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OPERATING ENGINEERS

BUILDING

AGREEMENT

BETWEEN

**EASTERN CONTRACTORS
ASSOCIATION, INC.**

AND

LOCAL NO. 106

OF THE

**INTERNATIONAL
UNION OF
OPERATING ENGINEERS**

MAY 1, 2003 - APRIL 30, 2006

**NOTE: Revisions, if any, will be
printed in the back of the book.**



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AGREEMENT

OPERATING ENGINEERS LOCAL NO. 106 AND EASTERN CONTRACTORS ASSOCIATION, INC.

Expiration Date: April 30, 2006

PREAMBLE

Agreement is entered into to prevent strikes and lockouts to facilitate peaceful adjustment of grievances and disputes between Employer and Employee, to prevent waste, unnecessary and avoidable delays and the result through them to the Employer of costs and expense and to the Employee of loss of wages; to enable the Employer to secure at all times sufficient forces of skilled workers, to provide as far as possible for the continuous employment of labor, to provide that employment as hereunder shall be in accordance with conditions and wages herein agreed upon, and by reason of this Agreement and the purpose and intent thereof, to bring about stable conditions in the Industry, keep costs of work in the Industry as low as possible consistent with fair wages and proper working conditions, as provided for hereunder, and further to establish and set up the necessary procedures for amicable adjustment of all disputes or questions that may arise between the Parties, or any of them, so that the foregoing purposes may be brought about and accomplished.

TERRITORIAL JURISDICTION

The territorial jurisdiction covered by this Agreement includes the following counties: Albany, Broome, Chenango, Clinton, Columbia, northern part of Dutchess (to the northern boundary line of City of Poughkeepsie then due east to Route 115 then north along Route 115 to Bedelt Road then east along Bedelt Road to Van Wagner Road then north along Van Wagner Road to Bower Road then east along Bower Road to Route 44 and along Route 44 east to Route 343 then along Route 343 east to the northern boundary of Town of Dover Plains and east along the northern boundary of Town of Dover Plains to Connecticut), Essex, Franklin, Fulton, Hamilton, Herkimer, Greene, Montgomery, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Tioga, Warren and Washington.

Separate wage and fringe benefit rates apply in Broome, Chenango, and Tioga counties. For more information, contact Dan McGraw, Business Manager, Operating Engineers Local No. 106, 518/453-6518.

DECLARATION OF PRINCIPLES

Both Parties to the Agreement believe that a uniform Agreement covering building construction and work incidental thereto in the geographical jurisdiction of the Union will further the interest of the Industry, and further believe that such a uniform Agreement contains the following principles:

1. That there should be no limitation to the amount of work an employee shall perform during his work day, it being understood that the worker shall perform a fair and honest day's work consistent with all productive efforts.
2. That there shall be no restriction of the use of machinery, tools and appliances.

3. That no person shall have the right to interfere with the Employer during working hours.

ARTICLES OF AGREEMENT

This Agreement, effective May 1, 2003, by and between the Western Contractors Association, Inc., hereinafter referred to as the party of the first part, and Local Union No. 106 of the International Union of Operating Engineers, hereinafter referred to as the party of the second part, shall continue in full force and effect for a period of thirty six (36) months to April 30, 2006.

Should either party to this Agreement give notice of desiring changes on or before February 1, 2006 a meeting will be held within ten (10) days for the purpose of adjustment. In the event that no changes are requested by either party to this Agreement, then it shall continue in full force and effect for another year with the same provision as to the date for making requests for changes.

The terms of this Agreement shall apply to all construction operations usually undertaken by the general building contractor for the erection, repair and demolition of buildings including the preparing of job site for that purpose. The job site shall be considered the area surrounding the job generally accepted as being part of the prime contract, under its control during construction.

ARTICLE I WORK JURISDICTION

Section 1. All hoisting engines, portable engines and boiler on building and construction work when operated by steam, gasoline, diesel oil, compressed air or electricity, robotics, including pumps, siphons, pulsometers, concrete mixers, stone crushers, elevators and trucks and automobiles, where used for hoisting building materials, air compressors, welding machines, road rollers, clam shell buckets, cableways, power shovels, pile drivers, dinkey locomotives or any other machine irrespective of its motive power, shall be operated by an engineer.

Section 2. Maintenance engineers include repairmen, mechanics, blacksmiths and welders, who repair and maintain all classes of equipment on job, including repairing vibrators tamps, etc.

Section 3. Where well point system and well systems are required, the maintenance, installation, operation and running of such shall be as follows: Over one (1) well point system, an operator will be assigned to second system and will cover both systems.

a. During the regular work day shift Monday through Saturday, an existing engineer on the job shall maintain one (1) system in addition to his regular duties.

b. Monday through Fridays, one (1) shift of eight (8) hours will be required to man the system between the close of any day and start of work the following day.

c. On Saturdays, one (1) employee for one (1) shift of eight (8) hours at time and one-half (1 1/2) times the regular rate.

d. On Sundays, one (1) employee for one (1) shift of eight (8) hours at double the regular rate. Single employee during non-productive hours covers two (2) systems. One (1) employee covers one (1) shift during Saturday and Sunday. One (1) employee covers two (2) well-point systems within season.

Hands off equipment shall not be manned, In the event the Employer desires to man this equipment, it shall be the work of the Union. The maintenance and repair of all hands off equipment shall be the work of the Union.

Section 4. It is understood and agreed between the parties to his Agreement that the operation of the following is not required by this Agreement:

- a. A portable conveyor up to a vertical height of twelve feet (12) from ground level.
- b. It is understood and agreed between the parties to his Agreement, manning will not be required for the operation of up to two (2) stud welders per Employer per project.
- c. An oiler is not required on any excavator, four (4) cubic yards and under including a Cat 365 or similar machine or any crane under 100 ton.
- d. Inside elevator unless manual.

Section 5. Scope of Agreement: The terms of this Agreement shall apply to all construction operations within the contract limit lines for the construction, erection, repair and demolition of buildings including site work, school sites, athletic fields, and the preparation of the job site for that purpose, and excluding power plants and large industrial projects.

ARTICLE II

EMPLOYMENT OF WORKERS AND UNION SECURITY

Section 1. It is agreed that on the eighth (8th) day following the beginning of employment of a workman or the effective date of this agreement whichever is later, membership in the Union shall be a condition of employment. The hiring of new workmen and the discharging of employees upon the request of the Union shall be in accord with the Labor Management Relations act of 1947, as amended.

In hiring new employees, the Employer shall give the Local Union equal opportunity with all other sources to refer suitable applicants.

Section 2. If an engineer regularly employed fails to show up for work morning or afternoon, without giving notice, the Employer may then employ anyone to act as engineer until the engineer is furnished.

Section 3. Engineers, firemen and oilers shall not quit their jobs without giving forty-eight (48) hours notice to the Employer and the Business Representative.

Section 4. It is further agreed that an employee who is not an engineer shall not touch boilers or engines at any time unless an engineer is unavailable. No engineer will be allowed to get steam on more than one engine unless employed as a watchman.

Section 5. The Job Steward, appointed by the Union, shall be the last man on the job and shall not be removed for any reason without the consent of the Union.

Section 6. The party of the second part agrees to give the party of the first part preference in supplying engineers, firemen and oilers when there is an excessive demand for their services.

ARTICLE III **REPORT & SHOW-UP TIME**

Section 1. If an employee working under broken time is ordered out Monday through Friday and his/her services are not used, he/she shall be entitled to show up time of two (2) hours, unless ordered not to on the previous day at 4:30 p.m. Such employee shall remain on the job for the two hour period unless otherwise directed by the Employer.

If such employee reports to the job and works in excess of two hours, he/she shall receive four (4) hours pay.

If such employee works in excess of four (4) hours, he/she shall receive pay for actual hours worked.

Section 2. If an employee is ordered out on a Saturday or Sunday, and his/her services are not used, he/she shall be paid as follows:

a. For reporting, but not starting, he/she shall receive two (2) hours' pay at the overtime rate.

b. If such employee reports to the job and works in excess of two (2) hours, he/she shall receive four (4) hours' pay at the overtime rate.

c. If such employee works in excess of four hours, he/she shall receive pay for actual hours worked at the overtime rate.

Section 3. Crane operator and/or crew guarantee of eight (8) hours at appropriate rate when they report for work each day weather permitting work. Otherwise, 2-4-8 provision applies

ARTICLE IV HOURS OF WORK AND OVERTIME

Section 1. Normal work day shall consist of eight (8) hours with one-half (1/2) hour for lunch. The starting time shall be set by the Contractor except that starting time shall not be changed from day to day. The work day must start no sooner than 6 a.m. nor later than 8 a.m., except as may be otherwise mutually agreed upon by the Employer and the Union.

Section 2. On operations requiring two (2) shifts, the first shift shall work eight (8) hours and receive eight (8) hours pay, and the second shift shall work seven and one-half (7 1/2) hours and receive eight (8) hours pay. It is understood that there is no guarantee, that on a given day, one shift might not vary due to weather, equipment breakdown or changes in operation schedules.

a. On three (3) shift operations, the first, or day shift, shall be of eight (8) hours duration, the second shift shall be of seven and one-half (7 1/2) hours duration, and the third shift shall be of seven (7) hours duration. Each shift shall receive eight (8) hours pay.

b. On three (3) shift operations, the third shift shall be considered as falling on the same day of the week as the first and second shift.

Section 3.

a. On multiple shift work, the work week shall start

not earlier than 5 a.m. The Contractor shall set the starting time.

b. Special cases of starting time may be set by mutual consent.

c. All time worked in excess of the normal shift shall be considered overtime.

Section 4. Work performed before or after specified hours, between the appropriate lunch hour and on Saturday shall be paid at time and one-half (1 1/2). Double the broken-time rate shall be paid for all work performed on Sunday and the holidays recognized in Article X.

Section 5. Engineers are to start hoisting fifteen (15) minutes before the regular starting time if, in the judgment of the Employer, it is necessary to hoist material in order that masons may start at the regular working hour; it being understood, however, that no engineer will be required to work more than the regular work day as in Section 1.

ARTICLE V

WAGES

BUILDING AGREEMENT LOCAL 106 Operating Engineers Wages and Supplements - 2003 - 2006

Classification	Wage per hour	Welfare Per Hour	Pension Fund	Training per hour	CPF per hour	PAP per hour	IF per hour	Total supplements per hour	*Dues Deduction	*Defense per hour	*VPAF per hour
<u>Effective Dates July 1, 2003 - December 31, 2003</u>											
Class A(1)	\$26.70	\$4.80	\$2.75	\$0.70	\$3.30	\$1.00	\$0.20	\$12.75	-3%	-\$20	-\$10
Class A	\$25.09	\$4.80	\$2.75	\$0.70	\$3.30	\$1.00	\$0.20	\$12.75	-3%	-\$20	-\$10
Class B	\$24.48	\$4.80	\$2.75	\$0.70	\$3.30	\$1.00	\$0.20	\$12.75	-3%	-\$20	-\$10
Class C	\$23.17	\$4.80	\$2.75	\$0.70	\$3.30	\$1.00	\$0.20	\$12.75	-3%	-\$20	-\$10
<u>Effective Dates January 1, 2004 - June 30, 2004</u>											
Class A(1)	\$27.19	\$4.80	\$2.95	\$0.70	\$3.65	\$1.00	\$0.20	\$13.30	-3%	-\$20	-\$10
Class A	\$25.97	\$4.80	\$2.95	\$0.70	\$3.65	\$1.00	\$0.20	\$13.30	-3%	-\$20	-\$10
Class B	\$25.26	\$4.80	\$2.95	\$0.70	\$3.65	\$1.00	\$0.20	\$13.30	-3%	-\$20	-\$10
Class C	\$23.53	\$4.80	\$2.95	\$0.70	\$3.65	\$1.00	\$0.20	\$13.30	-3%	-\$20	-\$10
<u>Effective Dates July 1, 2004 - December 31, 2004</u>											
Class A(1)	\$27.88	\$5.00	\$2.95	\$0.70	\$4.00	\$0.80	\$0.20	\$13.65	-3%	-\$20	-\$10
Class A	\$27.05	\$5.00	\$2.95	\$0.70	\$4.00	\$0.80	\$0.20	\$13.65	-3%	-\$20	-\$10
Class B	\$26.24	\$5.00	\$2.95	\$0.70	\$4.00	\$0.80	\$0.20	\$13.65	-3%	-\$20	-\$10
Class C	\$24.09	\$5.00	\$2.95	\$0.70	\$4.00	\$0.80	\$0.20	\$13.65	-3%	-\$20	-\$10
<u>Effective Dates January 1, 2005 - June 30, 2005</u>											
Class A(1)	\$28.92	\$5.00	\$2.95	\$0.70	\$4.00	\$0.80	\$0.20	\$13.65	-3%	-\$20	-\$10
Class A	\$28.48	\$5.00	\$2.95	\$0.70	\$4.00	\$0.80	\$0.20	\$13.65	-3%	-\$20	-\$10
Class B	\$27.57	\$5.00	\$2.95	\$0.70	\$4.00	\$0.80	\$0.20	\$13.65	-3%	-\$20	-\$10
Class C	\$25.00	\$5.00	\$2.95	\$0.70	\$4.00	\$0.80	\$0.20	\$13.65	-3%	-\$20	-\$10
<u>Effective Dates July 1, 2005 - April 30, 2006</u>											
Class A(1)	\$30.07	\$5.20	\$2.95	\$0.70	\$4.35	\$0.60	\$0.20	\$14.00	-3%	-\$70	-\$10
Class A	\$29.63	\$5.20	\$2.95	\$0.70	\$4.35	\$0.60	\$0.20	\$14.00	-3%	-\$70	-\$10
Class B	\$28.72	\$5.20	\$2.95	\$0.70	\$4.35	\$0.60	\$0.20	\$14.00	-3%	-\$70	-\$10
Class C	\$26.15	\$5.20	\$2.95	\$0.70	\$4.35	\$0.60	\$0.20	\$14.00	-3%	-\$70	-\$10

CLASS A(1) Crane, hydraulic cranes, tower crane¹, locomotive crane, piledriver, cableway, derricks, whirlies, dragline, boom trucks over 5 tons.

CLASS A Shovel, all Excavators (including rubber tire, full swing), Gradalls, power road grader, all CMI equipment, front-end rubber tire loader, tractor-mounted drill (quarry master), mucking machine, concrete central mix plant, concrete pump², belcrete system, automated asphalt concrete plant, tractor road paver, boom trucks 5 tons and under, Maintenance Engineer, self contained crawler drill - hydraulic rock drill.

CLASS B Backhoes (rubber tired backhoe/loader combination), bulldozer, pushcat, tractor, traxcavator, scraper, LeTourneau grader, form fine grader, road roller, blacktop roller, blacktop spreader, power brooms, sweepers, trenching machine, Barber Green loader, side booms, hydro hammer, concrete spreader, concrete finishing machine, one drum hoist, power hoisting (single drum), hoist two drum or more, three drum engine, power hoisting (two drum and over), two drum and swinging engine, three drum swinging engine, hod hoist, A-L frame winches, core and well drillers (one drum), post hole digger, model CHB VibroTamp or similar machine, batch bin and plant operator, dinkey locomotive, skid steer loader, track excavator 5/8 cu. yd. or smaller.

CLASS C Fork lift, high lift, lull, oiler, fireman and heavy-duty greaser, boilers and steam generators, pump, vibrator, motor mixer, air compressor, dust collector, welding machine, well point, mechanical heater, generators, temporary light plants, concrete pumps², electric submersible pump 4" and over, murphy type diesel generator, conveyor, elevators, concrete mixer and belcrete power pack (belcrete system), seeding and mulching machines, pumps.

¹ See Article V, Section 10 for manning requirements

² See Article V, Section 8 for manning requirements

Section 1. Work at hazardous work sites when an employee covered by this agreement performs hazardous waste removal work on a state and/or federally designated waste site with a Level C or over rating and where relevant state and/or federal regulations require employees to be furnished and those employees use or wear required forms of personal protection then in such case an employee shall receive his regular hourly rate plus two dollars and fifty cents (\$2.50) per hour. Qualifier: If the New York State prevailing wage applies, if the federal rates are posted then they shall apply.

Section 2. Leader wage rate, should be two dollars (\$2.00) over the Class B rate (nuclear work only). Master Mechanic Instructor wage rate should be two dollars and fifty cents (\$2.50) over the regular rate (nuclear work only).

Section 3. Employees working within the tunnel on tunneling operations or within the excavation of a shaft forty feet or more in depth, measured from top, shall be paid forty cents (\$.40) above the basic hourly rate.

Section 4. Wages provided for in this Agreement shall be paid in cash or by check on mutual consent of Union and contractor, to the employees on job where they are working or at the end of their shift. In no case shall more than three working days pay be withheld from any employee. If payment is not made, waiting time shall be paid at the broken-time rate for every hour's delay. Working time shall be considered as waiting time.

Section 5. If an engineer, oiler or fireman is laid off or discharged, he shall receive his pay in full.

If any employee is discharged or laid-off, all accrued wages shall be due and paid immediately, except that an employee may be paid by check mailed within 24 hours, such employee shall be paid an additional \$35.00 for each additional 24 hour period the check was not mailed.

Section 6. Where fireman or oiler is working with crane or shovel operator, or on any other machine requiring an assistant, he shall work under the same conditions as the operator.

Section 7. Hourly premiums for long crane boom length are as follows, including jib up to two hundred feet (200): (Rates are above B(l) rate.)

Over 150 feet -\$.50 per hour premium

Over 200 feet - 1.00 per hour premium

*The length of boom shall be measured from center sheave pin to center mounting pin.

Section 8. Tower cranes will be manned by two Class A(1) operators who will receive \$.50 per hour over the Class A(1) rate. Tower cranes to include stationary rail mounted, truck and carrier mounted and crawler mounted, hydraulic or friction. Crew to be assigned to crane upon start of erection and will be employed until crane is dismantled and shipped off the job. If a third person is required during assembly, disassembly or jacking, it shall be an engineer or the crane owners technician at the crane owners discretion.

Section 9. It is understood that all machines and equipment now or heretofore operated by Engineers, even if not specifically listed above shall continue to be operated by Engineers. It is further understood that new types of equipment or ma-

chines used as a substitute for any of the machines set forth above or any refinements of the same shall also be operated by an Engineer. If new equipment is to be used on a project and is not specifically covered in Article IV, then a meeting will be held within seventy-two (72) hours and the rate and manning requirements agreed to.

Section 10. A working supervisor paid at twenty-five cents per hour (\$.25/hr.) above the highest rate being supervised.

Section 11. In the event that equipment listed under Article V of this Agreement or any other equipment which traditionally has been the work of Operating Engineers is operated by robotic control, the operation of said equipment shall remain the work of the Operating Engineers and the classification covering the operation will be the same as if manually operated.

Section 12. Wage increases.

CLASS	7/1/03	1/1/04	7/1/04	1/1/05	7/1/05
Former Class B(1) becomes new Class A(1)	\$1.04	\$1.04	\$1.04	\$1.04	\$1.50
Former Class B becomes new Class A	\$1.43	\$1.43	\$1.43	\$1.43	\$1.50
Former Class C becomes new Class B	\$1.33	\$1.33	\$1.33	\$1.33	\$1.50
Former Class D becomes new Class C	\$.91	\$.91	\$.91	\$.91	\$1.50

ARTICLE VI

WORKING CONDITIONS

Section 1. There shall be unlimited changes of machines on all jobs. In the event of a change, the operator shall receive the rate of the higher machine for the entire day.

Section 2. Where engineers and mechanics are required to have tools on the job, said tools shall be insured against loss by fire, by the Employer, who shall also provide a suitable place for storing said tools.

Section 3. It is agreed that all machines shall be provided with suitable cover from danger and weather.

Section 4. Piledriver crew to be two (2) operators at the Class A(l) rate who shall cover any combination of hands-off equipment i.e. air compressors, welding machines, pumps, power pacs for vibratory hammers relating to piledriving operations only unless equipment is utilized through mutual agreement between the Union and the Employer, which would require one (1) operator.

Section 5. For an Engineer or Oiler reporting to work who is required to move to another location with his machine and completes his day's work at the new location, the Engineer or Oiler will be given an opportunity and means of obtaining his car if it was left at the original location where he reported for work. It is understood that during the time the employee is afforded to obtain his car, the machine will continue in production. In the event the employee has not been given the opportunity to get his car or have his car brought to him, or the Employer

does not provide transportation back to the original point by 4:30 p.m., the Engineer or Oiler will be entitled to the wages as prescribed herein until such time as he is returned to the original report location.

Section 6. The Employer shall obtain and keep in force public liability insurance for property damage and bodily injury in sufficient amounts as to provide protection or coverage for third party actions arising out of accidents occurring within the scope of the employment of his employees. Upon receipt of a summons and/or complaint involving a third party action arising out of an accident which occurred within the scope of an employee's employment, the Employer shall provide the employee with a defense to such litigation and pay the cost thereof.

Section 7. The Employer agrees that as soon as a contract for a job has been awarded or within a reasonable time thereafter, but prior to the starting of any job, he will notify the Union of such job award, make arrangements and hold a pre-job conference with the Union. This clause shall apply to every job or project undertaken by the Employer.

Section 8. Free movement of all Local No. 106 Engineers from existing projects to existing projects within the entire geographical area of Local No. 106. Once a pre-job conference has been called for, a new project will be considered an existing project.

Section 9. After complying with Section 5 above, if the Union is obligated to stop engineers from working on a new project because no prejob conference was held, or requested, men will be paid eight (8) hours per day until pre-job conference is held, or requested. Such a conference will be granted within twenty-

four (24) hours of its request, after which time the Employer will be free to commence his project and after which time no penalty will be assessed.

Section 10. Authorized union representative of the Union shall be allowed to visit jobs during working hours to interview Employer and Employees, but in no way shall union representatives or employees interfere with or hinder the progress of work. Said union representative shall notify the Employer and field office of the project of their presence on the job. Union representative and employees shall observe all safety regulations applying to the project at all times.

ARTICLE VII **MASTER MECHANIC,** **ASSISTANT MASTER MECHANIC**

Master Mechanic will be employed per job per Employer when there are seven (7) engineers (excluding Oilers) employed. However, at the discretion of the Employer the Master Mechanic will have complete mobility among jobs. Master Mechanic will operate equipment at the discretion of the Employer until such time as the 9th engineer is employed. At such time Master Mechanic will assume Master Mechanic duties only. The Master Mechanic shall be paid at least twenty-five cents (\$.25) per hour above the Class A rate beginning 5/1/95. If and when fifteen (15) engineers are employed by a single contractor on a project, an Assistant Master Mechanic shall be employed.

He shall be paid at least twelve and one-half cents (\$.12 1/2) per hour above the Class B rate.

ARTICLE VIII HOLIDAYS

New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving and Christmas shall be recognized holidays. No work shall be done on Labor Day unless life or property is at stake. If a holiday falls on Sunday, it will be celebrated on Monday. If the holiday falls on Saturday, it will be celebrated on Friday. Employees who work a Saturday holiday shall be paid double time plus the holiday pay.

ARTICLE IX APPRENTICE TRAINING

Section 1. It is the mutual intention of the parties that the Fund referred to in Article XXII of the current Collective Bargaining Agreement includes, encompasses and provides for the conduct of an Apprentice Training Program. This program will be administered in accordance with all applicable Federal and State laws, rules and regulations.

Section 2. The number of apprentices per project shall be determined at the pre-job meeting. Only one (1) first year apprentice per project.

Section 3. The following schedule of wages shall be applicable to apprentices:

- A. 0 - 1,000 hours - 60% of the D rate, plus full amount of applicable fringe benefits.
- B. 1,001 - 2,000 hours - 65% of the C rate, plus full amount of applicable fringe benefits.
- C. 2,001 - 3,000 hours - 70% of the B rate, plus full amount of applicable fringe benefits.
- D. 3,001 - 4,100 hours - 75% of the A rate, plus full amount of applicable fringe benefits.

Section 4. Drug and alcohol testing of apprentices will begin with the next apprentice class recruited after the effective date of this Agreement.

ARTICLE X HOUSING AND REHABILITATION

Section 1. Work Covered by this Article

A. This Article shall apply to all rehabilitation work on residential structures. For the purpose of this Article, "rehabilitation" shall be defined to include all work, including demolition, repair and alteration on any existing structure which is intended for residential use.

B. On new housing this Article shall be applicable only to site construction of all new work done by the Employer on one family, two family, row housing and garden type homes or apartments which are not more than four (4) stories above ground level and are used as dwellings.

C. Any work which is not specifically set forth in Section 1, A and B, above shall not be covered by this Article, but, instead, shall be covered by and performed pursuant to the standard collective bargaining agreement between the Employer

Association and Union or District Council.

Section 2. Hours of Work

A. The regular work week of the employees shall be between 7:00 a.m. Monday through Friday, to 5:00 p.m., consisting of a five-day week. The starting time schedule shall be declared at the beginning of the job. The regular working hours each day from Monday through Friday shall be eight (8) hours between the hours of 7:00 a.m. and 5:00 p.m. with one-half (1/2) hour off for lunch between the hours of 11:00 a.m. and 1:00 p.m. By mutual consent of Employer and Union, an employee may work on the Saturday following the Friday of the work week. No employee is obliged to work make-up time and is not subject to discharge for refusing same. All employees on a particular building crew shall have the opportunity for make-up time. Make-up time applies to work lost due to inclement weather only. (Shall be at the hourly rate.)

B. Work earlier than 7:00 a.m.: If an earlier starting time is desired, it shall be at the discretion of the Employer and the Union.

C. Any overtime work performed, outside of the regular work day or work week as specified in this Article, shall be performed by employees covered under this Article. First preference for overtime work shall be given to employees on the specific project.

Section 3. Overtime and Holidays

A. All work performed in excess of eight (8) hours per day between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday; all work performed before 7:00 a.m. and after 5:00 p.m., Monday through Friday; all work performed from 5:00 p.m. Friday to 7:00 a.m. Monday; and all work performed

on New Year's Day, Independence Day, Memorial Day, Thanksgiving Day and Christmas Day shall be paid for at one and one-half (1 1/2) times the Employee's hourly rate of pay.

B. No work on Labor Day:

No work shall be performed on Labor Day except to save life or property, and then shall be paid at the double time rate.

Section 4 Hourly Wage Rate

A. The minimum straight hourly wage rate of all employees performing work on Housing and Rehabilitation shall be as follows:

Journeymen	7/1/03 Wage \$25.15	7/1/04 Wage \$26.94	7/1/05 Wage \$29.82
Welfare \$4.80		Welfare \$5.00	Welfare \$5.20
EJPF \$1.30		EJPF \$1.50	EJPF \$1.70
CPF \$1.60		CPF \$1.80	CPF \$2.00
Dues Deduction - 3%		Dues Deduction - 3%	Dues Deduction - 3%
CIAP 1/4 of 1% of wage		CIAP 1/4 of 1% of wage	CIAP 1/4 of 1% of wage

Apprentice	7/1/03 Wage \$15.00	7/1/04 Wage \$15.25	7/1/05 Wage \$15.75
Welfare \$4.80		Welfare \$5.00	Welfare \$5.20
EJPF \$1.30		EJPF \$1.50	EJPF \$1.70
CPF \$1.60		CPF \$1.80	CPF \$2.00
Dues Deduction - 3%		Dues Deduction - 3%	Dues Deduction - 3%
CIAP 1/4 of 1% of wage		CIAP 1/4 of 1% of wage	CIAP 1/4 of 1% of wage

Section 5. Entire Article of the Parties.

This represents the entire Article of the parties, it being understood that there is no other Article or understanding, either oral or written. The Employer understands that the Union is a Fraternal society and as such, in keeping with the provisions of the Labor Management Relations Act of 1947, as amended, has the right to prescribe its own rules and regulations with respect to any other matters for its own use. However, such rules and regulations, whether contained in a by-law, constitution or otherwise, shall have no effect, directly or indirectly upon this collective bargaining Article, any employment, relationship or the relationship between the parties.

ARTICLE XI

SMALL COMMERCIAL AND SNOW REMOVAL

Small Commercial: On all commercial projects valued at \$3,000,000 or less and/or industrial projects valued at \$3,000,000 or less, the following schedule will apply.

CLASS	7/1/03	1/1/04	7/1/04	1/1/05	7/1/05
Class B(1) becomes Class A (1)	\$1.04	\$1.04	\$1.04	\$1.04	\$1.50
Class B becomes Class A	\$1.43	\$1.43	\$1.43	\$1.43	\$1.50
Class C becomes Class B	\$1.33	\$1.33	\$1.33	\$1.33	\$1.50
Class D becomes Class C	\$.91	\$.91	\$.91	\$.91	\$1.50

The Employer is to notify the area business agent office when this work will occur. Such projects shall be single contract, or in the alternative, contracts for general construction. This wage scale shall apply to the general contractor and his subcontractors signatory to this agreement whose contracts jointly do not exceed the \$3,000,000 and/or \$3,000,000 limitation. In the event a multiple-contract system is used by the owner client, those subcontractors not signators to this agreement, whose contracts may or may not be assigned to the general contractor, shall be excluded in determining the \$3,000,000 and/or \$3,000,000 limitation. The signed contract with the owner-client shall determine the dollar amount under this clause. Phased construction exceeding \$3,000,000 and/or \$3,000,000 total to be performed in sequence without each phase being subject to call for bids shall not be considered within the confines of this agreement. Construction management or time and material contracts must contain an upset price within the \$3,000,000 and/or \$3,000,000 limitation. However, if Bricklayers and Allied Craftsmen, Carpenters, Laborers, and Teamsters do not work at this rate or its equivalent on a project, the Operating Engineers rate shall be the commercial rate for that project.

Commercial projects valued at over \$3,000,000 – the Retail Building rate will be applied by mutual agreement on a job-by-job basis.

Industrial projects valued at over \$3,000,000 – the Retail Building rate will be applied by mutual agreement on a job-by-job basis.

The above article does not apply to any work in shopping centers. This article is subject to review after one (1) year.

There are special conditions regarding the employment of union tradesmen and use of union subcontractors relating to

the above. Please call Eastern Contractors Association, Inc., 518/869-0961 for information concerning these conditions.

Snow Removal - Snow Plowing: The snow removal rate on existing roads and parking facilities other than construction sites shall be the Class B rate and no fringe benefits. An eight (8) hour shift may be worked during any twenty-four (24) hour period (Saturday and Sunday included). Any time worked in excess of eight (8) hours will be at the appropriate overtime rate.

ARTICLE XII INSURANCE COVERAGE

The Employer shall protect employees with Workers' Compensation and Disability Insurance, Social Security and Unemployment Insurance, the Employer shall protect employees by promptly complying with any and all laws, ordinances, order, rules and regulations of any and all municipal, county, state and federal authorities, boards, commissions, and agencies relating to either the employment or protection of employees or both.

ARTICLE XIII JURISDICTIONAL DISPUTES

Section 1. The Employer agrees to recognize the jurisdictional claims of the Union that have been established by International Agreements with other crafts, awards made by the AFL-CIO or the Building and Construction Trades Department,

awards contained in the "Green Book" or as a result of decisions by the National Joint Board for the Settlement of Jurisdictional Disputes.

Section 2. In recognition of these jurisdictional claims, it is understood that the initial assignment of work, the settlement of jurisdictional disputes with other Building Trades organizations, shall be strictly in accordance with the procedure established by the *Impartial Jurisdictional Disputes Board* or any successor agency of the Building and Construction Trades Department.

Section 3. When a dispute arises, it shall be submitted to the *Impartial Jurisdictional Disputes Board* for settlement with the plan adopted by the Building and Construction Trades Department of the AFL-CIO. The parties hereto further agree that they will be bound by the award or decision of the Board and will immediately place same into effect and assign the work in accordance with the Board's award or decision.

Section 4. There shall be no work stoppage because of jurisdictional disputes.

Section 5. The Union agrees to hold the Employer free and harmless from any cost incurred or resulting from any adjudication resulting from any claim that the Employer assigned work in violation of, or contrary to, the requirements imposed upon him by the provisions of this contract dealing with work jurisdiction.

ARTICLE XIV

SUBCONTRACTING

Section 1. The signatory Employer subletting any portion of a job or work on a job site, must, as a condition preceding such subletting, direct the Subcontractor employing Operating Engineers to meet with the representatives of the Union for the purpose of complying with the provisions of this Agreement for such work.

Section 2. The signatory Employer agrees that when subcontracting work covered by this Agreement, which is to be performed within the geographical area covered by this Agreement, and at the site of construction, alteration, painting or repair of a building, structure, road or other work, he will subcontract such work only to a signatory Employer or person who is a party to or signatory to this Agreement. However, the signatory Employer shall not require the Subcontractor to change jurisdictional assignments or historic practices of his trade or company in this geographical area. Equally, this Section 2. shall not apply where the Subcontractor(s) is or are assigned to the signatory Employer, and in those instances where the signatory Employer has no control over the selection of the Subcontractor(s), or where the signatory Employer has no privity of contract with the Subcontractor(s), or where the company's employees are represented by another Union who is affiliated with the AFL-CIO or Teamsters Local No. 294 in this geographical jurisdiction. It being understood and agreed that it is the responsibility of the Union party to this agreement to obtain the signature of the Subcontractor(s) to the applicable collective bargaining agreement or to otherwise organize the employees of the Subcontractor(s).

Section 3. If it is found that such Subcontractor is not complying with paragraph 2 above, in providing the wages, hours, fringe benefits and working conditions of this Agreement, the Union shall give the signatory Employer forty (40) hours' notice in writing that the Subcontractor is in noncompliance.

Section 4. Upon such notification, the signatory Employer shall be responsible for payment to such Subcontractor's employees for wages, fringe benefits, and for providing conditions of this Agreement. It being understood and agreed that this is the sole remedy available, and that no punitive damages shall be demanded.

Section 5. Responsibility of the signatory Employer for loss of wages, fringe benefits, and for providing conditions shall be limited to the amount of monies due to such Subcontractor by the signatory Employer as of the date of the written notice.

(A) The Unions, the association, and the signatory Employer agree that this subcontracting clause can only be enforced by the Union through the grievance and arbitration provisions of this contract and, if necessary, appropriate court action to enforce a grievance or arbitration award. It is specifically agreed by the Union that it will not take any economic action to enforce said clause or any grievance awards, arbitration awards, or court orders or judgments, pertaining to this subcontracting clause or violations of it by the signatory Employer.

Section 6. Any provisions in this Agreement which are in contravention of any Federal or State laws affecting all or part of the terms of this Agreement shall be suspended in operation within the limits required by said laws. Such suspension shall

not affect the operation of any such provisions or parts thereof to which the laws are not applicable. In the event any section, or portion thereof shall be declared invalid, it is further agreed that the parties hereto shall meet within a period of sixty (60) days to negotiate a new section, or portion thereof, which shall be valid and which shall replace that section, or portion thereof, declared invalid.

Section 7. Employer may subcontract to nonsignatory specialty contractors including, but not limited to, by mutual agreement, the following examples: clearing, boring, vibroflotation, well drilling, seeding and planting.

ARTICLE XV. ARBITRATION

Section 1. In the event of any dispute, disagreement, or grievance, said dispute, disagreement or grievance shall be adjusted as follows (disputes, differences, or grievances arising out of assignment of work under this Agreement and involving unions not stipulated to the National Joint Board for the Settlement of Jurisdictional Disputes shall be subject to arbitration):

a. Between the Business Agent or authorized representative of the Union and the Employer or an authorized representative.

b. If the dispute is not settled as provided for above, it is agreed that a Joint Board of Arbitration composed of equal numbers shall be established within three (3) working days, one half (1/2) of whom shall be appointed by the Union and one-half (1/2) of whom shall be appointed by the Association, and a decision rendered within five (5) working days.

c. In the event the Board fails to arrive at a, solution, one additional member shall be chosen by the members of the above Board within three days and the dispute shall be decided by this additional member whose decision shall be final and binding. This additional member shall be selected from lists supplied by the New York State Employment Relations Board. It is agreed that pending the decision upon any dispute or grievance, work shall be continued and there shall be no strikes or lockouts, work stoppages, or slowdowns. The refusal of the Employer to proceed under this Article shall not abridge the right of the Union to strike. The expenses and fee, if any of the arbitrator shall be borne by the Construction Industry Advancement Program.

Section 2. Violations concerning wages, hours, or fringe benefit contributions shall not be subject to the arbitration provisions of this Article.

Section 3. Any decision by the Joint Board as provided for in Article XVI, Section 1-b, for which no penalty is provided shall be subject to review by an arbitrator as provided for in Article XVI, Section 1-c.

ARTICLE XVI **AUTOMATIC DIMINUTION**

Section 1. Should the Union at any time hereafter enter in an agreement with any Employer performing work covered by the terms of this Agreement with terms and conditions more advantageous to such Employer, or should the Union in the case of any Employer which is bound to this form of Agree-

ment countenance a course of conduct by such Employer enabling it to operate under more advantageous terms and conditions than is provided for in this Agreement, the Employers, party to this Agreement, shall be privileged to adopt such advantageous terms and conditions, provided the Employer, through the Association, has sent written notice to the Union calling the matter to its attention.

Section 2. This clause shall not apply to isolated or emergency situations which may occur from time to time under regular job conditions.

ARTICLE XVII **WELFARE FUND**

Section 1. It is agreed that each Employer shall contribute the amount shown in Article V, Wages, per hour for each hour paid (including holidays), to Employees covered by this Agreement. Such contributions are to be paid to the Engineer Joint Welfare Fund established pursuant to this and other agreements negotiated between Employers and local unions of the International Union of Operating Engineers, including the state-wide agreement with the New York Chapter, Associated General Contractors, Labor Relations Division.

Section 2. Notwithstanding any other provision contained in this Agreement, the parties agree that any Employer who becomes delinquent in the payment of contributions due to the Engineers Joint Welfare and Pension Funds after notice has been served upon such delinquent Employer and the Association, the Employer shall be liable for not only the amount of

contributions due, but in addition thereto, any such Employer agrees to pay interest, cost and fees of collection, legal fees not in excess of twenty percent (20%) of the amount of said delinquency and the costs of an audit if auditing procedures are necessary to ascertain the amount of the delinquencies. The failure of any Employer to make timely and proper contributions and remittances to the Funds shall not relieve any other Employer from making such payments.

Section 3. It is further agreed between the parties hereto that, in addition to the provision contained in Section 2 hereof, the Union is granted the unequivocal right, with respect to any delinquent Employer, to declare this Agreement breached; and at the option of the Union, said Agreement may be considered terminated upon seventy-two (72) hours' notice to any such delinquent Employer. In the event that the Union exercises such option under this Section, such delinquent Employer agrees to pay as liquidated damages, each of said Employers' Employees in the collective bargaining unit of the Unions, their regular rate of pay for all time lost from work as a result of the Employer's delinquency to the Engineers Joint Welfare and Pension Funds.

Section 4. For all intents and purposes of this Article, the Union shall be considered a participating and contributing Employer, so that it may contribute to the Fund for its salaried Employees, so that the Employees may enjoy the benefits of this fund and be covered thereunder.

Section 5. Personal Account Plan.

The parties agree that the Employer shall contribute into the Personal Account Plan administered by the Trustees of the

Engineers Joint Welfare Fund in the amount designated in Article V of this Agreement.

ARTICLE XVIII PENSION FUND

Section 1. It is agreed that each Employer shall contribute the amount shown in Article V, Wages, per hour for each hour paid (including holidays), to Employees covered by this Agreement. Such contributions are to be paid to the Engineers Pension Plan established pursuant to this and other agreements negotiated between Employers and local unions of the International Union of Operating Engineers, including the statewide agreement with the New York State Chapter, Associated General Contractors, Labor Relations Division.

Section 2. Notwithstanding any other provision contained in this Agreement, the parties agree that any Employer who becomes delinquent in the payment of contributions due to the Engineers Joint Welfare and Pension Funds after notice has been served upon such delinquent Employer and the Association, the Employer shall be liable for not only the amount of contribution due, but in addition thereto, any such Employer agrees to pay interest, costs and fees of collection, legal fees not in excess of twenty percent (20%) of the amount of said delinquency and the cost of an audit if auditing procedures are necessary to ascertain the amount of the delinquencies. The failure of any Employer to make timely and proper contributions and remittance to the Funds shall not relieve any other Employer from making such payments.

Section 3. It is further agreed between the parties hereto that, in addition to the provision contained in Section 2 hereof, the Union is granted the unequivocal right, with respect to any delinquent Employer, to declare this Agreement breached; and at the option of the Union, said Agreement may be considered terminated upon seventy-two (72) hours' notice to any such delinquent Employer. In the event that the Union exercises such options under this Section, such delinquent Employer agrees to pay as liquidated damages, each of said Employers' Employees in the collective bargaining unit of the Union, their regular rate of pay for all time lost from work as a result of the Employer's delinquency to the Engineers Joint Welfare and Pension Funds.

Section 4. For all intents and purposes of this Article, the Union shall be considered a participating and contributing Employer, so that it may contribute to the Fund for its salaried Employees, so that said Employees may enjoy the benefits of this Fund and be covered there under.

ARTICLE XIX **CENTRAL PENSION FUND**

A. Employer shall pay into the Central Pension Fund the amount specified in Article V, Wages, per hour, for each hour paid, for all employees covered by this Agreement.

B. Employer agrees to be bound by the Agreement and Declaration of Trust entered into as of September 7, 1960, establishing the Central Pension Fund of the International Union of Operating Engineers and Participating Employers and by any amendments to said Trust Agreement.

C. Employer irrevocably designates as his representatives among the trustees of said fund such trustees as are named in said Agreement and Declaration of Trust as Employer trustees, together with their successors, selected in the manner provided in said Agreement and Declaration of Trust as that document may be amended from time to time.

D. The Parties hereto recognize that the Unions, the Funds, and/or affiliated Fund may make contributions to the respective Funds for and on behalf of their employees. Such contribution shall be in the same amount and payable in the same manner as are made by other contributing Employers.

E. Notwithstanding any other provision contained in this Agreement, the Parties agree that any Employer who becomes delinquent in the payment of contributions due to Funds after notice has been served upon such delinquent Employer by the Association, the Employer shall be liable for not only the amount of contributions due, but in addition thereto, any such Employer agrees to pay interest, costs and fees of collection, legal fees not in excess of twenty percent (20%) of the amount of said delinquency and the costs of an audit if auditing procedures are necessary to ascertain the amount of the delinquencies. The failure of any Employer to make timely and proper contributions and remittances to the Funds shall not relieve any other Employer from making such payments.

F. It is further agreed between the Parties hereto that in addition to the provision contained in the preceding paragraph, the Unions are granted the unequivocal right, with respect to any delinquent Employer, to declare this Agreement breached and at the option of the Unions said Agreement may be considered terminated upon seventy-two (72) hours' notice to any such delinquent Employer. In the event that the Unions exercise such option under this section, such delinquent Employer agrees

to pay as liquidated damages, each of said Employer's employees in the collective bargaining unit of the Unions, their regular rate of pay for all time lost from work as a result of the Employer's delinquency to the above-listed Fund.

ARTICLE XX **TRAINING FUND**

Section 1. The Employer agrees to contribute the Amount shown in Article V, Wages, per hour, for each hour paid (including holidays) to the Operating Engineers Local No. 106 Training Fund to be established by an Agreement and Declaration of Trust pursuant to the provisions of the Labor Management Relations Act of 1947, as amended. Such contributions shall be remitted to the Operating Engineers Local No. 106 Training Fund located at 1284 Central Avenue, Albany, NY 12205, in the mode and manner as determined by the Board of Trustees of said Fund pursuant to the terms and provisions of an Agreement and Declaration of Trust between the Labor Relations Division, Associated General Contractors of America, New York Chapter, Inc., and Local Union No. 106 of the International Union of Operating Engineers.

Section 2. Notwithstanding any other provision contained in this Agreement, the parties agree that any Employer who becomes delinquent in the payment of contributions due to the Operating Engineers Local No. 106 Training Fund after notice has been served upon such delinquent Employer and the Association, the Employer shall be liable for not only the amount of contributions due, but in addition thereto, any such Employer agrees to pay interest, costs and fees of collection, legal fees not in excess of twenty percent (20%) of the amount of

said delinquency and the costs of an audit if auditing procedures are necessary to ascertain the amount of the delinquencies. The failure of any Employer to make timely and proper contributions and remittances to the Fund shall not relieve any other Employer from making such payments.

Section 3. It is further agreed between the parties hereto that in addition to the provision contained in the preceding paragraph, the Union is granted the unequivocal right, with respect to any delinquent Employer, to declare this Agreement breached; and at the option of the Union, said Agreement may be considered terminated upon seventy-two (72) hours' notice to any such delinquent Employer. In the event that the Union exercises such option under this Section, such delinquent Employer agrees to pay as liquidated damages, each of said Employers' Employees in the collective bargaining unit of the Union their regular rate of pay for all time lost from work as a result of the Employer's delinquency to the Operating Engineers. Local No. 106 Training Fund.

Section 4. The parties hereto recognize that the Union, the Fund, and/or any affiliated Fund may make contributions to the respective Funds for and on behalf of their employees. Such contributions shall be in the same amount and payable in the same manner as are made by other contributing Employers.

ARTICLE XXI **DEFENSE AND BENEFIT FUND**

Section 1. The Employer shall deduct from the basic wage rate of employees covered by this Agreement, the amount here-

inafter set forth in Article V, Wages, for each actual hour paid such employees.

Section 2. No deduction shall be made for the Defense and Benefit Fund for any such employee unless the Employee has deposited with the Employer his copy of an executed authorization form which shall in no event be irrevocable for a period of more than one year or the termination date of this Agreement whichever may be the less.

Section 3. Executed copies of the authorization cards will be kept on file by the Union and the Employer (or such other Employer group as this Association and the Union may agree).

Section 4. The Employer assumes no obligation with respect to the obtaining of authorization cards, it being understood that this is a duty and obligation of the Union.

Section 5. The Union shall indemnify and save the Employer harmless against any and all claims, demands, suits or other forms of liability that shall arise out of or by reason of action taken or not taken by the Company in reliance upon work assessment authorization cards furnished by the Employees and/or Union.

ARTICLE XXII **INDUSTRY FUND**

Section 1. The Employer shall continue to pay to the Industry Fund of Eastern Contractors Association, Inc., 6 Airline Drive, Albany, New York 12205, a sum to be in an amount

equal to one percent (1%) of the basic hourly rate, as shown in Article V, Wages, per hour paid per employee covered by the terms of this Agreement.

Section 2. The Union shall receive quarterly reports of income and disbursements of the CIAP fund and shall also receive a copy of the yearly audit of the CIAP fund.

Section 3. No services or programs financed by the CIAP fund shall be made available to any person, firm or corporation that is not a member of Eastern Contractors Association, Inc., or is not a signatory to the Eastern Contractors Association, Inc. agreements.

Section 4. No monies from the CIAP fund shall be paid over to any Employer or trade associations, groups, or Employers without the consent of the Union. In the event such approval is given by the Union, it shall (a) receive quarterly reports and audits as to how the money received from the CIAP fund is being spent by the recipient, and (b) receive a copy of the current bylaws of the recipient's organization.

Section 5. The Union and Eastern Contractors Association, Inc. shall establish a joint committee with representatives of management and labor for the purpose of planning and adopting projects and programs to promote the construction industry with funds to be provided by the CIAP fund.

Section 6. The Industry Fund will be included in the Operating Engineers Fringe Benefit Report forms and remitted in conjunction with these fringe benefits to the Operating Engineers' Welfare and Pension Fund offices in Syracuse, New York.

Section 7. Anything herein contained to the contrary notwithstanding, there is specifically excluded from the purposes of the Industry Advancement Program the right to use any of the funds to maintain lawsuits against Local Union No. 106 and its parent International Union, for lobbying in support of anti-labor legislation and/or to subsidize contractors or labor during a period or periods of work stoppages, strikes or lock-outs. None of the foregoing provisions of this Section shall operate to prohibit any communication from the Association to its members at any time, or to prohibit the expression by such of the Association's representatives as may be paid with the monies of the Industry Advancement Program of any position of the Association or its members in collective bargaining or in negotiations of any matter affecting wages or conditions of employment of the members of the Operating Engineers.

ARTICLE XXIII

DUES ASSESSMENT

Section 1. Employers bound by this Agreement agree to deduct the appropriate amount (as specified in Article V, Wages) for all Employees covered by this Agreement who have submitted a signed Employee Assessment Deduction Authorization as hereinafter set forth (not including initiation fees, fines or special assessments), while said Employee Assessment Deduction Authorization is in effect and has not been duly revoked.

Section 2. The Local Union will provide the Employee Assessment Deduction Authorization forms which shall state:

(Name-Please Print or Type)

(Social Security Number)

(Date)

OPERATING ENGINEERS LOCAL UNION NO. 106 DUES ASSESSMENT DEDUCTION AUTHORIZATION

The undersigned hereby authorizes and directs any Employer by whom I am employed who is bound by the terms and conditions of a current Collective Bargaining Agreement by this International Union of Operating Engineers, Local Union No. 106, and any Association or Employer which provides for a Dues Assessment, to deduct from my wages each week, the sum specified for Dues Assessment (not including initiation fees, fines or special assessments) in said Agreement.

The assignment, authorization and direction shall become effective as shown and shall be irrevocable for a period of one (1) year or until the termination of the said Agreement above referred to, whichever occurs sooner, and I agree and direct that this assignment authorization and direction shall be automatically renewed and shall be irrevocable for successive periods of one (1) year each or for the period of each succeeding applicable Agreement between the applicable Association or Employer and Local Union No. 106 whichever shall be shorter unless written notice is given by me to the Association and the Union not more than twenty (20) days prior to the expiration of each period of one (1) year or of the applicable Collective Bargaining Agreement between the above mentioned Associations and the Union, whichever occurs sooner.

Signature

Witness

Section 3. The Union will secure the employee's signature to said form and deliver same, duly witnessed, to the Association. The Union shall be fully responsible for the validity of the authorization and agrees to reimburse the Employers for any deduction for Employees Assessment made and paid over to the Union which may later be held to have not been authorized by the employee or which may constitute illegal deductions and the Union agrees to indemnify and hold harmless the Associations and the Employer against any loss or claims for damages resulting from the deduction aforesaid and against any award, judgment, loss or expense arising out of any claim made against the Association and/or the Employer because of such deduction. No deduction shall be made for Employee Assessment for any such employee unless the employee or Union has deposited with the Association his copy of an executed Employee Assessment Deduction Authorization form. Neither the Association nor the Employer assumes any obligation with respect to the obtaining of Employee Assessment Deduction Authorization cards, it being understood that this is a duty and obligation of the Union.

Section 4. With respect to any such employee for whom an Employee Assessment Authorization card has not been furnished, the gross basic wage rate appearing herebefore shall be paid to the man with no deduction. Employee assessment shall be first deducted in the first full payroll period following the furnishing of authorization cards. It is understood and agreed that the Association shall not be responsible legally or otherwise, for any delinquents, defaults, or violations of this Article on the part of its members.

Section 5. Deductions shall be reported on the combined re-

porting form, and paid to the Engineers Joint Funds as part of the single check system. That office will then forward the money to the Local Union on a regular basis.

ARTICLE XXIV

FUND DELINQUENCIES

Section 1.

The terms of this Agreement in regard to the time contributions are due, the failure of an Employer to make timely reports and contributions, interest, liquidated damages, attorneys' fees and costs and other damages and expenses applicable to Employers delinquent in remitting contributions, the rights of the Funds and/or Union in regard to delinquent Employers and the right of the Union or Funds to audit Employer payroll records, shall apply to Article XXII, XXIII or XXIV and the remittance of deductions to the Defense and Benefit Fund, remittances to the Industry Fund, or dues assessment as though set forth at length herein.

It is further agreed that any Employer becoming delinquent in reporting and making payment of monies due the Defense and Benefit Fund, Industry Fund, Union, without notice being served of such delinquency to any such Employer by the Defense and Benefit Fund, Industry Fund, Union, shall be liable for the amount of the delinquency together with interest at the rate of twelve percent (12%) per annum, liquidated damages of twenty percent (20%) of the amount of the delinquency, costs, audit fees, and any and all attorneys' fees incurred by the Defense and Benefit Fund, Industry Fund, Union in attempting to collect such delinquency.

It is agreed that violations concerning remittance of monies

to the Defense and Benefit Fund, monies to the Industry Fund, and dues assessment to the Union shall not be subject to the grievance arbitration provisions of this Agreement.

The Union may withdraw its members from Employers who are delinquent in remitting payments to the various Funds set forth in this Agreement or may strike or engage in a boycott with respect to any such delinquent Employer, and shall have the right to take immediately whatever economic action it may deem appropriate. Such rights are also extended to the Union if the Employer fails to comply with the applicable rules, regulations and policies. The Union may take the foregoing actions upon seventy-two (72) hours written notice being served by the Union or its agent upon the Employer with a copy to the Association. In the event that employees are removed or withdrawn from an Employer's job site or that work is discontinued in any manner under the provisions of this Article, the delinquent Employer agrees to pay each of said bargaining unit employees their regular rates of pay and all fringe benefits and/or contributions for all time lost from work as a result of the right herein granted to the Union and the action herein taken by the Union for the purposes of recovering delinquent contributions and remittances due the Welfare, Pension, Central Pension Fund, Local 106 Training Fund, Defense Benefit Fund (jointly referred to as the "Funds") and Dues Assessment to the Union.

The parties further agree that any action exercised by the Union and granted under this Article with respect to delinquent Employers shall not constitute a violation of any "no Strike" provisions or clause contained in this Agreement, and the Employer and the employees waive any and all rights, claims or causes of actions they may have under this Agreement against the Union or its members or the Fund(s) before

any State or Federal agency, tribunal or court. It is expressly agreed herein that the use of the grievance and arbitration machinery set forth in this contract are waived by any such aforementioned delinquent Employer.

Notwithstanding any provisions herein contained or contained in the entire Agreement, it is further agreed that there is hereby extended to the Union the unequivocal right, when any Employer shall become delinquent in the contributions and remittances due to the said Funds) and Union, to declare this Agreement breached by a delinquent Employer and at the option of the Union, this Agreement may be considered terminated. Such rights are also extended to the Union if the Employer fails to comply with the rules, regulation and policies. The Union may take the foregoing action upon seventy-two (72) hours written notice being served by the Union or its agents upon the Employer with a copy to the Association. In the event that the Union's exercise such option under this section, such delinquent Employer agrees to pay as liquidated damages, each of said Employer's employees in the collective bargaining unit of the Union's, their regular rate of pay for all time lost from work as a result of above listed Fund.

It is the express agreement and understanding that any action with respect to delinquent Employers as set forth and provided for in this Article is in recognition and for the purposes of protecting the rights of employees in the collective bargaining unit, their families and beneficiaries of said Fund(s) and Union.

Section 2.

Engineers Joint Pension Fund, the Local 106 Training Fund, and the Engineers Central Pension Fund ("jointly referred to as "Funds") shall be administered pursuant to provisions of

Agreements and Declarations of Trust of the respective Funds, the Collection Policy, the Mistaken Contribution Policy, and the Withdrawal Liability Policy (jointly referred to as "Policies") established by the various Funds' Trustees, and shall be in compliance with the requirements of State and Federal laws governing and regulating such trusts. Such Agreements and Declarations of Trust and Policies, together with any amendments to the Trusts or Policies, are hereby incorporated herein by reference as if fully set forth herein.

The parties to this Collective Bargaining Agreement hereby agree that the signing of this Agreement shall constitute an obligation to be bound by the terms and conditions of said Agreements and Declarations of Trust of the Funds, the Collection Policy, the Withdrawal Policy, and the Mistaken Contribution Policy, as if said Agreements and Declarations of Trust of the Funds and Policies were fully set forth herein and made a part thereof.

ARTICLE XXV SEPARABILITY

In the event that any provision of this Agreement shall be declared by any Court, Governmental Board or Agency having jurisdiction, to be illegal or contrary to law, order or directive of any such Board or Agency having jurisdiction, then such provision shall be inoperative and without any effect upon the remaining provisions of this Agreement.

ARTICLE XXVI

SCOPE OF AGREEMENT

This Agreement and working conditions are established and regulated only by the terms of this Agreement.

ARTICLE XXVII

DRUG TESTING

If an Employer or Employer's customer requires drug/alcohol testing as a condition of employment, the person referred to the Employer by the Union may be required to take such a test, providing the test meets Federal and State standards. Also, providing the Employee signs a permission card supplied by the Employer, a copy of which should be sent to the Union. A copy of the company substance abuse program shall be furnished to each employee at the time of employment. Employee's signature shall be proof of acknowledgement.

ARTICLE XXVIII

NON-DISCRIMINATION IN EMPLOYMENT

Section 1. The Employer and the Union mutually agree that they will comply and cooperate with all laws, codes, rules, regulations, executive orders, and administration decisions, whether state or federal, dealing with non-discrimination in training, membership, employment, job tenure, promotions, and every other matter covered by such laws, codes, etc. not herein expressly mentioned. The Employer shall have the right

to conduct systematic and direct recruitment of qualified minority and female applicants should the Union fail to refer sufficient minority and female trainees within forty-eight (48) hours to satisfy contractual Equal Employment Opportunity requirements and conditions.

Section 2. It is recognized that there are specific subcontract requirements for D/M/WBE participation in most public works contracts and that certain exceptions to the Subcontracting clause (Article XV) may be required for the Employer to comply with these requirements. Every effort will be made by the Employer to arrange a pre-job meeting with these subcontractors and the Union. It is understood that in no way shall the enforcement of this clause allow other trades to perform the work of this Union.

ARTICLE XXIX PARTIES TO THE AGREEMENT

EASTERN CONTRACTORS ASSOCIATION INC.

James Kilby, Co-Chairman
Thomas Murray, Co-Chairman
Wayne Brownell
George Colvin
Toni Cristo

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL UNION NO. 106

Daniel McGraw
Robert Jones

ADDENDUM 1 ECA/BASIC TRADES WORKERS' COMPENSATION PROGRAM

The parties have adopted as part of this Agreement the ECA/
Basic Trades Workers' Compensation Program including the
Workers' Compensation Alternative Disputes Resolution Ad-
endum.

WORKERS' COMPENSATION ALTERNATIVE DISPUTES RESOLUTION ADDENDUM

AGREEMENT PREAMBLE

This Agreement is made and entered into the 28th day of February, 1996 by and between Eastern Contractors Association, Inc. (hereinafter referred to as the Association) and International Union of Bricklayers and Allied Craftsmen (Local Nos. 2, 8, 11, and 45), United Brotherhood of Carpenters and Joiners of America (Local No. 370), International Association of Bridge, Structural and Ornamental Iron Workers (Local No. 12), Laborers' International Union of North America (Local Nos. 157 and 190), International Union of Operating Engineers (Local No. 106) and International Brotherhood of Teamsters (Local No. 294) and other Unions and Associations electing to participate (hereinafter referred to as the Unions) and is an Addendum to the Building; Heavy & Highway (Bricklayers and Allied Craftsmen); and Tile, Marble and Terrazzo Finishers and Workers (Bricklayers and Allied Craftsmen) collective bargaining agreements and successor collective bargaining agreements between the Association and the Unions.

ARTICLE I

PURPOSE

It is the intent of this Agreement to provide employees who incur injuries or suffer occupational diseases as defined under the New York Workers' Compensation Law (hereinafter referred to as the Law) with improved access to high quality medical care, and to reduce the number and severity of disputes and provide an efficient and effective method for dealing with disputes resulting from such injuries and diseases by utilizing the provisions of subdivision 2-C of Section 25 of the Law to establish a system of medical care delivery and dispute prevention and resolution which will be used by all employees covered by this Agreement.

ARTICLE II

SCOPE OF AGREEMENT

- a) This Agreement shall apply only to an Employer that is signatory to at least one (1) of the collective bargaining agreements between the Association and the Unions listed above in Article I and that chooses to participate in this Agreement and to its employees who are covered under such agreements. The Employer shall serve written notification on the Association, the Union representing the Employer's employees and on Ulico Casualty Company (hereinafter referred to as the Prime Carrier) of the Employer's application to participate in this Agreement. Initial and continuing participation shall be subject to the approval of the Joint Labor-Management Oversight Committee established in Article V and of the Prime Carrier. An Employer insured with a workers' compensation carrier other than the Prime Carrier or a self-insured Employer must demonstrate that it will be able to provide claims man-

agement, medical management and program representative services consistent with this Agreement and satisfactory to the Oversight Committee and the Prime Carrier and must agree to pay the applicable costs for dispute resolution services, medical network operation and other related program expenses.

In accordance with Rule 314.2(c), any participating Employers who are insured by a carrier other than Ulico, Inc. (the "Prime Carrier") shall provide the WCB with a statement signed by their insurance carrier expressing the carriers' consent to the workers' compensation claims provisions contained in the Agreement. Participating Employers who do not contract with an insurance carrier shall submit proof of self-insurance on WCB form SI - 12.

The Prime Carrier or other participating carrier or self-insured Employer, as appropriate, shall provide prompt written notification of the Employers who elect to utilize the provisions of the alternative disputes resolution Agreement and an estimate of the numbers of employees thereby bound to the alternative dispute resolution process to the WCB.

b) This Agreement shall apply only to workers' compensation claims for compensable injuries and occupational diseases, as defined by the Law, sustained by employees of the Employer covered by this Agreement, during their employment by the Employer, on or after the effective date of this Agreement, irrespective of the date of the claim. This Agreement shall not be construed to modify the provisions of the Labor law nor shall it in any way modify claimant's rights to commence action based upon negligence, violations of Labor Law, violations of OSHA or otherwise against any third party.

c) This Agreement shall remain in effect for not less than one (1) year from the date of its execution. Thereafter, it shall continue and remain in force during the full term of the

collective bargaining agreements to which it is an Addendum, subject to the termination notification requirements set forth in those agreements. Upon termination of coverage of this Agreement with respect to an individual employee or to all employees of an Employer, unless this Agreement or the underlying collective bargaining agreements are being renegotiated, the Employer and the employee(s) shall become fully subject to the provisions of the Law to the same extent as they were prior to the implementation of this Agreement, provided, however, that any claim arising from an accident or illness sustained on or before the date of termination of coverage of this Agreement shall continue to be covered by the terms of this Agreement for a period of two (2) years and further provided that when a claim has been adjudicated under this Agreement, the Employer and the claimant shall be estopped from raising identical issues before the Workers' Compensation Board. On termination of the Agreement, copies of all records related to claims adjudicated under the Agreement shall be transferred by the responsible carrier to the Workers' Compensation Board. This Agreement shall not remain in effect beyond December 31, 2005 unless authorized by Law.

d) This Agreement represents the complete understanding of the parties with regard to the subject matter dealt with herein.

e) In any instance of conflict, the provisions of this Agreement shall take precedence over provisions of the Law, so far as permitted by the provisions of subdivision 2-C of Section 25 of the Law.

f) This Agreement shall not be construed to modify the provisions of the Law related to notice, claim filing, first report of injury, notification of controversy, notification of the cessation of benefits, payment of benefits, payment of attorney

ney or licensed representative fees or any other provision of the Law or its supporting case law, except as specifically set forth in this Agreement.

g) Notwithstanding any other provision of this Agreement, it is hereby agreed that for other than office or clerical employees, that no employee not covered under a collective bargaining agreement with at least one (1) of the signatory Unions shall be covered under this alternative dispute resolution agreement, nor shall be permitted coverage under the alternative dispute resolution for resolution of claims. Any party that fails to file for arbitration within thirty (30) calendar days after the completion of the mediation process as provided above shall forfeit its right to arbitrate under the terms of this Agreement. This provision shall not be in effect unless authorized by Law.

ARTICLE III AUTHORIZED MEDICAL PROVIDERS

a) All medical and hospital services required by employees subject to this Agreement as the result of compensable injury or occupational disease, shall be furnished by health care providers and facilities negotiated by the parties to this Agreement, hereinafter referred to as authorized providers. A list of the authorized providers shall be made available to all employees subject to this Agreement. The list can be changed any time by mutual agreement of the parties to this Agreement. All authorized providers, other than health care facilities, shall be board certified in their respective specialties. The parties to this Agreement may agree on a case-by-case basis to permit a board eligible health care provider to act as an authorized provider as permitted by WCB.

b) In case of emergency when no authorized provider is available, the employee may seek treatment from a health care provider or facility not otherwise authorized by this Agreement, to provide treatment during the emergency. Responsibility for treatment shall be transferred to an authorized provider as soon as possible, consistent with sound medical practices.

c) After selecting an authorized provider to furnish treatment, an employee may change once to another authorized provider. When referred by the authorized provider to another provider in a particular specialty, the employee may also change once to another authorized provider in such specialty. Additional changes will be made only with the agreement of the Employer.

d) Neither the Association, the Employer nor the Union(s) shall be responsible for the cost of medical services furnished by a health care professional or facility not authorized pursuant to this Agreement.

e) The list of authorized providers shall contain sufficient numbers of providers for each of the specialties which the parties to this Agreement believe are required to respond to the needs of employees subject to this Agreement. In the event that an authorized provider furnishing treatment to an employee determines that consultation or treatment is necessary from a specialty for which no authorized provider has been selected through this Agreement, or in the event that distance makes it impractical for treatment from the authorized provider, the authorized provider shall select the additional specialist or the additional provider who offers treatment at a practical distance for the employee.

f) All prescription medicines required by employees subject to this Agreement as a result of injury or occupational

disease shall be furnished by the Employer through a prescription medicine provider agreed to by the parties to this Agreement. This prescription medicine may be provided by the prescription medicine provider.

g) Either the Employer or the employee may request a second opinion from an authorized provider regarding diagnosis, treatment, evaluation or related issue. A third opinion may be requested through the mediator or arbitrator if the first two do not agree.

h) Both the Employer and the employee shall be bound by the opinions and recommendations of the authorized providers selected in accordance with this Agreement. In the event of disagreement with an authorized provider's findings or opinions, the sole recourse shall be to obtain a second opinion from another authorized provider and to present the opinions through the dispute prevention and resolution procedures established in this Agreement.

i) The parties to this Agreement agree that it is in their mutual best interest to establish a schedule limiting the fees which the authorized providers may charge for providing documents and narrative reports, and will work with the authorized providers to establish such a schedule.

j) If the underlying compensability of a claim is being controverted by the Employer, the employee is not bound by this Article pending the resolution of the controversy. Any issue of compensability shall be resolved under Article IV of this Agreement. If the claim is found to be compensable, the Employer will be responsible for payment of the health care rendered to the employee, at the applicable fee schedule.

ARTICLE IV **DISPUTE PREVENTION** **AND RESOLUTION**

- a) The dispute prevention and resolution program will consist of three components:

Program Representative
Mediation
Arbitration

- b) This program shall be used in place of and to the exclusion of the New York State Workers' Compensation Board (WCB) conciliation, he/shearing and review processes. Any request made to the WCB for conciliation, he/shearing or review of any claim subject to this Agreement will immediately be referred by the WCB to the program established by this Agreement.

- c) The Program Representative, mediator(s) and the arbitrator(s) will be selected through negotiation among the parties to this Agreement and will be paid by the Employer, except that the costs for those employers insured by the Prime Carrier will be paid by the Prime Carrier. All individuals considered for mediator or arbitrator shall disclose to the Joint Labor-Management Oversight Committee any current or previous employment or affiliation by the Prime Carrier or any other carrier participating in this Agreement.

- d) An employee covered by this Agreement who believes that he/she is not receiving workers' compensation benefits to which he/she is entitled, including medical and hospital services, shall notify the Program Representative. If the issue cannot be resolved to the satisfaction of the employee within five (5) working days, the employee may apply for

mediation. The parties may extend the five (5) working day period by mutual agreement. No issue will proceed to mediation without first being presented to the Program Representative. The response of the Program Representative to the employee shall be explained in terms which are readily understandable by the employee. The Program Representative will maintain a log recording all activity, including the date of each notification and the date of each response.

e) Application for mediation shall be made not more than sixty (60) calendar days after the Program Representative has responded to the employee's notification. Any application for mediation shall immediately be assigned to a mediator selected under this Agreement. The mediator will contact the parties to the dispute, including the Employer insurance carrier, and take whatever steps the mediator deems reasonable to bring the dispute to an agreed conclusion. The Joint Labor-Management Oversight Committee will determine the rules by which mediations are conducted.

f) Mediation shall be completed in not more than fourteen (14) calendar days from the date of referral, except that in no event shall an issue be permitted to proceed beyond mediation until and unless the moving party cooperates with the mediator and the mediation process. The Employer agrees to cooperate fully in the dispute resolution process and to provide all relevant documents requested by the employee, the mediator or the arbitrator.

g) Within thirty (30) calendar days after the completion of the mediation process, any party not satisfied with the outcome may file with the mediator a request that the matter be referred for arbitration. Upon receipt of such a request, the mediator shall immediately refer the matter to an arbitrator agreed to by the parties to this Agreement for arbitration. The

arbitration date will be set with sufficient advance notice to permit the parties to retain and/or consult with legal counsel.

h) Arbitration will be conducted pursuant to the rules of the American Arbitration Association, using an arbitrator agreed to by the parties to this Agreement. Unless the parties to the matter otherwise agree, arbitration proceedings shall be completed within thirty (30) calendar days after referral, and an arbitration decision rendered within ten (10) calendar days of the completion of the proceedings.

i) No written or oral offer, finding or recommendation made during the mediation process by any party or mediator shall be admissible in the arbitration proceedings except by mutual agreement of the parties.

j) The mediator or arbitrator may in his/her or he/she sole discretion appoint an authorized health care provider to assist in the resolution of any medical issue, the cost to be paid by the Employer.

k) Either party to a claim may obtain representation by an attorney or licensed representative at any time. The attorney(s) or licensed representative(s) will be paid under the same circumstances and in the same manner and amounts as provided for under the Law. Neither party will be permitted to be represented by legal counsel at mediation. The fact that the representative of the employee, the Employer or the Employer's workers' compensation insurance carrier's has had legal training or is a licensed attorney shall not bar such person from participating in mediation unless he or she seeks to participate on the basis of a lawyer-client relationship. All communication between the mediator and the parties shall be directly with the parties (unless precluded by language or disability) and not through legal counsel.

l) Determination and/or approval of attorneys'/li-

censed representatives' fees, approval of agreements and other similar actions required under the Law to be performed by a referee or a Board Member shall be the responsibility of the mediator or arbitrator. The arbitrator shall also have the authority to enforce the penalty provisions contained in Section 25 (2)(a), (2)(c), and (3)(c) of the Law with regard to only those penalties paid to the employee.

m) The decision and award of the Arbitrator shall be final, except as provided for in paragraph D of subdivision 2-C of Section 25 of the Law.

n) Any party to a claim may refuse once a mediator or arbitrator named to resolve the claim. The refusal shall be in writing and shall be made within two (2) working days of party receiving the name of the mediator or arbitrator assigned to the claim. A party to a claim may only exercise this option once at the mediation step and once at the arbitration step.

Any party to the claim may take a dispute to the Program Representative, Mediation, and Arbitration for resolution.

ARTICLE V JOINT LABOR-MANAGEMENT OVERSIGHT COMMITTEE

a) The Association and the Unions establish a Joint Labor-Management Oversight Committee to represent their respective interests in the administration of this Program. The Committee's Labor membership shall consist of one (1) designated representative from each of the unions set forth in Article I. The Management membership shall consist of an equal number of representatives designated by the Association from participating employers. The Oversight Committee shall designate six (6) members, three (3) Labor and three (3) Manage-

ment, to serve as a Working Group with authority to act at the direction of the entire Joint Labor-Management Oversight Committee. The Prime Carrier shall serve as a non-voting, ex officio member of both the Joint Labor-Management Oversight Committee and the subsidiary Working Group. The Joint Labor-Management Oversight Committee shall operate on a consensus basis.

The Program Coordinator will be an Association staff member and will serve as Chair of meetings of the Joint Labor Management Oversight Committee and the Working Group.

b) The Joint Labor-Management Oversight Committee shall take all actions required to implement the letter and intent of this Agreement, including, but not limited to, the selection of Program Representative, mediator(s), arbitrator(s), network providers and medical providers. Additionally, the Joint Labor-Management Oversight Committee shall receive reports, both in written and oral forms, from the Prime Carrier and any other participating carrier and the Working Group, shall receive complaints and investigate and respond appropriately, and shall respond to requests for systemic information whenever practicable. Accordingly, the parties hereto consent to the agreements, decision and other actions taken by the Joint Labor-Management Oversight Committee and the Working Group consistent with this Agreement and the exigencies of operating the program for the benefit of the Employees and the Employers.

ARTICLE VI MISCELLANEOUS ISSUES

a) All payments required to be made by the Employer pursuant to this Agreement shall, in accordance with the Law,

be made by its workers' compensation carrier. Similarly, all actions required by the Law to be undertaken by the insurance carrier rather than the employer shall be performed by the Employer's workers' compensation insurance carrier.

b) The Employer shall take whatever steps are necessary to insure that an Employer representative is available to fulfill the Employers' obligations until all claims subject to this Agreement are resolved.

c) If any provision of this Agreement or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Agreement than can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are declared to be severable.

d) If any other contractor association and its representative union(s) wish to participate in the Program established under this Agreement, they may apply to the Joint Labor-Management Oversight Committee established in Article V. If approved for participation, the association and the union(s) may be entitled to name only one (1) additional Management member and only one (1) additional Union member, respectively, to serve on the Joint Labor-Management Oversight Committee.

e) It is expressly agreed and understood that under no circumstances shall the Association(s) or the Union(s) signatory hereto become liable for providing any workers' compensation benefits by virtue of their participation in this Agreement, including but not limited to the payment of claims, related costs or the provision of services.

f) In a contested claim if the employee prevails at the arbitration step the Prime Carrier or any other participating carrier shall pay the attorney's/licensed representatives' fees

of the employee's attorney in addition to any award made to the employee.

g) The parties agree to review the workers' compensation cost savings obtained by Employers participating in this Agreement with the goal of sharing a portion of those savings after an increase in competitiveness, if any, with the Unions. The threshold for determining increased competitiveness through workers' compensation cost savings shall be the Prime Carrier or any other participating insurer establishing rates, dividends, and premiums equivalent to the most competitive available from a commercial carrier, State Insurance Fund, or Safety Group outside this Agreement. After reaching the threshold for determining increased competitiveness, a portion of those workers' compensation cost savings will be shared through supplementing the statutory benefits or some other formula as determined by the parties and the Prime Carrier and other participating insurers.

The Prime Carrier and any other participating insurer will observe the reporting requirements in Article V b of this Agreement. At least one (1) written report will be provided prior to the first of the expirations of the current collective bargaining agreements between the Association and the Unions on April 30, 1997 (Bricklayers and Allied Craftsmen Local No. 2 - Building, Carpenters Local No. 370, Iron Workers Local No. 12, Laborers' Local No. 157 & 190, International Union Operating Engineers Local No. 106, Brotherhood of Teamsters Local No. 294), May 31, 1997 (Bricklayers and Allied Craftsmen Locals Nos. 2, 8, 11, 45), and May 31, 1997 (Bricklayers and Allied Craftsmen - Tile, Marble and Terrazzo Finishers and Workers), respectively.

The Association and the Unions will endeavor together to explore the development of additional or enhanced features by

the Prime Carrier and any other participating carrier for inclusion in this Agreement.

h) MULTIPLE EMPLOYER CLAIMS. Medical care that is the responsibility of the current Employer and the collectively bargained program will be furnished through the program's medical network. If the claim involves a medical condition for which the employee was previously treated, and the prior treating physician is not a member of the program medical network, the physician will, at the claimant's written request to the Program Representative, immediately be put through the credentialling process and after successful completion added to the program medical network. If an issue arises involving only the current Employer, it will be dealt with through the Agreements alternative disputes resolution process. If an issue arises that involves the current Employer and a prior Employer who is not party to the Agreement, it will be dealt with through the WCB process. If an issue arises that involves the current Employer and a prior Employer who is party to the Agreement, it will be dealt with through the Agreement alternative dispute resolution process.

i) The parties agree that safety is of the greatest importance in the prevention of injuries in workers' compensation. The Association and the Prime Carrier and other participating insurers will develop a Safety Recognition Program including Employer and employee awards. The Employers and the Unions agree to promote safety and undertake any safety recommendations made by the Prime Carrier and other participating insurers.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the date and year set forth, in the City of Albany, County of Albany, State of New York.

ACCEPTED FOR THE UNIONS for and on behalf of the signatory Unions:

**International Union of
Bricklayers and Allied
Craftsmen**

(Local No. 2)

Garry Hamlin,
President

**International Union of
Bricklayers and Allied
Craftsmen**

(Local No. 11)

Steve Remington,
Business Manager

**United Brotherhood of
Carpenters and Joiners
of America**

(Local No. 370)

John Stefanik,
Business Representative

**International Union of
Bricklayers and Allied Craftsmen**

(Local No. 8)

Mark Babbage, President

**International Union of
Bricklayers and Allied Craftsmen**

(Local No. 45)

William R. Wright Jr.,
Business Manager

**International Association
of Bridge, Structural
and Ornamental Iron
Workers**

(Local No. 12)

Michael Burns,
Business Manager

Laborers' International Union of North America (Local No. 157)	Laborers' International Union of North America (Local No. 190)
Robert L. Pollard, Business Manager	Samuel M. Fresina, Business Manager
International Union of Operating Engineers	International Brotherhood of Teamsters
(Local No. 106)	(Local No. 294)
Gene Messercola, Business Manager /President	Howard Bennett, President
ACCEPTED FOR THE ASSOCIATION for and on behalf of the signatory Employers:	

Charles McGrath	Tom Murray
J.D. Gilbert	John Di Giulio
Vic Mion Jr.	David Rubin
Toni Cristo	Bruce Hodgkins
Wayne Brownell	Walt Gould

ACCEPTED FOR ULICO CASUALTY COMPANY:

Todd Rowland

AGREEMENT SIGNATURE PAGES

We hereby accept the provisions of the above contract. The Union and said Company do hereby agree to abide by and enforce same.

Company Name

Company Address and Telephone

Signature of Duly Authorized Officer or Representative of Company

Print Name and Title

Signature of Business Representative - Local No. 106

Date

Copies to:

Operating Engineers Local No. 106
1284 Central Avenue
Albany, NY 12205
Phone (518) 453-6518
(518) 453-6524
(518) 453-6526
Fax (518) 453-6549

**Eastern Contractors
Association, Inc.**
6 Airline Drive
Albany, NY 12205
Phone (518) 869-0961
Fax (518) 869-2378

AGREEMENT SIGNATURE PAGES

We hereby accept the provisions of the above contract. The Union and said Company do hereby agree to abide by and enforce same.

Company Name

Company Address and Telephone

Signature of Duly Authorized Officer or Representative of Company

Print Name and Title

Signature of Business Representative - Local No. 106

Date

Copies to:

Operating Engineers Local No. 106
1284 Central Avenue
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**Eastern Contractors
Association, Inc.**
6 Airline Drive
Albany, NY 12205
Phone (518) 869-0961
Fax (518) 869-2378

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