



Labor Agreement

Between

**The New Mexico Building Branch,
Associated General Contractors of America**

And

The New Mexico

And

Southwest Laborers' District Council,

Local No. 16

**Effective Date: October 1, 2003
Expiration Date: June 1, 2007**

Agreement. Probationary Employees shall not be entitled to receive a, sick leave, leave of absence, and any other benefits as provided hereinbelow. Upon completion of the probationary period, Employees shall be entitled to all benefits provided in this Agreement.

ARTICLE VII - SENIORITY

1. Seniority shall be computed from the last initial day of continuous employment and shall apply only with regard to annual leave scheduling, layoff and recall. In the event a general reduction in force is required the least senior Employees shall be laid off in inverse order of seniority. In the event of a recall, the last Employee laid off shall be the first to be recalled. Recall rights shall be limited to twelve (12) months.

2. An Employee shall lose seniority for any of the following reasons:

- (a) Resignation;
- (b) Dismissal for cause;
- (c) Layoff, including non-placement for more than six (6) consecutive months;
- (d) Failure to be available to work for five (5) working days when recalled after a layoff, unless prevented by circumstances beyond the Employee's control;
- (e) Failure to return when due after a leave of absence, unless prevented by circumstances beyond the Employee's control; and
- (f) Failure to contact Employer within five (5) days after telephone call and certified letter sent to the Employee's last known address by the Employer.

3. The parties recognize that job assignments are in the sole discretion of the Employer, and that various factors are considered, including, but not limited to:

- (a) Special language requirement of a Client;
- (b) Client request;
- (c) Employer determines that a particular Employee does not fit in with the client's needs or attitudes;
- (d) Another Employee is better qualified for the position, hours, or geographic location;
- (e) Assignment determined by geographic location; and
- (f) Seniority.

4. Client's preference is paramount and always governs. No Employee placed with a client can be bumped by a more senior Employee, placed or unplaced.

5. In the event of a conflict as to annual leave scheduling, the more senior Employee shall be given preference, if practicable.

6. This Article shall not apply with respect to emergency or temporary replacement of Home Attendants. For such purposes the Employer shall utilize a listing of "on-call" employees irrespective that more senior Employees may be unplaced.

ARTICLE VIII - WAGES

1. Employees covered by this Agreement shall receive a Base Rate of Pay (the "Base Rate") for each hour of work except that Employees assigned to clients designated as "Sleep-in" cases shall be paid in accordance with paragraph three (3) of this Article. Effective July 1, 2000, the Base Rates are:

Single Client

Employee who has completed fewer than 2,100 hours with this Employer and is working for one authorized client. \$7.39 per hour

Employee who has completed 2,100 hours or \$7.69 per hour

more with this Employer and is working for one authorized client.

Mutual or Cluster Clients

Employee who is working for two or more authorized clients during the same work hours in the same home (Mutual Clients) or in different homes (Cluster Clients) and has completed fewer than 2100 hours with this Employer (if fewer than two clients at any time, this rate is discontinued). \$7.89 per hour

Employee who is working for two or more authorized clients during the same work hours in the same home (Mutual Clients) or in different homes (Cluster Clients) and who has completed 2100 hours or more with this Employer (if fewer than two clients at any time, this rate is discontinued). \$8.19 per hour

2. Employees who are paid a Base Rate shall also receive a differential of one dollar and ten cents (\$1.10) per hour for work on a weekend day up to a maximum of twelve hours. (The term "weekend" shall mean Saturday 8 A.M. to Monday 8 A.M.)

3. Employees assigned to clients designated as "Sleep-in" cases shall receive a Per Diem Rate of Pay (the "Per Diem Rate") for each day of work. Effective July 1, 2000, the Per Diem Rates are:

Single Client

Employee who has completed fewer than 2100 hours with this Employer and is working for one authorized client. Mon. to Fri. - \$105.63
Sat. & Sun. - \$118.83

Employee who has completed 2100 hours or more with this Employer and is working for one authorized client. Mon. to Fri. - \$109.23
Sat. & Sun. - \$122.43

Mutual or Cluster Clients

Employee who is working for two or more authorized clients during the same work hours in the same home (Mutual Clients) or in different Mon. to Fri. - \$111.63
Sat. & Sun. - \$124.83

other benefits will accrue or be continued during the leave. To the extent required by the FMLA, Employees will be restored to their former position or an equivalent one, provided they return at the end of their scheduled FMLA leave. The Employer will not interfere with or restrain Employees in the exercise of FMLA rights, nor will it retaliate or discriminate against anyone who seeks to enforce these rights.

5. Military Leave - Leaves of absence for the performance of duty with the U.S. Armed Forces with a Reserve component thereof shall be granted in accordance with applicable law.

6. An Employee not on a leave of absence or assigned to another case shall be available to work and accept cases as assigned by the Employer.

7. Upon return from a leave of absence, assignment shall be made in accordance with Article titled "Seniority" in this Agreement. Except as permitted under the Articles titled "Management Rights" and "Client's Rights" in this Agreement, the Employer shall not convert a temporary to a regular assignment if the result is to replace an Employee who is returning from a) an approved paid leave of absence, if eligible; b) an approved unpaid leave of absence that does not exceed four (4) weeks; or c) an absence that does not exceed eight (8) weeks for which the Employee has received benefits under the New York State Disability or Workers' Compensation Laws.

8. Union Business Leave - A leave of absence for a period not to exceed one (1) year shall be granted to Employees with one (1) or more years of bargaining unit seniority in order to accept a full time position with the Union, provided such leaves will not interfere with the operation of the Employer.

ARTICLE XX - JURY DUTY

1. Employees who have completed their probationary period and are required to serve on jury duty shall receive pay for scheduled work time provided that they:

- a) report to the Employer immediately any receipt of a subpoena or notice to report for jury duty; and
- b) submit to the Employer written proof, executed by the administrator of the court, of having served on jury duty and the duration of such service.

2. Employees shall be paid an amount equal to their Base Rate of Pay or Per Diem Rate, as applicable, for scheduled work time, less their pay for jury duty.

3. The Employer may request that an Employee be excused or exempted from jury duty if, in the opinion of the Employer, the Employee's services are essential at the time of the proposed jury duty.

ARTICLE XXI - BEREAVEMENT

1. Employees may, upon request, receive a maximum of three (3) consecutive days off with pay in the event of the death of an immediate family member (father, mother, sister, brother, child, spouse, grandparent, grandchild). The Employer may require sufficient verification of the death. It is the Employee's responsibility to timely notify the Employer of the Employee's intent to take bereavement leave.

2. Bereavement leave must be taken in consecutive days immediately following the date of death or funeral service.

3. Employees shall be paid a bereavement day only when it falls on a day of the week that the Employee is scheduled to work.

4. Employees shall receive pay for a bereavement day equal to the Employee's regular rate of pay multiplied by the number of hours the Employee is scheduled to work on that day.

ARTICLE XXII - TRAINING PAY, CARFARE, AND POSTAGE

1. The Employer shall pay Employees who are actively working for time spent in meeting the minimum training requirements in training programs required by the Employer.

2. The Employer shall reimburse Employees for carfare, not to exceed three standard MTA fares, in the case of a fare required between two clients' households in the same working day.

3. Home Attendant return envelopes for weekly time sheets shall be pre-stamped if requested by the Home Attendant.

ARTICLE XXIII - MANAGEMENT RIGHTS

1. Subject only to the express provisions contained in this Agreement, the Employer reserves and retains the sole and exclusive right to exercise any and all of its regular and customary functions in managing its business, including but not limited to the right to establish reasonable rules, regulations, policies and practices, to determine the method and manner of operation and to determine the number of Employees and which Employees to

assign to a program and/or client, and the right to assign such Employees in accordance with the requirements of the business. Nothing in this Agreement shall be construed as limiting the Employer's exclusive right to hire, lay-off, promote or transfer Employees and to determine the extent and scope of each work assignment.

ARTICLE XXIV - CLIENT'S RIGHTS

1. It is agreed between all parties that the clients shall continue to have all rights specified in the contracts between the Employer and the City of New York. These rights include, but are not limited to, the right of a client to request the replacement of a Home Attendant, to inform the Employer of the reasons therefore and to require that the Employer comply with such reasonable request. Such removal and replacement of an Home Attendant shall not be subject to the grievance or arbitration procedure. On request, the Employer shall inform the Union of the reason for the replacement of the Home Attendant.

2. The Union, on behalf of the Employees, agrees to cooperate with the Employer to attain and maintain full efficiency and maximum client care.

3. In cases where the client requests removal of the Home Attendant, the Employer is bound to honor the client's wishes immediately. However, to protect the Home Attendant's rights, the Employer will make reasonable efforts to properly investigate such a request within five (5) days. If the Employer deems the client's request to be without basis, and the client refuses to reinstate the Home Attendant, the Home Attendant will be reassigned as promptly as possible. Further, the parties agree that withdrawing a Home Attendant from an assignment due to a client complaint shall not be deemed discipline, discharge or suspension.

ARTICLE XXV - DISCHARGE AND PENALTIES

1. The Employer shall have the right to discharge, suspend or discipline any Employee for cause. Cause shall include, but not be limited to, client's complaints and violations of rules and regulations promulgated and published by the Employer. In any arbitration relating to the discharge, suspension or discipline of an Employee, the Employer shall have the burden of going forward.

2. The Employer shall send or give notice to the Union of any suspension or discharge of an Employee within forty-eight (48) hours thereafter. If the Union desires to contest a discharge or suspension, it shall give written notice thereof to the Employer within five (5) working days. In such event, the dispute shall be submitted within the next ten (10) working days to the Employer's Director and/or designee, who shall respond in writing within the next ten (10) working days. If the dispute is not thereby resolved, the Union may, within twenty-one (21)

working days from the date of said response, refer the dispute to the American Arbitration Association for final and binding arbitration under its rules.

3. If the discharge or other discipline of an Employee results from conduct relating to the client and/or client related individuals with personal knowledge of the case do not appear at an arbitration held under the grievance and arbitration procedure herein, the arbitrator shall not consider the failure of the client and/or client related individuals to appear as prejudicial.

4. An arbitrator, in rendering his or her decision, shall evaluate, along with the case presented by the Union and/or Employee, the process, records and judgment of the Employer in arriving at its decision and shall give paramount consideration to the Employer's obligation to protect the interests of clients.

ARTICLE XXVI - GRIEVANCE AND ARBITRATION PROCEDURE

1. A grievance shall be defined as a dispute arising between Employees and the Employer concerning the interpretation or application of a specific term of this Agreement.

2. Grievances shall be resolved in accordance with the following procedure:

Step 1-- The Employee will present the grievance directly to the Employee's supervisor or his/her designee within five (5) days after the occurrence which gave rise to the grievance, or the date on which the Employee knew or should have known of same, whichever occurs later. The supervisor shall respond within ten (10) days after presentation of the grievance.

Step 2-- If the matter is not resolved in Step 1, the Union shall reduce the grievance to writing and present it to the Assistant Director for Field Services or his/her designee within ten (10) days after the supervisor's response at Step 1. The Assistant Director of the Employer shall respond within ten (10) days.

Step 3-- If the grievance is not resolved at Step 2, the Union may within ten (10) days thereafter present the grievance in writing to the Director of the Employer who shall render his /her response within ten (10) days thereafter.

Step 4-- If the grievance is not resolved at Step 3, the Union and/or the Employer may within ten (10) days thereafter request that the matter be submitted for final and binding arbitration under the Rules & Regulations of the American Arbitration Association.

3. Notwithstanding the foregoing,
 - (a) a grievance which affects a substantial number of Employees and is outside the authority of the Employer's representatives designated in Steps 1 and 2 may be presented initially at Step 3 of the grievance procedure. This grievance must be presented in writing and within ten (10) days of the occurrence which gave rise to the grievance;
 - (b) A grievance which is brought under the Article titled "Seniority" in this Agreement and regards or relates or refers to job assignments shall not be subject to arbitration under the Agreement. The decision at Step 3 of the grievance procedure shall be final and binding on all parties.

4. All time limits herein specified shall be deemed to be exclusive of Saturdays, Sundays and holidays.

5. Any disposition of a grievance from which no appeal is taken within the time limits specified herein shall be deemed resolved and the grievance

shall not thereafter be considered subject to the grievance and arbitration provisions of this Agreement.

6. The Arbitrator's authority shall be limited to the interpreting and application of the expressed terms of this Agreement. The Arbitrator shall not have the authority to hear any matter which is reserved to management by the Article titled "Management Rights" in this Agreement, or to add or subtract from, or amend or modify this Agreement. The Arbitrator's award shall be final and binding on the parties and the parties shall share equally any fee or expense of the Arbitrator.

ARTICLE XXVII - NO STRIKE AND NO LOCKOUT

1. No Employee shall engage in any strike, sit-down, sit-in, slow-down, cessation or stoppage or interruption of work, boycott, or other interference with the operations of the Employer.

2. The Union, its officers, agents, representatives and members, shall not in any way, directly or indirectly, authorize, assist, encourage, participate in or sanction any strike, sit-down, sit-in, slow-down, cessation or stoppage or interruption of work, boycott, or other interference with the operations of the Employer, or ratify, condone or lend support to any such conduct or action.

3. In addition to any other liability, remedy or right provided by applicable law or statute, should a strike, sit-down, sit-in, slow-down, cessation or stoppage or interruption of work, boycott, or other interference with the operations of the Employer occur, the Union, within twenty-four (24) hours of a request by the Employer, shall:

- (a) Publicly disavow such action by the Employees;
- (b) Advise the Employer in writing that such action by Employees has not been called or sanctioned by the Union;
- (c) Notify Employees of its disapproval of such action and instruct such Employees to cease such action and return to work immediately; and
- (d) Post notices on the bulletin board supplied by the Employer advising that the Union disapproves such

action, and instructing Employees to return to work immediately.

4. The Employer agrees that it will not lock out Employees during the term of this Agreement.

5. It is specifically agreed that the rights of the Union under this paragraph pertain solely to the present contract and that their inclusion in this contract shall not be a basis for inclusion of such rights in any future contract.

ARTICLE XXVIII - SEPARABILITY

It is understood and agreed that all agreements herein are subject to all applicable laws now or hereafter in effect; and to the lawful regulations, rulings and orders of regulatory commissions or agencies having jurisdiction. If any provision of this Agreement is in contravention of the laws or regulations of the United States or of the State of New York or the City of New York, such provision shall be superseded by the appropriate provision of such law or regulation, so long as same is in force and effect; but all other provisions of this Agreement shall continue in full force and effect.

ARTICLE XXIX - COMPLETE SETTLEMENT

1. This Agreement may not be changed or modified except by writing duly designated by the parties or their undersigned representatives.

2. It is understood and agreed that all matters in dispute or controversy between the parties hereto are completely settled, adjusted and closed by this Agreement. In addition, any claims for changes in terms and conditions of employment or other contractual terms contained in this contract, regardless of whether such issues were raised during negotiations leading to this Agreement, shall be deemed to be completely settled by the execution of this Agreement.

ARTICLE XXX - DURATION OF AGREEMENT

1. This Agreement is effective from July 1, 2000 for a period of one year until and including until June 30, 2001.

2. Notwithstanding any other provision of this Agreement, any increase in the Rates of Pay and/or related pay differentials of Employees and the Employer's contribution rates to the Benefit, Pension, and Education Funds are conditioned upon written authorization from the Office of Home Care Services, Human Resources Administration, City of New York and reimbursement from the Medicaid Management Information System of the State of New York.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their respective duly authorized officers this 8TH day of August, 2001.

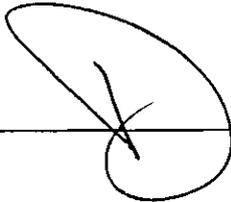
THIS AGREEMENT IS SUBJECT TO RATIFICATION BY THE UNION MEMBERSHIP AND BY THE BOARD OF DIRECTORS OF THE EMPLOYER

1199 / SEIU NEW YORK'S HEALTH AND HUMAN SERVICE UNION

[AGENCY'S NAME]

FAMILY HOME CARE SERVICES
OF
BROOKLYN & QUEENS, INC.

By: _____



By: Thomas R. O'Brien

LABOR AGREEMENT
Between the
NEW MEXICO BUILDING BRANCH, AGC and the
SOUTHWEST
LABORERS' DISTRICT COUNCIL
LOCAL NO. 16

THIS AGREEMENT ENTERED INTO ON October 1st, 2003 by and between the NEW MEXICO BUILDING BRANCH, AGC, INC., (hereinafter referred to as the ASSOCIATION or as AGC), for and on behalf of those of its members, as well as non-member contractors, whom it has been authorized to represent in collective bargaining and other contractors who may become signatory hereto hereinafter referred to as the CONTRACTOR OR CONTRACTORS, EMPLOYER OR EMPLOYERS);

And the

SOUTHWEST LABORERS' DISTRICT COUNCIL (hereinafter referred to as the "Council") for and on behalf of its affiliated LOCAL UNION NO. 16, which is signatory hereto, (hereinafter referred to as the UNION), the UNION being the collective bargaining agent for its members who are employed in construction work.

The CONTRACTORS are engaged in construction, general and specialty work in New Mexico; and in the performance of their present and future contracting operations; the workmen are represented by the UNION.

The CONTRACTORS desire to be assured of their ability to procure employees for all work that they may do in the State of New Mexico in sufficient numbers and skill to assure continuity and quality of work in the performance and completion of their construction contracts.

It is the interest of all the parties to establish uniform rates of pay, hours of employment and working conditions which shall be applicable to all workmen represented by the UNIONS and performing work for the CONTRACTORS as such work is hereinafter defined in this Agreement, and to provide for peaceful and harmonious relationships during the term of this Agreement.

IT IS AGREED:

ARTICLE I - COVERAGE AND RECOGNITION

A. **Construction.** This agreement shall apply to building construction, and includes work performed by contractors signatory hereto on Industrial Power plants, Copper Smelters, Gas Refineries and DOE sites i.e. (Los Alamos National Labs, Sandia National Labs, Sandia Labs, Kirtland AFB, Cannon AFB and Holloman AFB, Coal Mine Sites.

B. **Definitions.**

(1) "Building Construction" and "Construction" shall mean: i) the construction, erection, alteration, repair modification, addition to or improvement in whole or in part, or demolition, of any building structure; ii) excavation, grading or similar operations which are incidental thereto; and iii) the installation, operation, maintenance and repair of equipment and other facilities used in connection with the performance of such building construction and performed at the job site, but excluding manufacturer's warranty repairs and excluding any maintenance work where a Laborers' Service Contract is in force.

- (2) "Building structure" shall include all commercial, industrial or governmental buildings.
- (3) "Excavation", "grading", and "similar operations which are incidental thereto" shall include all excavation, back fillings, curbs and gutters incidental to building construction.
- (4) There is excluded from this agreement are all road, highway and street work; the paving of parking lots; and all works incidental to any of the foregoing, including all excavation, backfilling, curbs and gutters. Also Excluded is residential construction except by addendum to this Agreement.

C. Yard, Shop and Warehouse Work.

All work performed in the Contractor's warehouses, shops or yards which have been particularly provided or set up to handle work in connection with a job or project covered by the terms of this Agreement, shall also be subject to the terms and conditions of this Agreement, except clean-up and maintenance of home, yard, shop and warehouses, and except when yard, shop or warehouse work is performed under the terms of other agreements with the UNION.

D. Observance of Agreement in Subcontracts:

- (i) Each subcontract for construction, covered under the terms of this Agreement, granted by a contractor shall require that the subcontractor observe all terms of this Agreement except where the covered work is only incidental to the subcontract. Incidental is defined as very minimal. (ii) Each contractor shall be responsible for payment of all wages and fringe benefits owed by the subcontractor to any worker covered under this Agreement for work performed on the contractor's job, provided that written demand is sent to the subcontractor, with a copy to the contractor, and payment has not been made within five (5) working days after receipt of such demand by the subcontractor. Moreover, the union Contract Administrator of the employee benefits fund will be responsible for notifying active signatory general contractors and members of delinquencies by the 25th of each month (postmark shall be the determining date). If the union does not notify the affected general contractor of the delinquency of a subcontractor by the 25th of the month following the end of the month in which the time was worked, the general contractor will not be responsible for the payment of wages and fringe benefits of the subcontractor. Further, the union shall withhold employees from the delinquent subcontractor and take whatever action it deems prudent in order to enforce compliance, provided, however, the union has notified the affected contractor(s) within (5) days prior to the commencement of such action as per Article IX of this Agreement. Action taken under this provision shall not be deemed a violation of the no-strike provisions of Article X during the period of any such delinquency.

As used in this Agreement, subcontracting is the performance on the job site of covered construction by any person, firm, or corporation pursuant to an agreement with a contractor or subcontractor. A subcontractor is one who performs subcontracting and includes the subcontractor of a subcontractor.

This clause applies to laborers working in support of primary crafts to which the contractor is signatory.

The general contractor will seek bids from union subcontractors. If union subcontract bids that are received are not competitive and a non-union subcontractor is used, the general contractor will so notify the union within 48 hours of bid time, Saturdays, Sundays, and holidays excluded.

At the option of the union, the general contractor will arrange a meeting of a representative of the union, the subcontractor, and a representative of the general contractor, to discuss the possibility and merits of a labor agreement prior to the subcontractor, and a representative of the general contractor, to discuss the possibility and merits of a labor agreement prior to the subcontractor starting work on the project. If an agreement is not reached between the subcontractor and the Union and if the general contractor uses the non-union subcontractor, this Article I.1.D does not apply.

Union Recognition. The undersigned Employer hereby acknowledges that it has been presented with proof, *or the Union has offered to show proof*, in the form of signed authorization in sufficient number to show that the Union represents a majority of its employees in an appropriate bargaining unit. Based upon that showing, the Employer recognizes the Union as the sole and exclusive bargaining representative of the employees included in that appropriate bargaining unit as provided in Section 9(a) of the National Labor Relations Act. This recognition extends to all present and future job sites of the Employer.

Association Recognition. The UNION recognizes the ASSOCIATION as the sole and exclusive collective bargaining representative for those of its members whom it is authorized to represent in collective bargaining, and any other contractors who become signatories hereto, as provided in Article XIV.

Excluded Employees. Notwithstanding anything contained herein to the contrary, the following categories of the CONTRACTORS' employees shall not be covered by the provisions of this Agreement: Executives; superintendents; assistant superintendents; chainmen and stake drivers working for licensed surveyors; civil engineers; engineers in training; engineering technicians; all supervisory employees and guards as defined in the National Labor Relations Act, as amended; timekeepers; messengers; office workers; and any other classes of employees which may be excluded from coverage under the National Labor Relations Act as from time to time amended.

Effect of Agreement. This Agreement applies to all construction work performed in New Mexico by CONTRACTORS. However, if any UNION enters into an agreement with any employer covering construction in any part of New Mexico, which agreement provides for lower wage rates or working conditions or terms of any kind which are more favorable to the employer than this Agreement, (all hereinafter referred to as "more favorable terms") then such more favorable terms shall forthwith become part of this Agreement and shall supersede the wage rates, working conditions and provisions hereof, regardless of whether such agreement is limited to one or more employers or covers less than the geographic jurisdiction of the UNION.

ARTICLE II - HARMONY AND COOPERATION

1. Management Rights. The Employer retains full and exclusive authority for the management of his operations. By way of illustration only, and not limitation either as to

authority or types of authority retained, this authority shall include, but not be limited to, the following: The Employer shall direct his working forces at his sole prerogative, including but not limited to, hiring, promotion, transfer, lay-off, or discharge for just cause. No rules, customs, or practice shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees. The Employer may utilize the most efficient methods or techniques of construction, tools, choice of materials or design. The Employer shall schedule work, and shall determine when overtime will be worked; provided, however, that no employee shall be required to work under any conditions that are injurious to his health or safety, as provided in the Federal or State regulations governing construction. The selection of craft foremen over workmen of their respective crafts shall be entirely the responsibility of the employer.

The following language is added: Notwithstanding any of the provisions of the Agreement, the Contractor, at his sole discretion, may take such actions as are necessary to effectuate compliance with the Americans with Disabilities Act. Such an action shall not be a violation of this Agreement, nor shall it be a subject of arbitration.

2. **Meetings.** The representatives of the Council and of the Association shall meet on problems of mutual interest at such times and places as may be agreed by their respective chairmen.
3. **Pre-employment Conferences.** Prior to commencing work on a project, CONTRACTORS' representatives and UNION representatives shall hold a pre-employment conference at the request of either party.
4. **Public Construction Projects.** The parties will cooperate on public construction projects, federal and state, to the end that authorized construction projects shall be awarded to the contract construction industry and that contracting officials will be accurately and fully informed as to fringe benefits and prevailing rates of pay.

ARTICLE III - ACCREDITED REPRESENTATIVES AND STEWARDS

1. **Access.** Accredited representatives of the UNION shall have access during working hours to all open jobs. Access to jobs being put in place under governmental restrictions shall be subject to the regulations prescribed by the owner. Accredited representatives shall not delay workmen or the progress of the job during working hours. Contractors agree to assist Unions toward securing access to closed jobs. "Closed" and "open" refer to jobs on which Federal government security clearance is necessary for personnel.
 - a. Each steward appointed by the Union for any job site permitted with in this agreement shall first be required to have completed a steward training program provided for by the Union.
2. **Stewards.**
 - a. A craft steward may be designated in writing by a business representative of the Union for each job, from the employees currently working on the job.

- b. The Steward shall be permitted on a job at all times; shall be a working employee; and shall not be subject to discharge on account of Union activities. Such activities shall not unreasonably interfere with the Steward's work for the Contractor. A steward, however, can be discharged.
- c. The Contractor shall be notified in writing of the selection of each steward. The Contractor shall give the Council prior written notice before discharging a steward.
- d. The Employer shall notify the appropriate Union at least two (2) working days prior to the intended layoff of a working job steward. This provision does not apply to discharges for "just cause".
- e. The steward's duties shall include, but not necessarily be limited to the following:
 - i) Check the job referral of each employee dispatched under the terms of this Agreement to the Contractor.
 - ii) Work with the Contractor's designated representative in charge of the job in an attempt to resolve disputes prior to the application of the grievance procedure.
 - iii) Report to the Contractor's designated representative any employee covered by this Agreement who works for less than the negotiated wage scale, for less than the overtime rate or who goes to work without the job referral.
 - iv) Report to the Contractor's designated representative any work belonging to the craft being done by non-union men or by workmen of another craft.
 - v) Report to his business representative any grievances that have not been resolved under Step 1 of the grievance procedure (Art. VIII 2a.)
 - vi) Report to his business representative any employee covered by this Agreement who leaves the job site without giving the employer and job steward prior notice.
 - vii) Report any reckless or unsafe employees covered by this Agreement on the job site to the Contractor's designated representative or his business representative.
 - viii) In case of an injury to an employee, the steward shall care for the injured employee's tools.
 - ix) The steward shall suffer no lost time in the performance of his duties as outlined or in the securing of weekly report.
- f. The job steward shall not cause or encourage a work stoppage, and shall not encourage, or cause, any employee to leave a job, or discourage any employee from reporting or cause any employee not to report, for work. Violation of this subparagraph shall constitute cause for immediate discharge.

ARTICLE IV - SETTLEMENT OF JURISDICTIONAL DISPUTES AND LABORERS JURISDICTION

1. There will be no strikes, no work stoppages or slowdowns or other interference's with the work because of jurisdictional disputes.
2. The Employer shall assign work. If a dispute arises, the Employer's assignments shall be followed until the matter can be resolved.
3. Welding torch. The welding torch is a tool of the trade having jurisdiction over the work being welded. Craftsmen using the welding torch shall perform any of the work of their trade and shall work under the supervision of the craft foreman.
4. Trucks (one ton and under) may be operated by members of this union for transporting of tools, materials, and equipment related to their work.
5. The employer may assign work normally performed by laborers to members of another union provided that: (1) this work does not exceed two man-hours per day and (2) the other union agrees to this same language in its collective bargaining agreement.
6. The work of the union and the other labor that the Union may lawfully represent shall be all items of work that we claim as spelled out in the constitution of the Laborers International Union of North America, Article 3 entitled, "Jurisdiction." That complete wording shall be considered as part of this agreement as though set forth here at length.

ARTICLE V - UNION SECURITY

1. **Employer's Freedom.** Subject only to the limitations of this Agreement, the CONTRACTORS shall have entire freedom of selection in hiring. The CONTRACTORS may discharge any employee for just cause provided there shall be no discrimination against any employee by reason of any UNION activity which does not interfere with the proper performance of his work.
2. **Union Shop.** As a condition of employment, every employee performing construction work within the jurisdiction of the Union, and not a member of the Union at the time of employment, shall, after the seventh day following the beginning of such employment or the effective date of this Agreement, whichever is later, offer to become a member of the Union and tender the uniformly required initiation fees and dues. Additionally all employees who are or who become members of the Union shall remain members in good standing of the Union during the term of this Agreement, provided that the construction and application of this provision shall be subject to Section 8(a) (3) of the National Labor Relations Act, as amended.
3. **Enforcement of Union Shop.** If an employee fails to tender initiation fees and/or dues uniformly required as a condition of acquiring or retaining membership in good standing, and the Union requests the Contractor to terminate the employment of such employee for such reason, the Union shall:
 - a. Inform the Contractor in writing of the specific reason for the request, including dates and other pertinent data, with a copy to the employee.
 - b. The written request shall be made on the official letterhead of the Union, over the signature of the business agent or other responsible official of the Union.

c. Prior to any termination of employment by the Contractor due only to failure to tender such initiation fees and /or periodic dues as are required by the Union, and in conformity with Section 8(a) (3) of the National Labor Relations Act, upon notice to the Contractor, the employee shall have three (3) days within which to correct the matter complained of.

4. **Save Harmless.** The UNION agrees to indemnify, defend, save and hold the CONTRACTOR harmless from all liability, loss, cost, expense and damage, including, but not limited to, legal fees, wages or other charges, resulting from any action taken, or omission to act, in good faith by any CONTRACTOR in reliance upon such written requests.

ARTICLE VI - NON-DISCRIMINATORY REFERRAL PROCEDURES

1. **Exclusive Procedure.** The Contractor shall notify each Union of the need for workers coming within its jurisdiction and the Union shall refer workers to the Contractor as provided herein. The Contractor shall hire only such workmen as are referred to by the Union, except as otherwise provided for in this Agreement.
2. **Order of Referral.** Registrants on a referral hall group list not referred to a job within the calendar month of their original registration or re-registration, must re-register between the 25th and last day of each month. Registrants who fail to reregister will be dropped from the group list.
3. **Qualification Records.** The Union shall require all applicants registering for the first time under this Article to submit a resume of experience and qualifications in order that they may be classified in their appropriate group and in order that referrals may be made, when requested, on the basis of special skills and abilities. When Contractors require and call for workmen possessing special skills and abilities the Union shall refer the first applicant in the priority group who possesses such special skills and abilities. The UNION makes such referrals solely on the basis of qualifications as set forth in the applications, and the Union assumes no responsibility for the actual abilities of the particular workers referred.
4. **Hiring Hall Fees.** In order to help defray the cost of providing hiring hall services to the workers and employers, the signatory Unions may charge a registration fee, not to exceed the reasonable proportionate cost of operating the referral hall, to any applicant who is not a member of the Local Union when he seeks to register.
5. **Areas Not Served.** The Contractor shall be free to recruit sufficient workmen outside the referral hall, and such workmen need not be registered, in either of the following events: a) If Union referral facilities fail to provide required workmen sufficient to fill the Contractor's request within forty-eight (48) hours following such request (Saturdays, Sundays and holidays excepted); or b) where it is apparent that referral cannot be made by the Union within the required forty-eight (48) hours, in which event the Union shall promptly so notify the Contractor. In either case, the Contractor shall notify the Union weekly, in writing, of any such hiring.
6. **Non-discrimination.**
 - a. Registration and referral of job applicants shall be on a non-discriminatory basis and shall in no way be affected by Union membership, by-laws, rules, regulations, constitutional provisions, or any other aspect or obligation of Union membership, policies or requirements, or by any consideration which applicable anti-discrimination statutes forbid as a criterion for employment.

- b. Each Union will take affirmative action in order to implement the federal government policy of equal employment opportunity and to follow the guide lines set forth in Executive Order No. 11246 and any amendments thereto, the Equal Employment Opportunity Act of 1964 as amended, and any other applicable Federal or State anti-discrimination statute. Each Union will establish a source of recruitment for minority, female, and Vietnam-era Veteran job applicants by contacting recognized representatives of those groups in their state and by taking such other steps as are necessary to comply with such statutes. If any Union is unable, within a reasonable time, to provide a Contractor with applicants who satisfy the criteria or requirements contained in any regulation of, or program or agreement entered into by such Contractor or Union with the Equal Employment Opportunity Commission, Office of Federal Contract Compliance, Demonstration Cities Act, or any other regulatory or contract-awarding agency of government which has jurisdiction, such Contractor may recruit and hire, in any manner, workers sufficient to satisfy its needs. The Employer shall notify the Union of the name and address of any employee so hired, within two (2) days after the commencement of employment. Such employee shall be subject to all terms and provisions of this Agreement.
- c. The parties to this Agreement recognize the need to accommodate the disabled. In so doing, the Union agrees that it will conduct the operation of its hiring/referral hall consistent with the requirements of the Americans with Disabilities Act. This conformance with ADA includes, but is not limited to, the making of referrals in such a way as to assure that the Contractor can make determinations as to "reasonable accommodations." Further, the Union shall not refuse to make referrals because it believes that "reasonable accommodations" are not possible. The Contractor shall have sole discretion to hire workers outside the hiring/referral hall in the event it determines that the Union's conduct is not consistent with the terms of the Americans with Disabilities Act. Contractor shall notify the Union of the name and address of any employee so hired, within two (2) days after commencement of employment. Such employee shall be subject to all terms and provisions of this Agreement.

7. **Right to Reject.** The Contractor may reject any Union-referred applicant for any reason other than Union or non-Union status. The Contractor shall maintain a written record of referred applicants who have been rejected for employment, together with the reasons for such rejection. Such records will be sent to the Union via fax or mail within 24 hours of rejection.

8. **Employment Records.** In addition to the application forms and registration lists provided for herein, the Union shall maintain an employment record showing for each applicant registered thereunder, for each of his employment's during the year immediately prior to his first registration, and for each of his subsequent employment's, whether or not they be with a Contractor, the following data:

- (1) Name of Contractor
- (2) Dates and places of employment
- (3) Nature of employment
- (4) Industrial accidents in which involved, their nature, duration and disposition
- (5) Reasons for termination of employment

THE CONTRACTOR SHALL EACH MONTH FURNISH INFORMATION ON STATUS CHANGES, IF ANY, TO THE APPROPRIATE REFERRAL HALL ON INDUSTRIAL ACCIDENTS AND TERMINATION AND THE REASON THEREFORE.

9. **Access to Facilities and Records.** The Contractor or the Association shall have the right at any time to inspect the referral hall facilities, examine any and all records pertaining to its

operation or otherwise provided for herein, and make any investigation necessary to establish that the terms of this Article are being fully complied with. Any information contained in the records provided for under Sections 4, 8, and 9 shall be made available to any Contractor or the Association, by telephone or by mail, as it may request.

10. **Posting.** A full copy of this Article shall be posted in plain view and made available for inspection by applicants for employment and employees, at the referral hall at or near the place of registration, at each building site, at each Contractor's permanent office and at any other place where notices to employees and applicants are customarily posted. The notice shall carry in bold type the following:

"NOTICE TO ALL APPLICANTS, WHETHER OR NOT MEMBERS OF A UNION: An Agreement exists between the NEW MEXICO BUILDING BRANCH, AGC, and the SOUTHWEST LABORER'S DISTRICT COUNCIL and its affiliated LIUNA LOCAL NO. 16 providing for a nondiscriminatory system for recruiting applicants for employment."

11. **Areas Excluded.** This Article shall have no application to construction work to be performed or put in place in an area so remote that the Union cannot provide registration and referral service through a referral hall for the site or project, of which fact the Union shall promptly notify the Contractor, or when, due to some governmental rule or regulation, the registration or referral provisions herein cannot be lawfully applied to a site or project.
12. **Referral Hall Defined.** For the purposes of this Article, the term "referral hall" shall be any office or building space in the charge of a Union representative in possession of the required employment records, and having adequate personnel and facilities for the registration and referral of applicants for employment and the maintenance of records and supplying of information as required herein.
- a. The Union shall furnish a list of referral halls on request.
13. **Apprenticeship.** Term "applicants for employment" as used in this Article shall be construed to include applicants for employment as an Apprentice.
14. **Documentation and Verification:** The Employers and Union will work cooperatively to assure that both parties comply with their legal responsibilities under the Immigration Reform and Control Act of 1986. In so doing, the Union will request from each employee before referring them to an employer, documentation which establishes citizenship or other legal status to work in the United States. These documents shall be any of the documents that are allowed under the regulations promulgated under IRCA. Copies of this documentation shall accompany the referral to the employer. This section may be amended mutually when regulations are finalized on these requirements.
15. **Save Harmless.** Should either the Contractor or Union violate, or fail to comply with, any of the terms or conditions of this Article, by discrimination or otherwise, and thereby cause liability to be asserted against or imposed on the other, the non-complying party shall indemnify, defend, save and hold the other harmless from any and all liability, loss, cost, expense, and damage, including, but not limited to, legal fees, wages or other charges incurred by reason of such conduct.

16. **Special Referral Procedures:**

- (1) Referral Hall hours in the Albuquerque office shall be from 8:00 a.m. to 9:30 a.m., and from 2:30 p.m. to 4:00 p.m., Monday through Friday, holidays excepted.
- (2) Referral Hall hours in all sub-offices in the state, i.e. Farmington, Espanola and Las Cruces, shall be from 8:00 a.m. to 9:30 a.m., Monday through Friday, holidays excepted.
- (3) In the event of an emergency, the referral halls will call to fill job orders at any time. Any Contractor requesting emergency call will document this request to the Union in writing.
- (4) Group A: Applicants who have worked as Building and Construction Laborers for at least one year immediately prior to application and who have maintained actual physical residence within New Mexico for at least one year immediately prior to application, or have completed training through the New Mexico Laborer's Training Trust Fund.
- (5) Group B: Those who do not qualify for registration in Group A.
- (6) Requests by Name: The Contractor may request every other applicant from Group A by name or any applicant by skill regardless of the applicant's position on the "A" list. Only the Contractor's general office may request employees by name. All requests shall be made in writing.
- (7) Veterans automatically qualify for "A" listing when they have been honorably discharged from the service or released from hospitalization, if such discharge or release occurred within ninety (90) days prior to the date the request for such employee is made, provided however the foregoing shall not be construed as altering a Veteran's re-employment rights established under the Universal Military Training and Service Act.
- (8) Any registrant who is passed over by virtue of not being present in the referral hall when his place on the list would otherwise have entitled him to referral shall maintain his relative position on the particular group list on which he is registered. Any registrant who is rejected by a Contractor, as provided in this Agreement shall be immediately restored to his prior place within his group list and shall be referred to another Contractor in accordance with the position of his group and his place within the group. When a referred registrant has been employed on a job for one day, his name shall be removed from the list until such time as his employment has been terminated, at which time he shall be re-registered at the bottom of the group list for which he qualifies. When a properly referred registrant refuses to accept employment, after accepting referral, or quits, his name shall be placed at the bottom of the group list for which he qualifies.
- (9) Referral Complaints. Where any job applicant is aggrieved: (1) because of his group classification, or (2) because of his order of referral, or (3) for any other reason related to the operation of this referral system, the aggrieved may within ten (10) days following the occurrence of the event constituting the basis for his grievance file a written and specific statement of his grievance with (a) the Union representative in charge of the referral hall against which he is complaining, and (b) any Contractor signatory to this Agreement or the Albuquerque office of the New Mexico Building Branch, AGC, a branch of the Associated General Contractors of America.
- (10) Appeals. An Appeal Board consisting of a contractor's representative, a Union representative, and a chairman appointed jointly by the other two members shall within five days after the grievance is first filed, consider the grievance, and within five days thereafter, render a written decision according to the letter and spirit of this Agreement, which decision may be by majority vote and shall be final and binding. The Appeal Board

may formulate and issue procedural rules for the conduct of its business but shall not add to, subtract from, or modify in any way any provisions of this Agreement. An aggrieved will be given at least three days notice of the time and place where his appeal will be heard.

(11) Student Employment. During summer vacation, a student may be employed as a Laborer, after five (5) other Laborers have been employed. Another student may be employed when five (5) additional Laborers or major fraction thereof have been employed by the Contractor. It is hereby understood and agreed that all students shall comply with Article V of this Agreement. All students shall clear through the Hiring Hall and get a referral before going to work. Students who have not been members of the Union may be employed as described above at the trainee wage rate. All requests shall be made in writing.

ARTICLE VII - UNIVERSAL WORKING RULES

1. **Single Daytime Shift.** Eight consecutive hours exclusive of lunch period, shall constitute a day's work. Forty hours, from Monday through Friday, exclusive of lunch periods, shall constitute a week's work. Such work shall be paid for at the applicable straight time rates set forth in the wage schedules attached hereto.

A contractor may elect, provided he so states at a pre-job conference prior to the start of a job, to work shifts of more than eight (8) hours per shift but no more than ten (10) hours per shift at the straight rates. Overtime rates as applicable shall apply to all time worked in excess of ten (10) hours per day, forty (40) hours per week, Saturdays except make-ups, Sundays, and Holidays. Starting and quitting times, once established, shall be uniform and consistently applied.

The Employer shall be allowed to implement a four consecutive day per week work schedule at ten hours per day Monday thru Thursday. This schedule (4X10) will be worked at the regular rate. The fifth day may be utilized as a makeup day, at the regular rate, if time has been lost during the workweek. If the contractor intends to work a different work schedule such as Tuesday thru Friday he may do so, provided that he notifies the Union prior to the start of a job. In all cases Saturday may be used as a make up day

2. **Overtime.** It is agreed that overtime is undesirable and not in the best interests of the Industry or the craftsmen. Therefore, except in unusual circumstances, overtime will not be worked. Where unusual circumstances demand overtime, it will be kept to a minimum.

TIME AND MATERIAL WORKED FOR SANDIA NATIONAL LABORATORIES Standard time is defined as up to forty (40) hours per week. Overtime is defined as over forth (40) hours per week. Premium time is defined as time worked on Sundays and SNL holidays. Normal SNL holidays are: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Energy Conservation Day, and Christmas Day.

The overtime/premium time rates apply to work which is performed as defined, but only when the work is specifically requested as overtime/premium work by the CPM/SDR. As long as 40 hours of work is offered to the employee for that week.

Time and one-half. The following time worked shall constitute overtime to be paid for at the rate of time and one-half the applicable straight time rate set forth in the wage schedules attached hereto:

- a. Hours in excess of eight (8) in any one day; except as provided in Section (1) above; hours in excess of forty (40) in any week.

All hours worked before and after the established work day Monday through Friday, and all hours worked on Saturdays, shall be paid at the applicable overtime rate of time and one half (1 x ½) the employees straight time rate of pay

- b. Saturday may be used as a make-up day, at the regular hourly rate, if time has been lost during the regular workweek. Provided, however, such make-up work will be performed by employees of the employer covered by this Agreement and employed on the job during the week in which time was lost. It shall not be mandatory for an employee to work a makeup-day. During a holiday week, Saturday will not be used as a make-up day for the holiday and no employee shall be discharged for his refusal to perform such work.
- c. Make-up days will be used for time lost during the regular workweek due to inclement weather or time lost beyond the control of the contractor.

Double time. All work on Sunday and holidays.

Additional Overtime Provisions

- i. Work performed in excess of five consecutive hours without a thirty (30) minutes lunch period shall be paid for at one and one-half times the straight time hourly rate until a thirty (30) minute lunch period has been provided.
- ii. No work shall be performed in excess of ten consecutive hours unless a second lunch period of at least thirty (30) minutes is furnished and the employees are paid at the applicable overtime rate therefore.
- iii. In the event the particular work in progress can be completed within the eleventh hour it may, upon mutual consent, be continued to completion without interruption, provided the Contractor pays for the lunch period at the applicable rate.

3. Multiple shifts.

- a. When so elected by the Contractor, multiple shifts may be worked for three (3) or more consecutive days.

Contractors shall have the right to designate the craft or crafts on any project or portion thereof which shall work on a multiple shift basis.

- b. If the Contractor elects to work the day shift between 8:00 a.m. and 5:00 p.m., that shift shall work eight consecutive hours, exclusive of a thirty (30) minute lunch period. The second shift shall work seven and one-half consecutive hours, exclusive of a thirty (30) minute lunch period, for which working time employees on the shift shall receive eight hours' pay at straight time rates, Mondays through Fridays. The third shift shall work seven consecutive hours, exclusive of a thirty (30) minute lunch period, for which working time employees on the shift shall receive eight hours' pay at straight time rates, Mondays through Fridays.

On three-shift operations, all time worked on the third shift shall be deemed to have been worked on the same day as the first shift started. Work in excess of seven and one-half consecutive hours on the second shift, and work in excess of seven hours on the third shift, both exclusive of lunch hour, shall be paid for at the applicable overtime rate. The Contractor may regulate the starting time of a two-shift operation.

- c. The Contractor may regulate the starting time of a two-shift operation, by starting the first shift prior to 7:00 a.m., and each shift shall work eight consecutive hours, exclusive of lunch period, for which working time employees on each shift shall receive eight hours' pay at the straight-time rate, Mondays through Fridays. Work in excess of eight hours, exclusive of lunch period, on either shift, shall be paid for at the applicable overtime rate.
- d. On regular two or three-shift operations, the contractor may deviate the starting time of the day shift by the same procedures provided for in paragraphs "a" and "b" of Section 3 above.
- e. The Contractor and the Union may agree, in writing, upon different starting or quitting times for any of the shift arrangements provided in Sections 1 and 2 above.

4. **Special Shifts.** When maintenance or remodeling work cannot be performed on the regular day shift because establishments cannot suspend operation during the day, a special single shift may be employed after the establishment closes, Monday through Friday, and employees of this shift will work eight consecutive hours exclusive of a thirty (30) minute lunch period, for which they will receive eight hours' pay at the straight time rate. In the operation of this shift, no employee will lose a shift's work. The applicable overtime rate shall be paid for hours worked in excess of eight, exclusive of lunch period, on this shift.

5. **Show-Up Time.** Workmen shall be at their regular place of work at the starting time and shall remain at their place of work until the regular quitting time. Any employee on the payroll of the Contractor or any workman referred to a job, who reports for work at the regular starting time and for whom no work is provided, shall receive two hours pay at the applicable rate, unless he has been notified before leaving home not to report, or has been discharged, laid off or has voluntarily quit the employer on the same job. Any employee who reports for work and for whom work is provided shall receive not less than two hours' pay, or shall be paid only for time worked if he has been prevented from working for reasons beyond the control of the Contractor, inclement weather, or breakdown causing discontinuance of a major unit of the project and has not been required or requested to remain on the project by the Contractor or his agent. Employees referred under Article VI to Contractors' jobs who arrive in an unfit condition for work, without proper tools or credentials, who are not ready to go to work, or who are not otherwise qualified, shall not be paid show-up time. Each employee will furnish his employer with his current address and telephone number.

6. **Payment of Wages.** Employees shall be paid weekly on the job site during working hours. No more than five (5) days pay shall be withheld from an employee's wages.

7. **Lay Offs.** Any employee who is laid off or discharged during the employer's regular office hours and who is not paid the wages due him within his regular work shift shall be entitled to eight (8) hours pay at his regular straight time rate for each twenty-four (24) hour period or fraction thereof between the end of his last shift and the time he is paid in full; provided that the employer shall be required to pay such an employee only during regular office hours. In no event shall penalties under this rule accrue against a Contractor for Saturdays, Sundays, or holidays, unless work has been normally scheduled for such days. Any employee who quits shall be paid on or before the next regular payday.

When discharge occurs outside the employer's regular office hours, the Contractor shall, on the following work day, either i) have the paycheck available at the payroll office prior to the closing of such office; or ii) if requested by the employee, mail the paycheck to the employee to the address shown on the employer's records or as may be designated by the employee. The post-mark shall be determinative of the date of mailing.

8. **Holidays.** The recognized holidays hereunder shall be New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Friday after, and Christmas Day. Whenever any of these

holidays falls on Sunday, the Monday following shall be the legal holiday. No work shall be performed on Labor Day except to save life or property.

9. **Drinking Water.** Potable drinking water shall be supplied to all job sites, through bubbler-type fountains or portable water carriers that are equipped with disposable paper cups. Ice water shall be furnished when requested by the Union.

10. **Employee Facilities.**

- a. Toilets or latrines shall be provided at job sites in the ratio of one seat for each fifteen (15) persons employed. If privy-type toilets are provided, they shall be fly-tight, have covered seats, and shall have urinals. Toilets shall be protected from the weather and shall be provided with adequate light, ventilation and a door, and shall be kept clean.
- b. Workmen shall be permitted to store their lunches in tool and/or supply rooms, and to use such rooms for changing clothes and storing tools when not in use.

11. **Job Safety.**

- a. Federal or State safety regulations shall be observed by the employers and employees.
- b. Failure of an employee to observe Federal or State safety regulations, or published company safety rules which have been distributed to employees, shall be just cause for immediate discharge.
- c. Employees shall provide their own gloves, safety shoes, and hard hats. When Laborers are required to work in concrete, they shall furnish rubber boots in order to prevent burns, etc. Other protective clothing shall be furnished by the Contractor on all other work where the conditions are of such nature that protective clothing is necessary.
- d. Employees may be required to attend safety programs when offered by either the Union or the Employer.
- e. Drug-testing. The Union recognizes the right of the employer to establish a drug-testing policy for employees. Employees can be discharged for refusing to submit to drug-screening, drinking on the job, drunkenness, dishonesty or for any unlawful activity which affects the employee's performance on the job.

When the Union refers an employee to an employer which has a drug-screening program in effect, the Union will notify the employee that he will be subjected to a drug test before starting to work.

If an employee voluntarily submits to a drug screening program, the date of the test and the results shall be attached to the employee's listing at the hiring hall.

Drug and alcohol screening programs may be developed by the AGC and the union and when approved language has been developed, it shall become a part of this agreement as though contained herein.

ARTICLE VIII - GRIEVANCE PROCEDURES

1. **Definition:** A grievance is any dispute between a Contractor or the Association on one hand, and a Union on the other, arising out of this Agreement or concerning the application, interpretation, performance or breach of any of the provisions of this Agreement except Article X.

The Term "grievance" does not include a dispute over any changes in any of the provisions of this Agreement which may be requested by any party during the term hereof.

2. **Resolution of Grievances.** Prompt settlement of grievances is necessary for the maintenance of good relationships. There shall be no strikes, no work stoppages or slow-downs or other interference's with the work because of grievances. Only the methods of settlement set forth in this section 2 in the order and within the time limits specified, shall be used for the resolution of grievances, unless by Agreement between the Contractor and the Union, Steps 1 and 2 are waived, and except for the Contractors Association or Union grievances, which shall always be initiated at Step 3. The Union and the Employer or Association (whichever is handling the grievance) may extend any of the time limits specified in this Article VIII, but only by written agreement signed by the Union and the Employer or Association, as the case may be. Any such extension agreement shall apply only to the particular grievance and Step involved, and not to any future grievance or other step.

- a. **Step 1.** The aggrieved employee or his craft steward may present the grievance to the Contractor's superintendent or general foreman at the job site within two (2) working days from the occurrence giving rise to the grievance, and these representatives shall attempt to settle the grievance. The parties shall have three (3) working days thereafter (the "Step 1 time limit") in which to settle the grievance.

- b. **Step 2.** If the aggrieved employee, or the steward, and Contractor's representative fail to reach a settlement within the Step 1 time limit, the grievance may be referred in writing by the Union to the Contractor within five (5) working days from expiration of the Step 1 time limit and the Contractor or his personal representative shall attempt to settle the grievance with the craft business agent. The parties shall have five (5) working days thereafter (the "Step 2 time limit") in which to settle the grievance. Any settlement reached in Step 2 shall be binding on both parties.

- c. **Step 3.**

- 1) Any grievance that is not settled within the Step 2 time limit shall be referred, within ten (10) working days after expiration of the Step 2 time limit, to a Joint Administrative Committee. Any settlement reached by the Joint Administrative Committee shall be binding on both the parties. Decisions of a Joint Administrative Committee shall be by majority vote.

- 2) The Joint Administrative Committee shall consist of three (3) representatives of the Council, and three (3) representatives designated by the Employer who are not directly involved in the dispute or employed by the Employer. Representatives designated by the Council shall be selected from the affiliates of three (3) separate International Unions excepting the aggrieved Union.

- 3) If the Joint Administrative Committee cannot reach a decision within five (5) working days following referral of the grievance, (the "Step 3 time limit"), The grievance shall be referred to arbitration as provided in Step 4.

- 4) If any party refuses to participate in the selection of a Joint Administrative Committee, then the grievance shall be heard by the representatives selected by the other party, and these representatives may, by majority vote, decide the dispute, and such decision shall be binding on both parties. If a party, having participated in the selection of representatives to a Joint Administrative Committee, refuses to participate in hearings, the Committee shall hear the grievance in the absence of such party and may decide it.

d. **Step 4: Arbitration.**

Any grievance not resolved at Step 3 shall be referred to arbitration. A list of seven arbitrators will be requested from the Federal Mediation and Conciliation Services. Upon receipt of the list of arbitrators from the FMCS the parties shall meet within three (3) working days and attempt to agree upon an arbitrator. Should no agreement be reached, the party bringing the grievance shall strike first from the list of arbitrators provided by the FMCS and the parties shall alternately strike names until only one name remains on the list. This person shall be the arbitrator empowered to hear and decide the grievance.

The arbitrator shall have authority to resolve any grievance that is properly in arbitration under this procedure but shall not have the authority to add to, detract from, alter, or modify this Agreement. Any decision of the arbitrator shall be final and binding on all parties. The decision of the arbitrator shall be complied within five (5) working days after the decision has been reached unless waived by mutual agreement for extension of time.

The parties shall share the expenses of the arbitrator equally.

Should the party against whom the decision is rendered fail to execute the decision of the arbitrator within the prescribed time the other party may strike or lock out.

The parties may extend the time limits in the Article by mutual agreement with such mutual agreement being in writing.

3. **Failure to abide by award.** If a grievance has been finally resolved in accordance with this Article VIII and either party refuses to abide by such resolution, Article X, Sections 1 and 2 shall have no effect. Failure or refusal of either party to abide by an arbitration award under this Article VIII, pending determination of an application to a court of competent jurisdiction, State or Federal, to vacate or modify such award, or pending an appeal from an order or judgment confirming, vacating or modifying an award, shall not be deemed a violation of this Article VIII or cause for nullifying Article X; provided that an application to vacate or modify and award must be made within ten (10) days from receipt thereof, and notice of appeal from an order or judgment confirming, vacating or modifying an award must be made within ten (10) days from the filing of such order or judgment, and processed expeditiously.

ARTICLE IX - FRINGE BENEFITS AND UNION DUES CHECK -OFF

1. Time is of the essence in the filing of fringe benefit reports and payment of all contributions due. The Trustees of the various funds are under the legal obligation to enforce the terms of this Agreement regarding fringe benefits and the terms of the respective Agreements and

Declarations of Trust. In addition, the Employee Retirement Income Security Act of 1974 prohibits the extension of credit to contractors.

2. There is hereby incorporated by reference herein, as though fully set forth, each Agreement and Declaration of Trust listed below:

a. **Health and Welfare**. New Mexico West Texas Multi-Crafts Health and Welfare Trust Fund dated April 1st, 1966 as amended.

b. **Pension**. Laborers. Laborers' National Pension Fund dated May 15th, 1960 as amended.

c. **Training Fund**. New Mexico Laborers Training & Apprenticeship Fund dated October 8, 1976 as amended.

d. **BUILD NEW MEXICO**. The Agreement and Declaration Trust of "Build New Mexico" are hereby incorporated into this Agreement. This program is supported by a three cent (\$.03) per hour contribution from the employer and a three cent (\$.03) per hour deduction from employees' wages.

e. **OHIO VALLEY AND SOUTHERN STATES REGIONAL LECET**. The Agreement and declaration of trust for South Central Laborers-Employers Cooperation and Education Trust (LECET) is hereby into this Agreement. This program is supported by a three cent (\$.03) per hour contribution, which is deducted from wages.

f. **NEW MEXICO CONTRACTORS' ADMINISTRATION FUND**. The "Operating Procedures" and contribution rate for the Contractors' Administration Fund (CAF) are provided for in this Agreement. This fund is a unilateral management fund, the purpose of which is to defray costs of the New Mexico Building Branch, Associated General Contractors, related to collective bargaining, trust fund management, work on Joint Apprenticeship and Training Committees, and related support activities of the New Mexico Building Branch, AGC, in training, workforce development and safety. The contribution rate for this unilateral management fund is set by the AGC Collective Bargaining Committee. One cent (.01) per hour is contributed by the contractor. This amount may be raised to .02 per hour by the AGC Collective Bargaining Committee during the course of this contract.

Save Harmless. The AGC agrees to indemnify, defend, save and hold the UNION harmless from all liability, loss, cost, expense and damage, including but not limited to, legal fees and other charges incurred to administer or collect contributions to Contractors Administration Fund.

3. **Basis of Payment of Fringe Benefit Contributions**. Contractor shall make contributions to the Funds listed in Section 2 of this Article IX for each hour of work covered by this agreement, whether or not the employee is a member of the Union. The Contractor shall make contributions on basis of hours work for (i.e., each straight time hour shall be counted as one hour, each time and one-half hour as one hour, each double time hour as one hour) as specified in Article XI of this agreement and respective agreements and Declarations of Trust.

4. **Designation of Trustees**. The Contractors who are or hereafter become parties hereto hereby designate as their representatives, the Trustees appointed by the New Mexico Building Branch, AGC, as their representatives on the respective Boards of Trustees of the funds provided for in Sections 2 and 3 of this Article IX, and will be bound by the actions of such Trustees made during the term of this Agreement. Trustees of said funds shall not increase benefits of said funds if such increase in benefits creates or increases un-funded liability of said fund.

5. **Payment of Contribution.** The wage rates, the amounts of fringe benefit contributions and the Funds to which they are to be applied, are set forth in this Agreement. The Contractors will make the contributions in accordance with the appropriate Trust Agreement, will file the reports required by the Trustees of each fund, and will be bound by the provisions of any new Trust Fund Agreement entered into between the Council and AGC during the term hereof.

6. **Bond Requirement.** Within ten (10) days of the signing of this Agreement the Employer will post a bond or other form of security acceptable to the Board of Trustees to ensure the payment of fringe benefit contributions.

The bond or other security must be in an amount equal to three months of the Employer's estimated fringe benefit contributions during the previous calendar year, or other evidence that the Board of Trustees deems reliable of projected work activity. In all cases the minimum amount of security required is \$10,000, unless the Board of Trustees of the Multi-Craft Health and Welfare Fund decides that another amount is appropriate. In this case, the amount determined by that Board shall automatically become a part of this Agreement. Any Employer that has made payment into the Trust Fund for a period of five years with no more than two months of delinquency each of which was resolved with full payment to the Trust Fund is exempt from the requirement of security.

7. **Notification of Delinquencies.** The Trustees of the funds set forth in Section 2, 3, and 4 of this Article IX, shall cause the Administrator to mail out to each participating party, on the first of each month, a list containing the name of each Contractor who has been classified delinquent or late in accordance with the rules and cutoff dates as established by the Trustees.

8. **Enforcement of Compliance.** If a Contractor signatory to this Agreement is delinquent in submitting reports or paying contributions, and unless some other acceptable agreement has been reached with the Trust, the Union shall withhold employees from such Contractor and take whatever action it deems prudent in order to enforce compliance, provided however, the Union has notified the affected Contractor(s) five (5) days prior to commencement of any such action. Action taken under this provision shall not be deemed a violation of the no-strike provisions of Article X Section 1. (See Article I.D., for additional requirements regarding Sub-contractors).

9. **Liability.** The Contractor's liability for contributions is not subject to arbitration under Article VIII hereof. Further, recognizing that the delinquent Contractor's default in payment of contributions is the proximate cause of a strike called under the provisions of this section, such delinquent Contractor shall pay, in addition to the contributions due, audit and attorneys' fees and other costs of collection, and eight hours straight time pay per day of time lost during the duration of such strike and work stoppage, to each striking employee.

10. **Diversion from Wages.** Either the Southwest Laborers' District Council or the New Mexico Building Branch, AGC, may request that portion of wages be diverted to fringe benefits. Both parties must agree to the amount of the diversion, to which fund it will take place, and the date on which it will be implemented.

11. **Initiation fee & dues Check Off.** The Contractor, for the duration of this Agreement shall deduct from the pay of each employee who submits a signed authorization, the Union membership dues, Union initiation fee, Readmission fees, and other fees specified by the Union, and shall, prior to the date fixed by each Union, remit same to the union or its designated agent as long as the employees authorization is not revoked.

12. **Sole Obligation.** Notwithstanding any of the provisions of the Agreement, the Contractor and the Union do not agree, assume, ratify, approve, or condone any conduct, act, practice of the fund, trustees, and/or administrators or their agents. A Contractor's sole obligation and liability under this Agreement is to timely submit the required contributions, and this Agreement does not grant, directly, or indirectly, the Contractor or Union any control over the decisions and/or acts of said funds, trustees, administrators, and/or agents.

Trustees are directed through this Agreement, however, to seek written legal opinions on issues that come under the scope of the Americans with Disabilities Act.

13. **Safety Incentive Program.** The parties agree that a "safety incentive program" be established through the Multi-Craft Health and Welfare Trust and that this program be implemented through procedures established by the Trustees and conforming as best as possible to procedures followed by other crafts with "safety incentive programs."

ARTICLE X - NO STRIKE - NO LOCKOUT

1. **No-Strike.** The Union agrees that for the duration of this Agreement there shall be no strike, work stoppage or slowdown authorized, sanctioned or encouraged by said Union, and no picket lines shall be established by the Union, except as set forth in Article VIII, and Section 3 of this Article X. The Union representing any workmen on strike shall use all means within its power to end any such work stoppage at the earliest possible time.
2. **No Lock-Out.** The Contractor agrees that there will be no lockout of employees for the duration of the Agreement except as provided in Article VIII, Section 3, and in Section 3 of this Article X.
3. If there is a strike, work stoppage or slowdown by any union or unions, whether or not party here to, against any multi-employer bargaining unit or group, whether or not organized into an employer association, over the terms of a new or properly reopened collective bargaining agreement involving construction work, it shall not be deemed a violation of this Article X for the duration of such strike, stoppage or slowdown: a) for any Contractor or Contractors to cease work or to lock out its or their employees; or b) for any Union to strike. The Council and Association shall give the other at least 48 hours prior written notice of such action.

ARTICLE XI - JOB CLASSIFICATIONS AND HOURLY RATES

1. **Hourly Rates.** The hourly wage rates and classifications listed shall apply on all work performed under the terms of this Agreement within the New Mexico jurisdiction.
2. **Insurance and Taxes.** Each Contractor shall carry Workmen's Compensation Insurance on all employees covered by this Agreement.
3. **Payroll Deductions.** Each Contractor shall give to each employee with each check a statement itemizing the employee's gross amount earned, hours worked, Social Security Tax, Withholding Taxes, and all other deductions.
4. **Apprenticeship.** An apprenticeship program established effective June 6, 2000 as set forth in the Standards of Apprenticeship, was developed by the New Mexico Laborers' Training & Apprenticeship Trust Fund for the trade of Construction Craft Laborer who are further defined and named under Article XI Sub-Section "Classifications" of this Agreement. This apprenticeship program was placed into effect upon formal approval of the New Mexico

Department of Labor, State Apprenticeship Council (SAC) and appropriate state agencies. This Apprenticeship program shall be a "Letter of Intent" type of program and shall be administered by the Joint Apprenticeship Committee comprised by an equal number of members of the New Mexico & West Texas District Council and the Signatory Contractors. The Apprenticeship Standards of the New Mexico Laborers' Training & Apprenticeship Joint Apprenticeship Committee approved by the State Apprenticeship Council of New Mexico of the United States Department of Labor are hereby incorporated by reference as a part of this Agreement.

1. Apprentice wage rates are based on the Semi-Skilled Laborer Classification:

<u>Hours of Credit</u>	<u>Scale</u>	10/1/03	06/1/04	06/1/05	06/1/06
0 - 1000	72.6% of Semi-Skilled Laborer	\$ 10.41	\$ 10.57	\$ 10.89	\$11.21
1000 - 2000	77.0% of Semi-Skilled Laborer	\$ 11.04	\$ 11.21	\$ 11.55	\$11.89
2000 - 3000	81.6% of Semi-Skilled Laborer	\$ 11.70	\$11.88	\$12.24	\$12.60
3000 - 4000	85.6% of Semi-Skilled Laborer	\$ 12.28	\$12.46	\$12.84	\$13.22

The definition of hours of credit is actual work hours plus credit for school attendance as defined in the Apprenticeship Standards. The rates of wages for Apprentices are based on a reduction from the Journeyman rate of pay as established in this Collective Bargaining Agreement.

2. Employers shall pay apprentices the full fringe benefits package as described in this contract.
3. Ratio: The ratio of apprentices to journeyman shall be one (1) apprentice for the first (1st) journeyman hired, one (1) apprentice for two (2) journeyman thereafter. This ratio will be applied on individual jobs.
4. It is agreed that apprentices should, when possible, be moved by the employer to different types of operations so as to become adept in a variety of operations and work skills.
5. No person who has previously worked as a journeyman laborer shall be eligible for the apprenticeship program. Decisions concerning apprentice wages and advancements shall be made by the Joint Apprenticeship committee.
6. No apprentice shall be eligible for journeyman status until they complete their apprenticeship as required by the Apprenticeship Standards as administered by the New Mexico Laborers' Training & Apprenticeship Trust Fund Apprenticeship Committee. Upon the failure of any apprentice to maintain his or her apprenticeship status in accordance with the apprenticeship standards of the New Mexico Laborers' Training & Apprenticeship Trust Fund and Associated General Contractors (AGC) Joint Apprenticeship Committee, the Joint Apprenticeship Committee shall notify, in writing and by certified mail, return receipt requested, the Union, the Employer and the Apprentice of such failure. Any person failing to maintain and complete their apprenticeship in accordance with the apprenticeship agreement and the apprenticeship standards of the New Mexico Laborers' Training & Apprenticeship Trust Fund and Associated General Contractors (AGC) Joint Apprenticeship Committee shall not be employed by the employer as a journeyman under this agreement. The failure of any apprentice to maintain his or her apprenticeship status, in accordance with the apprenticeship standards of the New Mexico Laborers' Training & Apprenticeship Trust Fund and Associated General Contractors (AGC) Joint Apprenticeship Committee, shall

obligate the employer to discharge such person upon notice from the Union, that said person has failed to maintain his or her apprenticeship status.

7. The New Mexico Laborers' Training & Apprenticeship Trust Fund and Associated General Contractors (AGC) Joint Apprenticeship Committee may, upon seven (7) days written notice to an employer party to this agreement transfer any and all apprentices and/or refuse to permit employment of apprentices by any employer which employs any person who has failed to maintain their status as an apprentice, in accordance with the Apprenticeship Standards adopted by the New Mexico Laborers' Training & Apprenticeship Trust Fund and Associated General Contractors (AGC) Joint Apprenticeship Committee and in violation of this Article XIV.
8. The Union agrees that it will continue to develop a pool of **Groups I, II, III and IV** Laborers, to man the jobs of contractors who choose not to sign the 'Letter of Intent' required for participation in the apprenticeship program.
9. No apprentice shall be eligible for work until he or she completes Three weeks of training at a site designated by the training director. The first week of training will be OSHA 10hr, Haz-com, First Aid and CPR and identifying tools and materials. The second week of training will be Scaffolding and forklift training. The third week of training will consist of an Forty-hour hands on general construction course that will at a site designated by the training director.

ARTICLE XII – GRANDFATHER CLAUSE

1. Hourly Wage Rates. The following wage rates apply to jobs or projects which are bid or negotiated on or after October 1, 2003, as long as the following conditions applies: The job or project must have been bid or negotiated before June 1, 2003. If the job or project was bid or negotiated after June 1, 2003, the wage rates, effective October 1, 2003, as provided for in this agreement apply. If jobs or projects are eligible for grandfathering of wages, as provided for in this section, this “**grandfathering of wages**” on those jobs can only be applied until June 1, 2004, after which the full contract rates apply.

This provision cannot be utilized by the contractor unless he sends a list of the projects on which he wished to grandfather the wages to the union within thirty (30) days of signing the agreement. The negotiated fringe package shall apply in all cases.

**ARTICLE XIII - CONSTRUCTION CRAFT LABORER JOURNEYMAN WORKER
CLASSIFICATION AND WAGE RATE**

GROUP I:

General Labor- Chainmen - Stakedrivers – Stake Hopper - Heater Tenders - Window Cleaning and Clean-up – Unloading of Furniture and Fixtures – Shop Helper. (Chainmen and Stakedrivers working solely for an engineering firm are not subject to this Agreement.) This group don't apply to laborers working in Industrial Power plants, Copper Smelters, Gas Refineries Coal Mine Sites Industrial and Plant Laborers

	<u>10/1/03</u>	<u>6/1/04</u>	<u>6/1/05</u>	<u>6/1/06</u>
Group I	\$13.00	\$13.20	\$13.60	\$14.00

General Labor-Chainmen – Stake driver - Stake Hopper – Carries supplies, drag chain, holds survey rod, drives stakes and assists surveyor in other related duties.

Heater Tenders – fuels and tends to heaters used on the job sites.

Window Cleaning and Clean-up – cleans and washes windows. May perform other related tasks and general clean up.

Unloading of Furniture and Fixtures – unloads furniture and fixtures from trucks and moves them to the place of installation or storage.

Shop Helper- helps the mechanics in the shop, run for parts and cleans in the shop.

GROUP II: Carpenter Tenders - Concrete Workers - Concrete Buggy Operators - Industrial and Plant Laborers – Fire Watch, Swinging Scaffolds Tender – Flagman - Landscaping and Planter - Fence Builder – Guardrail Builder- Fine Grader – Form Stripper – Gabian Basket Builders - Rip Rap Stoneman – Drywall, Stocking and Handling – Fly Ash Vacuum Operator – Man Hole Builder - Tool Room Person and Checker on Jobsite

	<u>10/1/03</u>	<u>6/1/04</u>	<u>6/1/05</u>	<u>6/1/06</u>
Group II	\$13.54	\$13.74	\$14.15	\$14.58

Carpenter Tenders – Performs labor such as hand handling of materials used by carpenters. Assists in erecting and removing of forms, removes nails and clears lumber. May perform other related duties. More defined in Article 11, Section 9, Sub-section F.

Concrete Workers – Pours, finishes and performs other work in relation to the lining with concrete.

Concrete Buggy Operators – Operating buggy by pushing or pulling by hand between mixer or other source to site of work.

Industrial and Plant Laborers – a labor who works in Industrial Plant (Industrial Power plants, Copper Smelters, Gas Refineries Coal Mine Sites Industrial and Plant Laborers.

Fire Watch – one who watches the work area for fires when craftsmen are cutting or welding.

Swinging Scaffolds Tender – tends to the scaffold builders.

Certified Flagman – Supervises flag and signing personnel. Prepares revision to the traffic control plan. Coordinates all traffic control with emergency agencies. Prepares and submits statements concerning road closures, delays and other project activities to the new media. May perform other related duties.

Bleacher Seating – The unloading, moving to the place of erection, assemble and installation of all stadium seating.

Fence Builder – digs post holes, Pours concrete for posts, sets posts, stretches fencing material and performs all aspects of building fences of all types.

Guardrail Builder- performs all aspects of building Guardrails of all types.

Form Stripper – strips , cleans and oils all types of concert forms.

Gabian Basket Builders – assembles wire baskets for rip rap.

Rip Rap Stoneman – one who places stones into gabian baskets.

Drywall, Stocking and Handling – The carrying and handling of all materials by hand to a point adjacent to place of erection will be the work of the Laborers and assists in the placement of materials.

Fly Ash Vacuum Operator – installs vacuum lines and operates nozzle of vacuum hose at power plants in the cleanup of fly ash.

Landscaping and Planter - The duties of the Landscaper include site development, soil preparation, fertilizing, the building of garden accessories, preparation for the installation of garden sprinkler systems, and other related duties. The Landscaper may operate small walking type farm equipment and perform other related duties. Duties of the Landscaper shall no include electrical work, fencing, concrete retaining walls, or other work which is generally performed by skilled craftsmen.

Man Hole Builder – Constructs a means of permanent access to water and sewer lines for maintenance purposes. This work consists of laying brick or concrete block starting from concrete slab at bottom of ditch up to an approximate grade line near the surface of the ground. Brick or block is laid in by eyesight and is normally not to a plumb line. Chipped or culled brick can be used and quite often is. No effort may be made to keep mortar off the face of the brick and joints are not pointed. May apply coating of concrete to interior and exterior surface, except where tools of the trade are involved. May perform other related duties.

Tool Room Person and Checker on Jobsite - Manages, supervises, inspects and coordinates all traffic control at the project site.

GROUP III SEMI-SKILLED LABORER: Electric Air and Gas Operated Power Tools - Asphalt Rakers - Chain-Saw Operators – Oxy Gasoline Torch Operators - Cutting Torch Operators or Burner Person - Gunitite Rebound Men - Fog Machine Operators - Power Buggy Operators - Rodmen - Sandblasters (potmen) - Wagon Drill and Diamond Core Driller – Air Track - Drill Operator Hydraulic Core Drill Diamond - Tenders outside- w/Pumps under 6" - Concrete Burners - Cement Mason Tenders – Plasterers Hodcarriers - Mortar Mixer - Plaster Spreader Operators - Plaster Tenders - Gunitite Nozzlemen - Pipelayer - Pumpcrete Nozzlemen – Powdermen Tender- Demolition – Grade Checker - Vibrator Operator – Concrete Saw Operators – Stone Mason Tender – Jack Hammer and Chipping Hammer Operator – Green Cutter High Pressure Air & Water on Concrete Blaster – Pipelayer (includes but not limited it to water pipe, sewer pipe, drainage pipe, pvc, and all underground tile, pipe) - Cast Iron Concrete pipe, unloading, handling, distribution, and installation-Scaffold worker-Certified Scissor Lift Operator and Man Lift Operator.

	<u>10/1/03</u>	<u>6/1/04</u>	<u>6/1/05</u>	<u>6/1/06</u>
Group III	\$14.35	\$14.56	\$15.00	\$15.45

Electric Air and Gas Operated Power Tools – A worker who uses a tool driven by compressed air, gas, or electric power to perform such work as breaking old pavement, loosening or digging hard earth, trimming bottom and sides of trenches, breaking large rocks, driving sheeting, chipping concrete, trimming or cutting stone, calking steel plates, or compaction of earthen backfill. Install plastic and PVC linings on ponds. Rotary man operates a hand-held device to make cuts on road with a person holding a nozzle to fill cuts with oil. May perform other related semi-skilled duties.

Asphalt Rakers – distributes asphaltic road-building materials evenly over road surface by raking and brushing materials to correct thickness; may control straight edge to regulate width and depth of materials; directs “Asphalt Shovelers” when to add or take away material to fill low spots or to reduce high spots. Applies color to tennis courts, etc. by using a squeegee. Applies epoxy on concrete floors to seal. May perform other related semi-skilled duties.

Chain-Saw Operators – Operates a power driven chain saw to clear areas of timber. Fells trees, and sometimes cuts the fallen trees into short sections to facilitate their removal.

Oxy Gasoline Torch Operators – Uses cutting torch only for demolition work on steel or other metal structures. May perform other related semi-skilled duties.

Cutting Torch Operators or Burner Person – Uses cutting torch only for demolition work on steel or other metal structures. May perform other related semi-skilled duties.

Gunite Rebound Men – a laborer who cleans up after gunite has been shot in place.

Power Buggy Operators – Drives self-propelled buggy to transport concrete from mixer or source of supply to place of deposit. Operates levers to dump load. May perform other related semi-skilled duties.

Rodmen – hold survey rod.

Sandblasters– Cleans and prepares surfaces by the use of sandblasting equipment other than preparation for painting. May perform other related semi-skilled duties.

POTMAN–Cleans, screens and feeds sand to hopper or pot of sandblasting machine.

Wagon Drill and Diamond Core Driller – Sets up and operates drilling mechanism that drills holes into concrete or rock. Levels machine by placing timbers under wheels. Inserts and fastens drill steel in chuck. Adjusts angle of drill tower and bolts into position. Controls drilling and speed of drill by moving levers. May make other adjustments to equipment as needed. May perform other related semi-skilled duties.

Air Track – Sets up and operates drilling mechanism that drills holes into concrete or rock. Levels machine by placing timbers under wheels. Inserts and fastens drill steel in chuck. Adjusts angle of drill tower and bolts into position. Controls drilling and speed of drill by moving levers. May make other adjustments to equipment as needed. May perform other related semi-skilled duties.

Drill Operator Hydraulic Core Drill Diamond – Sets up and operates drilling mechanism that drills holes into concrete or rock. Levels machine by placing timbers under wheels. Inserts and fastens drill steel in chuck. Adjusts angle of drill tower and bolts into position. Controls drilling and speed of drill by moving levers. May make other adjustments to equipment as needed. May perform other related semi-skilled duties.

Tenders outside - Sets up and operates drilling mechanism that drills holes into concrete or rock. Levels machine by placing timbers under wheels. Inserts and fastens drill steel in chuck. Adjusts angle of drill tower and bolts into position. Controls drilling and speed of drill by moving levers. May make other adjustments to equipment as needed. May perform other related semi-skilled duties.

Water Pump Tender under 6" – fuels and tends to all water pumps under 6" for the purpose of moving water on the job site.

Concrete Burners – Operates a device used to burn holes, etc., through concrete. This device consists of a consumable aluminum-magnesium rode inside a small iron pipe. Oxygen is forced through the pipe under pressure, and the end of the assembly is lighted. The concrete is melted by the intense heat of the device.

Cement Mason Tenders –Plasterers Hodcarriers –Assists in the pouring of concrete by spreading concrete, cleaning and caring of cement mason's tools, mixes mortar used in the patching of concrete, and performs other tasks as may be directed by cement masons or plasterer. Mixes mortar for plasterers and delivers same to location where plasterers are working. Sets up scaffolding as directed by foreman where necessary, and cleans and cares for tools and equipment used in the preparation and application of plaster.

Mortar Mixer - Mechanically mixes mortar ingredients to proper consistency and delivers to mason on scaffold or at site of work. Keeps materials supplied to mason and assists according to directions of mason.

Plaster Spreader Operators –Mixes plaster to be used in a machine, which is designed to apply plaster to surfaces by means of a hose. Handles and maintains hose, places and moves machine, and services and maintains machine. May perform other related duties.

Gunite Nozzlemen - Assists operator and handles the equipment and directs the placing of concrete or mortar that is moved by pressures or pneumatic equipment, such as gunite. May fine-grade and place wire mesh at times. May perform other related semi-skilled duties.

Pipelayer (includes but not limited it to water pipe, sewer pipe, drainage pipe, pvc, and all underground tile, pipe) – Cast Iron Concrete pipe, unloading, handling, distribution, and installation-ON utility projects lays tile, concrete, corrugated metal pipe. Receives pipe lowered from top of trench; inserts spigot end of pipe into bell end of last laid pipe; adjusts pipe to line and grade; seals joints with cement or other sealing compound. May perform other related semi-skilled duties.

Pumpcrete Nozzlemen – Handles the hose or nozzle equipment and directs the placing of concrete or mortar that is moved by pneumatic equipment such as gunite. May fine-grade and place wire mesh at times. May perform other related semi-skilled duties.

Powdermen Tender- Carries powder or other explosive to blaster or powderman and assists by placing prepared explosive in hole, connecting lead wire to blasting machine, and performing other duties as directed. May perform other related semi-skilled duties as directed by powderman or blaster.

Demolition – the process of wrecking or dismantlement of existing buildings or structures.

Grade Checker – Keeps stakes and stringline set in place out in front of trenching machine so that machine will cut ditch in correct location. Sets stakes so that pipelayers can fine-grade ditch and measure from the batter board down to correct depth of ditch. May perform other related semi-skilled duties.

Vibrator Operator – lowers hose-like flexible shaft of vibrator into newly poured concrete. Starts power unit and holds shaft, allowing hammerhead on shaft to vibrate, this compacting the concrete. Air, electric, or gasoline operated vibrators are sued. May perform other related semi-skilled duties.

Concrete Saw Operators – Operates a power-driven , hand-guided, water-cooled saw or diamond driller which is used to cut through slabs of concrete, except as otherwise provided elsewhere.

Jack Hammer and Chipping Hammer Operator – The operating of jackhammer, tamper, chipping hammer, whether powered by air or electric or any other means.

Scaffold worker- erects and dismantles all types of scaffolding for job site

Certified Scissor Lift Operator and Man Lift Operator – one who completes competent person training in the operation of scissor lifts and man lifts.

GROUP IV CONSTRUCTION SPECIALIST:

This category includes but is not limited to the following specialty categories of Construction Specialists: Asbestos Abatement Laborers, Toxic and Hazardous Waste Removal Laborers, Lead Base Paint Removal Laborers, Certified Fork Lift Operator, C.D.L. Driver, Laborer/Concrete Specialist, Trencher Operator, Pest Technician (Licensed by the Bureau of Rodent Management), State Licensed Powder man and Blaster, Laborers-AGC Certified Rigger and Signal Man – Laborers-AGC Certified Scaffold Builder Laborer, or Hydromobile Scaffold Builder - Radiation Worker II.

	<u>10/1/03</u>	<u>6/1/04</u>	<u>6/1/05</u>	<u>6/1/06</u>
Group IV	\$16.18	\$16.42	\$16.91	\$17.42

Asbestos Abatement Laborers – one who has the proper certifications for removal of asbestos materials.

Toxic and Hazardous Waste Removal Laborers – one who has the proper certifications for removal of toxic and hazardous materials.

Lead Base Paint Removal Laborers – one who has the proper certification for the removal of lead base paints.

Certified Fork Lift Operator – one who has completed proper training in the operation of a fork lift for loading and unloading and moving materials on a job site.

C.D.L. Driver – one who has completed state certification for the operation of commercial vehicles in excess of 10,000 pounds gross vehicle weight.

Laborer/Concrete Specialist – performs all aspects of concrete placement and finishing.

Trencher Operator – one who operates a trencher for the purpose of laying pipe.

Pest Technician (Licensed by the Bureau of Rodent Management) – certified technician for the removal and handling of rodents and pests.

State Licensed Powder man and Blaster – prepares blasting material, inserts this material into predrilled holes. Performs electrical wiring necessary for detonation, and assures that all charges have detonated before other workmen resume work in the shaft.

Laborers-AGC Certified Rigger and Signal Man – one who rigs materials and signals operator for movement of materials.

Laborers-AGC Certified Scaffold Builder Laborer, or Hydromobile Scaffold Builder – erects scaffolding.

Radiation Worker II - one who has completed proper training for work in areas containing radiation.

JOURNEYMAN SKILLS AND IMPROVEMENT

Established wage increases for Journeyman, will be granted when the individual successfully completes a 10 hour OSHA, a 3 hour Haz-Com (with the understanding the Laborers will maintain the annual refresher) and 8 hours of Journeyman Skill Improvement classes as established under the current training program. If an individual successfully completes a single established class of twenty- four (24) hours or more in the first year of this contract said individual will be eligible for pay increases. New employees who are not members of the union will receive the 10 hour OSHA and 3 hour Haz-Com between the fourth and fifth week of employment and 8 hours of Journeyman Skill Improvement classes within the first year of employment to be eligible for the increase. **The training director will notify the contractor of laborers who have successfully completed the classes.**

It is also understood that employment may be limited for laborers on jobs of owners that require 10hr OSHA and 3 hour Haz-Com as a condition of employment on their sites.

FOREMEN: \$1.00 above highest classification supervised.

GENERAL FOREMAN: \$1.50 above highest classification supervised.

6. <u>Fringe Benefit Contributions:</u>	<u>10/1/03</u>	<u>06/1/04</u>	<u>06/1/05</u>
Health and Welfare**	\$1.65	\$2.05	\$2.45
Pension	\$1.10	\$1.10	\$1.10
Training	\$.25	\$.25	\$.25
Build New Mexico	<u>\$.03</u>	<u>\$.03</u>	<u>\$.03</u>
TOTAL:	\$3.03	\$3.43	\$3.83

**Ten cents will be allocated from the Health & Welfare contribution to the Safety Incentive Fund.

BUILD NEW MEXICO. A deduction per hour from wages in all categories is applied to "Build New Mexico", the agreement and declaration of trust for which are hereby incorporated in this Agreement. The employer shall also match the employees' contribution.

OHIO VALLEY AND SOUTHERN STATES REGIONAL LECET: three cents (\$.03) deducted from wages.

NOTE: If the trustees of the funds determine that additional contributions are required to maintain the same benefits, it will be a collective bargaining between the Contractor and the Union to negotiate and maintain benefits.

Employers will receive reimbursement up to \$28.00 from the health and welfare fund for substance abuse testing/screening of employees covered under this agreement.

LABORERS' TOOLS. Laborers' will be required to carry the following tools on the job: hammer, tape measurer, hardhat that meets OSHA requirements, pliers, work shoes (safety-toe). Carpenter tenders will Carry a single tool pouch all other laborers will Carry a single tool pouch or a tool belt.

7. **High Pay.** Workmen on work forty (40) feet or more above a stable work platform, will receive premium pay of \$.50 per hour.

No worker shall be entitled to high pay provided that State and Federal Safety Regulations pertaining to scaffolding guardrails and safety belts are complied with. In the event that Safety Regulations are not, or cannot be complied with, and a variance is obtained from state or federal safety requirements, all workers employed on work forty (40) feet or more above the ground shall receive premium pay as set forth above.

8. **Subsistence:** The following subsistence allowance shall apply.

0 – 50 miles and over \$ 5.00 per hour not to exceed 10 hours per day or other mutually agreeable lodging.

The Parties agree to encourage the establishment of a pool of well-qualified laborers in all areas sufficient to man the normal anticipated workload for such areas. The parties stipulate that the payment of subsistence should be discouraged except when a project is remote or when laborers in excess of the resident pool are required to man a project. Under such circumstances, the following criteria shall apply:

- a. For the purpose of applying subsistence, the union hall of Albuquerque, Española, Farmington, and Las Cruces shall be used as basing points in computing these items.
- b. Employees shipped to work on projects more than fifty (50) miles beyond the union hall they are referred out of, shall be paid subsistence allowance. The current State of New Mexico Official Highway Map shall be the reference for routes and distances.

9. **Special Working Rules:**

a. **Higher Classifications.**

- (1) When a Laborer is assigned to work for more than thirty (30) minutes at a different classification calling for a higher rate of pay, he shall be paid the higher rate for actual time worked up to a maximum of a half shift. If the work assignment does not exceed a period of thirty- (30) minutes, the lower rate of pay of his regularly assigned classification shall prevail up to and including a thirty-minute assignment. In no event, is an employer to rotate employees who are competent to perform the higher classified work to circumvent paying the higher wage.
- (2) When a work assignment that carries a higher rate of pay exceeds half a shift the Laborer shall receive the higher rate of pay for the shift worked.

b. **Foremen:**

- (1) Laborers working with a crew of other craftsmen, such as Carpenters, Cement Masons, Bricklayers, Plasterers, etc., may be supervised by the craft foremen of the crew with whom the laborers are tending, serving or assisting.
 - (2) When Laborers are employed in a crew not part of a craft operation, there shall be a Laborer Foreman employed to direct and supervise their work. The Laborer Foreman employed in this manner may, at the discretion of the Contractor, be a working foreman and required to perform the same type of work as the Laborers of the crew over whom he has supervision. The maximum number of Laborers in one crew to be supervised by one Foreman in this manner shall be determined by the Contractor. A Laborer Foreman shall be selected by the Contractor. A foreman shall be considered one who keeps time and exercises general supervision over a group of Laborers.
- c. **General Laborer Foreman.** When three foremen have been hired in any one project, one shall be recognized as a General Foreman with authority over the other two or more foremen.

- d. **Fringe Benefit Contribution for Supervisors.** Where any employee from the bargaining unit is hired as superintendent, assistant superintendent or general foreman, or in any other capacity as a supervisor as defined in the National Labor Relations Act, the Contractor shall pay fringe benefits as provided for herein, when authorized in writing by the employee for the term of his employment.
- e. **Caisson Work:** When Laborers are required to perform work directly or indirectly in connection with drilling of caissons on a building construction job site, the area rate established will be paid. When other work, such as bellers or jack-hammers work, is to be performed six (6) feet or lower they shall receive thirty cents (\$.30) per hour over their normal rate of pay, including semi-skilled workers.
- f. **Tenders Defined - Mixing, Handling, Conveying Materials:**
- (1) **The following applies to commercial construction:** Carpenter Tenders (Laborers) may perform the following specific tasks: All workers conveying materials from last storage place on the job to the scaffold or place where mechanics are to use same are to be known (as the case may be) as: Carpenters Tenders, Cement Masons Tenders, Masons Tenders, Plasterer Tenders, or Tenders to any respective skilled craft they are tending, and such Tenders shall receive Tenders' rate of pay. Also, the term, "Tender" shall cover the mixing, handling and conveying of all materials used by Masons, Plasterers, Carpenters, Plumbers, and other building and construction crafts. Mortar Mixers shall clean their machine(s) at the end of their shift.
 - (2) All Laborers helping Cement Masons mix and apply finish to concrete slabs shall be classified as Cement Mason Tenders.
 - (3) Laborers tending to Carpenters or carrying or furnishing any type of materials to Carpenters shall be known as Carpenters' Tenders.
 - (4) The following provisions apply to carpenter tenders working on Industrial Power Plants, Copper Smelters, Gas Refineries, DOE Nuclear Power Plants, and Coal Mine Sites:

Carpenter tenders strip all forms from concrete surface panels, flat arches, and other forms that will be reused. Such work can be done with a composite crew of carpenters and laborers;

Carpenter tenders perform cleaning and oiling of said forms;

Carpenter tenders carry and handle all materials by hand to a point adjacent to the place of erection and assist in the placement of materials;

Carpenter tenders perform erection and dismantling of Safeway or metal patent scaffolds;

Carpenter tenders unload, handle, distribute sheet rock and metal studs from trailer trucks to stockpiles at the appropriate point of installation by the responsible contractor.
- g. **Public Works Predetermination Provisions.** In the event an individual employer bids a public job or project being awarded by a federal, state, county, city or other public entity and this job is to be performed at a predetermined and/or prevailing wage rate established by the Secretary of the U.S. Department of Labor (pursuant to the Public Law 74403 as amended by Public Law 88 349 whose regulations are contained in 29 CFR Parts 1, 2, 3, 5,

and 7) or by the Commissioner of the New Mexico Labor and Industrial Commission or by a County, City or other public entity and the predetermined hourly rate is lower than the negotiated rate established in the Agreement, the predetermined hourly wage rate which exists at the time of the bid may be applied to the project for the duration of the project. However, if the predetermined wage rate is lower than the negotiated rate in this contract by more than five (5) percent, the negotiated rate less five (5) percent may be applied to the project by the contractor. If there is an increase in the predetermined rate for a particular job during the course of that job, the contractor shall pay that increase as of the effective date of such increase. The negotiated fringe package shall apply in all cases.

- a. If a contractor intends to utilize this provision, he must notify the Union in writing by FAX or letter at least 48 hours prior to the start of this work.
- b. The employer will, when requested in writing, supply accurate and reliable information on company stationery that will assist the Union in establishing the correct rates when responding to requests for prevailing wage data.

ARTICLE XIV - GENERAL

1. **Entire Agreement.** This Agreement contains all of the covenants, stipulations and provisions agreed upon by the parties hereto and no agent or representative of either party has authority to make, and none of the parties shall be bound by or liable for, any statement, representation, promise, inducement, or agreement not set forth herein. This Agreement may not be changed, amended or modified except by writing, signed by the Council and AGC.

Further, if any provision of this Agreement imposes conflicting obligations on one or both of the parties with regard to any federal, state, or local law, the application of such provision or term shall be suspended, and the parties shall meet to negotiate a replacement provision or term. Article X shall remain in full force and effect, and this Article shall not be the subject of arbitration.

2. **Headings.** Headings have been inserted for convenience only, and shall not be considered in the interpretation of any provision hereof.
3. **Notices.** All notices given or required to be given hereunder shall be in writing and delivered personally, mailed certified, return receipt requested, or by telegram, and shall be deemed to have been given on the date of delivery, mailing or wiring, as the case may be.

ARTICLE XV - SIGNATORIES

1. **Contractors.** This Agreement has been negotiated by the Association for and on behalf of those Contractors, members, and non-members, who have authorized the Association in writing to represent them in collective bargaining and shall be binding on each such Contractor only with respect to the Unions or crafts specified in its authorization. Upon the execution hereof, the Association will deliver to the Council a list showing each Contractor who has so authorized it. General Contractors who are not so represented by the Association on the date of execution hereof may become signatories to this Agreement and thereupon shall be bound by it, with respect only to the Unions or crafts designated by them in writing.
2. **Unions.** This Agreement has been negotiated by the Council for and on behalf of the Union that has authorized the Council to represent it in collective bargaining and shall be binding on the Union.

ARTICLE XVI - TERMINATION, RENEWAL AND REOPENING

1. Term.

- a. This Agreement shall commence as of October 1, 2003, and shall remain in effect until June 1, 2007. It shall remain in effect from year to year thereafter unless either party terminates this agreement as of June 1, 2007 or any subsequent June 1st, by written notice by July 1, 2006, or any subsequent July 1st, preceding any June 1st termination date. Parties to this agreement agree to start negotiating by October 1st Preceding the June 1st termination date of this agreement any, subsequent October 1st preceding June 1st termination date.
 - b. If during the term or any subsequent term of this Agreement, legislation is enacted which alters the present NLRB case law governing so-called "double-breasted" operations or alters the NLRB case law regarding so-called "common-situs picketing", and such case law creates, in the employer's opinion, a specific problem on the employer's project or with its double-breasted operations, then upon written notice identifying the problem, any party to this Agreement may declare this Agreement open for negotiations to discuss all terms and conditions contained herein.
2. **Davis-Bacon Re-Opener:** In the event that the provisions of the Federal Davis-Bacon Act. 40 USC 276 (a) and/or the provisions of the State of New Mexico prevailing wage act are repealed or substantially modified in a manner which adversely affects the ability of signatory employers to compete for state or federal work, either party may reopen this agreement to negotiate appropriate changes in terms and conditions of employment to maintain contractor competitiveness for such work. Such as:
- a. **Targeting.** Targeting specific jobs with other wage rates and conditions designed to improve competitiveness. In all cases the Union will notify the association and all signatory contractors who are bidding the targeted job of the special conditions that exist for that targeted job.
3. The Union hereby agrees that, during the course of the sixty (60) days that follow the date of intent to open this Agreement for negotiations, there will be no picketing of secondary gates conducted or condoned by the Union. Further, the Union disavows any claim of coverage of this Agreement to business entities other than those which are actually signatory hereto, or to any other employees who are not part of the bargaining unit which the Union represents as of the effective date of this Agreement, unless those employees authorize the Union to represent them in writing.
4. **Arbitration.** Article VIII, Section 3 (Arbitration) shall not apply to any such re-opening or to any impasse in negotiations as a result thereof.
5. **National Health Program.** In the event that a National Health Insurance program is enacted, the Employer contribution to the current Health and Welfare program as described in Article XI paragraph 5, shall be applied to any cost incurred by the Employer in connection with a National Health Plan. If the current contribution either exceeds or does not cover the cost of this program this Agreement may be reopened unilaterally to renegotiate Article XI, Paragraph

Notwithstanding any re-opener of this Agreement, Articles X and XIV shall remain in effect and may not be re-opened until June 1, 2007, unless the parties agree in writing signed by the parties to re-open them. There shall be no strikes or lock-outs within 60 days of any re-opening of this agreement, if Article X becomes a subject during any re-opening.

ARTICLE XVII - GENERAL SAVINGS CLAUSE

It is not the intent of any party to violate any laws or any rulings or regulations of any governmental authority or agency having jurisdiction of the subject matter of this Agreement; and if any provision of this Agreement is held to be void as being in contravention of any such laws, rulings, or regulations, the remainder of the Agreement shall remain in full force and effect unless the parts so found to be void are wholly inseparable from the remaining parts of the Agreement.

Further, if any provision of this Agreement imposes conflicting obligations on one or both of the parties with regard to any federal, state, or local law, the application of such provision or term shall be suspended, and the parties shall meet to negotiate a replacement provision or term. Article X shall remain in full force and effect, and this Article shall not be the subject of arbitration.

This Agreement is approved and entered into this 1 day of October, 2003

By:

THE NEW MEXICO BUILDING BRANCH, AGC,

For and on behalf of the Contractors

whom it represents as set forth in article XIII Section 1,

for AGC:

Victoria D. Moran

Date: October 1, 2003

and

THE SOUTHWEST LABORERS' DISTRICT COUNCIL

for and in behalf of Local Union #16

which it represents as set forth in Article XV Section 2.

Additional Signatories:

For the Contractor:

Tonym Thomas

Date: Oct. 1, 2003

For the Union:

Fidel Arroyo
Bus Mgr / Sec Treas

Date: Oct 1-2003

ADDENDUM A – PRIVATE WORKS

THIS ADDENDUM HEREBY INCORPORATES BY REFERENCING THE TERMS AND
 CONDITIONS OF THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE
 SOUTHWEST LABORERS' DISTRICT COUNCIL
 AND
 NEW MEXICO BUILDING BRANCH
 ASSOCIATED GENERAL CONTRACTORS
 EFFECTIVE OCTOBER 1, 2003,
 EXCEPT FOR THE TERMS AND CONDITIONS LISTED BELOW
 WHICH TAKE PRECEDENCE:

- I. Coverage: All terms and conditions of the Laborers' and AGC Agreement will apply to this addendum. This addendum applies to private building construction or residential within the jurisdiction of the Southwest Laborers' District Council with the following exclusions: Any construction or additions to any project for which the main purpose is (a) the production of basic metals, alloys, or fossil fuels; (b) refining; (c) mining and smelting; (d) palletizing; (e) ore or coal handling; (f) power generation plants; (g) cement plants; (h) dams and locks; (i) railroads; (j) breweries; (k) tire manufacturing and rubber production plants; (l) paper mills.

"Private Construction" is defined as construction which is not covered by the Davis Bacon Act or its equivalent.

Resolution of Disputes: In the event a dispute arises over the application of this Addendum, it shall be settled in accordance with the grievance procedure of this agreement (Article VIII).

Wage Rates:

	10/01/03	06/01/04	06/01/05	06/01/06
Group I	11.15	11.32	11.67	12.02
Group II	12.14	12.32	12.68	13.07
Group III	13.22	13.51	13.91	14.32
Group IV	15.44	15.64	16.10	16.59

ARTICLE IX – FRINGE BENEFITS AND UNION DUES CHECK-OFF

Fringe Benefits:

	10/01/03	06/01/04	06/01/05	06/01/06
Health & Welfare	1.65	2.05	2.45	2.45
Pension	1.10	1.10	1.10	1.10
Training	.25	.25	.25	.25

Paragraph 2.

d. **BUILD NEW MEXICO:** The Agreement and Declaration of Trust of "Build New Mexico" is hereby incorporated into this Agreement. The program is supported by a three cent (.03) per hour contribution from the employer and a three cent (.03) deduction from wages, effective October 1, 2003.

e. **SOUTH CENTRAL REGIONAL LECET:** The Agreement and Declaration of Trust for South Central Laborers-Employers Cooperation and Education Trust (LECET) is hereby incorporated into this Agreement. This program is supported by a three cent (.03) per hour contribution, which is deducted from wages.

\$.03 – Build New Mexico
\$.03 – South Central LECET

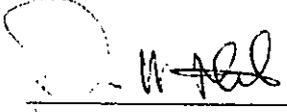
The employer shall also contribute \$.03 per hour to BUILD New Mexico, effective with jobs bid or negotiated on or after October 1, 2003.

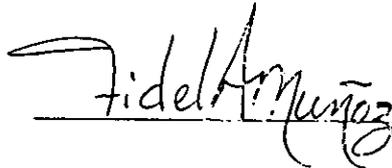
All other language remains the same.

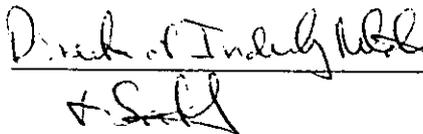
Agreed this 1 day of Oct, 2003, by and between:

New Mexico Building Branch,
Associated General Contractors

Southwest Laborers' District Council









K 8802
3,000 workers

30 pgs.

10/1/2000-10/1/2003

Labor Agreement

Between

The New Mexico Building Branch,

Associated General Contractors of America

And

The New Mexico

And

Western Texas Laborers' District Council,

Local No. 16

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LABOR AGREEMENT
Between the
NEW MEXICO BUILDING BRANCH, AGC and the
NEW MEXICO AND WESTERN TEXAS
LABORERS' DISTRICT COUNCIL
LOCAL NO. 16

THIS AGREEMENT ENTERED INTO ON October 1st, 2000 by and between the NEW MEXICO BUILDING BRANCH, AGC, INC., (hereinafter referred to as the ASSOCIATION or as AGC), for and on behalf of those of its members, as well as non-member contractors, whom it has been authorized to represent in collective bargaining and other contractors who may become signatory hereto hereinafter referred to as the CONTRACTOR OR CONTRACTORS, EMPLOYER OR EMPLOYERS);

And the

NEW MEXICO AND WESTERN TEXAS LABORERS' DISTRICT COUNCIL (hereinafter referred to as the "Council") for and on behalf of its affiliated LOCAL UNION NO. 16, which is signatory hereto, (hereinafter referred to as the UNION), the UNION being the collective bargaining agent for its members who are employed in construction work.

The CONTRACTORS are engaged in construction, general and specialty work in New Mexico; and in the performance of their present and future contracting operations; the workmen are represented by the UNION.

The CONTRACTORS desire to be assured of their ability to procure employees for all work that they may do in the State of New Mexico in sufficient numbers and skill to assure continuity and quality of work in the performance and completion of their construction contracts.

It is the interest of all the parties to establish uniform rates of pay, hours of employment and working conditions which shall be applicable to all workmen represented by the UNIONS and performing work for the CONTRACTORS as such work is hereinafter defined in this Agreement, and to provide for peaceful and harmonious relationships during the term of this Agreement.

IT IS AGREED:

ARTICLE I - COVERAGE AND RECOGNITION

- A. **Construction.** This agreement shall apply to building construction, and includes work performed by contractors signatory hereto on Industrial Power plants, Copper Smelters, Gas Refineries and DOE sites i.e. (Los Alamos National Labs, Sandia National Labs, Sandia Labs, Kirtland AFB, Cannon AFB and Holloman AFB, Coal Mine Sites.
- B. **Definitions.**

(1) "Building Construction" and "Construction" shall mean: i) the construction, erection, alteration, repair modification, addition to or improvement in whole or in part, or demolition, of any building structure; ii) excavation, grading or similar operations which are incidental thereto; and iii) the installation, operation, maintenance and repair of equipment and other facilities used in connection with the performance of such building construction and performed at the job site, but excluding manufacturer's warranty repairs and excluding any maintenance work where a Laborers' Service Contract is in force.

- (2) "Building structure" shall include all commercial, industrial or governmental buildings.
- (3) "Excavation", "grading", and "similar operations which are incidental thereto" shall include all excavation, back fillings, curbs and gutters incidental to building construction.
- (4) There is excluded from this agreement are all road, highway and street work; the paving of parking lots; and all works incidental to any of the foregoing, including all excavation, backfilling, curbs and gutters. Also Excluded is residential construction except by addendum to this Agreement.

C. Yard, Shop and Warehouse Work.

All work performed in the Contractor's warehouses, shops or yards which have been particularly provided or set up to handle work in connection with a job or project covered by the terms of this Agreement, shall also be subject to the terms and conditions of this Agreement, except clean-up and maintenance of home, yard, shop and warehouses, and except when yard, shop or warehouse work is performed under the terms of other agreements with the UNION.

D. Observance of Agreement in Subcontracts:

- (i) Each subcontract for construction, covered under the terms of this Agreement, granted by a contractor shall require that the subcontractor observe all terms of this Agreement except where the covered work is only incidental to the subcontract. Incidental is defined as very minimal. (ii) Each contractor shall be responsible for payment of all wages and fringe benefits owed by the subcontractor to any worker covered under this Agreement for work performed on the contractor's job, provided that written demand is sent to the subcontractor, with a copy to the contractor, and payment has not been made within five (5) working days after receipt of such demand by the subcontractor. Moreover, the union Contract Administrator of the employee benefits fund will be responsible for notifying active signatory general contractors and members of delinquencies by the 25th of each month (postmark shall be the determining date). If the union does not notify the affected general contractor of the delinquency of a subcontractor by the 25th of the month following the end of the month in which the time was worked, the general contractor will not be responsible for the payment of wages and fringe benefits of the subcontractor. Further, the union shall withhold employees from the delinquent subcontractor and take whatever action it deems prudent in order to enforce compliance, provided, however, the union has notified the affected contractor(s) within (5) days prior to the commencement of such action as per Article IX of this Agreement. Action taken under this provision shall not be deemed a violation of the no-strike provisions of Article X during the period of any such delinquency.

As used in this Agreement, subcontracting is the performance on the job site of covered construction by any person, firm, or corporation pursuant to an agreement with a contractor or subcontractor. A subcontractor is one who performs subcontracting and includes the subcontractor of a subcontractor.

This clause applies to laborers working in support of primary crafts to which the contractor is signatory.

The general contractor will seek bids from union subcontractors. If union subcontract bids that are received are not competitive and a non-union subcontractor is used, the general

contractor will so notify the union within 48 hours of bid time, Saturdays, Sundays, and holidays excluded.

At the option of the union, the general contractor will arrange a meeting of a representative of the union, the subcontractor, and a representative of the general contractor, to discuss the possibility and merits of a labor agreement prior to the subcontractor, and a representative of the general contractor, to discuss the possibility and merits of a labor agreement prior to the subcontractor starting work on the project. If an agreement is not reached between the subcontractor and the Union and if the general contractor uses the non-union subcontractor, this Article I.1.D does not apply.

Union Recognition. The Union signatory hereto is the exclusive bargaining representative for all employees performing construction work within the craft jurisdiction of the Laborers. The CONTRACTORS recognize the Union as the sole exclusive collective bargaining representative for the workmen employed to perform, and performing construction work in New Mexico. The jurisdiction of the UNION shall be that which has been historically defined by the Building and Construction Trades Department of the American Federation of Labor Congress of Industrial Organizations and as it may be further defined through jurisdictional agreements, decisions and awards.

Association Recognition. The UNION recognizes the ASSOCIATION as the sole and exclusive collective bargaining representative for those of its members whom it is authorized to represent in collective bargaining, and any other contractors who become signatories hereto, as provided in Article XIV.

Excluded Employees. Notwithstanding anything contained herein to the contrary, the following categories of the CONTRACTORS' employees shall not be covered by the provisions of this Agreement: Executives; superintendents; assistant superintendents; chainmen and stake drivers working for licensed surveyors; civil engineers; engineers in training; engineering technicians; all supervisory employees and guards as defined in the National Labor Relations Act, as amended; timekeepers; messengers; office workers; and any other classes of employees which may be excluded from coverage under the National Labor Relations Act as from time to time amended.

Effect of Agreement. This Agreement applies to all construction work performed in New Mexico by CONTRACTORS. However, if any UNION enters into an agreement with any employer covering construction in any part of New Mexico, which agreement provides for lower wage rates or working conditions or terms of any kind which are more favorable to the employer than this Agreement, (all hereinafter referred to as "more favorable terms") then such more favorable terms shall forthwith become part of this Agreement and shall supersede the wage rates, working conditions and provisions hereof, regardless of whether such agreement is limited to one or more employers or covers less than the geographic jurisdiction of the UNION.

ARTICLE II - HARMONY AND COOPERATION

1. Management Rights. The Employer retains full and exclusive authority for the management of his operations. By way of illustration only, and not limitation either as to authority or types of authority retained, this authority shall include, but not be limited to, the following: The Employer shall direct his working forces at his sole prerogative, including but not limited to, hiring, promotion, transfer, lay-off, or discharge for just cause. No rules, customs, or practice shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees. The Employer may utilize the most efficient methods or techniques of construction, tools, choice of materials or design. The Employer shall schedule work, and shall determine when overtime will be worked; provided, however, that no employee shall be required to work under any conditions that are injurious to his health or safety, as

provided in the Federal or State regulations governing construction. The selection of craft foremen over workmen of their respective crafts shall be entirely the responsibility of the employer.

The following language is added: Notwithstanding any of the provisions of the Agreement, the Contractor, at his sole discretion, may take such actions as are necessary to effectuate compliance with the Americans with Disabilities Act. Such an action shall not be a violation of this Agreement, nor shall it be a subject of arbitration.

2. **Meetings.** The representatives of the Council and of the Association shall meet on problems of mutual interest at such times and places as may be agreed by their respective chairmen.

3. **Pre-employment Conferences.** Prior to commencing work on a project, CONTRACTORS' representatives and UNION representatives shall hold a pre-employment conference at the request of either party.

4. **Public Construction Projects.** The parties will cooperate on public construction projects, federal and state, to the end that authorized construction projects shall be awarded to the contract construction industry and that contracting officials will be accurately and fully informed as to fringe benefits and prevailing rates of pay.

ARTICLE III - ACCREDITED REPRESENTATIVES AND STEWARDS

1. **Access.** Accredited representatives of the UNION shall have access during working hours to all open jobs. Access to jobs being put in place under governmental restrictions shall be subject to the regulations prescribed by the owner. Accredited representatives shall not delay workmen or the progress of the job during working hours. Contractors agree to assist Unions toward securing access to closed jobs. "Closed" and "open" refer to jobs on which Federal government security clearance is necessary for personnel.

- a. Each steward appointed by the Union for any job site permitted with in this agreement shall first be required to have completed a steward training program provided for by the Union.

2. **Stewards.**

- a. A craft steward may be designated in writing by a business representative of the Union for each job, from the employees currently working on the job.
- b. The Steward shall be permitted on a job at all times; shall be a working employee; and shall not be subject to discharge on account of Union activities. Such activities shall not unreasonably interfere with the Steward's work for the Contractor. A steward, however, can be discharged.
- c. The Contractor shall be notified in writing of the selection of each steward. The Contractor shall give the Council prior written notice before discharging a steward.
- d. The Employer shall notify the appropriate Union at least two (2) working days prior to the intended layoff of a working job steward. This provision does not apply to discharges for "just cause".
- e. The steward's duties shall include, but not necessarily be limited to the following:

- i) Check the job referral of each employee dispatched under the terms of this Agreement to the Contractor.
 - ii) Work with the Contractor's designated representative in charge of the job in an attempt to resolve disputes prior to the application of the grievance procedure.
 - iii) Report to the Contractor's designated representative any employee covered by this Agreement who works for less than the negotiated wage scale, for less than the overtime rate or who goes to work without the job referral.
 - iv) Report to the Contractor's designated representative any work belonging to the craft being done by non-union men or by workmen of another craft.
 - v) Report to his business representative any grievances that have not been resolved under Step 1 of the grievance procedure (Art. VIII 2a.)
 - vi) Report to his business representative any employee covered by this Agreement who leaves the job site without giving the employer and job steward prior notice.
 - vii) Report any reckless or unsafe employees covered by this Agreement on the job site to the Contractor's designated representative or his business representative.
 - viii) In case of an injury to an employee, the steward shall care for the injured employee's tools.
 - ix) The steward shall suffer no lost time in the performance of his duties as outlined or in the securing of weekly report.
- f. The job steward shall not cause or encourage a work stoppage, and shall not encourage, or cause, any employee to leave a job, or discourage any employee from reporting or cause any employee not to report, for work. Violation of this subparagraph shall constitute cause for immediate discharge.

ARTICLE IV - SETTLEMENT OF JURISDICTIONAL DISPUTES

1. There will be no strikes, no work stoppages or slowdowns or other interference's with the work because of jurisdictional disputes.
2. The Employer shall assign work. If a dispute arises, the Employer's assignments shall be followed until the matter can be resolved.
3. Welding torch. The welding torch is a tool of the trade having jurisdiction over the work being welded. Craftsmen using the welding torch shall perform any of the work of their trade and shall work under the supervision of the craft foreman.
4. Trucks (one ton and under) may be operated by members of this union for transporting of tools, materials, and equipment related to their work.

5. The employer may assign work normally performed by laborers to members of another union provided that: (1) this work does not exceed two man-hours per day and (2) the other union agrees to this same language in its collective bargaining agreement.

ARTICLE V - UNION SECURITY

1. **Employer's Freedom.** Subject only to the limitations of this Agreement, the CONTRACTORS shall have entire freedom of selection in hiring. The CONTRACTORS may discharge any employee for just cause provided there shall be no discrimination against any employee by reason of any UNION activity which does not interfere with the proper performance of his work.

2. **Union Shop.** As a condition of employment, every employee performing construction work within the jurisdiction of the Union, and not a member of the Union at the time of employment, shall, after the seventh day following the beginning of such employment or the effective date of this Agreement, whichever is later, offer to become a member of the Union and tender the uniformly required initiation fees and dues. Additionally all employees who are or who become members of the Union shall remain members in good standing of the Union during the term of this Agreement, provided that the construction and application of this provision shall be subject to Section 8(a) (3) of the National Labor Relations Act, as amended.

3. **Enforcement of Union Shop.** If an employee fails to tender initiation fees and/or dues uniformly required as a condition of acquiring or retaining membership in good standing, and the Union requests the Contractor to terminate the employment of such employee for such reason, the Union shall:

- a. Inform the Contractor in writing of the specific reason for the request, including dates and other pertinent data, with a copy to the employee.
- b. The written request shall be made on the official letterhead of the Union, over the signature of the business agent or other responsible official of the Union.
- c. Prior to any termination of employment by the Contractor due only to failure to tender such initiation fees and /or periodic dues as are required by the Union, and in conformity with Section 8(a) (3) of the National Labor Relations Act, upon notice to the Contractor, the employee shall have three (3) days within which to correct the matter complained of.

4. **Save Harmless.** The UNION agrees to indemnify, defend, save and hold the CONTRACTOR harmless from all liability, loss, cost, expense and damage, including, but not limited to, legal fees, wages or other charges, resulting from any action taken, or omission to act, in good faith by any CONTRACTOR in reliance upon such written requests.

ARTICLE VI - NON-DISCRIMINATORY REFERRAL PROCEDURES

1. **Exclusive Procedure.** The Contractor shall notify each Union of the need for workers coming within its jurisdiction and the Union shall refer workers to the Contractor as provided herein. The Contractor shall hire only such workmen as are referred to by the Union, except as otherwise provided for in this Agreement.
2. **Order of Referral.** Registrants on a referral hall group list not referred to a job within the calendar month of their original registration or re-registration, must re-register between the 25th and last day of each month. Registrants who fail to reregister will be dropped from the group list.

3. **Qualification Records.** The Union shall require all applicants registering for the first time under this Article to submit a resume of experience and qualifications in order that they may be classified in their appropriate group and in order that referrals may be made, when requested, on the basis of special skills and abilities. When Contractors require and call for workmen possessing special skills and abilities the Union shall refer the first applicant in the priority group who possesses such special skills and abilities. The UNION makes such referrals solely on the basis of qualifications as set forth in the applications, and the Union assumes no responsibility for the actual abilities of the particular workers referred.
4. **Hiring Hall Fees.** In order to help defray the cost of providing hiring hall services to the workers and employers, the signatory Unions may charge a registration fee, not to exceed the reasonable proportionate cost of operating the referral hall, to any applicant who is not a member of the Local Union when he seeks to register.
5. **Areas Not Served.** The Contractor shall be free to recruit sufficient workmen outside the referral hall, and such workmen need not be registered, in either of the following events: a) If Union referral facilities fail to provide required workmen sufficient to fill the Contractor's request within forty-eight (48) hours following such request (Saturdays, Sundays and holidays excepted); or b) where it is apparent that referral cannot be made by the Union within the required forty-eight (48) hours, in which event the Union shall promptly so notify the Contractor. In either case, the Contractor shall notify the Union weekly, in writing, of any such hiring.
6. **Non-discrimination.**
 - a. Registration and referral of job applicants shall be on a non-discriminatory basis and shall in no way be affected by Union membership, by-laws, rules, regulations, constitutional provisions, or any other aspect or obligation of Union membership, policies or requirements, or by any consideration which applicable anti-discrimination statutes forbid as a criterion for employment.
 - b. Each Union will take affirmative action in order to implement the federal government policy of equal employment opportunity and to follow the guide lines set forth in Executive Order No. 11246 and any amendments thereto, the Equal Employment Opportunity Act of 1964 as amended, and any other applicable Federal or State anti-discrimination statute. Each Union will establish a source of recruitment for minority, female, and Vietnam-era Veteran job applicants by contacting recognized representatives of those groups in their state and by taking such other steps as are necessary to comply with such statutes. If any Union is unable, within a reasonable time, to provide a Contractor with applicants who satisfy the criteria or requirements contained in any regulation of, or program or agreement entered into by such Contractor or Union with the Equal Employment Opportunity Commission, Office of Federal Contract Compliance, Demonstration Cities Act, or any other regulatory or contract-awarding agency of government which has jurisdiction, such Contractor may recruit and hire, in any manner, workers sufficient to satisfy its needs. The Employer shall notify the Union of the name and address of any employee so hired, within two (2) days after the commencement of employment. Such employee shall be subject to all terms and provisions of this Agreement.
 - c. The parties to this Agreement recognize the need to accommodate the disabled. In so doing, the Union agrees that it will conduct the operation of its hiring/referral hall consistent with the requirements of the Americans with Disabilities Act. This conformance with ADA includes, but is not limited to, the making of referrals in such a way as to assure that the Contractor can make determinations as to "reasonable accommodations." Further, the Union

shall not refuse to make referrals because it believes that "reasonable accommodations" are not possible. The Contractor shall have sole discretion to hire workers outside the hiring/referral hall in the event it determines that the Union's conduct is not consistent with the terms of the Americans with Disabilities Act. Contractor shall notify the Union of the name and address of any employee so hired, within two (2) days after commencement of employment. Such employee shall be subject to all terms and provisions of this Agreement.

7. **Right to Reject.** The Contractor may reject any Union-referred applicant for any reason other than Union or non-Union status. The Contractor shall maintain a written record of referred applicants who have been rejected for employment, together with the reasons for such rejection. Such records will be sent to the Union via fax or mail within 24 hours of rejection.

8. **Employment Records.** In addition to the application forms and registration lists provided for herein, the Union shall maintain an employment record showing for each applicant registered thereunder, for each of his employment's during the year immediately prior to his first registration, and for each of his subsequent employment's, whether or not they be with a Contractor, the following data:

- (1) Name of Contractor
- (2) Dates and places of employment
- (3) Nature of employment
- (4) Industrial accidents in which involved, their nature, duration and disposition
- (5) Reasons for termination of employment

THE CONTRACTOR SHALL EACH MONTH FURNISH INFORMATION ON STATUS CHANGES, IF ANY, TO THE APPROPRIATE REFERRAL HALL ON INDUSTRIAL ACCIDENTS AND TERMINATION AND THE REASON THEREFORE.

9. **Access to Facilities and Records.** The Contractor or the Association shall have the right at any time to inspect the referral hall facilities, examine any and all records pertaining to its operation or otherwise provided for herein, and make any investigation necessary to establish that the terms of this Article are being fully complied with. Any information contained in the records provided for under Sections 4, 8, and 9 shall be made available to any Contractor or the Association, by telephone or by mail, as it may request.

10. **Posting.** A full copy of this Article shall be posted in plain view and made available for inspection by applicants for employment and employees, at the referral hall at or near the place of registration, at each building site, at each Contractor's permanent office and at any other place where notices to employees and applicants are customarily posted. The notice shall carry in bold type the following:

"NOTICE TO ALL APPLICANTS, WHETHER OR NOT MEMBERS OF A UNION: An Agreement exists between the NEW MEXICO BUILDING BRANCH, AGC, and the NEW MEXICO AND WESTERN TEXAS LABORER'S DISTRICT COUNCIL and its affiliated LIUNA LOCAL NO. 16 providing for a nondiscriminatory system for recruiting applicants for employment."

11. **Areas Excluded.** This Article shall have no application to construction work to be performed or put in place in an area so remote that the Union cannot provide registration and referral service through a referral hall for the site or project, of which fact the Union shall promptly notify the Contractor, or when, due to some governmental rule or regulation, the registration or referral provisions herein cannot be lawfully applied to a site or project.

12. **Referral Hall Defined.** For the purposes of this Article, the term "referral hall" shall be any office or building space in the charge of a Union representative in possession of the required employment records, and having adequate personnel and facilities for the registration and referral of applicants for employment and the maintenance of records and supplying of information as required herein.

a. The Union shall furnish a list of referral halls on request.

13. **Apprenticeship.** Term "applicants for employment" as used in this Article shall be construed to include applicants for employment as an Apprentice.

14. **Documentation and Verification:** The Employers and Union will work cooperatively to assure that both parties comply with their legal responsibilities under the Immigration Reform and Control Act of 1986. In so doing, the Union will request from each employee before referring them to an employer, documentation which establishes citizenship or other legal status to work in the United States. These documents shall be any of the documents that are allowed under the regulations promulgated under IRCA. Copies of this documentation shall accompany the referral to the employer. This section may be amended mutually when regulations are finalized on these requirements.

15. **Save Harmless.** Should either the Contractor or Union violate, or fail to comply with, any of the terms or conditions of this Article, by discrimination or otherwise, and thereby cause liability to be asserted against or imposed on the other, the non-complying party shall indemnify, defend, save and hold the other harmless from any and all liability, loss, cost, expense, and damage, including, but not limited to, legal fees, wages or other charges incurred by reason of such conduct.

16. **Special Referral Procedures:**

(1) Referral Hall hours in the Albuquerque office shall be from 8:00 a.m. to 9:30 a.m., and from 2:30 p.m. to 4:00 p.m., Monday through Friday, holidays excepted.

(2) Referral Hall hours in all sub-offices in the state, i.e. Farmington, Espanola and Las Cruces, shall be from 8:00 a.m. to 9:30 a.m., Monday through Friday, holidays excepted.

(3) In the event of an emergency, the referral halls will call to fill job orders at any time. Any Contractor requesting emergency call will document this request to the Union in writing.

(4) **Group A:** Applicants who have worked as Building and Construction Laborers for at least one year immediately prior to application and who have maintained actual physical residence within New Mexico for at least one year immediately prior to application, or have completed training through the New Mexico Laborer's Training Trust Fund.

(5) **Group B:** Those who do not qualify for registration in Group A.

(6) **Requests by Name:** The Contractor may request every other applicant from Group A by name or any applicant by skill regardless of the applicant's position on the "A" list. Only the Contractor's general office may request employees by name. All requests shall be made in writing.

- (7) Veterans automatically qualify for "A" listing when they have been honorably discharged from the service or released from hospitalization, if such discharge or release occurred within ninety (90) days prior to the date the request for such employee is made, provided however the foregoing shall not be construed as altering a Veteran's re-employment rights established under the Universal Military Training and Service Act.
- (8) Any registrant who is passed over by virtue of not being present in the referral hall when his place on the list would otherwise have entitled him to referral shall maintain his relative position on the particular group list on which he is registered. Any registrant who is rejected by a Contractor, as provided in this Agreement shall be immediately restored to his prior place within his group list and shall be referred to another Contractor in accordance with the position of his group and his place within the group. When a referred registrant has been employed on a job for one day, his name shall be removed from the list until such time as his employment has been terminated, at which time he shall be re-registered at the bottom of the group list for which he qualifies. When a properly referred registrant refuses to accept employment, after accepting referral, or quits, his name shall be placed at the bottom of the group list for which he qualifies.
- (9) Referral Complaints. Where any job applicant is aggrieved: (1) because of his group classification, or (2) because of his order of referral, or (3) for any other reason related to the operation of this referral system, the aggrieved may within ten (10) days following the occurrence of the event constituting the basis for his grievance file a written and specific statement of his grievance with (a) the Union representative in charge of the referral hall against which he is complaining, and (b) any Contractor signatory to this Agreement or the Albuquerque office of the New Mexico Building Branch, AGC, a branch of the Associated General Contractors of America.
- (10) Appeals. An Appeal Board consisting of a contractor's representative, a Union representative, and a chairman appointed jointly by the other two members shall within five days after the grievance is first filed, consider the grievance, and within five days thereafter, render a written decision according to the letter and spirit of this Agreement, which decision may be by majority vote and shall be final and binding. The Appeal Board may formulate and issue procedural rules for the conduct of its business but shall not add to, subtract from, or modify in any way any provisions of this Agreement. An aggrieved will be given at least three days notice of the time and place where his appeal will be heard.
- (11) Student Employment. During summer vacation, a student may be employed as a Laborer, after five (5) other Laborers have been employed. Another student may be employed when five (5) additional Laborers or major fraction thereof have been employed by the Contractor. It is hereby understood and agreed that all students shall comply with Article V of this Agreement. All students shall clear through the Hiring Hall and get a referral before going to work. Students who have not been members of the Union may be employed as described above at the trainee wage rate. All requests shall be made in writing.

ARTICLE VII - UNIVERSAL WORKING RULES:

1. **Single Daytime Shift.** Eight consecutive hours exclusive of lunch period, shall constitute a day's work. Forty hours, from Monday through Friday, exclusive of lunch periods, shall constitute a week's work. Such work shall be paid for at the applicable straight time rates set forth in the wage schedules attached hereto.

A contractor may elect, provided he so states at a pre-job conference prior to the start of a job, to work shifts of more than eight (8) hours per shift but no more than ten (10) hours per shift at the straight rates. Overtime rates as applicable shall apply to all time worked in excess of ten (10) hours per day, forty (40) hours per week, Saturdays except make-ups, Sundays, and Holidays. Starting and quitting times, once established, shall be uniform and consistently applied.

The Employer shall be allowed to implement a four consecutive day per week work schedule at ten hours per day Monday thru Thursday. This schedule (4X10) will be worked at the regular rate. The fifth day may be utilized as a makeup day, at the regular rate, if time has been lost during the workweek. If the contractor intends to work a different work schedule such as Tuesday thru Friday he may do so, provided that he notifies the Union prior to the start of a job. In all cases Saturday may be used as a make up day

2. **Overtime.** It is agreed that overtime is undesirable and not in the best interests of the Industry or the craftsmen. Therefore, except in unusual circumstances, overtime will not be worked. Where unusual circumstances demand overtime, it will be kept to a minimum.

TIME AND MATERIAL WORKED FOR SANDIA NATIONAL LABORATORIES Standard time is defined as up to forty (40) hours per week. Overtime is defined as over forth (40) hours per week. Premium time is defined as time worked on Sundays and SNL holidays. Normal SNL holidays are: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Energy Conservation Day, and Christmas Day.

The overtime/premium time rates apply to work which is performed as defined, but only when the work is specifically requested as overtime/premium work by the CPM/SDR. As long as 40 hours of work is offered to the employee for that week.

Time and one-half. The following time worked shall constitute overtime to be paid for at the rate of time and one-half the applicable straight time rate set forth in the wage schedules attached hereto:

- a. Hours in excess of eight (8) in any one day; except as provided in Section (1) above; hours in excess of forty (40) in any week.

All hours worked before and after the established work day Monday through Friday, and all hours worked on Saturdays, shall be paid at the applicable overtime rate of time and one half (1 x ½) the employees straight time rate of pay

- b. Saturday may be used as a make-up day, at the regular hourly rate, if time has been lost during the regular workweek. Provided, however, such make-up work will be performed by employees of the employer covered by this Agreement and employed on the job during the week in which time was lost. It shall not be mandatory for an employee to work a makeup-day. During a holiday week, Saturday will not be used as a make-up day for the holiday and no employee shall be discharged for his refusal to perform such work.

- c. Make-up days will be used for time lost during the regular workweek due to inclement weather or time lost beyond the control of the contractor.

Double time. All work on Sunday and holidays.

Additional Overtime Provisions

- i. Work performed in excess of five consecutive hours without a thirty (30) minutes lunch period shall be paid for at one and one-half times the straight time hourly rate until a thirty (30) minute lunch period has been provided.
- ii. No work shall be performed in excess of ten consecutive hours unless a second lunch period of at least thirty (30) minutes is furnished and the employees are paid at the applicable overtime rate therefore.
- iii. In the event the particular work in progress can be completed within the eleventh hour it may, upon mutual consent, be continued to completion without interruption, provided the Contractor pays for the lunch period at the applicable rate.

3. Multiple shifts.

- a. When so elected by the Contractor, multiple shifts may be worked for three (3) or more consecutive days.

Contractors shall have the right to designate the craft or crafts on any project or portion thereof which shall work on a multiple shift basis.

- b. If the Contractor elects to work the day shift between 8:00 a.m. and 5:00 p.m., that shift shall work eight consecutive hours, exclusive of a thirty (30) minute lunch period. The second shift shall work seven and one-half consecutive hours, exclusive of a thirty (30) minute lunch period, for which working time employees on the shift shall receive eight hours' pay at straight time rates, Mondays through Fridays. The third shift shall work seven consecutive hours, exclusive of a thirty (30) minute lunch period, for which working time employees on the shift shall receive eight hours' pay at straight time rates, Mondays through Fridays.

On three-shift operations, all time worked on the third shift shall be deemed to have been worked on the same day as the first shift started. Work in excess of seven and one-half consecutive hours on the second shift, and work in excess of seven hours on the third shift, both exclusive of lunch hour, shall be paid for at the applicable overtime rate. The Contractor may regulate the starting time of a two-shift operation.

- c. The Contractor may regulate the starting time of a two-shift operation, by starting the first shift prior to 7:00 a.m., and each shift shall work eight consecutive hours, exclusive of lunch period, for which working time employees on each shift shall receive eight hours' pay at the straight-time rate, Mondays through Fridays. Work in excess of eight hours, exclusive of lunch period, on either shift, shall be paid for at the applicable overtime rate.
- d. On regular two or three-shift operations, the contractor may deviate the starting time of the day shift by the same procedures provided for in paragraphs "a" and "b" of Section 3 above.
- e. The Contractor and the Union may agree, in writing, upon different starting or quitting times for any of the shift arrangements provided in Sections 1 and 2 above.

4. **Special Shifts.** When maintenance or remodeling work cannot be performed on the regular day shift because establishments cannot suspend operation during the day, a special single shift may be employed after the establishment closes, Monday through Friday, and employees of this shift will work eight consecutive hours exclusive of a thirty (30) minute lunch period, for which they will receive eight hours' pay at the straight time rate. In the operation of this shift, no employee will lose a shift's work. The applicable overtime rate shall be paid for hours worked in excess of eight, exclusive of lunch period, on this shift.

5. **Show-Up Time.** Workmen shall be at their regular place of work at the starting time and shall remain at their place of work until the regular quitting time. Any employee on the payroll of the Contractor or any workman referred to a job, who reports for work at the regular starting time and for whom no work is provided, shall receive two hours pay at the applicable rate, unless he has been notified before leaving home not to report, or has been discharged, laid off or has voluntarily quit the employer on the same job. Any employee who reports for work and for whom work is provided shall receive not less than two hours' pay, or shall be paid only for time worked if he has been prevented from working for reasons beyond the control of the Contractor, inclement weather, or breakdown causing discontinuance of a major unit of the project and has not been required or requested to remain on the project by the Contractor or his agent. Employees referred under Article VI to Contractors' jobs who arrive in an unfit condition for work, without proper tools or credentials, who are not ready to go to work, or who are not otherwise qualified, shall not be paid show-up time. Each employee will furnish his employer with his current address and telephone number.

6. **Payment of Wages.** Employees shall be paid weekly on the job site during working hours. No more than five (5) days pay shall be withheld from an employee's wages.

7. **Lay Offs.** Any employee who is laid off or discharged during the employer's regular office hours and who is not paid the wages due him within his regular work shift shall be entitled to eight (8) hours pay at his regular straight time rate for each twenty-four (24) hour period or fraction thereof between the end of his last shift and the time he is paid in full; provided that the employer shall be required to pay such an employee only during regular office hours. In no event shall penalties under this rule accrue against a Contractor for Saturdays, Sundays, or holidays, unless work has been normally scheduled for such days. Any employee who quits shall be paid on or before the next regular payday.

When discharge occurs outside the employer's regular office hours, the Contractor shall, on the following work day, either i) have the paycheck available at the payroll office prior to the closing of such office: or ii) if requested by the employee, mail the paycheck to the employee to the address shown on the employer's records or as may be designated by the employee. The post-mark shall be determinative of the date of mailing.

8. **Holidays.** The recognized holidays hereunder shall be New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Friday after, and Christmas Day. Whenever any of these holidays falls on Sunday, the Monday following shall be the legal holiday. No work shall be performed on Labor Day except to save life or property.

9. **Drinking Water.** Potable drinking water shall be supplied to all job sites, through bubbler-type fountains or portable water carriers that are equipped with disposable paper cups. Ice water shall be furnished when requested by the Union.

10. Employee Facilities.

- a. Toilets or latrines shall be provided at job sites in the ratio of one seat for each fifteen (15) persons employed. If privy-type toilets are provided, they shall be fly-tight, have covered seats, and shall have urinals. Toilets shall be protected from the weather and shall be provided with adequate light, ventilation and a door, and shall be kept clean.
- b. Workmen shall be permitted to store their lunches in tool and/or supply rooms, and to use such rooms for changing clothes and storing tools when not in use.

11. Job Safety.

- a. Federal or State safety regulations shall be observed by the employers and employees.
- b. Failure of an employee to observe Federal or State safety regulations, or published company safety rules which have been distributed to employees, shall be just cause for immediate discharge.
- c. Employees shall provide their own gloves, safety shoes, and hard hats. When Laborers are required to work in concrete, they shall furnish rubber boots in order to prevent burns, etc. Other protective clothing shall be furnished by the Contractor on all other work where the conditions are of such nature that protective clothing is necessary.
- d. Employees may be required to attend safety programs when offered by either the Union or the Employer.
- e. Drug-testing. The Union recognizes the right of the employer to establish a drug-testing policy for employees. Employees can be discharged for refusing to submit to drug-screening, drinking on the job, drunkenness, dishonesty or for any unlawful activity which affects the employee's performance on the job.

When the Union refers an employee to an employer which has a drug-screening program in effect, the Union will notify the employee that he will be subjected to a drug test before starting to work.

If an employee voluntarily submits to a drug screening program, the date of the test and the results shall be attached to the employee's listing at the hiring hall.

Drug and alcohol screening programs may be developed by the AGC and the union and when approved language has been developed, it shall become a part of this agreement as though contained herein.

ARTICLE VIII - GRIEVANCE PROCEDURES

1. **Definition:** A grievance is any dispute between a Contractor or the Association on one hand, and a Union on the other, arising out of this Agreement or concerning the application, interpretation, performance or breach of any of the provisions of this Agreement except Article X.

The Term "grievance" does not include a dispute over any changes in any of the provisions of this Agreement which may be requested by any party during the term hereof.

2. **Resolution of Grievances.** Prompt settlement of grievances is necessary for the maintenance of good relationships. There shall be no strikes, no work stoppages or slow-downs or other interference's with the work because of grievances. Only the methods of settlement set forth in this section 2 in the order and within the time limits specified, shall be used for the resolution of grievances, unless by Agreement between the Contractor and the Union, Steps 1 and 2 are waived, and except for the Contractors Association or Union grievances, which shall always be initiated at Step 3. The Union and the Employer or Association (whichever is handling the grievance) may extend any of the time limits specified in this Article VIII, but only by written agreement signed by the Union and the Employer or Association, as the case may be. Any such extension agreement shall apply only to the particular grievance and Step involved, and not to any future grievance or other step.
 - a. **Step 1.** The aggrieved employee or his craft steward may present the grievance to the Contractor's superintendent or general foreman at the job site within two (2) working days from the occurrence giving rise to the grievance, and these representatives shall attempt to settle the grievance. The parties shall have three (3) working days thereafter (the "Step 1 time limit") in which to settle the grievance.
 - b. **Step 2.** If the aggrieved employee, or the steward, and Contractor's representative fail to reach a settlement within the Step 1 time limit, the grievance may be referred in writing by the Union to the Contractor within five (5) working days from expiration of the Step 1 time limit and the Contractor or his personal representative shall attempt to settle the grievance with the craft business agent. The parties shall have five (5) working days thereafter (the "Step 2 time limit") in which to settle the grievance. Any settlement reached in Step 2 shall be binding on both parties.
 - c. **Step 3.**
 - 1) Any grievance that is not settled within the Step 2 time limit shall be referred, within ten (10) working days after expiration of the Step 2 time limit, to a Joint Administrative Committee. Any settlement reached by the Joint Administrative Committee shall be binding on both the parties. Decisions of a Joint Administrative Committee shall be by majority vote.
 - 2) The Joint Administrative Committee shall consist of three (3) representatives of the Council, and three (3) representatives designated by the Employer who are not directly involved in the dispute or employed by the Employer. Representatives designated by the Council shall be selected from the affiliates of three (3) separate International Unions excepting the aggrieved Union.
 - 3) If the Joint Administrative Committee cannot reach a decision within five (5) working days following referral of the grievance, (the "Step 3 time limit"), The grievance shall be referred to arbitration as provided in Step 4.
 - 4) If any party refuses to participate in the selection of a Joint Administrative Committee, then the grievance shall be heard by the representatives selected by the other party, and these representatives may, by majority vote, decide the dispute, and such decision shall be binding on both parties. If a party, having participated in the selection of representatives to a Joint Administrative Committee, refuses to

participate in hearings, the Committee shall hear the grievance in the absence of such party and may decide it.

d. **Step 4: Arbitration.**

- 1) **Reference to American Arbitration Association.** Any grievance which is not resolved within the Step 3 time limit shall be settled by arbitration in accordance with the Rules of the Labor Arbitration Tribunal (the "Tribunal") of the American Arbitration Association ("AAA"), as hereinafter provided. Any referral to arbitration must be made within ten (10) working days after expiration of the Step 3 time limit.
 - 2) **Selection of Arbitrator - "Last Man Up".** The dispute will be heard by an arbitration board consisting of the Joint Administrative Council, and an impartial arbitrator selected as follows: The AAA will provide a list of five (5) names from its Labor Panel. A single arbitrator will be selected from the panel by the following procedure: The Contractor and the Union, in face-to-face meetings or by telephone, alternately strike one name from the Panel until only a single name is left, and such remaining member of the panel will be the Arbitrator.
 - 3) **Hearing and Award.** Any grievance referred to arbitration shall be heard within fifteen (15) working days after selection of the Arbitrator, unless the time for hearing is extended by written agreement. Decision of the arbitration board shall be by majority vote. The arbitration board, or a majority thereof, shall issue a written award within ten (10) working days after the close of the hearing. Any such award shall be final and binding upon the parties and judgment thereon may be entered in any court of competent jurisdiction, Federal or State.
 - 4) **Limitation on Power of Board of Arbitrators.** The arbitration board shall have no power to alter, modify or amend any provision of this agreement, including but not limited to wage rates, hours of work, overtime, and fringe benefits provided for in Article IX hereof. The arbitration board shall not decide any other issue than such question or questions as have been properly submitted to it in accordance with the provisions of this agreement.
 - 5) **Costs.** The costs of the arbitration, including but not limited to the fee of the impartial arbitrator, shall be divided equally by the parties involved.
3. **Failure to abide by award.** If a grievance has been finally resolved in accordance with this Article VIII and either party refuses to abide by such resolution, Article X, Sections 1 and 2 shall have no effect. Failure or refusal of either party to abide by an arbitration award under this Article VIII, pending determination of an application to a court of competent jurisdiction, State or Federal, to vacate or modify such award, or pending an appeal from an order or judgment confirming, vacating or modifying an award, shall not be deemed a violation of this Article VIII or cause for nullifying Article X; provided that an application to vacate or modify and award must be made within ten (10) days from receipt thereof, and notice of appeal from an order or judgment confirming, vacating or modifying an award must be made within ten (10) days from the filing of such order or judgment, and processed expeditiously.

ARTICLE IX - FRINGE BENEFITS AND UNION DUES
CHECK -OFF

1. Time is of the essence in the filing of fringe benefit reports and payment of all contributions due. The Trustees of the various funds are under the legal obligation to enforce the terms of this Agreement regarding fringe benefits and the terms of the respective Agreements and Declarations of Trust. In addition, the Employee Retirement Income Security Act of 1974 prohibits the extension of credit to contractors.
2. There is hereby incorporated by reference herein, as though fully set forth, each Agreement and Declaration of Trust listed below:
 - a. **Health and Welfare**. New Mexico West Texas Multi-Crafts Health and Welfare Trust Fund dated April 1st, 1966 as amended.
 - b. **Pension**. Laborers. Laborers' National Pension Fund dated May 15th, 1960 as amended.
 - c. **Training Fund**. New Mexico Laborers Training & Apprenticeship Fund dated October 8, 1976 as amended.
 - d. **BUILD NEW MEXICO**. The Agreement and Declaration Trust of "Build New Mexico" are hereby incorporated into this Agreement. This program is supported by a three cent (\$.03) per hour contribution from the employer and a three cent (\$.03) per hour deduction from employees' wages.
 - e. **OHIO VALLEY AND SOUTHERN STATES REGIONAL LECET**. The Agreement and declaration of trust for South Central Laborers-Employers Cooperation and Education Trust (LECET) is hereby into this Agreement. This program is supported by a three cent (\$0.03) per hour contribution, which is deducted from wages.
 - f. **NEW MEXICO CONTRACTORS' ADMINISTRATION FUND**. The Agreement and Declaration of the Trust for Contractors' Administration Fund will automatically become part of this Agreement when it is fully developed. This fund is a unilateral management fund, the purpose of which is to defray costs of the New Mexico Building Branch, Associated General Contractors, related to collective bargaining, trust fund management, work on Joint Apprenticeship Committees, and related support activity of the New Mexico Building Branch, AGC, in training, workforce development, and safety.
3. **Basis of Payment of Fringe Benefit Contributions**. Contractor shall make contributions to the Funds listed in Section 2 of this Article IX for each hour of work covered by this agreement, whether or not the employee is a member of the Union. The Contractor shall make contributions on basis of hours work for (i.e., each straight time hour shall be counted as one hour, each time and one-half hour as one hour, each double time hour as one hour) as specified in Article XI of this agreement and respective agreements and Declarations of Trust.
4. **Designation of Trustees**. The Contractors who are or hereafter become parties hereto hereby designate as their representatives, the Trustees appointed by the New Mexico Building Branch, AGC, as their representatives on the respective Boards of Trustees of the funds provided for in Sections 2 and 3 of this Article IX, and will be bound by the actions of such Trustees made during the term of this Agreement. Trustees of said funds shall not increase benefits of said funds if such increase in benefits creates or increases unfunded liability of said fund.

5. **Payment of Contribution.** The wage rates, the amounts of fringe benefit contributions and the Funds to which they are to be applied, are set forth in this Agreement. The Contractors will make the contributions in accordance with the appropriate Trust Agreement, will file the reports required by the Trustees of each fund, and will be bound by the provisions of any new Trust Fund Agreement entered into between the Council and AGC during the term hereof.
6. **Bond Requirement.** Within sixty (60) days of the signing of this Agreement the Employer will post a bond or other form of security acceptable to the Board of Trustees to ensure the payment of fringe benefit contributions.
- The bond or other security must be in an amount equal to three months of the Employer's estimated fringe benefit contributions based on the Employer's average contributions during the previous calendar year, or other evidence that the Board of Trustees deems reliable of projected work activity. In all cases the minimum amount of security required is \$2500. Any Employer that has made payment into the Trust Fund for a period of five years with no more than two months of delinquency each of which was resolved with full payment to the Trust Fund is exempt from the requirement of security.
7. **Notification of Delinquencies.** The Trustees of the funds set forth in Section 2, 3, and 4 of this Article IX, shall cause the Administrator to mail out to each participating party, on the first of each month, a list containing the name of each Contractor who has been classified delinquent or late in accordance with the rules and cutoff dates as established by the Trustees.
8. **Enforcement of Compliance.** If a Contractor signatory to this Agreement is delinquent in submitting reports or paying contributions, and unless some other acceptable agreement has been reached with the Trust, the Union shall withhold employees from such Contractor and take whatever action it deems prudent in order to enforce compliance, provided however, the Union has notified the affected Contractor(s) five (5) days prior to commencement of any such action. Action taken under this provision shall not be deemed a violation of the no-strike provisions of Article X Section 1. (See Article I .D., for additional requirements regarding Sub-contractors).
9. **Liability.** The Contractor's liability for contributions is not subject to arbitration under Article VIII hereof. Further, recognizing that the delinquent Contractor's default in payment of contributions is the proximate cause of a strike called under the provisions of this section, such delinquent Contractor shall pay, in addition to the contributions due, audit and attorneys' fees and other costs of collection, and eight hours straight time pay per day of time lost during the duration of such strike and work stoppage, to each striking employee.
10. **Diversion from Wages.** Either the New Mexico/Western Texas Laborers' District Council or the New Mexico Building Branch, AGC, may request that portion of wages be diverted to fringe benefits. Both parties must agree to the amount of the diversion, to which fund it will take place, and the date on which it will be implemented.
11. **Initiation fee & dues Check Off.** The Contractor, for the duration of this Agreement shall deduct from the pay of each employee who submits a signed authorization, the Union membership dues, Union initiation fee, Readmission fees, specified by the Union, and shall, prior to the date fixed by each Union, remit same to the union or its designated agent as long as the employees authorization is not revoked.

12. **Sole Obligation**. Notwithstanding any of the provisions of the Agreement, the Contractor and the Union do not agree, assume, ratify, approve, or condone any conduct, act, practice of the fund, trustees, and/or administrators or their agents. A Contractor's sole obligation and liability under this Agreement is to timely submit the required contributions, and this Agreement does not grant, directly, or indirectly, the Contractor or Union any control over the decisions and/or acts of said funds, trustees, administrators, and/or agents.

Trustees are directed through this Agreement, however, to seek written legal opinions on issues that come under the scope of the Americans with Disabilities Act.

13. **Safety Incentive Program**. The parties agree that a "safety incentive program" be established through the Multi-Craft Health and Welfare Trust and that this program be implemented through procedures established by the Trustees and conforming as best as possible to procedures followed by other crafts with "safety incentive programs."

ARTICLE X - NO STRIKE - NO LOCKOUT

1. **No-Strike**. The Union agrees that for the duration of this Agreement there shall be no strike, work stoppage or slowdown authorized, sanctioned or encouraged by said Union, and no picket lines shall be established by the Union, except as set forth in Article VIII, and Section 3 of this Article X. The Union representing any workmen on strike shall use all means within its power to end any such work stoppage at the earliest possible time.
2. **No Lock-Out**. The Contractor agrees that there will be no lockout of employees for the duration of the Agreement except as provided in Article VIII, Section 3, and in Section 3 of this Article X.
3. If there is a strike, work stoppage or slowdown by any union or unions, whether or not party here to, against any multi-employer bargaining unit or group, whether or not organized into an employer association, over the terms of a new or properly reopened collective bargaining agreement involving construction work, it shall not be deemed a violation of this Article X for the duration of such strike, stoppage or slowdown: a) for any Contractor or Contractors to cease work or to lock out its or their employees; or b) for any Union to strike. The Council and Association shall give the other at least 48 hours prior written notice of such action.

ARTICLE XI - JOB CLASSIFICATIONS AND HOURLY RATES

1. **Hourly Rates**. The hourly wage rates and classifications listed shall apply on all work performed under the terms of this Agreement within the New Mexico jurisdiction.
2. **Insurance and Taxes**. Each Contractor shall carry Workmen's Compensation Insurance on all employees covered by this Agreement.
3. **Payroll Deductions**. Each Contractor shall give to each employee with each check a statement itemizing the employee's gross amount earned, hours worked, Social Security Tax, Withholding Taxes, and all other deductions.
4. **Apprenticeship**. An apprenticeship program established effective June 6, 2000 as set forth in the Standards of Apprenticeship, was developed by the New Mexico Laborers' Training & Apprenticeship Trust Fund for the trade of Construction Craft Laborer who are further defined and named under Article XI Sub-Section "Classifications" of this Agreement. This

apprenticeship program was placed into effect upon formal approval of the New Mexico Department of Labor, State Apprenticeship Council (SAC) and appropriate state agencies. This Apprenticeship program shall be a "Letter of Intent" type of program and shall be administered by the Joint Apprenticeship Committee comprised by an equal number of members of the New Mexico & West Texas District Council and the Signatory Contractors. The Apprenticeship Standards of the New Mexico Laborers' Training & Apprenticeship Joint Apprenticeship Committee approved by the State Apprenticeship Council of New Mexico of the United States Department of Labor are hereby incorporated by reference as a part of this Agreement.

1. Apprentice wage rates are based on the skilled Laborer/ Specialist Classification:

Hours of Credit	Scale	2000	2001	2002
0 - 1000	72.6% of Skilled Laborer/Specialists	\$10.33	\$10.86	\$11.60
1000 - 2000	77.0% of Skilled Laborer/Specialists	\$10.95	\$11.52	\$12.31
2000 - 3000	81.6% of Skilled Laborer/Specialists	\$11.61	\$12.21	\$13.04
3000 - 4000	85.6% of Skilled Laborer/Specialists	\$12.18	\$12.81	\$13.68

The definition of hours of credit is actual work hours plus credit for school attendance as defined in the Apprenticeship Standards. The rates of wages for Apprentices are based on a reduction from the Journeyman rate of pay as established in this Collective Bargaining Agreement.

2. Employers shall pay apprentices the full fringe benefits package as described in this contract.
3. Ratio: The ratio of apprentices to journeyman shall be one (1) apprentice for the first (1st) journeyman hired, one (1) apprentice for two (2) journeyman thereafter. This ratio will be applied on individual jobs.
4. It is agreed that apprentices should, when possible, be moved by the employer to different types of operations so as to become adept in a variety of operations and work skills.
5. No person who has previously worked as a journeyman laborer shall be eligible for the apprenticeship program. Decisions concerning apprentice wages and advancements shall be made by the Joint Apprenticeship committee.
6. No apprentice shall be eligible for journeyman status until they complete their apprenticeship as required by the Apprenticeship Standards as administered by the New Mexico Laborers' Training & Apprenticeship Trust Fund Apprenticeship Committee. Upon the failure of any apprentice to maintain his or her apprenticeship status in accordance with the apprenticeship standards of the New Mexico Laborers' Training & Apprenticeship Trust Fund and Associated General Contractors (AGC) Joint Apprenticeship Committee, the Joint Apprenticeship Committee shall notify, in writing and by certified mail, return receipt requested, the Union, the Employer and the Apprentice of such failure. Any person failing to maintain and complete their apprenticeship in accordance with the apprenticeship agreement and the apprenticeship standards of the New Mexico Laborers' Training & Apprenticeship Trust Fund and Associated General Contractors (AGC) Joint Apprenticeship Committee shall not be employed by the employer as a journeyman under this agreement. The failure of any apprentice to maintain his or her apprenticeship status, in accordance with the apprenticeship standards of the New Mexico Laborers' Training & Apprenticeship Trust Fund and Associated General Contractors (AGC) Joint Apprenticeship Committee, shall

obligate the employer to discharge such person upon notice from the Union, that said person has failed to maintain his or her apprenticeship status.

7. The New Mexico Laborers' Training & Apprenticeship Trust Fund and Associated General Contractors (AGC) Joint Apprenticeship Committee may, upon seven (7) days written notice to an employer party to this agreement transfer any and all apprentices and/or refuse to permit employment of apprentices by any employer which employs any person who has failed to maintain their status as an apprentice, in accordance with the Apprenticeship Standards adopted by the New Mexico Laborers' Training & Apprenticeship Trust Fund and Associated General Contractors (AGC) Joint Apprenticeship Committee and in violation of this Article XIV.
8. The Union agrees that it will continue to develop a pool of Laborers I, II, Semi-skilled Laborers, and Skilled Laborers/Specialists to man the jobs of contractors who choose not to sign the 'Letter of Intent' required for participation in the apprenticeship program.

5. Hourly Wage Rates.

Construction Craft Laborer Journeyman Worker Classification

LABORER I:

Chainmen - Stakedrivers – Stake Hopper - Heater Tenders - Pick and Shovel Work - Window Cleaning and Clean-up – Flagman - Landscaping and Planter - Fence Builder – Guardrail Builder - Unloading of Furniture and Fixtures – Shop Helper. (Chainmen and Stakedrivers working solely for an engineering firm are not subject to this Agreement.)

<u>10/1/00</u>	<u>10/1/01</u>	<u>10/1/02</u>
\$ 11.56	\$ 12.19	\$ 12.77

LABORER II:

Carpenter Tenders - Concrete Workers - Concrete Buggy Operators - Industrial and Plant Laborers – Fire Watch, Swinging Scaffolds Tender – Fine Grader – Form Stripper – Gabian Basket Builders - Rip Rap Stoneman – Drywall, Stocking and Handling – Fly Ash Vacuum Operator – Man Hole Builder - Tool Room Person and Checker on Jobsite

<u>10/1/00</u>	<u>10/1/01</u>	<u>10/1/02</u>
\$ 12.13	\$ 12.78	\$ 13.39

SEMI-SKILLED LABORER:

Electric Air and Gas Operated Power Tools - Asphalt Rakers - Chain-Saw Operators – Oxy Gasoline Torch Operators - Cutting Torch Operators or Burner Person - Gunite Rebound Men - Fog Machine Operators - Power Buggy Operators - Rodmen - Sandblasters (potmen) - Wagon Drill and Diamond Core Driller – Air Track - Drill Operator Hydraulic Core Drill Diamond - Tenders outside- w/Pumps under 6" - Concrete Burners - Cement Mason Tenders – Plasterers Hodcarriers - Mortar Mixer - Plaster Spreader Operators - Plaster Tenders - Gunite Nozzlemen - Pipelayer - Pumpcrete Nozzlemen – Powdermen Tender- Demolition – Grade Checker - Vibrator Operator – Concrete Saw Operators – Stone Mason Tender – Jack Hammer and Chipping Hammer Operator – Green Cutter High Pressure Air & Water on Concrete Blaster – Pipelayer (includes but not limited it to water pipe, sewer pipe, drainage pipe, pvc, and all underground tile, pipe) - Cast Iron Concrete pipe, unloading, handling, distribution, and installation-Scaffold worker-Certified Scissor Lift Operator and Man Lift Operator.

<u>10/1/00</u>	<u>10/1/01</u>	<u>10/1/02</u>
\$ 12.83	\$ 13.50	\$ 14.14

SKILLED LABORER/ SPECIALIST:

This category includes but is not limited to the following specialty categories of Construction Specialists: Asbestos Abatement Laborers, Toxic and Hazardous Waste Removal Laborers, Lead Base Paint Removal Laborers, Certified Fork Lift Operator, C.D.L. Driver, Laborer/Concrete Specialist, Trencher Operator, Pest Technician (Licensed by the Bureau of Rodent Management), State Licensed Powder man and Blaster, Laborers-AGC Certified Rigger and Signal Man – Laborers-AGC Certified Scaffold Builder Laborer, or Hydromobile Scaffold Builder - Radiation Worker II.

<u>10/1/00</u>	<u>10/1/01</u>	<u>10/1/02</u>
\$ 14.23	\$14.97	\$ 15.99

JOURNEYMAN SKILLS AND IMPROVEMENT

Established wage increases for Journeyman in the second and third years of this contract, will be granted only if the individual successfully completes a 10 hour OSHA, a 3 hour Haz-Com (with the understanding the Laborers will maintain the annual refresher) and 8 hours of Journeyman Skill Improvement classes in the first year (10/1/00 thru 10/1/01) as established under the current training program. If an individual successfully completes a single established class of twenty- four (24) hours or more in the first year of this contract said individual will be eligible for pay increases effective 10/1/01 and 10/1/02. New employees who are not members of the union as of 10/1/01 will receive the 10 hour OSHA and 3 hour Haz-Com between the fourth and fifth week of employment and 8 hours of Journeyman Skill Improvement classes within the first year of employment to be eligible for the next schedule increase.

It is also understood that employment may be limited for laborers on jobs of owners that require 10hr OSHA and 3 hour Haz-Com as a condition of employment on their sites.

FOREMEN: \$1.00 above highest classification supervised.

GENERAL FOREMAN: \$1.50 above highest classification supervised.

6. <u>Fringe Benefit Contributions:</u>	<u>10/1/00</u>	<u>10/1/01</u>	<u>10/1/02</u>
Health and Welfare	\$1.20	\$1.20	\$ 1.20
Pension	\$ 1.00	\$ 1.00	\$ 1.00
Training	\$.20	\$.20	\$.20
Build New Mexico	<u>\$.03</u>	<u>\$.03</u>	<u>\$.03</u>
TOTAL:	\$ 2.43	\$ 2.43	\$ 2.43

BUILD NEW MEXICO. A three cent (\$.03) per hour deduction from wages in all categories is applied to "Build New Mexico", the agreement and declaration of trust for which are hereby incorporated in this Agreement. The employer shall also contribute three cents (\$.03) per hour.

OHIO VALLEY AND SOUTHERN STATES REGIONAL LECET: three cents (\$.03) deducted from wages.

NOTE: If the trustees of the funds determine that additional contributions are required to maintain the same benefits, the money will come out of wages.

Employers will receive reimbursement up to \$28.00 from the health and welfare fund for substance abuse testing/screening of employees covered under this agreement.

LABORERS' TOOLS. Laborers' will be required to carry the following tools on the job: hammer, tape measurer, hardhat that meets OSHA requirements, pliers, work shoes (safety-toe). Carpenter tenders will Carry a signal tool pouch all other laborers will Carry a signal tool pouch or a tool belt.

7. **High Pay.** Workmen on work forty (40) feet or more above a stable work platform, will receive premium pay of \$.50 per hour.

No worker shall be entitled to high pay provided that State and Federal Safety Regulations pertaining to scaffolding guardrails and safety belts are complied with. In the event that Safety Regulations are not, or cannot be complied with, and a variance is obtained from state or federal safety requirements, all workers employed on work forty (40) feet or more above the ground shall receive premium pay as set forth above.

8. **Subsistence**: The following subsistence allowance shall apply.

0 – 50 miles	no subsistence
50 – 75 miles	\$ 20.00 per day
75 – 100 miles	\$ 30.00 per day
100 – miles and over	\$ 35.00 per day
...or other mutually agreeable lodging and food.	

The Parties agree to encourage the establishment of a pool of well-qualified laborers in all areas sufficient to man the normal anticipated workload for such areas. The parties stipulate that the payment of subsistence should be discouraged except when a project is remote or when laborers in excess of the resident pool are required to man a project. Under such circumstances, the following criteria shall apply:

- a. For the purpose of applying subsistence, the main post offices of Albuquerque, Española, Farmington, and Las Cruces shall be used as basing points in computing these items.
- b. Employees shipped to work on projects more than fifty (50) miles beyond the union hall they are referred out of whichever is closer, shall be paid subsistence allowance. The current State of New Mexico Official Highway Map shall be the reference for routes and distances.

9. **Special Working Rules**:

a. **Higher Classifications**.

- (1) When a Laborer is assigned to work for more than thirty (30) minutes at a different classification calling for a higher rate of pay, he shall be paid the higher rate for actual time worked up to a maximum of a half shift. If the work assignment does not exceed a period of thirty (30) minutes, the lower rate of pay of his regularly assigned classification shall prevail up to and including a thirty-minute assignment. In no event, is an employer to rotate employees who are competent to perform the higher classified work to circumvent paying the higher wage.
- (2) When a work assignment that carries a higher rate of pay exceeds half a shift the Laborer shall receive the higher rate of pay for the shift worked.

b. **Foremen**:

- (1) Laborers working with a crew of other craftsmen, such as Carpenters, Cement Masons, Bricklayers, Plasterers, etc., may be supervised by the craft foremen of the crew with whom the laborers are tending, serving or assisting.
- (2) When Laborers are employed in a crew not part of a craft operation, there shall be a Laborer Foreman employed to direct and supervise their work. The Laborer Foreman employed in this manner may, at the discretion of the Contractor, be a working foreman and required to perform the same type of work as the Laborers of the crew over whom he has supervision. The maximum number of Laborers in one crew to be supervised by one Foreman in this manner shall be determined by the Contractor. A Laborer Foreman shall be selected by the Contractor. A foreman shall be considered one who keeps time and exercises general supervision over a group of Laborers.

be considered one who keeps time and exercises general supervision over a group of Laborers.

- c. **General Laborer Foreman.** When three foremen have been hired in any one project, one shall be recognized as a General Foreman with authority over the other two or more foremen.
- d. **Fringe Benefit Contribution for Supervisors.** Where any employee from the bargaining unit is hired as superintendent, assistant superintendent or general foreman, or in any other capacity as a supervisor as defined in the National Labor Relations Act, the Contractor shall pay fringe benefits as provided for herein, when authorized in writing by the employee for the term of his employment.
- e. **Caisson Work:** When Laborers are required to perform work directly or indirectly in connection with drilling of caissons on a building construction job site, the area rate established will be paid. When other work, such as bellers or jack-hammers work, is to be performed six (6) feet or lower they shall receive thirty cents (\$.30) per hour over their normal rate of pay, including semi-skilled workers.
- f. **Tenders Defined - Mixing, Handling, Conveying Materials:**
 - (1) All workers conveying materials from last storage place on the job to the scaffold or place where mechanics are to use same are to be known (as the case may be) as: Tenders to Carpenters, Tenders to Cement Masons, Tenders to Masons, Tenders to Plasterers, or Tenders to any respective skilled craft they are tending, and such Tenders shall receive Tenders' rate of pay. Also, the term, "Tender" shall cover the mixing, handling and conveying of all materials used by Masons, Plasterers, Carpenters, Plumbers, and other building and construction crafts. Mortar Mixers shall clean their machine(s) at the end of their shift.
 - (2) All Laborers helping Cement Masons mix and apply finish to concrete slabs shall be classified as Cement Mason Tenders.
 - (3) Laborers tending to Carpenters or carrying or furnishing any type of materials to Carpenters shall be known as Carpenters' Tenders.
- g. **Public Works Predetermination Provisions.** In the event an individual employer bids a public job or project being awarded by a federal, state, county, city or other public entity and this job is to be performed at a predetermined and/or prevailing wage rate established by the Secretary of the U.S. Department of Labor (pursuant to the Davis-Bacon act, 40U.S.C.-276a) whose regulations are contained in 29 CFR Parts 1, 3, 5, and 7) or by the Director of the New Mexico Labor and Industrial Commission or by a County, City or other public entity and the established prevailing wage rates are the same as or lower than the hourly wage rate set forth in this Agreement, the pre-determined hourly wage rate which exists at the time of bid shall apply to the job or project for the duration of the job.
 - a. If a contractor intends to utilize this provision, he must notify the Union in writing by FAX or letter at least 48 hours prior to the start of this work.
 - b. The employer will, when requested in writing, supply accurate and reliable information on company stationery that will assist the Union in establishing the correct rates when responding to requests for prevailing wage data.

ARTICLE XII - GENERAL

1. **Entire Agreement.** This Agreement contains all of the covenants, stipulations and provisions agreed upon by the parties hereto and no agent or representative of either party has authority to make, and none of the parties shall be bound by or liable for, any statement, representation, promise, inducement, or agreement not set forth herein. This Agreement may not be changed, amended or modified except by writing, signed by the Council and AGC.

Further, if any provision of this Agreement imposes conflicting obligations on one or both of the parties with regard to any federal, state, or local law, the application of such provision or term shall be suspended, and the parties shall meet to negotiate a replacement provision or term. Article X shall remain in full force and effect, and this Article shall not be the subject of arbitration.

2. **Headings.** Headings have been inserted for convenience only, and shall not be considered in the interpretation of any provision hereof.
3. **Notices.** All notices given or required to be given hereunder shall be in writing and delivered personally, mailed certified, return receipt requested, or by telegram, and shall be deemed to have been given on the date of delivery, mailing or wiring, as the case may be.

ARTICLE XIII - SIGNATORIES

1. **Contractors.** This Agreement has been negotiated by the Association for and on behalf of those Contractors, members and non-members, who have authorized the Association in writing to represent them in collective bargaining and shall be binding on each such Contractor only with respect to the Unions or crafts specified in its authorization. Upon the execution hereof, the Association will deliver to the Council a list showing each Contractor who has so authorized it. General Contractors who are not so represented by the Association on the date of execution hereof may become signatories to this Agreement and thereupon shall be bound by it, with respect only to the Unions or crafts designated by them in writing.
2. **Unions.** This Agreement has been negotiated by the Council for and on behalf of the Union that has authorized the Council to represent it in collective bargaining and shall be binding on the Union.

ARTICLE XIV - TERMINATION, RENEWAL AND REOPENING

1. **Term.**
 - a. This Agreement shall commence as of October 1st, 2000, and shall remain in effect until October 1st, 2003. It shall remain in effect from year to year thereafter unless either party terminates this agreement as of October 1st, 2003 or any subsequent October 1st, by written notice by August 1st, 2003, or any subsequent August 1st, preceding any October 1st termination date.
 - b. If during the term or any subsequent term of this Agreement, legislation is enacted which alters the present NLRB case law governing so-called "double-breasted" operations or alters the NLRB case law regarding so-called "common-situs picketing", and such case law creates, in the employer's opinion, a specific problem on the employer's project or with its double-breasted operations. then upon written notice identifying the problem, any party to this Agreement may declare this Agreement open for negotiations to discuss all terms and conditions contained herein.

- c. In the event agreement is not reached within thirty (30) days after commencement of negotiations, either party may declare this Agreement terminated by giving an additional thirty (30) days notice of intent.
2. **Davis-Bacon Re-Opener**: In the event that the provisions of the Federal Davis-Bacon Act, 40 USC 276 (a) and/or the provisions of the State of New Mexico prevailing wage act are repealed or substantially modified in a manner which adversely affects the ability of signatory employers to compete for state or federal work, either party may reopen this agreement to negotiate appropriate changes in terms and conditions of employment to maintain contractor competitiveness for such work. Such as:
 - a. The Union hereby agrees that, during the course of the sixty (60) days that follow the date of intent to open this Agreement for negotiations, there will be no picketing of secondary gates conducted or condoned by the Union. Further, the Union disavows any claim of coverage of this Agreement to business entities other than those which are actually signatory hereto, or to any other employees who are not part of the bargaining unit which the Union represents as of the effective date of this Agreement, unless those employees authorize the Union to represent them in writing.
3. **Targeting**. Targeting specific jobs with other wage rates and conditions designed to improve competitiveness. In all cases the Union will notify the association and all signatory contractors who are bidding the targeted job of the special conditions that exist for that targeted job.
 - a. The Union hereby agrees that, during the course of the sixty (60) days that follow the date of intent to open this Agreement for negotiations, there will be no picketing of secondary gates conducted or condoned by the Union. Further, the Union disavows any claim of coverage of this Agreement to business entities other than those which are actually signatory hereto, or to any other employees who are not part of the bargaining unit which the Union represents as of the effective date of this Agreement, unless those employees authorize the Union to represent them in writing.
4. **Arbitration**. Article VIII, Section 3 (Arbitration) shall not apply to any such re-opening or to any impasse in negotiations as a result thereof.
5. **National Health Program**. In the event that a National Health Insurance program is enacted, the Employer contribution to the current Health and Welfare program as described in Article XI paragraph 5, shall be applied to any cost incurred by the Employer in connection with a National Health Plan. If the current contribution either exceeds or does not cover the cost of this program this Agreement may be reopened unilaterally to renegotiate Article XI, Paragraph .

Notwithstanding any re-opener of this Agreement, Articles X and XIV shall remain in effect and may not be re-opened until October 1st, 2003, unless the parties agree in writing signed by the parties to re-open them. There shall be no strikes or lock-outs within 60 days of any re-opening of this agreement, if Article X becomes a subject during any re-opening.

ARTICLE XV - GENERAL SAVINGS CLAUSE

It is not the intent of any party to violate any laws or any rulings or regulations of any governmental authority or agency having jurisdiction of the subject matter of this Agreement; and if any provision of this Agreement is held to be void as being in contravention of any such laws, rulings, or regulations, the remainder of the Agreement shall remain in full force and effect unless the parts so found to be void are wholly inseparable from the remaining parts of the Agreement.

Further, if any provision of this Agreement imposes conflicting obligations on one or both of the parties with regard to any federal, state, or local law, the application of such provision or term shall be suspended, and the parties shall meet to negotiate a replacement provision or term. Article X shall remain in full force and effect, and this Article shall not be the subject of arbitration.

This Agreement is approved and entered into this ____ day of October, 2000

by:

THE NEW MEXICO BUILDING BRANCH, AGC,

For and on behalf of the Contractors

whom it represents as set forth in article XIII Section 1,

for AGC:

Tony M. T. Salinas
Jeri W. [unclear]

Date: _____

and

THE NEW MEXICO-WEST TEXAS LABORERS' DISTRICT COUNCIL

for and in behalf of Local Union #16

which it represents as set forth in Article XIII Section 2.

Additional Signatories:

For the Contractor:

Date: _____

For the Union:

Fidel Amunoz
Business Manager

Date: Oct 4 - 2000