

K 8701

1,000 workers

79 pgs.



**International Union of
Operating Engineers
Local No. 9, AFL-CIO**

Master Agreement

**Covering
Colorado Building,
Highway, Heavy and
Engineering Work**

April 23, 2001 - April 30, 2004



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THIS AGREEMENT is made and entered into by and between _____ and the International Union of Operating Engineers, Local 9, AFL-CIO.

ARTICLE 1

PURPOSE

The purposes of this Agreement are to promote a settlement of labor disagreements by conference, to prevent strikes and lockouts, labor disputes and work stoppages, to stabilize conditions in the area affected by this Agreement, to prevent avoidable delays and expenses and generally to encourage a spirit of helpful cooperation between the Contractors and the employee group to their mutual advantage.

It is understood that the following terms and conditions relating to the employment of workers covered by this Agreement have been decided upon and that the following provisions will be binding upon the Employer, Contractors and Union during the term of this Agreement.

ARTICLE 2

TERRITORY, WORK AND EMPLOYEES COVERED

A. DEFINITIONS

1. The term "Employer" and "Contractor" as used herein shall mean each Contractor, individually, or any other person or entity who or which become signatory hereto.

2. The term "Union" as used herein shall mean Local Union No. 9 of the International Union of Operating Engineers.

3. The term "employee" as used herein shall mean any person, whose work for a Contractor in the area covered by this Agreement falls within the recognized jurisdiction of the Union who operates, monitors, maintains and repairs power operated equipment and plants referred to in Appendix B of this Agreement used in the performance of work covered by this Agreement or who assists or helps in the operation, maintenance and

repairing of such power operated equipment and plants covered by this Agreement. The term "employee" as used herein shall not apply to executives, superintendents, assistant superintendents, supervisory personnel above the rank of general foreman, general foreman, foremen except as covered by a foreman's agreement, professional engineers, timekeepers, messenger boys, guards, confidential employees, office employees, architects, draftsmen and inspectors.

4. In the case of electrical or electronically controlled equipment, the Contractor may, if he has no employee with sufficient skill, employ the services of a specialty firm or the manufacturer of the equipment to maintain, service or repair such electric or electronic controls; provided, however, that if a Contractor has full time employment for one or more such employees, then such employee or employees shall be requested of the Job Placement Center and if the Job Placement Center is unable to provide a suitable employee, the Contractor may hire as in the Job Placement Regulations provided.

5. The term "local production of materials" means imported borrow, rip-rap, rock, sand, gravel, aggregates of all kinds, concrete (excluding cement), asphalt and macadam or other road-surfacing material (excluding oil) to be incorporated in a job or project of a Contractor produced by the use of equipment covered by this Agreement.

6. "Local production of materials" shall not be deemed to include the production of materials by any commercial supplier of materials who has been and is engaged in the business of supplying such materials to the public generally from any designated site or sites other than on the project or projects of the Contractor.

B. COVERAGE

1. This Agreement shall cover and apply to the State of Colorado.

2. This Agreement shall cover and apply to all activities of each Contractor in the area covered by this

Agreement falling within the recognized jurisdiction of the Union, including, but not limited to highway, heavy engineering, utility construction, building construction, demolition, and site clearing, excluding the falling and removal of merchantable timber by the purchaser of the merchantable timber, but this Agreement is not intended to apply to custom crane work such as may be covered by a separate custom crane agreement with the Union herein. It shall also apply to all maintenance and repair work and facilities, on-site or off-site, of a Contractor in the area covered by this Agreement, except an off-site repair or maintenance facility with respect to which the Contractor is in a bona fide collective bargaining relationship with a labor organization covering such Contractor's off-site maintenance and repair facility at the time the Contractor becomes a party to, or covered by, this Agreement. This Agreement shall also apply to the operation, maintenance and repair of equipment covered by this Agreement used in the production of imported borrow, rip-rap, rock, sand, gravel, aggregates of all kinds, concrete (excluding cement), asphalt or macadam or other road-surfacing materials (excluding oil) off the site of a job or project by a Contractor which is to be incorporated into a job or project by a Contractor so long as such material is actually being produced to such job or project; provided, however, this Agreement shall not apply to any such work if such work is covered by a separate labor agreement with the Union. "Local production of materials" shall not be deemed to include the production of materials by any commercial supplier of materials who has been and is engaged in the business of supplying such materials to the public generally from any designated site or sites other than on the project or projects of the Contractor.

C. SUBSEQUENT LEGISLATION

In the event legislation covering hours of labor, overtime or other conditions of employment applicable to any work covered by this Agreement is enacted, so as to require mandatory compliance therewith by the Contractor and/or Union herein, then in that event

effective on the effective date of such legislation such more favorable and/or unfavorable provisions shall be added to this Agreement and this Agreement shall be modified to conform therewith, applicable to all work covered by the Agreement bid or let after the date such provision is added to the Agreement.

ARTICLE 3

EMPLOYER'S RECOGNITION OF UNION AS COLLECTIVE BARGAINING REPRESENTATIVE OF EMPLOYEES

The Employer and the Contractors covered hereby recognize and acknowledge the Union as the exclusive collective bargaining representative of all employees covered by this Agreement.

ARTICLE 4

UNION SECURITY

A. All employees of the Contractor covered by this Agreement employed at the site of construction, alteration, painting or repair of a building, structure or other work shall be required, as a condition of employment, to apply for, and become members of, and to maintain membership in, the Union within eight (8) days following the beginning of their employment or the effective date of this clause, whichever is the latter. This clause shall be enforceable to the extent permitted by law.

B. All employees covered by this Agreement not employed on the site of construction, alteration, painting or repair of a building, structure or other work shall be required, as a condition of employment, to apply for and become members of, and to maintain membership in, the Union within thirty-one (31) days following the beginning of their employment or the effective date of this clause, whichever is the latter. This clause shall be enforceable to the extent permitted by law.

C. 1) At any time after the expiration of the minimum period of eight (8) days or thirty-one (31) days provided in the immediately preceding paragraphs, the Union may enforce (A) and (B) above by a written

request to discharge a delinquent employee, such written request to be delivered to the employee and, in the case of the Contractor, by certified mail, return receipt requested, signed by an authorized representative of the Union. In the event the employee does not tender to the Union payment of this delinquency, for which tender and payment the Union shall issue its receipt, within five (5) working days following the receipt by the employee and by the Contractor of written request, the Contractor shall discharge such employee.

2) The Union represents that it will not invoke the provisions of the Article unless and until such time as it will have available for the Contractor a replacement for the delinquent employee for whom the Union is making written request for dismissal.

3) The Union recognizes its obligations and therefore assumes full responsibility to every employee discharged in accordance with the provisions of the paragraphs last above set out as a result of a written request from the Union to the Contractor actually employing such employee and agrees to hold such Contractor harmless providing the defense of any and all proceedings or suits is handled by counsel named by the Union and the Contractor cooperates with such counsel.

D. Any employee discharged for failing to comply with the provisions of Paragraphs (A) or (B) above, as the case may be, while actively employed, shall before registering in a Job Placement Center for dispatch under this Master Agreement, tender to the Union his initiation or reinstatement fee and current quarterly dues in the form and manner regularly required by the Union, and the Union shall issue receipt therefore. Upon presentation of such receipt to the Job Placement Center as evidence of such tender, the employee shall be permitted to register as if the employee had never been discharged for non-payment.

E. Upon the written request of the Union delivered by certified mail, return receipt requested, a Contractor or his representative so requested will notify the Union of the

name, address, social security number and date of hire of all persons covered by this Agreement hired other than through an Employment Office of the Union.

F. Any employee subject to the provisions of this Article who is a member of and adheres to established and traditional tenets or teachings of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting labor organizations shall not be required to join or financially support the Union. Any employee electing not to join or financially support the Union shall notify the Union in writing, certified mail, return receipt requested, of such election. In the same notice, the employee shall elect which one of the following non-religious non-labor charities the employee must pay an amount equal to the initiation fee, dues and uniformly required assessments:

Boy Scouts of America

Girl Scouts of America

Muscular Dystrophy Association

Every month the employee shall provide to the Union proof of the contribution, which proof shall be by cancelled check or written receipt signed by the charity.

ARTICLE 5

HIRING

All hiring shall be subject to and in accordance with "Job Placement Regulations" (Appendix A) of this Agreement.

ARTICLE 6

SAFETY CLAUSE

A. The Employer, the Contractor and the Union agree that safety on the job is of utmost importance. Every effort shall be made toward safe and sanitary conditions. It shall not be a violation of this Agreement for any Employer or employee to refuse to perform work under conditions which create an immediate, real and apparent hazard to the employee or his fellow employees in the immediate area in which the employee is working, and no employee shall be discharged for refusing to work under such conditions.

B. Safety standards as contained in federal, state and local safety laws, rules and regulations must be observed by the employees and the Contractor on all jobs covered by the within Agreement.

C. Employees shall comply with safety policies established by the Contractor. Failure to comply with such policies on the job or failure to participate and cooperate on the job in any Contractor's safety program shall be cause for discharge.

D. All accidents and injuries must be reported by the employee to the Contractor within twenty-four hours after the employee's knowledge of the injury and ability to report.

E. If a Contractor furnishes personal safety equipment, special clothing or devices, the employee shall return the same in as good condition as received, subject to reasonable wear and tear. In the event such safety equipment, special clothing or devices are not so returned, the cost thereof shall be paid by the employee and may be deducted from the employee's last paycheck.

F. On all projects clean drinking water, drinking cups and suitable sanitary toilets shall be provided by the Contractor.

G. The Employer shall be permitted to establish a drug and alcohol policy. The Employer shall indemnify and hold the Union harmless against any and all claims, demands, suits or other form of liability that may arise out of or by reason of action taken or not taken by the Employer for the purpose of complying with any of the provisions of this paragraph. In the event that any employee covered by this Agreement is required to undergo drug or alcohol testing during his/her regular scheduled workshift, and the employee is found not to be under the influence of drugs or alcohol, the employee will not suffer a reduction in wages because of the drug or alcohol testing.

H. When the Contractor requests that the Union dispatch an employee possessing a Commercial Drivers License (CDL), the Union will dispatch an employee possessing the CDL classes and endorsements designated in the request as being required by the Contractor.

1. In the event that an employee is required to undergo a Department of Transportation (DOT) physical examination, the employee will be reimbursed for wages which are lost due to the physical examination, to a maximum of two (2) hours of wages.

ARTICLE 7

DISPUTES

A. CONTRACTUAL DISPUTES

1. In the event that a dispute other than a jurisdictional dispute, including any dispute as to whether or not there is a jurisdictional dispute, arises involving the application or interpretation of the terms of this Agreement, the parties agree that the same shall be determined and settled in the manner and by the procedures hereinafter set forth. Reasonable and diligent effort first shall be asserted in the field at the earliest possible time by the Contractor's direct representative and the Union's business representative to reach a satisfactory settlement. If the parties are unable to reach a settlement, the dispute shall be reduced to writing by the aggrieved party and either party shall notify the other party that the dispute is being referred to a Board of Adjustment. Any such dispute shall be referred to a Board of Adjustment no later than five (5) days (excluding Saturdays, Sundays and holidays) after such meeting.

2. The Board of Adjustment shall be composed of two (2) representatives of the Independent Contractors who are familiar with the terms of this Agreement and two (2) representatives designated by the Union herein. The Contractor involved in the dispute shall not have any of its officers or agents as member of the aforesaid Board of Adjustment and the Union business representative or representatives principally involved shall not serve on the aforesaid Board of Adjustment. The Board of Adjustment shall meet as promptly as is possible after a grievance has been presented to it and in connection with the hearing upon said grievance, both the Contractor involved and the business representative involved shall present the facts of their case to the

Board of Adjustment. The Board of Adjustment shall consider the grievance and reach a decision by the majority vote of its members. Such decision shall be final and binding.

Upon mutual consent of the Union and Independent Contractors Committee, this Section 2 may be bypassed and proceed under Section 3 hereof.

3. In the event the Board of Adjustment is unable or unwilling to render a decision thereafter within three (3) days, Saturdays, Sundays, and holidays excluded, the four (4) members of the Board of Adjustment may mutually agree to select a neutral person of their choice with whom the four members of the Board of Adjustment ONLY shall meet and fully discuss the disputed matter. The time and place of meeting with such neutral person shall be determined by the Board of Adjustment. Upon request by the neutral person, the meeting may be adjourned and one or more persons who testified at the disputes meeting initially before the Board of Adjustment may be called to testify before the neutral person. At the close of such meeting or meetings, the neutral person shall render a decision within twenty-four hours, if possible. If a decision is rendered by such neutral person, it shall be set forth in writing and shall be signed by the neutral person and the four members of the Board of Adjustment; provided, however, that such decision may or may not set forth therein any reason or statement of facts describing the basis upon which such decision was reached. Any decision so reached shall be final and binding upon the parties to this Agreement. The fees and expenses of such neutral person shall be equally borne and paid by the Contractor and the Union. In the event the Board of Adjustment does not mutually agree to select and meet with such neutral person or in the event the neutral person selected is unwilling or unable to render a decision, the next step in the disputes procedure shall be as set forth in Section 4 next following.

4. In the event the Board of Adjustment is unable or unwilling to render a decision because of deadlock or otherwise and the Board of Adjustment does not

agree to follow the procedure set forth in Section 3 preceding, or in the event the Section 3 procedure is followed but the neutral person is unable or unwilling to render a decision, then in either such event within three (3) days thereafter, Saturdays, Sundays and holidays excluded, the Contractor may notify the Union or the Union may notify the Contractor of its desire to submit the dispute to arbitration, and upon such notice being given in writing within said three-day period, the Contractor and the Union shall submit the dispute to arbitration as follows:

a) Upon a dispute being submitted to arbitration by notice, as aforesaid, the Contractor and the Union shall endeavor to agree upon an independent arbitrator. If, within three (3) days of the date of such notice given, Saturdays, Sundays and holidays excluded, the Contractor and the Union cannot agree upon the designation of the arbitrator, then both parties agree that either party in writing, with a copy furnished to the other party, may ask the Federal Mediation and Conciliation Service in Washington, D.C. to submit a panel of five (5) names as potential arbitrators. Thereafter, alternatively, the Union shall strike one name and the Contractor shall strike one name until there is one remaining name, which person shall be the designated arbitrator who shall hear and determine the dispute.

b) The arbitrator so selected shall commence a hearing not later than seven (7) days after his/her selection, if it is possible for him/her to do so, and shall render a decision within five (5) days thereafter: provided, however, that either of the aforesaid periods may be extended and/or waived by mutual agreement of the parties hereto; provided, however, that the decision rendered by the arbitrator shall be final and binding upon the parties to this Agreement and shall be complied with, without undue delay after the decision is rendered; provided, further, however, that in the event there shall be any dispute or disagreement between the parties hereto as to the

meaning and/or interpretation of the decision rendered by the arbitrator, the parties hereto agree within three (3) days, Saturdays, Sundays and holidays excluded, following the date of receipt of such decision rendered by the arbitrator to resubmit such dispute or disagreement as to the meaning or interpretation to the arbitrator for clarification by supplemental decision.

c) The arbitrator shall have no power to add to, subtract from or modify any of the terms of this Agreement.

d) The fees and expenses of the arbitrator shall be paid equally by the Contractor and the Union.

e) In the event that either the Contractor or the Union fails to comply with any decision of the Board of Adjustment, the neutral person or the arbitrator, either the Contractor or the Union shall have the immediate right to proceed to file with any court of competent jurisdiction a complaint and/or petition to require complete enforcement of that decision and to ask for judgment for damages arising therefrom.

5. If violations of the manning provisions or the hiring hall provisions are found by the Board of Adjustment, the neutral person or the arbitrator, and if an individual(s) or party is found entitled to back pay, the same shall be paid by the violator, but if no individual(s) or party is found entitled to damages, the violator shall remit such damages to the Trustees of the Colorado Journeyman and Apprentice Training Fund for Operating Engineers. In no event and under no circumstances shall any such damages be determined to be paid by the violator of such provisions to any individual(s) on the Union's out-of-work list.

6. No proceedings hereunder based on any dispute, complaint or grievance herein provided for shall be recognized unless called to the attention of the Contractor and the business manager of the Union within ten (10) days after the alleged violation was committed.

B. JURISDICTIONAL DISPUTES

1. There shall be no cessation or interference in any way with any work of the Contractor by reason of jurisdictional disputes with the Union herein and any other union affiliated with the AFL-CIO with respect to *jurisdiction over any of the work covered by this Agreement.*

2. Such dispute shall be settled by the Contractor and the disputing unions locally. If local settlement is *not effected promptly, then such dispute shall be submitted* by the Contractor or by either of the disputing local unions to the Internationals of the unions involved in the dispute for determination.

3. If the Internationals of the unions involved cannot promptly resolve the dispute, the same shall be settled as between the disputing unions in accordance with the procedures adopted by the Building and Construction Trades Department (AFL-CIO) for settling jurisdictional disputes nationally and locally.

4. Any settlement made by the disputing unions locally or by the Internationals or otherwise as above provided shall not establish the number of workmen in a crew or establish the performance of work by a composite crew but rather, shall establish only which *of the competing unions is entitled to have its members perform the work in question.* Further, no settlement of the jurisdictional dispute as above provided shall require the Contractor to recognize or to enter into a collective bargaining agreement with any union with whom the Contractor has no collective bargaining agreement or with whom the Contractor has not afforded recognition prior to the commencement of such jurisdictional dispute.

5. Pending the resolution of the dispute in accordance with the above procedures or in the event such resolution is not attained, the assignment of work as made by the Contractor shall continue in effect and all *work shall proceed without interruption, interference, delay or cessation.* In the event a determination is made in accordance with the procedures above provided and

such determination alters the assignment previously made by the Contractor, no damages, back pay or fringe benefit contributions shall be assessed against the Contractor for work assigned and performed prior to such determination.

6. The Contractor and the Union shall comply with the resolution of the jurisdictional dispute when settled under the above procedures. In the event that either the Contractor or the Union fails to comply with such determination, either party therein shall have the immediate right to proceed to file in any United States District Court a complaint or petition to require complete enforcement of such determination.

7. In the event the other union shall refuse to abide by the determination of the dispute as above provided, the Union herein shall be and is authorized to proceed to enforce the determination by any lawful means; provided, however, that until such determination is made, the work assignment shall proceed as originally assigned by the Contractor.

C. NO WORK STOPPAGE

Throughout the effective term of this Agreement, including, but not limited to, all periods during which any contractual dispute and/or any jurisdictional dispute is being processed or determined as provided in this Agreement, the Union agrees that neither it nor any of its officers, agents, or representatives shall engage in, authorize or encourage any stoppage or suspension of work, slow-down, picketing, strike or concerted refusal to work.

Throughout the effective term of this Agreement, including, but not limited to, all periods during which any contractual dispute and/or jurisdictional dispute is being processed or determined as provided in this Agreement, the Employer and the Contractor agree that neither it nor any of its officers, agents or representatives shall engage in, authorize or cause any lockout or concerted work stoppage.

No employee covered hereby may be discharged for refusing to cross a lawful picket line.

No settlement or determination made under the procedures above provided in (A) Contractual Disputes, and (B) Jurisdictional Disputes of this Article shall be construed as a determination of any cause of action by the Contractor against the Union for monetary relief arising from an alleged breach of any provision of (C) No Work Stoppage immediately preceding.

D. EXEMPTION RE FRINGE BENEFIT PROGRAMS

Exempted and excluded from the foregoing provisions of this Article are all disputes related to the timely filing of fringe benefit reports, the payment or collection of fringe benefit contributions, the interpretation and application of the terms and provisions of all fringe benefit trust agreements identified and referred to in this Agreement and all benefit plans, rules, regulations, delinquency procedures and delinquency assessments adopted thereunder by any of the Boards of Trustees of said respective Trust Funds.

ARTICLE 8

MANAGEMENT

A. It is distinctly understood and agreed by the Union that the Contractor reserves the right of management at all times, and that he may select, in cases of reduction or replacement of forces, those employees who are in his estimation, the best qualified.

B. The Contractor shall designate what work covered by this Agreement each employee shall do, without regard to seniority.

C. Except only as specifically limited by this Agreement, management by the Contractor, the direction of working forces, and the maintenance of discipline and efficiency of employees are the sole, complete and exclusive rights and responsibilities of the Contractor.

ARTICLE 9

DISCHARGE

A. No employee shall be discharged or discriminated against for activities in or representation of the Union. The Union shall be sole judge of the qualifications of employees for membership in the Union.

B. The Contractor shall be the sole judge of the qualifications of all his employees.

C. The Contractor shall have the right to discharge for just cause any employee once accepted who thereafter proves to be unsatisfactory to the Contractor.

D. The Contractor shall issue a copy of the termination slip to the Union and to the employee with his/her final paycheck.

E. Any employee who quits shall be paid in full by the next regular pay period.

F. Any employee who is discharged for just cause or who is laid off shall be paid as soon as possible, or the Employer may elect to mail such pay to the last known address of the employee, postmarked not later than twenty-four (24) hours from the time of termination, Saturdays, Sundays and holidays excluded. Failure to issue check on time entitles the employee to four (4) hours pay per day at the straight-time rate.

G. Time cards, if used, shall be available at the work-site.

ARTICLE 10

EMERGENCY ON JOB

A. Should an emergency arise at a time when employees are not available at the jobsite, their work shall be done by any employee or employees whom the Contractor may select for the period of such emergency or until employees who are covered by this Agreement are available, provided an order for the employee is promptly placed with the Job Placement Center servicing the job.

B. An emergency shall constitute any unforeseen or unexpected event or occurrence which creates an immediate, real and apparent hazard which may effect potential

property damage or potential personal injury or jeopardize the life of personnel at the site of or in connection with the *construction project of the Contractor.*

ARTICLE 11

JOB ADMISSION AND JOB STEWARD

A. JOB ADMISSION

Business representatives of the Union shall be allowed admission on jobs at all times, provided, however, that the business representative shall comply with the safety and security regulations to the same extent as required of any employee on the job. The business representative shall identify himself/herself to the Contractor's representative when the business representative first appears on the job site.

B. JOB STEWARD

1. The Union may select an employee actively employed on each shift in operation on a job project to serve as job steward. Where the site of the project makes it appropriate, the Union may appoint additional job stewards. The name or names of each job steward shall be furnished promptly by the Union's business manager to the Contractor's authorized representative.

2. The job steward shall be permitted to perform, during working hours, the duties of job steward as defined in the next succeeding paragraph of this Article. *The Union agrees that such duties shall be performed during working hours as expeditiously as possible.*

3. *Job steward shall be limited to and shall not exceed the following job steward duties and activities:*

a) Check the dispatch of each employee dispatched under the terms of this Agreement to the Contractor before such employee commences work or as soon thereafter as practical.

b) Report to the business representative all violations or alleged violations of this Agreement.

c) Report to the business representative any employee covered by this Agreement who, during his/her shift, leaves a jobsite without giving the Contractor and the job steward prior notice.

4. The job steward, in the course of performing his/her duties as job steward, shall not:

a) Stop the Contractor's work for any reason.

b) Tell any worker or employee on the job or on the project to slow down or that employee cannot work, should not work, or ought to leave work on the job or project.

5. Infraction of any one or more of the rules set forth in paragraph 4 immediately preceding shall be cause for immediate dismissal of the job steward without prior notice. In the event of the discharge by the Contractor of an employee who is a job steward for any reason whether enumerated in said paragraph 4 or otherwise, the Contractor or his representative shall notify the Union of the reason for the discharge.

6. In the event of a layoff due to reduction in force, the designation of any employee who is to be laid off shall be at the option of the Contractor, but in the event the layoff by the Contractor is of an employee who is a job steward, such layoff shall not be made prior to consultation by the Contractor's representative with the Union's business representative.

ARTICLE 12

WORK JURISDICTION

A. It is agreed by the Contractor that employees covered by this Agreement shall not be required to do any work that is not covered by this Agreement and that any work that is covered by this Agreement shall not be assigned to any employee who is not covered by this Agreement.

B. It is agreed that no employee covered by this Agreement shall be discriminated against for refusing to do work that is clearly outside the jurisdiction of the Union.

ARTICLE 13

HOURS OF WORK AND OVERTIME RATES

A. Hours of Work. Ten (10) consecutive hours, exclusive of a lunch period, between 6:00 a.m. and 6:00 p.m. shall constitute a day shift. Forty (40) hours, Monday through Friday, shall constitute a workweek.

B. Overtime Rates. All time worked in excess of ten (10) consecutive hours, exclusive of lunch period, in a workday shall be overtime. All time worked in excess of forty (40) hours per week shall be overtime. Except as noted in Section S "Restricted Work Week or Hours" of this Article 13, all work on Sunday shall be overtime.

The Monday through Sunday overtime rates in this Agreement shall be 150% of the straight time hourly wage rate, and the overtime rate for work on holidays shall be 200% of the straight time hourly wage rate.

When there is equipment to be operated on a single shift operation before the single shift begins, or after it ends, or on Saturday, Sunday or a holiday, the Operating Engineer who regularly operates the particular piece of equipment shall be given the first choice to perform the work, and if an Assistant to Engineer is required, the Assistant to Engineer who is regularly assigned to the particular piece of equipment shall be given the first choice to perform the work. The Operating Engineer who regularly operates a particular piece of equipment is the operator who has operated that particular piece of equipment for the most hours in the last five (5) working days preceding the overtime day and who reported for work on his/her regular shift the last working day preceding the overtime day.

In the case of a multiple shift operation, the Employer will endeavor to fairly distribute overtime work on Saturdays, Sundays or holidays.

There shall be no pyramiding of overtime pay.

C. Single Day Shift. A single day shift will work eight (8) consecutive hours, excluding lunch period, for which eight (8) hours at the straight time hourly wage rate shall be paid. The single day shift shall start no earlier than 6:00

a.m. and no later than 9:00 a.m. Starting time shall be posted on the job and may not be changed more often than once a week.

D. Single Night Shift. If, due to traffic conditions, the Contractor is required to work a single night shift, the employee will start work when required and be paid for hours worked as required by the contract. The employee will be paid for actual hours worked.

In the event an employee's regular work hours are reduced due to the traffic conditions set forth above, there shall be no discrimination against the employee for refusing to work less than his/her regular work hours.

E. Two Equal Shifts. When two equal shifts are worked, each shift shall work eight (8) or more consecutive hours, exclusive of lunch period, and shall receive equivalent hours of pay. The second shift will start within three (3) hours of the completion of the first shift.

F. Three Shifts. All work. When work is carried out on a three (3) shift basis, the day shift shall work eight (8) consecutive hours excluding a lunch period, the swing shift shall work seven and one-half (7½) consecutive hours, excluding a lunch period, and the graveyard shift shall work seven (7) consecutive hours, excluding a lunch period, and each of such shifts shall receive eight (8) hours pay. Shifts may be rotated; however, when the three (3) shifts are rotated, each shift shall work seven and one-half (7½) consecutive hours, excluding a lunch period, and shall receive eight (8) hours pay.

When the three shifts are not rotated, the first shift shall start at 12:01 a.m., the second shift at 7:30 a.m., and the third at 4:00 p.m. Saturday shall be from 12:01 a.m. to 12:00 midnight. Sunday shall be from 12:01 a.m. to 12:00 midnight. Holidays shall run from 12:01 a.m. to 12:00 midnight of the holiday.

If shifts are rotated, they shall not be rotated more often than once a calendar week. However, shifts may be changed as necessary during the week for the exclusive purpose of unloading materials from train cars at the Employer's yard.

At no time may a shift be rotated without the employee having a least eight (8) hours rest.

When shifts are rotated, the first shift shall start at 12:01 a.m., the second at 8:00 a.m. and the third at 4:00 p.m. Saturday shall be from 12:01 a.m. to 12:00 midnight. Sunday shall be from 12:01 a.m. to 12:00 midnight. Holidays shall run from 12:01 a.m. to 12:00 midnight of the holiday.

G. When two (2) or more shifts are scheduled to work, they shall be scheduled to work for not less than five (5) consecutive working days except at the start or end of a job.

H. *Half Shift and Full Shift.* If work is commenced by an employee at the beginning of a designated shift or if work is commenced by a new employee upon reporting at the designated time, then any work so performed either in the first half or the second half of the shift shall be paid for as two (2) hours show-up time, four (4) hours if work started, and then for actual hours worked, except that if, due to weather conditions, work thereafter is stopped during either the first half or the second half of the shift, the employee shall be paid only for hours worked during either half shift or two (2) hours, whichever is greater.

The straight time hourly wage rate shall be applicable under this sub-paragraph (H), except that the applicable overtime rate shall be paid for such hours on Saturdays, Sundays, and holidays except as modified by paragraphs (P) and (Q) of this Article.

I. *Special Shifts. Mechanics and Service Personnel.* Notwithstanding any of the provisions of paragraphs (C), (D), (E), and (F) of this Article, the Contractor at his option may schedule a special shift or shifts for any Mechanic, Welder, Mechanic-Welder (Heavy Duty) or Equipment Lubricating and Service Engineer and such special shift or shifts may commence at any time within the period of two (2) hours earlier and two (2) hours later than the start or finish of any shift.

J. *Reporting.* Employees shall report for work at the designated shift time each working day and shall receive

two (2) hours show-up pay applying to that day if there is no work. All show-up pay required to be paid under this paragraph shall be computed on a straight time basis regardless of the employee reporting on a Saturday, Sunday, holiday or a regular weekday. An unqualified operator shall receive pay only for time worked.

The immediately preceding paragraph shall not apply and no show-up time shall be paid: 1) if any employee reports for work after being previously notified not to do so by the Contractor 2) if employee has no phone to be reached at or 3) if, due to weather conditions, work cannot be commenced at the designated shift time or at the designated reporting time, and no request is made by the Contractor or his representative for the employee to remain at the project site. In the event of bad weather conditions, prior to the start of the shift, both the Contractor and the employee will make reasonable efforts to call or contact each other to determine if work will be commenced.

Notwithstanding the foregoing, if, due to weather conditions, work cannot be commenced at the designated shift time or at the designated reporting time and the Contractor or his representative requests the employee to remain at the project site pending possible improvement of the weather conditions and thereafter requires the employee to work and/or wait, the employee shall be paid for all hours worked and/or waited but in no event for less than two (2) hours worked and/or waited. For all such time worked and/or waited, the base hourly rate shall be paid except that the applicable overtime rate shall be paid for all hours worked and/or waited in excess of eight (8) hours and for all hours worked and/or waited on Saturdays, Sundays and holidays or as modified by paragraphs (P) and (Q) of this Article.

In the case of asphalt and concrete placement operations only, if the contracting agency directs that work not commence due to cold weather, in that event only, the single day shift may commence as late as 9:00 a.m., provided the half shift/full shift provisions of this Agreement shall apply.

Any regular employee reporting late after the beginning of a designated shift and any new employee reporting late after the time designated for reporting shall be paid only for the hours worked during the shift.

K. Holidays. The following shall be considered holidays under this Agreement: New Year's Day, Memorial Day, Independence Day, Thanksgiving Day, Christmas Day. There shall be no work on Labor Day except for the protection of life and property, or with the permission of the Union.

L. Lunch Period. There shall be a regularly scheduled lunch period. This lunch period shall be one-half (½) hour and shall be scheduled by the Employer so that the beginning or the ending or some portion of the lunch period shall be within one (1) hour of the midpoint of the regular scheduled hours of work on each shift. If an employee is required to work through the scheduled lunch period, he/she shall be paid one-half (½) hour at the applicable overtime rate for working this period; and in that event, the employee shall be given sufficient time (not less than fifteen (15) minutes) to eat lunch on the Employer's time. The shortening of employee's workday by one-half (½) hour to compensate for the lunch period will not be allowed.

For a project of sufficient size and length of time, whenever an enclosed lunchroom is provided to any craft on the project by the Contractor, said facilities shall be made available on the same basis to employees covered by this Agreement.

M. Overtime, when applicable, shall be paid and may not be balance by time off.

N. The starting time of any shift may be changed by mutual agreement between the Contractor and the Union.

O. Transportation.

1. No employee covered by this Agreement shall as a condition of employment furnish transportation within the job site or between job sites, or from yard to job site for transportation of employees or tools or equipment or for any other purpose.

2. When the access to where the work is being performed (at a job or project or within a job or project) is unsuitable and no parking facilities are provided within one-half (½) mile from where the employee's work is being performed, the Contractor shall transport the employee to and from where the employee's work is to be performed and shall pay to each such employee a travel allowance computed on the basis of fifty percent (50%) of the employee's straight time wage rate for the time consumed to the nearest quarter hour in traveling to and from the employee's place of work in the Contractor's transportation vehicle. Such travel allowance shall be computed on the basis of the employee's basic straight time rate, and this travel allowance shall not be considered as work time in computing the straight time rate or in computing overtime. This travel allowance shall be subject to all federal and state payroll deductions.

3. Self-propelled transportation of equipment operated by employees covered by this Agreement shall be performed by employees covered by this Agreement.

P. Ten Hour Shifts. The Employer may, at his option, put into effect a work schedule of four (4) ten (10) hour shifts. Monday through Thursday, at straight time rates except where precluded by federal law and may, when work has been suspended because of weather conditions or reasons beyond the control of the Employer, use Friday as a make-up day at straight time rates.

Q. Forty Hour Work Week. The straight time provision of this Agreement may apply on Saturday to any employee who has not worked forty (40) hours straight time that week because of inclement weather or unexcused absenteeism. The Employer's representative will notify the Union of make-up time, and there will be no discrimination against any employee who refuses to work make-up time.

R. Snow Emergencies. In the case of emergencies or snow removal, the starting time of any shift will be determined by the owner. Work covered in this item will be at the straight time rate except when an employee works over eight (8) hours in the same day.

S. Restricted Work Week or Hours. Prior to bid, if the owner has work restrictions in the contract specifications that require the Contractor to work on weekends, nights, special time, lane rentals or any other restrictions, the Contractor will be allowed to work these shifts, hours, etc. as required by the owner as straight time for actual hours worked up to ten (10) hours per day or forty (40) hours per week.

If the work is controlled by the conditions described in this Section S, no lunch period will be provided unless the employee works more than six (6) hours.

ARTICLE 14 WORKING CONDITIONS

A. Payment of Employees. The Contractor shall pay an employee or employees weekly and in full for the payroll period. Payment shall be made by cash or negotiable check within one (1) week following the end of the payroll period. The employee shall be paid on the job site during working hours or at the employee's discretion send his/her payroll check by mail or other acceptable means.

B. Foreman. Foremen shall be either working foreman or lead foreman as determined in the discretion of the Employer. Any employee while acting as an Engineer Foreman or supervising the work of Engineers and while working on an hourly basis shall receive not less than one dollar (\$1.00) per hour for a working foreman and not less than two dollars (\$2.00) per hour for a lead foreman above the Group 4 rate (except the rate being paid to working foreman). Any working foreman shall be subject to Article 4 of this Agreement. Further, as to such foremen, the Contractor also shall comply with the "Agreement Re Fringe Benefits" which is designated as Appendix C of this Agreement.

C. Servicing and Operating Equipment

1. With regard to any machine or machines or item or items of equipment described in Schedules 2 and 3 of Appendix B of this Agreement, the Contractor, at his or its option, may assign one or more operators to operate the same and may assign one or more Assistants to

Engineer to assist on the operation of the same, provided that Assistants to Engineer shall be required to assist in the operation of those items of equipment where designated in Schedules 2 and 3 of Appendix B.

2. Machines or items of equipment described in Schedules 2 and 3 of Appendix B, if serviced or repaired in any maintenance or repair shop of the Contractor, shall be serviced or repaired by a Mechanic, Welder, or Mechanic-Welder (Heavy Duty) covered by this Agreement.

3. Only an employee covered by this Agreement shall start and warm up equipment. When electric power to operate equipment or provide illumination, or both is generated at the site of construction, alteration, painting or repair of any building, structure or other work by a portable or semi-portable plant or plants, such plant or plants shall be started, stopped and serviced by an employee covered by this Agreement for such period of time or times as determined by the Contractor.

4. Manning of Pumps for Prewetting. When a pump or pumps (regardless of number, capacity, size, or type) is or are operated on a Contractor's project for prewetting purposes, the Contractor shall use the services of one or more Operating Engineers covered by this Agreement as determined at the Contractor's discretion. Such Operating Engineer or Operating Engineers shall operate such pump or pumps on any shift only as determined by the Contractor at his discretion. The services of such Operating Engineer on a full-time basis or on a part-time basis shall be as determined by the Contractor. However, all such pumps when set up, serviced or repaired, shall be set up, serviced and/or repaired by such Operating Engineer or by a Mechanic as determined by the Contractor. The services of such Operating Engineer shall include incidental repairs to the pipeline connected to such pump or pumps. The prewetting Operator shall assist in the stringing, hauling, loading, unloading, coupling and/or uncoupling of pipe used for such prewetting purposes. Transportation

as may be necessary to enable the employee or employees to perform the foregoing work shall be furnished by and at the expense of the Contractor.

5. Manning of Well Point System of Vacuum Pumps. Whenever it is necessary for a Contractor to operate a dewatering system, it shall be manned by an operator covered by this Agreement. As to such Operator, the applicable hourly rate shall be paid for all hours worked in manning said system and all fringe benefits shall be paid for each straight time hour worked and for each overtime hour worked and for each hour due each such Operator as shift differential. Transportation as may be necessary to enable the employee or employees to perform the foregoing work shall be furnished by and at the expense of the Contractor.

6. Operation of Multiple Machines. If, during a shift, an Operating Engineer operates more than one machine, that Operating Engineer shall be paid for the entire shift at the highest rated machine operation.

D. Special Working Rules and Conditions for Working Underground

1. General Application. These Special Working Rules and Conditions cover all work and equipment involved in the excavation and initial lining, if any, below the surface of the earth, except open ditches, excavations, conduits, boxes, culverts and jacking operations in connection with highways, railroads and embankments. Underground work shall include tunnels, shafts, tunnel shafts, adits, raises, subways, chambers and underground installations (including underground power houses, storage facilities, offices, control centers or surge chambers and the lining of same) which fall within the jurisdiction of the Union or require the operation of equipment of the kind or type covered by this Agreement. Where an open cut is covered over or decked in order that the work may be continued, regardless of the decking materials used, and the employees are required to work under such cover, they shall work and be paid in accordance with

the terms and conditions of these Special Working Rules for all such work.

2. Tunnel, Raise and Shaft – Defined. For the purpose of these Special Working Rules, tunnels, raises and shafts shall be defined as follows: A tunnel is an underground excavation (lined or unlined) whose length exceeds its width with a grade no greater than 20 degrees from the horizontal. A raise is an underground excavation (lined or unlined) whose length exceeds its width with a grade exceeding 20 degrees from the horizontal. A shaft is an excavation (lined or unlined) made from the surface of the earth, generally vertical in nature, but which may decline up to 70 degrees from the vertical. For the purposes of these Special Working Rules, an underground silo shall be defined the same as a shaft.

3. Manhaul Vehicles for Underground Work. Manhaul vehicles used for personnel transport shall be provided with safe seating and side and end protection to prevent falls. Convenient means of mounting and dismounting the vehicles shall be provided. Adequate protection shall be provided during inclement weather. A bell or other means of communication with the operator shall be installed.

4. Special Clothing. The Contractor shall furnish rubber clothing, boots, safety hats, or any other special gear required at no expense to the employees. Should the Employer provide any special equipment to any craft, i.e., safety glasses, welding hoods, welding jackets, gloves, and vests, the same shall be furnished to employees covered by this Agreement if required in performance of their assigned duty. Such equipment shall be returned to the Contractor in the same condition subject to reasonable wear and tear and in the event they are not returned, the cost thereof shall be paid by the employee and may be deducted from the employee's last paycheck.

5. Minimum Crews. It is understood that there are various types and sizes of moles and mining machines

which may necessitate increasing or decreasing the crew size; however, there shall never be less than one mole operator who shall be responsible for the operation, maintenance and repair of the mole and in the event a mole discharges onto a conveyor belt or other device, the belt or the device shall be the responsibility of the mole operator. The repair and maintenance of the mole and all belts or devices into which it discharges shall be performed by employees covered by this Agreement.

Should the mole operator require assistance, it shall be given by an Assistant to the Engineer or Mechanic-Welder (Heavy Duty).

6. Meal Period. There shall be a regularly scheduled meal period. The meal period shall be one-half (½) hour and shall be scheduled by the Employer so that the beginning or the ending, or some portion of such meal period shall be at the midpoint of the regularly scheduled hours of work for each shift.

7. Change House.

a) The Contractor shall establish and maintain a change house (within reasonable distance of the job operation not to exceed 1,250 feet) which shall include showers, toilet facilities, lockers and heating and drying facilities in accordance with the number of employees in each crew. When access to such a change house is not readily available from each portal, such change house shall be established and maintained at each portal. This shall not apply to short dry tunnels such as highways and railroad embankments.

b) If, due to physical or geographical limitations of the jobsite, it is impractical to establish a change house within 1,250 feet of the job operation, the Contractor and the Union at a pre-job conference shall negotiate and agree upon a mutually acceptable change house arrangement.

8. Haulage and Heading Motors and Mucking Machines.

a) *An Operating Engineer shall operate all haulage motors and heading motors and all manhaul vehicles on tracks.*

b) *Brakemen shall be used on all trains and heading switches.*

c) *Chucktenders or nippers may be used to tend cable or hose for mucking machine operators while mucking out a single heading. A mucking machine is any machine or equipment, power operated, used to muck underground. An Assistant to Engineer shall be used with a mucking machine operator or an electric or air operated mucking machine or on a mucking machine with shovel controls if mucking in more than one heading, but no Assistant to Engineer shall be required on such machine when the mucking machine is operated in mucking in only one heading. When mucking machine operator needs help to repair or service mucking machine, the operator shall use a Brakeman, Mechanic or Mechanic's Helper.*

9. *A compressor or bank of compressors having an aggregate capacity of 900 C.F.M. or more shall have an operator assigned to said compressor or bank of compressors full time. This provision does not prohibit a Contractor from assigning the compressor operator to perform incidental duties which do not detract from his/her duties as compressor operator.*

10. *To the extent that these Special Working Rules differ from any specific provisions in this Agreement with respect to the work covered by such Rules, the provisions of these Special Working Rules shall control.*

11. *By agreement of the Contractor and the Union, the work week on tunnel work may start at 8:00 a.m. on Monday.*

E. *Drill Rigs and Caisson Construction. The operation and servicing of the drill rigs, rotary, churn or cable tools used in caisson construction, drilling of test holes, and drilling in connection with the installation of fences, signs, guardrails and rotary blast holes shall be subject to the following provisions:*

1. On all such machines of the size of Watson 2500 and similar and larger, the same shall be manned by not less than two (2) employees who shall be one (1) Caisson Drill Operator and one (1) Assistant to Engineer or Apprentice. If at the option of the Contractor, three (3) employees are used to operate such machines, the third employee may be an employee of the Contractor covered by an agreement with a local union whose National or International Union is affiliated with the Building and Construction Trades Department, AFL-CIO.

2. On all such machines smaller than Watson 2500 and similar, the same may be operated by one (1) or two (2) employees at the Contractor's option, but when the same is operated by one (1) employee, that employee shall be an Operating Engineer and when the same is operated by two (2) employees, they shall be one (1) Operating Engineer and, at the Contractor's option, one (1) Assistant to Engineer.

3. Working Rules:

a) It shall be permissible for the Assistant to Engineer to assist in cleaning the dirt away from the hole whenever not busy with other duties.

b) It shall also be permissible for the third employee under 1., above to assist the Engineer in case of a breakdown of the drill rig.

c) It shall be the duty of the Assistant to Engineer to do the hooking on of equipment used in the drilling operation.

d) It shall also be permissible for the third employee under 1., above to assist the Assistant to Engineer in these duties.

e) No equipment shall be operated by a person other than an employee under the terms of this Agreement.

4. All machines described in sub-paragraphs 1 and 2 hereinabove shall be serviced and repaired by a Mechanic, Welder, Mechanic-Welder (Heavy Duty) or

Equipment Lubricating and Service Engineer covered by this Agreement.

F. *Core and Diamond Drills and Boring Machines.* Operation of all drills except those powered by air motors shall be performed by employees covered by this Agreement in accordance with the classification in Appendix B. This delineation of assignment of work by Contractor shall prevail whether the work is performed inside tunnels or outside tunnels.

G. *Small Drills and Drill Tools.* Notwithstanding the provisions of sub-paragraph E, "Drill Rigs and Caisson Construction", and sub-paragraph F, "Core and Diamond Drills and Boring Machines", of this Article, the Contractor shall be free to assign to any employee covered by this Agreement or to any other craft employee of the Contractor the drilling of holes in floors, walls, ceilings, foundations and test holes in concrete slabs with small drills or drill tools as may be incidental to the trade or the craft of the employee performing such work.

H. *Crane Rental Service.* All crane rental service shall be performed pursuant to the terms and conditions of the Operating Engineers, Local 9, Crane Rental and Pre-Stress Agreement.

I. *Facilities.* The Contractor shall furnish suitable shelter to protect employees from falling materials. Tractors used in clearing shall be equipped with canopies, and equipment used in cold weather shall be supplied with curtains. Weather protection facilities shall be provided for the crane operator of a climbing crane.

J. *Mechanics and Welders.* Mechanics and/or Welders servicing and repairing machines and equipment shall be Operating Engineer Mechanics and/or Welders; provided, however, that each such Mechanic or Welder shall be required to furnish his/her own hand tools to such number and quality as to enable Mechanic or Welder to adequately perform the work.

The following special tools, when needed shall be furnished by the Contractor: pin presses, spanner wrenches, air or electric wrenches, gear and bearing pullers, electric drills, reamers, taps and dies, pipe wrenches (36" and

over), wrenches (over 2½"), socket wrenches (over ¼ inch drive), torque wrenches and welding machines. The employee may use his/her own special tools if desired.

For the purpose of repairing, maintaining or servicing equipment on the jobsite, the Mechanic, Welder, Mechanic-Welder (Heavy Duty), or Equipment Lubricating and Service Engineer may start any piece of equipment and perform all operations with the machine necessary to repair, maintain or service it. If the equipment, excluding truck-mounted equipment, is to be moved under its own power to a service area or repair shop, employee may do so and may, after it has been repaired, return the same to a site designated by the Contractor on the same jobsite.

It shall not be a condition of employment for the Contractor to require any employee covered by the terms of this Agreement to furnish a pickup or other conveyance to be used for work covered by this Agreement. If an employee desires to use employee's own pickup or other conveyance as equipped and the Contractor agrees to its use, the employee shall be reimbursed at the rate of two percent (2%) of the reasonable value as agreed between the Contractor and the employee for each month or part of a month. The Contractor shall also provide fuel and oil for the vehicle. The vehicle reimbursement agreement shall be reduced to writing on the form provided as Appendix E. The employee shall send a copy of same to the Union upon request. Further, no such pickup or other conveyance shall be so used and operated on the Contractor's job or project unless the same is covered by public liability and property damage insurance.

The Contractor may use the form attached as Appendix E or may use a form of its own choosing, provided that the Contractor's form sets forth and complies with the provisions of the next preceding paragraph.

K. C.M.I. and Similar Machines.

C.M.I. and similar machines, when operated to fine grade or to trim sub-base materials or when operated as a slip form paving machine, shall be operated by an operator covered by this Agreement. Further, if assistance is required to operate or adjust the C.M.I.

machine, such assistance shall be provided by an Assistant to Engineer or Mechanic, Welder or Mechanic-Welder (Heavy Duty).

L. **Leaving Equipment.** No employee shall quit a job without giving sufficient notice to enable employee to be replaced with another qualified employee. Any employee required to leave the job because of sickness or other just cause shall so advise the superintendent or foreman and shop steward, if any, and as soon as possible. No employee covered by this Agreement shall be terminated either voluntarily or involuntarily without being furnished with a termination slip stating the reason for the termination and signed by the Contractor or his senior representative on the job. An employee who leaves the job for just cause shall be paid only for the hours worked by the hour or quarter hour. An employee required to leave the job because of an industrial accident to employee shall be paid by the shift or half shift. Any worker injured in a job accident during the shift and requiring emergency treatment by a physician or hospitalization shall receive pay for the full shift if the attending physician determines employee is unable to return to work. If, however, the attending physician determines employee is able to work and doesn't, then employee shall not receive pay for the remaining portion of the shift.

M. **Special Conditions Applicable to Tower Crane Work.**

1. When the tower crane is in the process of jacking and/or jumping, the Operating Engineer who operates the crane will be satisfied that the crane is ready to operate prior to energizing the machine.

2. There shall be a minimum of two (2) methods of communication with the tower crane operations similar to the following: 1) a business band radio 2) hard-line intercom and/or 3) telephone.

3. Reasonable provision shall be made for sanitary facilities for the operator.

4. In addition to other pay provisions provided for in this Agreement, all tower crane operators shall have thirty-five cents (35¢) added to the regular straight time

hourly rate when the bottom of the boom is 350 feet or more above street level and seventy cents (70¢) when the bottom is 500 feet or more above street level.

N. Subsistence Pay. The Employer shall inform the Local 9 Job Placement Center when subsistence will be provided to employees working on a specific job or project covered by this Agreement.

ARTICLE 15

NO RESTRICTIONS

Elimination of Restrictions on Production. No rules, customs, or practices shall be permitted that limit production or increase the time required to do any work. There shall be no limitation or restriction of the use of machinery, tools, or other labor-saving devices.

ARTICLE 16

APPLICATION TO SUBCONTRACTORS

The Employer and the Union will work together for the purpose of obtaining Union Subcontractor bids for jobs, or projects the Contractor is bidding and which require a Subcontractor.

ARTICLE 17

WAGE RATES AND CLASSIFICATIONS

A. Wage Rates and Classifications. On all work covered by this Agreement when performed, and in all instances in which equipment used in the performance of work covered by this Agreement is operated, regardless of when the work was bid or let, such work shall be performed and such equipment shall be operated by employees obtained in accordance with the provisions of the Job Placement Regulations, Appendix A of this Agreement, in the classifications and at the wage rates set out in Wage Schedules, Appendix B, of this Agreement. The wage rates and the fringe benefit contribution rates established by this Agreement are minimum rates.

B. Additional Work or Classifications. This Agreement contemplates that as and when equipment, operated and serviced by Operating Engineers or Assistants to Engineers and not presently in use in the area covered by this Agreement, is about to be introduced on a jobsite, the Contractor and the Union will promptly negotiate an appropriate rate, classification and work rules for its operation.

Such rate, classification and work rules shall be established at a job conference ten (10) days prior to the time the equipment is introduced on a jobsite, and if it is not settled at such a conference the matter may be referred to a Standing Committee consisting of three (3) representatives of the Union and three (3) representatives of the Employer and the Contractor, established by the Union and the Employer and the Contractor to conduct such negotiations.

Such committee will meet within ten (10) days after written request of the Contractor intending to operate such equipment accompanied by photograph and pertinent catalog data on the equipment or other data and agree if possible to a rate and classification and work rules within fifteen (15) days from the date of notice, unless the parties mutually agree to extend the time, which rate and classification and work rules shall be added to and become a part of this Article as of the date of the initial introduction of the equipment on a jobsite.

In the event the Standing Committee is not able to agree to such a rate and classification and work rules under the procedure hereinabove provided, the matter shall be referred to an arbitrator for the final determination in accordance with Section 4 of (A) Contractual Disputes of Article 7 hereof.

Until such rate, classification and work rules are established, the Contractor may operate the equipment at a temporary rate, classification, and work rules. The permanent rate, classification and work rules, when established, will be paid retroactively to the date of the initial introduction of the equipment on a jobsite.

ARTICLE 18

REGISTERED APPRENTICES

The education training and disciplining of Registered Apprentices shall be governed by the appropriate Joint Apprenticeship Committee.

The straight time hourly rate of registered apprentices shall be the following percentage of the Group 3 rate as set forth in Schedule 4 of Appendix B.

First period apprentice	70%
Second period apprentice	75%
Third period apprentice	80%
Fourth period apprentice	85%
Fifth period apprentice	90%
Sixth period apprentice	95%

When the Contractor employs more than three (3), up to and including five (5) Journeymen Operating Engineers, he shall employ one (1) registered apprentice, if available. When the Contractor employs more than five (5), up to and including ten (10) Journeymen Operating Engineers, he shall employ two (2) registered apprentices, if available. Thereafter, the Contractor shall employ registered apprentices as are available in accordance with the above ratio of one (1) to five (5). Foremen shall not be included in the determination of the number of Journeymen Operating Engineers employed by the Contractor for the purpose of this Section.

There shall not be more than one (1) registered apprentice assigned to any piece of equipment operated with more than one (1) employee.

ARTICLE 19

EQUAL EMPLOYMENT OPPORTUNITY

A. The Union, the Employer and each Contractor will comply with all applicable federal, state and local laws and all lawful regulations, rules, directives and orders with

regard to the recruitment, registration, selection, classification and referral of applicants for active employment.

B. The Union, the Employer and each Contractor will supply any and all information under their control necessary to comply with the applicable laws and lawful regulations, rules, directives and orders referred to in (A) above.

C. The Union hereby agrees to indemnify and hold harmless the Employer and each Contractor involved from any loss or damage resulting from a violation by the Union of (A) above and the Employer and each Contractor involved agree to hold harmless the Union and the employees it represents from any loss or damage resulting from a violation by the Employer or the Contractor involved in (A) above.

D. This Article shall govern over any conflicting provision or requirement of the Constitution, Bylaws, Working Rules or other rules, regulations or directives of the Union and any Articles, Constitution, Bylaws, Contracts, Agreements, Rules, Regulations or Directives of the Employer and each Contractor.

ARTICLE 20

FRINGE BENEFITS

A. By certain Agreements and Declarations of Trust several Operating Engineers Local 9 Trust Funds have been established to serve various purposes. The Operating Engineers Health and Welfare Trust Fund for Colorado provides health care benefits for employees covered by this Agreement and their families and dependents. The Central Pension Fund of the International Union of Operating Engineers and Participating Employers provides pension and retirement benefits for employees covered by this Agreement and their families and dependents. The Colorado Operating Engineers Vacation Fund provides employees covered by this Agreement a deferred vacation payment as detailed in Appendix D of this Agreement. The Colorado Journeyman and Apprentice Training Fund for Operating Engineers provides apprenticeship and training programs for the development of higher efficiency in the craft of operating engineers. The Boards of Trustees of said

Trust Funds have adopted certain rules, regulations and eligibility standards. The Boards of Trustees, pursuant to the terms of said Agreements reserve the right at any time to amend the Trust rules, regulations and eligibility standards.

B. Each Contractor performing work covered by this Agreement shall pay into the Operating Engineers Trust Funds for Colorado the sums per hour hereinafter designated in Schedule 5 of Appendix B of this Agreement on a straight time basis for each straight time hour worked and for each overtime hour worked by each employee covered by this Agreement and for each hour due each such employee as shift differential.

C. Throughout the effective term of this Agreement, each Contractor shall be bound by and shall fully comply with all terms and provisions of the aforesaid Trust Agreements and the aforesaid rules and regulations and eligibility standards now adopted by said Boards of Trustees, together with any and all amendments, changes or additions thereto which at any time hereafter may be adopted.

D. OPERATING ENGINEERS LOCAL 9 401(k) PLAN

The Employer agrees to withhold from the earnings of an employee covered by this Agreement such amount as has been properly designated by the employee in writing, and to forward in accordance with the plan requirements such withheld amount to the Operating Engineers Local 9 401(k) Plan.

The Employer is not responsible for any fees or charges for the operation of the Operating Engineers Local 9 401(k) Plan nor liable for any loss or misappropriation of employee investments in the Plan.

ARTICLE 21

TRUST FUND DELINQUENCIES

A. Each Contractor performing work covered by this Agreement shall be bound by and shall fully comply with all terms and provisions of the Trust Agreements referred to in Article 20 "Fringe Benefits," and shall comply fully with all rules, regulations and eligibility standards adopted by each of said Board of Trustees, together with any and

all further amendments, changes and additions to said Trust Agreements and/or to said rules, regulations and eligibility standards which at any time may be adopted by said respective Boards of Trustees.

B. It is understood and agreed that each Contractor is required to report each straight time hour worked and each overtime hour worked and each hour due as shift differential to each employee and to pay contributions therefor into each of the aforesaid Trusts and that such reporting and payment applies to each and every employee of the Contractor who performs work in any of the classifications covered by this Agreement, regardless of whether or not such employee is a member of the Union herein.

C. Each of the aforesaid Trust Agreements provides that the Contractor shall timely file reports each month in such form as may be directed by the Trustees covering all full payroll periods ending during the preceding calendar month. Such reports are required to be filed each month even if the Contractor did not employ any employees covered by the classifications of this Agreement during one or more particular months. If a Contractor has no employees covered by this Agreement, he may be relieved of filing monthly reports for good cause shown if requested in writing to one or more of said Boards of Trustees and if approval is given therefor. However, if at any time any Contractor who was so relieved of filing monthly reports again commences performance of work which involves the employment of employees covered by the classifications of this Agreement, such Contractor immediately shall so notify the respective Boards of Trustees and immediately shall commence filing applicable monthly reports therefor and shall commence the payment of all applicable contributions.

D. Each of said Trust Agreements provides that if a Contractor fails to timely file his monthly report, such failure constitutes a violation of the Trust Agreement, and further, that if a Contractor files the report but fails to pay the required contribution to the respective Funds as evidenced by such report, the same constitutes a violation of the Trust Agreement. Each such failure to timely file a report each

month and/or each such failure to timely pay contributions each month constitutes separate and distinct violations of the Trust Agreement. For each such violation the aforesaid Trust Agreements provide for the imposition of liquidated damages, payment of interest, expenses of collection, court costs and attorneys' fees arising from each such violation or delinquency.

E. Each of said Trust Agreements provides that upon reasonable request therefor and during regular working hours an accountant or other representative of the Board of Trustees shall be entitled to audit the books and records of the Contractor as may be necessary or applicable to determine that the reports and contributions have been and/or are being properly filed and paid by the Contractor as required by each of said Trust Agreements and applicable rules and regulations. Further, each of said Trust Agreements provides that from time to time, with or without any prior record of delinquency or violation by the Contractor, an accountant or other representative of any such Board of Trustees shall be entitled upon reasonable request therefor and during working hours to examine the books and records of the Contractor as may be necessary or applicable to determine that the timely filing of reports and the timely payment of contributions have been and/or are being properly paid by the Contractor as required by each of said Trust Agreements and applicable rules and regulations.

F. In the event there is any conflict between the terms and provisions of this Article and the applicable Trust Agreements and/or applicable rules, regulations or eligibility standards adopted at any time by said respective Boards of Trustees during the effective term of this Agreement, the latter shall prevail.

G. If any of said Boards of Trustees makes a determination that the Contractor is delinquent in timely furnishing reports in proper form or in timely making payment of contributions or in failing to comply fully with any of the provisions of the applicable Trust Agreement or with any rules, regulations or eligibility requirements of such Trust, then, in addition to the foregoing provisions of this Article, the Union thereafter may refuse to furnish any workers or

employees employed to such delinquent Contractor and/or may direct workers or employees employed by such delinquent Contractor to cease working and/or may impose economic or other legal sanctions against such delinquent Contractor, and any such action by the Union shall not be deemed to be in violation of the no-strike or no-work-stoppage provisions set forth in Article 7 of this Agreement; provided, however, any employee so withdrawn or refusing to perform any work as herein provided shall not lose status as an employee, but no employee shall be entitled to claim or receive any wages or other compensation for any period during which employee has been so withdrawn or refused to perform any work.

H. The Employer agrees to furnish a performance bond or other acceptable securities if requested by the Union.

ARTICLE 22

SAVING CLAUSE

A. The parties hereto agree that any provisions of this Agreement which now or hereafter may be in contravention of the National Labor Relations Act, as amended, hereby are declared to be null and void.

B. Should any clause or provision of this Agreement be declared or determined to be illegal, or in conflict with an applicable national law or federal regulation covering the business of the Contractor or the Union or in conflict with any applicable law or regulation of the State of Colorado covering the business of the Contractor or the Union; then, in any such event, the Employer, the Contractor and the Union agree that they shall meet immediately for the purpose of working out a clause or provision that shall be in complete compliance with such law or regulation.

ARTICLE 23

ENTIRE AGREEMENT

The Union and the Employer agree that this Agreement contains all of the agreements and understandings between the Employer and the Union, and it is intended to cover all matters affecting wages, hours and other terms and all conditions of employment. The Union and the

Employer agree that during the term of this Agreement neither the Employer nor the Union will be required to negotiate on any further matters affecting them or any other subjects not specifically set forth in the Agreement.

ARTICLE 24

EFFECTIVE AND TERMINATION DATE

This Agreement shall be effective as of the twenty-third day of April 2001 and remain in effect until the last day of April 2004 and shall continue from year to year thereafter unless either the Contractor or the Union shall give written notice to the other of a desire to change, amend, modify or terminate the Agreement at least sixty (60) days prior to April 30, 2004, or April 30 of any succeeding year. It is agreed that in the event either party should exercise its rights under this paragraph, the parties will for a period of sixty (60) days prior to the 30th day of April, 2004, or any year thereafter, bargain exclusively with each other with respect to all wage rates, working conditions and hours of employment for the work herein covered. If no agreement has been entered into at the expiration of said sixty (60) day period, then this Agreement shall thereupon cease and terminate and the parties shall be free to negotiate with whomsoever they please.

ARTICLE 25

MORE FAVORABLE AGREEMENT

In the event that, during the term of this Agreement, the Union enters into an agreement with a competitive employer which provides more favorable conditions to such competitive employer than those contained in this Agreement, then the Contractor signatory to this Agreement shall be entitled to execute such other form of Agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto executed this Agreement as of the date hereof by their respective representatives duly authorized to do so this _____ day of _____, 20_____.

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL NO. 9

By _____
Business Manager

By _____
President

By _____
Recording-Corresponding Secretary

990 Kalamath Street

P.O. Box 40008

Denver, CO 80204-0008

Telephone: (303) 623-3194

Facsimile: (303) 623-8179

E-mail: businessmanager@iuoelocal9.com

Website: www.iuoelocal9.com

CONTRACTOR FIRM NAME _____

By _____

Title _____

By _____

Title _____

Address _____

Telephone _____

Facsimile _____

E-mail _____

Date _____

APPENDIX A
JOB PLACEMENT REGULATIONS
HIRING

A. GENERAL

1. When a Contractor performs any work covered by this Agreement including the operation of equipment used in the performance of such work covered by this Agreement, he shall hire employees to perform such work including the operation of such equipment in accordance with the provisions of this Agreement; provided, however, that such equipment may be operated by the driver incidental to loading or unloading upon a flatbed, lowboy or other vehicle for transportation of the same to or from a project or to or from one location to another within the confines of a project when no Operating Engineer is presently available.

2. When a Contractor performs any work covered by this Agreement in the Contractor's maintenance and repair shop or shops in the local production of material, he shall hire employees to perform such work in accordance with the provisions of this Agreement; provided, however, that in the event there is no Class A or Class B Mechanic, Welder, or Mechanic-Welder (Heavy Duty) with the necessary special skills and equipment and who is registered and available for work and is willing to accept employment, the Contractor may employ any person with the necessary special skills and equipment provided the Job Placement Center is notified as required in Paragraph 4 of this Section A or the Contractor may subcontract such work to any independent subcontractor whose personnel has such necessary special skills and equipment; provided, further, however, that if the Contractor is covered by a bona fide existing written agreement with this Union or with any other local union covering shop work, this subsection shall have no application to such work.

The operation of equipment covered by this Agreement and the maintenance and repair of such equipment done at the site of construction, alteration, repair or demolition of a building, structure or other work and

in the Local Production of Material shall be performed exclusively by an employee or by employees covered by this Agreement or by employees covered by a collective bargaining agreement with the Union; provided, however, that if the Contractor has a written contract of warranty covering the equipment, work covered by such warranty may be performed at the job site (for not more than one hundred eighty (180) days from purchase in the case of new equipment or not more than forty-five (45) days from purchase in case of used equipment) by any person.

In the event equipment is inoperative because of the failure or malfunction of an essential part or parts and such part or parts may be properly replaced or repaired only by the manufacturer, the manufacturer's agent or specialty shops, such work may be performed by the employees of the manufacturer, the manufacturer's agent or specialty shop, regardless of the union affiliation, if any, of such employees.

In the case of electric or electronically controlled equipment, the Contractor may, if he has no employee with sufficient skill, employ the services of a specialty firm or the manufacturer of the equipment to maintain, service, or repair such electric or electronic controls; provided, however, that if a Contractor has full time employment for one or more such employees, then such employee or employees shall be requested of the Job Placement Center, and if the Job Placement Center is unable to provide a suitable employee, the Contractor may hire as in the Job Placement Regulations provided.

In the event the manufacturer modifies or replaces any part or parts of a piece of equipment manufactured by such manufacturer in which the cost is pro-rated between the manufacturer and the Contractor, such work may be performed by employees of such manufacturer or such manufacturer's agent, regardless of the union affiliation, if any, of such employees.

3. The Contractor shall secure all employees as required by this Appendix A to be employed for the

performance of work covered by this Agreement, including the operation of equipment used in the performance of such work through the Job Placement Center of the Union and such Job Placement Center shall dispatch in accordance with the classifications in Appendix B of this Agreement.

4. Satisfactory and competent employees will be furnished in accordance with the provisions of this Agreement within forty-eight (48) hours of the time they are requested, Saturdays, Sundays and holidays excluded, if they are available, and in the event they cannot be or are not furnished within such period, the Contractor may employ any person but shall arrange for a dispatch (orally or in writing) to be obtained for him/her from a Job Placement Center of the Union within forty-eight (48) hours of the commencement of such employment and such dispatch shall upon request be issued to the employee.

Notwithstanding any requirements contained in Article 4 "Union Security" of this Agreement, in the event that the Union is unable to furnish a satisfactory employee within forty-eight (48) hours of request as specified above, the person hired for the requested job position shall be required to pay regular and periodic union membership dues and fees, but shall not be required to pay the applicable union membership initiation fees and costs until thirty-one (31) days following the beginning of employment.

In the event that the Union is unable to supply a satisfactory employee within forty-eight (48) hours of request, and the Contractor employs an employee from a source other than the Union Job Placement Center, if that employee separates from employment with the Contractor within six (6) months from the initial date of employment with that Contractor, prior to registering for work referral in accordance with the provisions of this Appendix A the individual will perform a skills test administered by the Colorado Journeyman and Apprentice Training Fund for Operating Engineers. If the skills test reveals that the individual lacks journeyman skills, the individual will enter the Colorado

Journeyman and Apprentice Training Fund for Operating Engineers program at the appropriate apprentice skills level.

5. A Contractor may only request that an operator be able to operate no more than two pieces of equipment.

6. Dispatch in accordance with the job placement regulations detailed in this Appendix A may be conditioned on the ability of the referred individual or individuals successfully completing any test of qualifications to perform the work required of the position or medical examination administered at the expense of the Employer, to determine the ability to perform the essential functions of the position.

Any individual instructed to submit to such examination shall receive two (2) hours pay from the Employer requesting such examination at the straight-time hourly wage rate for the position to which the individual is being considered for dispatch.

B. CLASSIFICATION OF REGISTRANTS

1. For the purpose of this Appendix A only, registrants shall be classified as follows:

CLASS A – Persons who have been employed or registered for employment in Colorado for a period of three (3) years next preceding their registering to be dispatched in any one or more classifications set out in Appendix B of this Agreement on the type and kind of craft work covered by this Agreement.

CLASS B – Persons who have been employed or registered for employment in Colorado for a period of less than three (3) years but more than one (1) year, next preceding their registering to be dispatched in any one or more classifications set out in Appendix B of this Agreement on the type or kind of craft work covered by this Agreement.

CLASS C – Persons who do not meet the test set out in CLASS A or in CLASS B above and who are registered to be dispatched in any one or more classifications set out in Appendix B of this Agreement on

the type or kind of craft work covered by this Agreement.

CLASS D – Persons who are receiving or have applied for retirement benefits by reason of past employment under a collective bargaining agreement with the Union and/or who have been granted status for payment of retiree or disability reduced dues by the local Union executive board. Such individual may, at his or her option, tender to the Union the difference between reduced and regular monthly dues and place his or her name on the hiring list for which said individual would otherwise be eligible.

2. A Class A registrant who is not employed or registered for employment in any one or more of the classifications set out in Appendix B hereof on the type or kind of craft work covered by this Agreement for any consecutive period of three (3) years shall lose his/her preference as a Class A registrant hereunder; provided, however, that the period of three (3) years will be extended for any period of incapacity or military service or for any period during which employee is transferred by a Contractor to a job or project outside Colorado and there is employed by such Contractor or by a joint venture with which said Contractor is associated on the type or kind of craft work covered by this Agreement. Any person who has lost preference as Class A registrant under the provisions of the immediately preceding sentence and who desires to return to employment or availability for employment under this Agreement shall do so as a Class B registrant.

3. A Class B registrant who is not employed or registered for employment in any one or more of the classifications set out in Appendix B hereof on the type or kind of craft work covered by this Agreement for a period of one (1) year shall thereupon lose his/her preference as a Class B registrant hereunder; provided, however, that the period of one (1) year will be extended for any period of incapacity or military service or for any period during which he/she is transferred by a Contractor to a job or project outside Colorado and is

there employed by such Contractor or by a joint venture with which said Contractor is associated on the type or kind of craft work covered by this Agreement. Employment prior to the loss of preference under this Subsection 3 shall not be counted thereafter in determining the preference of a person who thereafter returns to employment or availability for employment under this Agreement.

4. The Assistants to Engineer preference is limited to Assistants to Engineer and the Operating Engineer's preference is limited to Operating Engineers; provided that an Assistant to an Engineer with a preference shall, upon becoming an Operating Engineer, carry his preference with him/her. For the purpose of this Appendix A only the term "Assistant to Engineer" shall include only those classifications set forth in Appendix B, Wage Schedules, to this Agreement wherein specific reference is made to Assistant to Engineer (Oiler) or where an Assistant to Engineer is required.

For the purposes of this Appendix A only, the term "Operating Engineer" shall include all other classifications.

5. All Union officers and employees of the Union who are members of the Union and all employees heretofore or hereafter advanced by their Contractor to a supervisory position shall, upon returning to the employment of a Contractor as employees under this Agreement, do so with the same preferences as if they had continually worked as employee for a Contractor.

6. An Operator seeking to register for job placement under this Appendix A for the first time, whether Class A, B, or C, unless qualified by the Contractor, shall first pass a qualifying test on the particular type of equipment which Operator seeks to operate. In lieu of a test based upon actual operation, other evidence of actual ability to operate may, at the discretion of the Union, be accepted.

7. In the event an Operator is discharged for unsatisfactory work three (3) times within a twenty-four (24)

month period, the Operator may be required to show evidence of fitness to operate, including but not limited to a test based upon actual operation, before being allowed to re-register for work under this Appendix A.

C. REGISTRATION FEE

A lawful monthly fee as set by the Administrative Committee shall be charged each non-dues-paying or reduced-dues-paying registrant for Operating Engineers on Lists A, B, C, and D and a monthly fee as set by the Administrative Committee shall be charged each non-dues-paying registrant for Assistant to Engineer on Lists A, B, and C upon registration and in the case of List C, re-registration as a fair share of the cost of operating the Job Placement Center. Registrants on Lists A, B, or C, in order to maintain their registration, shall, after the first payment or registration, pay on or before the first business day of each succeeding calendar month, such fee in order that their registration remain valid. If such payment is not made, the name of the non-paying registrant shall be stricken from the list at the close of the first business day of the calendar month regardless of the provisions of the first paragraph of this provision.

Only one (1) such registration fee shall be charged any such registrant in any calendar month. The official receipt for the payment of such registration fee shall be honored by the Job Placement Center, where presented that month. Such fees shall be reviewed from time to time and maintained at equitable amounts by the committee provided for in these Job Placement Regulations.

D. HIRING PROCEDURES

1. In dispatching, each Job Placement Center shall first dispatch by classification Class A registrants who may be unemployed and registered for work in the dispatch office and thereafter by classification Class B registrants who may be unemployed and registered for work in the dispatch office and thereafter by classification Class C registrants who have registered for employment in the dispatch office and thereafter by

classification Class D registrants who have registered for employment in the dispatch office. Provided, however, that in dispatching such Class C registrants, those with the most experience in the trade shall be dispatched first, and those with the least experience in the trade, last.

2. When a Contractor needs key employees, there shall be a pre-job conference at which the classification to be filled by such employees and the number of employees in each classification, and the times of commencement of their employment or the operational stages of the job or project at which their employment shall commence, shall be determined. Thereafter, upon written request of such Contractor, signed by the senior representative of the Contractor on a job or project and delivered to the Job Placement Center servicing such job or project, stating that such Contractor desires that a named person or persons be dispatched in a classification or classifications agreed to at such pre-job conference, such named person or persons shall be dispatched without regard to any other provisions of this Appendix A and of this Agreement and the Contractor shall hire such named person or persons dispatched.

The Contractor has the express right to stipulate by classification for employment in Colorado a maximum of not to exceed five (5) key employees whom he desires to transfer into Colorado. Key employees may be employed in Colorado only in a ratio of one (1) key employee for each five (5) Operators employed from Colorado.

In implementing this provision the following shall apply:

- a) The key employee named by the Contractor shall have been in the Contractor's employ for not less than three (3) months prior to being named.
- b) The first employee on the job shall be obtained through the Job Placement Center servicing the area in which the job is located. The second employee shall be a key employee.

c) The same procedure shall be followed until the total number of key employees entitled to be brought in have been employed.

d) Thereafter, all additional employees shall be obtained through the Job Placement Center servicing the area in which the job is located unless additional key employees shall be brought in, in accordance with the pre-job conference.

3. The Union will maintain complete records of the operation of the Job Placement Center and its registration facilities.

The Employer and/or Contractor, through its or his authorized representative, shall have access to and the right to inspect any and all of said records during working hours.

4. Upon being dispatched, the registrant shall proceed to the job at once or within the agreed time. When a call is made to the Job Placement Center for registrants to report to work on the day of request, a reasonable time shall be allowed for registrants traveling from the Job Placement Center to a job site as agreed by the Job Placement Center. In all cases in which a registrant fails to report to work on the shift to which dispatched, or within the time agreed to, without good cause therefor, or reporting for work on the shift to which dispatched or within the time agreed to and refuses to accept employment and go to work, such registrant shall, unless registrant has refused three (3) prior dispatches, retain registrant's place on the list but shall not be eligible for dispatch for seven (7) days from the date of the dispatch, and if such registrant has refused three (3) dispatches, registrant's name shall be placed at the bottom of the list and registrant shall not be dispatched for seven (7) days from the date of the dispatch. When a registrant is requested by Contractor to be dispatched on the day of the request and the registrant does report for work that same day, registrant shall be paid for half shift or full shift and/or for reporting as more particularly provided in Subparagraphs (H) and (J) of Article 13 of this Agreement.

E. NON-DISCRIMINATORY OPERATING AND APPEALS PROCEDURE

1. The Union will conduct such registration facilities and operate such Job Placement Center and these Job Placement Regulations without discrimination either in favor of or against registrants. The Union recognizes its obligations and therefore assumes full responsibility to each registrant for any loss or damage resulting from any such discrimination or other violation of the law by the Union. The provisions of this Section shall govern over any conflicting provision or requirement of the Constitution of the International Union of Operating Engineers or the Constitution, Bylaws, working rules or other rules of the Union, and selection of applicants for employment for dispatch to jobs shall be on a non-discriminatory basis.

2. Any registrant aggrieved by the operation of such registration facility or Job Placement Center as applied to registrant shall have the right to submit his/her grievance to the Administrative Committee created by Section G of this Appendix A of this Agreement, provided that such submission is made in writing within ten (10) days after the occurrence of the grievance. The Administrative Committee shall have full power to adjust the grievance and its decision thereon shall be final and binding upon the registrant and upon all parties hereto.

F. REGULATIONS GOVERNING JOB PLACEMENT CENTER

1. Registration with the Job Placement Center shall be restricted to persons not currently employed in the type or kind of work covered by this Agreement.

Any person who while registered for employment with the Job Placement Center accepts employment on the type or kind of work covered by this Agreement shall notify the Job Placement Center within forty-eight (48) hours after such acceptance to strike his/her name from registration for job referral.

An employee who quits a job, i.e., is not laid off or terminated by the Contractor, shall not be eligible to be dispatched to and employed by any Contractor under the provisions of F, 7(a), (b), (c) or (d) of these Job Placement Regulations for ten (10) working days.

2. Registrants shall set forth their name, address and/or telephone number and classification or classifications of work sought and which they are qualified to perform and may change such classification or classifications at any time before being dispatched.

3. In dispatching, the Job Placement Center shall first dispatch those on List A living either permanently or temporarily in the area serviced by the office dispatching, so long as there are any in the classification called for by the Contractor who are registered, available for work and willing to accept a dispatch; and thereafter, those on List A, regardless of where they live, so long as there are any in the classification called for by the Contractor who are registered, available for work and willing to accept a dispatch; and thereafter those on List B living either permanently or temporarily in the area serviced by the office dispatching so long as there are any in the classification called for by the Contractor who are registered, available for work and willing to accept a dispatch; and thereafter those on List B regardless of where they live so long as there are any in the classification called for by the Contractor who are registered, available for work and willing to accept a dispatch; and thereafter those on List C living either permanently or temporarily in the area serviced by the office dispatching so long as there are any in the classification called for by the Contractor who are registered, available for work and willing to accept a dispatch; and thereafter those on List C regardless of where they live so long as there are any in the classification called for by the Contractor who are registered, available for work and willing to accept a dispatch; and thereafter those on List D regardless of where they live so long as there are any in the classification called for by the Contractor who are registered, available for work and willing to accept a dispatch.

4. Subject to subsections F, 7 (a), (b), (c) and (d) of this Appendix A, all registrants on List A and B shall be dispatched on a first-in-first-out basis by classifications, and the name of a registrant so dispatched shall be stricken from the list unless (i) the job to which the registrant is dispatched is a job of short duration and (ii) he/she is not put to work because of lack of material or other reasons beyond the control of the Contractor to whom dispatched and registrant notifies the dispatching office of such fact not later than noon of the following day.

Employment of "short duration" for the purposes of these regulations only, shall mean employment which is terminated by the Contractor other than for just cause without such employee's having received from such employment the equivalent of eighty (80) hours of straight time wages. A registrant whose last employment was of "short duration" shall be restored to his/her original place on the list, or lists, on which registrant was registered at the time of registrant's last dispatch, provided registrant notifies the dispatching office of registrant's availability for work not later than noon of the day following the termination of such employment.

A registrant who refuses to accept four (4) consecutive offers for dispatch shall have registrant's name placed at the bottom of the list on which registrant is registered.

5. All persons on List C shall be dispatched in accordance with their experience, i.e., the most experienced first and those without experience in the order of registration, and when dispatched, their names shall be stricken from the list.

6. Registration on Lists A, B, and D shall be valid for only eighty-four (84) days (12 weeks) from the date of registration. A registrant whose name in the interim has not been stricken from the list as provided in other subsections of this Appendix A may maintain his/her place on the list by successive re-registration. The name of a registrant who fails to exercise this right of re-registration within the time provided herein shall be stricken from the appropriate list.

Registration on List C shall be valid for one calendar month only, and no such registration shall be carried over to the succeeding month. Any person not dispatched during the calendar month in which he/she registers shall, if he/she desires, be available for dispatch upon re-registration.

7. Regardless of anything in these regulations to the contrary:

a) Upon written request by a Contractor, signed by a senior representative of the Contractor on a job or project and delivered to the Job Placement Center servicing such job or project stating that such Contractor desires, on the basis of past satisfactory service in the industry or with the Contractor, that a named Class A registrant either: (i) who has for the immediately preceding seven (7) year period been employed or available for employment in any one or more classifications set out in Appendix B of this Agreement on the type or kind of craft work covered by this Agreement in Colorado, or (ii) who has been employed by such Contractor for any period of time within the immediately preceding five (5) years in Colorado, be dispatched in a particular classification to such job or project, the Job Placement Center shall dispatch such named registrant in such classification to such job or project, provided such registrant is registered in the Job Placement Center, available for work and willing to accept a dispatch at the time of the receipt of the written request and provided, further, that no employee shall be laid off or discharged to make room for such named registrant. Such named registrant shall establish that registrant has had seven (7) years of such employment by any objective criteria other than a Union record.

In the event there are no Class A registrants registered, available for work and willing to accept employment, a Class B registrant may be requested under (ii) above set out.

For the purpose of this Paragraph 7 (a) only, insofar as the five (5) year letter is concerned, (ii) above set

out, a Class A registrant who has left Colorado and lost Class A status and who has returned and is available for work and willing to accept employment shall be treated as a Class A registrant.

In the event the named person is not registered or not available for work or not willing to accept a dispatch at the time of the receipt of a written request under this subsection 7 (a), the Job Placement Center shall so notify the Contractor as soon as possible, and the forty-eight (48) hour period provided in subsection A (4) shall not commence to run until receipt by the Job Placement Center of either a request for an unnamed registrant by classification or a further request under this subsection 7 (a) for a named registrant who is registered and available for work at the time of the receipt of the written request or a written request under subsection 7 (b) hereinafter.

For the purposes of this subsection 7 (a), employment by a joint venture on work for which a Contractor party to such joint venture is responsible to such joint venture shall be considered employment by such Contractor.

b) Upon written request by a Contractor, signed by the senior representative of the Contractor on a project and delivered to the Job Placement Center servicing such job or project stating that such Contractor desires an employee in a particular classification who has had either (i) a specified number of months or years (not to exceed, however, twenty-four (24) months or two (2) years) experience on a particular type of equipment, or (ii) a specified number of months or years (not to exceed, however, twenty-four (24) months or two (2) years) experience on a particular type of work, or both, the Job Placement Center shall contact if available for work in the order in which registrant would be dispatched under paragraphs 3 and 4 of these regulations and inquire of the registrant as to experience under (i) and (ii) and the Job Placement

Center shall dispatch the first such registrant who *advises the Job Placement Center that registrant has such experience and is willing to accept a dispatch.*

In the event no registrant with the requisite experience is available, the Contractor ordering such person shall be free to hire directly an employee to operate such piece of equipment or perform such work who has had the same or more experience than the experience called for in the order.

In the case of two or more pieces of new equipment i.e., types of equipment developed to which present classifications and working rules are not fairly applicable, not previously used in Colorado, the number of months experience on such new equipment *which may be specified in the request shall be six (6) months less than the number of months the two or more pieces of new equipment have been used in Colorado.*

c) Employees who are laid off because a job or project is temporarily shut down because of weather, lack of material or other reasons beyond the control of the Contractor and who do not accept employment in the building, highway and heavy engineering construction industry or a dispatch to a job other than one to which the "short duration" rule applies, shall on the resumption of the job or project within six (6) calendar months of its being shut down, be dispatched to such job or project as called for by the Contractor by name.

d) When a Contractor rents or leases equipment, an employee of the lessor meeting Class A requirements, operating the equipment, may be transferred to the payroll of the lessee, but shall be considered an employee of the lessor for the purposes of these non-discriminatory hiring procedures provided such employee has been dispatched in accordance with these non-discriminatory hiring procedures and shall have been in the employ of the lessor, or a lessee of the lessor, on the day next preceding the date of the rental of the equipment and the Job

Placement Center servicing the job or project on which such equipment is to be used is notified in writing by the lessee before twelve o'clock noon of the day prior to the first day such equipment is to be used on the job or project, provided further that such employee's employment by the lessee shall terminate upon termination of the lease or rental of the equipment, or any replacement thereof, whichever is later. Excepted from the provisions of this paragraph (d) are those employees of an owner of not more than two (2) units of equipment temporarily rented or leased to a Contractor.

e) An employee or employees who has or have been on the payroll of the Contractor for the five (5) working days next preceding transfer, and meeting the requirement of Class A and/or Class B, may be transferred by such Contractor to employment on a joint venture job or project to which such Contractor is party, provided that for the purposes of these non-discriminatory hiring procedures such employee or employees shall continue to be considered employed by such Contractor while employed by such joint venture.

8. The Contractor may reject any registrant dispatched by the Job Placement Center; provided, however, that any such registrant reporting for work at the agreed time and the designated place and rejected by the Contractor shall be entitled to half day or full day and/or reporting time as provided in subparagraphs (H) and (J) of Article 13 of this Agreement, unless such registrant is rejected because of reporting in a condition unfit for work or because of having been discharged for cause by the Contractor within twelve (12) months next preceding the date of such reporting for work, or if requested under 7(b) because registrant in fact does not have the experience specified in the Contractor's request.

9. A person who while employed or registered for employment in Colorado:

a) becomes incapacitated by reason of an injury or disease arising out of and in the course of employment shall for all purposes of this Appendix A be considered employed or registered for employment in Colorado for the full period of incapacity.

b) becomes incapacitated by reason of an injury or disease not arising out of and in the course of employment shall for all purposes of this Appendix A be considered employed or registered for employment in Colorado, if a person meeting Class A requirements for the period of incapacity but in no event for more than two (2) years, and if a person meeting Class B requirements for the period of incapacity but in no event for more than one (1) year.

10. A person who while employed or registered for employment in Colorado enters the military service of the United States, shall for all purposes of this Appendix A be considered employed or registered for employment in Colorado for the period of such military service.

11. A person who while employed or registered for employment in Colorado accepted or accepts employment as an employee or supervisor outside the continental limits of the United States on the type or kind of work covered by this Agreement, or who was or is transferred by a Contractor to a job or project outside Colorado and was or is there employed by such Contractor or by a joint venture with which said Contractor is associated on the type or kind of craft work covered by this Agreement, shall, for all purposes of this Appendix A be considered to have been employed or registered for employment in Colorado for the period of such service outside the continental limits of the United States or outside Colorado, as the case may be.

G. NON-DISCRIMINATORY ADMINISTRATIVE COMMITTEE

There shall be a committee composed of three (3) members appointed by the Union, which committee shall operate by majority rule and shall adopt special

provisions involving the Job Placement Center when needed and such changes in the hiring procedures as may be necessary, to the end that the foregoing non-discriminatory hiring provisions will be operated as efficiently and accurately as possible. The administrative committee, throughout the effective term of this Agreement, shall have the authority to modify the hiring provisions hereinabove set forth as necessary to comply with any lawful legislation and/or governmental administrative rules, regulations or decisions.

Any person who claims to be aggrieved by the operation of this Appendix A shall have a right of appeal to the administrative committee. After meeting with all parties concerned with the problem, the administrative committee shall render a final and binding decision.

An aggrieved person shall file a written protest within thirty (30) days of the act complained about.

APPENDIX B

WAGE SCHEDULES

SCHEDULE 1

DAVIS-BACON RATES

Wage Determination Project. In the event the Employer contracts or subcontracts work on a government project covered by Wage Determination Decision, the Employer or subcontractor will be required to pay only those wage rates, overtime rates and fringe benefits set forth in the Wage Determination applicable to that specific government project for the duration of that project.

SCHEDULE 2

If an Assistant to the Engineer is used, that employee will be covered by this Agreement.

Federal and State licensing requirements, including a Class A or Class B license, a Commercial Driver's License (CDL), and a Department of Transportation (DOT) physical examination may be required for job classifications found in this Appendix B.

HOURLY WAGE RATES

	Effective for work bid on or after 4/23/01*	Effective 5/1/02	Effective 5/1/03
1	\$18.52	\$19.22	\$19.92
Compressor			
Assistant to Engineer (Oiler)			
Brakeman			
Mill (smaller than Watson 2500 and similar)			
Helper to Heavy Duty Mechanic and/or Welder			
Operators of five or more light plants, welding machines, com- pressors 360 CFM or less, pumps, generators, single unit conveyor			
Pump or pumps			
Vacuum well point system			
Tractor (under 70 HP, with or without attachments)			
Group 2	\$18.87	\$19.57	\$20.27
Conveyor (handling building materials)			
Ditch witch trenching machine and similar			
Fork lift			
Haulage motorman (Assistant to Engineer or Brakeman required)			
Pugmill			
Portable screening plant (with or without a spray bar)			
Screening plant (with classifier)			
Self-propelled roller (rubber tires, under five tons)			

HOURLY WAGE RATES

	Effective for work bid on or after 4/23/01*	Effective 5/1/02	Effective 5/1/03
Group 3	\$19.22	\$19.92	\$20.62
Asphalt plant			
Asphalt screed			
Backfiller			
Bituminous spreader or laydown machine			
Cableway signalman			
C.M.I. and similar			
Concrete batching plant			
Concrete finish machine			
Concrete gang saw on concrete paving			
Concrete mixer (less than 1 yd.)			
Concrete placement pump (under 8")			
Distributor (bituminous surfaces)			
Dozer			
Drill (diamond or core)			
Drill rig (rotary, churn or cable tool)			
Elevating grader			
Elevator operator			
Equipment lubrication and service engineer			
Grout machine			
Gunnite machine			
Hoist (1 drum)			
Horizontal directional drill operator			

HOURLY WAGE RATES

	Effective for work bid on or after 4/23/01*	Effective 5/1/02	Effective 5/1/03
Group 3 (continued)	\$19.22	\$19.92	\$20.62
Hydraulic backhoe (wheel mounted, under ¼ yd.)			
Loader (Barber Green, etc.)			
Loader (up to and including 6 cu. yd.)			
Motor grader (blade – rough)			
Road stabilization machine			
Roller (self-propelled, all types over 5 tons)			
Sandblasting machine			
Single-unit portable crusher (with or without washer)			
Tie tamper (wheel mounted)			
Tractor (70 HP and over, with or without attachments)			
Trenching machine operator			
Winch on truck			
Group 4	\$19.37	\$20.07	\$20.77
Cable operated power shovel, dragline, clamshell and backhoe (5 cu. yd. and under)			
Concrete mixer (over 1 cu. yd.)			
Concrete paver – 34E or similar (Assistant to Engineer required)			
Concrete placement pump (8" and over)			
Crane – 50 tons and under, manufacturer's rated capacity (Assistant to Engineer required when carrier mounted)			
Grade checker			
Hoist (2 drum)			

HOURLY WAGE RATES

	Effective for work bid on or after 4/23/01*	Effective 5/1/02	Effective 5/1/03
Group 4 (continued)	\$19.37	\$20.07	\$20.77
Hydraulic backhoe ($\frac{3}{4}$ yd. and over)			
Loader (over 6 cu. yd.)			
Mechanic			
Mixermobile			
Multiple unit portable crusher (with or without washer)			
Pile driver			
Roto-mill and similar			
Scraper (single bowl, under 40 cu. yd.)			
Tractor with sideboom			
Welder			
Group 5	\$19.52	\$20.22	\$20.92
Cable-operated power shovel, dragline, clamshell and backhoe (over 5 cu. yd.)			
Caisson drill – Watson 2500, similar or larger (Assistant to Engineer required)			
Crane – 51 to 90 tons (Assistant to Engineer required when carrier mounted)			
Hoist (3 drum or more)			
Mechanic-Welder (Heavy Duty)			
Motor grader (blade – finish)			
Scraper (single bowl including pups 40 cu.yd. and tandem bowls and over)			
Group 6	\$19.67	\$20.37	\$21.07
Belt or elevating loader			
Cableway			

HOURLY WAGE RATES

	Effective for work bid on or after 4/23/01*	Effective 5/1/02	Effective 5/1/03
Group 6 (continued)	\$19.67	\$20.37	\$21.07
Crane – 91 tons to 140 tons (Assistant to Engineer required when carrier mounted)			
Derrick			
Quad nine – push unit			
Wheel excavation – manufacturer's rated capacity – struck capacity			

Group 7	\$20.43	\$21.13	\$21.83
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Crane – 141 tons and over

Tower crane (all types)

* Increase effective for work bid on or after 4/23/01 shall be implemented by 10/23/01, at the latest.

All machines referred to in this Schedule shall be classified on basis of manufacturer's rated capacity except that scrapers (single bowl and tandem bowl) shall be classified on basis of struck capacity. Tower Crane with cab and/or controls mounted on the boom to receive fifty cents (50¢) per hour above the prescribed rate.

The hourly wage rates in effect at the time of bidding a utility project may be paid on the project until its completion, or for twelve (12) months, whichever is less.

Fringe benefit increases shall be paid in accordance with the terms of this Agreement.

NOTE: The shop mechanic's rates are covered by this Schedule.

Any work within an existing job classification that becomes robotic and/or remotely operated will be covered in that Group.

Clean-up Pay. In the event that an employee covered by this Agreement is expressly required by law or governmental regulation to work in full face respirator or in full body suit and/or supplied air, one dollar and fifty cents (\$1.50) shall be added to the employee's straight time hourly wage rate for the shift.

SCHEDULE 3

Minimum straight time hourly rates for operators of equipment used in construction of tunnels, shafts and raises.

If an Assistant to Engineer is used, this employee will be covered by this Agreement.

	HOURLY WAGE RATES		
	Effective on or after 4/23/01	Effective 5/1/02	Effective 5/1/03
Air tractor	\$21.37	\$22.07	\$22.77
Brakeman	20.67	21.37	22.07
Compressor	21.12	21.82	22.52
Concrete placement pump	21.52	22.22	22.92
Grout machine	21.37	22.07	22.77
Gunnite machine	21.37	22.07	22.77
Jumbo form	21.37	22.07	22.77
Mechanic	21.52	22.22	22.92
Mechanic-welder	21.67	22.37	23.07
Mine hoist operator	21.52	22.22	22.92
Mole	21.92	22.62	23.32
Motorman (Assistant to Engineer or Brakeman required)	21.02	21.72	22.42
Mucking machine and front-end loader (underground)	21.52	22.22	22.92
Slusher	21.52	22.22	22.92
Welder	21.52	22.22	22.92

UNDERGROUND PREMIUM PAY: Any equipment listed in Schedule 2 of this Appendix B being used in tunnel work below or above ground shall be paid under Schedule 3 rate, but no less than two dollars (\$2.00) per hour above those rates set out in Schedule 2.

**TRAVEL ALLOWANCE
FOR OPERATING ENGINEERS
APPLICABLE TO TUNNEL
CONSTRUCTION IN THE
STATE OF COLORADO**

It is agreed by the parties that the following schedule of travel allowance pay will be established for tunnel workers:

Portal to 10,000 ft.	30 minutes
10,000 to 20,000 ft.	60 minutes
20,000 to 30,000 ft.	90 minutes
30,000 to 40,000 ft.	120 minutes
40,000 to 50,000 ft.	150 minutes
50,000 to 60,000 ft.	180 minutes

This travel allowance shall be computed on the basis of the employee's basic straight time rate; and travel allowance is not to be considered in computing overtime. However, should the Employer desire, he may pay two-thirds ($\frac{2}{3}$) of straight time traveling allowance computed on the basis of the employee's overtime rate. This travel allowance shall be subject to all federal and state payroll deductions.

For the purpose of determining those employees who are entitled to the travel allowance:

1. *Underground workers, including Motormen and Brakemen regularly required to work underground shall be paid travel allowance, but other employees, including Motormen and Brakemen not regularly required to work underground, shall not be paid travel allowance.*

2. *Employees regularly required to work underground who report late for the man-trip in shall not be paid the travel allowance for going in and employees who leave before the man-trip out, unless by order of their supervisor, shall not be paid the travel allowance for going out.*

3. *An employee not regularly required to work underground shall not be paid the travel allowance*

provided employee is on the Contractor's time going in, while underground, and until the employee is out. Employee shall, however, receive the underground differential.

The foregoing travel allowance shall NOT be paid to an employee who works where an open cut is covered over or decked in order that work may be continued, as contemplated by the last sentence of Section (D) 1. of "Special Working Rules and Conditions for Working Underground" in Article 14.

4. The underground straight time hourly wage rate shall apply for the full shift and overtime of any employee performing work underground; provided, however, that if an employee works underground four (4) hours or less prior to the midpoint of the scheduled shift, employee shall be paid a minimum of four (4) hours at the underground straight time rate; if an employee works underground four (4) hours or less after the midpoint of the scheduled shift, employee shall be paid a minimum of four (4) hours at the underground straight time rate; and if an employee works underground for any period both before and after the midpoint of a scheduled shift, employee shall be paid a minimum of eight (8) hours at the underground straight time rate.

SCHEDULE 4 REGISTERED APPRENTICE RATES

	HOURLY WAGE RATES		
	Effective on or after 4/23/01	Effective 5/1/02	Effective 5/1/03
1st period apprentice	\$13.45	\$13.94	\$14.43
2nd period apprentice	14.42	14.94	15.47
3rd period apprentice	15.38	15.94	16.50
4th period apprentice	16.34	16.93	17.53
5th period apprentice	17.30	17.93	18.56
6th period apprentice	18.26	18.92	19.59

SCHEDULE 5
FRINGE BENEFITS

In addition to the minimum straight time hourly rates set forth in Schedules 1, 2, 3 and 4 of this Appendix B, each Contractor shall pay for each hour worked and/or paid by each employee for a Contractor under this Agreement and for each hour due as shift differential those fringe benefits set forth in Article 20 of this Agreement in the amounts specified below.

Fringe Benefit Schedule:

	HOURLY FRINGE BENEFIT RATES		
	Effective on or after 4/23/01	Effective 5/1/02	Effective 5/1/03
Health and welfare	\$2.37	\$2.42	\$2.47
Pension	1.90	2.15	2.40
Vacation	.60	.60	.60
Journeyman and apprentice training	.30	.30	.30
Administrative dues	.10	.10	.10
TOTAL	\$5.27	\$5.57	\$5.87

APPENDIX C

AGREEMENT RE FRINGE BENEFITS FOR:

- 1) Foreman Below the Rank of General Foreman
- 2) Supervisory Personnel Above the Rank of Foreman

THIS AGREEMENT, made and entered into by and between _____ and the Union, each as defined in Article 2 (A) of the 2001-2004 Master Agreement for the State of Colorado.

ARTICLE 1

When and if the Contractor employs a member of the International Union of Operating Engineers in good standing as an Engineer Foreman below the rank of General Foreman, he/she shall be paid not less than the amount set forth in the Master Agreement for the State of Colorado, 2001-2004.

ARTICLE 2

The Contractor will pay fringe benefits by reason of the hours worked by each such foreman in accordance with Article 14 of the Master Agreement for the State of Colorado, unless in lieu thereof the employee elects to be covered by his/her Contractor's benefit program.

ARTICLE 3

The Union and the Employer agree that each Contractor covered by this Agreement may cover their supervisory personnel above the rank of foreman in the Central Pension Fund of the International Union of Operating Engineers and Participating Employers and the Operating Engineers Health and Welfare Trust Fund for Colorado by paying into all Trusts set forth in the Master Agreement monthly on the basis of 173 hours per month in accordance with the schedules set forth in the Master Agreement, regardless of the hours worked by such employee in a month; provided, however, that the Contractor having made one (1) payment on such employee shall continue to make such payment so long as such employee is in his employ.

ARTICLE 4

AGREEMENT RE FRINGE BENEFITS FOR:

- 1) Foreman Below the Rank of General Foreman
- 2) Supervisory Personnel Above the Rank of Foreman

THIS AGREEMENT shall terminate contemporaneously with the termination of the Master Agreement, State of Colorado, 2001-2004.

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 9 **INDIVIDUAL CONTRACTOR**

By _____ Firm _____
Business Manager

By _____ By _____
President

By _____ By _____
Rec.-Corres. Secretary

990 Kalamath Street
P.O. Box 40008
Denver, CO 80204-0008
Telephone: (303) 623-3194
Facsimile: (303) 623-8179
E-mail: businessmanager@iuoelocal9.com

Address:

Website: www.iuoelocal9.com

Date _____ Telephone _____

Facsimile _____

E-mail _____

APPENDIX D VACATION PAY PLAN

A. The Employer shall pay for and on behalf of each employee the vacation contributions provided for in Article 20 of this Agreement.

B. The Employer's remittance shall be due on or before the 15th day of the month following the month for which contributions are being remitted and shall be delinquent if the report and payment are not received prior to midnight of the 20th of said month. The Employer shall continue to use the same reporting forms as are supplied by the Operating Engineers Trusts from time to time.

C. All payments made hereunder are in lieu of a vacation, but said payments shall not be considered a part of the hourly wage for any purpose except as provided in paragraph (D) hereof.

D. All taxes due from each employee, including taxes due by reason of vacation payments required under Article 20 of this Agreement shall be deducted by the Employer from said employee's regular wages and all of said tax deductions together with the amount payable under the vacation plan shall be separately noted on the employee's paycheck.

E. All interest earned while funds are on deposit in the transit account shall be transferred by the Vacation Fund administrator to a revolving account from which the administrator shall pay all expenses of every kind or nature incurred in carrying out this vacation pay plan, and in the event such interest shall not be sufficient to pay such expenses, so much of the interest earned by the Operating Engineers Local No. 9 Vacation Plan Account as may be necessary to liquidate such expenses shall be transferred to the revolving account

F. 1. During the month of November of each calendar year, all sums due each employee shall, by the administrator of this plan, be computed and prepared for payment to such employees. Said payment shall actually be made on or before December 15. Said

payment shall be sent, postage prepaid, to the last known address of the employee.

2. Principal and interest shall be separately stated on each employee's check.

3. Beginning in December 2001 and continuing throughout the term of this Agreement, an employee may, in writing, direct the administrator to transfer his/her vacation money paid each December to the employee's account in the Credit Union. Said election shall be in writing on a form provided by the administrator and shall be received by the administrator by November 30. Said directive shall continue until revoked in writing.

G. In the event of the death or adjudicated incompetence of an employee, the monies credited to him/her and remaining in the transit account hereinabove referred to, exclusive of interest, will be paid over to the beneficiary designated as such under the Health and Welfare Fund for Operating Engineers upon presentation of a certified copy of the death certificate or order adjudicating incompetence to the administrator; or if no such beneficiary has been designated, to the personal representative of the estate of the deceased employee or to the guardian ad litem or conservator of the estate of the incompetent employee or as otherwise provided in the Probate Code of the State of Colorado.

H. No Employer shall be liable for the payments due from any other individual Employer or for any of the expenses of administering this plan.

I. The Vacation Fund administrator will maintain all records necessary to carry out this vacation pay plan and supply the I.U.O.E. #9 Credit Union at all times with the records necessary and proper to enable it to properly and accurately credit each employee and issue to each employee shares as herein provided. The administrator shall be entitled to act through agents specifically authorized by him/her in writing who, if they handle funds, shall be properly bonded.

APPENDIX E

The following form is a suggested form to be used by all Contractors and all mechanics pursuant to the truck expense reimbursement provision of Article 14 (J):

MECHANIC TRUCK EXPENSE REIMBURSEMENT AGREEMENT

1. The Contractor and the employee recognize that this agreement is voluntary and that use of the mechanic's truck is **not** a condition of employment.

2. The employee shall send a copy of this agreement to the Union immediately after it is signed.

3. The reasonable value of employee's truck as equipped is \$ _____.

4. For each month or portion of a month in which employee uses employee's vehicle on Contractor's job, Contractor shall pay to employee two percent (2%) of the amount set forth in Paragraph 3, which is \$ _____.

5. In addition to the amount set forth in Paragraph 4, Contractor shall furnish all fuel and oil for the vehicle.

6. The vehicle shall be covered by public liability and property damage insurance on the vehicle and by signing this form, the Contractor and the employee represent that each has complied with this provision.

EMPLOYEE:

CONTRACTOR:

Print name

Name

(signature)

(representative)

Date _____

Date _____

APPENDIX F

ADMINISTRATIVE DUES

A. The Contractor agrees that each employee may give written authorization to the Board of Trustees of the Operating Engineers Vacation Trust to pay to the Union from funds held by the Trustees on his/her behalf the sum as designated in Appendix B for each hour of employment (hours worked, or paid) in each payroll period commencing April 23, 2001, as a special administrative dues owed by the employee to the Union.

B. The Union shall bear the entire responsibility for obtaining the written authorization from the employee and furnishing the authorization to the Board of Trustees in a form satisfactory to the Trustees. All costs, expenses and fees of the Board of Trustees incidental to the accounting, administration and remittance to the Union of the Administrative dues payments shall be borne solely and entirely by the Union. This provision shall in no way affect the obligation of the Contractor to pay the full amount of vacation contributions specified in this Agreement.

C. All written authorization referred to above shall be irrevocable for a period of one (1) year from the date of the execution and shall renew automatically from year to year thereafter, unless the employee has served written notice upon the Board of Trustees and on the Union, not more than twenty (20) days and not less than ten (10) days prior to the expiration of each period of one (1) year or of the period of this Agreement, whichever is sooner, terminating the authorization.

APPENDIX G

SPECIAL RELIEF

When it is evident that Contractors signatory to this Agreement may have a competitive disadvantage (jobs without predetermined wage requirements), the Contractor and the Union may mutually agree to put into effect special wages, fringe benefits and working conditions on any job(s) or project(s) for a period of time to be mutually established by the parties.