

MEMORANDUM OF UNDERSTANDING

The Southern California Drywall Finishers and its affiliated local unions (“Union”), on the one hand, and the Western Wall & Ceiling Contractors Association, Inc., on the other hand, are parties (hereinafter “Parties”) to a Master Labor Agreement (“Agreement”) that will expire on September 30, 2022. The Parties to this Agreement hereby agree to amend it with respect to the following Recitals and Resolutions in this Memorandum of Understanding (“MOU”) for the purpose of availing themselves of the exemption that the Private Attorney Generals Act, in particular Labor Code § 2699.6, extends to collectively-bargained contractors in the construction industry.

RECITALS

WHEREAS, Governor Jerry Brown signed Assembly Bill 1654 (“AB 1654”) on September 19, 2018, which added Section 2699.6 to the Labor Code;

WHEREAS, AB 1654 exempts from the coverage of the Private Attorney Generals Act (Part 13 of Division 2 of the Labor Code (commencing with Section 2698)) (“PAGA”) any “employee in the construction industry,” as that term is defined by Labor Code § 2699.6(d), with respect to work performed under a valid collective bargaining agreement that meets the requirements of AB 1654, in particular, Labor Code § 2699.6(a) (“Exemption”);

WHEREAS, the application of that Exemption requires satisfaction of certain conditions set forth in Labor Code § 2699.6(a)(1)-(3), which mandates that a collective bargaining agreement such as this Agreement contain wages, hours of work, and working conditions of employees, premium wage rates for all overtime hours worked, and for the employee to receive a regular hourly pay rate of not less than 30 percent more than the state minimum wage rate and the following provisions:

- (1) Prohibits all of the violations of the Labor Code that would be redressable pursuant to PAGA and provides for a grievance and binding arbitration procedure to redress those violations.
- (2) Expressly waives the requirements of PAGA in clear and unambiguous terms.
- (3) Authorizes the arbitrator to award any and all remedies otherwise available under the Labor Code, provided that nothing in this section authorizes the award of penalties under this part that would be payable to the Labor and Workforce Development Agency.

WHEREAS, Article VIII of this Agreement contains provisions authorizing the filing of a grievance which can be pursued to final and binding arbitration (“Grievance / Arbitration Machinery”);

WHEREAS, the Parties wish to avail themselves of this Exemption by agreeing to the terms of this MOU;

WHEREAS, all Recitals shall be deemed Resolutions and all Resolutions shall be deemed Recitals.

RESOLUTIONS

WHEREFORE, the parties clearly and unambiguously waive the provisions of PAGA, and agree that none of the provisions of PAGA shall apply to any of the employees covered by this Agreement;

WHEREFORE, the parties agree that the Union may file a grievance pursuant to this Agreement's Grievance / Arbitration Machinery and such a grievance can assert violations of the Labor Code that are redressable by PAGA, which include those sections enumerated in Labor Code §§ 2699.5 and 2699(f) and any others to ensure application of the Exemption;

WHEREFORE, an arbitrator presiding over an arbitration conducted pursuant to the Grievance / Arbitration Machinery shall have the authority to make an award of any all remedies otherwise available under the Labor Code except for an award of penalties that would be payable to the Labor and Workforce Development Agency, and that any Labor Code violations asserted by the Union that are redressable by PAGA will be deemed violations of this Agreement if so found by the arbitrator;

WHEREFORE, the parties agree that the terms of this MOU meet all conditions for application of the Exemption in AB 1654.

**PAINTER AND ALLIED TRADES
DISTRICT COUNCIL 36**

**WESTERN WALL & CEILING CONTRACTORS
ASSOCIATION, INC.**

X

SIGNATURE



X

SIGNATURE



Luis F. Robles, Business Manager

PRINT NAME & TITLE

Albert Carrillo - Chief Executive Officer

PRINT NAME & TITLE

1/26/21

DATE

1/28/2021

DATE