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**K#: 8424**

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**Union: International Union of Operating Engineers (IUOE)**

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8424

**AGREEMENT** 1, 700 cc

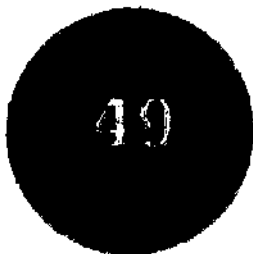
**Between**

**ASSOCIATED GENERAL CONTRACTORS  
OF MINNESOTA, BUILDERS DIVISION**

**And**

**INTERNATIONAL UNION OF  
OPERATING ENGINEERS, LOCAL NO. 49**

**MAY 1, 2004 - APRIL 30, 2007**



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44 Pages

**A G R E E M E N T**

**Between**

**ASSOCIATED GENERAL CONTRACTORS  
OF MINNESOTA, BUILDERS DIVISION**

**And**

**INTERNATIONAL UNION OF  
OPERATING ENGINEERS, LOCAL NO. 49**

**MAY 1, 2004 - APRIL 30, 2007**

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# **A G R E E M E N T**

**Between**

**ASSOCIATED GENERAL CONTRACTORS OF  
MINNESOTA BUILDERS DIVISION**

**And**

**INTERNATIONAL UNION OF  
OPERATING ENGINEERS LOCAL NO. 49**

**May 1, 2004 - April 30, 2007**

THIS AGREEMENT, by and between, or on behalf of the parties and in the capacities and status designated in Article 2, hereof, establish rates of pay, wages, hours of employment, fringe benefits, and vacations where applicable, and other terms and provisions concerning employment relations and collective bargaining relations and collective bargaining between or involving such parties.

NOW, THEREFORE, for such purposes, it is agreed as follows:

## **Article 1 - CONSIDERATIONS FOR AGREEMENT**

**Section 1.** The considerations for this Agreement are the mutual promises of the parties and their mutual purposes to establish, maintain and promote sound and harmonious labor relations.

**Section 2.** It is desirable to maintain the cooperative relationships existing during past years between the Employers and the Employees represented by the Union. It is, therefore, the mutual purposes of both parties to preserve past practices to the fullest extent possible.

## **Article 2 - DESIGNATION OF PARTIES**

**Section 1.** The Minnesota Builders Division of Associated General Contractors of Minnesota, (hereinafter called AGC), and the Minnesota Concrete and Masonry Association, are parties to this Agreement in a representative capacity, and as agent only, acting on behalf of certain of its members whose names are listed on Schedule 1, and who have agreed to be bound to the terms of this Agreement through AGC and on behalf of such additional Employers as may execute identical counterparts thereof, through

AGC. AGC is entitled to recognition, in such capacity, as agent and collective bargaining representative for the Employers who are or may become parties hereto, for all purposes of this Agreement, including its right in such capacity, to represent such Employer parties before NLRB or otherwise pursuant to and/or in aid, support, or enforcement of the terms and provisions of this Agreement.

**Section 2.** The AGC members listed on Schedule 1, who have agreed to be bound to the terms of this Agreement through the AGC, or other Employers who have done likewise (hereinafter called *Employers*), are parties hereto as principals, but their status is several and not joint.

**Section 3.** The labor organizations on their own behalf and on behalf of the Employees whom they represent and on whose behalf they are recognized, or to be recognized, are parties hereto. The status of said Union is dual, in that they are parties hereto as principals and also as agents for the Employees whom they represent and on whose behalf they are recognized, or to be recognized, as hereinafter provided.

### **Article 3 - UNION RECOGNITION**

**Section 1.** The Employers hereby recognize each of the Unions to which the Contractor has agreed to be bound, as the exclusive collective bargaining representative of the Employees in the craft signatory to this Agreement, in respect to rates of pay, wages, hours of employment and fringe benefits, where applicable, and other conditions of employment. The respective Unions are hereby recognized hereunder by the Employers as the sole and exclusive bargaining representatives of the Employees respectively represented by them. The respective Unions represent that they are qualified for such recognition.

### **Article 4 - UNION SECURITY**

**Section 1.** Each of the Unions recognized under Article 3 of this Agreement shall be entitled to union security to the extent that each Employee in the collective bargaining unit represented by such Union shall, on the eighth (8th) day following the beginning of employment in such collective bargaining unit by such Employer under the coverage of this Agreement or the effective

date of this Agreement, whichever is later, be required to become and remain a member in good standing of such Union as a condition of employment.

**Section 2.** Employees need not become members of the Union in order to meet their financial obligations as outlined above. Employees who pay the Local Union's initiation fees and dues relating to the Union's representational function shall be deemed to have satisfied the obligation set forth.

**Section 3.** The Employer will be required to dismiss employees who refuse to comply with this Union shop provision after written notification by a bona fide representative of the Union to a responsible representative of the Employer on the job. Each of the Unions shall be entitled to approach individual Employees for organizational purposes as provided by law. All organizational functions must be pursued during that period which will not conflict with the Employer's work.

## **Article 5 - HIRING**

**Section 1.** There shall be no discrimination against any Employee because of affiliation or non-affiliation with the Unions, color, creed, age, sex, political or religious beliefs. If at any time during the term of this Agreement the prohibition against a closed shop which is contained in the Labor-Management Relations Act of 1947 is removed either by legislative enactment or by the decision of the United States Supreme Court, the former closed shop provision of the 1947 agreement shall be reinstated in this Agreement and the inapplicable articles shall become inoperable. The Unions agree that applicants for employment referred to an Employer shall be experienced in the classifications requested.

**Section 2.** Employers shall hire applicants by calling the Union. Whenever an Employer desires to hire applicants in the classifications covered by this Agreement to perform work on the project, the Employer shall notify the Union office either in writing or by telephone stating the locations, starting time, approximate duration of the job, type of work to be performed, and the number of applicants required.



**Section 3.** The Unions shall establish, maintain and keep current a nondiscriminatory Open Employment List of applicants who are competent and fit to perform work in the classifications covered by this Agreement. Such Open Employment List shall not be based on, nor shall referrals be in any way affected by Union membership, Union Constitution, Union By-Laws, rules or regulations, or by any other aspect or obligation of Union membership policies or requirements.

**Section 4.** Registration or re-registration of applicants for referral from the Open Employment List shall be accepted at the Union Hall at any time between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (holidays excepted). All applicants shall be registered in the order of the time and date of registration. To remain on the Open Employment List, an applicant for referral must renew their registration not later than sixty days from the date of their last registration or re-registration. Upon their initial registration, each applicant for referral shall be required to furnish employment information, including the names of previous Employers, lengths of employment with such employers, licenses held, any special skills possessed by them, and such other data as may be pertinent. Upon re-registering, each applicant shall furnish such additional information as may be required to keep the employment data current and accurate.

**Section 5.** The Union shall refer to an Employer only those applicants whose names appear on the Open Employment List. The following principles shall prevail in the referral of applicants:

- (a) Requests by Employers for Master Mechanics shall be honored without regard to the requested person's place on the Open Employment List provided that they have worked for the Employer in the past five (5) years in the State of Minnesota.
- (b) Requests by Employers for particular applicants previously employed as engineers by the Employer in the State of Minnesota within a period of five years immediately preceding the request shall be honored without regard to the requested person's place on the Open Employment List.

- (c) Bona fide requests by Employers for applicants with special skills and abilities shall be honored, and persons possessing such skills and abilities shall be referred in the order in which their names appear on the Open Employment List.
- (d) In the best interest of the Industry and to maintain a pool of learners, requests by the Employers for applicants who are to be employed as Oilers or (Crane Operator Apprentices) and Greasers and are sons and daughters and sons-in-law or daughters-in-law of management, or of Operating Engineers (seeking summer employment only) shall be honored without regard to the requested applicant's place on the Open Employment List.
- (e) Except in the case of applicants referred pursuant to subparagraph (a), (b), (c), and (d) of this section, applicants (including oilers or (crane operator apprentices) and greasers) shall be referred to as follows:
  - (i) Applicants who have worked in the State of Minnesota in the categories of employment covered by this Agreement for an aggregate time of two thousand (2000) hours or more immediately preceding registration shall constitute Group A. Applicants shall be referred from Group A in the order in which their names appear on the Open Employment List until Group A has been exhausted.
  - (ii) Applicants who have worked in the State of Minnesota in the categories covered by this Agreement for an aggregate time of more than five hundred (500) but less than two thousand (2000) hours during the period of three years immediately preceding registration shall constitute Group B. After Group A has been exhausted, applicants from Group B shall be referred in successive order as their names appear on the Open Employment List until Group B has been exhausted.
  - (iii) All applicants not in Group A or Group B shall constitute Group C. When Group A and Group B have been exhausted, applicants from Group C shall be referred in successive order as their names appear on the Open Employment List.

- (iii) Any applicant receiving a pension from the International Union, Local Union or from any source of the industry, including Social Security, shall be included in Group B. When Group A has been exhausted, applicants from Group B shall be referred in successive order as their names appear on the Open Employment List.

**Section 6.** Each Employer shall have the absolute and unconditional right to reject any applicant referred by the Union. If an applicant reports for work and is not put to work, they shall receive a maximum of two hour show-up time except in cases where inclement weather or any other conditions beyond the control of the Employer prevents their employment; the Employer has previously notified the Union that the applicant is not acceptable; the applicant fails to report at the time designated by the Employer; or the Employee reports under the influence of alcohol. If after twenty-four (24) hours (Saturday, Sunday and holidays excluded) have elapsed, applicants satisfactory to the Employer have not appeared at the job in sufficient numbers to fulfill the Employer's need as stated in the Employer's notification to the Union, the Employer shall be free to hire applicants from any source.

**Section 7.** Any applicant who is rejected by an Employer to whom they were referred for employment shall be restored to their place on the Open Employment list. When an applicant is actually employed on a job to which they were referred for more than seven days, such applicant's name shall be removed from the Open Employment List. If an applicant, upon being called for three different jobs that they have registered and is classified for, refuses to accept all three jobs, they shall then be placed on the bottom of the Open Employment List - unless ill, in which case, proof must be furnished. The Employer shall make out a termination slip for *Employees discharged for cause*. The slip shall state the reason for discharge and one copy shall be furnished to the Union.

**Section 8.** A Separate Apprentice List shall be established and maintained for registered apprentices and apprentices shall be referred for employment in the order in which their names appear on such lists. Request by Employer for particular registered apprentices or persons who will become employed as registered

apprentices shall be honored without regard to the requested applicant's place on such apprentice list.

**Section 9.** There shall be created a Joint Hiring Committee composed of three persons appointed by the Union and three persons appointed by Associated General Contractors of Minnesota. The function of the Joint Hiring Committee shall be to supervise the operation of the employment referral system established in accordance with this Article. The Joint Hiring Committee and the individual members thereof shall have the power, but not the duty:

- (a) to establish, revise and enforce rules and regulations for the operation of the employment referral plan;
- (b) to inquire into and investigate the operation of the employment and referral plan; and
- (c) to hear and determine any and all grievances arising out of the operations of the employment referral plan. Any applicant registered on the Open Employment List, any apprentice registered on the Apprentice List, and any applicant for registration on either list shall have the right to appeal to the Joint Hiring Committee any dispute or grievance arising out of the operation of the employment referral plan. A grievance may also be initiated by a member of the Joint Hiring Committee.
- (d) If the Joint Hiring Committee is unable to reach a decision over a grievance within ten days after the grievance is referred to the Joint Hiring Committee, the grievance shall be submitted to a Neutral Arbitrator selected by the Joint Hiring Committee. If fifteen days have elapsed since the dispute was referred to the Joint Hiring Committee, and the Joint Hiring Committee has not reached a decision on the grievance, or on the identity of a Neutral Arbitrator, any member of the Joint Hiring Committee may apply to the Minnesota State Bureau of Mediation Services for the appointment of a Neutral Arbitrator. The authority of the Neutral Arbitrator shall be limited to the interpretation and application of the provisions of this Article. All decisions of the Joint Hiring Committee or the Neutral Arbitrator shall be final and binding on all parties, including the apprentices or applicants involved.

**Section 10.** The Employers and the Union mutually agree to post in places where notices to Employees and applicants for employment are customarily posted, all provisions of this Agreement relating to the hiring of applicants and all rules and regulations issued by the Joint Hiring Committee in connection therewith.

**Section 11.** The Employers and the Union mutually agree that the provisions of this Article shall not be applicable to the employment of supervisory Employees.

**Section 12.** The Employer and the Union mutually agree that the provisions of this Article shall not be applicable to the employment of workers employed by the Employer during the preceding twelve months in the State of Minnesota. Employers agree to notify the Union by phone or mail of Employees rehired under the provisions of this Section as soon as possible or within fifteen days of day of the rehire. *The employee shall be responsible to notify the Union on the 1st day of recall. Therefore, their name shall be removed from the list after the seventh day of recall.*

**Section 13.** For the purposes of this Article, the word "Employer" shall be deemed to include joint ventures and affiliated business entities.

**Section 14.** For the purpose of placement on the Open Employment List, officers and business representatives of the Union and supervisory personnel who have worked previously in the State of Minnesota, in one or more categories of employment covered by this Agreement shall be deemed to have been employed in said categories for the duration of their employment as officer, business representative or supervisor.

**Section 15.** In order to meet Federal, State or other governmental requirements or regulations relative to Equal Employment Opportunity and Affirmative Action, Contractors may hire from any source if the Union cannot supply.

## **Article 6 - INSURANCE AND TAXES**

**Section 1.** The Employer agrees to carry any and all insurance and pay all applicable taxes as required by applicable State and Federal law.

**Section 2.** The Employer further agrees to pay the State Worker's Compensation Insurance and into the State Unemployment Compensation Fund such amounts as are due from and after the date Employees from these Unions are employed on the job.

### **Article 7 - CONFLICTING AGREEMENTS**

**Section 1.** The Employers agree not to enter into any labor agreements covering construction jobs, exclusive of maintenance and repair shops, with their Employees on whose behalf any of the Unions have been granted recognition hereunder individually or collectively which in any way conflicts with the terms and provisions of this Agreement.

**Section 2.** If the Unions enter into any Agreements with any individual Employer or group of Employers competing in the same type of work which provides for his, her, its or their Employees less favorable wages, hours or conditions than herein specified, the Employer parties hereto may open this Agreement for the express and exclusive purpose of negotiating less favorable wages, hours or conditions.

### **Article 8 - VIOLATIONS OF AGREEMENT**

**Section 1.** In the event the Employer deliberately violates the provisions of this Agreement relating to wages, hours of work, or overtime differentials, and vacations, any back pay owed to the Employee because of such violation shall be paid to the Employee at the rate of two (2) times the standard and overtime rate.

**Section 2.** Reasonable evidence of clerical error or honest mistake in interpretation of this Agreement shall exempt the Employer from the double penalty provisions. In such a case the Employer shall be required to pay only the actual amount of back pay involved, at the standard straight time and/or overtime rate.

**Section 3.** When there is evidence of collusion between the Employer and Employee to violate this Agreement, any back pay collected shall be made payable to the Employee, and shall be deposited with the Union, if the Board of Arbitration so orders.

**Section 4.** Determination of violations to this Agreement as set forth in Section 1, 2 & 3 above shall be determined in accordance with the Settlement of Disputes Article of this Agreement.

## **Article 9 - DISCHARGE**

**Section 1.** The Employers may discharge any Employee whose work or behavior is unsatisfactory or who fails to observe the safety precautions or other rules and regulations prescribed by the Employer or any governmental agency. No Employee shall be discharged for refusing to work under unsafe conditions.

## **Article 10 - SETTLEMENT OF DISPUTES**

**Section 1.** Any controversy over the interpretation of, or adherence to, the terms of this Agreement shall first be attempted to be resolved between the Union and the Employer. Any controversy or grievance shall be deemed to be waived unless submitted in writing within ten (10) working days after the first occurrence of the event or knowledge of the conditions giving rise to the grievance.

**Section 2.** If a satisfactory settlement cannot be reached within five (5) working days, the matter may be brought to the AGC-Basic Trades Disputes Board, if both parties agree in writing. In such case the grieving party shall submit a written statement of the claims and facts of the matter to other parties including the Employer, the Union and the AGC. (The rules of the Disputes Board shall be those already adopted by the Joint Committee.)

**Section 3.** Both parties must sign an agreement to bring the matter to the Disputes Board. Both parties must sign the document binding them to board action. If either party does not attend meeting after signing above and being notified of the meeting date and time, a decision will be rendered though they are not present.

**Section 4.** Decision of the Disputes Board will be drafted at the conclusion of the meeting, signed by members of the Board, and distributed to both parties at that time.

**Section 5.** The Disputes Board is to be made up of equal numbers of Management representatives and Labor representatives who will meet regularly to settle any disputes (other than jurisdictional disputes), to avoid work stoppages, or other problems affecting productivity. This Board shall have no power to add to, delete, or modify any of the terms or provisions of this Agreement. All decisions of the Disputes Board shall be final and binding on the parties.

**Section 6.** If either party, after signing above documents, refuses to abide by the decision of the Disputes Board, economic action may be taken by the other party.

**Section 7.** Should the Disputes Board, as established, be unable to reach a decision on the matter before it, or because of a deadlock (lack of majority) or if either party refuses to use the Joint Disputes Board then the matter may be referred to a Board of Arbitration that shall operate in the following manner: The Union shall appoint an Arbitrator and the Employer shall appoint an Arbitrator within ten (10) working days and the two Arbitrators thus selected shall appoint a Neutral Chairperson. In the event of the failure of the Arbitrators selected by the parties to agree on a Neutral Chairperson within ten (10) working days after the dispute is referred to arbitration, they shall ask the Federal Mediation and Conciliation Service for a list of five (5) names. Within five (5) days after receipt of such list, the parties shall determine by lot the order of elimination and thereafter each shall in the order alternately eliminate one name from the list until only one name remains and the final name shall be selected as the Neutral Chairperson.

**Section 8.** The Neutral Chairperson thus selected shall set the time and place for hearings, which shall begin no later than ten (10) working days after their selection, with the final decision to be handed down in not more than ten (10) working days after the last hearing is held. The time may be extended by mutual agreement between the parties.

**Section 9.** The decision of the Arbitrators shall be final and binding on signatories to this Agreement who are parties to the dispute; provided, however, that the Arbitrators shall have no power to add to, delete, or modify any provisions of this Agreement.

**Section 10.** The Employer will pay all expenses of their Arbitrator and the Union will pay all the expenses of its Arbitrator, and the Employer and the Union shall share equally all fees and expenses of the Neutral Chairperson.

**Section 11.** All work and other conditions prevailing immediately prior to the raising of the question to be decided under this Article shall remain unchanged until final decision has been reached hereunder.



## **Article 11 - MANAGEMENT**

**Section 1.** Management reserves the right to manage its jobs to the best interest of Management; the right to retain or dispense with Employees; to reduce or increase the number of Employees needed on each project, crew activity or piece of equipment. Under no conditions will Union Representatives make demands for more Employees in a crew on specific projects insofar as it does not conflict with this Agreement.

**Section 2.** Management shall have the right to determine employment qualifications of Employees and may discharge any Employee whose work, in Management's discretion, is unsatisfactory or who fails to observe reasonable rules, regulations or safety precautions prescribed by the Employer or any governmental agency, just so long as it does not violate any terms of this Agreement.

**Section 3.** The Employee shall use any tools, equipment, machinery, materials, products or procedures of their craft required by the Employer.

## **Article 12 - SAFETY**

**Section 1.** Accident and injury free operations shall be the goal of all Employers and Employees. To this end the Employer and the Employee will, to the best of their ability abide by, and live up to the requirements of the several State and Federal Construction Safety Codes and Regulations.

**Section 2.** To this end the Employer shall from time to time issue rules or notices to their Employees regarding on the job safety requirements. Any Employee violating such rules or notices may be subject to disciplinary action. No Employee may be discharged for refusing to work under unsafe conditions.

## **Article 13 - PICKETS, BANNERS AND STRIKES**

**Section 1.** The Employer shall not require any Employee, to go through a primary picket line. It shall not be a violation of this Agreement and it shall not be cause for discharge or disciplinary action in the event an Employee decided not to cross a primary picket line, or banner. This provision does not apply to watchper-

sons or supervisory personnel, if they go through the picket line to protect life or property. This clause shall not apply to a secondary picket line and banners or it shall not apply to jurisdictional picket lines and banners.

#### **Article 14 - STRIKES, LOCKOUTS, WORK INTERFERENCE**

**Section 1.** The Unions and the Employers agree that there shall be no strike, lockout, work stoppage, slow-down, sit-down, stay-in or other concerted interference with the Employer's business or affairs by Unions and/or the members thereof, and there shall be no lock-out during the life of this Agreement without first giving AGC or the Employer and the Union 48 hours written notice and sending this dispute through procedures established in Article 10.

#### **Article 15 - SUBCONTRACTORS**

**Section 1.** If an Employer subcontracts work to be performed at the jobsite, the Employer shall require the Subcontractor to sign a subcontract agreement containing the following provisions:

- (a) The Subcontractor agrees to comply with the provisions relating to wages, fringe benefits and premium pay and on-the-job working conditions for the 2004-2005-2006 expiring on April 30, 2007 collective bargaining agreements in the Building Construction Industry entered into between AGC and the Union for the duration of such prime Contractor's or Employer's project.
- (b) The Agreement of the Subcontractor to so comply shall apply:
  - (i) Only those collective bargaining agreements which cover classifications of work in which the Subcontractor has Employees working on the projects; and
  - (ii) Only to work performed on the project.

**Section 2.** The Employer shall require the Subcontractor to sign a subcontract agreement containing the foregoing provisions only:

- (a) With respect to work located in territorial areas covered by the terms of respective union agreements; and

- (b) Where the Subcontractor does not represent to the Employer that they have an established building trades collective bargaining relationship covering the affected classification of work.

**Section 3. Controversy with Subcontractor.** In the event a Subcontractor is involved in a controversy, the Union shall be obligated to bring it to the attention of the prime Contractor in an effort to settle the controversy before a work stoppage is brought about.

### **Article 16 - UNION REPRESENTATIVES**

**Section 1.** Only authorized Union Representatives shall have the right to confer with Employees on the job. Each and every Union Representative shall first contact the job superintendent or foreperson, or whoever is in charge of the project before conferring with any Employee. At no time shall such Union Representative hinder or interfere with the progress of the work.

**Section 2.** It shall be the obligation of the Union Representative to adhere to all pertinent safety rules of the particular job while on the Employer's premises.

### **Article 17 - ROTATION OF EMPLOYEES**

**Section 1.** The Union may not require rotation of Employees during the life of this Agreement, other than Apprentices shifted for purposes of training.

### **Article 18 - PAYROLL RECORDS**

**Section 1.** In case of a dispute arising over hours and wages, the Union shall have the right to examine the payroll records of the individual Employees covered by this Agreement upon which there is a dispute. Prior to the actual examination, a written request shall be submitted to the Employer involved.

### **Article 19 - APPLICATION OF WAGE RATES**

**Section 1.** The determining factor in applying different area rates shall be the location within the State in which the work is being performed and not the home address of the Employee or Employer. Pay rates for other crafts with respect to areas are irrelevant.

## **Article 20 - PAYDAY AND WAGE PAYMENT**

**Section 1.** All regular, full time Employees covered by this Agreement shall be paid in full each week. Not more than seven (7) days shall be held back including payday.

**Section 2.** Wages shall be paid at or before the end of the shift of the designated payday.

**Section 3.** When Employees are laid off, or discharged, they shall receive all money due them in cash or negotiable check within twenty-four (24) hours. If Employees do not appear to collect their check, the Employer will immediately mail their check to the Employee's last known address.

**Section 4.** An Employee who quits will be paid any wages due them at the next regular payday.

**Section 5.** The Employer agrees to provide the following information on employee's check stub: Hours, date, regular pay, overtime pay, gross pay, deductions, net pay.

**Section 6.** Wage rate classifications in this Contract establishes only a rate for Employees hired by Management and in no way relates to manning of projects.

## **Article 21 - FRINGE BENEFITS**

**Section 1.** The Employer agrees to contribute every month, not later than the 15th of the following month, hereinafter called the "due date", such sums for Pension, Health and Welfare, Vacation, Apprenticeship and Promotion funds as they may be established, an amount for each hour worked by all Employees covered by this Agreement. The Fund's Trustees shall equally represent the Union and the Employer. The terms of the Trust agreements establishing those funds are hereby incorporated as a part hereof.

- (a) Contributions to be paid on one check with all other fringes to an administrative agency with a local office.
- (b) Reporting forms and instructions standardized with other basic trades.
- (c) Contributions paid on an hourly basis on all hours worked

and not to be pyramided: Example: if hourly wage is \$8.00 plus 10¢ fringe, time and one-half overtime rate equals \$12.00 plus 10¢ fringe. On shift work, contributions paid on the same proportionate hourly basis as hours worked to hours paid.

- (d) Any Insurance Carrier, Administrator, Consultant, Actuary, Fiduciary Agent which may be used shall be selected by competitive bidding upon invitation by Trustees.
- (e) There shall be no requirement that Employees sent to work out side the scope of this Agreement be paid fringes, nor shall the Employer be required to duplicate fringe contributions.
- (f) (1) An Employer shall be considered "delinquent" for a particular work month if its required report and payment for that month are not postmarked on or before the 15th of the following month (the "due date"), irrespective of whether such delinquency is willful or otherwise.
- (2) If an Employer becomes delinquent for a particular work month (as provided in (1) above), they shall be required to pay, as liquidated damages and not as a penalty, an amount equal to 15% of the payment otherwise due for such work month, it being understood and acknowledged by the parties that actual damages are extremely difficult or impossible to ascertain and that the amount so fixed as liquidated damages is reasonable.
- (3) If an Employer becomes delinquent for a particular work month (as provided in (1) above), as to any or all of the Trust Funds, and if the report and the full payment due for such work month (including liquidated damages) are not postmarked in the office of the Fund Administrator on or before the 15th day of the month following the applicable due date, such Employer shall (in addition to paying the full amount due) be required to post in the office of the Fund Administrator a cash or surety bond in a form satisfactory to the Trustees and in the face amount of \$30,000, which shall cover all of the Trust Funds and assure payment of all sums called for by this Agreement in the

event of the Employer's subsequent delinquency as to any and all of the Trust Funds, and which shall be kept in force and maintained in the full face amount for a period of not less than 12 consecutive calendar months during which no further delinquency has occurred on the part of such Employers. The Union shall refuse to supply workers and shall prohibit Employees covered by this Agreement from working for any such delinquent Employer who fails or refused to provide or maintain such bond.

- (4) Illustration of clauses (1), (2) and (3): If an Employer's report and payment for the January work month have not been postmarked before February 16, such Contractor becomes delinquent at that point and must pay the full amount due, plus 15%. If the report and the full amount for January (including the 15% liquidated damages amount) are not postmarked before March 16, the Employer must then post a \$30,000 bond in addition to reporting and paying the full amount due.
- (5) The delinquent Employer shall also be required to pay all costs of collection actually incurred by the Trust Funds, including all attorney fees, service fees, filing fees, court reporter fees, and all other fees, costs and disbursements incurred by or on behalf of the Trust Funds in collecting the amount due. Trustees at their discretion may reimburse (from the fund) the Unions for picketing and bannering expense actually incurred by the Union in collecting amounts due the Trust Funds, which expenses shall be deemed to be costs of collection incurred on behalf of the Trust Funds.
- (6) Each Employer who is required to make payments to the Trust Funds shall promptly furnish to the Trustees and the Unions, or their authorized agents, on demand all necessary employment and payroll records relating to its Employees covered by this Agreement, including any other relevant information that may be required in connection with the administration of the

**Trust Funds.** *The Trustees, or their authorized agents, may examine such employment, or payroll records whenever such examination is deemed necessary by the Trustees and the Unions, or their authorized agents in connection with the proper administration of the Trust Funds. If any Employer fails or refuses to furnish its payroll records to the Trustees and the Unions, or their authorized agents upon demand or refuses to afford the Trustees, or their authorized agents reasonable opportunity to examine the same in accordance with standard auditing procedures, the Trustees and the Unions may enforce such rights by legal action, in which event all attorney fees, service fees, filing fees, court reporter fees and other legal costs and disbursements, as well as the auditing fees and costs incurred in conducting such audit, shall be paid by such Employer on direction of the Trustees. The Unions shall also have the right to take economic action to enforce such rights on behalf of the Unions and the Trustees, and the Trust Funds shall reimburse the Unions for picketing and banner expenses actually incurred in enforcing such rights.*

- (7) Notwithstanding the provisions of Article 10 Settlement of Disputes, the failure, refusal or neglect of an Employer to report and to pay sums due the Trust Funds or otherwise to comply with the terms and provisions of this Article shall not be subject to arbitration.
- (8) The parties to this Agreement acknowledge that the provisions of this Agreement establishing rates of pay, wages, all hours of employment and other terms and conditions of employment, including fringe benefits, apply to Employees employed in job classifications within the jurisdiction of the Unions, REGARDLESS OF WHETHER OR NOT SUCH EMPLOYEES ARE MEMBERS OF THE UNION.
- (g) Any and all fringe contribution rates shall be open for adjustment upon each anniversary date of the effective date of this Contract, and shall be within the discretion of the Trustees

The Trustees shall provide thirty (30) days written notice to the Union and to AGC of any adjustment and such adjustment shall operate to adjust wages in a like amount.

- (h) Health and Welfare and Pension to be sent to Wilson-McShane Corp., 2850 Metro Drive, Suite 404, Bloomington, Minnesota 55425.

#### **Article 22 - SAVING CLAUSE**

**Section 1.** This Agreement is intended to be in conformity with all applicable and valid State and Federal laws, rules and regulations.

**Section 2.** Any conflict between the provisions of this Agreement and the terms of any such laws and regulations shall cause the provisions of this Agreement so in conflict to be superseded or annulled but shall not supersede or annul the terms and provisions of this Agreement which are not so in conflict.

#### **Article 23 - ENTIRE UNDERSTANDING**

**Section 1.** This Agreement covers the entire understanding between the parties hereto, except the Letter of Understanding relating to picket lines which was signed by the parties on July 2, 1975.

#### **Article 24 - DURATION**

**Section 1.** All terms of this Agreement shall take effect on May 1, 2004 and shall remain in full force and effect through April 30, 2007.

**Section 2.** Any party has the right to terminate or amend this Agreement by giving notice to the other party, sixty (60) days before the expiration of this Agreement. Failure to give such notice shall cause this Agreement to be renewed automatically for a further period of twelve (12) months.

**Section 3.** In the event such written notice is given and a new Agreement is not signed before the expiration of this Agreement, then this Agreement shall continue in force until a new Agreement is signed, negotiations are formally broken off, or until a strike or lockout occurs.



## **SCHEDULES**

### **Schedule 1 - LIST OF CONTRACTORS**

### **Schedule 2 - SUBSISTENCE**

**Section 1.** Subsistence pay shall be paid Employees at the rate of \$30.00 for each working day on the job, on jobs located more than 35 miles but less than 75 miles from the nearest point of the city limits of Minneapolis and St. Paul, provided that the Employee lives more than 35 miles, but less than 75 miles from the jobsite.

**Section 2.** Subsistence pay shall be paid Employees at the rate of \$40.00 for each working day on the job, on jobs located more than 75 miles from the nearest point of the city limits of Minneapolis and St. Paul, provided that the Employee lives more than 75 miles from the jobsite.

**Section 3.** Mileage shall be determined by the distance traveled on the most direct route by road.

**Section 4.** When Employees eligible to receive subsistence under Section 1 and 2 above are required to report for work but are unable to work because of inclement weather and other conditions beyond the control of the Employee, the Employee shall receive subsistence pay for that day.

**Section 5.** When a holiday falls on a Tuesday, Wednesday, or Thursday, the Employee eligible to receive subsistence under Section 1 and 2 above, shall receive subsistence for that day.

**Section 6.** Minneapolis/St. Paul downtown parking of up to \$5.00 per day with receipt. Employer has option of providing parking or shuttle.

### **Schedule 3 - CLASSIFICATIONS, WAGES AND FRINGES**

- Group 1 - Helicopter Operator**  
Tower Crane 250' and over  
Truck & Crawler Cranes with 200' of Boom and over, including jib  
\*Fifty cents (\$.50) per hour premium pay for Truck and Crawler Cranes with 300' of Boom and over, including jib

- Group 2 -** Concrete Pump Operator 50 Meters and 164 Feet of Boom and Over  
 Piling Driving Operator (when three drums are in use)  
 Tower Crane 200' and over  
 Truck and Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
- Group 3 -** All Terrain Vehicle Cranes  
 Boom Truck Operator over 100'  
 Concrete Pump Operator 32 to 49 meters/102 feet to 163 feet of Boom  
 Derrick (Guy & Stiffleg)  
 Master Mechanic\*  
 Tower Cranes - Stationary - up to 200'  
 Self-Erecting Tower Crane 100 feet and over measured from boom foot pin  
 Traveling Tower Crane  
 Truck & Crawler Cranes up to and not including 150' of Boom, including jib
- Group 4 -** Crawler Backhoe  
 Fireman, Chief License  
 Hoist Engineer (3 Drums or more)  
 Locomotive Operator  
 Overhead Crane Operator (inside building perimeter)  
 Tractor Operator with Boom
- Group 5-** Air Compressor Operator 450 CFM or over (2 or more machines)  
 Boom Truck Operator , up to and including 100'  
 Concrete Mixer Operator  
 Concrete Pump Operator up to 31 meters/101 feet of Boom  
 Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction  
 Forklift  
 Front End Loader  
 Hoist Engineer (one or two drums)  
 Mechanic or Welder



Power Plant Engineer (100KW and over on multiples equal to 100KW and over)  
Pump Operator and/or Conveyor Operator (2 or more machines)  
Self-Erecting Tower Crane under 100 feet measured from boom foot pin  
Straddle Carrier Operator  
Tractor Operator over D2  
Well Point Pump Operator

**Group 6 -** Concrete Batch Plant Operator  
Fireman, First Class License  
Front End Loader Operator, up to 1 cu. yd.  
Gunitite Operator  
Tractor Operator D2 or similar size  
Trenching Machine Operator all utilities, excludes Walk-Behind Trencher

**Group 7 -** Air Compressor Operator 600 CFM or over  
Brakeman  
Concrete Pump/Pumpcrete or Complaco-type Machine Operator  
Crane Operator Apprentice  
Fireman, Temporary Heat  
Pick-up Sweeper (1 cu. yd. and over hopper capacity)  
Pump and/or Conveyor Operator  
Welding Machine Operator (see Schedule 16 on Air Compressors, Pumps, Conveyors, Welding Machines)

**Group 8 -** Elevator Operator  
Mechanical Space Heater (Temporary Heat)  
Greaser

Remove Truck Crane Oiler and Oiler from Oiler and Greaser per committee. Committee to transition Oilers to apprentice classification. The committee shall operate under a joint labor management directive providing instruction with a statement of intent. The committee shall provide recommendations by August 1, 2004, or implementation by January 1, 2005. We will agree to binding arbitration on the initiative. Crane Operator Apprentice required

on all heavy industrial sites in Zone 1 per schedule 7 (a)-(f). Base rate of Group 7 percentages to apply. Crane Operator Apprentices do not receive premiums, i.e. boom lengths, tonnage, etc.

**CCO Crane Certification Premium:** All Crane Operators who have attained CCO certification shall receive a \$.50 per hour premium provided they have been certified for the appropriate type of crane they are operating.

**Tower Crane Operators** will receive a \$.50 premium if the Operator has a CCO certification for any mobile crane operation. When a test is formulated for tower cranes, the Operator must certify for tower cranes within one year in order to receive the \$.50 premium.

For 40 hours of annual continuing journey worker upgrade training approved by the JAC, a wage premium of 50¢ per hour (maximum per year) will apply. The training is voluntary and must be renewed each year to apply. Classes that are eligible do not include classes mandated by the current agreement or current premium classes. As soon as a journey worker completes 40 hours of continuing education the premium becomes applicable through the remainder of the period. As soon as a journey worker completes 40 hours of continuing education they may begin immediately attending classes that will be credited to the next period. In no case can the premium be pyramided (the maximum premium is 50¢). Laminated, color coded cards (by year) will be issued by the JAC for each journey worker who completes 40 hours, showing the date the 40 hours has been completed. Classes at other schools or unions are permissible, provided the JAC authorizes and approves the class. The first period starting January 1, 2004 and ending April 30, 2005, the second period is May 1, 2005 through April 30, 2006, and the 3rd period is May 1 2006 through April 30, 2007. The premium is prospective and applies through the year period when the JAC certifies that the training has been successfully completed.

**Note:** Air Compressors under 600 CFM do not require a Operating Engineer.

**Note:** One Conveyor used for materials for walls and roof for one story building shall require no operator.

**Note:** \*When the employing contractor employs six (6) or more Operators on any one shift, excluding Mechanical Space Heater Operator and Oilers, a Master Mechanic must be employed. The Master Mechanic may operate and do maintenance work so long as it does not interfere with their other duties or replace a full-time Operator job.

On work other than refineries or power plants, when the employing contractor employs six (6) or more Operators on any one shift, excluding Mechanical Space Heater Operator and Oilers or (Crane Operator Apprentice), a Master Mechanic must be employed. However, the Master Mechanic may assume extra duties such as operating, maintenance, etc. until such time that ten (10) Operators are on site. At that time the Master Mechanic may operate and do maintenance work so long as it does not interfere with their duties or replace a full time Operator job.

**TOWER CRANE PREMIUM** - From the top of the tower crane foundation to the top of the tower crane apex. In the case of luffing cranes to top of Gantry, plus boom length per classification.

0' to 249'.....	\$.50
250' to 299'.....	\$1.00
300' to 349'.....	\$1.50
350' to 399'.....	\$2.00
400' to 449'.....	\$2.50
450' and over.....	\$3.00

### **HAZARDOUS WASTE**

Operators working on hazardous waste projects for which a site specific safety plan (Site Safety Plan) has been prepared in accordance with the requirements of 29 CFR 1910.120 or 1926.65, as applicable, or an operator working on an emergency response lean-up operation or participating in site assessment shall be paid for all reasonable time spent on personal preparation and leanup - i.e. suiting up, personal decontamination, etc., required by the Site Safety Plan.

If the Site Safety Plan requires Employees to wear Level C or higher personal protection equipment (PPE), such Employees shall be allowed to take paid personal relief breaks as necessary to regu-

late body core temperature as required by O.S.H.A. regulations. Personal relief breaks will be taken outside the Exclusion Zone. The Employer will determine the times during the shift when relief breaks will be taken. Relief breaks will not be taken simultaneously by all Employees, unless so directed by the Employer.

The Union agrees that the amount of time reasonably required for personal preparation and clean-up and the number and length of personal relief breaks to be taken during a shift shall be determined by the Employer. The Union acknowledges that personal relief breaks are granted solely as necessary to protect the health and safety of Employees and agrees that they will not be abused.

If the Site Safety Plan requires Employees to wear Level D or higher PPE, they will be paid the following premiums over the wage rates normally applicable to their classifications:

PPE REQUIRED	WAGE PREMIUM
* Level A	\$1.25 per hour
* Level B	\$0.90 per hour
* Level C	\$0.60 per hour
* Level D	\$0.50 per hour

When an Operator must carry the Hazmat certification card to perform the work and does not need full personal protection equipment as described in OSHA regulation, Appendix B to 1926.65, the Operators will get paid premium only when working in Hot Zones. On projects let as Hazmat projects, the appropriate level of pay will be paid.

An Employee who elects to wear PPE at the level higher than required by the Site Safety Plan will be paid only for the level of PPE actually required by the Site Safety Plan.

Levels of PPE are defined in Appendix B to 29 CFR 1910.120 or 1926.65, as applicable.

Worker Readiness Program: Completion of a ten-hour OSHA Construction Safety Program by 2005. We agreed to recommend that all our members receive eight (8) hours of skill training during the term of this Agreement. MSHA Training will be provided where required.

## \*LEVELS OF PROTECTION

**LEVEL A** – Fully encapsulating chemical resistant suit with pressure-demand, full face piece SCBA (self-contained breathing apparatus) or pressure-demand supplied-air respirator with escape SCBA. The highest available level of respiratory, skin and eye protection.

**LEVEL B** – Pressure-demand, full face piece SCBA (self-contained breathing apparatus) or pressure-demand supplied-air respirator with escape SCBA with chemical-resistant clothing.

**LEVEL C** – Full face piece, air-purifying canister-equipped respirator with chemical-resistant clothing.

**LEVEL D** – Coveralls, safety boots, glasses or chemical splash goggles and hard hats

## WAGE RATES

### WAGES EFFECTIVE MAY 1, 2004 ZONE 1 AND ZONE 2

Group	Wages	1 1/2% of Gross Wages Excluding			Appren- ticeship Training	Total	"Voluntary" NOT Incl. In Total Pkg C.A.F. \$.03***
		Fringes	H&W	Pension			
1	\$31.44	**	\$4.80	\$5.30	\$.35	\$41.89	\$.03
2	31.10	**	4.80	5.30	.35	41.55	.03
3	29.69	**	4.80	5.30	.35	40.14	.03
4	29.35	**	4.80	5.30	.35	39.80	.03
5	29.18	**	4.80	5.30	.35	39.63	.03
6	27.67	**	4.80	5.30	.35	38.12	.03
7	26.55	**	4.80	5.30	.35	37.00	.03
8	24.54	**	4.80	5.30	.35	34.99	.03

\* Refer to Administrative Dues below

\*\*Refer to Contract Administration Fund (C.A.F.)



**WAGES EFFECTIVE MAY 1, 2005  
ZONE 1 (See Wage District Map)**

Group	Wages	1 1/2% of "			Appren- ticeship Training	Total	Voluntary"
		Gross Wages Excluding Fringes	H&W	Pension			NOT Incl. In Total Pkg C.A.F. \$.03***
1		**					\$.03
2		**					.03
3		**					.03
4	\$1.55	**					.03
5		**					.03
6		**					.03
7		**					.03
8		**					.03

**WAGES EFFECTIVE MAY 1, 2005  
ZONE 2 (See Wage District Map)**

Group	Wages	1 1/2% of "			Appren- ticeship Training	Total	Voluntary"
		Gross Wages Excluding Fringes	H&W	Pension			NOT Incl. In Total Pkg C.A.F. \$.03***
1	Base wage	**					\$.03
2	pursuant to	**					.03
3	Zone 2 schedule.	**					.03
4	Fringe benefit	**					.03
5	contribution will	**					.03
6	be increased the	**					.03
7	same as Zone 1.	**					.03
8		**					.03

**WAGES EFFECTIVE MAY 1, 2006  
ZONE 1 (See Wage District Map)**

Group	Wages	1 1/2% of "			Appren- ticeship Training	Total	Voluntary"
		Gross Wages Excluding Fringes	H&W	Pension			NOT Incl. In Total Pkg C.A.F. \$.03***
1		**					\$.03
2		**					.03
3		**					.03
4	\$1.50	**					.03
5		**					.03
6		**					.03
7		**					.03
8		**					.03

**WAGES EFFECTIVE MAY 1, 2006  
ZONE 2 (See Wage District Map)**

Group	Wages	1 1/2% of "			Appren- ticeship Training	Total	Voluntary"
		Gross Wages Excluding Fringes	H&W	Pension			NOT Incl. In Total Pkg C.A.F. \$.03***
1	Base wage	**					\$.03
2	pursuant to	**					.03
3	Zone 2 schedule.	**					.03
4	Fringe benefit	**					.03
5	contribution will	**					.03
6	be increased the	**					.03
7	same as Zone 1.	**					.03
8		**					.03

**Zone 2 Schedule**

statewide agreement with 2 wage zones, 5 year process to get to an 8% spread in Zone 2. First year full increase in wages, next 4 years benefit levels as per negotiations with approximate 2% reduction in wage increase to get to the 8%.

In Zone 2 (which is the West Zone) where Pre-D's are low or non-existent, the percentage rate shall be 92% of the base rate, plus total fringe package.

To deviate from the 92% rule on specific projects in Zone 2, when an Employer calls and asks for relief, it will be considered by the Union, but it will not be the Union's responsibility to notify other Union contractors that wage reductions were granted.

In Zone 2, any Heavy Industrial sites are exempt from the percentage reduction for projects with no Pre-D or low Pre-D wages, except when it is mutually agreed between the Union and the Employers that such reduction is necessary.

In Zones 2 where percentages are used, any project let by the Minnesota Department of Transportation, or any letting agency with higher predetermined wage rates and fringe benefits than those set forth, the higher rates and benefits shall be applied.

Zone 1 is defined as the West County Line of Koochiching County, south to the Koochiching, Itasca County Line, straight west to the West Beltrami County Line, south along the western borders of Hubbard, Wadena, Todd, Stearns, Kandiyohi, Renville, Brown, Wahtowan and Martin Counties.

Zone 2 consists of the remainder of the State.

## **\*\*ADMINISTRATIVE DUES**

**Section 1.** During the term of this Agreement, in accordance with the terms of an individual and voluntary written authorization for checkoff of administrative dues, the Contractor shall deduct each week from the wages of all employees covered by this Agreement 1-1/2% of the Gross Wage as administrative dues excluding fringes.

**Section 2.** All money collected by the Employer as provided here in shall be remitted to Local 49's office not later than the fifteenth (15) day of the month following the month in which deduction were made. The Union accepts full responsibility for the disposition of the funds so deducted, once they have been remitted to Local 49's office. The Union shall be responsible for obtaining a individual signed authorizations.

## **\*\*\*CONTRACT ADMINISTRATION FUND (C.A.F.)**

**Section 1.** Effective May 1, 2004 and continuing thereafter during the term of this Agreement, contractors signatory to this agreement shall pay three cents (\$.03) per hour worked to a Contract Administration Fund.

**Section 2.** All money collected as provided herein shall be remitted to the office of the fringe benefit fund administrator not later than the twentieth (20th) day of the month following the month in which the work was performed.

**Section 3.** Contributions to this Contract Administration Fund shall be made on a voluntary basis.

**Section 4.** The Contract Administration Fund shall be administered solely by the Associated General Contractors of Minnesota and shall be used entirely for purposes associated with the negotiation and administration of this contract and related fringe benefit funds.

### **Schedule 4 - HOURS OF WORK AND HOLIDAYS**

**Section 1.** On single shift jobs, eight (8) hours shall constitute a work day, 6:00 a.m. to 5:00 p.m., except upon mutual agreement between the Employer and the Union, starting time may be made earlier. On single shift jobs, all work in excess of eight (8) hours in any one (1) day, or all work in excess of forty (40) hours in any one (1) week, and all work on Saturdays will be paid at time and one-half (1-1/2). All time worked on Sundays and the following holidays or days observed as such: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, except as hereinafter provided, shall be paid at the rate of two (2) times the hourly rate specified. When Monday or Friday is designated and celebrated as one of the above-listed legal holidays according to the regulations produced by the Federal Government, they shall be observed as such.

The intent of the change in start time negotiated in the builder's agreement is to allow the contractors to adjust the starting time of shift to meet the needs of the industry. It was not the intention or is it allowed to change starting times on a daily basis. The 6:00 a.m. to 8:00 a.m. starting time allows a contractor to pick a shift

between 6:00 a.m. and 8:00 a.m. as a starting time. There is a 48 hour notice for a shift change.

**Section 2.** All work performed between midnight Saturday and midnight Sunday shall be classed as Sunday work and paid for at the rate of two (2) times the regular hourly rate, except a regular shift scheduled 48 hours in advance which ends on Sunday or a holiday morning or begins at or after 6:00 p.m., on a Sunday or holiday evening, shall be paid at the straight time rate.

**Section 3.** Maintenance. When an Engineer is required to do maintenance or repair work on equipment they shall receive the regular rate except that they may be employed on running repairs and maintenance on Saturdays, Sundays and holidays at one and one half (1-1/2) times the regular hourly rate. When a mechanic or mechanics are employed on a Saturday, Sunday or holiday on repair work, they shall receive two times the rate of pay if there are any other Operating Engineers receiving two times the rate of pay.

**Section 4.** When Operating Engineers are servicing trades whose overtime pay is time and one-half the Operating Engineers shall receive time and one-half Monday through Friday, except as provided in Section 7.

**Section 5.** When Engineers are required to operate machines overtime, the Engineer employed on the machine shall work the overtime hours.

**Section 6.** In order to work a second and third shift without overtime, it is only required that the Engineer be employed on the first shift between the hours of 8:00 a.m. and 4:30 p.m., and it is not required that the second and/or third shift operate the same machine as is operated on the first shift. There shall be no pyramiding of overtime.

**Section 7.** On concrete pours where Operating Engineers are servicing an Ironworker, the Operators thus employed shall receive double time for overtime.

**Section 8.** No more than five (5) hours may be worked without lunch period.

**Section 9.** Snow Removal. To increase opportunities for work

Operating Engineers working on snow removal in the winter months will receive no overtime pay except after forty (40) hours in any week. Sundays and Holidays shall be at time and one-half (1-1/2) for all hours worked.

### **Schedule 5 - SHIFTS**

**Section 1.** Where not more than two (2) shifts are worked, the wages paid shall be based on hours worked, however, each shift shall constitute eight (8) hours worked, and eight (8) hours pay.

**Section 2.** Where two shifts are worked each shift shall consist of eight (8) hours work and all Employees who work such shifts shall receive eight (8) hours pay. In addition, the second shift Employees will receive fifty cents (50¢) per hour premium pay.

**Section 3.** There shall be a minimum of one-half (1/2) hour break from work for lunch near the middle of each shift. Lunch breaks are not paid hours.

**Section 4. (a)** When three (3) shifts are worked, the first shift shall constitute eight (8) working hours.

**b)** The second shift shall constitute the following seven and one-half (7-1/2) working hours.

**c)** The third shift shall constitute the succeeding seven (7) working hours. Each such full shift shall be compensated by eight (8) hours straight time pay.

### **Schedule 6 - CALL IN PAY**

**Section 1.** When Operators start work, either on the first or last half of a day or shift, and are afterward ordered to shut down, they shall receive full time pay for that part of the day or shift. For example, Operator starts work at 8:00 a.m. and is ordered to shut down at 10:30 a.m., they shall receive four (4) hours' pay, the same rule applies to afternoon shift. If they works over four (4) hours and works any portion of the second half of a shift and is then ordered to shut down, they shall receive not less than eight (8) hours' pay.

**Section 2.** Employees shall receive full time pay for all time spent in the service of the Employer. There shall be no split shifts. When

Employees are called to work, they shall receive two (2) hours' pay if not put to work; if they are called to work and commences work, they shall be guaranteed a minimum of four (4) hours' pay; these provisions, however, not to be effective when work is unable to proceed because (1) railroads or common carriers fail to make deliveries as scheduled; (2) the Engineer refuses to permit work; and (3) Acts of God, including weather conditions, will not permit work.

### **Schedule 7 - POWER SHOVELS, CRANES, AND DRAGLINES, ETC.**

**Section 1.** In the counties of Anoka, Carver, Cook, Dakota, Hennepin, Lake, Ramsey, St. Louis, Scott and Washington, that part of Sherburne County South of the Northern boundary of T. 34-N and East of the Western boundary of R. 27-W and that part of Wright County East of and including Highway No. 25 and that part of Chisago County South of the Northern boundary of T. 34-N and that part consisting substantially of the cities of Thomson, Cloque, Scanlon and Carlton are defined as part of Zone 1. Crane Operator Apprentice required on all heavy industrial sites in Zone 1.

- (a) All cranes over 50 Ton mfg. capacity must have an Oiler or (Crane Operator Apprentice). All Truck Cranes including Hydraulic Truck Cranes must have an Oiler or (Crane Operator Apprentice). All dismantling and erection of crane not requiring Oilers or (Crane Operator Apprentices) must be done by members of the Operating Engineers.
- (b) Rough Terrain or All Terrain Hydraulic Cranes up to 90 Tons if moveable on site from Operators crane seat will not require an Oiler or (Crane Operator Apprentice). All Terrain and Rough Terrain Cranes over 90 Tons must have an Oiler or (Crane Operator Apprentice).
- (c) All cranes 50 Ton and over doing pile driving, sheeting work, caisson work, rotary drilling and boring must have an Oiler or (Crane Operator Apprentice).
- (d) No Oilers or (Crane Operator Apprentices) required Tower Cranes.
- (e) Power shovels or draglines over 1/2 cu. yd. mfg. rated capacity must have an Oiler or (Crane Operator Apprentice).

- (f) **Underground utility construction crews must have an Oiler or (Crane Operator Apprentice) on the power shovel, crane, dragline or backhoe. This does not apply to rubber-tired farm tractor type equipment with backhoe attachments.**

### **Schedule 8 - HOIST MACHINERY INSTALLATION**

**Section 1.** The Employer agrees to endeavor to use an Operating Engineer in connection with the installation of construction hoist machinery which is to be operated by an Operating Engineer, where such is possible without creating a jurisdictional dispute.

**Section 2.** This Agreement shall exclude the erection and rigging of hoist towers.

### **Schedule 9 - BOOM TRUCK OPERATION**

**Section 1.** The operation of a dual purpose truck with Boom Derrick shall belong to the Engineer when materials being handled are incorporated directly into and become an integral part of the structure. Transportation to and from the jobsite, or the loading, unloading or handling of material shall not be covered by this Agreement. At no time shall the operation of the defined equipment require the employment of more than one Employee.

**Section 2.** The transportation by means of its own power of equipment operated by Employees covered by this Agreement shall be performed by Employees covered by this Agreement.

### **Schedule 10 - REPAIR OF EQUIPMENT**

**Section 1.** All repair work on the job on equipment under Operating Engineer jurisdiction shall be by Operators at the regular scale of wages, but this shall not bar the employment of specialists when necessary. Said Operators shall possess the necessary hand tools.

### **Schedule 11 - BOILER OPERATORS**

**Section 1.** When Boilers require licensed Operators, they shall be operated by Engineers.



## **Schedule 12 -HOISTING EQUIPMENT- COMPRESSOR-OPERATIONS**

**Section 1.** When skip hoisting Engineers are already on the job and an Air Compressor is subsequently placed in operation, they may also be in charge of the Air Compressor if located within sight of the skip hoist Engineers.

## **Schedule 13 - DEWATERING SYSTEMS**

**Section 1.** In accordance with past practices, Well Point installation and dismantling shall be done by Engineers, assisted by Laborers. On day shift, one person in charge, (not to be construed as requiring an extra person).

**Section 2.** If the well point or deep well system is to be manned on the 2nd and 3rd shifts, it will be an Operating Engineer. Whether the dewatering system is manned on the 2nd and 3rd shift is at the discretion of the Employer.

## **Schedule 14 - FRONT END LOADER AND FORK LIFT**

**Section 1.** Front End Loader Operators and Fork Lift Operators shall not be restricted in their duties. All Fork Lifts shall be provided with curtains and overhead protection from weather elements.

## **Schedule 15 - SPECIAL PROVISIONS EFFECTIVE ON TEMPORARY HEAT OPERATIONS**

**Section 1.** On temporary heat operations involving the use of motor driven heating equipment, that are not equipped with automatic controls and where the size and conditions of the job and type of unit requires full time Employee(s) to service the heating units, the following conditions of employment shall govern:

- (a) When an Operator is already on the job and heating units can be serviced without unduly interfering with their work, such Operator shall also service the heaters.
- (b) *No overtime shall be paid on shifts not in excess of eight hours worked between midnight Sunday and midnight Friday.*

- (c) All hours worked in excess of eight (8) hours in any one day between midnight Sunday and midnight Friday shall be paid at the rate of time and one-half.

## **Schedule 16 - AIR COMPRESSORS, PUMPS, CONVEYORS, WELDING MACHINES AND ELEVATORS**

### **Section 1.**

- (a) Compressors up to 600 CFM will require no Operator, Compressors 600 CFM and over shall require an Operator. An Oiler on the project may be required to service and operate compressors, in lieu of an Operator, at the Group 7 rate, if the compressors are in the vicinity of the crane the Oiler or (Crane Operator Apprentice) is servicing.
- (b) Three or more gas operated Welding Machines shall be in use before an Operator is required.
- (c) Any combination of 4 or more of the above machines will require an Operator at the appropriate rate.
- (d) An Oiler or (Crane Operator Apprentice) on the project may be required to service a combination of three of the above machines, so long as they do not violate (a) above.

**Section 2.** When an elevator is manned it will be manned by an Operating Engineer.

**Section 3.** (formerly Section 4) No pump shall be operated by any worker other than an Engineer, except that (a) Automatic Electric Pumps that do not require constant service shall require no Operator and (b) 1 Pump up to and including 2 inches used less than four hours shall require no Operator.

## **Schedule 17 - APPRENTICE TRAINING AND RETRAINING**

**Section 1.** The Employer and the Union agree that a committee comprised of three representatives from each group shall establish an apprentice training program and retraining program to function under the National Joint Apprenticeship and Training Committee for Operating Engineers. Said committee has adopted a Trust Agreement, rules and regulations, and shall determine eligibility and supervise the local administration of said program.

**Section 2.** Effective May 1, 2004 through April 30, 2007, the Employer shall pay monthly into the Operating Engineers Local 49 Apprentice Training and Retraining Fund thirty-five cents (\$.35) 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. Negligence of the Employer in complying with this Article shall be deemed a direct violation of this Agreement.

#### **Schedule 18 - DRUG/ALCOHOL ABUSE PROGRAM**

Employers may require drug and alcohol testing of employees and applicants for employment, including pre-placement, reasonable suspicion, post-incident and random safety-sensitive testing pursuant to MN Stat. 181.950.

Individuals taking drug/alcohol tests on a pre-hire basis who travel in advance to take the tests on the day before starting work shall be entitled to one (1) hour compensation if they test negative.

#### **Schedule 19 - NATIONAL HEALTH INSURANCE PROGRAM**

**Section 1.** In the event that a National Health Insurance Program is enacted, the Employer contribution to the current Health and Welfare Plan, as described in Schedule 3, shall be applied to any cost incurred by the Employer and/or the employees covered hereunder in connection with such National Health Plan.

**Section 2.** If the current Employer contribution is in excess of the cost of such National Health Plan, then at the discretion of the employees covered hereunder, the difference shall become a contribution to either a supplemental health and welfare insurance plan and/or one of the existing Pension Plans.

#### **Schedule 20 - WORKERS' COMPENSATION**

(Will become effective when Program is finalized)

**Section 1.** AGC of Minnesota and Operating Engineers Local #49 hereby agree to enter into an Agreement and Declaration of Trust for the establishment of the AGC of Minnesota-Basic Construction Crafts Workers' Compensation Fund (hereinafter "the Fund") to

provide workers' compensation benefits to eligible employees under this Collective Bargaining Agreement. This Fund will be administered by an equal number of Employer trustees and Union trustees and will be funded from contributions from employers on behalf of employees covered by this Collective Bargaining Agreement.

**Section 2.** The operation of the Workers' Compensation program will be determined by the trustees in accordance with the Agreement and Declaration of Trust establishing the Fund, together with any amendments thereto and regulations established by the trustees, and the parties hereby designate as their representatives on the Board of Trustees such trustees as are named pursuant to the Trust Agreement, together with any successors who may be appointed pursuant to the Agreement and Declaration of Trust. The parties hereto agree to be bound by the delinquency collection procedures established by the trustees of the Fund, as may be revised from time to time.

**Section 3.** It is the purpose of this Trust Fund to provide employees who claim compensable personal injuries and occupational diseases occurring under Minnesota Workers' Compensation laws with benefits required by law. The amount of contributions to this Fund shall be established by the trustees and may be changed from time to time.

WITNESS WHEREOF, THE PARTIES HAVE CAUSED THIS Agreement to be executed this 15 day of MAY, 2004.

ASSOCIATED GENERAL CONTRACTORS  
OF MINNESOTA, BUILDERS DIVISION

By Dave Semrad  
Dave Semrad, CEO

By Keith Kramer  
Keith Kramer, Director of Labor Relations

INTERNATIONAL UNION OF  
OPERATING ENGINEERS,  
LOCAL NO. 49

By Glen D. Johnson  
Glen D. Johnson, Business Mgr.

By Thomas H. Parisseau, Jr.  
Thomas H. Parisseau, Jr., President

By Kyle D. Jones  
Recording Corresponding Sec.

GDJ/jml  
opcju #12  
agr-bldr04-07