

AGREEMENT

BETWEEN THE

**CONSTRUCTION EMPLOYERS ASSOCIATION OF
NORTH CENTRAL WEST VIRGINIA, INC.**

KANAWHA VALLEY BUILDERS ASSOCIATION

**OHIO VALLEY CONSTRUCTION
EMPLOYERS COUNCIL**

**PARKERSBURG-MARIETTA CONTRACTORS
ASSOCIATION**

TRI-STATE CONTRACTORS ASSOCIATION

AND

**INTERNATIONAL UNION OF
OPERATING ENGINEERS OF WEST VIRGINIA
LOCAL UNION #132
AFFILIATED WITH AFL-CIO**



**Effective December 1, 2012
Expires November 30, 2015**

INDEX

Article I	Jurisdictional Area	3
Article II	Recognition and Membership.....	4
Article III	Management, Recognition & Rights	5
Article IV	Wage Rates	5
Article V	Certification Program.....	9
Article VI	Hiring Hall Agreement.....	10
Article VII	General Working Conditions.....	17
Article VIII	Working Hours.....	20
Article IX	Four (4) Ten (10) Hour Work Provision.....	23
Article X	Time to Report to Work	24
Article XI	Targeted Job	24
Article XII	Settlement of Disputes.....	25
Article XIII	Subcontractor Clause.....	26
Article XIV	Owner-Operator.....	27
Article XV	Duration of Agreement	29
Article XVI	Construction Advancement Program.....	29
Article XVII	State or Federal Law	31
Article XVIII	Bonding	31

THIS AGREEMENT IS NEGOTIATED BY AND BETWEEN:

Construction Employers Association of
North Central West Virginia Inc.

Kanawha Valley Builders Association

Ohio Valley Construction Employers Council

Parkersburg-Marietta Contractors Association

Tri-State Contractors Association

hereinafter referred to as the Employers, and

International Union of Operating Engineers of West Virginia

Local Union #132, affiliated with AFL-CIO

Effective December 1, 2012

Expires November 30, 2015

hereinafter referred to as the Union:

WHEREAS, the parties signatory hereto are desirous of entering into an agreement embodying wages and conditions of employment and eliminating the possibility of strikes, boycotts, lockouts and all other forms of work stoppage.

NOW, THEREFORE, the Employer and the Union, acting by and through their duly authorized agents, do hereby agree as follows:

ARTICLE I

Jurisdictional Area

The provisions of this Agreement shall govern the employment and the conditions under which operating engineers shall work and the rates of pay they shall receive in the construction industry in the following bounded territory:

(a) The entire State of West Virginia and all counties therein:

(b) All parties agree to be bound by decisions of the Impartial Jurisdictional Disputes Board or its successors for settlement of jurisdictional disputes.

(c) The operating Engineers claim the operation, maintenance, assembly, disassembly and repair of all power equipment used for construction.

ARTICLE II

Recognition and Membership

That the Employer hereby recognizes the Union who is signatory hereto as the sole and exclusive collective bargaining representative of all the employees of the employer over whom the Union has jurisdiction as defined in Section 9(a) of the National Labor Relations Act, as amended.

As a condition of employment, all employees covered by this agreement shall, on or before the eighth (8th) day, after the day of execution of this agreement, become members of the Union and remain members in good standing in the Union during the terms of this Agreement.

When new employees are hired, membership in the Union, on or after (8) days employment, shall be a condition of continued employment provided the employer has no reasonable grounds for believing:

(a) That such membership was not available to the employee on the same terms and conditions generally applicable to other members, or

(b) That the membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership.

For purpose of activating Union Security Clause, the following responsibility shall be assumed:

(a) Upon hiring a new man, under Paragraph 1 of Referral Agreement, the Employer will notify such new employee of the requirements of this Union Security Clause and shall then inform the Union of the new employment, giving such Union the name of the employee and date of hiring.

(b). After such notification, it shall become the responsibility of the Union to see that said employee becomes a member of said Union in conformity with the requirements of the Security Clause and Federal and State Laws.

ARTICLE III

Management, Recognition and Rights

That the Union recognize the Employer or its successor as the sole and exclusive collective bargaining representative of all the members of said Employer.

The operation of the job and the direction of the working forces, including the right to hire, suspend, and discharge, for proper cause, and other legitimate reasons is vested exclusively in the company provided that this duty will not be for purposes of discrimination against any employee.

ARTICLE IV

Wage Rates

Job Master Mechanics or Foreman, and all Operators of derricks, cranes, pickers and boom trucks, shall command and receive the highest rate of pay of any craft that he or she is assigned to for the entire shift. This applies to all classes.

FOREMAN: 5 to 10 Engineers

On jobs where from five (5) to ten (10) engineers are employed on one shift, one man shall be designated as Equipment Foreman, but in all cases shall continue to operate machine.

12-1-12	12-1-13	12-1-14	12-1-15
\$34.81	\$35.56	\$36.31	Agreement Expires

FOREMAN: 10 or More Engineers

When ten (10) engineers are employed on one shift the Equipment Foreman will not be required to operate a machine and shall act as Master Mechanic at the Employers discretion and shall continue in this capacity until number of working engineers has been reduced to three (3) men.

12-1-12	12-1-13	12-1-14
\$35.46	\$36.21	\$36.96

Such Foreman shall have had three years experience in the trade and shall be selected by mutual agreement.

Class I

There shall be an Assistant Equipment Foreman with each additional twenty (20) men.

All friction cranes, derricks and tower cranes and all cranes with 180 feet or more of boom including mast and jibs or lifting capacity of 100 tons or more and hoists with 30,000 pound line pull or more, cableways.

12-1-12	12-1-13	12-1-14
\$34.01	\$34.76	\$35.51

Class II

Those operating cranes, derricks, tower cranes, boom trucks, shovels, draglines, clamshells, caisson drilling rigs and similar equipment with a lifting capacity of 15 tons and over. Mechanic with tools with 3/4 inch drive and below.

12-1-12	12-1-13	12-1-14
\$33.66	\$34.41	\$35.16

Class III

All tow boats or work boats, backhoes, endloaders, all excavators, gradalls, all other mechanics, side boom cat, all other cranes and concrete mixing plants, core drills, two drum

hoist, concrete pump, mechanically operated laser screed, self contained hydraulic air drills, directional drill operator, standard gauge locomotive, rubber tired scraper, power grader dozer, tractor and pan, push cat, asphalt and concrete paving equipment operator, compactor, compactor with blade, material hauler, articulating equipment, material hoist, wellpoint system, forklift, trencher, air tugger "A" frame truck, grease truck operator, all tractors.

12-1-12	12-1-13	12-1-14
\$32.66	\$33.41	\$34.16

Class IV

Fireman, deckhand, elevators, ross carrier, air compressor, high compression equipment, load handler, "Bobcat" or skid steer loaders, greaser helper, two bag and under concrete mixer, assistant engineer on standard gauge locomotives, locomotive cranes, truck and crawler cranes, brakeman on cranes used for moving rail cars (when equipment is moving cars only) rollers, Barber Green loader, mechanic helper, welding machines, light plants, generators, conveyors, mechanical heaters, and pump operators, masonry hoist and all farm type tractors.

Capacities for equipment shall be as per manufacturers maximum rated capacity.

12-1-12	12-1-13	12-1-14
\$22.16	\$22.91	\$23.66

HEALTH & WELFARE, PENSION, ANNUITY, APPRENTICESHIP, LEAD, CONSTRUCTION ADVANCEMENT PROGRAM, ACT, AND BUILDING TRADE DEDUCTIONS

<u>Employer Pays</u>	<u>12-1-12</u>	<u>12-1-13</u>	<u>12-1-14</u>
H & W	\$8.48	\$8.78	\$9.08
Pension	\$5.50	\$5.75	\$6.00
Annuity	\$3.00	\$3.00	\$3.00
Apprentice and Cert. Pgm.	\$1.00	\$1.00	\$1.00
Const. Adv.	\$.18	\$.18	\$.18
Drug & Safety Program			
LEAD	<u>\$.12</u>	<u>\$.12</u>	<u>\$.12</u>
	\$18.28	\$18.83	\$19.38

*Employee Deductions

Building Trades Dues Deduction is five (\$.05) cents per hour worked.

Administrative Dues Deduction is 4% of Gross Payroll

ACT /Building Trades Deduction is fifteen (\$.15) cents per hour worked.

IUOE Local 132 Organizing Fund is ten (\$.10) cents per hour worked. Five (5) cents per hour shall be withheld for the Engineers Political Education Committee (EPEC) when Employee authorizes deduction.

LEAD

All parties signatory to this agreement recognize that a cooperative and constructive effort is needed to overcome the impact of drug abuse on safety practices, productivity, quality of work and morale. Thus, signatory employers shall contribute twelve \$.12 per hour worked to cover the cost of the Drug and Safety Program contained in the Labor Education and Development Fund (LEAD) while working in both the Charleston and Huntington Tri-State areas as well as a comparable Drug and Safety Fund whenever working in the Parkersburg area.

NATURE AND PURPOSE OF LEAD FUND

The LEAD Fund will be operated and administered on a non-profit basis for the purpose of supporting a training program, with emphasis on education and research in occupational safety and health in the building and construction industry. Such program is designed to serve the public interest of providing safety instruction and training to individual employees for the purpose of developing their capabilities to recognize and avoid occupational hazards and to assist their employers in meeting the latter's statutory duty to provide a safe and healthful workplace to every employee under the OSHA Act of 1970 and the Construction Safety Act of 1969.

APPRENTICES

Apprentices shall be paid the following wage scale during their apprenticeship subject to and as applicable to the Local #132 I.U.O.E. contract agreement, and the Apprenticeship

Standards agreed to and authorized by The Joint Labor-Management Trustees. Apprenticeship Standards shall be submitted to and approved by the U.S. Department of Labor Bureau of Apprenticeship and Training.

First Year -75% of the rate for the job being performed

Second Year - 80% of the rate for the job being performed

Third Year - 85% of the rate for the job being performed

The Contractor shall pay on behalf of each apprentice employed the same amount of fringe contributions per hour for the job being performed.

Apprentices registered after the effective date of this contract and performing work on Telescoping Material Handlers, Forklifts, and skid steer loaders, the Contractor shall pay Fringe Benefits on behalf of each apprentice for each and every hour employed the amount set forth in the following schedule.

First Year - Health and Welfare only

Second Year - Health and Welfare only

Third Year - Health and Welfare only

Employers agree to make a reasonable effort to utilize the services of apprentices in their employment so as to provide them exposure and training in all classifications of equipment which is the recognized jurisdiction of the Operating Engineers. The number of Apprentices to Journey persons shall not exceed one (1) Apprentice for each five (5) Journey persons regularly employed thereafter.

ARTICLE V

Certification Program

Recognizing the need of Employers to have skilled operators referred for employment, and the obligation of the Union to refer individuals in accordance with the National Labor Relations Act on a non-discriminatory basis, the parties agree that the Union will commence a program by January 1, 1994 to

certify individuals utilizing the Union's referral system in the operation of heavier equipment, such as, cranes, shovels, draglines, clamshells, drilling rigs, backhoes, endloaders, gradalls, scrapers, graders, dozers, push cats, and side booms.

The Certification program will be formulated and administered by the International Union of Operating Engineers, Local Union No. #132, AFL-CIO, Apprenticeship and Skill Improvement Fund and shall include the opportunity for individuals to obtain certification through documentation from contractors working under the terms and conditions of this agreement, or through testing and personal demonstration of their skills at the training site of the Fund.

ARTICLE VI

Hiring Hall Agreement December 15, 1998

This hiring hall agreement is entered into between **PARKERSBURG-MARIETTA CONTRACTORS ASSOCIATION, OHIO VALLEY CONSTRUCTION EMPLOYERS COUNCIL, CONSTRUCTION EMPLOYERS ASSOCIATION OF NORTH CENTRAL WEST VIRGINIA, INC., KANAWHA VALLEY BUILDERS' ASSOCIATION and TRI-STATE CONTRACTORS ASSOCIATION** (hereinafter referred to as the Employer) and **INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL NO. 132, AFL-CIO** (hereinafter referred to as the Union) in order to provide the Employer with a means of securing an efficient and competent working force; and in order to minimize the evils of casual employment by securing a fair distribution of work among the workers represented by the Union. To these ends the Employer and the Union agree as follows:

Section 1. The Employer shall give the Union 36 hours notice of its need for workers, and within such 36-hour period shall not hire persons not referred by the Union. If, however, the Union fails to refer workers within such 36-hour period, Saturday, Sunday and Holidays excepted, after having been noti-

fied to do so, the Employer shall have the right to hire persons not referred by the Union from any area of source.

Section 2. In notifying the Union of its need for workers, the Employer shall specify to the Union, (a) the number of workers required, (b) the location of the project, (c) the nature and type of construction involved, (d) the work to be performed, and (e) such other information as may be necessary to enable the Union to make proper referral of applicants.

Section 3. The Employer shall have the right to determine the competency and qualifications of individuals referred by the Union and the right to hire or not hire accordingly.

Section 4. The selection of applicants for referral to jobs shall be on a non-discriminatory basis and shall not be based on,, or in any way affected by, union membership, by-laws, rules, regulations, constitutional provisions or any other aspect or obligation of union membership, policies or requirements.

Section 5. There shall be no discrimination against any employee or applicant for employment because of race, color, religion, sex, age or national origin, and all parties to this Agreement shall comply with the Civil Rights Act of 1964, Executive Orders 11246 and 11375, together with the appropriate provisions of the Federal Highway Act of 1968, as amended.

Section 6. In the event the Union is unable to refer applicants as requested by the Employer within the time limit set forth in the hiring hall agreement, the Employer will, through recruitment procedures, fill the employment vacancies without regard to race, age, color, religion, sex or national origin, making full efforts to obtain qualified minority group persons.

Section 7. An applicant seeking referral to a job must file with the Union a signed and dated referral form providing name, telephone number, social security number and stating any skills the applicant possesses including any relevant licenses or certificates.

(A) The application will remain in effect for a period of ninety (90) days or such earlier period as provided in Section 14 below. At the expiration of ninety (90) days or such earlier

period as set forth in Section 14 below, the applicant's name will be removed from the Referral List and thereafter the applicant will not be eligible for referral until re-registering with the office of the Union.

(B) Once an applicant has registered his or her availability for referral by a signed referral form with the Union, the applicant may afterward register his or her availability by returning a signed, self-addressed postage-paid postcard, which will be provided by the Union. The initial card will be provided at the time the applicant initially registers, and thereafter the card will be made available at the offices of the Union. You may request your name to be put on other areas referral list of your choice and this will be done the last business day of each week, by fax, in chronological order

Section 8. The Union shall register all applicants for employment on the basis of the priority groups listed below. Each applicant shall be registered in the highest priority group for which he/she qualifies, and must re-register every ninety (90) calendar days.

GROUP A

All applicants who have worked as operating engineers for the past four years; have been employed for a period of at least one year during the last four years by Employers (parties to collective bargaining agreements with the Union, not containing discriminatory referral provisions), and who have maintained residence for the past year within the geographical area constituting the normal construction labor market (as hereafter defined).

GROUP B

All applicants for employment who have worked as operating engineers in construction for the past four years; and have been employed for a period of at least six months within the past three years by Employers (parties to collective bargaining

agreements with the Union, not containing discriminatory referral provisions), and who have maintained residence for the past year within the geographical area constituting the normal construction labor market (as hereinafter defined).

GROUP C

All other applicants.

APPRENTICES

Apprentice applicants who are registered with and participating in the Apprenticeship Program developed and administered by the International Union of Operating Engineers, Local No. 132 Apprenticeship and Skill Improvement Fund shall be listed on a separate referral list in the order they register as available for employment.

Section 9. The Union shall list the applicants within each group in the order in which they register as available for employment.

Section 10. Except as hereinafter set forth, the Union shall refer applicants to Employers by first referring applicants in Group A in the order of their place on said list, and then referring applicants in the same manner from the list in Group B, then C. Apprentices may be referred to Employers pursuant to the recommendation of the International Union of Operating Engineers, Local No. 132 Skill and Improvement Training Fund, irrespective of the order of their registration. In making the recommendations with regard to referral from such group, the coordinator of the Fund shall consider the work to be performed for the employer and then recommend the first applicant in the order of their place on the list who needs training in the type of work to be performed in order that they may acquire the skill necessary to advance them in such program.

Section 11. Referrals for job orders shall be processed at the Union office Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. Applicants holding a position on the out of work list must personally be available at the telephone number on file with the Union during these time periods in

order to respond to requests for referrals. Referrals will not be made through individuals other than the applicant answering the phone nor through a phone answering machine. Each qualified applicant will only be called once per job order. In filling requests made by Employers after 4:00 p.m. for Operators required to report to work before the start of the following business day, the Union shall expedite such requests immediately by contacting, in order of the out of work list, the required number of qualified applicants, however, applicants who are unavailable or refuse such referrals will not be penalized.

The Union will only offer referral to the applicant named on the out of work list.

Section 12. The order of referrals set forth above shall be followed except in cases where:

(i) The Employer requires and requests employee(s) possessing special skills and/or abilities, licenses or certificates in which case the Union shall refer the first applicant on the list possessing such special skills and abilities.

(ii) The individual is referred as the Steward in which event the individual will be referred irrespective of his place on the list.

(iii) The request is for an individual to operate elevators, compressors and/or welding machines in which case preference will be given to individuals fifty (50) years of age or older and the physically handicapped provided they are physically capable of performing any other work associated with the assignment, irrespective of their place on the list. This preference shall not be used in any manner to change an assignment.

(iv) The Employer requests the referral of an individual who has been employed by the Employer within a period of twelve (12) months prior to such request and such individual is registered on the referral list. This section shall not apply to individual referred to an Employer as a fill-in for an Operator

who is expected to return to employment or to an individual referred to an Employer pursuant to Subsection (v) herein.

(v) An emergency exists or where the request from the Employer is received upon short notice and the contact point is such a distance from the residence of an applicant that the applicant could not reasonably be expected to fulfill the request.

Section 13. An applicant shall not be referred to an Employer if the applicant was previously discharged for cause by the same Employer. Applicants who are twice lawfully rejected by an Employer or Employers for lack of skills, after referral by the Union, shall not be eligible for referral to a job requiring the same skills without first providing the Union with a statement from the coordinator of the International Union of Operating Engineers, Local No. 132 Apprenticeship and Skill Improvement Fund evidencing that he or she has acquired such skill.

Section 14. In cases of the occurrence of any of the following events, the applicant will be removed from the referral list and they will not thereafter be eligible for referral until re-registering in person at the office of the Union:

(i) Refusal of three (3) job referrals.

(ii) Failure for the second time to appear for referral by the time notified to appear and commence work.

(iii) Voluntary termination of employment after having been referred.

(iv) Failure to notify the Union in the event they become employed at the trade either within or outside the geographical jurisdiction of the normal construction labor market.

(v) Upon completion of fifteen (15) days of employment the applicant will be removed from the referral list and will not thereafter be eligible for referral until re-registering in person at the office of the Union. Applicants who are referred to fill vacancies created as a result of an employee being absent from work for reasons such as an accident, illness, death in family,

etc., and who would otherwise be expected to return to work, will not be removed from the referral list nor will they lose their position thereon.

DEFINITIONS

(A) “Normal construction labor market” referred to in the Uniform Hiring Hall Procedure shall conform to the territorial jurisdiction of the union as well as any additional area defined by the Secretary of Labor to be the appropriate prevailing wage areas under the Davis-Bacon Act.

(B) “Resident” means a person who has maintained his or her permanent home in the above-defined normal construction labor market for the required period or having had a permanent home in such area, has temporarily left with the intention of returning to that area has his permanent home.

(C) “Operator” or “Operators” means a person working for a contractor in the performance of work within the classifications historically and traditionally recognized in the construction industry commonly referred to as “building and construction,” “heavy” or “highway.”

STATE OF WEST VIRGINIA

The above geographical area is agreed upon by the parties to include the areas defined in the Secretary of Labor to be the appropriate prevailing wage areas under the Davis-Bacon Act to which agreement applies plus the commuting distance adjacent hereto, which includes the area from which the normal labor supply is secured.

B. “Resident” means a person who has maintained his home in the above defined geographical area for a period of not less than one year or who, having a permanent home in this area, has temporarily left with the intention of returning to his permanent home.

ARTICLE VII

General Working Conditions

Section 1. Fireman shall be placed on all boilers and they shall be under the direction of the Engineer, except as noted in Article VI, Section 8.

Assistant Engineers shall be placed on all truck and crawler cranes, shovels, ditchers, standard gauge locomotives, gradalls, mixing plant and derrick except as follows:

On small work, using only one (1) 1/2 C.Y. or smaller crawler type shovel or hoe or one (1) 30 ton and under truck or crawler crane, no assistant engineer will be required.

Section 2. Employees covered by this Agreement shall not be required to perform any work other than that covered by the jurisdictional claims in this agreement.

Section 3. There shall be no limitations to the amount of work a man shall perform during his work day. Men employed at this trade should give their employers a fair and honest day's work.

Section 4. Employers must furnish suitable shelter to protect members from falling materials and the elements of the weather. Engineers operating gas, electric or skeleton engines during cold weather shall be provided with proper heating arrangements by the Employer.

Section 5. No employee covered by this agreement shall be discharged without due cause. Any disagreement over this matter shall be handled as outlined in **ARTICLE XII** (Settlement of Disputes) of this agreement.

Section 6. No employee shall be allowed to quit work on account of any dispute or misunderstanding until the same has been investigated by the Employer and business agent or steward and matter in question has been adjusted.

Section 7. The Business Agent of Local 132 carrying proper credentials shall be allowed to visit the job during working hours to interview the Contractors, the Steward or the men, but shall in no way hinder the progress of the work.

Section 8. The Business Agent shall appoint a steward on every job to act as his assistant and fill his place during his absence. The steward shall be allowed ample time to transact the business of the Local, but in no case will he have the authority to stop the work. The steward will not be discharged without due cause, nor will he be discharged for carrying out his Union duties as outlined above. In no case shall the steward be discharged without first notifying the Local Business Agent. (The Equipment Foreman shall not be allowed to act as steward.)

When three (3) or more Engineers work (Equipment Foreman excluded), the steward shall remain on the job. When any shift works, the Steward shall be provided work.

Section 9. It shall be the strict duty of each employee before leaving any job to hold same until he can secure an unemployed person to fill his position, provided there are men unemployed, or unless he is ordered to leave by authority of the Local Union or Employer.

Section 10. No Engineer shall operate any machine requiring apprentice engineers, unless aforesaid apprentice engineers are on the machine, except in case of emergency.

Section 11. When an employee is injured on a job, it is the responsibility of the contractor to provide first aid and transportation of the employee to the nearest hospital or physician or to a physician of the employee's choice. Upon admittance to the hospital or physician, responsibility of the Employer terminates and the employee is under the supervision and jurisdiction of the physician and the workers' compensation program for treatment and reassignment to duty status. If the employee is allowed to return to work by the physician, and if the employee should require further examination or treatment during duty hours, then the Employer shall arrange transportation and shall pay the employee for such portion of the work day that he is not on the job, provided that the employee may be requested to furnish adequate proof of the attendance for medical treatment. The Employer shall not be responsible for

payment to the man for any time devoted to such examination or treatment before or after the normal work day.

Section 12. Where air compressor is coupled to the machine he is operating to activate Hoe-Ram, a second engineer shall not be required, in this event the operator will receive top list rate.

Section 13. On all operations where the power unit, air compressor or hydraulic pump is mounted on the crane and on all tower cranes, ringer cranes, luffing booms and tower gantrys, two (2) Class 1,2, rate engineers shall operate the complete unit. The second Engineer on pile driving shall act as both Assistant Engineer and fireman or Assistant Engineer and compressor or hydraulic pump operator.

Section 14. The Engineer and Fireman shall wash the boiler they are operating. In case the repair work on machine is of some length or there is delay in waiting for parts, the Engineers regularly assigned to a particular machine may be retained in the shop or placed on another piece of equipment.

Section 15. When repair or service work is being done on a crane or shovel and the Engineer thereon is retained to do such repairs or to assist the mechanic the Assistant Engineer or fireman shall also be retained as a mechanic's helper or placed on another piece of equipment.

Section 16. On light plants, gas welding machines, light pumps, air compressors, heaters, etc. regardless of power used an operator will be required to operate, fuel and maintain this equipment.

Except one pump two inches (2") and smaller, one welding machine, one heater, one air compressor or one conveyor, no operator shall be required unless Employer has a member of the bargaining unit on said payroll.

In the event Employer has member of bargaining unit on said job payroll, he shall be permitted to operate, fuel and maintain two machines or combination of two of the above

listed equipment if paid an additional \$.50 per hour above his regular rate of pay.

It is also understood should any of these machines work before the regular starting time or after the regular quitting time, the employee shall receive the additional \$.50 per hour for the regular eight hour day.

Section 17. Mechanic Trucks – Where the Employer calls for and requires a mechanic equipped with truck, tools and welder, the Mechanics Class II wage and fringes shall be in addition to the rental of his equipment. The rate for said truck, tools and welding machine shall be negotiated between Employee and Contractor. If a party to this agreement hires an Operating Engineer to work as a mechanic and supplies said Mechanic with a truck, tools and welding machine, he shall be entitled to Class II rate.

Section 18. Safety equipment such as, but not limited to, hard hats, safety glasses, metatarsal boots (if required), foul weather gear, hearing protection, etc. will be supplied by Employer.

Section 19. Trial period. New Employees shall be on trial for a period of fifteen (15) workdays and Employer shall be the sole judge of their ability during such trial period. Employees retained after such fifteen (15) workday trial period shall be deemed to be regular Employees. The Employer shall not discharge any Employee working more than fifteen (15) workdays without just cause. In the event of termination, any Employee working more than fifteen (15) workdays may request an investigation as to his discharge. Should such investigation prove that an injustice has been done, the Employee shall be reinstated and compensated at his usual rate of pay while he has been out of work.

ARTICLE VIII

Working Hours

Section 1. Eight (8) hours shall constitute a day's work and forty (40) hours shall constitute a week's work.

Section 2. The working hours shall be between 8:00 A.M. and 4:30 P.M. except that jobs may, for convenience sake, be regularly scheduled between the hours of 7:00 A.M. and 5:00 P.M.

Overtime: The first two (2) hours performed in excess of the standard work day Monday through Friday, shall be paid at the rate of time and one half (1 1/2). Compensation for Saturday will be time and one half (1 1/2). There shall be no pyramiding of overtime pay. Work performed on Sundays and holidays and all work in excess of ten (10) hours a day shall be paid at double time pay.

Section 3. When two shifts are employed, the second shift shall work seven and one-half (7 1/2) hours and have eight (8) hours pay. If three (3) shifts are employed, the midnight shift, or graveyard shift, shall work seven (7) hours with eight (8) hours pay.

Section 4. Mealbreaks – Regular scheduled lunch breaks shall be within one (1) hour of the mid-point of the established shift. In cases when shifts are required for employees to be continuously at work for more than ten (10) hours, the employer shall schedule a second (2nd) *mealbreak effective upon the commencement of the **third (3rd) overtime hour. Subsequent *mealbreaks shall be scheduled each four (4) hour thereafter.***

- * Second (2nd) and subsequent mealbreaks are unpaid unless required to work.
- ** The intent is to be allowed to eat after ten (10) hours of work beginning with the eleventh (11th) hour of the shift.
- *** When employees are required to work through a second paid lunchbreak, one-half hour at the applicable rate shall be added to the actual hours worked at the completion of shift.

Section 5. Payday – Employees are to be paid weekly and not wait more than three (3) business days after ending shift.

(a) An employee whose employment is terminated or who is laid off for the “convenience of the Employer” shall be paid within one (1) hour of the time of termination or at the end of the shift, whichever is first, unless extraordinary circumstances prevent the timely preparation of a final check, in presence of such circumstances, said check **will be mailed the next working day**. Absent extraordinary circumstances, the Employee shall be paid at the straight time rate if he is required to wait beyond such period. However, in no event shall the Employee be paid for more than eight (8) hours per day that he is required to wait. An Employee whose work is terminated shall be given sufficient time in which to gather his personal belongings.

(b) If an employee leaves the job on his own accord he shall be paid the next regular pay day.

On regular scheduled shifts other than those listed above, set up to compliment other trades, the hourly shift arrangement will be made the same as the hourly shift arrangement as the complimented trade.

Section 6. Holidays – The following days shall be observed as holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving day, day after Thanksgiving, and Christmas Day. When a holiday falls on Sunday the following day shall be observed.

Section 7. Where an Engineer or Apprentice Engineer is required to raise steam, or grease and oil, a gas electric, diesel or diesel electric, or any other similar type crane or shovel before the regular starting time, he shall receive the appropriate overtime pay for all time worked over eight (8) hours.

Section 8. When overtime is being worked and the operator has not had an eight (8) hour break between shifts. He or she shall remain on the appropriate overtime rate until the end of the next regular shift

Section 9. When Employees are required to work away from their home base of operation on temporary work, room, board and transportation shall be provided by the employer.

ARTICLE IX

Four (4) Ten (10) Hour Work Provision

A. The option of scheduling a four (4) day, ten (10) hour work week is permissible upon mutual agreement between the parties at the Pre-Job Conference.

B. Monday through Thursday shall constitute a normal work week.

C. Starting and quitting time will be determined at the Pre-Job conference.

D. All hours worked in excess of ten (10) hours on any work day shall be paid at the appropriate overtime rate of double time.

E. All hours worked in excess of forty (40) hours in any work week shall be paid at the appropriate overtime rate.

F. In the event of inclement weather, Friday shall be a make-up day. Saturday will be at the applicable overtime rate of time and a half. In the event a job has worked thirty-four (34) hours or less Monday through Thursday, Friday make-up may be utilized weather permitting and a full ten (10) hour shift must be worked when Friday is utilized as a make-up day and shall be paid at the overtime rate of time and a half for all hours over forty (40).

G. Employees called out to work for only one day during a scheduled pay period shall be paid at the applicable overtime rate when working in excess of eight hours.

H. On a four (4) day ten (10) hour schedule all classes will be paid two (2) hours for reporting, if put to work they shall receive five (5) hours and of at work at the end of five (5) hours they shall be paid ten (10) hours.

I. Any provision in this Article which is found to be in violation of any Federal, State, or Local law shall be null and void and shall not affect the balance of this article.

ARTICLE X

Time to Report to Work

Section 1. All employees must report at the regular start. eight (8) hours prior to the shift not to report. In the event of inclement weather and or circumstances beyond the control of the Company, all classes shall be paid two hours for reporting. If put to work, they shall receive four (4) hours and if at work at the end of four (4) hours they shall be paid eight (8) hours.

Inclement weather is that which could not have been anticipated eight (8) hours prior to the start of the shift.

Section 2. If an employee covered by this Agreement for any cause is unable to be at his work at the specified time, it shall be his duty to notify his employer or the Business Agent or steward in time for them to procure a man to fill his place without causing delay on the job.

Section 3. Wellpoint system operator rate shall apply on a Wellpoint system using one (1) or more four inch (4") or larger pumps connected to points, syphons, or mops and one operator shall operate up to and including four (4) such pumps, wellpoints, syphons, mops, valves, and all related parts of the wellpoint system.

Section 4. Employees covered by this agreement will be allowed to change from one machine to another three times in any one day. (Example: Machine A to Machine B to Machine C or Machine A to Machine B and back to Machine A).

Section 5. When two (2) or more men work over, the Equipment Foreman shall remain on the job.

ARTICLE XI

Targeted Jobs

Both union and Employer parties signatory to this agreement shall establish a "project targeted job committee" composed of two representatives of labor and two representatives of Management to evaluate individual projects in a joint effort to make

union construction more competitive and maintain optimum productivity, cost containment and efficient accomplishments of the work involved.

This joint committee shall be empowered to investigate and make recommendations to target any project for modifications depending on the competition involved. The decision of the project targeted job committee shall be based on a majority vote with labor representatives and management representatives having a equal number of votes on any issue.

The joint committee shall not target any project where there is an existing project, national or international agreement in effect nor where any such agreement has been in effect within a period of two years prior to the project having been targeted.

ARTICLE XII

Settlement of Disputes

(Part I) Should difference arise between the Employer and an employee covered by this Agreement, as to the meaning and application of the provision of this Agreement, or should any trouble of any kind arise, there shall be no suspension of the work on account of such differences, caused by either the Employer or the Union and the conditions in effect at the time the difference arises shall be continued by the parties, but such difference or dispute shall be settled in the following manner:

(A) Should a dispute or grievance arise on a job, immediate steps shall be taken by the employee and/or his steward and the job superintendent or his representative to satisfactorily settle such dispute on the job site.

(B) If the dispute cannot be settled on the job site within forty-eight (48) hours, then the matter will be referred to the Union and to the Executive Officers of the association and the company, these two (2) parties will attempt to settle the matter within forty-eight (48) hours after the grievance is referred to them.

(C) In the event the Union representatives and the Executive Officer of the Association and company cannot arrive at a satisfactory solution of the problems within the time limit specified, the dispute shall be referred to the Joint committee, the Joint committee shall meet within forty-eight (48) hours upon written complaint by the aggrieved party, such complaint to state the details of the dispute. This time will be extended not to exceed ten (10) days at the request of either party.

(D) If the dispute cannot be settled by this joint committee and it involves a question as the meaning and application of this Agreement, the matter may then be submitted to arbitration upon written request of the party filing the complaint. Such notice shall be served upon the other party within five (5) working days after the decision of the Joint Committee referred to in Paragraph (c). The party asking for arbitration shall apply to the Federal Mediation and Conciliation Service for the appointment of an Arbitrator. Such arbitrator shall not have the power to add to, disregard, or to modify any of the terms and conditions of this Agreement. The decision of the Arbitrator shall be final and binding upon the parties. The expense of arbitration shall be shared equally by both parties.

(Part 2) Grievances or disputes must be processed within the time limits set out in these sections or such grievances or disputes will be considered to have been satisfactorily settled and cannot be again filed. Violation concerning wages and health and welfare payments shall not be subject to arbitration. It is agreed that there shall be no suspension of work either by strike or lockout until the foregoing grievance procedures has been exhausted.

ARTICLE XIII

Subcontractor Clause

The Employer agrees that the wages, hours and working conditions provided for by this Agreement shall encompass the entire work covered by this Agreement, thereby applying to

any subcontract let by the Employer on work generally covered by this Agreement. The Employer further agrees that he will not subcontract, assign, or transfer any portion of the general contract to any subcontractor who is not willing to abide by the provisions of this Agreement. The failure of any subcontractor to abide by the wages, hours and working conditions on work sublet, assigned or transferred by the Employer shall constitute a breach of this Article and therefore implement the use of the applicable Arbitration and Dispute Article of this Agreement. Witnesseth that, this Article is in accordance with Section 9 (a) of the National Labor Relations Act as amended.

ARTICLE XIV

Owner-Operator

Section 1. An Owner-Operator is a person who has legal or equitable title to his equipment and operates the equipment himself on work covered by this Agreement. Owner-operator shall display the registration of their equipment to the Contractor and the Union upon request.

Section 2. The individual employer expressly reserves the right to control the details of the manner, time and means by which the Owner-Operator performs his services as well as the ends to be accomplished, and shall be the sole judge of the capability of the Owner Operators equipment to perform the work required to be performed, and may, if the individual employer determines that the Owner-operators equipment is not capable of performing the work required to be performed, terminate such Owner-operators services. Failure to work the day or half day out as directed shall terminate the Owner-Operators employment and he shall not pay for time spent by the Owner-Operator in repairing, servicing or maintaining his equipment after termination of employment, or before or after his shift, as the case may be.

Section 3. The Owner-Operator shall be carried on the payroll of the individual employer as an Operating Engineer, and employee, and as such employee, all of the terms and con-

ditions of this Master Labor Agreement and any amendment or amendments thereto, shall be applicable to him, except as provided elsewhere in this Paragraph, and, except that in the event that it is determined that the services of an Owner-Operator Employee where terminated without just cause, any obligation for lost time shall be limited to the wage and fringe benefits payments provided in this Agreement, and shall not in any event include any payments with respect to the equipment or the loss of use thereof.

Section 4. The Union shall be notified of the name and Social Security number of the Owner-Operator within forty-eight (48) hours after the Owner-Operator is hired. Such notice to be given to the main office in Charleston, West Virginia, and such notice to be confirmed in writing not later than twenty-four (24) hours thereafter. A copy of this notification shall be furnished by the contracting employer to the Owner-Operator and shall be in his possession at all times, in so long as he remains on the project.

Section 5. Separate checks shall be issued by the individual employer for (1) such employee's wages. (2) his equipment, and (3) such employees fringes (fringe check to be appropriately mailed to the Operating Engineers Health and Welfare Fund).

Section 6. It is further mutually understood and agreed that the intent of this Paragraph is to assure the payments of wages, subsistence and fringe benefits payments and the observance of the conditions provided in this Agreement and to prohibit the making and carrying out of any plan, scheme or device to circumvent or defeat the payment of wages, subsistence and fringe benefits payments and the observance of the conditions provided in this Labor Agreement.

Section 7. It is further agreed that the individual employer will not devise or put into operation any scheme, whether herein enumerated or not, to defeat the terms of this Paragraph, of this Agreement, nor shall any Owner Operators arrangement with an individual employer be entered into for the purpose

of depriving any other employee of employment. The Owner-Operator will be restricted to the operation of the equipment to which he has legal or equitable title only as long as the equipment remains on the job or project.

Section 8. If a contractor, through the grievance procedure, is found violating any portion of this Article, the contractor shall immediately pay compensatory damages in the amount of one day's pay at the highest journeyman rate under this Agreement for each day, or portion thereof, that the violation occurred. Such damages to be made payable to the Operating Engineers Health and Welfare Fund.

ARTICLE XV

Duration of Agreement

This agreement shall be binding from December 1, 2012 through November 30, 2015 and shall continue in full force and effect from year to year thereafter unless 60 days written notice prior to expiration be given by either party to reopen same.

ARTICLE XVI

Construction Advancement Program

WHEREAS: Recognizing the need for providing a means whereby employer can facilitate and supplement the financing of its activities, which include but are not limited to, public relations, public education as applied to the construction industry, employer expense incurred in the promotion of stability of relation between labor and management, maintaining facilities for arbitration and adjustment of grievances, health and welfare funds, and training programs, also other employer activity engaged in from time to time such as promotion of legitimate markets, standardization of contracts and research.

NOW, THEREFORE, in the interest of providing a means whereby employers may avail themselves of combined efforts through the State of West Virginia in securing for themselves and their workers just and honorable dealings with the public they serve therein is established a Construction Advancement

Program (C.A.P.) for each of the five Signatory Employers Association Advancement Program C.A.P.

Section 1. All employers working within the territorial jurisdiction of the respective Associations shall pay to the Construction Advancement Program (CAP) a sum in the amount of \$.18 per man hour worked per employee covered by the terms of this agreement. Said sum to be paid to the H&W Office, 636 4th Avenue, Huntington, WV 25726 and distributed to the respective Associations.

C.A.P. funds are to be used for the purpose of supplementing the administrative expenses incurred by the five Signatory Contractor Association's and the establishment of this program is subject to all applicable federal and state laws. The fund shall not be used for lobbying in support of anti-labor legislation or to subsidize contractors during a period of work stoppage or strike.

Section 2. In the event the Employer fails to pay the sum due to the Construction Advancement Fund when same shall become due and payable as aforesaid, he shall be considered delinquent and in breach of this Agreement, and as a penalty for such delinquency, shall be assessed and required to pay the Advancement fund, in addition to the sum currently due and payable, ten percent (10%) of said sum for the first fifteen (15) days of delinquency, plus five percent (5%) for the next calendar month of delinquency or fraction thereof, plus a penalty of one percent (1%) for each successive month of delinquency or fraction thereof until paid. Delinquent employer shall also be liable for all reasonable expenses incurred by the Advancement Fund directly attributable to the cost of collection of said delinquent payments.

It is specifically understood that the Union will not be required nor called upon to enforce the collection of the foregoing Construction Advancement Fund. It is further understood and agreed that the Employer will save and hold the Union harmless from any litigation connected with or in any way affected by the foregoing Advancement Fund. The funds raised under the Advancement fund shall not be used for lobbying or sponsoring any legislation detrimental to the Union nor shall any such

funds be prorated to any individual employer during a strike or lockout. In no instance shall any of the foregoing funds be used for advertising or propaganda against the Union.

Section 3. The establishment of this program is subject to all applicable Federal and State Laws.

ARTICLE XVII

State or Federal Law

In the event any provision of this Agreement is held to be in conflict with any state or federal law applicable hereto, the parties shall not be bound by the provision affected by such law, but all other provision of this Agreement shall continue in full force and effect.

ARTICLE XVIII

Bonding

It is further agreed by and between the parties herein that to insure the orderly process of the Educational Fund, Health and Welfare Fund, Pension Fund and payment of wages, that all Employers whose principal place of business is located outside the jurisdiction of Local Union NO. 132, shall simultaneously, with the execution of this Agreement, post a surety bond or certified check in the amount of \$25,000.00 to secure payment required for such funds and/or plans and wages in the event the Employer completes his work in the area prior to the account of all hours worked. It is further agreed that any resident Employer who has on any occasion failed to meeting the payments as required for such funds and/or plans and wages, shall post such surety bond in a like amount. Newly formed firms shall be required to furnish bond as set forth in the Bonding Provisions. Such bonds must be on file at the Union Office before workmen will be dispatched.

It is further agreed between the parties that the non-payment of said fringe benefits or wages by the Employer shall constitute a violation of this Agreement. The Union, at its option, may declare this Agreement terminated upon five (5) days written notice to the employer. Such violation shall constitute a waiver

of any damages by reason of a strike against such Employer after five (5) days and the Employer hereby waives any rights under this contract arising out of such strike when such five (5) days notice is given.

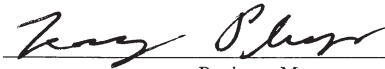
If the Union herein elects to strike to enforce this agreement and the contribution and wages in arrears are paid in full by the Employer a \$25,000.00 surety bond or certified check is posted, and such strike is terminated, then in such events, it is further agreed that this contract shall reinstate itself and all terms and conditions of such agreement shall remain in full force and effect for the term contained in this agreement.

It is understood and agreed by the signatory parties that the West Virginia-Ohio Valley Market Retention and Recovery Agreement (dated June 1, 1987) is applicable to this Agreement.

IN WITNESS WHEREON, the parties hereto have set their hands to duplicate hereof this First day of December 1, 2012.

For the Union:

INTERNATIONAL UNION OF OPERATING ENGINEERS
OF WEST VIRGINIA, LOCAL UNION NO. 132.



Business Manager



Assistant Business Manager

For the Employers

CONSTRUCTION EMPLOYERS ASSOCIATION OF
NORTH CENTRAL WEST VIRGINIA, INC.

KANAWHA VALLEY BUILDERS ASSOCIATION

OHIO VALLEY CONSTRUCTION EMPLOYERS COUNCIL

EXEC. DIR.
PARKERSBURG-MARIETTA
CONTRACTORS ASSOCIATION

TRI-STATE CONTRACTORS ASSOCIATION

BUSINESS MANAGER

Tommy Plymale
Cell: 541-0368
tplymale@iuoe132.org

AGENTS

Rick Feaster
Cell: 541-0064
rfeaster@wvds1.net

Larry D. Atkinson
Cell: 638-2234
latkinson@wvds1.net

Steven McDiffitt
Cell: 552-0883
smcdiffitt@wvds1.net

John “Johnboy” Dean
Cell: 541-6626
jdean@wvds1.net

Robert Hinerman
Cell: 546-4856
rhinerman@wvds1.net

Rodney Marsh
Cell 541-0706
rmarsh@wvds1.net

PIPELINE

William Lemley
Cell: 541-9766
wlemley@wvds1.net

ORGANIZING

Larry Young – Director of Organizing
Cell: 389-4693
lyoung@wvds1.net

Robert Merritt
Cell 533-4895
rmerritt@wvdsl.net

DISPATCHERS

Todd Mullins – Charleston
Cell: 541-0744
tmullins@wvdsl.net

Joe Workman – Clarksburg
Cell: 695-1925
joeworkman@wvdsl.net

Don Mossor – Wheeling
Cell: 541-9753
dmossor@wvdsl.net

ATTORNEY

Larry Lowry
PO Box 402
Huntington, WV 25708
Phone: 529-2434 Fax: 529-6179

APPRENTICESHIP TRAINING SCHOOL

Rt. 2, Box 137A
Ravenswood, WV 26164
Phone: 273-4852 or 800-376-4852
Secretary: Janie Vaughan
FAX 273-4364

Chuck Parker, Director

Cell: 786-6042
cparker132@hughes.net

OFFICES

Wheeling (Steve & Don)

98 D. East Cove Ave.
Wheeling, WV 26003
Phone: 238-0000 Fax: 238-0002

Clarksburg (Bill & Rob H. & Joe)

118 North Linden Ave.
Clarksburg, WV 26302
Phone: 623-0791 Fax: 624-4015

Charleston (Tommy, Larry A, John, Larry Y, Rob M, Todd)

Po Box 6770 / 606 Tennessee Ave.
Charleston, WV 25362
Phone: 343-7731 or 888-440-9899
Fax: 342-8286
Secretary's: Michelle Craven & Tonya Carnes
iuoelocal132@wvdsi.net

Petersburg (Rick)

20 S. Main Street
Petersburg, WV 26847
Phone: 257-0723 Fax: 257-5688

Beckley (Rodney)

2310 South Fayette
Beckley, WV 25801
Phone: 253-6898 Fax: 253-6899

Health & Welfare Office

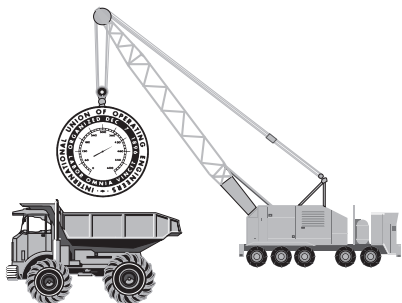
636 4th Ave. / PO Box 2626
Huntington, WV 25726
Phone: 525-0482 Fax: 697-7919
800-642-3525
Jerry, Kim, Jami, Dreama, Carrie
jmoore@iuoe132.org

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Proud to be Union

