

K 8164
1,000 written
2/4/01

**Heavy and Highway
Construction
Agreement**

between

**The Wisconsin Transportation
Employers' Council**

and



**Wisconsin Teamsters
Joint Council No. 39**

May 1, 2001 through April 30, 2006

INDEX

ARTICLE	PAGE
Classification and Wage Rates (Article 13).....	11
Dues Check-Off (Article 3).....	3
Duration of Agreement (Article 4).....	4
Equipment, Accidents, Reports (Article 19).....	19
Fair Contracting Fund (TFCF) (Article 18).....	19
General Rules (Article 10)	7
Grievance Procedure (Article 7).....	5
Health and Welfare (Article 14)	13
Jurisdiction and Classification (Article 5)	4
Leave of Absence (Article 16).....	17
Non-Discrimination (Article 24).....	21
Pension (Article 15).....	16
Permission to Use Form (Article 25).....	21
Pre-Job Conference (Article 8).....	6
Prevailing Wage Survey (Article 26).....	21
Recognition, Assignment, Scope, Coverage, Entirety and Definitions of Agreement (Article 1).....	1
Security Payments (Article 20).....	20
Seniority (Article 11).....	9
Separability Clause (Article 23)	20
Shifts and Hours of Employment and Overtime Rates of Pay (Article 12)...	10
Strike or Lockouts (Article 6).....	5
Subcontracting (Article 9).....	7
Substance Abuse Policy (Article 21).....	20
Transportation Education Fund (Article 17).....	18
Union Security (Article 2).....	2
Waiver (Article 22).....	20

HEAVY AND HIGHWAY CONSTRUCTION AGREEMENT

THIS AGREEMENT made and entered into this 9th day of November, effective the 1st day of May, 2001 by and between The Wisconsin Transportation Employers' Council (hereinafter called the Employer) for and on behalf of its membership (hereinafter called the Contractors) as party of the first part and the Wisconsin Teamsters Joint Council No. 39 (hereinafter called the Union) as party of the second part.

WITNESSETH:

That the parties hereto for and in consideration of the mutual promises and obligations herein contained, agree to and with each other as follows:

ARTICLE 1 — RECOGNITION, ASSIGNMENT, SCOPE, COVERAGE, ENTIRETY AND DEFINITIONS OF AGREEMENT

- 1.01 Recognition.** The Employer and the Contractor hereby recognize the Union as the sole and exclusive bargaining agent for all employees in the bargaining unit. The bargaining unit shall consist of all Teamsters as now or hereafter classified in Article 5 (Jurisdiction and Classification) performing work within the scope and coverage of this Agreement.
- 1.02 Assignment.** The Contractor hereby assigns all work to be performed in the categories described in Article 5 (Jurisdiction and Classification) to employees in the bargaining unit covered by this Agreement.
- 1.03 Scope.** This Agreement shall apply throughout the State of Wisconsin.
- 1.04 Coverage.** This Agreement shall cover all airport, private highway, heavy and highway construction work included in contracts awarded by, and/or funded in any part by, the State of Wisconsin Department of Transportation and any work performed for any authority supervised by said Department of Transportation, including federally funded construction that is administered by the Wisconsin Department of Transportation.
- 1.05 Entirety of Agreement.** This Agreement represents the entire written contract between the parties and it supersedes any previous agreements, supplements, riders or addenda whether written or verbal. Neither the Union, the Contractor, nor the Employer, shall have the right to add to,

subtract from or change the terms of the agreement without the mutual written consent of all parties hereto.

It is agreed that this Agreement will be submitted to the Department of Workforce Development with the request that the wage rates and fringe benefits as set forth herein be determined as the prevailing wage rates in accordance with Subsection 103.50 of the Wisconsin Statutes for each of the years covered by this Agreement.

1.06 Definitions.

- (a) "Airport Construction" work is defined as including site preparation, grading, paving, drainage, fences, sidewalks, driveways, parking areas and similar work incidental to the construction of airfields, but shall not include the construction of buildings.
- (b) "Workmen" shall include only those persons employed by the Contractor coming within the jurisdiction of the Wisconsin Teamsters Joint Council No. 39 and specifically set forth in Article 5 (Jurisdiction and Classifications).
- (c) The "Contractor" where used in this Agreement means any Contractor or subcontractor who is a member of the Wisconsin Transportation Employers Council who is engaged in highway construction work anywhere in the State of Wisconsin which comes within the jurisdiction of the Unions.

ARTICLE 2 — UNION SECURITY

- 2.01** All present employees of the Contractor covered by this Agreement who are members of the Union as of the date of execution of this Agreement shall as a condition of continued employment with said Contractor maintain membership during the life of this Agreement to the extent of tendering the periodic dues and initiation fees uniformly required by the Union as a condition of acquiring or maintaining membership. All present employees of the Contractor covered by this Agreement who are not members of the Union and all employees of the Contractor covered by this Agreement shall become members of the Union within eight (8) days following the date of this Agreement, or within eight (8) days following the commencement of such employment, whichever is later, and shall, as a condition of continued employment with the Contractor, maintain

membership during the life of this Agreement to the extent of tendering the periodic dues and initiation fees uniformly required by the Union as a condition of acquiring or maintaining membership; provided however, that such workers on the same terms and conditions generally applicable to other members and that such membership is not denied or terminated for reasons other than a failure by the affected workers to tender the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership.

- 2.02** Upon written notice from the Union advising that an employee covered by this Agreement has failed to maintain membership in the Union in good standing as covered above, by payment of uniform initiation fees and/or dues as required, the Contractor shall forthwith discharge the employee unless the Contractor has reasonable grounds for believing that membership was not available to the employee on the same terms and conditions generally applicable to other members, or that membership was denied or terminated for reasons other than for failure of employee to tender the periodic dues and initiation fees uniformly required by the Union as a condition of acquiring or maintaining membership.
- 2.03** The Contractor shall not discharge or cause an employee to lose any work for failure to maintain membership or good standing under this Article, except upon written notice from the Business Representative of the Union as set forth herein.
- 2.04** All employees upon hiring shall be notified of the membership provision of the Union Security clause. The Employer shall notify the Local Union of new hires no later than eight (8) days after their hire date.

ARTICLE 3 — DUES CHECK-OFF

- 3.01** The Contractor, upon written authorization from the individual employee, will deduct from the pay of employees, initiation fees and regular Union dues, and agrees to remit to the Union involved prior to the end of the month in which the deduction is made.
- 3.02** Drive. The Employer agrees to deduct from the paycheck of all employees covered by this Agreement voluntary contributions to DRIVE. DRIVE shall notify the Employer of the amounts designated by each contributing employee that are to be deducted from his/her paycheck on a weekly basis for all weeks worked. The phrase "weeks worked" excludes any week other

than a week in which the employee earned a wage. The Employer shall transmit to DRIVE National Headquarters on a monthly basis, in one (1) check, the total amount deducted along with the name of each employee on whose behalf a deduction is made, the employee's social security number and the amount deducted from the employee's paycheck.

ARTICLE 4 — DURATION OF AGREEMENT

- 4.01** This Agreement shall be binding upon the parties, their successors and assigns, and shall continue in full force and effect until May 1, 2006 or on the actual date of certification of wage rates by the Department of Workforce Development under Subsection 103.50 of the Wisconsin Statutes if such certification is after April 30, 2006 and from year to year thereafter, unless terminated by written notice given by either party to the other, not less than ninety (90) days prior to expiration date, or any anniversary thereof. Since it is the intention of the parties to settle and determine, for the term of this Agreement, all matters constituting the proper subject of collective bargaining between them, it is expressly agreed that there shall be no reopening of this Agreement for any matter except as otherwise provided by this Agreement.
- 4.02** Either party shall be permitted all legal or economic recourse to support their demands in such negotiations notwithstanding anything to the contrary in this Agreement.

ARTICLE 5 — JURISDICTION AND CLASSIFICATION

- 5.01** The Contractor agrees to assign to bargaining unit employees, operation of equipment pertinent to their craft operated by steam, diesel, electricity, butane, propane or other gases, nuclear, gasoline, hydraulic or compressed air, specified in Article 13, (Classification and Wage Rates).
- 5.02** The Contractor agrees to respect the jurisdiction rules and agreements of the Union under this Agreement and shall not direct or require its employees or persons other than the employees in the bargaining unit here involved, to perform work which is recognized as the work of the workers in said unit. This is not to interfere with bona fide contracts with bona fide unions.
- 5.03** All workers employed under this Agreement shall be classified in accordance with classifications hereto attached and recognized and

approved by the Department of Workforce Development and/or the United States Secretary of Labor and no other classification of labor of any kind will be recognized. Any question relative to the classification of a worker will be settled by the Employer and the Union involved, and if they are unable to reach a mutual decision, then the matter shall be referred to the final step of the grievance procedure in Section 2, Article 7.

ARTICLE 6 — STRIKE OR LOCKOUTS

- 6.01** It is specifically agreed that there will be no lockouts, strikes, or stoppages of any work of any sort, except as provided in Article 7 pertaining to failure to comply with the Arbitrator's decision.

ARTICLE 7 — GRIEVANCE PROCEDURE

- 7.01** A grievance must be filed in writing by either the Employer or the Union within thirty (30) days of the date of the occurrence of the grievance.

(a) A joint committee made up of equal members from Contractors and Union will meet as necessary to settle disputes or problems affecting this Agreement, the parties thereto, and to avoid work stoppage, strikes, or other problems affecting productivity. The joint committee shall have no power to add to, delete, or modify any provision of this Agreement. All decisions of the joint committee shall be final and binding upon the parties. Should the joint committee be unable to reach a decision in the matter by a majority, then the matter shall be submitted to final and binding arbitration as provided in Article 7.

- 7.02** (a) Such grievances, disputes or complaints or violations of any provisions of this Agreement not otherwise resolved, shall be submitted to final and binding arbitration by an arbitrator appointed by the Wisconsin Employment Relations Commission. Notice of the grievance dispute shall be given to the Employer or as applicable to the Local Union involved at least two (2) days before serving of the demand of the arbitration in order to permit efforts to adjust the matter without litigation. The arbitrator shall be a member or staff member of the Wisconsin Employment Relations Commission. The arbitrator shall have sole and exclusive jurisdiction to determine the arbitrability of such dispute as well as the merits thereof. Written notice by certified return receipt of a demand for arbitration shall be given to the Contractor and Employer or as applicable to the Local Union involved.

The Contractor and Employer as the case may be, shall agree in writing within seven (7) days to arbitrate the dispute.

(b) Both parties shall cooperate to have the case heard by an arbitrator within seven (7) calendar days of the written agreement to arbitrate, provided an arbitrator is available. The arbitrator shall have the authority to give a bench decision at the close of the hearing, unless he shall deem the issues to be unusually complex, and thereafter he shall reduce the award to writing. Grievances over discharge or suspension shall be filed no later than ten (10) calendar days after the matter is brought to the attention of the Business Representative of the Union.

7.03 In the event the arbitrator finds a violation of the Agreement he shall have the authority to award back pay to the grievant in addition to whatever other or further remedy may be appropriate.

7.04 In the event a Contractor or the Union does not agree to arbitrate a dispute within seven (7) calendar days or does not cooperate to have the case heard within seven (7) calendar days after the written agreement to arbitrate or does not comply with the award of the arbitrator, the other party shall have the right to use all legal and economic recourse.

7.05 All expenses of the arbitrator shall be shared equally by the Union and the Contractor involved.

ARTICLE 8 — PRE-JOB CONFERENCE

8.01 Prior to starting work on any project on which subcontractors will be used, special scheduling or other requirements are specified, or which involves a change in the operations of the Contractor, the Contractor shall contact the Union, and the Contractor and the Union shall jointly establish a time and place for a Pre-Job Conference.

8.02 If the Contractor fails to contact the Union or refuses to participate in such Pre-Job Conference, the Union shall have the right to withhold the services of members of the bargaining unit employed by the Contractor and his subcontractors until a Pre-Job Conference is held.

ARTICLE 9 — SUBCONTRACTING

- 9.01** The Contractor shall sublet work under this Agreement only to an employer whose workers receive at least the standards of wages, fringe benefits or monetary equivalent, and working conditions provided by this Agreement.
- 9.02** When a Contractor contracts with a fleet owner for work under this Agreement, such fleet owner shall be classed as a subcontractor in accordance with the preceding paragraph; unless such fleet owner is signed to or covered by another collective bargaining agreement with Joint Council 39 or its affiliates which covers the particular work in question.
- 9.03** The provisions of this Article shall be effective only on highway construction for which public bids are received and include the wage certification of the Department of Workforce Development of January 1, 2000 and subsequent years.

ARTICLE 10 — GENERAL RULES

- 10.01** The Employer shall not discharge nor suspend any employee without just cause, but in respect to discharge or suspension shall give at least one warning notice of the complaint against such employee to the employee, in writing, and a copy of same to the Local Union and Job Steward affected, except that no warning notice need be given to an employee before discharge if the cause of such discharge is dishonesty or drunkenness which may be verified by a sobriety test. Refusal to take a sobriety test shall establish a presumption of drunkenness. Drinking alcoholic beverages during working hours is cause for immediate dismissal without prior warning. Prior warning notice is not required if the cause of discharge is addiction to controlled substances or recklessness resulting in serious accident while on duty; or carrying of unauthorized passengers; or failure to report any accident which the employee is aware; or failure to meet the minimum requirements for safe driving under Paragraph 391.25 of the Motor Carriers Safety Regulations issued by the Department of Transportation. Warning letters must be postmarked no later than ten (10) days following the Employer's knowledge of the violation, except in those cases where a letter of investigation was issued within such ten (10) day period.

The warning notice as herein provided shall not remain in effect for a period of more than nine (9) months from the date of said warning notice.

- 10.02** The number of workers to be employed is at the sole discretion of the Contractor, and the fact that certain classifications and rates are established does not mean that the Contractor must employ workers for any one or all such classifications or to man any particular piece of equipment that happens to be on the work unless the Contractor has need for such workers, or unless otherwise provided for in this Agreement.
- 10.03** Authorized representatives of the Union shall have access to all projects; provided, however, that they report their presence to the Contractor or one of his representatives on the job site if necessary to check the workers during working hours.
- 10.04** The Contractor agrees to recognize the right of the Union to select from the working force on the job site a steward to act on behalf of the Union. A steward shall be required to do a full day's work.
- 10.05** A Contractor shall pay once a week on a calendar week basis. Paychecks shall have attached stubs showing the following: (1) total hours worked or straight-time hours worked; (2) overtime hours or overtime earnings; (3) gross pay; (4) total fringe benefits as reported; and, (5) total other deductions.
- 10.06** If a worker is discharged, he must be paid within forty-eight (48) hours. Placing the worker's check in the mail within forty-eight (48) hours shall be in compliance with this provision. Upon layoff or discharge, all employees shall be furnished a written slip stating the reason for discharge or layoff. A copy of the notice shall be sent to the Union Office. In the event of noncompliance (within 48 hour provision and/or separation slips) the discharged employee shall be paid eight (8) hours per normal workday at his then rate until the discharge check and/or notice is personally delivered or mailed.
- 10.07** When a Contractor moves his plant, equipment and tools, all workers employed on that move shall be paid at applicable rates as set forth in Article 13. When it is necessary for the Contractor to have the driver move his equipment from one job site to another during the workday, the Contractor will pay for that moving time and will be responsible for

transportation back to the point of origin at the completion of the worker's working day.

- 10.08** The Teamsters business agent shall have the right to examine time sheets and any other records pertaining to the computation of compensation of any worker whose pay is in dispute upon written request.
- 10.09** All time lost due to delay and court appearances as a result of overloads, or certificates or other violations involving federal, state or city regulations which occur through no fault of the driver, shall be paid for by the Contractor.
- 10.10** No worker shall be required to work on Saturday unless he is required to do so by noon the Friday preceding the Saturday.
- 10.11** For government mandated training that is scheduled during the off season before recall, an allowance shall be paid to the employee to cover per diem and expenses which is equal to the basic rate of pay (excluding fringes) under the contract for a like number of hours. Such sum shall be paid at the first pay day following recall or at the time requested by the employee.

ARTICLE 11 — SENIORITY

- 11.01** Length of continuous service as a regular employee in the bargaining unit shall be known as seniority. The principle of seniority shall be taken into account only on layoff and recall. Seniority will be considered in any case where the present ability, qualifications to perform the available work and other pertinent factors are relatively equal.
- 11.02** On layoff, for reasons other than seasonal (breakdowns or weather conditions), senior employees may exercise their seniority rights after forty-eight (48) hours within the area and a minimum of one (1) week outside the area. The outside area shall be defined as a thirty (30) mile radius. They may not again exercise this option until the job is finished or until layoff.
- 11.03** Employee's seniority shall terminate if the employee:
 - (a) Quits;
 - (b) is discharged;

- (c) is laid off for a period of two (2) years;
- (d) is laid off and fails to notify the Company of their intention to return to work within three (3) working days after issuance of a recall notice and fails to report for work within ten (10) working days of the date of issuance of the recall notice, unless such failure to report is beyond the employee's control;
- (e) is absent from employment for three (3) consecutive working days without notice to the Employer; or,
- (f) employee retires.

11.04 A new employee shall work under the provisions of this Agreement but shall be employed on a forty-five (45) actual working day trial basis, during which period such employee may be discharged without further recourse, provided, however, that the Contractor may not discharge or discipline for the purpose of evading this Agreement. After forty-five (45) actual working days the employee's seniority shall revert to employee's most recent date of hire.

ARTICLE 12 — SHIFTS AND HOURS OF EMPLOYMENT AND OVERTIME RATES OF PAY

12.01 When a single shift is worked, eight (8) hours of continuous employment, except for lunch periods, shall constitute a day's work, beginning on Monday through Friday of each week.

12.02 When two (2) or more shifts are worked, five (5) eight (8) hour shifts from 5:00 a.m. Monday to 5:00 a.m. Saturday shall constitute a regular week's work and such time shall be paid for at the regular rate of wages, provided however that worker assigned to a second or third shift shall be allowed a thirty (30) minute lunch period at the midpoint of the shift with the time to be paid for as working time.

12.03 Eight (8) hours constitutes a regular day's work and forty (40) hours constitutes a regular week's work, Monday through Friday. All work, performed in excess of eight (8) hours per day shall be paid at one and one-half (1-1/2) times the regular rate of pay.

The Employer may work employees on a four (4) day, Monday through Thursday, ten (10) hours per day shift at forty (40) hours straight time. Time and one-half (1-1/2) the rate shall be paid after ten (10) hours in one (1) day or forty (40) hours in one (1) week. If for any reason there is a break in or interruption of a scheduled four (4) day, ten (10) hour workweek, overtime shall be calculated and paid as provided in Section 12.03, first paragraph above, for the entire workweek. Any four (4) day workweek schedule must be agreed upon by the Employer and the majority of the Union members affected by the change.

All work performed on Saturday shall be paid at one and one-half (1-1/2) times the regular rate of pay.

For all time worked on Sundays and holidays, the worker shall be paid twice the regular rate of pay.

For the purposes of this Agreement the following days are stated to be holidays; Christmas Day, Decoration Day, Independence Day, Labor Day, New Year's Day and Thanksgiving Day.

No work shall be done on Labor Day except in extreme emergencies.

12.04 All workers, including a worker reporting to work for the first time as ordered, shall report for work every morning and shall be paid two (2) hours pay, unless notified before leaving their residence, not to report for work. Workmen shall be required to remain on the job to qualify for the two (2) hours reporting pay.

12.05 It is agreed that when time is lost during the week due to the influence of weather, that such lost time can be made up on the first Saturday following, not to exceed eight (8) hours at the regular rate of pay. (This shall apply only when there are no other crafts on the job being paid at a premium rate.)

ARTICLE 13 — CLASSIFICATION AND WAGE RATES

13.01 The rates of pay on airport construction shall be the prevailing rates as determined by applicable laws.

- 13.02** The following straight-time rates of pay and job classifications shall apply to all work and every worker covered by this Agreement except as stated in Section 13.01 above.
- 13.03** This Agreement applies to the entire State of Wisconsin, which, for the purpose of this Agreement, is treated as one area.
- 13.04** The Union may at its option reopen this Agreement on or before April 15, 2004 for the sole purpose of adjusting the Contractors contributions to the Health and Welfare Fund for the duration of the Agreement. Any adjustments calling for an increased contribution shall be deducted from the previously negotiated wage rate. Any reductions in contributions shall be added to the employees wage rate.

Occupation & Benefit	5/1/01	5/1/02	5/1/03	5/1/04	5/1/05
Truck Driver, 1 & 2 Axles	18.33	18.87	19.17	+1.35*	+1.40*
Truck Driver, 3 or more Axles					
Euclid, Dumptor & Articulated	18.48	19.02	19.32	+1.35*	+1.40*
Truck Mechanic	18.48	19.02	19.32	+1.35*	+1.40*
Mechanic's Helper	18.33	18.87	19.17	+1.35*	+1.40*
Transportation Education Fund					
(All Hours)	.08	.08	.08	.08	.08
Fair Contracting Fund (All Hours)	.20	.20	.20	.20	.20
Pension (All Hours)	3.90	4.25	4.70	4.95	5.20
Health and Welfare (All Hours)	4.83	5.14	5.99	*	*

*Health and welfare hourly premium cost increases shall be deducted from the appropriate yearly increases as shown above with the remainder of the increase applied to wages accordingly.

When referencing axles on vehicles it is understood that all axles other than the vehicle's steering axle are counted.

The certified minimum rates (white sheet rates) in each contract document shall apply exclusively on that job until work on the job is completed.

For purpose of health and welfare benefits, contributions shall be calculated for remittance to the Health and Welfare Fund beginning with the employee's first hour of employment.

ARTICLE 14 — HEALTH AND WELFARE

14.01 On all contracts let by the Wisconsin Department of Transportation, which includes the wage certification of the Department of Workforce Development for the years of this Contract, the Contractor shall pay the hourly health and welfare rate as shown in the tables of wages and fringes as determined by the Fund listed below for each employee, for health and welfare coverage listed in Article 13 as determined through mutual agreement of the parties.

14.02 All Counties.

- (a) Effective May 1, 2001, the Contractor shall pay the sum of Four Dollars and Eighty-Three Cents (\$4.83) per hour for each hour or fraction of an hour worked or compensated for, for each employee of the Contractor covered by this Agreement beginning with the employee's first day of employment wherein such employee works one or more hours in any county of the State of Wisconsin.

The sum of the hourly contributions for each week shall be paid on monthly reports to the Central States Health and Welfare Fund under Plan C6 (120 hour monthly eligibility bank).

Effective May 1, 2002, the hourly contribution rate shall be increased to the sum of Five Dollars and Fourteen Cents (\$5.14) per hour for each hour or fraction of an hour worked or compensated for, for each employee of the Contractor covered by this Agreement. Effective May 1, 2003, the hourly contribution rate shall be increased to Five Dollars and Ninety-Nine Cents (\$5.99) per hour. Effective May 1, 2004 and May 1, 2005, the hourly contribution rate shall be the published rate for Central States Health and Welfare Plan C6 (120 hours per month bank) as determined by the Fund's Trustees. Adjustments to the wage and benefits schedule as provided under Article 13, Section 13.04, shall be made accordingly.

- (b) When a laid-off employee returns to work, the Contractor shall make the required contributions beginning with the first hour worked. Contributions shall then be remitted with the next monthly report to the Fund.

- (c) If an employee becomes ill as a result of their employment or sustains an on-the-job injury, the Contractor shall make health and welfare contributions at the applicable hourly rate, to a maximum of one hundred twenty (120) hours per month (28 hours per week) for the month in which the illness or injury occurred and for all months subsequent in which the employee's accumulative hours do not provide eligibility, for a maximum period of twelve (12) months per event.
- (d) If the employee dies as a result of the occupational illness or injury, then the Contractor is obligated to continue making the applicable hourly contributions to a maximum of one hundred twenty (120) hours per month for all subsequent months in which the employee's accumulative hours do not provide eligibility up to a maximum of twelve (12) months following the occupational illness or injury or the month in which the death of the employee occurs, provided the deceased employee dies within twelve (12) months of the date when the initial illness or injury was sustained and has dependents who could benefit from the contributions and continued coverage with the Central States Health and Welfare Fund.
- (e) When an employee leaves the bargaining unit work at the request of the Contractor to perform services for the Contractor, the Contractor will pay the health and welfare contributions for the employee while he is so employed.

14.03 Eligibility. Effective May 1, 2001 all employees covered by this Agreement who are actively employed and/or recalled to work from the Contractor's existing seniority list shall be considered eligible for benefits under the Central States Health and Welfare Fund, Plan C6. The Contractors shall make the applicable hourly contributions for all hours or fraction of an hour worked beginning with hour one of the employee's first day of work under the new hourly health and welfare bank.

New employees hired after May 1, 2001, after all existing employees have been recalled or given notice that they will not return, shall become eligible on the first day of the month in which contributions are paid on the employee's behalf, for two hundred forty (240) hours of work for a contributing Contractor. If new hires are discharged before they have attained thirty (30) days of employment, contributions shall not have to be submitted to the Fund. However, the Contractor may not discharge or discipline for the purpose of evading this provision. Further, if through

proper procedures it is determined that the employee had been let go to evade the health and welfare provision, then all hours at the applicable rate shall be due and submitted to the health and welfare fund and said employee shall be reinstated.

14.04 Continuation of Eligibility.

- (a) To remain eligible after initial eligibility has been established, an employee must be credited with Contractor, Employer or self-contributions of at least one hundred twenty (120) hours of work or the equivalent hourly contributions for eligibility in that month.
- (b) **Hourly Bank Contribution Cap.** All employees shall have an individual hourly bank maintained on their behalf. All hours worked in excess of one hundred twenty (120) hours in a calendar month shall be credited to the employee's bank. The maximum amount of hours allowed in an employee's bank shall be capped at seven hundred twenty (720) hours.

Once an individual employee's bank has reached the seven hundred twenty (720) hour cap the Contractor shall only be liable for a maximum of one hundred twenty (120) hours of contributions in that calendar month and all subsequent months the seven hundred twenty (720) hour cap is maintained. If the bank's seven hundred twenty (720) hour cap is reduced due to self-contribution or other qualified reasons the Contractor shall continue making hourly contributions on all hours worked until the hourly bank cap has once again been attained.

For prevailing wage compliance purposes the health and welfare hourly rate shall be paid to the affected employees as wages during the periods when the bank has been capped, the one hundred twenty (120) hour provision has been met, and the Contractor no longer is making hourly contribution to the health and welfare bank. No additional monies must be paid as wages, as described above, if the bank is capped and work being performed is of a non-prevailing wage nature.

14.05 By the execution of this Agreement, the Contractor binds himself and becomes a party to the trust agreement establishing the Central States, Southeast and Southwest Areas Health and Welfare Fund and authorizes

the employer parties thereto to designate the employer trustees as provided under such agreement, hereby waiving all notice thereof and ratifying all actions already taken or to be taken by such trustees within the scope of their authority.

- 14.06** Dispute or questions of interpretation concerning the requirement to make contributions on behalf of particular employees or classifications of employees shall be submitted directly to the Joint State Construction Committee (Article 7, Section 7.01(a)) by either the Employer, the Local Union or the trustees. In the event of such referral, the Contractor shall not be deemed to be delinquent while the matter is being considered, but if the Joint Committee, by majority vote determines that contributions are required, the Contractor shall pay to the Fund the amounts due together with any charges uniformly applicable to past due contributions.

There shall be no deduction from equipment rental of owner operators by virtue of the contributions made to the Health and Welfare Fund regardless of whether the equipment rental is at the minimum rate or more, and regardless of the manner of computation of owner-operator compensation.

Contractors presently making payments to the Central States, Southeast and Southwest Areas Health and Welfare Fund and Contractors who may subsequently begin to make payments to such fund shall continue to make such payments for the life of this Agreement. Action on delinquent contributions may be instituted by either the Local Union, the Joint Council or the Trustees. Contractors who are delinquent must also pay all attorneys' fees and costs of collection.

ARTICLE 15 — PENSION

- 15.01** Effective May 1, 2001, on all contracts let by the Wisconsin Department of Transportation which include the wage certification of the Department of Workforce Development, the Contractor shall pay the additional sum of Three Dollars and Ninety Cents (\$3.90) per hour for each hour or portion of an hour worked for each worker who has been on the payroll thirty (30) days or more wherein such worker works one or more hours in any county of the State of Wisconsin. Effective May 1, 2002 this sum shall be increased to Four Dollars and Twenty-Five Cents (\$4.25) per hour and effective May 1, 2003 this sum shall be increased further to Four Dollars and Seventy Cents (\$4.70) per hour and effective May 1, 2004 this sum

shall be increased further to Four Dollars and Ninety-Five Cents (\$4.95) per hour and effective May 1, 2005 this sum shall be increased further to Five Dollars and Twenty Cents (\$5.20) per hour. This hourly sum shall be paid monthly by the Contractor to the Central States Southeast and Southwest Areas Pension Fund. The contribution rates described in this Section are the appropriate rates as determined by the Central States Southeast and Southwest Areas Pension Fund Class 18.

- 15.02** When an employee leaves the bargaining unit work at the request of the Contractor to perform services for the Contractor, the Contractor will pay the pension contributions for the employee while he is so employed.
- 15.03** The Employer's obligation to make contributions to the Central States, Southeast and Southwest Areas Pension Fund shall continue in the amounts and rates as provided in Article 15.
- 15.04** If the rates of contributions of such Pension Fund are increased, pursuant to Article 15, beyond the contribution rates provided in Article 15, then the hourly wage rates for employees covered by this Agreement as provided for in Article 13 of this Agreement shall be reduced, beginning with the effective date of such increased contributions to the Pension Fund and for the remaining term of this Agreement, and its succeeding Agreements through and including April 30, 2006, by an amount equivalent to said increase in such rates of contributions.

ARTICLE 16 — LEAVE OF ABSENCE

- 16.01** Any employee desiring a leave of absence from his employment shall secure written permission from both the Union and the Contractor. The maximum leave of absence shall be for ninety (90) days and may be extended. Permission for extension must be secured from both the Union and Employer. During the period of absence the employee shall not engage in gainful employment in the same industry in classifications covered by this Agreement unless mutually agreed upon. Failure to comply with this provision shall result in the complete loss of employment rights for the employees involved.
- 16.02** The Contractor agrees to grant the necessary and reasonable time off without discrimination or loss of employment rights and without pay to any employee designated by the Union to attend a labor convention or serve in any capacity on other official Union business, providing forty-eight

(48) hours written notice is given to the Contractor by the Union specifying length of time off. The Union agrees that in making its request for time off for Union activities, due consideration shall be given to the number of men affected in order that there shall be no disruption of the Contractor's operations due to lack of available employees.

ARTICLE 17 — TRANSPORTATION EDUCATION FUND

17.01 All persons, firms or corporations who are employer signatory parties, or who may become signatory parties to this Agreement, shall pay into the Transportation Education Fund (hereinafter referred to as T.E.F.) for the purpose of explaining and promoting the need for improved modern transportation. For each bargaining unit employee working under the terms of this Agreement, the specified amount as in Article 13, shall be paid for all hours worked.

Payments to T.E.F. shall not be considered employee wages or fringe benefits.

Payments to T.E.F. shall be due at the end of each month and shall be submitted not later than the 15th of the following month to: Transportation Education Fund, P. O. Box 1349, Madison, WI 53701.

17.02 In the event an Employer becomes delinquent in his payments to the T.E.F., he shall be assessed, and such Employer hereby expressly agrees to pay, and as for liquidated damages, the sum of Two Dollars (\$2.00) per employee for each thirty (30) day period or fraction thereof, that such Employer is delinquent in making payments to the T.E.F.

17.03 The T.E.F. may for the purpose of collecting payments required to be made to the T.E.F., including damages and costs, and for the purpose of enforcing rules concerning the inspection and audit of payroll records, seek any appropriate legal, equitable and administrative relief, and they shall not be required to invoke or resort to the grievance or arbitration procedure otherwise provided for in this Agreement.

17.04 Each Employer who is required to make payments to the T.E.F. pursuant to Section 1 of this Article shall promptly furnish to the T.E.F., or their authorized agents, on demand, all necessary employment, personnel, and payroll records relating to its former and present employees covered by this Agreement, including any relevant information that may be required

in connection with the administration of the T.E.F., and for no other purpose. The T.E.F., or their authorized agents, may examine such employment, personnel, or payroll records whenever such examination is deemed necessary by the T.E.F. or their authorized agents, in connection with the proper administration of the T.E.F. and the activities engaged in by the T.E.F.

ARTICLE 18 — FAIR CONTRACTING FUND (TFCF)

- 18.01** The Contractor agrees to deduct from the hourly wages paid to each employee covered by this Agreement the amount of Twenty Cents (20¢) per hour and to remit such amounts to a Fair Contracting Fund designated by the Union.
- 18.02** Said Fair Contracting Fund shall be a jointly trusted Fund established in accordance with Section 6(b) of the Labor Management Cooperation Act of 1978 and in compliance with Section 302 of the Labor Management Relations Act of 1947.
- 18.03** The Contractor shall be bound by the declaration of trust of the Fund and all amendments. The purposes of the Fund shall include promoting the enforcement of the obligation of employers to abide by federal and state prevailing wage laws, or other government agency laws.

ARTICLE 19 — EQUIPMENT, ACCIDENTS, REPORTS

- 19.01 Equipment.** The Contractor shall not require employees to operate any equipment or vehicle that the Contractor knows is not in safe operating condition. It shall not be a violation of this Agreement for employees to refuse to operate such equipment. Where equipment is in need of repair or otherwise defective, the employee shall immediately report the condition to his immediate supervisor.
- 19.02 Hard Hats.** Where hard hats are issued the employee shall be responsible for the hat and will be charged for replacement, unless replacement results from damage in the course of his employment.
- 19.03 Accidents.** Any employee involved in any accident shall immediately report said accident and any physical injury sustained. When required by the Contractor, the employee, before starting his next shift, shall make out

an accident report in writing on forms furnished by the Contractor and shall turn in all available and pertinent information.

19.04 Paid-for Time. Where an employee leaves work because of an on-the-job injury, the time lost from work up to the end of the normal work day of the date of injury shall be paid by the Contractor.

ARTICLE 20 — SECURITY PAYMENTS

20.01 In order to insure employees covered by this Agreement against the hazards of unemployment, resulting through no fault of their own, employers who are not automatically within the provision of State Unemployment Acts, or required to make contributions thereunder, hereby agree to make voluntary application to the proper State Authorities so as to come within the statutory provisions of the Wisconsin Unemployment Compensation and Worker's Compensation Acts relating to employers who are not under said acts and the regulations promulgated thereunder, regardless of number employed. The Contractor will furnish the Union their Unemployment Insurance Serial Number.

ARTICLE 21 — SUBSTANCE ABUSE POLICY

21.01 The parties agree to abide by all Federal and State statutes pertaining to drug and alcohol use and testing. Furthermore, the parties agree to use the language provided in the current Teamsters National Master Freight Agreement pertaining to drug and alcohol use and testing. The only exception being that the grievance procedure shall be that found in this Agreement rather than the National Master Freight Agreement.

ARTICLE 22 — WAIVER

22.01 The waiver of any breach, term, or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of its terms and conditions.

ARTICLE 23 — SEPARABILITY CLAUSE

23.01 The provisions of this Agreement are deemed to be separate to the extent that if and when a court or governmental agency of competent jurisdiction adjudges any provisions of this Agreement to be in conflict with any law, rule or regulation issued thereunder, such decisions shall not affect the

validity of the remaining provisions and shall continue in full force and effect. Any separable portion excluded shall be negotiable.

ARTICLE 24 — NON-DISCRIMINATION

24.01 It is mutually agreed that all workers shall be hired, promoted and terminated solely on the basis of qualification and merit; and further, that there will be no discrimination against or preference for worker or applicants on the basis of race, color, creed, national origin, Viet Name era veterans, marital status, sexual orientation, sex or age.

ARTICLE 25 — PERMISSION TO USE FORM

25.01 The Union may use the foregoing form of agreement in entering into Agreements with Contractors who are not bound by this Agreement, provided the Employer and its Contractors will not be obligated in any way to anyone thereby.

ARTICLE 26 — PREVAILING WAGE SURVEY

26.01 As prevailing wage rates (white sheet) will be determined through a process which involves submitted wages, hours and job classifications by Employers/Contractors to the Department of Workforce Development in an annual prevailing wage survey, the parties hereby agree to make said surveys with all appropriate information available to the Department of Workforce Development on a timely basis with a copy of each survey being sent by the Employer to Teamsters Joint Council No. 39 Construction Chairman as well.

Through the combined efforts of all signatory Employers/Contractors, and the Union assisting as needed, both timely and accurate surveys shall be submitted to Department of Workforce Development which will ensure that the certified prevailing rate for heavy and highway related construction projects let by the Department of Transportation are correct.

If the prevailing wage drops significantly below the collective bargaining agreement rate, the Union will agree to meet with Contractors who have submitted their surveys to Joint Council 39 on a timely basis to discuss any adverse effects and possible remedies.

Agreed to on the 9th day of November, 2000, by the Wisconsin Transportation Employers' Council:

By Edmond F. Bettinger
Edmond F. Bettinger, Chairman
Negotiating Committee

Wisconsin Teamsters Joint Council No. 39:

By Mark J. Herrmann
Mark J. Herrmann, Chairman
Negotiating Committee

Local 43	262-633-6387	Local 563	920-725-7086
Local 75	920-435-8895	Local 579	608-754-6656
Local 200	414-771-6363	Local 662	715-835-6106
Local 328	906-786-2743	Local 695	608-244-6207
Local 346	218-628-1034	Local 695 (LaCrosse)	608-788-0150

Local Union No. _____

By _____
Date _____

Employer _____
Date _____