

8993

1,800 ee

2004 - 2008

AGREEMENT

Between

LABOR RELATIONS DIVISION

ALBANY REGION

ASSOCIATED GENERAL CONTRACTORS

OF AMERICA

NEW YORK STATE CHAPTER, INC.

And

LOCALS 35, 157 & 190

LABORERS INTERNATIONAL UNION

OF

NORTH AMERICA

AFFILIATED WITH THE AFL-CIO

April 1, 2004 - March 31, 2008

27 pages

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

AJ Castelbuono
President & CEO
10 Airline Drive, Suite 203
Albany, New York 12205-1025
Telephone: (518) 456-1134
FAX: (518) 456-1198

INDEX

ARTICLE	PAGE
Preamble.....	5
I. Liability.....	5
II. Definition.....	5
III. Geographic Jurisdiction.....	7
IV. Union Jurisdiction.....	8
V. Pre-Job Conference.....	8
VI. Union Rights.....	9
VII. Management Rights.....	10
VIII. Work Conditions.....	10
IX. Hours of Work.....	11
X. Holidays.....	12
XI. Show-Up Time.....	13
XII. Payday and Mode of Payment.....	13
XIII. Laborer Foreman.....	13
XIV. Subcontracting.....	14
XV. Safety.....	15
XVI. Pension, Welfare, Annuity & Training Funds.....	16
XVII. Labor-Management Cooperation.....	17
XVIII. Carryover.....	17
XIX. Watchmen and Guards.....	17
XX. Status Quo on Certain Equipment.....	18

XXI. Arbitration.....	18
XXII. Deductions.....	20
XXIII. Equal Employment Opportunity.....	21
XXIV. Most Favored Employer.....	21
XXV. Drug/Alcohol Abuse.....	21
XXVI. Apprenticeship.....	21
XXVII. Savings Clause.....	22
XXVIII. Wages.....	22
XXIX. Duration and Termination.....	24
Addendum A.....	25
Individual Employer.....	26-27

A G R E E M E N T

THIS AGREEMENT, made this 1st day of April, 2004, by and between the **LABOR RELATIONS DIVISION, ALBANY REGION** of the **ASSOCIATED GENERAL CONTRACTORS OF AMERICA, NEW YORK STATE CHAPTER, INC.** (hereinafter referred to as the "Association"), acting for and on behalf of its present and future members, and **LOCALS 35, 157 & 190** of the **LABORERS INTERNATIONAL UNION OF NORTH AMERICA**, affiliated with **A.F.L.-C.I.O.** (hereinafter referred to as the "Union").

Pursuant to the Uniform District Council Constitution of the Laborers' International Union of North America, Laborer Locals 35, 157 and 190 are affiliated locals of the Eastern New York Laborers District Council ("District Council") and, as such, collective bargaining and ratification is conducted by the District Council on behalf of Laborer Locals 35, 157 and 190. Entering into this Agreement will not bind the parties to the terms of any other Agreement entered into by the District Council on behalf of its other affiliated locals.

W I T N E S S E T H :

WHEREAS, the parties hereto desire to stabilize employment in the Heavy and Highway Construction Industry, agree upon wage rates, hours and conditions of employment.

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

ARTICLE I - LIABILITY

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

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

ARTICLE II - DEFINITION

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

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

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

- a) On pipeline construction both liquid and vapor from the first metering station or connection of the main transmission carrier to the distribution carrier, and transmission and distribution systems, underground and above ground communication systems, foundations and excavation on power transmission lines, oil static lines. Tank farms, bulk plants and pumping stations are excluded.
- b) Construction of sewer (sanitary and storm) and water lines and mains;
- c) Sewer and water plant construction outside the building line and inside the building line to finish grade level;
- d) Borings, culverts and tunnels (for highway and railroad crossings) incidental or in conjunction with the work mentioned above at (a), (b), and (c);
- e) The work mentioned in (b), (c) and (d) of this section on industrial, commercial and school sites.
- f) Work covered in section 2 shall be performed pursuant to this agreement insofar as it does not conflict with the national pipeline agreement.
- g) Worker and foremen conditions for this work are specifically described in Article XIII, Section 5.

ARTICLE IV - UNION JURISDICTION

1. This Agreement is to cover all watchmen, flagmen (all crafts), fire watchmen, traffic control men, laborers, foremen (grade, pipe, concrete, forms, seeding, asphalt, clearing and grubbing, clean-up, stonelaying) in the performance of: the laying of all types of pipe and conduit including the relining of existing pipe and the fusion of plastic pipe; the spreading and pouring and raking and tamping of all asphalt and concrete materials and the bull floating (strike off) of all concrete; curing of concrete; the laying of all types of stone or manufactured curb, rip-rap, paving blocks, concrete blocks (paving), Belgium Block; assembling and placing of Gabion and all similar types of baskets; the handling, the loading and unloading and stringing of all materials, the handling, loading and stringing of all wood products by hand or power; the sharpening of all air tool bits and drills and bull points; any and all types of heaters to be attended and handled and fueled by Laborers at all times when in use except where existing agreements provide otherwise; the handling, the laying and placing of forms used for curbing, gutters, roads and sidewalks and the stripping of same; the placing, setting and maintenance of all flares, blinker lights and reflectors; the cutting and chipping of road joints; the handling, the loading and unloading and distributing of chain-link fence; handling and erecting of wire fence; the sandblasting and applying of sealers and hardeners and epoxy on concrete and asphalt work; the nozzle operators on sandblasting and guniting operations; the signaling of all materials (manufactured or otherwise) which is handled or put in place by laborers; the handling, the loading and unloading and distribution and installation of all guard rails, highway signs and road markers; single diaphragm and 1-1/2" pumps to be attended, handled and fueled by laborers; the operating of all types of machines used to seal any type of joints; the operating and servicing of mortar mixers and conveyors used in laborers' work regardless of number; the operating and servicing of rock drilling machines; the blasting and dynamiting of all rock; the placing of all pre-cast and prestressed materials except when placed or installed by the manufacturer pursuant to its collective bargaining agreement; handling, unloading, loading, assembling and laying of all multiplate; the operation of all air, gas, electric, oil and other type of motor driven tools including all pusher type equipment; the handling, tending and maintaining of Homelite and like generators; wrecking and demolition; containment membrane liner. The foregoing applies in the performance of all the aforementioned work and all other work coming under the jurisdiction of the L.I.U. of N.A.-A.F.L. - C.I.O.

2. Self-contained crawler drill; grooving machine (status quo), for parts of Locals 35, 157 and 190 i.e., the geographic jurisdiction of those Locals included within the geographical jurisdiction of IUOE Local 106.

ARTICLE V - PRE-JOB CONFERENCE

1. There shall be a mandatory pre-job conference. The Employer agrees to meet with the Union for a pre-job conference prior to the commencement of any work on the subject project and the same shall apply to any and all subcontractors.

2. In the event that an Employer violates this Article, the Union may serve a five (5) day notice of intention to strike on such Employer. If the Employer does not comply within five (5) days, the Union may strike such Employer without such action being a violation of the no-strike clause of this contract.

3. Where a subcontractor has not had a pre-job conference, the five (5) day notice shall also be served on the prime contractor.

ARTICLE VI - UNION RIGHTS

1. All employees covered by this agreement, as a condition of continued employment, shall, commencing on the eighth (8th) day following the beginning of their employment, or the effective date of this agreement, whichever is the later, acquire and, for the duration of their employment, maintain membership in the union to the extent enforceable under law.

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

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

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

5. It is agreed that on each job the Union Business Manager may appoint a working Shop Steward who will be named at the pre-job conference. The Laborers' Steward will be employed at all times that any laborers work is performed or any Laborers are employed on the project except that on overtime and/or specialty work, the Steward can only assert seniority provided he is qualified to do the work. He will be paid for all time lost due to not having been notified by the Employer or the Employer's agent to report for work. He will be allowed sufficient time to perform his duties and will not be discharged, laid-off, or transferred by reason of the performance of his duties as Steward without prior approval of the Business Manager.

6. The Laborers' Steward shall be notified prior to any hiring or lay-off.

7. (a) At the Business Manager's request, the Laborers' Steward will be assigned to a service truck when and if a service truck is operating on the project. When the service truck is not operating on the project or in use on the project, the Steward will be assigned to other work. It is the intent of this section that the Steward be engaged as a productive working employee at all times consistent with Section 5 of this Article.

(b) When the service truck is sent off the project, the Laborers' Steward will not accompany such truck unless ordered to do so by the Employer.

(c) When there is more than one (1) service truck operating on a project, whether a laborer or laborers shall be assigned to truck or trucks, shall be at the option and discretion of the Employer consistent with the jurisdiction of the Union.

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

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

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

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

ARTICLE VII – MANAGEMENT RIGHTS

The management of the job, and direction of the working force, including but not limited to the right to hire, suspend or discharge for a just cause and the right to relieve employees from duty, because of lack of work or other reasons is vested exclusively in the Employer, subject to the other provisions of this Agreement.

No limitation shall be placed on the amount of work which an employee shall perform during the work day, nor shall there be any restrictions against the use of machinery or labor-saving devices.

ARTICLE VIII - WORK CONDITIONS

1. The Employer shall furnish all necessary tools that the employees are to use.

2. (a) At the time of hire or such later date as may be appropriate, employees covered by this Agreement shall be furnished slipover rubber boots, rainsuits and hats which shall remain the property of the Employer and be returned at the termination of use or employment.

(b) At the first full pay period following the issuing of such articles, the actual cost to the contractor of the said articles shall be deducted from the pay of each such employee covered by this contract. Upon termination of employment, such employees who return the articles issued will be refunded the amount deducted from pay.

3. The Employer shall supply special gloves for the performance of work necessitating their use.

4. The Employer shall provide warm suitable shelter of sufficient size where all laborers may eat their lunch and hang their clothing. The Employer shall also assume responsibility in case of loss of fire. No tools, building equipment or combustible material shall be stored therein. Employees shall be required to execute a verified proof of loss in case of fire.

5. The Employer shall provide and the Laborers shall maintain clean and sanitary toilet and drinking facilities.

6. (a) The Union and the Employer expressly agree that a stable work force is required a all times in this seasonal industry and that the absence of individual employees has a serious impact on the Employer's project productivity and efficiency.

(b) Absences from scheduled work are to be discouraged and accordingly such absences are just cause for discharge of an employee or employees and it shall be the decision of the Union whether to take recourse through the grievance procedure.

ARTICLE IX - HOURS OF WORK

1. The work week shall consist of Monday through Friday.

2. Normal workday shall consist of eight (8) hours with one-half (1/2) hour for lunch. The starting time shall be set by the Contractor which can include flexible starting times by mutual agreement between the Employer and the Union.

3. Two shifts may be worked in twenty-four (24) hours and shall be of equal duration and at the same rate. However, in a two shift operation, where the combined number of hours worked by the two shifts is sixteen (16), or less, each shift shall be paid eight (8) hours' pay at straight time. Notwithstanding the foregoing provisions, when a shift is shut down by reason of completion of the shift work to be performed or conditions beyond the Employer's control, the affected shift shall be paid on the basis of the show-up time provisions contained herein in Article XI. This clause is equally applicable to the three (3) shift provisions hereinafter contained in Section 4. Thus, it is understood that there is no guarantee that on a given day, one shift might not vary due to weather, equipment breakdown or changes in operation schedules.

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

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

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

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

6. One and one-half (1-1/2) times the rates set forth in this Agreement shall be paid for work performed outside the scheduled workday and all work performed on Saturday. All work on Sunday will be paid at double time.

7. On private (non-posted rate) work, four (4), ten (10) hour days may be worked at straight time during a week, Monday thru Friday.

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

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

10. SINGLE IRREGULAR WORK SHIFT: A single irregular work shift can start any time from 5:00 p.m. to 1:00 a.m.. All employees who work a single irregular work shift on governmental mandated night work shall be paid an additional \$1.50 per hour. Section 10 will be effective for work bid on or after January 1, 2001. It is understood and agreed that if the single irregular work shift language is not included in NYS Department of Labor prevailing wage rate schedules, the premium is waived.

ARTICLE X - HOLIDAYS

1. Paid holidays to be observed are Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and New Year's Day, irrespective of the day of the week on which the holiday may fall. If a Holiday falls on a Saturday, it will be celebrated on Saturday. Employees who work a Saturday Holiday shall be paid double time plus the Holiday pay. When a Holiday falls on a Saturday, the employer has the option to either work Friday and pay Saturday as the Holiday, or, not work Friday and pay for the day in lieu of the Holiday. If the holiday falls on Sunday, it will be celebrated on Monday. In the event that men work on this Sunday holiday, they shall be paid double time. In the event that men work on Monday, they shall be compensated at double time plus the holiday pay. Accordingly, the Monday following the Sunday is treated as the holiday.

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

3. A man must work the working day before and the working day after a holiday to receive

holiday pay. However, an employee not able to report because of proven sickness, death in immediate family, or accident shall be entitled to holiday pay.

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

ARTICLE XI - SHOW-UP TIME

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

2. Employees reporting for work at starting time shall, if put to work, receive a minimum pay of two (2) hours or actual hours worked, whichever is greater.

ARTICLE XII - PAYDAY AND MODE OF PAYMENT

1. Employees performing work under this Agreement shall be paid once a week on the job. No more than six (6) days' pay shall be withheld. If the payday falls on a holiday, payment shall be made on the workday preceding such holiday. On failure to pay on the regularly scheduled payday, the Employer will pay a penalty of two (2) straight time hours for payday and for each succeeding day on which he fails to pay where such failure to pay is willful or due to conditions within the Employer's control.

2. All wages shall be payable in lawful currency, enclosed in an envelope which shows the employee's name and employer's name, regular hours worked plus overtime hours worked, all lawful deductions, and the amount due or by a negotiable payroll check showing all of the above information drawn upon a commercial bank within the region, payable upon demand at par.

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

ARTICLE XIII - LABORER FOREMAN

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

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

Employer or his representative shall be the sole judge of whether such employees are qualified to perform the assigned work.

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

- (a) Grade Foremen – two dollars (\$2.00) over basic rate.
- (b) Other Foremen -one dollar and fifty cents (\$1.50) over the highest classification covered by this Agreement which such foremen supervise.
- (c) Any foremen covered by this Agreement may be employed on a weekly basis at a salary agreeable to the Employer and the foremen.

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

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

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

c) On other work covered by Article II, Section 2, there shall be fifty percent (50%) mobility with respect to foremen and twenty-five percent (25%) mobility among the Unions with respect to other workmen.

ARTICLE XIV - SUBCONTRACTING

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

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

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

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

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

(c) After having been notified of a failure to remit or of a delinquency, the Prime Contractor shall be responsible for each such fringe benefit payment pursuant to (d) below.

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

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

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

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

5. By mutual agreement, an employer may subcontract to non-signatory specialty subcontractors and use his best efforts to arrange a pre-job conference.

6. It is recognized that there are specific subcontract requirements for D/M/WBE participation in most public works contracts and that certain exceptions to the subcontracting clause may be required for the employer to comply with these requirements. Every effort will be made by the employer to arrange a pre-job meeting with these subcontractors and the union. It is understood that in no way shall the enforcement of this clause allow other trades to perform the work of this union.

ARTICLE XV - SAFETY

The Union and Employees agree that willful neglect by an employee to obey company safety rules and regulations or to obey safety rules, standards and regulations prescribed pursuant to the Occupational Safety and Health Act (OSHA) or other governmental regulation or legislation or to use properly such safety devices or equipment as provided by the company may be just cause for discharge. A copy of the company safety program shall be furnished each employee at time of employment. Employee's signature shall be proof of acknowledgement.

ARTICLE XVI - PENSION, WELFARE, ANNUITY AND TRAINING FUNDS

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

(b) The Employers party to this Agreement accept the Trustees now serving on such Fund and hereby waive the right to name new, other successor or additional trustees.
2. The Employer agrees to contribute the amount per hour hereinafter set forth in Article XXVIII for each actual hour worked except where an employee is paid pursuant to the 2+ actual hours worked clause herein provided for at Article XI of this Agreement in which case contributions shall be paid on the same basis as the 2+ actual hours worked clause.
3. Each Local Union party to this Agreement shall be considered as an Employer under this Agreement for the purpose of paying the contributions mentioned in this Article on its Employees.
4. (a) In the event that the Employer does not make contributions to the Fund as provided for herein, the Employer agrees that he will be charged with all necessary litigation and accounting expenses incurred by the trustees of the Fund in collecting the monies due hereunder and that a money judgment may be rendered against such Employer for such litigation and accounting expenses in addition to a judgment for unpaid contributions.

(b) Litigation and accounting expenses shall be determined so as not to be in excess of the minimum fee schedules for the legal and accounting professions in the area in which such work is performed.
5. (a) Each Employer shall furnish the Trustees of the respective funds with periodic reports as required by the Fund showing the names, social security numbers, hours worked and location of job of each employee performing work covered by this Agreement.

(b) Subcontractors covered by Article XIV, Section 3 shall remit contributions on a weekly basis.

(c) In the event that no workers are employed during the report period, a negative report and/or a final report shall be filed.

(d) Monthly reports are due the 15th day of the month following the month on which contributions are being made.

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

ARTICLE XVII - LABOR-MANAGEMENT COOPERATION

The Employer and the Union recognize that they must confront issues of mutual concern which are more susceptible to effective resolution through labor-management cooperation than through the collective bargaining process. To seek resolution of these mutual concerns and to advance mutual interests through labor-management cooperative efforts, it is agreed that the Employer shall contribute to the New York State Laborers-Employers Cooperation and Education Trust for the term of this Agreement, including any extensions or renewals thereof. The Employer shall contribute to the New York State Laborers-Employers Cooperation and Education Trust as provided for in Article XXVIII for each actual hour worked. The Employer shall submit all contributions and all contribution reports to the designated Laborers' Local Fund Office. The Fund Office shall promptly forward the contributions and contribution reports to the Laborers Regional Office, Trust Division for the accounts of the Trust and Fund. The Employer and the Union hereby adopt and agree to be bound by the Agreement and Declaration of Trust establishing the New York State Laborers-Employers Cooperation and Education Trust, as amended.

ARTICLE XVIII - CARRYOVER

1. For all work bid on or after April 1, 2000, there shall be a twelve (12) month carryover from the bid date, of the posted proposal rates, or until a redetermination is made by the NYS Department of Labor, whichever occurs first.

2. It is understood and agreed that the carryover clause contained in the 1997-2000 Agreement between the parties applies.

ARTICLE XIX- WATCHMEN AND GUARDS

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

2. Watchmen are employees on projects requiring a coverage under Item 619 (Maintenance and Protection of Traffic) and such employees are covered by only the following provisions of this

Agreement: Article VI, Sections 1, 2, 3, 9(a), (b) and (c); Article VIII; Article XIV, Sections 2 and 3; Article XV; Article XVI; Article XVII; Article XVIII; Article XXII; Article XXIII; and Article XXV.

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

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

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

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

ARTICLE XX - STATUS QUO ON CERTAIN EQUIPMENT

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

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

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

ARTICLE XXI – ARBITRATION

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

2. Grievance Procedure: All grievances or disputes involving any controversy, dispute or misunderstanding arising as to the meaning, application or observance of any provisions

of this Agreement shall be handled in the manner hereinafter set forth.

Step 1. All grievances must be made known in writing to the other party within seven (7) calendar days after the reason for such grievance has occurred. An authorized representative of the Union shall first submit a written grievance to the Job Superintendent or his duly authorized representative. The authorized representative of the Union of the employee or employees involved shall be present at any meeting between the Job Superintendent and such employee or employees. The Job Superintendent or his duly authorized representative must make a written disposition of the matter within forty-eight (8) hours after the submission of such written grievance thereto.

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

Step 3. If the disposition of the matter in Step 2 is not satisfactory, the Business Manager shall attempt to resolve the matter with the Assistant Managing Director, AGC, within forty-eight (48) hours after Step 2.

3. Arbitration: If Step 3 is not successful, the grievant shall request a list of seven (7) arbitrators from any one of the following sources: (1) the panel arbitrators of the New York Board of Mediation; (2) the Federal Mediation and Conciliation Service or (3) the labor panel of the American Arbitration Association for final and binding decision. Such request shall be no later than seventy-two (72) hours after Step (3). Both parties agree to submit to such arbitration and be bound by and follow the decision rendered. Failure to do so on the part of the grievant shall deem the grievance closed. The arbitrator shall be selected by alternately eliminating names from the seven (7) person list until one remains, the grievant or his representative shall strike the first name.

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

4. Violations concerning wages, hours, and all fringe benefit payments shall not be subject to the grievance procedure. In such cases, the Union shall give three (3) working days' notice to the Employer that the Union will withdraw its men from the Employer's service. If the Employer contends there is a question of fact regarding the alleged violation, he may file for arbitration within the aforesaid three (3) working days. When a request for arbitration has been initiated, there shall be no work stoppage pending resolution of the dispute pursuant to this Article. Work jurisdiction, that is, disputes with respect to whether one group of employees or another group of employees shall perform certain work on the project is expressly not arbitrable under this contract.

5. The costs of arbitration, which shall include the fees and expenses of the arbitrator, shall be borne by the Company in case its principal contention is rejected by the arbitrator, and by the

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

ARTICLE XXII - DEDUCTIONS

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

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

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

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

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

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

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

8. The employer agrees to deduct and transmit to the New York State Laborers' Political Action Committee five cents (\$.05) for each hour worked from the wages of those employees who have voluntarily authorized such contributions on the forms provided for that purpose by the union. These transmittals shall occur monthly, and shall be accompanied by a list of the names of those employees for whom such deductions have been made, and the amount deducted for each such employee. The employer shall retain one (1%) percent of the gross proceeds from the checkoff as reimbursement for the employer's costs in administering this checkoff. The union agrees to indemnify and hold harmless the employer from any and all claims, actions and/or proceedings arising out of said New York State Laborers Political Action Committee.

ARTICLE XXIII - EQUAL EMPLOYMENT OPPORTUNITY

The Employer and the Union mutually agree that they will comply and cooperate with all laws, codes, rules, regulations, executive orders and administrative decisions, whether state or federal, dealing with non discrimination in training, membership, employment, job tenure, promotions and every other matter covered by such laws, codes, etc. not herein expressly mentioned. The use of masculine or feminine gender in this agreement shall be construed as including both genders.

ARTICLE XXIV - MOST FAVORED EMPLOYER

1. If the Union enters into any agreement with any individual employer or group of employers performing work covered by the terms of this Agreement and that Agreement provides for more favorable wages, hours, or conditions to any other Employer, the Employers signatory hereto, after sending written notice of such intention, shall be afforded the privilege to adopt such advantageous terms and conditions.

2. This clause shall not apply to isolated or emergency situations which may occur from time to time under regular conditions, nor shall this clause apply to any project agreement that is put in place before the bid.

ARTICLE XXV - DRUG/ALCOHOL ABUSE

If an Employer or Employer's customer requires drug/alcohol testing as a condition of employment, the person referred to the Employer by the Union may be required to take such a test, providing the test meets Federal and State standards. Also, providing the Employee signed a permission card supplied by the Employer, a copy of which should be sent to the Union. A copy of the company substance abuse program shall be furnished each employee at time of employment. Employee's signature shall be proof of acknowledgement.

ARTICLE XXVI - APPRENTICESHIP

1. A registered apprenticeship program for LIUNA Locals 35, 157 and 190 has been established that fully complies with all governmental requirements, indenturing apprentices to the program.

2. A Joint Apprenticeship and Training Committee (JATC) has been established, consisting of representatives from the union and the employers, which will administer the rules and regulations for the apprenticeship program.

3. The ratio of apprentice to journeymen on any project site is one (1) apprentice to three (3) journeymen (1:3). Apprentices shall be covered by the terms and conditions of this Agreement and shall be paid according to the following schedule of wages and fringe benefits.

- a. 0-1000 hours, 65% of the base wage (a) plus 100% of the fringe benefit schedule.
- b. 1001-2000 hours, 70% of the base wage (a) plus 100% of the fringe benefit

schedule.

- c. 2001-4000 hours, 80% of the base wage (a) plus 100% of the fringe benefit schedule.

4. All wage increases are subject to an apprentice completing the preceding 1000 hour increment.

ARTICLE XXVII - SAVINGS CLAUSE

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

ARTICLE XXVIII - WAGES

1. A Laborer shall be paid for the entire day at the rate applicable to the highest classification in which he has worked that day.

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

(a) Basic Rate, Drill Helper, Flagmen, Outboard and Hand Boats.

(b) Bull Float, Chain Saw, Concrete Aggregate Bin, Concrete Bootman, Gin Buggy, Hand or Machine Vibrator, Jack Hammer, Mason Tender, Mortar Mixer, Pavement Breaker, Handlers of all Steel Mesh, Small Generators for Laborers' tools, installation of bridge drainage pipe, pipe layers, vibrator type rollers, tamper, drill doctor, tail or screw operator on asphalt paver, water pump operator (1 1/2" and single diaphragm) nozzle (asphalt, gunite, seeding, and sand blasting), Laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

(c) All rock or drilling machine operators (except quarry master and similar type), acetylene torch operators, and asphalt paver, powderman.

(d) Blasters, form setters, stone or granite curb setters.

3. Wage rates, Welfare, Pension, Annuity, Training and L.E.C.E.T. contributions and deduction amounts are set forth below.

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

**ALBANY REGION LRD/AGC
LABORERS- 3 CAPITAL DISTRICT LOCALS
2004-2008 HIGHWAY-HEAVY WAGE RATE SCHEDULES
EFFECTIVE JULY 1, 2004 - JUNE 30, 2005**

	<u>Welfare</u>	<u>Pension</u>	<u>Training</u>	<u>Annuity</u>	<u>H/S L.E.C.E.T.</u>	<u>*Dues Ded.</u>	<u>TOTAL</u>
Local 35 (Utica)							
(a) \$20.40	4.97	4.38	.25	.54	.15	-.90	\$30.69
(b) 20.60							30.89
(c) 20.80							31.09
(d) 21.00							31.29
Local 157 (Schenectady)							
(a) \$21.29	3.65	3.65	.25	1.75	.10	-4%	\$30.69
(b) 21.49							30.89
(c) 21.69							31.09
(d) 21.89							31.29
Local 190 (Albany)							
(a) \$21.14	3.55	5.50	.40	---	.10	-\$.90	\$30.69
(b) 21.34							30.89
(c) 21.54							31.09
(d) 21.74							31.29

* Dues deduction upon receipt of signed authorization card from employee.

Effective July 1, 2005	\$1.50 gross increase to be allocated.
Effective July 1, 2006	\$1.50 gross increase to be allocated.
Effective July 1, 2007 – June 30, 2008	\$1.50 gross increase to be allocated.

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

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

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

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

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

6. NON-PUBLIC WORK - The Employer and Local Union agree to have a pre-bid

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

7. HAZARDOUS WASTE - When an employee covered by this Agreement performs hazardous waste removal; lead abatement and removal; asbestos abatement and removal work on a State and/or Federally designated waste site, and where relevant State and/or Federal regulations require employees to be furnished, and those employees use or wear required forms of personal protection, then in such case an employee shall receive the basic hourly rate plus \$2.00 per hour, if said premium is included in the prevailing wage rate schedules.

8. SINGLE IRREGULAR WORK SHIFT - A single irregular work shift can start anytime from 5:00 p.m. to 1:00 a.m.. All employees who work a single irregular work shift on governmental mandated night work shall be paid an additional \$1.50 per hour. Section 8 will be effective for work bid on or after January 1, 2001. It is understood and agreed that if the single irregular work shift language is not included in NYS Department of Labor prevailing wage rate schedules, the premium is waived.

ARTICLE XXIX DURATION AND TERMINATION

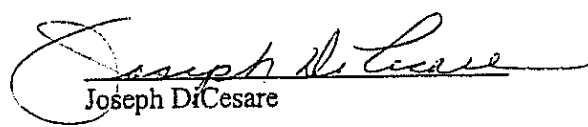
It is agreed by both parties that all the conditions of this Agreement shall remain in full force and effect from April 1, 2004 to March 31, 2008, and during each calendar year thereafter, unless on or before the 30th day of January, 2008, or any year thereafter, written notice of change to this Agreement be served by either party upon the other party.

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

FOR THE LRD/AGC
ALBANY REGION


AJ Castelbuono

FOR LOCAL 35


Joseph DiCesare

FOR LOCAL 157


Thomas Lombardoni

FOR LOCAL 190


Anthony Fresina

**ADDENDUM A
PRIVATELY FUNDED UTILITY
CONSTRUCTION**

THIS ADDENDUM, made this 1st day of April, 1994 by and between the **LABOR RELATIONS DIVISION-ALBANY REGION** of the **ASSOCIATED GENERAL CONTRACTORS OF AMERICA, NEW YORK STATE CHAPTER, INC.** (hereinafter referred to as the "LRD/AGC"), and **LOCALS 157 AND 190, LABORERS INTERNATIONAL UNION OF NORTH AMERICA**, affiliated with the A.F.L.-C.I.O.(hereinafter referred to as the "Union").

This Addendum is limited to privately funded utility construction work for private utility companies under the jurisdiction of the New York State Public Service Commission within the geographical jurisdiction of the Union.

Such companies would include New York Telephone Company, National Fuel Gas, Niagara Mohawk Power Corporation and New York State Electric and Gas Company.

In-plant or new on-site construction work for these companies is excluded from the Addendum.

The wage rates for work covered by this Addendum are 75% of the base rate plus fringe benefits.

**FOR THE LRD/AGC
ALBANY REGION**

/s/ Eugene D. Hallock, III

/s/ Isadore Ture

/s/ John Jimenez

/s/ John E. Maloy, Jr.

/s/ Theodore J. Czerw

FOR LOCAL 157

/s/ Robert Pollard

FOR LOCAL 190

/s/ Samuel Fresina

INDIVIDUAL EMPLOYER

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

1. That he (it) has read the foregoing collective bargaining Agreement, dated April 1, 2004, and agrees, as an individual employer to be bound by each and all of the terms, conditions and provisions thereof and also agrees to be bound by the interpretations and enforcement of the Agreement. He (It) further agrees to furnish both the Labor Relations Division and the Union with signed copies of this Agreement.

2. That he (it) waives the right to name or participate in the selection of any management trustee to any and all jointly trusteed funds provided for in said Agreement, further agrees to accept the trustees now named to these fund as his designated trustees, and agrees to be bound by the provisions of the trust indentures creating the respective funds.

Name of Firm

By: _____
An Authorized Officer, Title

Firm Street Address

City and State

Telephone Number

Local Union: _____

By: _____
Authorized Representative

Date: _____

UNION COPY

INDIVIDUAL EMPLOYER

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

1. That he (it) has read the foregoing collective bargaining Agreement, dated April 1, 2004, and agrees, as an individual employer to be bound by each and all of the terms, conditions and provisions thereof and also agrees to be bound by the interpretations and enforcement of the Agreement. He (It) further agrees to furnish both the Labor Relations Division and the Union with signed copies of this Agreement.

2. That he (it) waives the right to name or participate in the selection of any management trustee to any and all jointly trusteed funds provided for in said Agreement, further agrees to accept the trustees now named to these fund as his designated trustees, and agrees to be bound by the provisions of the trust indentures creating the respective funds.

Name of Firm

By: _____
An Authorized Officer, Title

Firm Street Address

City and State

Telephone Number

Local Union: _____

By: _____
Authorized Representative

Date: _____

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

Labor Relations Division
New York State Chapter, Inc.
Associated General Contractors
of America

10 Airline Drive, Suite 203
Albany, NY 12205-1025