

2008-2013
AGREEMENT

Between

LABOR RELATIONS DIVISION

WESTERN NEW YORK REGION

ASSOCIATED
GENERAL CONTRACTORS
OF AMERICA
NEW YORK STATE CHAPTER, INC.

And

LOCALS 621 & 1358

LABORERS
INTERNATIONAL UNION OF
NORTH AMERICA
AFFILIATED WITH THE AFL-CIO

LABOR RELATIONS DIVISION
ASSOCIATED
GENERAL CONTRACTORS
OF AMERICA
NEW YORK STATE CHAPTER, INC.

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A G R E E M E N T

THIS AGREEMENT, made this 1st day of April, 2008, by and between the **LABOR RELATIONS DIVISION, WESTERN NEW YORK REGION**, of the **ASSOCIATED GENERAL CONTRACTORS OF AMERICA, NEW YORK STATE CHAPTER, INC.** (hereinafter called the "Association"), acting for and on behalf of its present and future members and **LOCALS 621 and 1358** of the **LABORERS INTERNATIONAL UNION OF NORTH AMERICA**, affiliated with A.F.L.-C.I.O. (hereinafter referred to as the "Union").

Pursuant to the Uniform District Council Constitution of the Laborers' International Union of North America, Laborer Locals 621 and 1358 are affiliated Locals of the Upstate New York Laborers' District Council ("District Council") and, as such, collective bargaining and ratification is conducted by the District Council on behalf of Laborer Locals 621 and 1358. Entering into this Agreement will not bind the parties to the terms of any other Agreement entered into by the District Council on behalf of its other affiliated Locals.

W I T N E S S E T H:

WHEREAS, the parties hereto desire to stabilize employment in the Heavy and Highway Construction Industry, agree upon wage rates, hours and conditions of employment. This is a pre-hire Agreement under Section 8 (F) of the National Labor Relations Act.

NOW, THEREFORE, the undersigned Association and Union, in consideration of the mutual promises and covenants herein contained, agree as follows:

water supply projects; pure water projects; power plant construction outside the building line and inside the building line to the first floor level; water pollution control treatment plants; water power developments, hydroelectric developments, transmission lines, duct lines, pipelines, docks, dams, dikes, levees, revetments, irrigation and flood control projects, channels, channel cutoffs, dredging projects, jetties, break waters, locks, piers, pile driving, industrial sites, school sites, tank farms, bulk plants, and all earth moving, including the installation, operating, maintenance and disassembly of construction equipment and plants used in connection with and servicing the aforementioned work.

2. Certain types of work hereinabove described are more specifically covered as follows:

(a) On pipeline construction both liquid and vapor from the first metering station or connection of the main transmission carrier to the distribution carrier, and transmission and distribution systems, underground and above ground communication systems, foundations and excavation on power transmission lines, oil static lines. Tank farms, bulk plants and pumping stations are excluded.

(b) Construction of sewer (sanitary and storm) and water lines and mains;

(c) Sewer and water plant construction defined as any structure for which the purpose is water plant purification or sewage treatment;

(d) Borings, culverts and tunnels (for highway and railroad crossings) incidental or in conjunction with the work mentioned above at (a), (b) and (c);

ARTICLE I - LIABILITY

1. The Association and the Unions named herein are negotiating agents for their present and future members. For any breach of this Agreement the liability of the members of the Association and the Local Unions shall be several and not joint and the liability of the Association shall only be that of negotiating agent without liability for the acts of its respective members.

2. The Association shall notify the Union in writing within seven (7) days after the time that a new member joins the Association and becomes a member of the L.R.D./A.G.C. - Western New York Region.

ARTICLE II - DEFINITION

1. This Agreement is to cover all Highway and Heavy Construction which for the purposes of this Agreement is defined as including, but not limited to, the construction of: highways, roads, streets, alleys, grade crossings, driveways, sidewalks, curbs, guard rails, fences, culverts, parkways, parking areas, runways, taxiways, ramps and aprons and related work for excavation for conduit, bases and foundations for lighting and water lines and de-icing systems; athletic fields; highway and railroad and similar structures; railroad and street railway projects; railroad track work; sewers; sewage treatment projects; pumping stations; sedimentation beds; water mains, grade separations, foundations incident to the work herein described; abutments, retaining walls, viaducts, track elevations, elevated highways, drainage and reclamation projects; storage tanks and reservoir replacement tanks; reservoirs and

(e) The work mentioned in (b), (c) and (d) of this section on industrial, commercial and school sites.

(f) Work covered in Section 2 shall be performed pursuant to this Agreement insofar as it does not conflict with the National Pipeline Agreement.

(g) Worker and Foremen conditions for this work are specifically described in Article XII, Section 6.

3. This Agreement shall not cover testing services on road surfaces when testing services on road surfaces are not being performed by an Employer party to this Agreement.

ARTICLE III - GEOGRAPHIC JURISDICTION

1. This Agreement is to cover all Heavy and Highway Construction work in the geographical jurisdiction of Locals 621 and 1358 as provided for in Section 2.

2. The geographic jurisdiction as stated will not be changed for the purposes of this Agreement during the duration of such Agreement.

LOCAL NO. 621 - Counties of CATTARAUGUS, ALLEGANY and CHATAUQUA.

Business Manager
Donald Giardini

1521 North Union Street
Olean, NY 14760
(716) 372-2639
FAX: (716) 372-6628

LOCAL NO. 1358 - Counties of STEUBEN,
CHEMUNG, SCHUYLER, (except Township of
Catherine)

Business Manager
Tom Norconk

157 Prescott Avenue
Elmira Hgts., NY 14903
(607) 732-5912
FAX: (607) 732-6168

ARTICLE IV - UNION JURISDICTION

This Agreement is to cover all watchmen, flagmen (all crafts), fire watchmen, traffic control men, laborers, foremen (grade, pipe, concrete, forms, seeding, asphalt, clearing and grubbing, clean-up, stone laying) in the performance of: the laying of all types of pipe and conduit, whether mechanical or physical, including the relining and inspection of existing pipe and the fusion of plastic pipe; installation of open trench shoring and shield; the spreading and pouring and raking and tamping of all asphalt and concrete materials and the bull floating (strike off) of all concrete; curing of concrete; the laying of all types of stone or manufactured curb, rip-rap, paving blocks (Unilock and similar); concrete blocks (paving), Belgium Block; assembling and placing of Gabion and all similar types of baskets; the handling, the loading and unloading and stringing of all materials, the handling, loading and stringing of all wood products by hand or power; the sharpening of all air tool bits and drills and bull points; any and all types of heaters to be attended and handled and fueled by Laborers at all times when in use except where existing Agreements provide otherwise; the handling, the laying and placing of forms used for curbing, gutters,

roads and sidewalks and the stripping of same; the placing, setting and maintenance of all flares, blinker lights and reflectors; the cutting and chipping road joints; the handling, the loading and unloading and distributing of chain-link fence; handling and erecting of wire fence; the sandblasting and applying of sealers and hardeners and epoxy on concrete and asphalt work; the nozzle operators on sandblasting and guniting operations; the signaling of all materials (manufactured or otherwise) which is handled or put in place by Laborers; the handling, loading, unloading, distribution, installation, dismantling, removal, stockpiling and resetting of all guard rails, guide rails, highway signs and road markers; drilling, installation and grouting of anchor systems; single diaphragm and 2" pumps to be attended, handled and fueled by Laborers; unloading, handling and installation of noise barriers and traffic barriers, whether permanent or temporary; concrete work as assigned by the Employer; Partner saw and similar type when used in conjunction with laborers work; subsurface utility exploration (SUE); potholing and vacuum excavation (air or water); electronic location of facilities underground; transfer of horizontal and vertical control, to include GPS units Topcon, Leica and similar types/after control by any means; the operating of all types of machines used to seal any type of joints; the operating and servicing of mortar mixers and conveyors used in laborers' work regardless of number; the operating and servicing of rock drilling machines; the blasting and dynamiting of all rock; the placing of all pre-cast and pre-stressed materials except when placed or installed by the manufacturer pursuant to its Collective Bargaining Agreement; handling, unloading, loading, assembling and laying of all multiplate; the operation of all air, gas, electric, oil and other type of motor driven tools including all pusher type equipment; the handling,

tending and maintaining of Homelite and like generators; wrecking and demolition; containment membrane liner; rubbing concrete; prefabricated bridging; rebar repair and retie; miscellaneous adjustment to grade of precast manholes and drop inlets; reinforced earth wall; unloading, handling and installation of sound barrier. The foregoing applies in the performance of all the aforementioned work and all other work coming under the jurisdiction of the L.I.U. of N.A.-A.F.L. - C.I.O.

ARTICLE V - PRE-JOB CONFERENCE

1. There shall be a mandatory pre-job conference. The Employer agrees to meet with the Union for a pre-job conference prior to the commencement of any work on the subject project and the same shall apply to any and all subcontractors.
2. In the event that an Employer violates this Article, the Union may serve a five (5) day notice of intention to strike on such Employer. If the Employer does not comply within five (5) days, the Union may strike such Employer without such action being a violation of the no-strike clause of this contract.
3. Where a subcontractor has not had a pre-job conference, the five (5) day notice shall also be served on the prime contractor.

ARTICLE VI - UNION RIGHTS

1. All employees covered by this Agreement, as a condition of continued employment, shall, commencing on the eighth (8th) day following the beginning of their employment, or the effective date

of this Agreement, whichever is the later, acquire and, for the duration of their employment, maintain membership in the Union to the extent enforceable under law.

2. Failure of any employee covered by this Agreement to meet the requirements described in paragraph 1 above, will, upon the Union's written request, result in his discharge by the Employer.

3. The Employer agrees that in providing opportunity for employment it will give priority to persons who have had one (1) year or more of service since January 1, 1981, in the construction industry in the type of work covered by this Agreement, and in the various geographic areas described in Article III, Section 1 of this Agreement. It is understood that this clause is not applicable to Union employees who have previously been in the employment of an LRD contractor.

4. The Employer and the Union agree that the foregoing priority shall be exercised without regard to union membership or non membership and the Employer agrees to give the Union an opportunity to provide such additional employees as he needs.

5. It is agreed that on each job the Union Business Manager shall appoint a working Shop Steward who will be named at the pre-job conference. The Laborers' Steward will be employed at all times that any labor work is performed or any Laborers are employed on the project except that on overtime and/or specialty work, the Steward can only assert seniority provided he is qualified to do the work. He will be paid for all time lost due to not having been notified by the Employer or the Employer's agent to report for work. He will be allowed sufficient time

to perform his duties and will not be discharged, laid-off, or transferred by reason of the performance of his duties as Steward without prior approval of the Business Manager.

6. The Laborers' Steward shall be notified prior to any hiring or layoff.

7. Authorized representatives of the Union shall be allowed to visit jobs during working hours to interview the Employer and the employees but in no way shall such person or persons interfere with or hinder the progress of the work.

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

(b) The injured employee shall be allowed two (2) hours time from work for additional visits to the doctor for injuries sustained while in the Employer's service without loss of pay. It shall be understood, however, that such visits during working hours shall be made only when no other arrangements can be made and an affidavit is received from the doctor stating the necessity for each visit.

(c) The injured workman shall, if at all possible, be given preference to any light work, if the same is available, that may be performed on the job provided, however, that he is still in the employ of the Employer where the injury occurred and the doctor certifies in writing that the employee can do the work to which he is to be assigned.

ARTICLE VII - WORK CONDITIONS

1. The Employer shall furnish all necessary tools that the employees are to use.
2. (a) At the time of hire or such later date as may be appropriate, employees covered by this Agreement shall be furnished slipover rubber boots, rain suits and hard hats which shall remain the property of the Employer and be returned at the termination of use or employment.

(b) At the first full pay period following the issuing of such articles, the actual cost to the contractor of the said articles shall be deducted from the pay of each such employee covered by this contract. Upon termination of employment, such employees who return the articles issued will be refunded the amount deducted from pay.
3. The Employer shall supply special gloves for the performance of work necessitating their use.
4. The Employer shall provide warm suitable shelter of sufficient size where all Laborers may eat their lunch and hang their clothing. The Employer shall also assume responsibility in case of loss of fire. No tools, building equipment or combustible material shall be stored therein. Employees shall be required to execute a verified proof of loss in case of fire.
5. The Employer shall provide and the Laborers shall maintain clean and sanitary toilet and drinking facilities.
6. (a) The Union and the Employer expressly agree that a stable work force is required at

all times in this seasonal industry and that the absence of individual employees has a serious impact on the Employer's project productivity and efficiency.

(b) Absences from scheduled work are to be discouraged and accordingly such absences are just cause for discharge of an employee or employees.

ARTICLE VIII - HOURS OF WORK

1. The work week shall consist of Monday through Friday.
2. Normal workday shall consist of eight (8) hours with one-half (1/2) hour for lunch. The starting time shall be set by the Contractor except that starting time shall not be changed from day to day. The workday must start no sooner than 6:00a.m. nor later than 8:00a.m., except as may be otherwise mutually agreed upon by the Employer and Union.
3. Two shifts may be worked in twenty-four (24) hours and shall be of equal duration and at the same rate. However, in a two shift operation, where the combined number of hours worked by the two shifts is sixteen (16), or less, each shift shall be paid eight (8) hours pay at straight time. Notwithstanding the foregoing provisions, when a shift is shut down by reason of completion of the shift work to be performed or conditions beyond the Employer's control, the affected shift shall be paid on the basis of the show-up time provisions contained herein in Article X. This clause is equally applicable to the three (3) shift provisions hereinafter contained in Section 4 below. Thus, it is understood that there

is no guarantee that on a given day, one shift might not vary due to weather, equipment breakdown or changes in operation schedules.

4. Three shifts may be worked in twenty-four (24) hours and shall be at the rate and duration as set forth below.

1st Shift	
8 hours work	8 hours pay
2nd Shift	
7-1/2 hours work	8 hours pay
3rd Shift	
7 hours work	8 hours pay

Every shift shall have one-half (1/2) hour for lunch. When three (3) shifts are worked, the second and third shift shall be considered for payroll purposes as having worked in their entirety on the same day on which the first shift started. On multiple shift work, the work week shall start not earlier than 5:00 a.m. The Contractor shall set the starting time.

5. Prior to the start of shift work, the Employer shall give forty-eight (48) hours notice to the Business Manager. When the shift work to be performed shall be less than ten (10) working days in duration, prior agreement of the Business Manager shall be required. In the event of an emergency or directive of the letting agency, prior agreement for shift work of less than ten (10) working days duration is not required, but notice will be given to the Business Manager prior to the starting of such shift work.

6. One and one-half (1-1/2) times the rates set forth in this Agreement shall be paid for work

performed outside the scheduled workday and all work performed on Saturday. All work on Sunday will be paid at double time.

7. All eligible employees shall be allowed time off to vote on Election Day in accordance with applicable law.

8. **FLEXTIME.** With respect to any project that is 100% Federally funded, awarded by a Federal Agency, the payment of overtime after eight (8) hours will not apply. Overtime will only be required to be paid after (40) hours.

9. A single irregular work shift can start any time from 5:00 pm to 1:00 am. All employees when working a single irregular work shift on night work shall be paid an additional \$1.00 per hour. The provisions of this section will be effective for work bid on or after July 1, 2002. It is understood and agreed that if the single irregular work shift language is not included in the NYS Department of Labor prevailing wage rate schedules, the premium is waived.

10. On private (non-posted) rate work, four (4) ten (10) hour days may be worked at straight time during a week, Monday through Friday, providing all crafts on the project agree.

ARTICLE IX - HOLIDAYS

1. Paid holidays to be observed are Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and New Year's Day, irrespective of the day of the week on which the holiday may fall. If the holiday falls on Saturday, it will be celebrated on Saturday. Employees who work a Saturday holiday

shall be paid double time plus the holiday pay. When a holiday falls on a Saturday, the Employer has the option to either work Friday and pay Saturday as the holiday or, not work Friday and pay for the day in lieu of the holiday. If the holiday falls on Sunday, it will be celebrated on Sunday. In the event that men work on this Sunday holiday, they shall be paid double time plus holiday pay.

2. Any employee laid off within the week in which a holiday falls shall receive holiday pay, provided the holiday occurs after the date of hire. However, if a new employee is employed by an employer for one (1) day only during this period, he shall not be entitled to holiday pay.

3. A man must work the working day before and the working day after a holiday to receive holiday pay. However, an employee not able to report because of proven sickness, death in immediate family, or accident shall be entitled to holiday pay.

4. If a man is ordered out and reports for work on a holiday, set forth in Section 1 above, and does not start, then he shall be paid a minimum of two (2) hours straight time in addition to the straight time given for said paid holiday. If he starts work on a paid holiday, he shall be paid a minimum of four (4) hours pay at double time plus the holiday pay.

5. Paid holidays in this Article for the Chautauqua County Townships of Ripley, Westfield, Portland, Pomfret, Dunkirk, Sheridan, Hanover, Villenova, Arkwright, Cherry Creek and Charlotte are applicable for work bid on or after July 1, 2002.

ARTICLE X - SHOW-UP TIME

1. Any laborer who reports for work at the regularly appointed starting time, unless he has been notified on the previous day that his services will not be required, shall be entitled to show-up time of two (2) hours at straight time. The Employees shall remain on the job for the two (2) hour period unless otherwise directed by the Employer. Employees directed to stand-by beyond the two (2) hour period shall be paid show-up time plus such additional stand-by time.
2. Employees reporting for work at starting time shall, if put to work, receive a minimum pay of two (2) hours or actual hours worked, whichever is greater.

ARTICLE XI - PAY DAY AND MODE OF PAYMENT

1. Employees performing work under this Agreement shall be paid once a week on the job. No more than six (6) days pay shall be withheld. If the pay day falls on a holiday, payment shall be made on the workday preceding such holiday. On failure to pay on the regularly scheduled pay day, the Employer will pay a penalty of two (2) straight time hours for pay day and for each succeeding day on which he fails to pay where such failure to pay is willful or due to conditions within the Employer's control.
2. All wages shall be payable in lawful currency, enclosed in an envelope which shows the employee's name and employer's name, regular hours worked plus overtime hours worked, all lawful deductions, and the amount due or by a negotiable payroll check showing all of the above information drawn upon a

commercial bank within the region, payable upon demand at par.

3. If any employee is discharged or laid off, all accrued wages shall be due and paid immediately, except that by mutual agreement an employee may be paid by check mailed within twenty-four (24) hours. If not mailed within 24 hours, such employee shall be paid an additional \$25.00 for each additional 24 hour period the check was not mailed.

ARTICLE XII - LABORER FOREMAN

1. When more than three (3) employees covered by this Agreement are employed, a Laborer Foreman will be designated by the Employer. Designated Foremen shall assume the keeping of time for employees covered by this Agreement.

2. Laborer Foreman (grade, pipe, etc.) shall be designated by and at the discretion of the Employer and shall be assigned to such duties and responsibilities as the Employer, the Dirt Superintendent or other supervisory personnel may determine in its or his sole discretion. The Employer or his representative shall be the sole judge of whether such employees are qualified to perform the assigned work.

3. The wage rates for Foremen covered by this Agreement are as follows:

(a) Grade Foremen – two dollars (\$2.00) over basic rate.

(b) Other Foremen – one dollar and fifty cents (\$1.50) over the highest classification covered by

this Agreement which such Foremen supervise.

(c) Any Foremen covered by this Agreement may be employed on a weekly basis at a salary agreeable to the Employer and the Foremen.

4. The Union agrees that no restrictions shall be placed upon the selection of Grade Foremen by the Contractor or the use of Grade Foremen freely among locals throughout the territorial jurisdiction of this Agreement (100% mobility) provided they are a member of a Union party to this Agreement.

5. With respect to all other Foremen, the Union agrees not to impose more than 50% restriction on the Contractor's Foreman requirements per project in connection with an individual's necessary membership in a particular local (50% mobility) provided he is a member of a Union party to this Agreement. However, there may be 100% mobility on other Foremen, per specialty work, if approved at a pre-job meeting.

6. (a) Foremen shall be named as may be required by the Employer and at the Employer's discretion. In the event that more than one Foreman is employed on a project, the Union shall be afforded an opportunity to supply 50% of such men.

(b) On gas distribution, electric and telephone work there shall be fifty percent (50%) mobility between the local Unions with respect to Foremen and workmen. The first Foreman may come from the Employer.

(c) On other work covered by Article II, Section 2, there shall be fifty percent (50%) mobility with

respect to Foremen and twenty-five percent (25%) mobility among the Unions with respect to other workmen.

ARTICLE XIII - SUBCONTRACTING

1. It is agreed that if the Employer subcontracts job site work falling within the terms of this contract, provision will be made in each subcontract for the compliance by said subcontractor with terms, conditions of employment, wages, welfare and pension, contributions not less than those contained in this Agreement.

2. A subcontractor is defined as any person, firm, partnership, self-employed person or corporation who agrees, under contract, oral or written, with the general contractor or his subcontractor to perform on the job site any part or portion of the work covered by this Agreement.

3. With respect to subcontractors who are not members of the Labor Relations Division-Western New York Region, A.G.C., or who have not signed the contract as an individual employer, the following rules shall apply:

(a) Such subcontractors shall be required to remit fringe benefit payments on a weekly basis.

(b) On the first failure of such subcontractor to remit fringe benefits or first instance on which the subcontractor is delinquent, the Union shall notify the Prime Contractor of the said failure to remit or delinquency.

(c) After having been notified of a failure to

remit or of a delinquency, the Prime Contractor shall be responsible for each such fringe benefit payment pursuant to 3(d) below.

(d) After notification by the Union, the Employer is responsible for checking with the Funds to determine whether the regular payments are being made. However, once any non-payment has been rectified and the subcontractor resumes payments as required under 3(a), the Prime Contractor is relieved of any responsibility to check with the Funds until notification is again received in writing by the Union of further alleged delinquency.

(e) The Prime Contractor's responsibility is limited to fringe benefits applicable to its project on which the de-faulting subcontractor is employed.

(f) The Prime Contractor does not assume the above responsibility with respect to subcontractors who are members of the L.R.D.-Western New York Region, AGC, or who are individual signatories to the labor contract.

4. Off-site gravel or material pits, the material from which is used for a particular project covered by this Agreement shall be operated under the terms of this Agreement when the pit is owned, leased, operated by or under the control of the Prime Contractor or another corporation or company of which the majority ownership is held by the Prime Contractor or its majority owner or owners.

ARTICLE XIV - SAFETY

1. No employee shall be required or assigned to engage in any activity involving dangerous conditions of work or danger to person or property in violation of an applicable statute, court order, or governmental regulation relating to safety of person or equipment.
2. In the event that the Employer violates Section 1 above, a withdrawal by the Union of the services of the man or men engaged in the particular operation shall not be in a violation of this contract by the Union.
3. The Employer and the Union do hereby agree to work together to promote safety on the job for the benefit of all employees. Safety rules and regulations will be made known to all employees and the use of safety equipment will be continually promoted by both parties.
4. (a) The Union and the Employer agree that willful neglect and failure by an employee to obey company safety rules and regulations; or to obey safety rules, standards and regulations as prescribed pursuant to the Occupational Safety and Health Act or other governmental regulation or legislation; or to use properly such safety devices or equipment as are provided by the Company shall be just cause for discharge and it shall be the decision of the Union as to whether recourse will be had to the grievance procedure of this Agreement.

(b) The Union agrees to cooperate with the company in encouraging employees to observe the safety regulations prescribed by the company and to wear properly and utilize safety equipment

as required by the company and to work in a safe manner.

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

5. The Employer may request that the employee-applicants take a pulmonary fit test prior to employment, subject to the following conditions: 1) the Employer must make the request on 48 hours' notice; and 2) if the employee-applicants next in order on the out-of-work list have not had a pulmonary fit test within the past 12 months, the Union shall provide their names to the Employer and the Employer shall make an appointment for the test at a facility selected by the Employer at the Employer's expense.

ARTICLE XV - JOINT POLICY ON SUBSTANCE ABUSE

The Western New York LRD/AGC and Laborers' Locals 621 and 1358 are committed to provide a safe work environment for employees and reliable work, production, and quality for the public. The Employers and Unions affirm that construction jobsites subject to this Agreement must be alcohol and drug free. Employees whose job performance is impaired by the use of alcohol or drugs create an unacceptable safety risk to themselves, co-workers,

and public.

ARTICLE XVI - PENSION, WELFARE, AND TRAINING FUNDS

1. (a) The Employer hereby agrees to contribute the amounts hereinafter provided for in Article XXVI of this Agreement to designated Laborers Pension, Welfare, and Training Funds (hereinafter singularly and collectively referred to as "Fund") for each actual hour worked by employees covered by this Agreement. It is the purpose of this Article to provide that where a Local Union, party to this Agreement has established a Fund jointly trusteeed by Labor and Management, then said contributions shall be paid to said Local Fund in the amounts hereinafter set forth in this Agreement.

(b) The Employers party to this Agreement accept the Trustees now serving on such Fund and hereby waive the right to name new, other successor or additional trustees.
2. The Employer agrees to contribute the amount per hour hereinafter set forth in Article XXVI for each actual hour worked except where an employee is paid pursuant to the 2+ actual hours worked clause herein provided for at Article X of this Agreement in which case contributions shall be paid on the same basis as the 2+ actual hours worked clause.
3. Each Local Union party to this Agreement shall be considered as an Employer under this Agreement for the purpose of paying the contributions mentioned in this Article on its employees.

- 4. (a) In the event that the Employer does not make contributions to the Fund as provided for herein, the Employer agrees that he will be charged with all necessary litigation and accounting expenses incurred by the Trustees of the Fund in collecting the monies due hereunder and that a money judgment may be rendered against such Employer for such litigation and accounting expenses in addition to a judgment for unpaid contributions.
- (b) Litigation and accounting expenses shall be determined so as not to be in excess of the minimum fee schedules for the legal and accounting professions in the area in which such work is performed.
- 5. (a) Each Employer shall furnish the Trustees of the respective Funds with periodic reports as required by the Fund showing the names, social security numbers, hours worked and location of job of each employee performing work covered by this Agreement.
- (b) Subcontractors covered by Article XIII, Section 3 shall remit contributions on a weekly basis.
- (c) In the event that no workers are employed during the report period, a negative report and/or a final report shall be filed.
- (d) Monthly reports are due the 15th day of the month following the month on which contributions are being made.
- 6. The books and records of each Employer pertinent to the employment of employees covered

by this Agreement, shall be made available at all reasonable times for inspection and audit by a licensed CPA employed by the Fund, including, without limitation, payroll sheets, W-2 Forms, New York State employment reports, Social Security reports, ledgers, vouchers and any other pertinent items concerning payrolls. Inspection shall be restricted to verification of payments made and/or due to the Fund. Cost of such inspection shall be borne by the Fund except in cases where an Employer is delinquent in making contributions, in which case the delinquent Employer shall bear the cost of inspection and audit. Delinquency is defined as continual late payments and not honest errors.

7. The parties to the Agreement affirm that all terms and conditions contained herein, as well as terms and conditions enumerated in trust documents incorporated herein by reference shall survive without modification for the full term of this Agreement notwithstanding mergers or territorial changes proposed or effectuated by LIUNA.

ARTICLE XVII - WATCHMEN AND GUARDS

1. Guards are to be excluded from the bargaining unit. Guards may be used for the security of the contractors' equipment and material only and they will not at anytime be required to punch time clocks or perform work of employees covered by this Agreement.

2. Watchmen are employees on projects requiring a coverage under Item 619 (Maintenance and Protection of Traffic) and such employees are covered by only the following provisions of this Agreement: Article VI, Sections 1, 2, 3, 8(a), (b) and

(c); Article VII; Article XIII, Sections 2 and 3; Article XIV; Article XVI; Article XXI; and Article XXIII.

3. When watchmen service is subcontracted, the provisions of this Article shall apply equally to such subcontractors.

4. The 2+ actual hours worked clause of this contract (Article X) does not apply to watchmen. The hourly rate shall be paid at straight time for actual hours worked without regard to the day of the week or whether a holiday is involved. Time and one-half (1-1/2) shall be paid for hours worked in excess of forty (40). Overtime for watchmen shall be computed only on hours worked as a watchman without regard to hours that such man shall have worked on the project as a Laborer.

5. The duties of a watchman shall include maintenance of barricades, lights and signs, and similar non-productive maintenance and safety functions, acting as fire watch but shall not tend fuel fires.

6. Watchmen Rates: The watchman's rate shall be 75% of the basic (A) rate, plus fringes. Such basic rates shall be rounded to the nearest one-half (1/2) cent.

ARTICLE XVIII - STATUS QUO ON CERTAIN EQUIPMENT

1. The parties hereto recognize that the operation of certain equipment and work assignments may raise questions regarding jurisdiction of work in areas of one or more of the Local Union's party to this Agreement. The equipment involved is:

- (a) Hydraulic Seeder
- (b) Concrete Curb Machine
- (c) Asphalt Curb Machine
- (d) Snorkel
- (e) Stump Remover
- (f) Blower for Burning Bush
- (g) Hydraulic Motorized Pin Puller
- (h) Self-Propelled Concrete Saw
- (i) EZ Gang Drill

2. Pending final determination of the jurisdiction of the above equipment, such equipment and the operation thereof shall remain "status quo."

ARTICLE XIX - ARBITRATION

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

2. Grievance Procedure: All grievances or disputes involving any controversy, dispute or misunderstanding arising as to the meaning, application or observance of any provisions of this Agreement shall be handled in the manner hereinafter set forth. It is agreed that all matters pertaining to the interpretation of this Agreement must be referred directly to the Joint Committee, provided that if a grievance has not been filed, the matter shall not be a subject of arbitration until a grievance is filed.

Step 1. All grievances must be made known in writing to the other party within seven (7) calendar days after the reason for such grievance has occurred. The aggrieved employee's or employees'

Shop Steward or another authorized representative of the Union shall first submit a written grievance to the Job Superintendent, or his duly authorized representative. The Shop Steward or another authorized representative of the Union of the employee or the employees involved shall be present at any meeting between the Job Superintendent and such employee or employees. The Job Superintendent or his duly authorized representative must make a written disposition of the matter within twenty-four (24) hours after the submission of such written grievance thereto.

Step 2. If the disposition of the matter by the Job Superintendent or his duly authorized representative is not satisfactory, the matter must be taken up by the Business Manager, and representative of the Employer with authority to act within forty-eight (48) hours of the written disposition set forth in Step 1.

Step 3. If the disposition of the matter in Step 2 is not satisfactory, either party has a right to file its grievances with the Joint Committee referred to in Section 2 of this Article within seventy-two (72) hours after Step 2.

3. The Unions and Association who are signatories to this shall together establish for the duration of this Agreement, a Joint Committee. The Joint Committee shall consist of three (3) representatives of the Employers and three (3) representatives of the Union. All meetings of the Joint Committee must be attended by each member or his alternate, but the absence of any member or alternate shall not invalidate the action of the members of the Joint Committee who are present.

It shall be the function of the Joint Committee

to settle disputes and grievances which cannot be settled in accordance with Steps 1, 2 and 3 of the grievance procedure. The Joint Committee shall formulate rules of procedure to govern the conduct of its proceedings including the time, date and place of meetings.

A decision by a majority of the Joint Committee shall be final and binding on the parties and employees involved. Failure of either party involved to comply with any final decision of or to submit to the jurisdiction of the Joint Committee shall give the other party the immediate right to all legal and economic recourse.

4. Rights of the Joint Committee: The Joint Committee shall have the right to investigate all facts pertaining to the dispute. The Joint Committee shall, upon each dispute or grievance processed in accordance with this Article after completion of or as a part of Step 2, have the right to examine time sheets and any other records pertaining to the computation of compensation of any individual or individuals whose pay is in dispute. Both parties shall be entitled to present such evidence and witnesses in support of their position as they see fit.

5. Arbitration: If a grievance cannot be satisfactorily settled by a majority decision of the Joint Committee, the grievant shall request a list of seven (7) arbitrators from (1) the panel arbitrators of the New York Board of Mediation; (2) the Federal Mediation and Conciliation Service, or (3) the labor panel of the American Arbitration Association for final and binding decision. Such request shall be no later than fifteen (15) calendar days, from the date of the oral announcement of the Joint Committee's decision, by the grievant or his duly assigned representative.

Further, any arbitration agency named shall be used only for every third arbitration that may arise between the parties to the end that arbitrators be selected on a rotating basis in the order in which the agencies are hereinabove listed. The arbitrator shall be selected by alternately eliminating names from the seven (7) person list until one remains, the grievant or his representative shall strike the first name. Upon failure to comply with the provisions of this entire section on the part of the grievant, the grievance shall be deemed to have been closed without decision.

The arbitrator shall not have jurisdiction or authority to add to, modify, detract from, or alter in any way the provisions of this Agreement or any amendment or supplement thereto. If the arbitrator should determine that the grievance is not covered by this Agreement, he shall return the grievance to the parties without decision and the grievance shall be closed. In such case, the costs, if any, shall be borne by the grievant.

6. Violations concerning wages, hours, and all fringe benefit payments shall not be subject to the grievance procedure. In such cases, the Union shall give three (3) working days notice to the Employer that the Union will withdraw its men from the Employer's service. If the Employer contends there is a question of fact regarding the alleged violation, he may file a grievance within the aforesaid three (3) working days with a copy to the Local Union and a copy to the Co-Secretaries of the Committee. When a grievance has been filed, there shall be no work stoppage pending resolution of the grievance pursuant to Article XIX (2)(3) and subsequent provisions of this Article. Work jurisdiction, that is, disputes with respect to whether one

group of employees or another group of employees, shall perform certain work on the project is expressly not arbitrable under this contract.

7. Any discharged employee may file a grievance no later than four (4) days after discharge by a written notice submitted to the Project Manager or Superintendent and the Local Union and such grievance shall be immediately processed in accordance with the steps of the grievance procedure.

8. The administrative costs of the Joint Committee shall be borne equally by the Employers and the Union.

9. The costs of arbitration, which shall include the fees and expenses of the arbitrator, shall be borne by the Company in case its principal contention is rejected by the arbitrator and by the Union in case its principal contention is rejected by the arbitrator, except, however, that each party shall pay the fees of its own representatives and witnesses. Any dispute as to whose principal contention is rejected shall be determined by the arbitrator. In the case that both parties' principal contention is upheld in part, the arbitrator shall designate what part of the costs are to be borne by which party according to the relative merits of each party's position.

10. The Union and Association expressly agree that the Contractors, present and future, who comprise the multi-employer bargaining group, do not subscribe to, are not a part of, nor are they to any extent bound by the Impartial Board for the Settlement of Jurisdictional Disputes or the rules, regulations or procedures of the Impartial Board for the Settlement of Jurisdictional Disputes.

ARTICLE XX – JURISDICTIONAL DISPUTES

1. The parties hereto mutually agree that in the event of a jurisdictional dispute with any other Union or Unions, the dispute shall be submitted to the International Unions for settlement.
2. Neither party shall order or permit any lockout, strike, or other work stoppage or slowdown. Furthermore, the Union will not aid, support or permit unauthorized strikes, slowdowns or work stoppages by its members with respect to a jurisdictional dispute.
3. If the International Unions are unable to resolve said dispute within five (5) days (Saturday, Sunday and Holidays excluded) then;
4. The parties to this Agreement shall have exhausted their internal remedies and may then seek resolution through the NLRB and /or the Courts. No legal action may be initiated before such internal remedies are exhausted.
5. Notwithstanding any other provision of this Agreement, only a Court has the power to determine whether or not a particular dispute arising under this Agreement is jurisdictional and excluded from the grievance/arbitration.

ARTICLE XXI - DEDUCTIONS

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

2. No deductions shall be made for any such employee unless the employee has deposited with the Employer his copy of an executed authorization form, which shall in no event be irrevocable for a period of more than one (1) year or the termination date of this Agreement whichever shall be the less.

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

4. The Employer assumes no obligation with respect to the obtaining of authorization cards, it being understood that this is a duty and obligation of the Union.

5. With respect to any such employee for whom authorization cards have not been furnished, the gross basic wage rate appearing hereafter at Article XXVI shall be paid to the employee on a straight and/or time and one-half basis as shall be applicable under this contract.

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

7. The Union shall indemnify and save the Employer harmless against any and all claims, demands, suits or other forms of liability that shall arise out of or by reason of action taken or not taken by the Company in reliance upon authorization cards furnished by the employees and/or Union.

8. The Employer agrees to deduct and transmit to the New York State Laborers' Political Action Committee five cents (\$.05) for each hour worked from the wages of those employees who have voluntarily authorized such contributions on the forms provided

for that purpose by the Union. These transmittals shall occur monthly, and shall be accompanied by a list of the names of those employees for whom such deductions have been made, and the amount deducted for each such employee. The Employer shall retain one (1%) percent of the gross proceeds from the check off as reimbursement for the Employer's costs in administering this check off. The Union agrees to indemnify and hold harmless the Employer from any and all claims, actions and/or proceedings arising out of said New York State Laborers Political Action Committee.

ARTICLE XXII - APPRENTICESHIP

1. A registered Apprenticeship Training Program is to be established for each Local that fully complies with all governmental requirements, indenturing apprentices to the program.
2. There will be a Joint Apprenticeship Training Committee (JATC) for each Local's program consisting of representatives from the Union and the Employers who will administer the rules and regulations for the Apprenticeship Program for each Local.
3. New applicants for membership who cannot provide reasonable proof of 4,000 or more hours of employment as a Construction Craft Laborer (or, alternatively, cannot demonstrate equivalent skills in a placement examination administered by the JATC) shall, whenever possible, enter the Apprenticeship Program. The failure of any Apprentice to maintain his or her Apprenticeship status may obligate the Employer to discharge such a person upon notice from the Union.

4. The Apprenticeship and Training standards approved by the Federal Bureau of Apprenticeship and Training or State Apprenticeship Committee are hereby incorporated by reference as a part of this Agreement.

5. The ratio of Apprentices to journey workers on any project site is 1:3. Apprentices shall be covered by the terms and conditions of this Agreement and shall be paid according to the following schedule and fringe benefits for Local 621 and Local 1358:

Hours of Credit	Wage Rate
0-999	70% of basic rate (a)
1,000 – 1,999	80% of basic rate (a)
2,000 – 2,999	85% of basic rate (a)
3,000 – 3,999	90% of basic rate (a)
4,000 and over	Journey Worker

The corresponding percentage of fringe benefits to be paid will be determined by the Local 621 JATC and Local 1358 JATC.

6. All wage increases are subject to an Apprentice completing the preceding 1,000 hour increments.

7. Apprenticeship applicants are required to have a substance abuse test and a physical prior to acceptance into the program or Union, unless precluded by State Federal law.

ARTICLE XXIII - EQUAL EMPLOYMENT OPPORTUNITY

The Employer and the Union mutually agree that they will comply and cooperate with all laws, codes, rules, regulations, executive orders and admini-

strative decisions, whether state or federal, dealing with non discrimination in training, membership, employment, job tenure, promotions and every other matter covered by such laws, codes, etc. not herein expressly mentioned. The use of masculine or feminine gender in this Agreement shall be construed as including both genders.

ARTICLE XXIV - MOST FAVORED EMPLOYER

1. If the Union enters into any agreement with any individual Employer or group of Employers performing work covered by the terms of this Agreement and that Agreement provides for more favorable wages, hours, or conditions to any other Employer, the Employers signatory hereto, after sending written notice of such intention, shall be afforded the privilege to adopt such advantageous terms and conditions.
2. This clause shall not apply to isolated or emergency situations which may occur from time to time under regular conditions, nor shall this clause apply to any project Agreement that is put in place before the bid.

ARTICLE XXV - SAVINGS CLAUSE

In the event that any State or Federal Statute or Law shall supersede or invalidate any clauses in this Agreement, such Statute or Law shall prevail over any such clause; however, the other provisions of this Agreement shall be valid and remain in full force and effect. In the event that any section or portion thereof shall be declared invalid, it is further agreed that the parties hereto shall meet within a period of sixty (60) days to redraft a new section or portion

thereof, which shall be valid and which shall replace that section or portion thereof declared invalid.

ARTICLE XXVI - WAGES

1. A Laborer shall be paid for the entire day at the rate applicable to the highest classification in which he has worked that day, if he works four (4) or more hours in the higher classification.

2. Whenever the letters (a) and (b) appear hereinafter, the use of the letter shall be considered as describing the following work classifications:

(a) Basic Rate, Drill Helper, Flagmen, Outboard and Hand Boats, Bull Float, Chain Saw, Concrete Aggregate Bin, Concrete Bootman, Gin Buggy, Hand or Machine Vibrator, Jack Hammer, Mason Tender, Mortar Mixer, Pavement Breaker, Handlers of all Steel Mesh, Small Generators for Laborers' tools, installation of bridge drainage pipe, pipe layers, vibrator type rollers, tamper, drill doctor, water pump operator (2" and single diaphragm) nozzle (asphalt, gunite, seeding and sand blasting), Laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil, and air tool operators, wrecking laborer, grade checker.

(b) Blasters, form setters, stone or granite curb setters, designated asphalt rakers (not to include cold patch), tail or screw operator on asphalt paver. All rock or drilling machine operators (except quarry master and similar type), acetylene torch operators, powderman.

3. Wage rates, Welfare, Pension, and Training contributions and deduction amounts are set forth below.

NOTE: The base wage appearing below includes the amount to be deducted for each actual hour worked for DUES.

*Deductions upon receipt of signed authorization card from employee. A percentage deduction will be on gross wages exclusive of fringe benefits.

Gross increases for each classification:

	Zone I & II	Zone III
Effective July 1, 2008	\$1.45	\$1.45
Effective July 1, 2009	\$1.45	\$1.45
Effective July 1, 2010	\$1.45	
Effective July 1, 2011	\$1.50	
Effective		
July 1, 2012 – June 30, 2013	\$1.50	

4. The wage rates for Foremen covered by this Agreement are as follows:

(a) Grade Foremen – Two dollars (\$2.00) over basic rate.

(b) Other Foremen – One dollar and fifty cents (\$1.50) over the highest classification covered by this Agreement which such foremen supervise.

(c) Any Foremen covered by this Agreement may be employed on a weekly basis at a salary agreeable to the Employer and the Foremen.

5. **DRILLS** - Individual wagon drills, trackmounted drills, jack leg drills and multiple type drills shall require a drill helper except that the Union and the Employer recognize that in certain cases one helper may be able to service more than one drill. In such cases, the manning shall be pursuant to a project Agreement between the Union and the Employer.

6. **NON PUBLIC WORK** - The Employer and Local Union agree to have a pre bid conference to establish wage rates and working conditions for performing work on a non public works project, that is, private work wherein prevailing wage rate determinations are not applicable.

7. **HAZARDOUS WASTE** - When an employee covered by this Agreement performs hazardous waste removal; lead abatement and removal; asbestos abatement and removal work on a State and/or Federally designated waste site, and where relevant State and/or Federal regulations require employees to be furnished, and those employees use or wear required forms of personal protection, then in such case an employee shall receive the

basic hourly rate plus \$1.50 per hour.

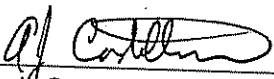
ARTICLE XXVII DURATION AND TERMINATION


It is agreed by both parties that all the conditions of this Agreement shall remain in full force and effect from April 1, 2008 to March 31, 2013, and during each calendar year thereafter, unless on or before the 30th day of January, 2013, or any year thereafter, written notice of change to this Agreement be served by either party upon the other party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly subscribed by their duly authorized representatives the day and year first above written.

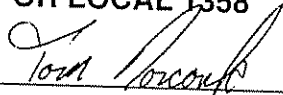
**FOR THE LRD/AGC
WESTERN
NEW YORK REGION**

FOR LOCAL 621


A.J. Castelbuono
President & CEO


Donald R. Giardini

FOR LOCAL 1358


Tom Norconk

INDIVIDUAL EMPLOYER

In consideration of the time, efforts, and sums expended by the Union, the Labor Relations Division and the Employer in the negotiation of the foregoing contract, in consideration of the similar time, effort and sums expended and to be expended in its administration, and further consideration of the mutual promises and obligations of the Union, the Labor Relations Division and its member contractors, and Employers, the undersigned individual employer agrees:

1. That he (it) has read the foregoing Collective Bargaining Agreement, dated April 1, 2008, and agrees, as an individual Employer to be bound by each and all of the terms, conditions and provisions thereof and also agrees to be bound by the interpretations and enforcement of the Agreement. He (It) further agrees to furnish both the Labor Relations Division and the Union with signed copies of this Agreement.
2. That he (it) waives the right to name or participate in the selection of any Management Trustee to any and all jointly trusteeed funds provided for in said Agreement, further agrees to accept the Trustees now named to these Funds as his designated Trustees, and agrees to be bound by the provisions of the trust indentures creating the respective Funds.

Name of Firm

By: _____
An Authorized Officer, Title

Firm Street Address

City and State

Telephone Number

Local Union: _____

By: _____
Authorized Representative

Date: _____
UNION COPY

INDIVIDUAL EMPLOYER

In consideration of the time, efforts, and sums expended by the Union, the Labor Relations Division and the Employer in the negotiation of the foregoing contract, in consideration of the similar time, effort and sums expended and to be expended in its administration, and further consideration of the mutual promises and obligations of the Union, the Labor Relations Division and its member contractors, and Employers, the undersigned individual employer agrees:

1. That he (it) has read the foregoing Collective Bargaining Agreement, dated April 1, 2008, and agrees, as an individual Employer to be bound by each and all of the terms, conditions and provisions thereof and also agrees to be bound by the interpretations and enforcement of the Agreement. He (It) further agrees to furnish both the Labor Relations Division and the Union with signed copies of this Agreement.
2. That he (it) waives the right to name or participate in the selection of any Management Trustee to any and all jointly trusteed Funds provided for in said Agreement, further agrees to accept the Trustees now named to these Funds as his designated Trustees, and agrees to be bound by the provisions of the trust indentures creating the respective Funds.

Name of Firm

By: _____
An Authorized Officer, Title

Firm Street Address

City and State

Telephone Number

Local Union: _____

By: _____
Authorized Representative

Date: _____

NOTE: This page to be filled out in duplicate and
one copy forwarded to:

Labor Relations Division
New York State Chapter, Inc.
Associated General Contractors of America
10 Airline Drive, Suite 203
Albany, New York 12205-1025

LRD/AGC COPY (LABORERS) (LOCALS 621
& 1358)
Liuna621-1358