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Title: **Eastern Contractors Association, Inc. and International Union of Bricklayers and Allied Craftworkers (AFL-CIO), Local 2, et al. (1997)**

K#: **3401**

Employer Name: **Eastern Contractors Association, Inc.**

Location: **NY Albany, Corning, Ithaca, Jamestown, Binghamton**

Union: **International Union of Bricklayers and Allied Craftworkers (AFL-CIO)**

Locals: **2, 8, 11, 12, 45, 106, 157, 190, 294, 370**

SIC: **1611**

NAICS: **23731**

Sector: **P**

Number of Workers: **2500**

Effective Date: **06/01/97**

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K 3401
2,500 workers
90 pgs.

**BRICKLAYERS & ALLIED
CRAFTWORKERS
HEAVY AND HIGHWAY
AGREEMENT
BETWEEN
EASTERN CONTRACTORS
ASSOCIATION, INC.
AND
BRICKLAYERS
AND ALLIED CRAFTWORKERS
OF THE
EASTERN DISTRICT,
CENTRAL DISTRICT,
SOUTHERN DISTRICT,
WESTERN DISTRICT**

EFFECTIVE : JUNE 1, 1997

EXPIRES: MAY 31, 2002

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



EASTERN CONTRACTORS ASSOCIATION, INC.

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MANAGING DIRECTOR**

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AGREEMENT PREAMBLE

THIS AGREEMENT, made this 31 st day of May, 1997 by and between the INTERNATIONAL UNION OF BRICKLAYERS AND ALLIED CRAFTWORKERS LOCALS HEREIN NAMED, affiliated with the AFL-CIO herein after called the "Union" are as follows:

Eastern District: No. 2.

Central District: No. 2

Southern District: Bricklayers Local No. 8:

Chapters Corning, Ithaca, Jamestown,
Binghamton

Western District: Western New York-

Administrative District Council: No. 11, 45

As per map, see Exhibit 1.

WITNESSETH

WHEREAS, the parties hereto desire to stabilize employment in the Heavy and Highway Construction Industry, agree upon wage rates, hours, and condition of employment,

NOW, THEREFORE, the undersigned Eastern Contractors Association, Inc. and the Union, in

consideration of the mutual promises and covenants herein contained, agree as:

ARTICLE I - JURISDICTION

This agreement is to cover all Highway and Heavy Construction as the same is herein defined for the following districts:

Eastern District: Geographical Jurisdiction: The entire counties of: Franklin, Clinton, Essex, Hamilton, Warren, Washington, Fulton, Saratoga, Schenectady, Schohaire, Albany, Rensselaer, Green, Columbia and Montgomery.

Central District: Geographical Jurisdiction: St. Lawrence, Jefferson, Lewis, Oswego, Oneida, Herkimer, Cayuga, Madison, Otesgo, Chenango, and Delaware.

Southern District: Geographical Jurisdiction: Chautaugua, Cattaraugus, Allegany, Steuben, Schuyler, Chemung, Tompkins, Cortland, Tioga, Broome, Livingston (townships: Portage, Nunda, Ossian, W. Sparta, N. Dansville and Springwater) Ontario (Naples), Delaware (Deposit, Tompkins, Hancock, Colechester, Margaretville, Andes, Hamden and Walton), Chenango (Lincklean, Pitcher,

Pharsalia, McDonough, Preston, Oxford, German, Smithville, Greene, Coventry and Afton).

Western District: Geographical Jurisdiction: Orleans, Geneses, Wyoming, Monroe, Wayne, Ontario, Seneca, Yates and Livingston (entire towns of: Caledonia, York, Avon, Lima, Geneseo, Livonia, Conesus, Mt. Morris, Groveland, Leichester and Letchworth State Park north of the Portage town line).

See: Outline map of New York State.

ARTICLE II - DEFINITION

I. HEAVY AND HIGHWAY CONSTRUCTION, where referred to in this Agreement is defined as including but not limited to the construction of roads, streets alleys, driveways, sidewalks, parkways, parking areas, airports, athletic fields, highway bridges, railroad bridges, railroad and street railway construction projects, sewers, grads separations, foundations, abutments, retaining walls viaducts, tunnels, subways track elevations, elevated highways, reclamation projects, drainage projects, water supply projects, water power developments, transmission lines, duct lines, pipe lines, dams, locks, revetments, channel cutoffs, intakes, jetties, breakwaters, docks,

intake structures, sewage treatment plants, pure water works, water filtration plants and electric substations.

2. (a) This Agreement excludes Buildings Construction which is defined as all work done within the building site lines. However, work done within the building site line on sewage treatment and water treatment plants shall refer to and mean that work done above grade level.

(b) This Agreement shall apply to all Heavy and Highway Construction which is defined as all work performed outside of a building site (excepting heavy and highway work herein defined which has been awarded as a subcontract of a building contract which work is the subject of a building agreement containing a subcontractor clause) including, but not limited to those projects set forth in paragraph 1 above.

3. This Agreement applies to work performed by Cement Masons. It does not apply to building construction involving brick or tile work.

ARTICLE III - UNION'S WORK

1. The contractor agrees that the Union will have jurisdiction over and that they will assign to and have

performed by Cement Masons and other employees covered by this Agreement the following work:

2. (a) Straight edging, bull floating (luteing), troweling, edging, rubbing, and brushing of concrete shall be the work of Cement Masons on Heavy and Highway Construction.

(b) Chipping, patching (including bonding agent), hand held power grinders, pointing of concrete for the purpose of new finished concrete.

(c) Bush hammering, hand grouting and dry packing in the laying of steel plates.

(d) When stone is used and is trimmed to fit, or comes on the project uniformly dressed, work in connection therewith which required masons, tools is that of the mason except that the status quo will be observed with respect to granite curb.

(e) When the rods or wires require cutting or snapping inside or below the surface of the concrete, in preparation for finish, it shall be done by the Masons.

(f) Sandblasting of concrete and masonry surfaces where the work is in connection with achieving an exposed aggregate surface for finished concrete or in repairing the same. When the sandblasting surface is to receive paint, epoxy, grout or concrete, it is not covered by this section.

(g) Waterproofing with cement and sand coats, with or without damp or waterproofing additives where the material used is clear, white, or gray. (This

excludes epoxies and black material as these items have been heretofore performed on bridge pads and decks, headwalls and abutments.)

(h) The parties hereto recognize that the operation of certain equipment and work assignments may raise questions regarding jurisdiction of work in the area of one or more of the local unions party to this Agreement. The equipment herein referred to is the concrete saw. Pending final determination of the jurisdiction of the named equipment, such equipment and the operation thereof shall remain status quo.

(i) With respect to slope paving under bridges using cement masonry units, a mason will work in the crew during the installation (and grouting if necessary) procedure.

(j) It was agreed that on or after May 30, 1976 the contractor agrees that the union will have jurisdiction over and that they will assign to and have performed by masons the work of building new and the rebuilding and adjusting of old manholes and drop inlets with brick or block.

(k) Guniting pursuant to 2/21/24 Green Book decision.

(l) The laying or installation of all forms of paving brick.

2. (a) In the event that the Union claims a failure to assign work under the provisions of Section 1 (a), (b), (c), (f), (g), or (i) of this Article, such claim shall be processed pursuant to the grievance procedure

Section 1(a), (b), (c), (f), (g), (i) shall not be held to be considered nonjurisdictional on tunnel work as excavated from a heading.

ARTICLE IV - UNION SECURITY AND RIGHTS

1. **All Employers.** All present employees who, at the time of the signing of this Agreement are members of the Union shall, as a condition of *continued employment, maintain their membership in good standing in the Union.* All employees who at the time of the signing of this Agreement are not as yet members of the Union shall, after eight (8) days following the effective date of this Agreement or the *signing of this Agreement, whichever is later,* become and remain members of the Union in good standing as a condition of continued employment. If an employee does not maintain his membership in good standing in accordance with the requirements of applicable law

he/she shall be subject to immediate discharge by the Employer upon the written request of the Union setting forth in sufficient details the reasons for this request.

Non-Association Employers. Inasmuch as the Union has submitted proof and the Employer is satisfied that the Union represents a majority of its

employees in the bargaining unit described herein. The Employer recognizes the Union, pursuant to Section 9(a) of the National Labor Relations Act, as the exclusive collective bargaining agent for all employees within that bargaining unit, on all present and future jobsites within the jurisdiction of the Union, unless and until such time as the Union loses its status as the employee's exclusive representative as a result of an NLRB election requested by the employees. The Employer agrees that it will not request an NLRB election.

Eastern Contractors Association, Inc. All firms which are members of the Eastern Contractors Association, Inc. and are parties to the Eastern Contractors Association, Inc. and Bricklayers and Allied Craftworkers Local Union No. 2, Bricklayers Local No. 8, and Western New York-Administrative District Council Heavy and Highway agreement, or which have designated to Eastern Contractors Association, Inc. bargaining rights for the Eastern Contractors Association, Inc. and Bricklayers and Allied Craftworkers Local Union No. 2, Bricklayers Local No. 8, and Western New York-Administrative District Council Heavy and Highway agreement will be covered by Eastern Contractors Association, Inc.'s Recognition Policy for the Bricklayers and Allied Craftworkers Local Union No. 2, Bricklayers Local No. 8, and Western New York-Administrative District Council.

2. It shall not be a violation of this Agreement and it shall not be cause for discharge or disciplinary action if an employee refuses to enter upon any property or job site where there is a legitimate primary picket line including the picket lines at the Employer's jobsite or place of business.

3. Subcontracting. In the event that an employer party to this Agreement subcontracts onsite work covered by this Agreement, provision shall be made in each subcontract to provide that the subcontractor shall work under the terms and conditions of this Agreement.

4. Authorized representatives of the Union shall be allowed to visit jobs during working hours to interview employer and employee but in no way shall interfere with or hinder the progress of work.

5. It is agreed that the Union Business Agent or Field Representative shall appoint a working Shop Steward for each job, who shall be employed at all times that any Cement Masons are employed on the job. He/she shall be allowed sufficient and reasonable time which shall not be abused to perform his duties and shall not be laid off or transferred by reason of the performance of his duties as Steward. It being expressly understood that the Steward shall be a qualified journeyman.

6. When three (3) or more Cement Masons are employed by the Employer, one shall be designated as working foreman and he/she shall be paid one dollar (\$1.00) more per hour than the regular scale.

When six (6) or more Cement Masons are employed by the Employer, one shall be designated as working foreman and he/she shall be paid one dollar fifty cents (\$1.50) more per hour than the regular scale. The Cement Mason Foreman must be a practicing mechanic in the trade with at least six (6) years experience.

7. With the cooperation of the Mason Foreman, management will have the exclusive right to direct the working force and manage the job, including the right to direct all employees covered by this Agreement in the performance of their work.

8. (a) At the time of hire or at a later date the Contractor may deem appropriate, employees covered by this Agreement shall, at the discretion of the Contractor, be furnished slipover rubber boots, rainsuits, and hats which shall remain the property of the Employer and be returned at the termination of use or employment.

(b) At the first full pay period following the issuing of such articles, the actual cost to the Contractor of the said articles shall be deducted from the pay of each such employee covered by this contract. Upon termination of employment, such

employees who return the articles issued will be refunded the amount deducted from pay.

(c) As an alternative to the operation of paragraphs (a) and (b) above, employees are given the option of providing and wearing their own serviceable slipover rubber boots, rainsuits, and hats.

9. Prior to the commencement of work on a project, the Employer shall call a pre-job conference in the area of the project at a time and place to be designated by the Employer. The Union agrees that it will attend at the designated time and place together with such other unions representing employees who will perform work on the project. The Union agrees that the Employer shall not be asked or required to attend any pre-job conference with a single craft. These provisions shall apply equally to any and all subcontractors.

10. The Employer shall be responsible for the loss of an employee's tools by fire on the job site. The maximum amount that any mason may claim for a loss by reason of fire under this provision is one hundred dollars (\$100). A claim must be itemized, in writing, and sworn to before a Notary Public.

11. On any swing stage or swing scaffold, including rolling scaffold suspended from bridge, two (2) cement masons shall be used except on swing seats constructed for one (1) man only. One (1)

cement mason may be used on a fixed scaffold or as on condition as allowed by OSHA.

A swing scaffold or staging is to be considered a scaffold suspended by means of ropes or cables from hooks placed over parapet walls or windows, etc. Masons working on the scaffolds described in this section shall be paid one dollar (\$1.00) per hour above the regular scale of wages for actual hours worked.

ARTICLE V - HOURS OF WORK

1. The work week shall be forty (40) hours, Monday through Friday, inclusive.

2. 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 6:00 a.m. nor later than 8:00 a.m., except as may be otherwise mutually agreed upon by the Employer and Union. If an employee is required to work a through lunch, then he/she shall be compensated at the overtime rate.

3. All time worked outside the regular work day and all time worked on Saturday shall be paid for at one and one-half (1-1/2) times the regular hourly

rate, except for time worked on Sundays and Holidays (stipulated herein) which shall be paid at double the hourly rate. Whenever deemed necessary by the Employer, a flexible lunch period may be used only on concrete pours. Said lunch period will be thirty (30) minutes in length, but can occur anytime between 11:30 a.m. and 1:30 p.m., depending on individual job requirements. Such a change will not require any overtime payment.

4. In the event that a pour shall extend beyond the regular quitting time, sufficient Cement Masons shall remain to complete the finishing.

5. On operations requiring two (2) shifts, the shifts shall be at least eight (8) hours each and scheduled of equal duration. The content of Article VII shall be applicable. 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.

6. Three (3) shifts may be worked in twenty-four (24) hours and shall be of the rate and duration set forth below:

First Shift

8 Hours Work = 8 Hours Pay

Second Shift

7 1/2 Hours Work = 8 Hours Pay

Third Shift

7 Hours Work = 8 Hours Pay

Each shift shall have one-half (1/2) hour for lunch.

On multiple shift work, the work week shall start not earlier than 5:00 a.m. The Contractor shall set the starting time. Short shifts, necessitated by maintenance and protection of traffic plans as ordered by the owner, shall, by mutual consent, be subject to negotiation between the union and employer on a project-by-project basis.

In special conditions requiring work to be performed outside of the normal workday because of conditions beyond the control of the contractor or as necessitated by maintenance and protection of traffic plans as ordered by the Owner, one (1) shift of eight (8) hours may be worked outside the normal workday at straight time. The Employer shall notify the Union prior to the commencement of such work.

ARTICLE VI - HOLIDAYS

1. All time worked on Sundays and the following holidays shall be paid for at the rate of double time: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

2. Cement Masons who are gainfully employed by a contractor one (1) day before and one (1) day after the following legal holidays shall be paid for such holidays at eight (8) hours straight time.

3. Any Employee laid off within the week in which a holiday falls shall receive holiday pay, except that if a new employee is employed by an Employer for one (1) day only during this period, he/she shall not be entitled to holiday pay. However, an Employee not able to report to work because of proven sickness, death in immediate family or accident shall be entitled to holiday pay.

4. If the holiday falls on Sunday, the Monday following shall constitute the day of the legal holiday. The Holidays covered are: Memorial Day, July 4th, Labor Day, and Thanksgiving Day.

ARTICLE VII - SHOW-UP-TIME

1. Any Cement Mason who reports for work at the regularly appointed starting time, unless he/she has been notified prior to quitting time on the previous day that his services shall not be required, shall be entitled to show-up time of two (2) hours at straight time weather permitting work.

2. Cement Masons who report for work at starting time, if put to work, receive pay for actual hours worked.

ARTICLE VIII - PAYMENT OF WAGES

1. All wages payable under this Agreement shall be paid on the job on or before Friday. If pay day falls on a holiday, the Employee shall be paid one day earlier. No more than six (6) days pay may be withheld by the Employer.

2. If any Cement Mason is discharged or laid off, all accrued wages shall be due and paid immediately, may be paid by check within twenty-four hours. If not mailed within twenty-four (24) hours, such employee shall be paid an additional fifty dollars (\$50) for each twenty-four (24) hour period the check was not mailed.

3. Each payroll envelope or voucher shall clearly show the following: Name of employee, classification(s), hours worked, rate of pay, total amount paid, employers name and address and the same constitute a payroll record for such employee.

ARTICLE IX - RATES OF PAY

1. It is agreed that the rate of pay and applicable fringe benefit contributions are hereinafter set forth in Article XXI of this Agreement.

ARTICLE X - FRINGE BENEFIT CONTRIBUTIONS: WELFARE, PENSION, ANNUITY, DEDUCTIONS, CONSTRUCTION INDUSTRY ADVANCEMENT PROGRAM

A. Welfare, Pension, and Annuity

1. The Employer agrees to contribute the amounts hereinafter set forth in this Agreement for each actual hour worked to designated Welfare and Pension funds.

2. It is agreed that there will be reciprocity among the various funds in respect to crediting the welfare and pension contributions on behalf of an employee

working in a local different from his "home" local. In no such case will double payment be required in order to obtain coverage of an employee by the various funds.

3. International Masonry Institute. It is agreed appropriate for each district, per hours worked shall be reported monthly on the form for union fringe benefits and shall be paid to the respective fund, to be remitted to the International Masonry Institute Promotion Fund.

4. Each Employer party to this Agreement shall, during the term of this Agreement, on or before the 15th day following the end of each month, pay to the Local Fund Office, the total sum of Employer contributions and payroll deductions as defined in this Agreement.

5. 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, 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, proportionate to the amount of

delinquency found, 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.

6. It is further agreed between the parties hereto than in addition to the provision contained in the preceding Section, 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 upon two (2) days notice to the prime Contractor and the Employer and the Association to: (A) terminate this Agreement and/or (B) withdraw the services of it's members from the Employer, and/or (C) strike or engage in a boycott with respect to such delinquent Employer. In the event that the Union exercises such operation 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, their regular rate of pay for all time lost from work as a result of the Employer's delinquency to the above listed Fund.

7. The books and records of each employer pertinent to the employment of employees covered by this Agreement, shall be made available at all

reasonable times for inspection and audit by a licensed CPA employed by the Fund, including, without limitation, payroll sheets, W-2 Forms, New York State employment reports, Social Security reports, ledgers, vouchers, and any other pertinent items concerning payrolls. Inspection shall be restricted to a verification of payments made and/or due to the Fund. Cost of such inspection shall be borne by the Fund except in cases where an employer is delinquent in making contributions, in which case the delinquent employer shall bear the cost of inspection and audit, proportionate to the amount of delinquency found.

8. Subject to verification as to their status as employers and as to the validity of their appointment pursuant to the provisions of the various trust indentures, the Employer agrees to accept the Employer trustees now named to the jointly trusted funds provided in this Agreement as its designated trustees and the Employer agrees to be bound by the provisions of the trust indentures for the respective funds. Each local union agrees to furnish such information as the Employer may require for the purpose of verification. The Trustees have no authority to change the terms and conditions of this collective bargaining agreement.

9. Bricklayers Local No. 2 Fringe Benefit Receipt Coupon for Eastern District and Central District only.

A. Each Employer shall make the payments as called for in Sections 1 through 8 above for each actual hour worked, through fringe benefit report as the method of collection. Fringe Benefit Report Forms may be obtained from the Bricklayers and Allied Craftworkers Local No. 2 Albany, NY, Fund Office, 300 Centre Drive, Albany, NY 12203.

B. Each Employer signatory to this Agreement shall, during the term of this Agreement, on or before the 15th day following the end of the month, pay to the Bricklayers and Allied Craftworkers Local No. 2, Albany, NY, Fund Office, the total sum of Employer contributions and payroll deductions as defined in this Agreement. The Monthly Report Form should be accompanied by a check or money order for the amount of the total fringe benefits owed for that month.

C. Effective June 1, 1997, after payment is submitted to the Fund Office, a Fringe Benefit Receipt Coupon will be issued to the employee by the Fund Office.

D. Fringe Benefit Receipt Coupon are purchased by mail.

Apprentices shall receive an amount of Fringe Benefit Receipt Coupon equal to the amount of hours worked. Once Fringe Benefit Receipt Coupon are mailed by the Fund Office, they become the employee's responsibility.

Cash payment to an employee in lieu of fringe benefit receipt coupon does not fulfill an Employer's obligation to the funds.

Employer failure to make the timely payment by the 15th of the month will be delinquent and subject to Article X and Article XI.

B. Deductions

1. The Employer shall deduct from the base wage rate of employees covered by this Agreement, the amounts hereinafter set forth in Article XXIII for each actual hour worked by such employees.

2. No deductions shall be made 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 (1) year or the termination date of this Agreement, whichever shall be the less.

3. Executed copies of the authorization cards will be kept on file by the Union and the Employer.

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.

5. Deductions shall be made in the first payroll period following the furnishing of authorization cards.

6. 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 authorization cards furnished by the Employees and/or Union.

C. Construction Industry Advancement Program

Section 1. A. WHEREAS; Recognizing the need for providing a means whereby Employers can facilitate and supplement the financing of their activities, which include, but are not limited to, public relations, public education as applied to the construction industry, Employer expenses incurred in the promotion and stability of relations between labor and management, maintaining facilities and paying costs of arbitration and adjustments of grievances between the Employers and the Union, collection of Health Funds, Pension Funds, and Apprenticeship Training Programs, also other Employer activity engaged in from time to time, such as promotion of legitimate markets, standardization of contracts and research. It is mutually agreed by both parties to this Agreement that at no time shall any of these funds be

used to support any anti-labor legislation, maintain a lawsuit against any local union of its international body or pay any salaries or expenses to any employee or Employer who is promoting non-union conditions, or subsidizes any Employer during a strike or lockout.

In the interest of providing a means whereby Employers may avail themselves of the combined efforts in securing for themselves and their workers just and honorable dealings with the public they serve:

The Employer shall continue to pay to the Industry Fund of Eastern Contractors Association, Inc., 6 Airline Drive, Albany, New York 12205-1095, a sum to be in an amount equal to one percent (1%) of the basic hourly wage rate, shown in Article XXI, Section 3 of the Agreement between Eastern Contractors Association, Inc. and Bricklayers and Allied Craftworkers Local Union No. 2, Bricklayers and Allied Craftworkers Local No. 8, Bricklayers and Allied Craftworkers Western New York-Administrative District Council Local Nos. 11 and 45 for Heavy and Highway construction, per hour paid, per employee covered by the terms of this Agreement. Said sum to be paid to said fund to be used for above-mentioned purposes. Payments to the Fund are included in the Fringe Benefit Receipt coupon where applicable. All others shall make payments through the Monthly Report Forms of the various Fringe Benefit Funds. The Fringe Benefit

Funds shall be responsible for the timely remittance of all moneys collected to Eastern Contractors Association, Inc.

The Union will provide Eastern Contractor Association, Inc. with a list of the agreements with any Employer who is not a member of Eastern Contractors Association, Inc. annually, and at other times upon request.

B. Each Employer party to this Agreement shall, during the term of this Agreement, on or before the 15th day following the end of each month, pay Eastern Contractors Association, Inc. the total sum of the Industry Fund contributions due as defined in this Agreement. Fringe Benefit Fund Offices receiving Industry Fund contributions on behalf of Eastern Contractors Association, Inc. shall, during the term of this Agreement, on or before the 30th day following the end of each month, remit to Eastern Contractors Association, Inc. all Industry Funds collected for heavy and highway construction with copies of report forms from all contributing Employers.

Notwithstanding any other provision contained in this Agreement, the parties agree that any Employer and/or Fringe Benefit Fund Office who becomes delinquent in the payment of contributions due to the Industry Fund after notice has been served on such delinquent Employer, the Employer shall be liable for such penalties and remedies and subject to such procedures as provided for by the various Fringe Benefit Funds for delinquent Employers, or 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 amount of said delinquency found, 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 Industry Fund shall not relieve any other Employer from making such payments.

The books and records of each Employer and/or Fringe Benefit Fund Office pertinent to the employment of employees covered by this Agreement, shall be made available at all reasonable times for inspection and audit by a licensed CPA employed by the Fund, including, without limitation, payroll sheets, W-2 Forms, New York State employment vouchers, and any other pertinent items concerning payrolls. Inspection shall be restricted to a verification of payments made and/or due to the Industry Fund. Cost of such inspection shall be borne by the Industry Fund except in cases where an Employer is delinquent in making contributions, in which case the delinquent Employer shall bear the cost of inspection and audit, proportionate to the amount of delinquency found.

Section 2. A. 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, although the Union acknowledges that has no voice in the administrating of said Fund.

B. 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 signatory to the *Eastern Contractors Association, Inc.* agreements.

D. Capital District Masonry Institute.

1. The amount specified by the Association in Article XX, Section 3, for each hour worked, shall be contributed by the Employer to the Capital District Masonry Institute. Said monies shall be distributed according to Article XX, Section 3.

ARTICLE XI - ARBITRATION

Section A. The parties to this Agreement shall establish a *Joint Arbitration Board* consisting of three (3) representatives selected by the Eastern Contractors Association, Inc. and three (3) representatives selected by the local union, to resolve disputes over the interpretation and application of this Agreement. The Board shall meet at least once a month, or on call, to settle complaints, abuses, or grievances. It is further agreed that should occasion require any alterations or amendments to this Agreement, the party desiring such alterations or

amendments shall submit same in writing to the Board. The Eastern Contractors Association, Inc. and the Union representatives at a session shall have any equal number of votes on all matters coming before the Joint Arbitration Board, regardless of the number of Eastern Contractors Association, Inc. or Union representatives present at a session.

Section B. It is specifically agreed that any controversy arising out of this Agreement involving the interpretation of its terms and conditions shall be settled in accordance with the grievance procedure set forth in this Article. No grievance shall be recognized unless it is called to the attention of the Employer and Eastern Contractors Association, Inc. by the Union or to the attention of the Union by the Eastern Contractors Association, Inc. and the Employer within five (5) days after the alleged violation is committed or discovered.

All grievances shall be: made in writitn; and include a statement of alleged violations and specific provisions of the contract allegedly violated and detail all efforts to reslve the dispute and be served upon the Employer or Union with a copy to the Association.

Section C. Grievances shall be handled in the following manner:

1. The grievance shall be referred to the jobsite Union steward or authorized Union representative and to the foreman for adjustment.

2. If the grievance cannot be settled pursuant to paragraph 1 of this Section, the grievance shall be referred on the following day to the Business Manager or Local President of the Union and the Employer and Eastern Contractors Association, Inc. .

3. If the grievance cannot be settled pursuant to paragraph 2 of this Section within three (3) working days excluding weekends and holidays, the grievance shall be submitted within forty-eight (48) hours to the Joint Arbitration Board for consideration and settlement. The decisions of the Joint Arbitration Board shall be final and binding on the parties to the grievance.

4. If the Joint Arbitration Board cannot reach a satisfactory settlement within five (5) working days, not including weekends and holidays, following a referral of the grievance to the Board, it shall immediately select an impartial arbitrator to review with the Board all evidence submitted relating to the dispute and then cast the deciding vote. If the Joint Arbitration Board cannot agree on an impartial arbitrator, the impartial arbitrator shall be selected from a panel of arbitrators submitted by and in accordance with the rules and regulations of the Federal Mediation and Conciliation Service. All expenses of the impartial party shall be borne equally by the Eastern Contractors Association, Inc. and the

Union. The decision reached by the Joint Arbitration Board with the assistance of the impartial arbitrator shall be final and binding upon all parties.

Section D. When a settlement has been reached at any step of this Grievance Procedure, such a settlement shall be final and binding on all parties, provided, however, that in order to encourage the resolution of disputes and grievances at Steps 1 and 2 of Section C of this Article, the parties agree that such settlements shall not be precedent-setting.

Section E. The time limits specified in any step of the Grievance Procedure may be extended by mutual agreement of the parties initiated by the written request of one party to the other, at the appropriate step of the Grievance Procedure. However, failure to process a grievance, or failure to respond within the time limits provided above, without a written request for an extension of time, shall be deemed a waiver of such grievances without prejudice, and shall create no precedent in the processing of and/or resolution of like or similar grievances or disputes.

Section F. During the term of this Agreement, neither party shall order or permit any lockout, strike, or other work stoppage or slowdown. Further, the Union will not aid, support, or permit unauthorized slowdowns or work stoppages by its members.

Jurisdictional disputes are not the subject of grievances or arbitration under this Agreement. Violations concerning wages, hours, and payments due under Article X shall not be subject to the grievance procedure except as hereinafter provided. In cases alleging violations of wages, hours, payments due under Article X, the Union shall give two (2) working days notice to the Employer and a copy to the Association that the Union will withdraw its men from the Employer's service. If the Employer contends there is a question of fact regarding the alleged violation, he/she may file a grievance within the aforesaid two (2) working days with a copy to the local union and a copy to the Association. When a grievance has been filed, there shall be no work stoppage pending resolution of the grievance pursuant to the provisions of this article. Disputes involving Section I (a), (b), (c), (f), (g), (i) of Article III may not be considered as jurisdictional disputes.

ARTICLE XII - WORK ASSIGNMENT

1. The Employer and the Union agree that they will abide, in the assignment of work subject to this Agreement, by International Agreements or applicable decisions of record printed

in the Green Book dated April 3, 1970, published by the so called "National Joint Board for the Settlement of Jurisdictional Disputes" and the Gray Book.

2. When the Employer has been shown in writing by the Union an International Agreement or applicable decision of record printed in the Green book dated April 3, 1970, or in the Gray Book, referred to above, then failure of the Employer to abide by the contents of said Agreement or decision within seven (7) days of the time shown will make the Employer liable for lost wages and fringe benefits which would have been paid to employees covered by this Agreement retroactive to time he/she was shown it.

ARTICLE XIII - NON-DISCRIMINATION

1. The Employer and the Union mutually agree that they will comply and cooperate with all laws, codes, rules, regulations, executive orders and administrative decisions, whether state or federal, dealing with nondiscrimination 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 journeymen and trainees, within forty-eight (48) hours excluding weekends, to satisfy specific contractual Equal Employment Opportunity requirements and conditions.

2. D\M\WBE.

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 IV, Section 3) 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.

The Employer will provide prior written notice to the Union before awarding a D\M\WBE subcontract to a non-signatory Employer.

ARTICLE XIV - SAFETY

1. The Union and the Employees agree that willful neglect and failure by an employee to obey company safety rules and regulations; or to obey safety rules, standards, and regulations as prescribed pursuant to

the Occupational Safety and Health Act or other governmental regulations or legislation; or to use properly such safety devices or equipment as are provided by the Company, shall be just cause for immediate discharge upon first offense without recourse to the grievance procedure.

2. The Union agrees to cooperate with the Company in encouraging employees to observe the safety regulations prescribed by the Company and to wear properly and utilize safety equipment as required by the Company and to work in a safe manner.

3. The Union further agrees that Union representatives visiting job sites shall obey all company safety rules and regulations and shall obey all safety rules, standards, and regulations prescribed pursuant to the Occupational Safety and Health Act or other governmental regulations or legislation, and shall wear and use properly all safety devices or equipment employees on the job site are required to wear and use.

4. Employees injured at work shall be paid for the time spent going to the doctor's office for treatment at the time of injury. If the doctor certifies in writing that the Employee is unable to return to work that day, the injured employee shall be paid for the balance of that working day.

ARTICLE XV - ABSENCES

1. The Union and the Employer expressly agree that a stable work force is required at all times in this seasonal industry and that the absence of individual employees may have a serious impact on the Employer's project productivity and efficiency.

2. Absences from scheduled work are to be discouraged and accordingly it is agreed:

(a) the first absence without prior excuse or reasonable cause shall entitle the Employee to a written warning notice with copy to the Union.

(b) the second absence without prior excuse or reasonable cause is agreed to be just cause for discharge of the Employee without recourse to the grievance and arbitration procedure of this Agreement. The Employer shall notify the Shop Steward of the discharge.

ARTICLE XVI - KEY MEN

1. It is agreed that on each project operation, the Employer can bring in the first man from outside the local Union's area, as Keyman/Foreman. The local Union shall provide the second and third man. The Employer has the option to provide the fourth man from the Local where the Employer has main or

operational office residence. The Local Union shall provide the fifth man and any more thereafter.

ARTICLE XVII - APPRENTICESHIP - HEAVY AND HIGHWAY

1. In order to maintain a sufficient number of skilled mechanics in the Heavy and Highway Construction Industry, the necessity for the employment of apprentices is hereby recognized. The employment and proper training of as many apprentices as is reasonable and practicable shall be encouraged and undertaken through mutual agreement of the Employer and the Union. This Agreement shall be in accord with the Apprentice Standards as approved by the State of New York, the Apprentice Committee of a local Union and the Employer.

2. The Employer agrees to train the indentured apprentice for three years on all phases of available work that is considered and recognized to be the work of members of the Bricklayers and Allied Craftworkers. This recognition shall encompass the work allocation as defined in this contract, Agreements and Decisions of Record in the Green Book (dated prior to November, 1969), and any future Agreements reached by International Unions,

involving the Masons, shall be considered a part of the Agreement.

3. Through the training period, the Employer shall have the right to employ his Apprentice in any area, other than his home Local Union, to insure continuity of employment and training. The ratio of apprentices to journeyman as specified by the State of New York shall be recognized, the ratio being one to five (1-5).

4. For any number of Mechanics under five (5) employed on a job site, one (1) Apprentice may travel with the Employer.

5. For any number of Mechanics between five (5) and ten (10) employed, two (2) Apprentices may travel with the Employer, etc.

6. The wage rates to be paid Apprentices shall be based on the following percentages of the Journeymen's rate herein established:

- (a) First 6 months = 50%
- (b) Second 6 months = 55%
- (c) Third 6 months = 60%
- (d) Fourth 6 months = 65%
- (e) Fifth 6 months = 70%
- (f) Sixth 6 months = 80%
- (g) 100% Journeyman

ARTICLE XVIII - ASSOCIATION SECURITY

Section 1. The Union recognizes Eastern Contractors Association, Inc., as the exclusive bargaining representative of all members.

Section 2. The Association represents that it is duly authorized by its designating members hiring Bricklayers to enter into this collective bargaining Agreement, that in so doing they are authorized to bind such designating members to the terms and condition of membership in said Association, that such designating members shall continue to be bound by terms or, shall upon admission to the said Association, after the date of execution of this Agreement, agree to be bound from that date forward by all terms and conditions of this Agreement.

Section 3. There shall be one (1) bargaining unit for all Employers bound by this Agreement for the geographicla and trade jursidictions covered herein including any individual Employers who are not designating members of Eastern Contractors Association, Inc. but who sign this Agreement or agree to be bound to it.

The management party hereto shall be considered the bargaining unit.

Section 4. No modification, variation, or waiver of any terms or provision herein shall be valid unless agreed upon in writing by both the Association and the Union. With the exception of project labor agreements or project agreements, where the Union will make every effort to include the Association in the negotiation of the project labor agreement or project agreements. The Union will supply the Association with a copy of any project labor agreement, it negotiates to which the Association is not a party.

ARTICLE XIX - SAVINGS

1. If any provision of this Agreement shall violate any applicable statute, or is held invalid by any court or government agency having jurisdiction, such invalidity shall not affect the remainder of this Agreement.

ARTICLE XX - DURATION

1. It is agreed by the parties to this contract that the terms of this Agreement are in full force and effect from June 1, 1997 to May 31, 2002, and during each calendar year thereafter unless written notice that changes are desired is given by either Party to

the other not later than ninety (90) days prior to the expiration date, or any year thereafter.

ARTICLE XXI - WAGE AND FRINGE BENEFIT CONTRIBUTIONS

Section 1. The gross amount (wages and fringes) are as follows:

- (a) Effective July 1, 1997 \$.60
Effective July 1, 1997 \$.02 Capital District
Masonry Institute
- (b) Effective July 1, 1998 \$.60
- (c) Effective July 1, 1999 \$.60
- (d) Effective July 1, 2000 \$.60
- (e) Effective July 1, 2001 \$.60

Section 2. Geographic areas of Bricklayers Local No. 2 by Zones, Bricklayers Local No. 8 by Chapters, and the Locals comprising the Western New York-Administrative District Council.

(a) Local No. 2 Zones:

Eastern District:

Albany/Plattsburgh/Glens Falls Zone. All of the counties of Albany, Clinton, Columbia, Essex,

Franklin, Fulton, Greene, Hamilton, Montgomery, Rensselaer, Saratoga, Schenectady, Schohaire, Warren, and Washington.

Central District:

Zone I - Utica. All of Oneida and Herkimer counties; all of Madison County except the Townships of Sullivan and Cazenovia; and the following Townships in Lewis County: Osceola, Lewis, West Turin, Leyden and Turin; and in Otsego County: Township of Brookfield.

Zone I - Syracuse. All of Cayuga County ; and the Townships of Cazenovia and Sullivan in Madison County.

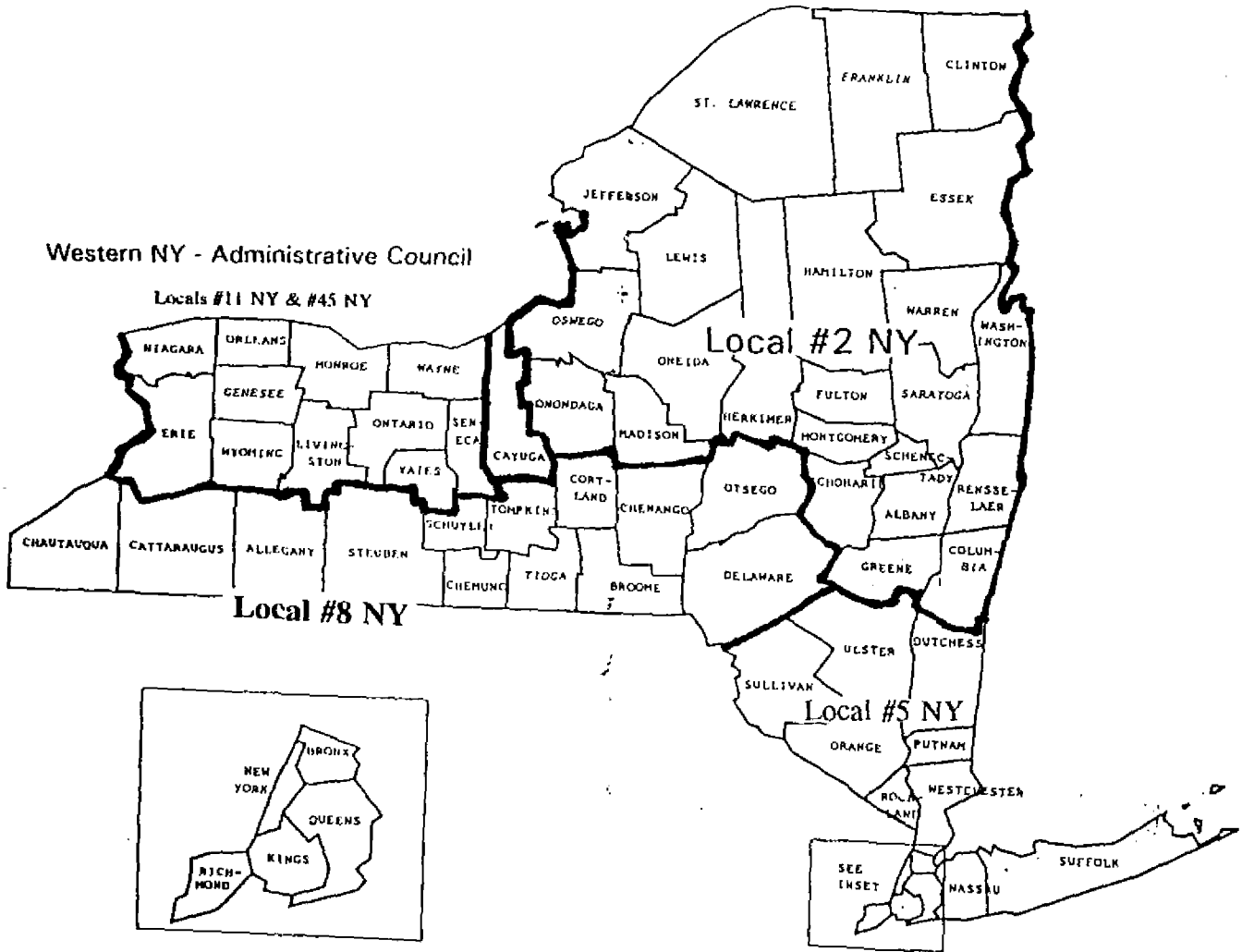
Zone II - Oswego. Oswego County.

Zone III - Watertown. All of Jefferson County and the Townships of Diana, Croghan, Denmark, Pinckney, Harrisburg, Lowville, New Bremen, Watson, Martinsburg, Montaque, Highmarket, and Greig in Lewis County.

Zone IV - Ogdensburg. St. Lawrence County.

(b) Bricklayers Local No. 8 Chapters:

Western NY - Administrative Council



Southern District:

Corning Chapter. All of Steuben County; in Schuyler County the Townships of Tryone and Orange; in Livingston County the Townships of Portage, Nunda, Ossian, West Sparta, Sparta, North Dansville, and Springwater; in Ontario County the Township of Naples; and in Allegany County the Townships of Burns, Almond, Alfred, and Andover.

Ithaca Chapter. Tompkins and Cortland Counties.

Jamestown Chapter. All of Chautauqua County; Cattaraugus County excluding the Township of Perysburg; Allegany County excluding the Townships of Burns, Almond, Alfred, and Andover.

Binghamton Chapter. All of Broome, Chenango, Chemung, Delaware, Otsego, and Tioga Counties; and in Schuyler County the Townships of Hector, Reading, , Montour; and Catherine.

(c) Western New York-Administrative District
Council:

Western District:

Local No. 11. All of Monroe, Ontario, Seneca, Wayne, Yates Counties; and in Livingston County the Townships of Avon, Caledonia, Conesus, Genesee, Groveland, Leichester, Lima, Livonia,

York and Letchworth State Park north of the Portage town line.

Local No. 45. All of Orleans County; except Townships of Kendall, Holley, Clarendum; all of Genesee County except the Township of Bergen; and all of Wyoming County except the Township of Perry.

Section 3. July 1, 1997 - May 31, 1998:

Eastern District: Local No. 2	Albany/ Plattsburgh/ Glens Falls Zone	Zone 1 - Utica
Wage	\$17.26	\$18.22
Health	2.55	2.55
Local Pension	4.80	3.89
BAC IU Pension	.40	.35
Annuity		
T & E/IMI/CDMI	.51	.58
CIAP	.17	.18
Local Dues Deduction	-.79	-.79
IU Dues Deduction	-.24	-.24
DBF	-.10	-.10
BAC PAC	-.02	
Total	\$25.69	\$24.22

Central District: Local No. 2	Zone I - Syracuse	Zone II - Oswego
Wage	\$17.95	\$17.52
Health	2.55	2.55
BAC Local Pension	2.99	3.84
BAC IU Pension	1.50	1.00
Annuity		
T & E/IMI/CDMI	.53	.58
CIAP	.17	.17
Local Dues Deduction	-.81	-.90
IU Dues Deduction	-.24	-.24
DBF	-.10	-.10
Total	\$25.69	\$25.66

	Zone III - Watertown	Zone IV - Ogdens- burg
Wages	\$18.92	\$19.17
Health	1.80	1.80
BAC Local Pension	2.69	2.44
BAC IU Pension	1.50	1.50
Annuity		
T & E/MI/CDMI	.58	.58
CIAP	.19	.19
Local Dues Deduction	-.94	-.55
IU Dues Deduction	-.24	-.24
DBF	-.10	-.10
Total	\$25.68	\$25.68

Southern District: Local No. 8	Corning Chapter	Ithaca Chapter
Wages	\$17.25	\$16.99
Health	2.25	2.45
BAC Local Pension	4.32	2.10
BAC IU Pension	.40	.80
Annuity		2.00
T & E/IMI/CDMI	.44	.52
CIAP	.17	.17
Local Dues Deduction	-.67	-.67
IU Dues Deduction	-.23	-.23
Total	\$25.03	\$25.03

	Bingham- ton Chapter	Jamestown Chapter
Wages	\$17.45	\$18.10
Health	2.35	2.65
BAC Local Pension	.95	
BAC IU Pension	1.50	1.50
Annuity	2.15	.70
T & E/IMI/CDMI	.46	.34
CIAP	.17	.19
Local Dues Deduction	-.50	-.63
IU Dues Deduction	-.23	-.23
Total	\$23.46	\$23.48

Western District : Western NY-ADC	Local No. 11	Local No. 45
Wages	\$17.11	\$17.12
Health	2.95	2.90
BAC Local Pension	2.15	3.00
BAC IU Pension	.25	.50
Annuity	1.25	
T & E/IMI/CDMI	.25	.44
CIAP	.18	.18
Local Dues Deduction	-.95	-.77
IU Dues Deduction		
BAC PAC		
Other Deductions		
Total	\$24.14	\$24.14

ARTICLE XXII-MOST FAVORED NATIONS

The Union agrees that if it enters into an agreement with any other contractor or contractors engaged in work covered by this agreement, then such more favorable terms shall immediately be added to and become a part hereof upon the Eastern Contractors Association, Inc. giving the Union five (5) days notice in writing of the terms involved.

ARTICLE XXIII - LABOR- MANAGEMENT

The parties shall meet as a labor-management committee on an as needed basis in a location of mutual convenience to discuss issues not properly considered under Article XI.

ARTICLE XXIV - DRUG TESTING

Section 1. If as a condition of working on a project, drug or alcohol testing is required of the Employee, Eastern contractors Association, Inc. and the Union shall meet and develop a project agreement for Drug and Alcohol Testing for that project

Section 2. Eastern Contractors Association, Inc. and the Union shall have a special committee to develop a model program on Drug and Alcohol Testing *during the life of this Agreement*

ARTICLE XXV-PARTIES TO AGREEMENT

BRICKLAYERS AND ALLIED CRAFTWORKERS

WESTERN DISTRICT

LOCAL UNION NO. 11 N.Y.
STEVEN REMINGTON
BUSINESS MANAGER
480 St. Paul Street
Rochester, N.Y. 14605
Phone: 716-454-1211

WESTERN NEW YORK-
ADMINISTRATIVE DISTRICT COUNCIL
LOCAL UNION NO. 45 N.Y.
WILLIAM R. WRIGHT JR.
BUSINESS MANAGER
1807 Elmwood Ave
Buffalo, N.Y. 14207
Phone: 716-873-1141

EASTERN DISTRICT

LOCAL UNION NO. 2 N.Y.
GARRY HAMLIN
LOCAL PRESIDENT
300 Centre Drive
Albany, N.Y. 12203
Phone: 518-456-5477

CENTRAL DISTRICT

LOCAL UNION NO. 2 N.Y.
GARRY HAMLIN.
LOCAL PRESIDENT
300 Centre Drive
Albany, N.Y. 12203
Phone: 518-456-5477

SOUTHERN DISTRICT

LOCAL UNION NO. 8 N.Y.
CORNING CHAPTER
RICHARD MCLAUGHLIN
BUSINESS MANAGER
20 Meads Creek Road
PO Box 226
Coopers Plain N.Y. 14827-04589
Phone: 607-962-4589

LOCAL UNION NO. 8 N.Y.
ITHACA CHAPTER
MARK BABBAGE
BUSINESS MANAGER
622 West State Street
Ithaca, N.Y. 14850
Phone: 607-273-3050

LOCAL UNION NO. 8 N.Y.
JAMESTOWN CHAPTER
W. CARL BOWKER
BUSINESS MANAGER
203 Cherry Street
Jamestown, N.Y. 14701
Phone: 716-487-1075

LOCAL UNION NO .8 N.Y.
BINGHAMTON CHAPTER
JAMES LOCKWOOD
BUSINESS MANAGER
11 Griswold Street
Binghamton, N.Y. 13904
Phone: 607-772-6270

EASTERN CONTRACTORS ASSOCIATION,
INC.

EASTERN CONTRACTORS ASSOCIATION, INC.
BRICKLAYERS HEAVY AND HIGHWAY NEGOTIATING
COMMITTEE
JOHN DIGIULIO, CO-CHAIRMAN
JOHN CINQUINO

6 Airline Drive
Albany, N.Y. 12205-1095
Phone: 518/869-0961
Fax: 518/869-2378

ADDENDUM 1

The Addenda applies to Heavy/Highway work as herein defined:

This Addendum shall not apply to any project with a wage schedule attached or where wages are contained in the bid documents or to any work under a project agreement or traditionally mandatory union environment which provides for acceptance of specific collective bargaining agreements as a condition to bid.

Addendum to cover work with a contract value of \$3,000,000 or under. For contracts valued in excess of \$3,000,000 a pre bid conference will be held.

The parties agree that the Employer must be signatory to the Heavy and Highway agreement for this addenda to apply.

Further, the Employer agrees to notify the union when utilizing this addenda, and agrees that utilization of this addenda is contingent on similar addenda being offered by L.I.U.N.A. and I.U.O.E. to the AGC.

No paid holidays, Holiday work is double-time. Any employee transferred to this type of work from a Heavy and Highway paid holiday job within 5 working days preceding the holiday and having worked five (5) days on said heavy and highway job will receive holiday pay.

Wage rates for non - public work to be paid will be eight-five percent (85%) of base plus one hundred percent (100%) fringes as herein listed.

ADDENDUM 2

ECA/BASIC TRADES WORKERS' COMPENSATION PROGRAM

The parties have adopted as apart of this Agreement the ECA/Basic Trades Workers' Compensation Program including the Workers' Compensation Alternative Disputes Resolution Addendum.

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 Craftworkers (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) (hereinafter referred to as the Unions) and is an Addendum to the Building; Heavy & Highway (Bricklayers and Allied CRAFTWORKERS); and Tile, Marble and Terrazzo Finishers and Workers (Bricklayers and Allied Craftworkers) 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 management, 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, 2000 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 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'/licensed 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.

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) Management, 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 Craftworkers 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 Craftworkers Locals Nos. 2, 8, 11, 45), and May 31, 1997 (Bricklayers and Allied Craftworkers - 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 credentialing 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.

1) 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 Craftworkers (Local No. 2) Garry Hamlin, President	International Union of Bricklayers and Allied Craftworkers (Local No. 8) Mark Babbage, President
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International Union of Bricklayers and Allied Craftworkers (Local No. 11) Steve Remington, Business Manager	International Union of Bricklayers and Allied Craftworkers (Local No. 45) William R. Wright Jr., Business Manager
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United Brotherhood of Carpenters and Joiners of America (Local No. 370) John Stefanik, Business Representative	International Association of Bridge, Structural and Ornamental Iron Workers (Local No. 12) Michael Burns, Business Manager
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Laborers' International
Union of North America
(Local No. 157)

Robert L. Pollard,
Business Manager

International Union of
Operating Engineers
(Local No. 106)

Gene Messercola,
Business Manager
/President

Laborers' International
Union of North America
(Local No. 190)

Samuel M. Fresina,
Business Manager

International Brotherhood
of Teamsters
(Local No. 294)

Howard Bennett,
President

ACCEPTED FOR THE ASSOCIATION for and on
behalf of the signatory Employers:

Charles McGrath

J.D. Gilbert

Vic Mion Jr.

Toni Cristo

Wayne Brownell

Tom Murray

John Di Guilio

David Rubin

Bruce Hodgkins

Walt Gould

ACCEPTED FOR ULICO CASUALTY
COMPANY:

Todd Rowland

NON-ASSOCIATION EMPLOYERS SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the day and year first above written.

In consideration of the time, efforts, and sums expended by the Union and the Eastern Contractors Association, Inc., the Non-Association Employer and the Union, in the negotiation of the foregoing contract, in consideration of the similar time, effort, and sums expended and to be expended in it's administration and further consideration of the mutual promises and obligations of the Union, the Employer agrees:

1. That he/she (it) has read the foregoing collective bargaining Agreement, dated the last day of May, 1997, and agrees, as an individual employer to be bound by the interpretations and enforcement of the Agreement. He/she (it) further agrees to provide the Union with signed copies of this Agreement.

2. That he/she (it) waives the right to name or participate in the selection of any management trustee to any and all jointly trustees funds provided for in said Agreement, further agrees to accept the trustees now named to these funds as his designate

trustees, and agrees to be bound by the provisions of the trust indentures creating the respective funds.

3. The gross amount agreed upon in wages and fringes in Article XXI, Section 3 for work performed on or after June 1, 1997, subject to the carryover clause; Appendix A for work performed on or after June 1, 1997; Appendix B for work performed on or after June 1, 1998, Appendix C for work performed on or after June 1, 1999, Appendix D for work performed on or after June 1, 2000, Appendix E for work performed on or after June 1, 2001 which appendices are hereby incorporated in and made a part of this Article.

ALL DISTRICTS

Name of Firm:

Authorized officer: Date

Firm Street Address:

City, State, Zip:

Telephone:

Eastern District - Garry Hamlin:

Central District - Garry Hamlin:

Southern District - Mark Babbage:

Western District - William R. Wright, Jr.:

Unions:

This Signature Page pertains only to the *ALL DISTRICTS* District concerning all geographic jurisdiction and wages as described in this agreement.

This Signature Page is to filled out in quintuplicate and one (1) copy forwarded to: Eastern Contractors Association, Inc., 6 Airline Drive, Albany, NY 12205.

EASTERN DISTRICT

Name of Firm:

Authorized officer:

Date:

Firm Street Address:

City, State, Zip:

Telephone:

Unions:

Garry Hamlin:

This Signature Page pertains only to the *Eastern* District concerning all geographic jurisdiction and wages as described in this agreement.

This Signature Page is to filled out in triplicate and one (1) copy forwarded to: Eastern Contractors Association, Inc., 6 Airline Drive, Albany, NY 12205.

CENTRAL DISTRICT

Name of Firm:

Authorized officer:

Date:

Firm Street Address:

City, State, Zip:

Telephone:

Unions:

Garry Hamlin

This Signature Page pertains only to the *Central* District concerning all geographic jurisdiction and wages as described in this agreement.

This Signature Page is to filled out in triplicate and one (1) copy forwarded to: *Eastern Contractors Association, Inc.* 6 Airline Drive, Albany, NY 12205.

SOUTHERN DISTRICT

Name of Firm.:

Authorized officer

Date:

Firm Street Address:

City, State, Zip:

Telephone:

Unions:

Mark Babbage

This Signature Page pertains only to the Southern District concerning all geographic jurisdiction and wages as described in this agreement.

This Signature Page is to filled out in triplicate and one (1) copy forwarded to: Eastern Contractors Association, Inc., 6 Airline Drive, Albany, NY 12205.

WESTERN DISTRICT

Name of Firm:

Authorized officer:

Firm Street Address:

City, State, Zip:

Telephone:

Unions:

William R. Wright

This Signature Page pertains only to the *Western* District concerning all geographic jurisdiction and wages as described in this agreement.

This Signature Page is to filled out in triplicate and one (1) copy forwarded to: Eastern Contractors Association, Inc., 6 Airline Drive, Albany, NY 12205.

NOTES