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Title: **Independents and Laborers International Union of North America, Road and Heavy Construction, AFL-CIO, Local 1298 (2003)**

K#: **8138**

Employer Name: **Independents**

Location: **Nassau/Suffolk Counties NY**

Union: **Laborers International Union of North America, Road and Heavy Construction, AFL-CIO**

Local: **1298**

SIC: **1611**

NAICS: **23731**

Sector: **P**

Number of Workers: **1800**

Effective Date: **06/01/03**

Expiration Date: **05/31/07**

Number of Pages: **48**

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K 8/38
1,800 workers

WORKING AGREEMENT

48 pp.

between

ROAD & HEAVY CONSTRUCTION LABORERS' UNION LOCAL #1298

Nassau & Suffolk Counties, New York
AFL-CIO
681 Fulton Ave., Hempstead, N.Y. 11550
516-489-0888

and

INDEPENDENTS

EFFECTIVE JUNE 1, 2003
TERMINATES MAY 31, 2007

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THIS AGREEMENT made and entered into this

_____ day of _____ ,

by and among:

_____

(name of Employer)

(hereinafter referred to as the "Employer" or "Contractor and the LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, ROAD AND HEAVY CONSTRUCTION, LOCAL No. 1298 (hereinafter referred to as the "UNION").

WITNESSETH:

THIS AGREEMENT is entered into to prevent strikes and lockouts; to facilitate peaceful adjustment of grievances and disputes between Employer and Employees; to prevent waste, unnecessary and avoidable delays and the results through them, to the Employer, of cost 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 hereunder shall be in accordance with conditions and at 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 hereunder; and further to establish and set up the necessary procedure for amicable adjustment of all disputes or questions that may arise between the parties, or any of them so that the foregoing purpose may be brought about and accomplished.

ARTICLE I
Recognition

Section 1. The Contractor recognizes the Union as the sole collective bargaining agent for Laborers to be employed on engineering construction, road and heavy construction, and asphalt plants, with respect to hours, wages and working conditions for the territory for the entire Counties of Nassau and Suffolk or any other county which may be created in the geographical area now known as Nassau or Suffolk Counties, State of New York and such other geographical area where Laborers who are members of the Union are employed by the Contractor who are not subject to a collective bargaining agreement with an affiliate of the Laborers International Union of North America.

ARTICLE II
Hiring Practices

To provide an efficient, competent and safe system of production in the road and heavy construction industry, to eliminate the evils of casual employment thereby securing a fair distribution of employment and a living wage to those workers who must gain their livelihood from the industry to which they contribute their labor, and to provide for an orderly procedure of referral of applicants to employment, there is hereby

established this plan of referral between the Contractor and the Union.

Section 1. It shall be a condition of employment that all employees of the Employer covered by this Agreement who are members of the Union in good standing on the effective date of this Agreement shall remain members in good standing and those who are not members on the effective date of this Agreement shall on or after the eighth day following the effective date of this Agreement, become and remain members in good standing in the Union. It shall also be a condition of employment that all employees covered by this Agreement and hired on or after its effective date shall, on or after the eighth day following the beginning of such employment become and remain members in good standing in the Union.

Section 2. Registration and referral of applicants shall be in accordance with LIUNA Job Referral Rules and Variances.

Section 3. Authorized representatives of the Union shall be permitted at all times to visit jobs; to interview contractors and workers, but shall in no way interfere with or hinder the progress of the work,

ARTICLE III

Sub-Contractors, Pre Job Conference and Work Outside Territory

Section 1. This Agreement shall bind the parties hereto and any and all sub-contractors employed by the Contractor and any contract entered into with said sub-contractor shall contain a stipulation binding the said sub-contractor to the conditions and convenants of this Agreement.

When a Contractor secures work within the Union's jurisdiction, the Contractor shall be required to meet with the Union for the purposes of a pre-job conference at least two (2) weeks before starting work on the job. The purposes of the pre-job conference shall include, but are not limited to, determining the job specifications, identifying any sub-contractors on the job, review and clarify the Agreement and discuss job opportunities and the manning of the job.

If the Contractor notifies the Union of any and all sub-contractors on the job prior to commencing the job, then the Union will be responsible for notifying the Contractor within 35 days of the sub-contractor becoming delinquent in contributions to the Fringe Benefit Funds. If the Union fails to give proper notice, the Contractor can not be held liable for any wages, dues-checkoff and benefit fund contributions which the sub-contractor fails to pay up to the date of proper notice. Should the Union have failed to provide the

contractor of timely notice of the sub-contractors default, then the contractors only responsibility for delinquent contributions is that due and owing within the 35 day period of the contractor's receipt of the notice of default. If the contractor does not notify the Union of a sub-contractor or change in sub-contractors on the job, then the contractor shall be liable for any wages, dues check-off, and Benefit Fund contributions not paid by the sub-contractor. A sub-contractor shall be considered delinquent 30 days after contributions which are due and owing have not been paid.

Section 2. When a contractor does any work outside of the territory covered by this Agreement, he shall conform to any applicable Agreement that exists in that territory to which a subordinate Union of the Laborer's International Union of North America is a party.

ARTICLE IV

Hours, Holidays and Premium Pay

Section 1. Eight (8) hours shall constitute a day's work. The regular hours shall start at 6:30 A.M. and end at 3:00 P.M., or start at 7:00 A.M. and end at 3:30 P.M. or start at 7:30 A.M. and end at 4:00 P.M. or start 8 A.M. and end at 4:30 P.M. with one half (1/2) hour for lunch to be taken between the third and fifth hours from each starting time. If all others trades agree in

writing effective June 1, 2003 there shall be an additional starting time at 6:00 A.M. and ending at 2:30 P.M.

Section 2. All work done outside of the regular hours as stipulated in Section I hereof or in excess of eight (8) hours in any one day or in excess of forty (40) hours in any week, shall be paid for at the rate of time and one-half.

Section 3. Where the job specifications and/or Contract provide for night work outside the regular hours of work with the approval of the Union, which approval shall not be unreasonably withheld, the Employer may work five (5) consecutive eight (8) hour nights, Monday through Sunday. The Employees shall be paid at straight time plus 20% night work premium for the eight hours worked during the night. Effective June 1, 2005, the Employees shall be paid at straight time plus 25% night work premium for the eight hours worked during the night.

Where the job specifications and/or Contract provide for night shifts, with the approval of the Union, which approval shall not be unreasonably, withheld, the Employer may work three (3) eight (8) hour shifts. The first shift will start at 7:00 a.m. and end at 3:00 p.m. working seven and one half (7 1/2) hours with one half hour for lunch paid from 11:00 a.m. to 11:30 a.m. and will be paid at the straight time rate.

The second shift will start at 3:00 p.m. and end at 11:00 p.m. working seven and one half (7 1/2) hours with one half hour for lunch paid from 7:00 p.m. to 7:30 p.m. and will be paid at a 20% premium. The third shift will start at 11:00 p.m. and end at 7:00 a.m. working seven and one half (7 1/2) hours with one half hour for lunch paid from 3:00 a.m. to 3:30 a.m. and will be paid at a 20% premium. Work in excess of eight (8) hours per day; forty (40) hours per week; or during lunch hour shall be paid at the rate of time and one-half the applicable hourly wage including any premium pay. Effective June 1, 2005, the employees working the 2nd and 3rd shifts shall be paid a 25% premium.

Only when adverse weather conditions cause the employer to be unable to perform work during the regular workweek, the Contractor may work on that Saturday of that week and laborers shall be paid at straight time for the first eight hours of work. All other Saturday work shall be paid at time and one half.

Firewatch work performed after regular hours shall be paid an additional 10% premium. Contractor requesting laborers certified for hazardous material work and/or employed on hazardous material work, shall be required to pay an additional 10% premium. Laborers working in a hazardous material hot zone shall receive an additional 20% premium.

Section 4. All work done on Saturday, Sunday or during lunch hour, regardless of the day of the week, shall be paid for at the rate of time and one-half.

Section 5. Time traveling to and from jobs, including free transportation by the Contractor, shall not be considered part of the workday unless it occurs during the regular workday hours. All work where marine transportation is required, laborers will be paid from port to port on contractors boat only, not on public transportation.

Section 6. When a laborer reports for work at the direction of the employer and is not permitted to start work for any reason other than weather conditions, the laborer shall be paid two (2) hours wages at straight time except for work on Saturday or Sunday for which the laborer shall be paid two (2) hours wages at the rate of time and one-half. When a laborer is put to work and is then not permitted to continue work for any reason other than weather conditions, he shall be paid four (4) hours wages at straightime except for work on Saturday or Sunday for which the laborer shall be paid four (4) hours wages at the rate of time and one-half. If the laborer works at least four (4) hours he shall be paid for eight (8) hours, except for weather conditions for which the laborer will be paid for the actual hours worked.

If a laborer reports to work, but is not put to work due to weather conditions, he shall not be entitled to pay.

ARTICLE V

Wages

Section 1. Effective June 1, 2003, the hourly rate of wages to be paid shall be as follows:

General Laborer, Jackhammer, Drillman, Core Drilling, Bush Hammer man, Asphalt Plants (Bathchers & Hopperman), Dispatchers, Consolemen, Beltmen, Carpenters Tenders, Stone Mason Tender, Pipe Jointer and Setter, Concrete Laborer (Structures), Stone Spreading Laborer, Trackman, Grading and Excavating Laborer, Landscape Laborer, Yard Laborer, Puddlers on Concrete Pavement, Laborers (other than above on concrete pavement), Multi-Trade Tender/ Helper, Flaggers, all Pipe Fusers, Trackers, all Certified Asbestos Laborers, all Certified Haz-Mat Laborers, all Certified Radiological Laborers and all other Laborers.

Wages	$ 25.54
2nd year Wages	25.90
3rd year Increase	1.56
4th year Increase	1.61

Asphalt Raker Concrete & Curb Formsetter

Wages	$ 28.54
2nd year Wages	29.00
3rd year Increase	1.67
4th year Increase	1.73

Asphalt Workers, Rollerboys, Asphalt Top Shovellers, Smoothers and Tampers

Wages	$ 27.79
2nd year Wages	28.23
3rd year Increase	1.64
4th year Increase	1.70

Regular Foreman

Wages (per week)	$ 1177.77
2nd year Wages	1197.52
3rd year Increase	68.05
4th year Increase	70.43

Asphalt Foreman & Shop Steward

Wages (per week)	$ 1254.81
2nd year Wages	1277.26
3rd year Increase	70.84
4th year Increase	73.32

First year Apprentices will receive 80% of General Laborer's wage rate.

Second year Apprentices will receive 90% of General Laborer's wage rate.

For the periods June 1, 2005 through May 31, 2006 and June 1, 2006 through May 31, 2007, there will be total package increases for each group classification in the above amounts which will be distributed by the Union upon recommendation of the Fund Trustees, among wages, fringe benefit funds, and working dues.

Section 2. (A) All wages payable under this Agreement shall become due and payable on the job each week. Not more than three (3) days' pay shall be held back. If, for any reason, the Contractor terminates the services of laborers, the accrued wages of such laborer shall be paid to him at the time of the termination of his employment; otherwise, if he is directed to report at the Contractor's office for payment, he shall be entitled to receive payment at time and one-half for every hour consumed in traveling to and waiting at such office for payment, deducting from such time as may be a regular part of such day's work. If payment is not received at the office, as directed, such laborer shall report on the next working day at such office, unless specifically directed to report on the job and shall continue to do this each day until he has been paid, and during such waiting time, he shall be entitled to a full day's pay for each day he reports at the office or job. If any laborer shall, of his own volition, leave the services of his Contractor, then the Contractor may retain his wages until the next pay day.

(B) Contractors shall make payments of all wages in lawful currency in sealed envelopes showing the laborers' name, hours worked, amount earned, deductions for Social Security, withholding taxes, and amount due. At the time of discharge, a record of termination of employment as provided for by the State of New York Division of Placement and Unemployment Insurance must also be given.

Section 3. Where six (6) or more laborers are employed on the job, there shall be a foreman whose duties shall be those heretofore practiced in the trade. Shop Stewards shall be guaranteed a minimum weekly salary based on forty (40) hours. Foremen shall be guaranteed a minimum weekly salary based on forty (40) hours except during the weeks when the following holidays fall: New Year's Day, Martin Luther King, Jr.'s Birthday, President's Day, Memorial Day, Fourth of July, Labor Day, and Christmas Day, when they will be guaranteed a minimum weekly salary based on thirty-two (32) hours and the week of Thanksgiving and the day after Thanksgiving when they will be guaranteed a minimum salary based on twenty-four (24) hours.

Section 4. The Shop Steward shall receive the same pay as the highest wage classification in this Contract.

ARTICLE VI

Section 1. Welfare Fund — The Contractor agrees to comply with the Trust Agreement, By-Laws, Rules and Regulations of the Laborers' Union, Local 1298 of Nassau and Suffolk Counties Welfare Fund as the same may be amended from time to time and the aforesaid Trust Agreement, By-Laws, Rules and Regulations shall be a part of this Agreement as though the same were fully set forth herein.

The Contractor shall pay to the Welfare Fund at the Fund office, for the period June 1, 2003 through May 31, 2004, five dollars and sixty cents ($5.60) per hour and for the period June 1, 2004 through May 31, 2005, six dollars and twenty-five cents ($6.25) per hour for each hour worked by laborers for work performed in accordance with the provisions of this Agreement, including shape-time, straight time, overtime, vacation pay and premium hours up to but not to exceed forty (40) hours each week. The aforesaid Welfare Fund and/or the Union shall have the power to require any Contractor, and the Contractor, when required, shall furnish to the Welfare Fund Office, such information and reports as they may require in the performance of their duties in the collection of contributions to the Fund. Where a Contractor fails to abide by this section, or where the Contractor fails to pay wages as required by this Contract, the Union shall have the right to remove laborers from the job immediately and the laborers so removed shall be paid

for all lost time on the basis of straight time for all waiting time, at the rate of eight (8) hours per day.

Section 2. Pension Fund—The Contractor agrees to comply with the Trust Agreement, By-Laws, Rules and Regulations of the Laborers' Union, Local 1298 of Nassau and Suffolk Counties Pension Fund as the same may be amended from time to time and the aforesaid Trust Agreement, By-Laws, Rules and Regulations shall be a part of this Agreement as though the same were fully set forth herein. The Contractor shall pay to the Pension Fund at the Fund office, for the period June 1, 2003 through May 31, 2004 three dollars and forty two cents ($3.42) per hour and for the period June 1, 2004 through May 31, 2005, three dollars and ninety-two cents ($3.92) per hour for all hours worked by laborers for work performed in accordance with the provisions of this Agreement, including shape-time, holiday pay, straight time, overtime, vacation pay and premium hours. The aforesaid Pension Fund and/or the Union shall have the power to require any Contractor, and a Contractor when required, shall furnish to the Pension Fund Office, such information and reports as they may require in the performance of their duties in the collection of the contributions to the Fund. Where a Contractor fails to abide by this section, or where the Contractor fails to pay wages as required by this Contract, the Union shall have the right to remove laborers from the job immediately and the laborers so

removed shall be paid for all lost time on the basis of straight time for all waiting time, at the rate of eight (8) hours per day.

Section 3. Legal Services Fund — The Contractor agrees to comply with the Trust Agreement, By-Laws, Rules and Regulations of the Laborers' Union, Local 1298 of Nassau and Suffolk Counties Legal Services Fund as the same may be amended from time to time and the aforesaid Trust Agreement, By-Laws, Rules and Regulations shall be a part of this Agreement as though the same were fully set forth herein. The Contractor shall pay to the Legal Service Fund at the Fund office, fifteen cents ($.15) per hour for each hour or part thereof worked by or paid to laborers for work performed in accordance with the provisions of this Agreement, including shape-time, holiday pay, overtime, premium, vacation and straight time up to but not to exceed forty (40) hours each week for work performed in accordance with the provisions of this Agreement. The aforesaid Legal Services Fund and/or the Union shall have the power to require any Contractor, and a Contractor when required, shall furnish to the Legal Services Fund Office, such information and reports as they may require in the performance of their duties in the collection of contributions to the Fund. Where a Contractor fails to abide by this section, or where the Contractor fails to pay wages as required by this Contract, the Union shall

have the right to remove laborers from the job immediately and the laborers so removed shall be paid for all lost time on the basis of single time for all waiting time, at the rate of eight (8) hours pay per day.

Section 4. Vacation Fund—The Contractor agrees to comply with the Trust Agreement, By-Laws, Rules and Regulations of the Laborers Union, Local 1298 of Nassau and Suffolk Counties Vacation Fund as the same may be amended from time to time and the aforesaid Trust Agreement By-Laws, Rules and Regulations shall be a part of this Agreement as though the same were fully set forth herein. The Contractor shall pay to the Vacation Fund at the fund office two dollars ($2.00) for each hour or part thereof worked by or paid to laborers for work performed in accordance with the provisions of this Agreement, including overtime, premium hours, straightime, shape time, vacation and holiday pay. The aforesaid Vacation Fund and/or the Union shall have the power to require any Contractor, and the Contractor when required, shall furnish to the Vacation Fund office such information and reports as they may require in the performance of their duties in the collection of contributions to the Fund. Where a Contractor fails to abide by this section, or where the Contractor fails to pay wages as required by this Contract, the Union shall have the right to remove laborers from the job immediately and the laborers so removed shall be paid

for all lost time on the basis of straight time for all waiting time at the rate of eight (8) hours per day.

Section 5. Annuity Fund — The Contractor agrees to comply with the Trust Agreement, By-Laws, Rules and Regulations of the Laborers Union, Local 1298 of Nassau and Suffolk Counties Annuity Fund as the same may be amended from time to time and the aforesaid Trust Agreement, By-Laws, Rules and Regulations shall be a part of this Agreement as though the same were fully set forth herein. The Contractor shall pay to the Annuity Fund at the fund office the amount of four dollars and twenty-five ($4.25) per hour, for each hour or part thereof worked by or paid to laborers for work performed in accordance with the provisions of this Agreement, including overtime, premium hours, straightime, shape time, vacation and holiday pay. The aforesaid Annuity Fund and/or the Union shall have the power to require any Contractor, and the Contractor when required, shall furnish to the Annuity Fund office such information and reports as they may require in the performance of their duties in the collection of contributions to the Fund. Where a Contractor fails to abide by this section, or where the Contractor fails to pay wages as required by this Contract, the Union shall have the right to remove laborers from the job immediately and the laborers so removed shall be paid for all lost time on the basis of straight time for all waiting time at the rate

of eight (8) hours per day.

Section 6. Laborers Local 1298 Joint Apprenticeship & Training Fund — The Employer agrees to comply with the Trust Agreement, By-Laws, Rules and Regulations of Laborers Local 1298 Joint Apprenticeship & Training Fund as the same may be amended from time to time and the aforesaid Trust Agreement, By-Laws Rules and Regulations shall be a part of this Agreement as though the same were fully set forth herein. The Employer shall contribute to the Laborers Local 1298 Joint Apprenticeship & Training Fund an amount equal to seventy cents ($.70) per hour for each hour worked by or paid to laborers for work performed in accordance with the provisions of this Agreement, including shape-time, holiday pay, straight time, overtime, vacation pay and premium hours up to but not to exceed forty (40) hours each week.

Section 7. Working Dues Check-Off — In addition to the wage rates listed above, each employee shall be entitled to an additional ninety-five cents ($ .95) per hour which shall, pursuant to written authorization, be added to the wage rate, withheld by the Employer and remitted weekly to the Union for each hour or part thereof worked by or paid to laborers for work performed in accordance with the provisions of this Agreement, including overtime, premium hours, straightime, shape time, vacation and holiday pay up to but not to exceed forty (40) hours each week, along

with a list of employees, the number of hours worked by each employee and the name of any employee who shall fail to sign such an authorization. Such authorization shall be signed in duplicate, one copy supplied to the Union, and the authorization shall be irrevocable for a period of one (1) year or the termination of the Collective Bargaining Agreement, whichever is sooner, and shall be automatically renewed from year to year thereafter, unless sixty (60) days prior to any anniversary date such authorization shall be terminated by notice in writing to the Contractor and to the Union.

Section 8. NYSLPAC Check-Off — In addition to the wage rates listed above, each employee shall be entitled to an additional five cents ($ .05) per hour which shall, pursuant to written authorization, be added to the wage rate, withheld by the Employer and remitted weekly to the New York State Laborers Political Action Committee Checkoff for each hour or part thereof worked by or paid to laborers for work performed in accordance with the provisions of this Agreement, including overtime, premium hours, straightime, shape time, vacation and holiday pay, up to but not to exceed forty (40) hours each week, along with a list of employees, the number of hours worked by each employee and the name of any employee who shall fail to sign such an authorization. Such authorization shall be signed in duplicate, one copy supplied to the Union, and the authorization shall be

irrevocable for a period of one (1) year or the termination of the Collective Bargaining Agreement, whichever is sooner, and shall be automatically renewed from year to year thereafter, unless sixty (60) days prior to any anniversary date such authorization shall be terminated by notice in writing to the Contractor and to the Union.

Section 9. Arbitration-Benefit Fund Delinquencies — Disputes concerning an Employer's obligation to contribute to the Local 1298 Welfare Fund, Pension Fund, Vacation Fund, Annuity Fund, Joint Apprenticeship and Training Fund and Legal Services Fund, pursuant to the terms of this Agreement, may, at the sole option of the Union, and the Association, be subject to determination by an Arbitrator to be selected by the Business Manager of the Union and the Director of the Association. Said Arbitrator shall have full authority to determine all matters relating to the Employer's obligation to contribute to the Welfare Fund, Pension Fund, Vacation Fund, Annuity Fund, Joint Apprenticeship and Training Fund, Legal Services Fund and Dues Checkoff pursuant to the terms of this Agreement, and no other authority. The Arbitrator's fee shall be shared equally between the delinquent Employer and the Benefit Funds. This clause is not intended to limit any other rights which may be available to the Union or the Benefit Funds to effectuate collection of monies owed to the Benefit Funds.

Section 10. Collection of Employer Contributions to the Benefit Funds —

A. The failure of any Employer to pay required wages and/or to make required contributions to the Welfare, Pension, Annuity, Legal, Joint Appprenticeship and Training and Vacation Funds; or to remit in a timely fashion dues check-off; or in the event the Employer is delinquent in making contributions pursuant to this Agreement and fails to pay assessed interest as the result of said delinquencies; or fails to pay legal and auditing fees and court costs assessed against such delinquent Employer; or refuses to permit an audit of the Employer's books and records by a representative of the Fund upon ten days prior notice on regular business days during normal business hours in order to ascertain whether said payments are being properly computed and made: any such failure mentioned above shall be deemed to constitute a violation of this Agreement and the Union, upon reasonable notice, shall be authorized to remove Laborers from the job, in which case the Laborers so removed shall be paid a day's pay of eight (8) hours for each day until the Employer settles his delinquent payments of contributions, interest, legal and auditing fees and court costs with the Benefit Fund Administrator and/or permits an audit of the Employer's books and records. If any Employer has a record of delinquency in contributions to the Benefit Funds on a prior job, the Union shall be within its right

to refuse to permit Laborers to work for such Employer, until all such delinquencies have been paid to the respective Funds, including interest and legal and auditing fees and costs.

The Employer may not terminate, lay off or replace or take any disciplinary action against any employee who refuses to work as a result of the provisions set forth above.

If the Trustees or the Fund Administrator of the Benefit Funds is required to utilize the services of an attorney to collect Employer delinquencies or the services of an accountant to conduct an audit of the Employer's books and records as the result of the Employer's delinquency, the delinquent Employer may be required to pay, in addition to the delinquency, interest at the rate of ten percent (10%) per annum, together with liquidated damages in the amount of ten percent (10%) of the total delinquency and the reasonable cost of auditing services and legal fees in the amount of fifteen percent (15%) of the delinquent amount, in accordance with ERISA Section 502(g).

All contributions required to be made to the Benefit Funds by the Employer shall be made on a weekly basis together with a completed contribution report form to be furnished by the Benefit Funds, indicating the names of all employees, number of hours worked or paid, and social security number, together with the amount of contribution for each employee to each

Fund. The periodic reporting forms must be filed by the Employer with the Funds regardless of whether any contributions are due and owing the Funds in the reporting period.

The remedies set forth herein shall not be subject to any form of grievance procedure or arbitration, nor shall said remedies be the exclusive remedies available to the Union with respect to an Employer who is in violation of the provisions of this section.

B. No officer, agent, representative or employee of the Union or of any Employer or employee of the benefit funds shall be deemed to be an agent or representative of the Board of Trustees of the respective Fund or shall be deemed as authorized to make any oral or written representations or give any form of commitment which may be relied upon by any Employer, employee, his or her spouse, beneficiary or dependent. Any such representations or commitments may only be made by the Board of Trustees in their official capacity.

C. If a check is returned for insufficient funds or any reason, the Employer will be required thereafter to pay all contributions to the Local 1298 Benefit Funds by certified or bank check, or by cash. In such circumstances where the Trustees, in their discretion, have determined, either by an audit conducted by the Fringe Benefit Funds auditors or otherwise, that an

Employer has underpaid Fringe Benefits or where the Employer has not been previously signatory to a Collective Bargaining Agreement, the Employer shall be bonded in sufficient amounts that guarantee all Fringe Benefits and shall post a bond in the sum of $100,000. The Union and/or Fund Trustees reserve the right to impose a higher bonding requirement based on the projected work on a particular job or the projected work of the Employer generally. Employers shall be bonded in sufficient amounts to guarantee all Fringe Benefits, if found to be delinquent. If an Employer is unable to secure bonding, monies equivalent to the amount of the bonding originally required, shall be deposited with the Benefit Funds.

Section 11. Industry Promotional Fund — The Association has established an Industry Promotional Fund (hereinafter referred to as the "IPF") and to be known as the Heavy Construction Industry Promotional Fund. The purpose of the IPF shall be to meet all of the costs incurred in carrying on the normal business of the Association and promoting the general welfare of the heavy construction industry and the conducting of labor relations in all matters and problems incidental thereto.

The Fund shall be financed solely by Employer contributions as follows: twenty-five cents ($ .25) per hour, up to but not to exceed forty (40) hours each week.

Employer contributions to the IPF shall be included in the Benefit Fund Stamp and be immediately remitted to the IPF upon receipt thereof.

The parties agree that this arrangement has been agreed to only for matter of convenience and in order to better facilitate and police collection of the contributions to the IPF. The Association agrees to hold the Laborers Local 1298 Benefit Funds and the Union harmless from any liability arising as a result of the operation of this article except to the extent that the Union and/or the Benefit Funds remits to the IPF any monies collected in accordance with this article.

The Association shall provide the Union with quarterly reports detailing IPF disbursements. The Union shall provide the Association with a quarterly report of hours reported to the IPF by each Association contractor.

All activities related or incidental to the above matter are to be financed by funds of the IPF and may include but shall not be limited to the following: The normal activities of the Association; safety and accident prevention; training and other educational programs and seminars; public relations; industry relations; management expenses; maintenance of grievances and arbitrations proceedings; research in systems, methods and materials; disaster relief and civilian defense; market development; legislation, legal and court expenses; standardization of contracts and

specifications; promotion of bids, based on uniform estimates of properties; support of financial activities of general interest undertaken by other associations.

Section 12. New York State Laborers-Employers Cooperation and Education Trust Fund — The Employer agrees to comply with the Trust Agreement, By-Laws, Rules and Regulations of New York State Laborers-Employers Cooperation and Education Trust Fund as the same may be amended from time to time except that to amendment may increase the Employer's obligations to contribute an amount greater than set forth herein, and the aforesaid Trust Agreement, By-Laws, Rules and Regulations shall be a part of this Agreement as though the same were fully set forth herein. The Employer shall contribute to the New York State Laborers-Employers Cooperation and Education Trust Fund an amount equal to ten cents (.10¢) per hour not to exceed a maximum of forty (40) hours worked by or paid to laborers for work performed in accordance with the provisions of this Agreement, including overtime, premium hours, straightime, shape time, vacation and holiday pay.

Section 13. New York State Laborers - Health and Safety Trust Fund — The Employer agrees to comply with the Trust Agreement, By-Laws, Rules and Regulations of New York State Laborers Health and Safety Trust Fund as the same may be amended from time to time except that to amendment may increase

the Employer's obligations to contribute an amount greater than set forth herein, and the aforesaid Trust Agreement, By-Laws, Rules and Regulations shall be a part of this Agreement as though the same were fully set forth herein. The Employer shall contribute to the New York State Laborers - Health and Safety Trust Fund an amount equal to five cents (.05¢) per hour not to exceed a maximum of forty (40) hours per week worked by or paid to laborers for work performed in accordance with the provisions of this Agreement, including overtime, premium hours, straightime, shape time, vacation and holiday pay.

Section 14. Dues checkoff, Political Action Fund, Vacation Fund and Legal Service Fund contributions shall be added to the wage rate, taxed in accordance with IRS regulations and remitted to the Union and Benefit Funds in accordance with the schedule of contributions contained in this Agreement.

Section 15. On payday, the contributions to fringe benefit funds, the IPF and working dues checkoff due herein in accordance with Article VI Sections 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, and 13 shall be paid by stamp or voucher to be purchased from the Union Hall and placed in the pay envelope. The stamp shall be equal in value to the total of all fringe benefits, dues checkoff and IPF due that week.

The Contractor shall pay to all the Funds on the first 40 hours in each week for each hour or part thereof for which a laborer works or is paid for work for the said Contractor including straight-time, overtime, premium hours, holiday pay, vacation pay, and shape time.

After the first 40 hours in each week the Contractor shall only pay to the Vacation Fund, Annuity Fund, Pension Fund and Working Dues Check-Off for each hour or part thereof for which a laborer works or is paid for work for the said Contractor including straight-time, overtime, premium hours, holiday pay, vacation pay, and shape time.

ARTICLE VII

Jurisdiction

Section 1. Construction Work referred to in this Agreement is herewith defined as all work usually performed by the Contractor in or outside the property line and within five (5) feet of a building.

Section 2. It is hereby understood and agreed that the Contractor will employ laborers on any and all of his contracts for performing all work as follows:

(a) All excavation, preparation, concreting, form setting, concrete curing, expansion joint, waterproofing joints and resurfacing on all concrete highways, streets, roads, service roads, parking fields, airport strips, airport runways, airport taxiways, slipform paving operation and distribution and installation of 3 dimensional dowels.

(b) All excavation, preparation, asphalting, form setting, stone spreading and resurfacing on all asphalt highways, streets, roads, service roads, parking fields, airport flight strips, airport runways, airport taxiways, and slurry sealing.

(c) All excavation, preparation, form setting, concreting, asphalting and resurfacing of all sidewalks in connection with highways, streets, roads, service roads and parking fields and the setting of all curbs incidental thereto.

(d) All excavation, preparation, concreting, cringe sheeting, tending carpenters, stone masons, and all semi-skilled and unskilled labor connected therewith, on all underpasses, overpasses, tunnels, manholes, catch basins, cesspools and tending of dockworkers and steel boxes of any manufacturer including boxes using segmented panels and maintenance of temporary heat on all jobs covered by this Agreement. All precast structures for walls and sound barriers poured or precast.

(e) All landscaping and grading, tree topping, grubbing, cutting, clearing and slaching of trees or brush by hand or with mechanical cutting methods and burning where required and all other semi-skilled and unskilled labor connected therewith.

(f) All semi-skilled and unskilled labor, trimmers, hoppermen, batchers, spotters, dispatchers, shippers and beltmen in material yards, asphalt plants, concrete plants, cement and cinder block plants, concrete pipe plants and inland sand gravel and crushed stone yards, pre-stressed concrete plants, pre-cast concrete plants, and asphalt and concrete recycling plants and portable plants.

(g) All semi-skilled and unskilled laborers on stone and/or concrete seawalls, bulkheads and jettys.

(h) All excavation, preparation and installation of conduits for all purposes, and underground sprinklers, telephone, electrical systems, electrical

conduit, telephone, duct, fiber optics, gas pipes of any size, or any material public or private.

(i) All excavation, preparation, and caulking of all water mains, including wet taps, water services, wet cuts and all taping of mains, gas mains, gas services, cement pipe lining, all manhole, sewer and water main lining performed by manual labor, sewer mains and forced mains including the grinding, wrapping and any other necessary preparation of the pipe to be welded and the installation and fusing of all plastic fire lines, water mains and fire hydrants.

(j) Jackhammer and drill men, core drilling, bush hammer and gunite men on all work exclusive of buildings, and all preparation and cutting of a wire saw.

(k) Operation of pin or spike puller, embedding of railroad ties, installation and placing 3rd rail or U brackets and anchor bolts and laying rails on all work other than railroad maintenance.

(l) Handling of all steel for Metallic Lathers on all work, exclusive of buildings.

(m) Loading and unloading of all trucks on the job site.

(n) All demolition of concrete and/or asphalt highways, streets, roads, service roads, parking fields, airport flight strips, airport runways, airport taxiways, underpasses, overpasses, tunnels, manholes, catch

basins, cesspools, sewers, storm drains, filter beds, railroad grade crossing eliminations, grade crossings, viaducts, over and under bridges and buildings where plans show no new building and all work covered by the jurisdiction of this local union.

(o) In the jurisdiction of Local 1298, all signaling and flag work and, the directing of traffic by persons in or out of uniform, including the operation of any and all mechanical flagging or flagger work stations, must be certified through the Local 1298 Joint Apprenticeship Training Fund.

(p) All striping, taping, preparation, sweeping, brooming, grinding, burning and installation of any and all temporary and permanent line striping including thermo-plastic materials, raised pavement markers and reflectors pertaining to markings on all highways, streets, roads, service roads, parking fields, airport flight strips, airport runways and airport taxiways.

(q) All work in connection with the construction of outdoor swimming pools, tennis courts and playground areas, exclusively of the same included in the building.

(r) Any and all installation of Plastic Pipe, P.V.C. gas mains and services of any and all sizes, etc. which includes fusion, welding, direct heat and requires certification. The initial cost of certification for this work is the obligation of the Employer. Any cost for re-certification will be the obligation of the Union.

(s) Any and all Haz-Mat certified lining work, plastic or acrylic, and capping and all work incidental thereto including sumps, dumps, lakes and embankments, etc.

(t) Any and all methane venting, pipework and venting, etc. and all work incidental thereto etc.

(u) Any and all firewatch work including propane heaters performed in the Union's jurisdiction.

(v) Any and all hazardous material and asbestos removal work performed in the Union's jurisdiction including, but not limited to, the handling, control, removal, abatement, encapsulation or disposal of hazardous materials.

(w) Installation of all gas mains and services and all work related thereto.

(x) Any and all work connected to directional boring or jacking under water, roadways, bridges, railroads, tunnels, asphalt highways, concrete highways, streets, roads, service roads, parking fields, airport flight strips, airport runways, airport taxiways, underpasses, manholes, catch basins, cesspools, sewers, storm drains, filter beds, railroad grade crossing eliminations, grade crossings, viaducts and buildings, and all work covered by the jurisdiction of this local Union.

Section 3. (a) The assignment of work will be solely the responsibility of the Contractor performing

the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

(b) All jurisdictional disputes between or among Building and Construction Trades Unions and employees, parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Contractors and Unions, parties to this Agreement.

(c) All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractor's assignment shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

(d) Each Contractor will conduct a pre-job conference with the appropriate Building and Construction Trades Council prior to commencing work. The Project Contractor and the Owner will be advised in advance of all such conferences and may participate if they wish.

Section 4. The Employer hereby agrees that in order to protect and preserve the work opportunities of the Employees covered under this Agreement, it shall not establish or participate in a doublebreasted operation within the geographical jurisdiction of Local 1298, Nassau and Suffolk Counties, or outside said area if the work is to be performed within said area.

ARTICLE VIII
Working Conditions

Section 1. (a) On a job where one or more laborers are employed, one member of the Union, appointed by the Union, at the discretion of the Union, must be a Shop Steward. When laborers are working overtime, the Shop Steward must be employed for overtime work. If the Shop Steward is discharged for any reason, he shall be at once reinstated until the matter is brought before an Arbitration Board established pursuant to Article IX. The union Shop Steward shall have super seniority for purposes of lay-off and recall.

If the Shop Steward is not reinstated prior to the issuance of an Arbitrator's decision, the Union shall have the right to remove all laborers from the job.

(b) No laborer shall be subject to a physical examination in order to be employed except where required by state or federal law.

Section 2. The Contractor agrees to abide by all safety and sanitary conditions as required under the laws of the State of New York. No provision of this Agreement shall supercede any municipal, state or federal law which imposes more stringent requirements as to wages, hours of work, or general working conditions than are imposed by this Agreement.

Section 3. The Company, in compliance with Federal law, shall furnish to each employee employment free from recognized hazards. Further, the Company shall comply with all occupational safety and health standards promulgated under such law. Consistent therewith the Union or its officers, employees, or agents, shall not be liable for any work related injuries, disabilities, or diseases which may be incurred by employees. In this Agreement the Union, through its representatives, committees, officers, employees, and agents, has been accorded certain participatory rights relating to safety and health. However, it is not the intention of the parties that these provisions or the Union's exercise of its rights thereunder shall in any way diminish the Company's exclusive responsibility for the safety and health of its employees. The Company and the Union will cooperate toward the objective of eliminating accident and health hazards.

Section 4. (a) The Contractors shall furnish all hand tools required in performing the work covered by this Agreement, and the laborers shall be held responsible for all tools issued to them. The Contractors shall supply boots to laborers working in concrete or cement finishing. The purchase and maintenance of safety helmets and vests will be the responsibility of the laborers.

(b) The Contractor shall provide for the use of the laborers, suitable shelter for clothing, having an area of not less than three (3) square feet per man, properly heated and lighted. The Contractor shall be responsible for the loss of clothing or overalls caused by fire or forcible entry to shelter.

(c) When a Contractor has a new job, he must notify the Union before starting work.

(d) The Employer agrees to reimburse employees for the cost of all tolls expended by the employee in specific employment situations where the employee must, as a condition of reaching the designated job-site, pay a required toll.

Section 5. There shall be no limitation as to the amount of work the laborer shall perform during his working day; it being understood that a laborer shall perform a fair and honest day's work. The Contractor is at liberty to continue in employment and employ

and discharge whomsoever he sees fit and he shall at all times be the sole judge as to the work to be performed and whether such work performed by laborers employed by him, is or is not satisfactory.

Section 6. In the event of any stoppage of work caused by any union or unions connected with the American Federation of Labor-Congress of Industrial Organizations, the Contractor will not be liable for pay during the work stoppage.

ARTICLE IX

Apprenticeship Program

(a) *New applicants for membership who cannot* provide reasonable proof of 4,000 or more hours of employment as a Construction Craft Laborer (or, alternatively, cannot demonstrate equivalent skills in a placement examination administered by the Joint Apprenticeship and Training Fund (JATF) shall, whenever possible, enter the Apprenticeship Program. Any person entering but failing to maintain and complete his or her Apprenticeship shall not be employed by the Employer as a Journey Worker under this Agreement. The failure of any Apprentice to maintain his or her Apprenticeship status shall obligate the Employer to discharge such person upon notice from the Union.

(b) The Apprenticeship and Training Standards approved by the New York State Department of Labor hereby incorporated by reference as a part of this Agreement.

The Apprentice wage rates:

Hours of Credit	Wage Rate
0 - 1,999	80% of Journey Worker
2,000 - 3,999	90% of Journey Worker
over 4,000	Journey Worker

(c) The Employer may pay a higher rate at its option. However, the Apprentice must meet his or her commitments to the JATF regardless of the level being paid.

(d) The Employer shall pay an Apprentice the full fringe benefit package as described in this contract.

(e) Entry into the Apprenticeship Program shall be controlled by the JATF, which shall employ appropriate testing and screening procedures. An Apprentice advances from one hours-of-credit and wage-rate category to another only upon determination of satisfactory performance by the JATF, which shall have the authority to grant accelerated credit where warranted by the performance of an individual apprentice.

(f) The Employer shall participate in the Apprenticeship Program by accepting apprentices for employment upon referral by the Union. The Employer is not obligated to accept more than one (1) Apprentice if available for every five (5) Journey Workers commencing with the sixth laborer employed.

(g) An Apprentice should, whenever possible, be rotated by the Employer through different types of work so as to become trained in a variety of operations and work skills. Where the Employer is unable to provide an Apprentice with experience in the full range of craft skills, the JATF may request the Local Union to reassign the Apprentice to other employment in, order to provide that experience. For so long as the Employer is able to provide the necessary range of employment experience, the Employer may choose to retain the apprentice from job to job but shall notify the Local Union and JATF of all reassignments.

(h) *An Apprentice shall not work on the Jobsite* unless supervised by a Journey Worker.

(i) An Apprentice shall not be penalized for taking off from work to attend offsite training (though time off for training is unpaid).

ARTICLE X

Worker's Compensation — ADR Program

The Union agrees to adopt and be bound by the President's Council of the Hudson Valley Workers Compensation Medical Care Dispute Prevention and Resolution Program (President's Council ADR Agreement and/or ADR Program). The contractor and/or sub-contractor can provide Worker's Compensation through the ADR Program so long as the contractor and/or sub-contractor adopt and execute the President's Council ADR Agreement. The determination to utilize the Worker's Compensation ADR Program will be at the exclusive option of the contractor and/or sub-contractor.

ARTICLE XI

Labor Dispute

During the term of this Agreement, the employer shall not engage in any lock-out, nor shall the union nor any of its members engage in, and the union shall not sanction, encourage or permit any strike, secondary boycott, work stoppage, slow down, sit down, cessation of work or interference therewith except as otherwise specifically provided for in this Agreement. The union, without limiting its rights under this Agreement or under the law to strike or take such other action as it

may determine, reserves the right to strike in sympathy with brother craftsmen.

Section 1. Any and all complaints, grievances, controversies or disputes between the union and the employer in connection with or in relation to this Agreement or concerning the interpretation, application, performance or alleged breach thereof by either of the parties hereto, or by any other parties signatory to this industry-wide collective bargaining Agreement, or with respect to any term or condition of employment hereunder (herein collectively referred to as a "dispute") shall be referred to the union Shop Steward and the appropriate employer representative on the job site.

Step 1: If the union Shop Steward and an employer representative are unable to resolve the dispute, the matter shall be referred to the union business agent and the appropriate employer representative involving the job in question.

Step 2: If the union business agent and appropriate employer representative are unable to resolve the dispute within twenty four (24) hours there after, the matter shall be referred to the Union Business Manager and the Association Representative for final disposition.

Step 3: Should the union business manager and the employer representative fail to agree on the

resolution of the dispute, the matter shall be submitted to the New York State Employment Relations Board for an appointment of an arbitrator in accordance with the rules and regulations.

Section 2. In the event, however, that an Employer employs laborers in violation of the union security clause or hiring practice procedures set forth in this Agreement, the Union shall have the power to adopt immediately such measures with respect thereto, including the right to strike, provided, however, that the Union gives the Employer twenty-four (24) hours advance notice of its intended actions.

Section 3. The arbitrator shall not be empowered to add to or subtract from this Agreement or to render any decisions in conflict with this Agreement in any way. The arbitrator may, in cases involving disciplinary action, including discharge, sustain any discharge or suspension or disciplinary action or modify such discharge, suspension or disciplinary action as he may deem just and equitable.

In the event of the failure of either party to be present at the time and place of the arbitration, then the arbitrator shall have the right to listen to the party appearing at the time and place of arbitration and shall have the power to render a decision based upon the testimony before him. The decision of the arbitrator

shall be final and binding on both parties hereto and may be entered as a final decree of judgment.

No individual employee may submit a dispute to arbitration.

The costs of the arbitrator shall be shared equally by the parties.

ARTICLE XII

Separability

If the Courts should decide that any part of this Agreement is unconstitutional or illegal or should any clause or part of this Agreement be found contrary to present or future laws, it shall not invalidate the other portion of this Agreement, it being the sole interest and purpose of this Agreement to promote peace and harmony in the craft along lawful lines. In the event of such invalidation, the parties shall meet forthwith to negotiate substitute provisions for those portions invalidated by law.

ARTICLE XIII

Duration

This Agreement shall remain in full force until the 31st day of May, 2007 and unless at least sixty (60) days' written notice is given prior to the expiration date by the Union to the Association or the Association

to the Union, it shall remain in full force for a further period of one year, and from year to year thereafter, provided, however, that any Contractor on not less than sixty (60) days' written notice prior to the expiration date of this Agreement or any of its extensions can notify the Union in writing of its desire to withdraw from the Association and terminate the Agreement as it relates to itself. In the event written notice of termination is given the parties shall meet forthwith to negotiate a new Agreement and any and *all terms of such new Agreement shall be retroactive* to the termination date.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their duly authorized representatives and have affixed hereto the seals of their respective organizations the day and year first above written.

FOR THE INDEPENDENT

By Signature _____
(Authorized Officer)

Print Name _____

_____
(Print Name of Employer)

Address _____

Phone No. _____

FAX No. _____

Dated this _____ Day of _____

FOR THE UNION

_____
(Authorized Officer)