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Title: **Tri-State Contractors Association, Inc. (Kentucky Building Agreement) and International Union of Operating Engineers, Local 181 (2001)**

K#: **8072**

Employer Name: **Tri-State Contractors Association, Inc.**

Location: **KY**

Union: **International Union of Operating Engineers**

Local: **181**

SIC: **1611**

NAICS: **23731**

Sector: **P**

Number of Workers: **2800**

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2001 - 2005

KENTUCKY BUILDING AGREEMENT

By and Between

**TRI-STATE CONTRACTORS
ASSOCIATION, INC.**

and

**INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL UNION 181**

Effective: June 1, 2001

Expiration: May 31, 2005

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SCOPE OF AGREEMENT

THIS AGREEMENT by and between the Tri-State Contractors Association, Inc., acting as the collective bargaining agency of its members, (individually and collectively for those members who have assigned bargaining rights to the Association), hereinafter called the Employer, and the International Union of Operating Engineers, Local 181, hereinafter called the Union, affiliated with the AFL-CIO, acting for the purposes of this agreement as the collective bargaining agency for its members.

For and in consideration of the mutual advantages to be derived by the parties hereto, they, and each of them do covenant and agree individually and collectively that when members of the Union, signatory hereto, are directly employed by members who have assigned bargaining rights to the Association, such employment shall be in accordance with the terms of this contract only.

Preamble

Section 1. This Agreement is entered into to prevent strikes and lockouts; to facilitate peaceful adjustment of grievances and disputes between employer and employee in this trade; to prevent waste and unnecessary and avoidable delays and expense; for the further purpose of at all times securing for the employer sufficient, skilled workmen; and so far as possible to provide for engineers' continuous employment. Such employment to be in accordance with the conditions herein set forth and at the wages herein agreed upon, that stable conditions may prevail in building construction, that building costs may be as low as possible consistent with fair wages and conditions, and further to establish the necessary procedure by which these ends may be accomplished.

It is agreed and understood that the Negotiating Committee shall in no event be bound as principle or held liable as Negotiating Agent or as Principal in any manner for breach of this contract by any of these parties hereto. It is further agreed that the liability of the Employers who accept, adopt, and sign this Agreement shall be several and not joint.

The terms and conditions as set forth herein constitute the entire Agreement between the Employer and the Union. Any other policy and/or procedure which may be outlined in any other form, such as employer's handbook or the Union's working rules, and any other written or verbal agreements are specifically excluded from this Agreement.

Section 2. The Association shall exercise due diligence in assigning to the Union such work tasks for which it has been given jurisdiction, as determined by the last prior decisions or agreements, if any, as approved by the Building Trades Department of the American Federation of Labor. In the event, however, that capable employees are not available without delaying the work, the Association members, after twenty-four (24) hours notice, may assign such work on a temporary basis to other employees. Association members shall have the right to request the services of the individual employees by name provided he has been employed by said company within the past year. No employer shall employ any person whom he has induced to leave another job.

Section 3. The recognition of the Association members of Local Union 181 of the International Union of Operating Engineers as the sole bargaining agent of all its employees in a unit, consisting of Operating Engineers who are employed by the Association members on the site of the work or as otherwise provided

herein, is conditional upon both parties complying with all state and federal laws.

This contract shall not be construed as covering, requiring, or limiting the employment of supervisors, superintendents, timekeepers, watchmen, or any other employees acting solely in the capacity as representatives of management. This contract is solely and strictly intended as a declaration of the rights and privileges of the parties and of the duties and obligations which each assumes toward the other. It shall not be construed or used in such manner as to affect the relationship between the association and the Union because of the acts or failure to act of others who are not members of either signatory organization.

Except as specifically provided otherwise herein, the rights of management are retained by the employer, including but not limited to the right to manage and direct the working forces, the right to hire, to transfer, to discharge for a just and reasonable cause other than upholding the provisions of this Agreement, to determine the need for the number of employees and the purpose for hiring.

Section 4. This contract to embrace building construction, including preparation of site and installation of utilities and railroad incidental to the construction of the building and on the building site.

Section 5. Building construction work shall be all work on any structure intended for use as shelter, protection, or comfort.

Section 6. The Union shall not discriminate against any contractor or subcontractor so long as he complies with the terms of this agreement and becomes a signatory hereof.

Article 1

Effective Date

This agreement becomes effective June 1, 2001, and shall be in effect until and including May 31, 2005.

Article 2

Territory Jurisdiction

It is agreed by all parties concerned that this Agreement will cover the following counties of Kentucky which are recognized as the Association's area jurisdiction: Bell, Bracken, Grant, Perry, Mason, Robertson, Fleming, Carter, Greenup, Lewis, Morgan, Elliott, Lawrence, Magoffin, Johnson, Martin, Pike, Menifee, Breathitt, Wolfe, Knott, Boyd, Floyd, Leslie, Letcher, Rowan and Harlan.

Article 3

Union Recognition

There shall be no interference with workmen during working hours, except that the Business Representative of the Union may confer with the superintendent, foreman, or steward when necessary. The Business Representative shall notify management before entering the job.

Article 4

Membership Maintenance

All employees in the bargaining unit who are members of the Union in good standing on the effective date of this Agreement must as a condition of employment

maintain their membership in good standing for the life of this agreement.

Any employee who is not a member of the Union, and any employee who is hired on or after the effective date of this agreement shall be required to apply for membership in the Union on or after the 8th day of his employment. Such employees who become members of the Union must, as a condition of their employment, maintain their membership.

Article 5

Employee Procurement

The Union and the Employer recognizes that the Union is in a position to aid the employer in recruiting needed employees who can meet the standards of the trade and who can promote the efficiency and safety of the operation of the Employers. The Employer agrees to notify the Union when new, additional, or replacement employees are needed.

The priorities of referral set forth in the Local 181 Hiring Procedure shall be followed except that in cases where the employer requires and calls for employees possessing special skills and abilities, the Union shall pass over any applicants on the register not possessing such special skills and abilities, and except that in cases where the employer requests men by name. The employer shall request only men who are registered out of work in Group A only, and they shall have been a former employee who has worked for the requesting employer in the past year in the geographical area.

All requests shall be in writing. Applicant must have been on the referral register at least five (5) days before

employee can be requested by the employer. If an employee is called back to the same employer within five (5) working days, such employment shall be considered continuous employment and shall be counted as such. In cases where the Union does not have twenty-four (24) or more hours to fill an order for referral for a few-day job (5 or less days) the Union may pass over applicants on the register in order to promptly fill the order.

The Union agrees to refer duly qualified applicants upon a nondiscriminatory basis when so notified. Such applicants shall be furnished under the above conditions in such numbers as may be necessary to properly execute the work contracted for by the employer in the manner and under the conditions specified in this agreement. The decision with regard to the hire and tenure of all employees shall be made by the employer.

The Union and the Employer agree to establish an employment recruiting area. This recruiting area shall cover all counties of Kentucky with the exception of Boone, Kenton, Campbell and Pendleton, and the following counties in the State of Indiana--Bartholomew, Brown, Clark, Crawford, Dearborn, Decatur, Dubois, Floyd, Franklin, Gibson, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Ohio, Orange, Perry, Pike, Posey, Ripley, Scott, Spencer, Switzerland, Vanderburgh, Warrick and Washington.

The employer agrees to give preference of employment to qualified applicants residing within the above mentioned recruiting area, when same are available. This clause shall be applied to employment and reduction of force. The Association will assist Local 181 in its efforts to get outside contractors to use local people on their projects.

Article 7

Payment of Wages

The payroll period shall end on Sunday at 12:00 midnight and pay day shall be on or before 4:30 p.m. the following Friday, unless otherwise agreed to by the business agent. Employees laid off at any time shall be paid immediately.

If an employee is laid off and he is not called or does not return to work within a five-day period, it shall be considered a permanent layoff.

Article 8

Health and Welfare

Effective June 1, 2001, the employer agrees to pay the sum of three dollars and fifty cents (3.50) per hour for each hour worked or paid whether at regular or overtime rates to the I.U.O.E. Locals 181, 320 and TVA Health and Welfare Fund in behalf of all employees working under the terms of this agreement.

The aforesaid Health and Welfare Fund shall be administered pursuant to the Agreement and Declaration of Trust dated April 7, 1968. This Agreement and Declaration of Trust, together with any amendments thereto, is incorporated by reference in this agreement and shall be considered a part thereof.

Contributions to the Health and Welfare Fund are a part of the prevailing wage rate but shall not be deemed wages due the employee.

The Union shall advise the employer in advance of any health and welfare hourly contribution increase to

be made effective on 6-1-2002, 6-1-2003 or 6-1-2004. The employer agrees to increase its hourly contribution to the Health and Welfare Fund in the amount specified by the union. The hourly wage scale then shall be lowered in an amount equal to the increase in the hourly contribution to the Health and Welfare Fund.

Article 9

Pension

Effective June 1, 2001, the employer shall pay monthly into the Central Pension Fund of the International Union of Operating Engineers and Participating Employers, four dollars (4.00) per hour for each hour paid for or worked, in the preceding month, by all employees covered by this agreement. Said payments shall be made on the dates, in the manner and form, and in accordance with the rules and regulations as adopted by the trustees of said fund.

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

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

Upon written notice to the employer from the union at least sixty (60) days prior to each anniversary date of the agreement, the employer agrees to increase its hourly contribution to the aforesaid Pension Fund in the amount specified by the Union. The hourly wage scale then scheduled to go into effect shall be lowered in an amount equal to the increase in the hourly contribution to the Pension Fund.

Article 10

Workday, Shift Work, Overtime

HOURS OF WORK: Eight (8) hours shall constitute a work day between the hours of 7:00 a.m. and 6:00 p.m.

SHIFT WORK: If the employer wishes to work two (2) or three (3) 8-hour shifts, the working hours of each shift shall be mutually agreed upon between the business representative of the union and the employer or his representative. In no case shall an employee be allowed to work more than eight (8) hours unless overtime is paid. When two (2) or more shifts are worked for two (2) or more consecutive days, the first shift shall work eight (8) hours and receive eight (8) hours pay; the second shift shall work seven and one-half (7 1/2) hours and receive eight (8) hours pay plus \$.25 per hour; the third shift shall work seven (7) hours and receive eight (8) hours pay plus \$.50 per hour. If shifts are to be worked less than two (2) consecutive days, overtime shall be paid at the rate specified in this agreement. A thirty minute lunch period shall be mutually agreed upon by the job superintendent and the union representative, and shall not be considered as time worked.

TWO TEN-HOUR SHIFTS: The first shift shall work ten (10) hours and receive ten (10) hours pay; all hours

worked in excess of eight (8) hours shall be paid at time and one-half. The second shift shall work nine and one-half (9 1/2) hours and receive ten (10) hours pay plus \$.25 per hour; all hours worked in excess of eight (8) hours shall be paid at time and one-half.

TWO TWELVE HOUR SHIFTS: The first shift shall work twelve (12) hours and receive twelve (12) hours pay; all hours worked in excess of eight (8) hours shall be paid at time and one-half. The second shift shall work eleven and one-half (11 1/2) hours and receive twelve hours pay plus \$.25 per hour; all hours work in excess of eight (8) hours shall be paid at time and one-half

In cases when shifts are required for employees to be continuously at work for more than ten (10) hours, the employer shall schedule a second* mealbreak effective upon the commencement of the third** overtime hour. Subsequent mealbreaks shall be scheduled each four (4) hours thereafter.***

*Second and subsequent mealbreaks are unpaid unless required to work.

**The intent is to be allowed to eat after ten (10) hours of work beginning with the 11th hour of the shift.

***When employees are required to work through a second paid lunchbreak, one-half hour at the applicable overtime rate shall be added to the actual hours worked at the completion of shift.

FOUR TEN-HOUR DAYS: The option of scheduling a four (4) ten-hour day work week is permissible upon mutual agreement between the parties at the pre-job conference. Monday through Thursday shall constitute

a normal work week with starting and quitting time to be determined at the pre-job conference. All hours worked in excess of ten (10) hours per day or forty (40) hours per week shall be paid at the rate of time and one-half.

In the event of inclement weather, Friday shall be a make-up day. In the event a job has worked 32 hours Monday through Thursday, a full eight hour shift must be worked; if the job has worked 31 hours, a full nine hour shift must be worked; if the job has worked 30 hours or less, a full ten-hour shift must be worked. In the event a job has worked in excess of 32 hours and work is scheduled to be performed on Friday, a full eight-hour shift must be worked on Friday.

Employees called out to work for only one day during a scheduled pay period shall be paid at the applicable overtime rate when working in excess of eight (8) hours.

Any provision in this article which is found to be in violation of any federal, state or local law shall be null and void and shall not affect the balance of this article. Any question or interpretation of this article shall be referred to the Tri-state Joint Labor/Management Committee for resolution.

OVERTIME: Time and one-half shall be paid for all overtime which shall include all work performed before 8:00 a.m. or after eight (8) hours work, Monday through Friday, and all day on Saturday, and work performed during lunch period between 12:00 noon and 12:30 p.m., unless changed by mutual agreement as per the HOURS OF WORK provision stated above. Double time shall be paid for all work performed on Sunday and holidays. Holidays shall be New Year's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day, or days

observed as such. Veteran's Day shall be observed Friday after Thanksgiving Day. All holidays falling on Sunday shall be observed on Monday following. Holidays falling on Saturday shall be observed on the Friday before.

All overtime shall be paid for by the hour and half hour. Any fractional part of a half hour shall be a half hour.

In the event an employee has completed his regular shift and left the site of the work and is called back to perform work, such employee shall be paid at least two (2) hours at the overtime rate.

Article 11

Reporting Time Pay Pay for a Partial Day's Work

If the services of an engineer are not required, he shall be notified the day previous, and not later than ten (10) minutes before the regular quitting time, by the foreman or whomever may be in charge. Otherwise, any employee reporting for work shall receive two (2) hours pay. If the job is stopped after it has been started, he shall receive four (4) hours pay at the prescribed rate, if he starts work he shall be paid for four (4) hours. If he works over four (4) hours, he shall be paid for eight (8) hours, unless due to inclement weather after the first four-hour period, then he shall be paid at the applicable rate for the actual hours worked.

Article 12

Holidays

Double time shall be paid for all work performed on Sunday and holidays. Holidays shall be New Year's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day, or days observed as such. Veteran's Day shall be observed Friday after Thanksgiving Day. All holidays falling on Sunday shall be observed on Monday following. All holidays falling on Saturday shall be observed on the Friday before.

Article 13

Foreman

A. One (1) foreman is required for each shift on a project of an employer having (10) or more employees and an additional foreman is required on said project having twenty-five (25) or more of the aforementioned employees. Such foreman shall have only such authority as assigned by the employer.

B. Foreman shall receive not less than fifty cents (\$.50) per hour over and above the rate of pay for crane operators. Utility Operator capable of operating any heavy equipment shall receive fifty cents (\$.50) over and above the rate of pay for crane operators.

C. Duties of the Operator Foreman shall be: (1) to replace any absenteeism; (2) to replace any operating engineer who has started to work and may have to leave through no fault of the employer; (3) to assist any operating engineer who may need help or advice; (4) to assign operating engineers to the equipment, if the

employer so desires; (5) to operate any equipment on the job provided the employer has made an effort to hire an operator.

D. No foreman or supervisor shall be allowed to operate, repair, or maintain any mechanical equipment when such operation takes the job of an employee covered by this agreement except as provided in this article under "Duties of Operator Foreman."

Article 14

Stewards

The Business Representative of the Union may appoint a Steward per shift whose duty it shall be to see that the conditions of this Agreement are not broken by either the employer or the employees, and shall be retained at all times when five (5) or more employees work; and, in slack season, he shall be the last employee to be laid off providing he is qualified. Under no condition shall he be discriminated against because of his position as steward. The steward shall not have authority to call a work stoppage for any reason.

Article 15

Health and Safety

The employer shall execute his work in accordance with the Federal Occupational Safety and Health Act of 1970. Employees shall perform all work in accordance with the provisions of this Act.

In case of injury sustained by an employee in the course of employment and requiring immediate medical attention, the employer shall provide for transportation

Article 6**Wage Rates and Classifications**

Wages shall be paid according to the following schedule of rates of pay effective June 1, 2001 through May 31, 2005.

CLASS A --Minimum wage rate per hour on the following equipment shall be:

	<u>6-1-01</u>	<u>6-1-02</u>	<u>6-1-03</u>	<u>6-1-04</u>
Hourly	\$21.43			
Health & Welfare	\$3.50			
Pension	4.00			
Training	.40			
LEAD(Drug & Safety)	.12			
Gross	29.45	30.48	31.55	32.66
Industry Fund	.01			
TSBCTC Deduction	.05			

Auto patrol, balcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer 21 cfm or over, concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all type of loaders, hoe-type machine, hoist (1 drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, piledriver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hoplo, tow or push boat, a-frame winch truck, concrete paver, gradeall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, guries, sub-grader, tunnel mining machines including moles, shields, or similar types of tunnel mining equipment.

(Class A continued)

(Class A continued)

Foreman and utility engineer are to be paid a differential of \$.50 per hour.

On small dredges the dredge engineer may be replaced by an oiler when mutually agreed upon by employer and union.

Operators on cranes with boom 150' and over including jib, shall receive \$.50 above Class A or A1.

If National Commission for the Certification of Crane Operators (CCO) is required by owner/contractor, the operator shall receive \$.10 per hour above Class A or A1 rate of pay.

CLASS A1--Minimum Wage Rate per hour on the following equipment shall be:

Cable crane operators (50-ton and over); Hydraulic crane (100-ton and over).

	<u>6-01-01</u>	<u>6-01-02</u>	<u>6-01-03</u>	<u>6-01-04</u>
Hourly	\$21.98			
Health & Welfare	3.50			
Pension	4.00			
Training	.40			
LEAD(Drug & Safety)	.12			
GROSS	30.00	31.05	32.14	33.27
Industry Fund	.01			
TSBCTC Deduction	.05			

CLASS B

	<u>6-01-01</u>	<u>6-01-02</u>	<u>6-01-03</u>	<u>6-01-04</u>
Hourly	\$18.42			
Health & Welfare	3.50			
Pension	4.00			
Training	.40			
LEAD(Drug & Safety)	.12			
GROSS	26.44	27.37	28.33	29.33
Industry Fund	.01			
TSBCTC Deduction	.05			

All air compressors over 900 cfm, bituminous mixer, joint sealing machine, concrete mixer under 21 cu ft, form grader, roller (rock), tractor (50hp and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments (except backhoe, highlift and endloader), elevator (regardless of ownership when used for hoisting any building materials), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction, Firebrick masonry excluded), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor.

CLASS C

	<u>6-01-01</u>	<u>6-01-02</u>	<u>6-01-03</u>	<u>6-01-04</u>
Hourly	\$17.57			
Health & Welfare	3.50			
Pension	4.00			
Training	.40			
LEAD(Drug & Safety)	.12			
GROSS	25.59	26.49	27.42	28.38
Industry Fund	.01			
TSBQTC Deduction	.05			

Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50hp), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

Employees assigned to work below ground level are to be paid ten per cent above basic wage rate. This does not apply to open cut work.

Business Representative and the employer to use established rates as a basis to determine proper rate for equipment not listed in classifications.

to the physician's office, clinic, or hospital, and the employee's home if necessary. If the employee returns to work on the same day, he shall suffer no loss of time, and if sent home or to the hospital, shall be paid for the balance of the day's work period in which the injury was sustained. In no case shall such employee suffer loss of time when required to leave his job for treatment of three (3) hours or less for further treatment of such injury.

Safety shoes and prescription eye glasses will be furnished by the employee, except in instances where contaminated items may be restricted from leaving the job site.

Article 16

Subcontract Clause

The Associated member or signed contractor when subcontracting any portion of the on-site work within the jurisdiction of the Union, agrees he will not subcontract to any person, firm, or corporation, unless the aforesaid person, firm, or corporation performing the subcontracting work in question agrees to observe and be bound by all of the terms and conditions of this Agreement.

Article 17

Grievances and Disputes

Section 1. The Association shall appoint a Standing Committee of two persons and the Union shall appoint a Standing Committee of two persons to promote the operation of this Agreement.

Section 2. All disputes of every type and character between the parties hereto (except as described in Article 18) arising from this agreement which are not settled directly between the persons involved shall be submitted to a joint arbitration committee composed of the Standing Committees, the representation from each Standing Committee to be equal as to numbers.

The Joint Arbitration Committee shall meet within forty-eight (48) hours after a request to do so is received from either the Association or the Union. The Joint Arbitration Committee shall hear and consider all evidence presented by the parties, including that of the Business Representative of the Union. The Committee shall render a decision by majority vote of its members. A decision of the Joint Arbitration Committee shall be *final and binding and shall be promptly complied with* by all parties. In the event a majority decision is not arrived at within twenty-four (24) hours after the hearing is concluded, the dispute shall be referred to an Arbitrator who shall decide the case by rendering a written decision. *The Arbitrator shall be chosen in this manner: the party requesting arbitration shall have the right to request a panel from either the American Arbitration Association or the Federal Mediation and Conciliation Service who shall be requested to submit a list of seven (7) qualified persons to act as arbitrator. The arbitrator will be selected by each party striking an equal number of proposed arbitrators from the panel. The remaining individual shall be the arbitrator whose decision shall be final and binding upon all parties concerned. The arbitrator shall not have the power to add to, subtract from, or alter any of the terms of this agreement. All expenses of arbitration previously authorized by the Joint Arbitration Committee shall be borne equally by the Association and the Union.*

Any party requesting an arbitration panel from American Arbitration Association shall be solely responsible for the entire cost and expense charged by American Arbitration Association for such service.

Section 3. Neither the Association, Association Members signatories, nor the Union or the Union Members shall engage in, permit, induce, or encourage any stoppage of work, slowdown, strike, lockout, or concerted refusal to work, by reason of any dispute or difference of opinion or policy between the parties hereto, save and except the failure of the other party to abide by a decision of the Joint Arbitration Committee, the Arbitrator, or a judgement of a court of law.

Section 4. Any employer involved in a dispute or grievance which is processed before the Joint Arbitration Committee, and who is not a contributor to the Advancement Fund set forth in Article 25 shall be required to pay a service fee of \$100.00 per dispute or grievance processed by the Joint Arbitration Committee and such fee shall be paid to the Advancement Fund to defray the cost of such dispute or grievance.

Article 13

Jurisdictional Disputes

If the dispute involves the jurisdiction of the Union with the jurisdiction of any other Union or Unions, then the dispute shall be resolved according to law, provided, however, that an opportunity be first given to the Union to attempt to settle the jurisdictional dispute with the other Union within ten (10) days from the time the dispute arose.

Article 19

Modification of Agreement

In consideration of the concessions made to each other in negotiating this contract, each of the parties agrees that it will not, prior to the expiration date hereof, demand any modification or termination of the conditions herein stated, nor demand a contract on subjects not herein covered.

It is further understood and agreed that this Agreement shall be in full force and effect beginning with the first payroll which begins on or after June 1, 2001 and continues until May 31, 2005. It is agreed that on or before sixty (60) days immediately preceding the expiration of the Agreement either party shall notify in writing the other party of any change in wages and conditions contemplated for the ensuing year.

Article 20

Savings Clause

Nothing in the agreement shall be construed or is intended to be contrary to any local, state or federal law.

Article 21

Non-Discrimination

The union and the employer mutually agree that they will not discriminate against anyone because of race, color, creed, age, sex, or national origin in accepting members, or in the selection and hiring of employees, and do further agree that they will comply with all state and federal laws and regulations regarding equal

employment opportunity. Whenever reference is made to gender in this agreement, the same shall be interpreted and construed as including both male and female.

Article 22

General Conditions

A. Any operator may be moved by the Employer to any piece of equipment and back to the original piece of equipment, provided the operator is capable of performing the work, and is paid the hourly rate of wages applicable to the highest classification of work performed during such changes. Provided further, that such changes do not replace another operator who had reported for work or who had started to work during the work period. Provided further, that where the project presents circumstances which prevent completion of the above described changes, the parties may, by mutual agreement, increase the number of such changes.

B. An employee shall remain on the job, if required, for the length of time for which he is paid, during which he shall do what is required of him pertaining to machine on job.

C. The engineer must keep the machine clean and may assist in repairing the machine he operates. When this work is done outside the regular working hours, the regular overtime shall be paid. Master mechanic and mechanics must be operating engineers. When a piece of equipment needs repair, the regular operating engineer normally employed on same shall not be laid off while an outside shop man is working on the job site and the engineer shall assist this man in making the necessary repairs.

D. An oiler must be employed on all cranes over 50 ton including self-propelled cranes, hydro cranes, hoppers, and gradealls. Oilers are not required on small Ford and Case backhoes or similar type equipment. No oilers are required on trench machines and 50-ton or 1-1/2 yard and under backhoes, cranes, shovels, draglines, and 1-1/2 yard hydraulic backhoes, also rough terrain cranes (commonly known as cherry pickers) equipped with single cab and controls. Manufacturer's Rating Capacity to be used. In the event that a second man is needed by the employer to operate said equipment, he shall be an operating engineer. The business representative and the employer shall have the right to meet and decide whether or not an oiler is required.

E. The employer shall furnish suitable shelter to protect employee from falling materials and from the elements. Heat and/or curtains shall be provided for all equipment wherever practical from November 1 to April 1. Umbrellas shall be furnished on all tractors wherever practical during summer months. Iced drinking water shall be furnished year round. The mechanics performing welding duties will be furnished welding gloves.

F. When there is equipment to be operated other than during normal operations when the rest of the normal crew is not working, the operating engineer who regularly operates the particular piece of equipment shall be given first chance to perform the work, if he can be contacted.

G. When an employee who regularly operates a particular piece of equipment is told not to report for work and the employer subsequently determines to operate the equipment, the operating engineer who was told not to report to work and who regularly operates the particular piece of equipment shall be given first chance to perform the work, if he can be contacted.

H. When moving equipment (covered by this agreement) by its own power, such equipment shall be operated by employees covered by this agreement.

I. Ownership of a truck shall not be a condition of employment or continued employment.

Article 23

Minor or Light Equipment Operation

Operating Engineers shall be employed on minor or light equipment in the manner described below:

1. Minor or light equipment is defined as air compressor (900 CFM and under), pump, welding machine (gasoline and diesel driven), conveyor, generator, mechanical heaters, and bush burners.

2. If up to two (2) pieces of minor or light equipment are put into part time operation, any operating engineer in Group A, B, or C shall operate up to two (2) pieces of minor equipment in addition to his regular job and shall receive an additional fifty cents (\$.50) per hour. No operator shall be allowed to operate more than two (2) pieces of minor equipment in addition to his regular job without approval of the business representative.

If operating engineer operates a piece of minor equipment for less than four (4) hours, he shall receive four (4) hours pay (\$.50 per hour additional). If operating engineer operates a piece of minor equipment over four (4) hours, he shall be paid for eight (8) hours for \$.50 per hour additional.

3. An operating engineer shall be employed when up to two (2) pieces of minor equipment are put into full

time operation at Group C hourly rate of pay. The operating engineer shall operate three (3) pieces to four (4) pieces of minor equipment at Group B hourly rate of pay. The operating engineer shall operate five (5) to six (6) pieces of minor equipment at Group A hourly rate of pay.

When there is a question of application of this minor equipment section, the business representative and the employer shall resolve such questions by mutual agreement.

Article 24

Industry Advancement Fund

Section 1. INDUSTRY ADVANCEMENT FUND OF THE TRI-STATE CONTRACTORS ASSOCIATION.

During the term of this agreement, commencing June 1, 2001, each employer, a party hereto, shall pay to the *Industry Advancement Fund of the Tri-State Contractors Association* one cent (\$.01) for each hour worked by each of the employees who are in the collective bargaining unit covered by this agreement. Payments shall be made on the forms and in the manner prescribed by the Fund Office and mailed to 1627 Bigley Ave, Charleston, West Virginia 25302.

Payments to the Industry Advancement Fund of the Tri-State Contractors Association will be made on all work performed in the following counties: Bell, Bracken, Grant, Perry, Mason, Robertson, Fleming, Carter, Greenup, Lewis, Morgan, Elliott, Lawrence, Magoffin, Johnson, Martin, Pike, Menifee, Breathitt, Wolfe, Knott, Boyd, Floyd, Leslie, Letcher, Rowan and Harlan.

Section 2. Payments to the above described Industry Advancement Program shall be held in trust for the purposes of generally benefitting and promoting the

Construction Industry, provided, however, that no expenditure from Said Fund shall be made for any activity harmful or injurious to the Union. No part of the fund allocated for the Construction Advancement Program shall be spent directly or indirectly for any of the following purposes:

1. Promotion of legislation opposed by the union or opposition to legislation favored by the union.
2. Subsidies, indemnities, or payment of any kind to contractors during strike, for, or in connection with a period of strike, lockout, or work stoppages.
3. Litigation before any court or administrative body against the union or the payment of any expenses directly or indirectly involved in any such litigation.
4. Publicity or public relations campaigns in support of management's position respecting bargaining negotiations with the union.

Each employer shall send the contributions to the Fund monthly on or before the 10th of each month with an accounting of hours for which it compensated each employee during the preceding month.

Article 25

Voluntary Drug and Safety Program

LABOR EDUCATION & DEVELOPMENT FUND (LEAD)

During the term of this agreement, commencing June 1, 2001, each employer, a party hereto, shall pay to the LEAD Program twelve cents (\$.12) for each hour

worked by each of the employees who are in the collective bargaining unit covered by this agreement. The Employer shall send the contributions to LEAD on the forms and in the manner prescribed by the Labor Education and Development Program and mailed to 2141 Carter Ave., P.O. Box 1027, Ashland, KY 41105 by the 10th of each month with an accounting of hours for which it compensated each employee during the preceding month.

Payments to the Voluntary Drug and Safety Program (LEAD) shall be used for the purposes of funding a drug testing and rehabilitation program for the employees covered by this agreement.

Article 26

Payment to Funds

Section 1. The contribution reports of the employer must be made on forms supplied by the offices of the various funds listed above.

Section 2. Each employer shall pay the contributions to the various funds monthly on or before the 15th of each month and failure of any employer to make this payment to the various funds by the 20th of the month on which payment is due, or for repeated failures to meet these payments by the 15th of each month, shall subject said employer to the following:

(A) A fine for liquidated damages set by the trustees of the respective funds, for the employer's delinquency.

(B) The delinquent employer shall, at the request of the trustees of the various funds set out above, be

required to furnish a surety bond, not to exceed Two Thousand Five Hundred Dollars (\$2,500.00), to insure that said Employer's future payments to the Fund will be made on a timely basis.

(C) The Union, at its option, may exercise its economic strength against the delinquent employer, by picketing said employer at its various construction projects, to protest the employer's continued delinquency, this shall include wages. Said picketing shall not be considered a breach of this agreement.

It is understood and agreed by and between the parties to this agreement that the remedies listed above for the union to pursue in the case of a delinquent employer are not exclusive but are in addition to all other remedies legally available to the Union at the time of said delinquency.

Section 3. Each employer signatory to or bound by this agreement agrees that his firm, partnership, or corporation shall and does hereby become an "employer" under the terms of the Agreements and Declarations of Trusts forming the various funds enumerated in Articles 8, 9, 25 and 27.

Article 27

Apprenticeship & Training

It is mutually agreed that the International Union of Operating Engineers Local 181 Apprenticeship and Training Trust, registered with the Bureau of Apprenticeship and Training, and the U.S. Department of Labor, is a part of this Agreement as is set forth herein.

It is agreed that effective June 1, 2001, and for the duration of the agreement, each employer signatory to this agreement, or facsimile thereof, will contribute to the Operating Engineers, Local 181, Apprenticeship and Training Fund forty cents (\$.40) per hour for each hour worked or paid for on all employees covered by this agreement. Each Employer shall send the contributions to the fund monthly on or before the tenth of each month with an accounting of hours for which it compensated each employee during the preceding month.

The pay rate of all apprentices shall be for the proper period of training as determined by the Joint Apprenticeship and Training Committee and as stipulated in the Apprenticeship Agreement. The following schedule of 1000 hour periods shall be the hourly rates of pay for apprentices:

First period, 0 to 1000 hours	60%
Second period, 1001 to 1999 hours.....	65%
Third Period, 2000 to 2999 hours	70%
Fourth Period, 3000 to 3999 hours	75%
Fifth Period, 4000 to 4999 hours	80%
Sixth Period, 5000 to 6000 hours	90%

At no time will the apprentice rate be more than the classification of the machine he is operating.

Article 28

Project Agreement

It is mutually agreed that on projects for which no predetermined wage rate is established, the association may request to negotiate a project agreement or job site agreement if they receive such a request from any employer signatory hereto. In no case shall the Union

negotiate a project or job site agreement with an individual employer unless approved by the association. If negotiated, all employers signatory to this agreement shall have the right to apply the terms on wages, hours or work conditions contained in the said project or job site agreement to their employees for the same project or job site and such application shall not be deemed a violation of this agreement.

In addition, the association and Union hereby agree that any work that is explicitly excluded from coverage under KRS 337.010 shall be performed at a wage rate not to exceed eighty per cent (80%) of the current wages of this agreement provided that the current fringe benefit package shall be paid.

The negotiated project or job site agreement shall be limited to particular job sites or to particular projects. When that project or job site agreement expires, then work is subject to the regular terms and conditions of this agreement.

Article 29

Administrative Dues Check-off

The employer agrees to deduct from the pay of the employees covered by this agreement an administrative dues deduction. Before any such deduction is made, the union shall furnish to the employer a properly signed authorization form for the employees permitting such deduction. Such deduction shall be remitted to the local union on a monthly basis on the forms and in the manner prescribed by the local union.

The union agrees to hold the employer harmless from any and all suits, claims or legal proceedings which

arise as a result of enforcement of this article or compliance with this article by the employers.

Exception: Administrative dues monies withheld will be deemed as wages and collection thereof will be in accordance with Article 26, Paragraph C of this agreement.

Article 30

Building Trades Dues Check-off

Five cents (\$.05) per hour shall be deducted from the wage package and paid to the Tri-State Building and Construction Trades Council on all hours paid to employees covered by this agreement. Such deductions shall be reported and transmitted monthly on the forms and in the manner prescribed by the Tri-State Building and Construction Trades Council and mailed to the council's office at 2141 Carter Ave., P.O. Box 1027, Ashland, KY 41105.

KENTUCKY BUILDING AGREEMENT

Signed and Agreed to this first day of June, 2001

**INTERNATIONAL UNION OF
OPERATING ENGINEERS,
LOCAL UNION NO. 1B1**

**James O. Manning
Business Manager**

**Freddie R. Blaylock
President**

**John Brothers
Recording Secretary**

**TRI-STATE CONTRACTORS
ASSOCIATION, INC.**

**Jim Cerra
Executive Secretary**