labor-management committee [hereafter Committee]. The Committee acts only in an advisory capacity. The Committee members and the Union do not assume any employers' exclusive responsibility for providing a safe and healthful workplace. By this Agreement, the Committee has no authority to mandate safety and health activities for any employees or any employer.

SECTION 1. PURPOSE. Each Committee shall promote awareness of occupational safety and health among all employees on a jobsite. The Committee shall also review and recommend improvements regarding the construction manager's and/or general contractor's and/or subcontractor's IIPP. In those cases where the construction manager and/or general contractor and/or subcontractor does not accept the recommendations of the Committee, that entity shall inform the Committee in writing of its own plan of action and any reasons for rejecting the Committee's recommendations.

1.1 Notification. Both labor and management will inform the employees of the purpose of the Committee. A sign shall be placed at the main gate of any job declaring that a CIIPP for exists on the jobsite. All new employees shall receive a jobsite safety and health indoctrination that includes, among other things:

- 1.1.1 A description of the CIIPP and the Committee;
- 1.1.2. An explanation of the IIPP;
- 1.1.3. An explanation of rights and responsibilities of both the employer and employees with respect to safety and health on the job;
- 1.1.4. Instructions concerning the general and specific hazards of the employee's job on this construction project;
- 1.1.5. Procedures to abate or report any unsafe or unhealthful conditions.

1.2 Frequency of meetings. The Committee shall meet on a regular basis, at least once at the beginning of the job, twice monthly, and at other reasonable intervals depending on the length of the job at its own discretion. All meetings shall be open to any employer or employee or his or her representative.

1.3 Role of Committee. The Committee shall cooperate with the construction manager and/or general contractor and/or subcontractor in developing and implementing their training program, and do each of the following:

1.3.1 The Committee shall review periodic inspections of the construction manager and/or general contractor and/or subcontractor, may accompany representatives of the construction manager and/or general contractor and/or subcontractor on their periodic inspections, may independently conduct periodic inspections, and may make recommendations regarding their proposed abatement and abatement dates concerning hazards observed during the periodic inspections and at other times.

The representative of the construction manager and/or general contractor and/or subcontractor shall summarize the periodic inspections, including recommendations made by the Committee, if any, and notify the appropriate management personnel responsible for abatement. These summaries shall be updated with notations indicating which items are still not abated and indicating the dates when abatement occurred for those items abated. Should the construction manager and/or general contractor and/or subcontractor not accept any Committee abatement recommendations, it shall inform the Committee in writing of its methods and dates for abatement.

1.3.2 The Committee shall review all safety and health complaints or suggestions, and may independently investigate those matters; it may make recommendations to the construction manager and/or general contractor and/or subcontractor regarding their investigation of those matters and regarding their proposed abatement and abatement dates.

The representative of the construction manager and/or general contractor and/or subcontractor shall summarize the complaints, including recommendations made by the Committee, if any, and notify the appropriate management personnel responsible for abatement. These summaries shall be updated with notations indicating which items are still not abated and indicating the dates when abatement occurred for those items abated. Should the construction manager and/or general contractor and/or subcontractor not accept any Committee abatement recommendations, it shall inform the Committee in writing of its methods and dates for abatement.

1.3.3 The Committee shall review all investigation reports of accidents or near misses conducted by the construction manager and/or general contractor and/or subcontractor; it may observe and/or assist and/or independently investigate such accidents or near misses; it may review the results of any related inspections by other agencies; and it may make recommendations to the construction manager and/or general contractor and/or subcontractor regarding their investigation and regarding their proposed abatement and abatement dates.

The representative of the construction manager and/or general contractor and/or subcontractor shall summarize the investigations, including recommendations made by the Committee, if any, and notify the appropriate management personnel responsible for abatement. These summaries shall be updated with notations indicating which items are still not abated and indicating the dates when abatement occurred for those items abated. Should the construction manager and/or general contractor and/or subcontractor not accept any Committee abatement recommendations, it shall inform the Committee in writing of its methods and dates for abatement.

1.3.4 The Committee shall obtain and review any safety and health records, such as injury and illness reports of the construction manager and/or general contractor and/or subcontractor except for those prepared solely for litigation, and may make recommendations as it deems pertinent.

In the course of such review, if the Committee reviews personal medical records, it shall do so without personal identifiers. If it is impossible to remove the personal identifiers, or if it is necessary for the Committee to know the personal identification in order to carry out their duties, then the Committee members agree to keep all the information confidential, and not to reveal that information to any others.

1.4 Documentation. The Committee shall maintain accurate documentation of all its activities. It shall keep minutes or records of all its meetings, training programs, periodic inspections, complaint investigations and recommendations, and accident and near miss investigations and recommendations.

All this documentation shall be available at the jobsite and then permanently maintained at the headquarters of the construction manager and/or general contractor and/or subcontractor, and it shall be open for inspection and copying at reasonable times and in a reasonable manner. One copy of all documentation shall be forwarded to the Safety Director of the Union and/or Council.

All significant documentation shall be posted at the jobsite. All items for which abatement was recommended and abatement completed shall be posted for at least 30 days after the abatement date. All items for which abatement was recommended and which has not been completed shall remain posted until 30 days after the date the condition was abated.

The employer shall timely obtain and forward to the Union or Council Safety Director all data concerning injuries and illnesses required for statistical and information purposes by the Union or Council or the construction manager and/or general contractor and/or subcontractor or any of their associations .

**SECTION 2. UNION REPRESENTATIVES' RIGHTS.** The Union Representatives on the Committee shall receive information from and may consult any person in order to carry out their responsibilities.

**SECTION 3. COMMITTEE MEMBERS REIMBURSEMENT.** The Committee members shall receive their regular rate of pay for Committee functions, including training, and when accompanying government inspectors on inspections or when conferring with them regarding safety or health matters. In the spirit of cooperation, the Committee members shall coordinate their Committee activities with their supervisor in such a way as to minimize disruptions to the job. The Safety Administrators of the construction manager and/or general contractor and/or subcontractor will assist in this coordination.

**SECTION 4. COMPOSITION OF THE COMMITTEE.**

4.1 Number and Balance. The Committee shall be composed of equal numbers of representatives of employers and employees unless the parties agree that there may be more employee than employer representatives.

4.2 Control.

4.2.1 Employer Representatives.

The construction manager and/or general contractor and/or subcontractor shall designate their management representatives and direct their activities. Management representatives shall be ones with supervisory or safety responsibilities. The Committee shall include representatives of significant subcontractors as designated by the construction manager and/or general contractor. The Committee shall include management representatives from each shift and each phase of the project, and from each significant subcontractor, at a minimum.

#### 4.2.2 Employee Representatives.

The Union or Council shall designate its representatives and direct their activities. The Committee, at any given time, shall include representatives of each trade or craft present at the worksite.

4.3 Chair. If there are more than two members of the Committee, the employer's Safety Director shall chair the Committee alternately with a Union or Council designated Committee member.

4.4 Ex Officio Members. The Safety Director of the construction manager and/or general contractor or their Association or his or her designee and the Safety Director of the Union or Council shall be exofficio members.

4.5 Quorum. A quorum of at least one-half of the union Committee members and one-half of the management members is required at each meeting of the Committee.

SECTION 5. TRAINING OF THE COMMITTEE. Every Committee member shall be trained. Training programs, held during working hours, may be in conjunction with the Committee's regular meetings or may be scheduled at some other mutually convenient time during the work day.

Training shall consist of information concerning each aspect of each employer's IIPP (policy, training program, periodic inspection program, emergency action plan, employer's chain of command for safety and health matters, complaint investigation system, accident investigation system, record keeping system, and notification system). The Committee shall receive training regarding applicable laws, regulations and orders; general principles of good industrial hygiene; the proper use of all personal protective equipment required on the job-site; principles and techniques for monitoring workplace hazards and analyzing sampling data.

Committee training shall be developed by the University of California at Berkeley's Labor Occupational Health Program in conjunction with the Safety Director of the construction manager and/or general contractor or their Association or his or her designee and the Safety Director of the Union or Council.

The Union Committee members shall accrue one paid day or proportion thereof per six months service on the Committee, which time may be used to attend safety and health training activities sponsored or approved by the Union or Council.

The Committee may consult with or seek the advice of occupational safety and health experts to assist them in carrying out their purpose. It shall avail itself of any free services of this nature before it requests the employer to pay for such.

## ARTICLE VII

OVERSIGHT COMMITTEE. The parties agree to establish an Oversight Committee to act in an advisory capacity only.

The Union or Council and any of their representatives on the Oversight Committee do not assume any employer's exclusive responsibility for providing a safe and healthful workplace.

SECTION 1. PURPOSE. The purpose of the Oversight Committee is to oversee the operation of the CIIPPs. It shall review whether the individual Committees are functioning properly, and whether all assurances are being upheld, and may make recommendations.

1.1 The Oversight Committee shall meet regularly, at least once every three months.

1.2 The Safety Director of the Union or Council and the Safety Director of the construction manager and/or general contractor or their Association or his or her designee shall alternate as chairpersons.

SECTION 2. COMPOSITION. The Oversight Committee shall be composed of equal numbers of representatives of employers and employees unless the parties agree that there may be more employee than employer representatives. The head of the Union or Council shall appoint Union members of the Oversight Committee. Management shall appoint employer members of the Oversight Committee.

## ARTICLE VIII

Section 1. The parties agree that this Agreement does not abrogate any rights afforded by the Labor Code of the State of California or any other applicable federal, state or local laws, nor does this Agreement create any new rights not specifically provided for herein. Additionally, the parties agree to the following assurances:

1.1 That the employer is responsible for ensuring the occupational safety and health of its employees and compliance by them with all applicable occupational safety and health laws, regulations and orders; and that no employee, employee representative, or employee representative organization shall be liable for any personal injury, property damage, or other liability that arises from any act or omission relating to the functions of a CIIPP.

1.2 That the employer and all his or her contractors and subcontractors will be in compliance with all applicable laws, regulations and orders concerning occupational safety and health, and shall correct all violations promptly.

1.3 That no employee shall be required or instructed to work under any condition or use any material or equipment which is unsafe or unhealthy, or which violates any standard, order or law or any safety policy of the employer.

1.4 That no employee suffer an adverse employment action, to wit, a discharge, demotion, suspension, or any action that threatens to discharge or in any other manner discriminates against an employee in a term or condition of employment for:

1.4.1 Refusing to perform unsafe work, the performance of which may violate any provision of the Labor Code, including Section 6400, any occupational safety or health standard, or any safety order of the Division, or any safety order of the employer. Further, the refusal to perform unsafe work must meet the following conditions: (a) The employee must complain in good faith about a working condition or practice that creates a real and apparent hazard or is likely to cause death or serious physical injury, or which the employee reasonably believes to be unsafe or dangerous, whether or not there existed an occupational safety and health standard or order that was being violated. The complaint shall be with regard to one or more conditions or practices affecting the employee, his or her fellow employees, or the employees of another employer. (b) As soon as practicable, and immediately upon request, the employee reported his or her refusal and reasons to his or her immediate supervisor, foreperson, or any person in authority. (c) The employee performed alternative work if requested by the employer. Refusal to work under the circumstances set forth herein shall not be considered a strike or a violation of a no-strike clause in a collective bargaining agreement.

1.4.2 Participating in any activity, whether as an individual or in concert with others, relating to occupational safety and health, including assisting any government or Union representatives in any of their activities.

1.5 That participation in a CIIPP shall not prevent any employee from pursuing any remedy afforded by federal, state or local law or collective bargaining agreement, including the filing of a complaint or a report of an accident with the Division of Occupational Safety and Health. However, all employees are encouraged to cooperate with the procedures established by this CIIPP.

## ARTICLE IX

EVALUATION OF THE CIIPP. The Council or Union and management representatives shall prepare a summary of data relevant to evaluating the success of the CIIPP. All relevant underlying data including, but not limited to, information concerning injuries and man hours worked, lost time, and injury frequency and severity shall be made available to the Oversight Committee. Injury cost data shall also be provided. Final injury cost data, even if it does not become available until after the completion of a project and the termination of this agreement, shall be provided by the employer for those injuries occurring up to the date of termination of the agreement so that a meaningful evaluation of the CIIPP may be made.



## ARTICLE X

TERMINATION OF CIIPP. The CIIPP shall be in effect from the date of the signing of this Addendum. It shall continue in full force until changed or revoked as provided herein. Any party desiring to terminate this Agreement must notify the others in writing at least thirty days prior to doing so. The CIIPP shall not be amended or supplemented except by mutual consent of the parties hereto reduced to writing and duly signed by each.

## ARTICLE XI

### MISCELLANEOUS PROVISIONS

SECTION 1. SEVERABILITY. It is the intention of the parties to conduct all of the affairs of the CIIPP in accordance with all applicable laws. Nothing in this Addendum should be construed to conflict with such laws. However, in the event that any provision of this Addendum is held to be illegal or invalid for any reason by a court of competent jurisdiction, such illegality or invalidity shall not affect the remaining provisions of the Addendum unless such illegality or invalidity prevents the accomplishment of the purposes and objectives of this Addendum. Whenever possible, the parties agree to bring any invalid provision into conformity with the law.

SECTION 2. NONDISCRIMINATION. The CIIPP and employees hired by it shall not discriminate on the basis of race, sex, creed, color, or national origin in any aspect of its program.

SECTION 3. SITUS AND GOVERNING LAW. This Addendum is entered in the State of California and such place shall be deemed the situs of the CIIPP Agreement. All questions pertaining to validity, construction and administration shall be determined in accordance with the laws of the United States and the State of California.

SECTION 4. CONSTRUCTION OF TERMS. Wherever a word is used in this CIIPP Agreement in the masculine gender, it shall be construed as though it was also used in the feminine gender in all applicable situations. Wherever a word is used in the singular form, it shall be construed as though it was also used in the plural form in all applicable situations. Wherever a word is used in the plural form, it shall be construed as though it was also used in the singular form where applicable.