

2010-2014

AGREEMENT

between

MICHIGAN INFRASTRUCTURE
AND TRANSPORTATION ASSOCIATION,
UNDERGROUND AGREEMENT

and

INTERNATIONAL UNION OF
OPERATING ENGINEERS
LOCAL No. 324, 324-A and
324-B, AFL-CIO

Effective

September 1, 2010 to September 1, 2014

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AGREEMENT

This Agreement, made and entered into as of September 1, 2010, by and between the MICHIGAN INFRASTRUCTURE AND TRANSPORTATION ASSOCIATION (hereinafter called the Association), for and on behalf of its members (hereinafter called the Contractors) as party of the first part, and the INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL No. 324, 324-A and 324-B, AFL-CIO (hereinafter called the Union) as party of the second part.

ARTICLE I

Section 1. CONTRACTOR

“Contractor,” where used in this Agreement, means any Contractor who is a member of the Michigan Infrastructure and Transportation Association, or who has agreed to be bound by the terms of this Agreement when performing underground construction work.

Section 2. WORK

The word “work” where used herein, means any work performed by any such Contractor coming within the jurisdiction of the Union.

Section 3. EMPLOYEE

“Employee” shall only include Operating Engineers, Mechanics, Oilers and Apprentice Engineers employed by the Contractors coming within the jurisdiction of the Union.

ARTICLE II

Section 1. PURPOSE

The purpose of this Agreement is to determine the hours, wages and other conditions of employment and to adopt measures for the settlement of differences and maintaining a cooperative relationship so that the Contractors may secure sufficient capable employees and the employees may have as much continuous employment as possible without interruption by strikes, lockouts or other labor trouble.

Section 2. EFFECT OF AGREEMENT

It is mutually understood that the following terms and conditions relating to the employment of employees covered by this Agreement have been decided upon by means of collective bargaining, and that the following provisions will be binding upon

the Contractors and the Union during the term of the Agreement, and any renewal thereof. This Agreement may be modified by mutual consent in writing by the parties thereto.

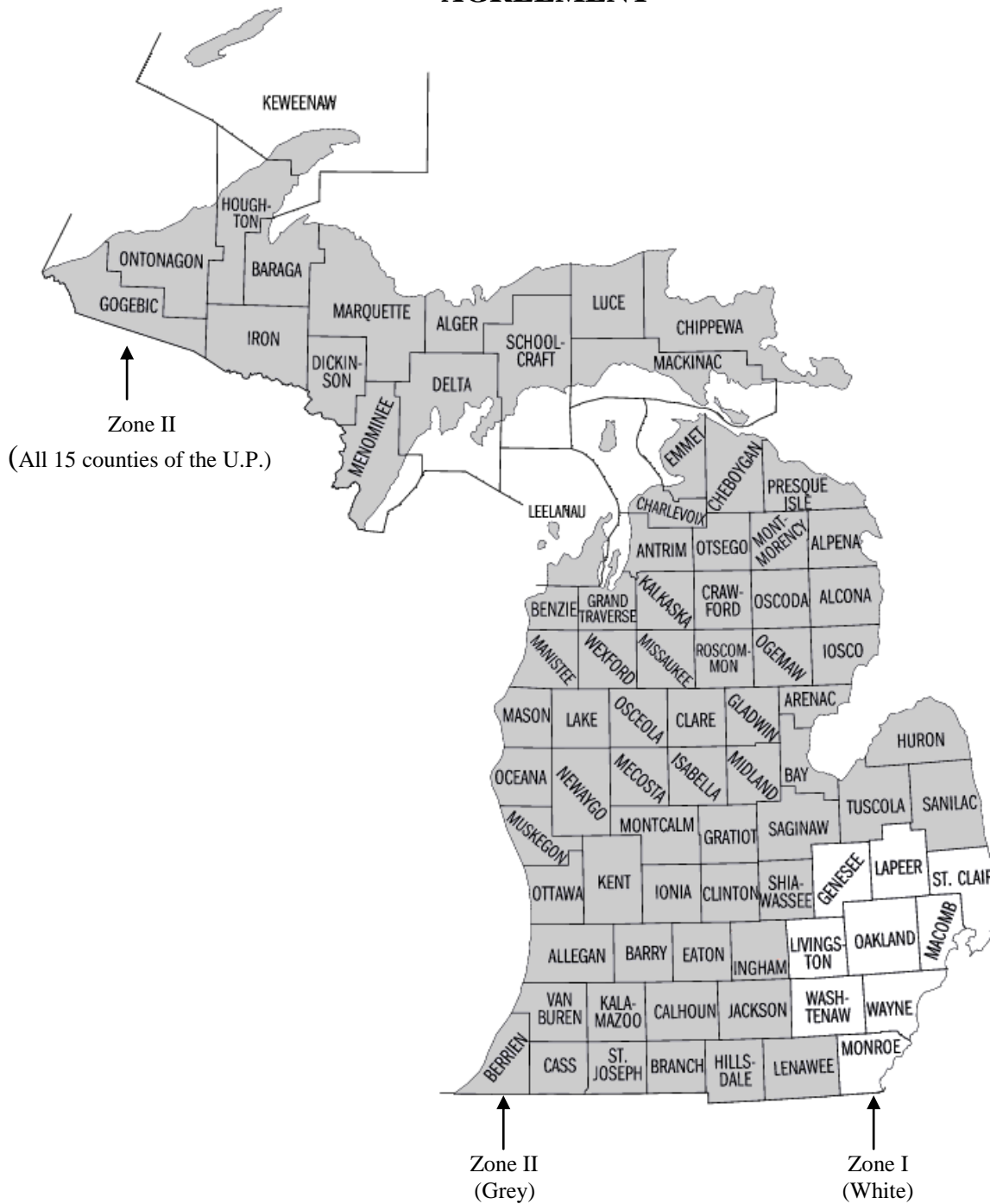
Section 3. COVERAGE OF AGREEMENT

This Agreement shall govern all underground construction work which any Contractor performs in the State of Michigan and which comes within the jurisdiction of the Union.

Underground construction work shall be construed to mean any work which requires the excavation of earth, including industrial, commercial and residential building site excavation and preparation, land balancing, grading, paving, sewers, utilities and improvements, and also including, but not limited to, tunnel, underground piping, retention, oxidation and flocculation facilities, conduits, general excavation, landfills and steel sheeting for underground construction. Underground construction work shall not include structural modifications, structures for retention, oxidation and flocculation facilities, alterations, additions and repairs to building or highway work as defined under the agreement between the Union and the Michigan Infrastructure and Transportation Association (Road Agreement, including roads, streets, bridge construction and parking lots) or steel erection work.

When any work is being performed by a Contractor under this Agreement, within that area of a building site which is within a five (5) foot line around the perimeter of a building, during a period of contract expiration between the Associated General Contractors of Michigan/LRD Detroit Area, AGC of Michigan/LRD, and the Union, which results in strike action by the Union, then and in that event the Contractor shall cease work on such building site, during such strike action period.

GEOGRAPHICAL JURISDICTION OF THIS AGREEMENT



**AREA COVERED BY THIS AGREEMENT:
LOWER PENINSULA AND UPPER PENINSULA**

Section 4. EQUAL TREATMENT

If the Union shall enter into any agreement with any contractor who is engaged in underground construction work under which the terms and conditions, including wage rates, are more favorable than the terms and conditions contained in this Agreement, then those more favorable terms and conditions, including wage rates, shall automatically be extended to the Contractors covered by this Agreement.

Section 5. CONTRACTOR REPRESENTATION

It is understood that this Association is acting only as an agent in the negotiation of this Agreement and that it is agent only for those individuals, partnerships, firms, corporations and joint ventures who have authorized it so to act, and in no event shall it be bound as principal or be held liable in any manner for any breach of this Agreement by any of the Contractors for whom it is acting or any employee of such Contractors. It is further agreed and understood that the liabilities of the Contractors who have authorized the negotiation and execution of this Agreement shall be several and not joint.

Section 6. MICHIGAN EMPLOYMENT SECURITIES COMMISSION (MESC) AND WORKERS' COMPENSATION COVERAGE

Contractor is to submit their Michigan Employment Security Commission registration number and Workers' Compensation certificate to the Union upon request.

ARTICLE III

Section 1. PAYMENT OF WAGES

(a) Employees are to be paid the wages applicable to the work performed without any discount, and in return the Contractors are to receive a fair and honest day's work without any slowing down or stoppage of work.

(b) All wages shall be paid to the employees at least once a week on the job site upon completion of the shift. The weekly payday established by the Contractors shall remain the same for the life of the job. Employees shall be paid in United States currency or with a check drawn on a Michigan bank. On the regularly established payday, as agreed to in this Agreement, payroll checks must be available at the job site within two (2) hours of the start of the shift and ready for distribution in the event that weather or other circumstances prevent the job from being worked; any employee who had reported to the job site at the regular starting time and does not receive his payroll check, as stated above, would receive waiting time at the regular established rate of

wages until the payroll check is made available; provided however, alternative mutually agreed to arrangements for obtaining payroll checks may be made between an employee and the Contractor. Waiting time is not to exceed the end of the normal work day. If the payday falls on a holiday, the employees will be paid the day before the holiday. For any Contractor that has elected to perform work on a project under the optional work week schedule, the regular payday shall be Thursday.

(c) Pay stubs or other written form will be given weekly to the employees showing straight-time hours worked and hourly rate, overtime hours worked, deductions for Federal, State and City income taxes and Vacation and Holiday pay. All deductions will be identified and listed.

(d) If an employee is discharged or permanently laid off from a job, he must be paid within two (2) hours of the time of discharge or permanent layoff, or he shall be paid straight-time for any time he is required to wait beyond such two (2) hours. This shall be construed to apply during normal working hours only. If, however, an employee quits of his own accord, he shall wait for his pay until the next regular payday.

(e) At the request of the employee, the Contractor will furnish a written statement stating the reason for any termination of employment.

(f) Direct deposit will be made available to any employee(s) covered under this Agreement.

Section 2. MACHINERY OR TOOLS

Contractor shall not be hindered or prevented from using any type or quantity of machinery, tools or appliances, and may secure materials or equipment from any market or source he sees fit, except prison-made goods.

Section 3. SELECTION OF EMPLOYEES

(a) The Contractor is to be the judge as to the satisfactory performance of work by an employee and may discharge any employee whose work is unsatisfactory or who fails to observe the safety precautions prescribed by the Contractor for the health, safety and protection of his employees. However, no employee shall be discharged for defending the rights of any employee under the terms of this Agreement.

(b) The number of employees to be employed and the work assignments of such employees are also at the sole discretion of the Contractor. However, this does not relieve the Contractor from properly manning any piece of equipment that is placed in operation.

Section 4. ENTIRE AGREEMENT

This Agreement covers the entire understanding between the parties hereto. No oral or written rule, regulation or understanding which is not mentioned or referred to herein will be of any force or effect upon any party hereto.

Section 5. UNION REPRESENTATIVE

The Union shall select a representative (hereinafter referred to as the “Union Representative”) who is to confer with the Contractor on all matters pertaining to this Agreement.

Section 6. UNION REPRESENTATIVES PERMITTED ON JOBS

The authorized representatives of the Union may visit jobs during working hours, but must not hinder or interfere with the progress of the work. The Contractor shall, upon request by the Union Representative, inform the Union of the exact location of their jobs. The Contractor agrees to assist in obtaining passes for official Union Representatives to enter all jobs.

Section 7. STEWARDS

(a) The Contractor recognizes the right of the Union to select a working Steward from the members of the Union in accordance with Union procedure. The Steward’s activities shall be confined to the area in which work is performed by his Contractor. It is further agreed and understood that the selection of a Steward shall not increase the number of Engineers necessary to man the job, as determined by the Contractor. The Steward shall be permitted sufficient time to perform his usual Steward duties with the least interference to the job. It is agreed and understood that such Steward shall not receive any extra compensation above his regular wages. A Steward shall be required to do a full day’s work and shall be subject to discharge the same as any other employee. The Steward shall not be discriminated against in any manner, including assignment of work and overtime, because of his Union Representative position.

(b) The Contractor shall be given the name of the Steward in writing.

(c) The Steward on the job shall be one (1) of the last two (2) employees laid off when the job is finishing up, provided, in the judgment of the Contractor, he is capable of performing the available work.

Section 8. SAFETY

(a) The Contractor agrees to comply with the Michigan Department of Energy, Labor & Economic Growth, Construction Safety Division Standards, and to cooperate fully with its provisions on safety. All Contractors and employees covered under this Agreement shall abide by the Michigan Department of Energy, Labor & Economic Growth, Construction Safety Division Standards rules and regulations.

(b) Whenever an employee is injured on the job so as to require prompt attention by a doctor or hospital, the Contractor shall provide transportation for the employee to the doctor or hospital. Any injury requiring an employee to leave the job shall be reported to the Steward or the Union as soon as possible.

(c) The Contractor may require that employees submit to a physical examination, to be paid for by the Employer, including substance abuse testing in accordance with Addendum "A" of this Agreement.

Section 9. EMPLOYMENT

(a) The Union agrees to furnish competent applicants for employment upon notification to the Dispatcher or Business Representative of the Union.

(b) The Contractor agrees that in the employment of Operating Engineers to perform the various classifications of labor required in the work under this Agreement that the Contractor will not discriminate against applicants because of membership or nonmembership in the Union. Each employee shall, as a condition of employment thereafter, become and remain a member of the Union for the term of his employment after the seventh (7th) calendar day following the beginning of his employment by a Contractor or Contractors covered by this Agreement, or the effective date of this Agreement, whichever is later. The seven (7) day period following which an employee is required to join the Union shall be computed from the second day such employee enters the employment of any Contractor or Contractors.

(c) In the event the National Labor Relations Act is amended, while this Agreement is in force, so that an employee may be lawfully required to become a member of a union as a condition of employment in less than seven (7) days, then such shorter period of time shall immediately become operative under this Agreement, notwithstanding the provisions of (b) above.

(d) The Contractor shall not be obligated hereunder to discharge or discriminate against any employee for nonmembership in the Union:

- (1) If the Contractor has reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members; or
- (2) If the Contractor has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership; and
- (3) Unless the Contractor shall be furnished with a notice in writing by the Union, signed by the proper officer, setting forth that the employee has refused to join the Union, although he has been offered membership on the same terms as other members, or that the employee's membership in the Union has been terminated for reason of nonpayment of periodic dues or initiation fees, and that the Union requests that said employee be discharged for one of the above reasons.
- (4) It is agreed that membership in good standing shall mean only the payment of those periodic dues and fees germane to collective bargaining contract administration and grievance adjustment.

(e) The Contractor and the Union acknowledge that they are subject to applicable laws regarding equal employment opportunity and fair employment practices and agree that they shall cooperate in taking necessary steps to comply with such laws and lawful regulations thereunder. Referral and selection of all employees

shall be on the basis of qualifications without regard to race, creed, color, sex, age, religion, national origin and/or ancestry.

(f) CHECK-OFF. The Contractor agrees to honor, upon presentation by the Union, all assignments for initiation fees, membership dues and uniform assessments which have been properly signed by an employee and to deduct the amount stated thereon from the wages earned by that employee and to pay the amount so deducted to the Union; provided, however, that this paragraph shall apply only to those assignments which are not irrevocable for longer than one (1) year or until this Agreement expires, whichever occurs sooner, and to those assignments which in addition provide that they shall automatically renew themselves for successive yearly or applicable contract periods thereafter, whichever is the lesser, and which further provide that the employee may revoke said assignment by giving written notice thereof to the Contractor and the Union at least sixty (60) days and not more than seventy-five (75) days before any periodic renewal date.

ARTICLE IV

Section 1. CLASSIFICATIONS

All employees working under this Agreement shall be paid in accordance with Sections 5, 6, 7 and 9 of this Article, and classified in accordance with Sections 10, 11, 12, 13 and 14 of this Article, and no other classifications of labor of any kind will be recognized. Any question relative to the classification of Master Mechanics, Engineers, Mechanics, Oilers or Apprentice Engineers will be settled by the Contractor and the Union Representative. If they are unable to reach a mutual decision, the matter shall be referred to the Joint Arbitration Board. The Contractor may classify such employees pending the final decision of the Joint Arbitration Board.

Section 2. TRUCK CRANES

No one but an Operating Engineer shall move (drive) the truck crane except where an Oiler or Apprentice is also employed. Where a truck crane of twenty (20) ton lifting capacity or over is used, an Oiler or Apprentice shall also be employed, except that an Oiler or Apprentice is not necessary on a truck crane when the crane is used in stationary position. Tonnage of the truck cranes shall be determined by the manufacturer's rated lifting capacity.

Section 3. HOUR GREASING TIME

Every Operator on cranes, shovels, draglines, clamshells and backhoes shall be entitled to the equivalent of one (1) hour's pay for greasing his machine where an Oiler is not required. This hour's pay shall be in addition to his regular day's wages. Grease time must be actually worked.

Section 4. FIREMAN

A Fireman shall be employed on each steam shovel, steam dragline, steam clamshell or steam crane.

Section 5. ZONE I AND ZONE II - WAGE AND FRINGE BENEFIT PAYMENTS

(a) The wage rates and benefits upon the effective dates shown herein shall apply on all work covered under this Agreement in Zone I and Zone II.

(b) Zone I shall include the following Counties: Genesee, Lapeer, Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw and Wayne.

(c) Zone II shall include the following Counties: Alcona, Allegan, Alpena, Antrim, Arenac, Barry, Bay, Benzie, Berrien, Branch, Calhoun, Cass, Charlevoix, Cheboygan, Clare, Clinton, Crawford, Eaton, Emmet, Gladwin, Grand Traverse, Gratiot, Hillsdale, Huron, Ingham, Ionia, Iosco, Isabella, Jackson, Kalamazoo, Kalkaska, Kent, Lake, Leelanau, Lenawee, Manistee, Mason, Mecosta, Midland, Missaukee, Montcalm, Montmorency, Muskegon, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Ottawa, Presque Isle, Roscommon, Saginaw, Sanilac, Shiawassee, St. Joseph, Tuscola, Van Buren and Wexford. Zone II shall also include all fifteen (15) counties within the Michigan Upper Peninsula.

**OPERATING ENGINEERS LOCAL 324 WAGE RATES
EFFECTIVE SEPTEMBER 1, 2010**

	<u>ZONE I</u>		<u>ZONE II</u>	
	<u>1st Shift</u>	<u>2nd/3rd</u>	<u>1st Shift</u>	<u>2nd/3rd</u>
MASTER MECHANIC				
*Base Wage	\$25.68	\$26.38		
*Vac. & Holiday @ 15%	3.85	3.96	N/A	N/A
*Supp. Vac. Fund	.05	.05		
 CLASS I				
*Base Wage	\$25.46	\$26.14	\$23.97	\$24.56
*Vac. & Holiday @ 15%	3.82	3.92	3.60	3.68
*Supp. Vac. Fund	.05	.05	.05	.05
 CLASS II				
*Base Wage	\$21.35	\$22.01	\$19.72	\$20.27
*Vac. & Holiday @ 15%	3.20	3.30	2.96	3.04
*Supp. Vac. Fund	.05	.05	.05	.05
 CLASS III				
*Base Wage	\$20.71	\$21.29	\$19.29	\$19.77
*Vac. & Holiday @ 15%	3.11	3.19	2.89	2.97
*Supp. Vac. Fund	.05	.05	.05	.05
 CLASS IV				
*Base Wage	\$20.22	\$20.71	\$19.04	\$19.48
*Vac. & Holiday @ 15%	3.03	3.11	2.86	2.92
*Supp. Vac. Fund	.05	.05	.05	.05

FRINGE BENEFITS PACKAGE - Applies to all Classes and Shifts

Insurance	\$8.00
Pension	8.95
Retiree Benefit Fund	.45
Apprenticeship Fund	.50
Labor Management	
Education Comm.	.11
Defined Contribution Plan	1.00
I.A.F.	.10

*Taxable Income

Effective September 1, 2011 an increase of \$1.00 per hour (to be allocated to pension first).

Effective September 1, 2012 an increase of \$1.00 per hour (to be allocated to pension first).

Effective September 1, 2013, there will be no increase.

Section 6. STARTING RATE FOR APPRENTICE ENGINEERS

The starting rate for Apprentice Engineers shall be seventy percent (70%) of the Class I base wage, plus the payment of all fringes (except the Journeyman and Apprentice Training Fund). For every 1,000 hours total of Training and Job Related Training the Apprentice Engineers rate will be increased by five percent (5%) of the Class I base wage plus applicable fringes, subject to the Apprenticeship Rules and receiving a passing grade on the validated competency tests, as certified by the Operating Engineers Local 324 Journeyman and Apprentice Training Committee (JATC).

Total of Training & Job Related Hours

0-999	Hrs. 70%
1,000-1,999	Hrs. 75%
2,000-2,999	Hrs. 80%
3,000-3,999	Hrs. 85%
4,000-4,999	Hrs. 90%
5,000-5,999	Hrs. 95%

All fringe benefits are to be paid as indicated in this Agreement for all Operating Engineers except that Apprenticeship Fund contributions are not payable on Apprentices or Oilers.

In the event the Union shall on or after the date of signing this Agreement wish to apply a portion of the wage rate specified in this Agreement to funds provided for in this Agreement, it shall so notify the Michigan Infrastructure and Transportation Association of such desire, in writing, and such increased contribution rate shall become applicable sixty (60) days after notification, or such time as shall be mutually agreed upon. The wage rate, vacation and holiday payment and any other contributions affected shall be adjusted accordingly.

Section 7. MARKET RECOVERY PROGRAM

It is recognized by the parties that in certain areas of the state, the Union construction market has been threatened by non-union competition. Where the mutual interests of the Union and the Association are served by cooperating to enable Association Contractor members to compete more effectively, it is agreed that a two (2) person panel, one (1) from the Association and one (1) from the Union, will meet to negotiate a market recovery rate and/or terms and conditions on a job by job or on an area basis. A committee comprised of two (2) members of the Association and two (2) members of the Union will meet periodically, but not less than twice annually, to discuss any problems with the market recovery system. The Union shall provide notification to the Association of all market recovery rates.

Section 8. DEFERRAL OF WAGES TO FRINGE BENEFITS

Any deferral of wages to fringe benefits during the term of this Agreement shall be by mutual written agreement between the Association and the Union.

Section 9. TIMELY PAYMENT OF FRINGE BENEFIT PAYMENTS

In addition to the hourly wages provided for in this Agreement, the Contractor is obligated to make contributions, in the amounts and manner provided herein, to the fringe benefit funds which provide for vacation and holiday pay, health care insurance, pension, apprenticeship training, retiree benefit, supplemental vacation, labor management fund, and industry advancement, which contributions are payable by the 15th day of each month for work performed in the immediately preceding month. If these fringe benefit contributions are not made as provided for herein, the Contractor is

in a status of delinquency and thereby has breached this Agreement. The Contractor and the Union agree that damages which will result from the failure of the Contractor to pay his fringe benefit contributions on time, or in correct amount, are difficult to calculate with any certainty, and therefore any Contractor who fails to make his payments to any of the Operating Engineers fringe benefit funds on time or in correct amount in accordance with this Agreement shall pay, as liquidated damages resulting from his breach of this Agreement, in addition to the contributions due, an amount as follows:

Contributions are due on the 15th of the month following the month worked, with an additional 15 day grace period. Daily interest is assessed from the due date at the rate of 18% per annum on late contributions, i.e., those paid after the grace period.

The Contractor agrees to pay the liquidated damages assessed against him in accordance with the foregoing schedule.

The Contractor agrees to furnish to the Trustees of the various fringe benefit funds provided for in this Agreement, upon request, such information and reports as the Trustees may require in the performance of their duties. The Contractor further agrees that the Trustees, or any agent authorized by the Trustees, shall have the right to enter upon the premises of the Contractor to perform an audit and to have access to such of the Contractor's records as may be necessary to permit the Trustees to determine whether the Contractor is complying fully with the provisions of this Agreement regarding Contractor contributions.

Section 10. CLASS I EQUIPMENT

Class I wages shall apply to employees operating the following equipment:

1. Backfiller Tamper
2. Backhoe
3. Batch Plant Operator (concrete)
4. Clamshell
5. Concrete Paver [two (2) drums or larger]
6. Conveyor Loader (Euclid type)
7. Crane (crawler, truck type or pile driving)
8. Dozer
9. Dragline
10. Elevating Grader

11. Endloader
12. Gradall (and similar type machine)
13. Grader
14. Hydro Excavator
15. Mechanic
16. Power Shovel
17. Roller (asphalt)
18. Scraper (self-propelled or tractor drawn)
19. Side Boom Tractor (type D-4 or equivalent and larger)
20. Slip Form Paver
21. Slope Paver
22. Trencher (over 8 ft. digging capacity)
23. Well Drilling Rig.
24. Concrete Pump with Boom Operator

Section 11. CLASS II EQUIPMENT

Class II wages shall apply to employees operating the following equipment:

1. Boom Truck (power swing type boom)
2. Crusher
3. Hoist
4. Pump [one (1) or more-6 in. discharge or larger-gas or diesel powered or powered by generator of 300 amperes or more-inclusive of generator]
5. Side Boom Tractor (smaller than type D-4 or equivalent)
6. Tractor (pneu-tired, other than backhoe or front endloader)
7. Trencher (8 ft. digging capacity and smaller)
8. Vac Truck

Section 12. CLASS III EQUIPMENT

Class III wages shall apply to employees operating the following equipment:

1. Air Compressors (600 cfm or larger)
2. Air Compressors [two (2) or more-less than 600 cfm]
3. Boom Truck (non-swinging, non-powered type boom)
4. Concrete Breaker (self-propelled or truck mounted includes compressor)
5. Concrete paver [one (1) drum -1/2 yd. or larger]
6. Elevator (other than passenger)
7. Maintenance Man
8. Mechanic Helper

9. Pump [two (2) or more-4 in. up to 6 in. discharge gas or diesel powered-excluding submersible pumps]
10. Pumpcrete Machine (and similar equipment)
11. Wagon Drill (multiple)
12. Welding Machine or Generator [two (2) or more 300 amp. or larger-gas or diesel powered]

Section 13. CLASS IV EQUIPMENT

Class IV wages shall apply to the following equipment and to Oilers and Firemen:

1. Boiler
2. Concrete Saw (40 hp. or over)
3. Curing Machine (self-propelled)
4. End Dumps when operated by an Operating Engineer
5. Extend-a-boom Forklift
6. Farm Tractor (with attachment)
7. Finishing Machine (concrete)
8. Firemen
9. Hydraulic Pipe Pushing Machine
10. Mulching Equipment
11. Oiler
12. Pumps [two (2) or more up to 4 in. discharge if used three (3) hours or more a day - gas or diesel powered-excluding submersible pumps]
13. Roller (other than asphalt)
14. Stump Remover
15. Sweeper (Wayne type and similar equipment)
16. Trencher (Service)
17. Vibrating Compaction Equipment, Self Propelled (6 ft. wide or over)
18. Water Wagon

Section 14. CLASSIFICATION OF EQUIPMENT

If any equipment not listed in any of the four (4) aforementioned classifications shall be used by the Contractors, then the classification for such equipment shall be agreed upon by negotiations between the Michigan Infrastructure and Transportation Association and the International Union of Operating Engineers, Local 324.

Section 15. EMPLOYEE CHANGING CLASSIFICATION

Any employee may be temporarily shifted by the Contractor from any classification of work to another classification of work, provided the employee is capable of performing the other work and is paid at the rate of wages for the classification which provides the highest rate of wages.

Section 16. OWNER-OPERATOR

An "Owner-Operator" is defined as (a) self-employed individuals who are currently working with or who have previously worked with (under the applicable collective bargaining agreement) the tools of the trade and who are signatory to and currently bound by a contribution agreement with an employee benefit plan sponsored by the Operating Engineers Local 324 Union (the "Union") of even date herewith and pursuant to which contributions are paid to such plan(s) (a "Contribution Agreement"); (b) an individual who is currently working with or who has previously worked with the tools of the trade (under the applicable collective bargaining agreement), and who has a twenty-five percent (25%) or more ownership interest in an employer that is signatory to and currently bound by a Contribution Agreement; or (c) an individual who is currently working with the tools of the trade (under the applicable collective bargaining agreement) and whose spouse has a twenty-five percent (25%) or more ownership interest in an Employer that is signatory to and currently bound by a Contribution Agreement (each an "Owner-Operator").

ARTICLE V

Section 1. VACATION AND HOLIDAY FUND

The Contractor agrees to pay into the Operating Engineers' Local 324 Vacation and Holiday Fund of Michigan (hereinafter called "Vacation and Holiday Fund") the sum of fifteen percent (15%) of the gross wages earned by each employee working under the terms of this Agreement. The amount of vacation and holiday payment as shown in Article IV, Section 5, is for information only. Fifteen percent (15%) of the gross wages shall govern in any event.

Section 2. The Contractor agrees to pay into the Supplemental Vacation and Holiday Fund, for each employee covered by this Agreement, the sum of five cents (\$.05) per hour for actual hours paid each employee, without regard to whether the employee was working on straight-time or overtime. Such contributions will be in addition to those in Section 1 above.

Section 3. This Vacation and Holiday Fund shall constitute a part of, and shall be included in, the employee's earnings for the purpose of computing all payroll withholdings, such as income tax, social security and other required deductions, and then shall be subtracted from the employee's weekly earnings and transmitted by the Contractor to such bank as shall be designated by the Trustees of the Vacation and Holiday Fund. Each employee shall be paid his vacation and holiday monies in December of each year from the Vacation and Holiday Fund.

ARTICLE VI

Section 1. HEALTH CARE INSURANCE

In addition to all other compensation required by the terms of this Agreement, effective September 1, 2010, the Contractor agrees to pay to the Operating Engineers' Local 324 Health Care Plan, for each employee covered by this Agreement, the sum of eight dollars (\$8.00) per hour for all hours paid each employee. Any increase in the contribution rate to the Operating Engineers Local 324 Health Care Plan prior to September 1, 2014 shall be allocated from the negotiated wage increase(s).

All insurance contributions shall be computed on actual hours paid without regard to whether the employee was working on straight-time or overtime. These contributions shall be deposited each month, or at such other regular intervals as may be determined by the Trustees of the Operating Engineers' Local 324 Health Care Plan, to such depository as may be designated by said Trustees.

The Michigan Infrastructure and Transportation Association Underground shall be entitled to designate a Trustee on the Operating Engineers' Local 324 Health Care Plan and if any other association participating in such Plan is permitted to designate more than one (1) Trustee, the Michigan Infrastructure and Transportation Association Underground shall be entitled to designate a like number of Trustees. The Trust Agreement establishing such Plan, together with any insurance or related agreements approved by a majority of the Trustees, shall become a part of this Agreement by reference. The Contractor shall be bound by the Trust Agreement and any amendments, rules, regulations and other requirements relating to the Health Care Plan, not in conflict with the terms of this collective bargaining Agreement, established by the Trustees of such Plan.

Section 2. PENSION

(a) Effective September 1, 2010, the Contractor agrees to pay to the Operating Engineers Local 324 Pension Fund, for each employee covered by this Agreement, the sum of eight dollars and ninety-five cents (\$8.95) per hour for actual hours paid each employee.

(b) Any increase in the contribution rate to the Operating Engineers Local 324 Pension Fund prior to September 1, 2014 shall be allocated from the negotiated wage increase(s).

(c) The Pension Contributions shall be deposited each month or at such intervals as may be determined by the Trustees of the Operating Engineers Local 324 Pension Fund, to such depository as may be designated by said Trustees. The Contractor, by becoming a party to this Agreement agrees to be bound by all the terms, conditions, rules and regulations adopted by the Trustees of the Operating Engineers Local 324 Pension Fund.

Section 3. RETIREE BENEFIT FUND

(a) Effective September 1, 2010, each Contractor agrees to pay into the Operating Engineers Local 324 Retiree Benefit Fund the sum of forty-five cents (\$.45) per hour for each hour paid each employee covered by this Agreement.

(b) All contributions to the Operating Engineers Local 324 Retiree Benefit Fund shall be computed on actual hours paid, without regard to whether the employee was paid on straight-time or overtime. These contributions shall be deposited each month, or at such other regular intervals as may be determined by the Trustees of said Retiree Benefit Fund, to such depository as may be designated by the Trustees.

Section 4. INDUSTRY ADVANCEMENT FUND

(a) The Association has established an Industry Advancement Fund whose activities shall be determined by the Association and which Fund shall be financed by the payments hereinafter provided for.

(b) Effective September 1, 2010, the Contractor agrees to pay to the Industry Advancement Fund ten cents (\$.10) per hour for actual hours paid each employee working under this Agreement.

(c) The Contractor agrees to pay to the Industry Advancement Fund the amounts as shown in (b), above, or in the alternative, to pay the amounts shown in (b), above to the Operating Engineers Local 324 Health Care Plan for actual hours paid each employee working under this Agreement. Said contributions are to be in addition to the Insurance Fund contribution provided for in Article VI, Section 1.

Section 5. LABOR-MANAGEMENT EDUCATION COMMITTEE

(a) Effective with the first full pay period commencing on or after September 1, 2010, in addition to all other compensation required by the terms of this Agreement, each Contractor agrees to pay to Local 324 Labor-Management Education Committee, for each employee covered by this Agreement, the sum of eleven cents (\$.11) per hour for all hours paid each employee.

(b) All Local 324 Labor-Management Education Committee contributions shall be computed on actual hours paid without regard to whether the employee was working on straight time or overtime. These contributions shall be deposited each month, or at such other regular intervals as may be determined by the Trustees of Local 324 Labor-Management Education Committee to such depository as may be designated by said Trustees.

(c) The Agreement and Declaration of Trust establishing the Local 324 Labor Management Education Committee, effective June 1, 1989, is made a part of this Agreement by reference, and each Contractor agrees to be bound by and to comply with said Trust Agreement, any Amendments thereto, and all related agreements, rules, regulations, reporting forms and other requirements lawfully established by the Trustees of Local 324 Labor-Management Education Committee.

(d) The Association and the Union shall each appoint a representative to Operating Engineers Local 324 Labor-Management Education Committee. The two representatives may be joined by other representatives of the Union and other Employer Associations pursuant to other collective bargaining agreements to comprise the Local 324 Labor-Management Education Committee.

Section 6. DEFINED CONTRIBUTION PLAN

(a) Effective September 1, 2010, the Contractor agrees to pay to the Operating Engineers' Local 324 Defined Contribution Plan the sum of one dollar (\$1.00) per hour for actual hours paid each employee covered by this agreement.

(b) All contributions to the Operating Engineers' Local 324 Defined Contribution Plan shall be computed on actual hours paid without regard to whether the employee was paid on straight-time or overtime. These contributions will be deposited each month, or at such other regular intervals as may be determined by the Trustees of said Defined Contribution Plan, to such depository as may be designated by the Trustees.

(c) Payments of benefits from the Defined Contribution Plan shall be contingent upon and subject to obtaining and retaining such approval of the Internal Revenue Service as may be necessary to establish the deductibility for federal income tax purposes of any and all contributions made by contractors upon applicable provisions of the Internal Revenue Code of 1986, as amended.

Section 7. VIOLATION OF WAGES AND/OR FRINGE BENEFIT PAYMENTS

In the event that any Contractor performing work covered under this Agreement is delinquent in the payment of proper wages or contributions to the Health Care Insurance, Pension, Retiree Benefit, Defined Contribution, Vacation & Holiday, Apprenticeship Training Program, Labor Management Fund, Supplemental Vacation and/or Industry Advancement Fund or fails to permit an audit of payroll records when directed by the Trustees of any of the aforementioned funds, the Local Union, after giving the Contractor and the Association seventy-two (72) hours notice, excluding Saturday and Sunday, of such delinquency by certified mail or personal delivery shall have the right to take strike action against such Contractor, notwithstanding any other provisions of this Agreement.

In addition, should a contractor be delinquent in the payment of contributions noted above or fails to permit an audit of payroll records, the Trustees of the aforementioned funds may require weekly payment of all fringe benefit contributions. Failure of the Contractor to remit fringe benefit contributions on a weekly basis as directed by the Trustees shall give the Union the right to direct strike action as stated above.

Contributions are due on the 15th of the month following the month worked, with an additional 15 day grace period. Daily interest is assessed from the due date at the rate of 18% per annum on late contributions, i. e., those paid after the grace period.

ARTICLE VII

Section 1. HOURS

(a) When a single shift is worked, eight (8) hours of continuous employment (except for lunch period) shall constitute a day's work, beginning at 7:00-8:00 a.m. on Monday through Friday of each week. Where work is performed in excess of eight (8) hours on any of those days, time and one-half (1-1/2) the regular rate of wages shall be paid.

(b) Upon request to and approval by the Business Manager of the Union, special starting time will be permitted when the Contractor is required by the owner or public authority to commence work prior to 7:00 a.m.

Section 2. SHIFT WORK

Where two (2) or more shifts are worked, five (5) eight (8) hour shifts from Monday 7:00-8:00 a.m. through Saturday 7:00-8:00 a.m. shall constitute a regular week's work. Work performed on first (daytime) shift shall be paid for at the regular rate of wages. Work performed on the second and third shift shall be paid for at the shift rate of wages. Where work is performed in excess of eight (8) hours on any shift, time and one-half (1-1/2) the hourly shift rate of wages shall be paid for such excess time. Premium rates of wages paid for work performed on the second and third shifts of any job shall apply only to work performed during those shifts which is of the same nature as the work performed on the first shift of the same job. However, where work performed on consecutive shifts is the established practice for any particular job on tunnel work, premium rates of wages for the second and third shifts shall not apply.

Section 3. OVERTIME

(a) For all time worked Saturdays the employees shall be paid at the rate of time and one-half (1-1/2) the regular rate of wages.

(b) For all time worked on Sundays and holidays, the employees shall be paid at the rate of double (2) the regular rate of wages except as otherwise provided in this Agreement.

(c) DEWATERING. Recognizing the peculiarities involved where it is necessary on a continuous basis to maintain well points, deep wells, freeze systems, air pressure and any other forms of dewatering, it is agreed that when the Contractor finds

it necessary to so maintain these type systems on a seven (7) day a week schedule, then the employees assigned to such systems shall receive time and one-half (1-1/2) for Sunday and holiday work; provided, however, that if any other employees covered by this Agreement are assigned to work on Sunday or a holiday on the same job site, then the employees maintaining such systems shall also receive double (2) time for such Sunday or holiday.

(d) HOLIDAYS. The following days are recognized as holidays:

New Year's Day

Labor Day

Decoration Day

Thanksgiving Day

Independence Day

Christmas Day

(e) SUPERVISORY PERSONNEL. Any Operating Engineer regularly assigned to a piece of equipment covered under this Agreement, or who has operated same during his regular workday, shall perform any overtime work when overtime is assigned such machine.

Section 4. OPTIONAL WORKWEEK SCHEDULE

(a) The Contractor shall have the option of scheduling employees to work on the basis of four (4) ten (10) hour days, Monday through Friday, at straight time, for any work week, on a company-wide basis, a work crew basis or on a project basis.

(b) Any work over ten (10) hours in a day, or forty (40) hours in a week, and all work performed on Saturday, shall be at time and one-half (1 1/2).

(c) In the event work is unable to be performed on account of weather Monday through Thursday, then Friday work may be scheduled for the ten (10) hours, at straight-time.

(d) The Contractor may work split-crews, scheduling some employees to work Monday through Thursday and others to work Tuesday through Friday.

(e) On any job where the employees are scheduled to work four (4) ten (10) hour days the Contractor shall not bring in employees not scheduled to work four (4)

ten (10) hour days to avoid the payment of overtime when the Contractor elects to work that job five (5) days in a week.

(f) When the Contractor elects to work four (4) ten (10) hour days under this Section, the Contractor will call the Local Union and offer to hold a pre-job conference to inform the Union of the contemplated work schedule for the job(s).

(g) For any Contractor that has elected to perform under the optional work week schedule, the regular payday shall be Thursday.

Section 5. REPORTING TIME

In the event any employee is ordered to report for work on any day, but is not needed that day, he shall be paid two (2) hours for show-up time, during which time he shall do any work required, in his jurisdiction, except operation of equipment. If the employee is required to stay on the job for more than two (2) hours or starts to operate machines, he shall receive not less than four (4) hours pay. Any employee performing work in excess of four (4) hours on any workday shall be paid for all hours actually worked, but in any event he shall be paid not less than eight (8) hours. The aforementioned guarantees shall not apply if the employees fail or refuse to work due to a work stoppage or strike in violation of this Agreement.

Whenever a contractor has scheduled his employees on a four (4) ten (10) hour/day basis, the provision of this Section shall be applicable provided the term five (5) hours shall apply in place of the term four (4) hours and ten (10) hours shall apply in place of the term eight (8) hours.

ARTICLE VIII

Duties

Section 1. No Operating Engineer shall quit or leave the job until they have given special notice to the Contractor and the Contractor has made a sincere effort to secure another Operating Engineer to take their place, unless that Operating Engineer is ordered to leave by the Contractor. This is intended to protect the Contractor against being left without an Operating Engineer and shall not be construed in any way as restricting the customary rights of a Contractor to discharge employees.

Section 2. In the event an employee quits, is discharged or laid off, they shall return any safety equipment, tools or greasing equipment furnished by the Contractor.

Section 3. In the event an employee does not comply with the provisions contained herein, the Contractor shall report the employee to the Union and the Union shall take whatever action is appropriate under its By-Laws.

ARTICLE IX

Arbitration

(a) A grievance is an alleged breach, misinterpretation or misapplication of the terms of this Agreement. During the life of this Agreement the Employer shall not engage in any lockout and the Union and the Employees shall not cause, participate in or approve any strike or work stoppage of any sort.

(b) Settlement of grievances may be arrived at in any step of the grievance procedure which will be final and binding on the Union, the Employer and the Employee.

(c) Any grievance must be presented (verbally or in writing) within three (3) working days of the time the aggrieved party first becomes aware, or should have become aware, of the claim subject of the grievance. A “working day” shall not include Saturdays, Sundays or Holidays.

(d) Grievances shall be handled in the following manner:

Step 1. Between the Employer’s Supervisor and a representative of the Union on the job site.

Step 2. Within ten (10) working days following completion of Step 1, an unresolved grievance shall be reduced to writing. The written grievance shall be submitted to a Union Business Representative and the Employer’s Representative at the job site. The grievance shall set forth the time the grievance arose and the facts upon which the grievance is based.

Step 3. Within five (5) working days following completion of Step 2, an unresolved grievance shall be submitted to the Business Manager and the Representative of the Employer.

Step 4. Within five (5) working days following completion of Step 3, an unresolved grievance shall be submitted to the Joint Grievance Board. The Joint Grievance Board shall consist of four (4) persons, two (2) of whom are to be selected by the Association and two (2) by the Union. The time limits provided for in any Step of the grievance procedure may be extended by mutual consent of the Union and the Employer.

The Joint Grievance Board shall appoint a Secretary from among its members, and the Board shall meet promptly upon written notice from the Secretary or from any member of the Board after receipt of such notice of requested meeting. The Secretary will schedule Board meetings after ascertaining the Employer's availability.

The Board will not issue a decision in the absence of the Employer. The Board will consider and decide all grievances relative to wages and all other terms and conditions of employment under this Agreement. Grievances shall be submitted in writing and shall be decided by a majority vote of the full Board consisting of four (4) members. The decision of the Board is final and binding.

The refusal or failure by any party, the Employer, Employee and the Union, to schedule or attend a Joint Grievance Board meeting shall constitute waiver of all prior irregularities in the grievance procedure, and the complainant may proceed directly to arbitration. If the complainant prevails in the arbitration over such party, that party shall pay all costs of arbitration, excluding attorney fees. If the complainant does not prevail, each party will pay its own cost, except the arbitrator's fee shall be shared equally.

Step 5. If the Joint Grievance Board deadlocks regarding any grievance, it shall constitute a basis for submittal of the grievance to the National Center for Dispute Settlement. In such instances, the parties to the grievance shall appoint an arbitrator to review the dispute and render a decision. If the parties are unable to agree upon an arbitrator, the National Center for Dispute Settlement shall make the designation. The arbitrator's fee shall be shared equally by the Employer and the Union. The arbitrator shall confine his decision to the dispute in question and shall not have authority to add

to, subtract from, or in any way modify the terms of this Agreement. The arbitrator's decision shall be final and binding on the Employer and the Union and the Employee(s) involved.

(e) It is expressly agreed and understood that violation of payment of rates of pay, overtime work, Holiday and Vacation Fund, Security Deposit, Health Care and Pension Funds, Labor-Management Education Committee, Retiree Benefit Fund, Apprenticeship and Journeyman Retraining Fund, or Industry Advancement Funds (if applicable) contributions, as provided in this Agreement shall not be considered as subject to arbitration, provided the Union gives seventy-two (72) hours written or telegraphic notice to the Association and the Employer concerned prior to taking economic action for violation of payment as provided for in this Agreement.

(f) Wage and overtime claims will not be considered after thirty (30) days following the pay period for which said claims are made.

ARTICLE X

Certification to Government Agencies

The Union and the Association shall jointly certify to any governmental agency letting a contract for underground construction work, as defined in this Agreement, that the wages and benefits herein provided are regarded by the Union and the Association as the prevailing rates for such underground construction work performed within the State of Michigan.

ARTICLE XI

Apprenticeship Program

Section 1. The parties agree that it is in their mutual interest and in the interest of the underground construction industry that new employees be trained in the operation of the equipment covered by this Agreement. In furtherance of an Apprenticeship Training Program, the Employers agree that in addition to all other employees otherwise provided for in this Agreement, the ratio of apprentices to journey worker shall be in accordance to the collective bargaining agreement.

Operating Engineers' ratio is:

1. More than 5, up to and including 10 journey workers, 1 apprentice.
2. More than 10, up to and including 20 journey workers, 2 apprentices.
3. More than 20, up to and including 30 journey workers, 3 apprentices.
4. Thereafter, apprentices are to be employed on the same ratio.

The apprentice ratio shall be based on the total number of employees in the Operating Engineer bargaining unit working for the employer and shall not be based on the number of employees working on a project or a job site. The Apprentice Engineer shall be assigned to work with the various Engineers and to do other work as directed by the Contractor.

Section 2. When an Apprentice Engineer is employed by a Contractor, the Coordinator of the Apprenticeship Training Fund shall certify to the Contractor, in writing, the amount of training previously completed by the Apprentice.

Section 3. The parties agree to cooperate to provide training opportunities to assure the increased participation of minority group persons in the underground construction industry in compliance with orders issued by governmental agencies.

Section 4. The Contractor agrees to pay into the Operating Engineers' Joint Apprenticeship Training Program Fund the sum of fifty cents (\$.50) per hour for each hour paid employees working under this Agreement (except Oilers and Apprentices) in accordance with the rules of the Operating Engineers Joint Apprenticeship Committee. These contributions shall be computed on actual hours paid, without regard to whether the employee was paid on straight-time or overtime, and shall be reported on the forms provided for and sent to such depository as shall be named by the Joint Apprenticeship Committee Trustees.

ARTICLE XII

Duration of Agreement

This Agreement shall remain in full force and effect until September 1, 2014 and thereafter shall continue in force from year to year, unless either party hereto shall notify the other party in writing at least ninety (90) days prior to the end of the current term, or as the case may be, ninety (90) days prior to the end of any additional Agreement year, of its intention to make changes in, or terminate, this Agreement. Such written notice shall specify any changes or amendments desired by the party giving such notice and shall be sent by registered mail to the other party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective proper officers, duly authorized, as of the day and year first above written.

FOR: MICHIGAN INFRASTRUCTURE AND TRANSPORTATION
ASSOCIATION

Michael A. Nystrom, Executive Vice-President

Association Address:
P.O. Box 1640
Okemos, Michigan 48805-1640
Telephone: (517) 347-8336

FOR: INTERNATIONAL UNION OF OPERATING ENGINEERS,
LOCAL No. 324, 324-A, and 324-B, AFL-CIO

John M. Hamilton, Business Manager

Steve Minella, President

Dan Ringo, Recording-Corresponding Secretary

Union Address:
550 Hulet Drive
Bloomfield Township, MI 48302
Telephone: (248) 451-0324

MEMORANDUM OF UNDERSTANDING

Whenever there are five (5) or more Operating Engineers, per shift, employed by one (1) Contractor on any industrial or commercial building site job in the counties of Wayne, Oakland, Macomb, Monroe, Lenawee, St. Clair and Washtenaw, such Contractor shall employ a Master Mechanic on the job site.

**FOR: MICHIGAN INFRASTRUCTURE AND TRANSPORTATION
ASSOCIATION**

Michael A. Nystrom, Executive Vice President

**FOR: INTERNATIONAL UNION OF OPERATING ENGINEERS,
LOCAL No. 324, 324-A, and 324-B, AFL-CIO**

John M. Hamilton, Business Manager

Steve Minella, President

Dan Ringo, Recording-Corresponding Secretary

AGREEMENT TO BE EXECUTED BETWEEN A CONTRACTOR WHO IS NOT A MEMBER OF THE SIGNATORY GROUP COVERED BY THIS AGREEMENT, AND THE UNION

Contractor (Firm) Name _____

Address _____

City _____

State _____ Zip Code _____

Telephone Number _____

Michigan Corporation and Security Reg. No _____

Workers' Compensation No _____

Expires _____

Name of Insurance Firm _____

Contractor's Code No. As Assigned By Fringe Benefit Funds Covered By This Agreement _____

WE, THE UNDERSIGNED, HAVE READ AND HEREBY AGREE TO BE BOUND BY ALL THE TERMS AND CONDITIONS SET FORTH IN THE FOREGOING LABOR AGREEMENT.

Signed this _____ day of _____, _____.

FOR THE CONTRACTOR:

[Contractor (Firm, Partnership, Corporation, Individual,
Joint Venture) Name]

By _____

Title _____

FOR THE UNION:

By _____

Title _____

ADDENDUM A
SUBSTANCE ABUSE TESTING PROGRAM

A. Substance abuse testing may be administered under the following circumstances:

1. Prehire drug screening - all potential employees of _____ will be required to submit to a urine drug screen. Pre-hire drug screening will test for the presence of illegal drugs and substances only. Any potential employee refusing to submit to this test will not be hired. A potential employee who has presented proof that he/she has passed a drug screen test administered under procedures substantially similar to those contained herein within the ninety (90) days prior to his/her first day of employment with the contractor shall not be required to submit to a prehire drug screen.

2. Existing employees of _____ transferred from another location to work on a project - all employees in this classification may be required to submit to a urine drug screen prior to working on a project. This screen will test for the presence of illegal drugs and substances. Any employee refusing to submit to this test will not be permitted to work on the project. An employee in this classification who has presented proof that he/she has passed a drug screen test administered under procedures substantially similar to those contained herein within the ninety (90) days prior to his/her first day of work on the project shall not be required to submit to a drug screen prior to working on the project.

3. Testing for Cause - all employees may be tested for cause when a reasonable suspicion exists that the employee appears to be under the influence of illegal drugs or substances and/or alcohol.

4. All employees may be tested on a random basis.

5. All employees may be tested after accidents or injuries.

6. All employees may be tested after leaves of absence or medical leaves.

TESTING PROCEDURES

I. Drug Screening of Applicants for Employment

1. Specimen collection may occur on-site or at an off-site clinic.

2. Each applicant will read and execute the attached Drug Screen Consent form prior to any test being administered.

3. On a preprinted itemized form furnished by the employer, each applicant will be asked to identify any medication he/she is taking or has taken during the thirty (30) days preceding the test.

4. A formal chain of custody will be established for every drug test.

5. A split sample consisting of two (2) urine collection containers sealed in a plastic container will be furnished to the applicant. The containers must contain an amount of urine sufficient for one EMIT test and GC/MS tests, but in no event less than two (2) ounces per container. Each applicant's urine specimen will be collected and temperature tested for verification. The second container will be used in the event the first container has become contaminated.

6. Before the specimen ever leaves the applicant's sight, the urine container will be sealed with security tape which has been initialed by the applicant.

7. Specimens collected on-site will be picked up by lab courier and transported to the laboratory for testing. A portion of the sample will be tested using the Enzyme Medical Immunoassay Test (EMIT) and, if positive, another portion will be tested for verification using the Gas Chromatography Mass Spectrometry Test (GC/MS).

8. The remainder of the urine specimen will be maintained at the laboratory for thirty (30) days following the date of the test.

9. The applicant will then be given a form stating that he/she has consented to and given a urine sample for drug screening and is available for employment on 72 hour probationary period. This form will be signed by the attending medical personnel and a supervisor of his/her employer.

10. Any applicant who refuses to take a drug test will not be eligible for employment.

11. The results of the drug test will be received in the employer's office within seventy-two (72) hours. If the applicant is tested positive, he/she may be terminated immediately and paid for all hours worked. The individual will not be eligible for employment with the contractor for thirty (30) days contingent on a negative drug screen. If later hired by that contractor, such employees may be tested periodically without notice for a period of one (1) year from the date of the most recent positive test. The individual will be given a copy of positive test results.

12. If any individual who has tested positive wishes to confirm the results of the GC/MS test, he/she may do so at his/her option by having a GC/MS test performed on the remainder of the previously collected urine specimen at a certified NIDA laboratory of his/her choice. The specimen will be shipped directly from the employer's laboratory to the laboratory of the employee's choice. The cost of this test will be borne by the employee. If the results of this test are negative, the individual will be reinstated with full back pay and benefits and will be reimbursed for the cost of the test. The individual must exercise the option of a second GC/MS test within twenty-four (24) hours of being notified of the positive test results.

13. Prehire drug screens will include testing for the following:

1. Amphetamines
2. Barbiturates
3. Benzodiazepine
4. Cocaine
5. Methadone
6. Opiates
7. Phencyclidine (PCP)
8. Propoxyphene (Darvon)
9. THC (Marijuana/Canabinoids)
10. Methaqualone

II. Drug Screening of Transfer Employees

The procedure for testing employees transferred from another jobsite will be the same as the prehire procedure.

III. Drug Screening for Cause

1. Existing employees working on a project may be tested for illegal drugs, substances and alcohol if there exists a reasonable suspicion that the employee be tested is under the influence of alcohol or any of the substances identified above in Paragraph 13. For the purpose of this Program, the term “reasonable suspicion” shall be defined as aberrant or unusual on-duty behavior of an individual employee who:

- A. Is observed on duty by either the employee’s immediate supervisor, higher ranking employee, or other managerial personnel of the contractor who has been trained to recognize the symptoms of drug abuse, impairment or intoxication, which observations shall be documented by the observer(s);
- B. Exhibits the type of behavior which shows accepted symptom(s) of intoxication or impairment caused by controlled substances or alcohol or addiction to or dependence upon said controlled substances; and,
- C. Such conduct cannot reasonably be explained as resulting from other causes, such as fatigue, lack of sleep, side effect of prescription or over-the-counter medication, illness, reaction to noxious fumes or smoke.

2. Drug testing of this type will not be conducted without the written approval of the contractor’s representative. The representative must document in writing who is to be tested and why the test was ordered, including the specific objective facts constituting reasonable suspicion leading to the test being ordered, and the name of any source(s) of all of this information. One copy of this document shall be given to the employee before he/she is required to be tested, and one copy shall immediately be provided to the Union, if requested by the employee. After being given a copy of the document, the affected employee shall be allowed enough time to be able to read the entire document. Failure to follow any of these procedures shall result in the elimination of the test results as if no test had been administered. The test results shall be destroyed, and no disciplinary action shall be taken against the employee.

3. When a contractor’s representative has reasonable suspicion to believe that an employee is using, consuming, or under the influence of an alcoholic beverage, non-prescribed controlled substance (other than over-the-counter medication), and/or non-prescribed narcotic drug while on duty, that person will notify the representative for

the purpose of observation and confirmation of the employee's condition. The employee will be offered an opportunity to give an explanation of his/her condition, such as reaction to a prescribed drug, fatigue, lack of sleep, exposure to noxious fumes, reaction to over-the-counter medication or illness. If after this explanation the representative after observing the employee, also has reasonable suspicion to believe that the employee is using, consuming and/or under the influence of an alcoholic beverage, non-prescribed controlled substances, or non-prescribed narcotic while on duty, then by a written order signed by the representative, the employee may be ordered to submit to a drug and alcohol screen. Refusal to submit to this testing, after being ordered to do so, may result in disciplinary action up to and including discharge.

DRUG SCREENING PROCEDURES FOR CAUSE

Employees drug screens for cause will include testing for the same drugs as the prehire screening test, but also will include testing for alcohol level.

1. Each employee shall read and execute the attached Drug Screen Consent form prior to any test being administered.

2. Reasonable suspicion testing shall be performed at the jobsite or at an off-site clinic. The individual may be accompanied to an off-site clinic by a contractor representative. A split sample consisting of two (2) urine collection containers scaled in a plastic container will be furnished to the employee. A minimum sample of two (2) ounces per container must be collected. All other security procedures as listed in the prehire screening shall be followed, including chain of custody and a listing of any medication the employee has used in the last thirty (30) days.

3. An EMIT test and, if positive, a confirming GC/MS test will be performed on the sample. The remainder of the sample will be stored at the laboratory for thirty (30) days.

4. If the employee's test is positive, his employment will be terminated immediately. The employee will be presented with a copy of the results of the drug screen. He/she will have the option to have a portion of the remainder of the sample tested at his/her own expense at a NIDA certified laboratory of his/her own choice. The screen will consist of a GC/MS test. The sample will be shipped directly from the contractor's laboratory to the laboratory of the individual's choice. If this test is negative, the employee will be reinstated with full back pay and benefits, and will be

reimbursed for the cost of the test by the employer. The individual must exercise the option of a second GC/MS test within twenty-four (24) hours of being notified of the positive test results.

5. Any employee whose test is positive will not be eligible for employment with that contractor for thirty (30) days, contingent on a negative drug screen.

6. Any employee whose test is positive and who was rehired by the contractor after testing negative, may be tested periodically by that contractor without notice for a period of one (1) year after the date of rehire. The contractor shall not be required to offer rehabilitation to the individual.

7. Alcohol - If an employee's test results indicate that he/she is legally intoxicated (at or above the State of Michigan limit), he/she may be subject to discipline up to and including discharge. Alcohol detection will be based on a breathalyzer.

IV. General

1. All results of tests included in this Program shall be considered medical records and held confidential to the extent permitted by law. However, this information may be divulged for grievance, arbitration, and/or litigation with respect to these matters.

2. The testing laboratory for this Program must be a laboratory certified by the National Institute on Drug Abuse (NIDA).

3. It is understood that neither the Union nor the Michigan Infrastructure and Transportation Association shall be responsible for ascertaining or monitoring the drug-free or alcohol-free status of any employee or applicant for employment.

INTERNATIONAL UNION OF OPERATING ENGINEERS,
LOCAL UNION No. 324

By: John M. Hamilton, Business Manager

MICHIGAN INFRASTRUCTURE AND TRANSPORTATION ASSOCIATION
(MITA)

By: Michael A. Nystrom, Executive Vice President

DRUG SCREEN CONSENT FORM

Release form for obtaining urine samples for drug screening and permission to furnish the results to the Employer.

I, _____ (Name of employee), authorize _____ (Name of Contractor), its physicians or agents, to take urine samples from me for use in a drug screening investigation. I understand why these samples are being requested, and I give permission for the results to be sent to my employer.

Name (Please Print)

Social Security Number

Date

Signature

Address

City/State/Zip Code

(Area Code) Phone Number

Witness

Date