

**COLLECTIVE BARGAINING AGREEMENT
(BUILDING)**

**Hoisting and Portable Engineers
International Union of Operating Engineers - AFL-CIO**

Locals 98,98A, 98B and 98R

and the

**Building Trades Employers'
(Labor Policy Division)
Construction Industry Association
of Western Massachusetts, Inc.
Springfield, Massachusetts**

June 1, 2011 through May 31, 2013

AGREEMENT

This Agreement made this first day of June, 2011, by and between the Labor Policy Division of the Construction Industry of Western Massachusetts, Inc. and vicinity, hereinafter called the "Association", on behalf of its members so authorizing the Association to negotiate on their behalf, each of which shall be designated as the "Employer" and the Hoisting and Portable Engineers, Local 98, 98A, 98B and 98R of the International Union of Operating Engineers, AFL-CIO, hereinafter designated the "Union".

SCOPE OF EMPLOYMENT

The terms of this Agreement shall apply to all work covered by the jurisdiction of the Hoisting & Portable Branch of Operating Engineers in building construction, demolition, alterations, remodeling and repairs. Also, the operation of helicopters used for hoisting materials and equipment.

TERRITORIAL JURISDICTION

Massachusetts: Berkshire, Franklin, Hampshire and Hampden Counties. Also the western part of Worcester County to a demarcation line formed by the eastern boundaries of the following townships: Sturbridge, Brookfield, East Brookfield, North Brookfield, Oakham, Barre, Templeton and Winchendon.

Vermont: The entire State.

RECOGNITION, UNION SECURITY AND JOB REFERRALS

The Employer recognizes and acknowledges that the Union is the exclusive representative of all the employees in the classification of work covered by this Agreement for the purposes of collective bargaining, as provided by the Labor Management Relations Act of 1947, as amended.

All present employees, who are members of the Union on the effective date of this Agreement shall remain members of the Union in good standing as a condition of employment. All present employees who are not members of the Union and all employees who are hired hereafter shall become and remain members in good standing of the Union as a condition of employment, on and after the eighth day following the beginning of their employment or on and after the eight day following the effective date of this Agreement, whichever is later.

When the Employer needs employees or recalls regular employees, he shall notify the Union whenever possible of all such openings and the job requirements at least forty eight (48) hours (Saturday and Sunday excluded) before filling such openings and the Employer shall give the Union equal opportunity with the other sources of applications to refer qualified applicants for such job openings.

Selection of applicants for jobs shall not be based on, or in any way affected by union membership, by-laws, rules, regulations, constitutional provisions, or in any other aspect or obligation of union membership policies or requirements, but all such applicants that become employees shall be subject to all the terms of this Agreement.

The Employer shall be the judge as to the qualifications of all applicants and shall retain the right to reject any job applicant, but on filling job openings, he shall immediately notify the Union of its selection of the applicant for the job.

Notice of Union Security will be posted where required law, at regular places of employment.

The Employer signed below, engaged in the building and/or construction industry recognizes the Union as the sole and exclusive majority status representative of the bargaining unit provided for herein (commonly called operating engineers) employed by the Employer. This recognition is based on the Union's having shown or having offered to show an evidentiary basis of its majority support.

On the basis of such majority support and pursuant to Section 9 (a) of the National Labor Relations Act (as amended), the Employer confirms the Union as the sole and exclusive bargaining agent for the unit of operating engineers (as defined herein) in the employ of the Employer, which shall include the Employer's present and future job sites.

On the date this collective bargaining agreement is effective, this recognition is granted which shall include any amendments, extensions and successor Agreements. The Employer will not attempt to void or cancel the Agreement at any time because it has varied the size of the workforce or reduced the workforce to one or fewer employees.

HOURS

The regular work day shall consist of eight (8) hours, work to start no earlier than 6:00 AM and to stop no later than 4:30PM with one half (1/2) hour lunch period between 12:00 noon and 12:30 PM. All work done in excess of eight (8) hours per day shall be at the overtime rate. Time and one half shall be paid for all work performed on Saturday. Double time shall be paid for all work performed on Sunday, holidays and for work indispensable to any operation upon which men of any other trade then working are being paid double time. Employees shall not be required to work overtime, except by mutual agreement between the Employer and the designated representative of the Union, who shall be the Business Manager or the Business Agent.

Where shifts are required, the rate for the first shift shall be the basic rate. The second shift shall work seven and one half (7-1/2) hours and receive the basic rate for eight (8) hours. The third shift shall work seven (7) hours and receive the basic rate for eight (8) hours. Each shift shall include a one half hour period for lunch.

In cases where the general contract limits the hours to be worked, the Employer may work an eight (8) hour off shift, inclusive of a lunch period, at straight time rates.

In the event that employees are ordered out for work on a Saturday or Sunday, at premium time, they shall be paid as follows:

- (a) For reporting, but not starting, they shall receive four (4) hours pay at premium rates.**
- (b) For work continuing beyond the fourth (4th) hour, they shall be paid for actual time worked.**

Four ten (4-10's) hour days will be allowed, with no overtime penalty, when the Awarding Authority or construction owner prohibits the contractor from working a regularly scheduled work day. This is to include both private and posted work.

Four ten (4-10's) hour days will be allowed in a week in which a holiday falls in such week. The employee shall receive eight (8) hours pay for the holiday at straight time rates. There will be no Saturday make-up day. (See Holidays and Holiday Pay.)

An employee working on straight time shall be guaranteed forty (40) hours work. After working forty (40) hours, he may notwithstanding the provision herein-before contained, be laid off at any time and paid at the time laid off only for the days he has worked, provided the machine he is operating is not used on the particular job for a period of five (5) calendar days, including Saturday and Sunday.

All straight time employees shall be guaranteed forty (40) hours per week, Monday through Friday. In the event they shall not work one (1) day during the regular work week because of inclement weather, they shall work a make-up day on Saturday, which make-up day shall be considered part of the forty hour guarantee.

Employees engaged in test pile work which precedes that start of a job, shall receive not less than three (3) days pay, unless work extends beyond the third day in which case a full week's wages shall be paid.

If the Awarding Authority or Development Owner or Weather conditions prevent work on any particular project, the show up provision currently applicable to Broken Time employees will apply for a maximum of 5 days per year for each Employer and no more than 1 day in any week. No Bargaining Unit employee shall have this condition occur more than 5 times per year.

CLASSIFICATIONS AND RATES

NOTE: All remote control equipment normally manned by Operating Engineers will be assigned to Operating Engineers.

- 1) Bulldozer, Shovels, Cranes (including all tower, climbing and bridge cranes, as used in**

Building Construction as defined in Scope of Employment), Hydraulic Cranes - ten ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Backhoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, all three drum Hoisting and Trenching Machines, Belt-type Loaders, Foremen Mechanics, Front End Loaders - 5-1/2 yards and over, Dual Drum Paver, Automatic Grader (i.e. CMI), Combination Backhoe-Loader - 3/4 yard or over, Jet Engine Dryer, Tree Shredder, Post Hole Digger, Post Hole Hammer, Post Extractor, Truck Mounted Concrete Pump with Boom, Roto-Mill, Grader, Horizontal Drilling Machine, John Henry Rock Drill and similar equipment.

2) Rotary Drill (with mounted compressor), Compressor House (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Front End Loaders - 4 yards to 5-1/2 yards, two Drum Hoists, High Fork Lifts with a capacity of 15 feet and over, Scrapers - 21 yards and over (struck load), Sonic Hammer Console, Road Planer, Cal Tracks, Ballast Regulators, Rail Anchor Machines and Switch Tampers, Asphalt Paver, Mechanic, Welder.

3) Combination Back-Loader up to 3/4 yard hoe, Scrapers up to 21 yards (struck load) Self Propelled or Tractor Drawn, Tireman, Front End Loaders up to 4 yards, Well Drillers, Pumpcrete Machines, Concrete Pumps and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self Loading Batch Plant, Well Point Operators (including installing), Electric Pumps used in Well Point System, Pumps 16 inches and over (total discharge), Compressor (1 or 2) 900 cubic feet and over, Engineers in charge of Powered Grease Truck, all Automatic Elevators (permanent or temporary) operated manually or remote control (not to be confused with elevators operating from conventional hoist 1, 2, or 3 drum), Grout Pumps, Boom Truck, Hydraulic Cranes - under 10 tons.

3A) Asphalt Rollers, Self-powered Rollers and Compactors, Tractor without blade drawing sheepsfoot roller, Rubber Tire Roller, Vibratory Roller or other type of compactors including machines for pulverizing and aerating soil, York Rake.

4) Single Drum Hoist, Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self loading), Bulk Cement Plants, Self-propelled Material Spreaders, A-Frame Trucks, Fork-lifts up to 15 ft, 3 or more 10KW Light Plants, 30KW or more Generators, Self-propelled Power Broom. Light Plants need not be manned. If they are manned they will be manned by employees working under this agreement.

5) Compressors (one or two) 315 cubic feet to 900 cubic feet, Pumps - 4 inch to 16 inches (total discharge).

6) Compressors (over 185 CFM up to 315 cubic feet), Small Mixers, Pumps – over 3 inches, Power Heaters, Welding Machines (when 3 or more heaters or welding machines are used on one job, Classification 4 rate will be paid), Conveyors, Oilers, Helpers on Grease Truck, Grease Truck with hand greasing equipment, Stud Welder.

7) Truck Crane Crews may be employed on a daily basis of eight (8) hours.

8) Master Mechanic

9) Hourly Rates for Boom Lengths (including jib)

10. "On hazardous waste removal work on a site designated by a state or federal agency as a hazardous material Superfund site or on emergency response work requiring the removal of hazardous material, when an operator is engaged in the removal of hazardous material who has been trained and is certified to perform this type of work and who is required to wear level A, B or C personal protection during the performance of this work, the employee shall receive his regular hourly rate plus \$2.00."

RATES: STRAIGHT TIME WAGES

Classification	<u>6/1/11</u>	<u>12/1/11</u>	<u>6/1/12</u>	<u>12/1/12</u>
1.	\$29.87	\$30.12	\$30.45	\$30.77
2.	\$29.56	\$29.81	\$30.14	\$30.46
3.	\$29.34	\$29.59	\$29.92	\$30.24
3A.	\$28.73	\$28.98	\$29.31	\$29.63
4.	\$26.11	\$26.36	\$26.69	\$27.01
5.	\$24.99	\$25.24	\$25.57	\$25.89
6.	\$23.05	\$23.30	\$23.63	\$23.95
7. Operator (Daily)	\$247.47	\$249.47	\$252.11	\$254.67
8. Oiler (Daily)	\$200.21	\$202.21	\$204.85	\$207.41
9. Master Mechanic	\$ 31.36	\$ 31.61	\$31.94	\$32.26

Hourly Wages for Boom Lengths (including jib)

- Over 150' - \$1.00 per hour over the Classification 1 rate of pay
- Over 200' - \$2.50 per hour over the Classification 1 rate of pay
- Over 250' - \$3.50 per hour over the Classification 1 rate of pay
- Over 300' - \$4.50 per hour over the Classification 1 rate of pay

Over 350' - \$6.00 per hour over the Classification 1 rate of pay

	<u>6/1/11</u>	<u>12/1/11</u>	<u>6/1/12</u>	<u>12/1/12</u>
Premium for Hazardous Waste	\$ 2.00	\$2.00	\$ 2.00	\$ 2.00
Health & Welfare Fund	\$ 8.65	\$9.00	\$ 9.35	\$ 9.70
Pension Fund	\$ 6.35	\$6.62	\$ 6.89	\$ 7.17
Central Pension Fund	\$0 .30	\$0.30	\$ 0.30	\$ 0.30
Training Fund	\$ 0.75	\$0.75	\$ 0.75	\$ 0.75
Annuity Fund	\$ 2.35	\$2.35	\$ 2.35	\$ 2.35
Cooperative Trust	\$0 .25	\$0.25	\$ 0.25	\$ 0.25

Deductions:

Administrative Dues deduction currently of 2-1/2% of gross weekly wages or whatever amount the Union certifies in writing as the correct amount. In the event of a change, the Employer shall have thirty (30) days from the above certification to implement the change.

The Social Action Fund deduction, currently of ten cents (.10) per hour worked or whatever amount the Union certifies in writing as the correct amount. In the event of a change, the Employer shall have thirty (30) days from the above certification to implement the change.

Employer contribution to the Cooperative Trust Fund shall be twenty five cents (.25) per hour worked.

The Trustees of the Training Fund are to determine prior to January 1st of each year, following 1990, as to whether an additional contribution to the Training Fund will be required and will so recommend to the Employer Association.

THE UNION RESERVES THE RIGHT TO TRANSFER CERTAIN AMOUNTS FROM WAGES TO FRINGE

BENEFITS UPON THIRTY (30) DAYS NOTICE PRIOR TO THE ANNIVERSARY DATE. EMPLOYEES

MAY ELECT TO TRANSFER CERTAIN AMOUNTS FROM WAGES TO THE HEALTH & WELFARE FUND, CENTRAL PENSION FUND AND/OR THE ANNUITY FUND.

REGISTERED APPRENTICE RATES

ZERO TO 1,000 HOURS - 60% OF CLASS 3

1,001 TO 2,000 HOURS - 70% OF CLASS 3

2,001 TO 4,000 HOURS - 80% OF CLASS 3

4,001 TO 6,000 HOURS - 90% OF CLASS 3

In no event shall an apprentice receive a rate higher than that of the classification in which he/she is employed.

Broken time shall be allowed for machines covered by Classification 2 through 6, inclusive. Rates shall be seventy five (.75) cents per hour over the straight time rate of pay.

On jobs where pumps, power heaters, High Pressure Boilers or well point systems must be worked twenty four (24) hours, seven (7) days a week, four engineers shall be employed and each shall be paid his respective straight hourly rate for forty (40) hours and the double time rate for two (2) hours. In the event a paid Holiday occurs in any such week, he shall receive an additional twelve hours straight time pay. In the event an observed Holiday occurs in any such week, he shall receive an additional six (6) hours straight time pay (see Holidays and Holiday pay.) The manning of pumps is required only on pumps over 3 inches and only compressors over 185 CFM. Compressors may be placed in groups of three.

On a pile driving machine, where a steam boiler is directly attached to the machine to furnish steam for pile hammer, the machine will be manned by two (2) qualified men at the rate of pay of Classification 1.

On a pile driving machine, where a compressor is directly attached to the machine to furnish air for pile hammer, the machine will be manned by two (2) qualified men, one being the operator of the machine at the rate of pay of Classification 1, and the second being the operator of the compressor and oiler, at the rate of pay of Classification 2.

A single welding machine, compressor under 315 cubic feet or a power heater used on a job by a single employer using an engineer will not be required to hire an additional engineer. Any combination of two (2) machines in this Classification shall require an additional engineer at the rate of pay of Classification 6. Any combination of 3 or more, up to 5, shall require an engineer at the rate of pay of Classification 4. Any combination over 5 shall require another engineer at the rate of pay of Classification 4.

Firemen or oilers shall be employed on all gasoline, oil, electric, air or steam operated shovels, cranes, tower cranes, draglines, backhoes of 3/4 yard and over, trenching machines (30 inch bucket and over), elevating graders, belt type loaders, pile drivers, gradalls, concrete pavers, on-site processing plants, clam shells, cableways, derricks (50 ton and over), Truck mounted hydraulic cranes (20 tons and over), self propelled hydraulic cranes (over 50 tons). Caisson drill rigs will require Oiler after August 4, 2010.

Fully automated electric pumps (including 4 inches) need not be manned if total discharge is not more than 6 inches and not more than 3 pumps are being used. Effective on work bid after October 1, 1981, fully automatic electric pumps (including 4 inches) need not be manned if total discharge is not more than 16 inches and not more than 4 pumps are being used. In the event that the Employer desires to man electric pumps, an engineer shall be assigned.

The installation, maintenance and repair of pumps shall be the work of the Union.

The wage rate for the operator of any equipment for which a wage rate does not appear in any classification, will be determined by the parties meeting immediately to negotiate said rate. The rate determined shall be paid from the time the machine started to work.

It is understood and agreed, by the parties hereto that the Union has not in any way waived any of its rights of jurisdiction to all power equipment as defined in this Agreement under "Working Conditions" by the wage classification herein agreed to.

HOLIDAYS AND HOLIDAY PAY

All employees employed on a straight time rate of pay shall be entitled to the following Holidays and pay as herein set forth:

New Year's Day Memorial Day Fourth of July Labor Day

Columbus Day Veteran's Day Thanksgiving Day

Christmas Day

or the days on which these Holidays are observed. On these days the employee will receive eight (8) hours pay as Holiday pay, regardless of what day the Holiday falls on. In addition to the Holiday pay, double time shall be paid for all work performed on such days.

If a man is ordered out to work on such Holiday and does not start, he shall be paid two (2) hours of double time over his Holiday pay for reporting. If he starts work, he shall be given eight (8) hours at double time.

Four ten (4-10's) hour days will be allowed in a week in which a Holiday falls in such week. The employee shall receive eight (8) hours pay for the Holiday at straight time rates. There will be no Saturday make-up day.

An employee working on broken time or daily basis shall be paid Holiday pay at broken time or daily rate for a Holiday falling within the regular work week, or on Saturday, provided he has worked a total of three (3) days within the week in which the Holiday occurs and provided further, that he was on the payroll immediately preceding the Holiday. If required by the Employer, he shall work the day before and the day after the Holiday.

**HEALTH AND WELFARE, PENSION, TRAINING, ANNUITY
AND COOPERATIVE TRUST FUNDS**

1) Each Employer who is party to this Agreement, agrees to and shall pay and contribute an amount equal to that shown under "Schedule of Wages" in this Agreement to the following Funds:

a) International Union of Operating Engineers, Local 98 Health & Welfare Fund, hereinafter referred to as the "Welfare Fund".

b) International Union of Operating Engineers, Local 98 Pension Fund, hereinafter referred to as the "Pension Fund".

c) Central Pension Fund of the International Union of Operating Engineers and Participating Employers, hereinafter referred to as the "Central Pension Fund".

d) Local 98 Engineers Joint Training, Retraining, Skill Improvement, Safety Education, Apprenticeship and Training Fund, hereinafter referred to as the "Training Fund".

e) Local 98 Annuity Fund, hereinafter referred to as the "Annuity Fund".

f) Joint Labor Management Cooperative Trust of Local 98, hereinafter referred to as the "Cooperative Trust".

2) The respective rates per hour as shown in the schedule of wages in this Agreement shall be paid for each payroll hour (an overtime hour for this purpose shall be considered a single hour) and proportionately for each part of such an hour for each person covered by this Agreement and employed on construction projects on which the Employer shall be engaged or otherwise in the hire of the Employer.

3) On or before the tenth (10th) day of each month said payment shall be due and payable for all such payroll periods ending the next preceding month; but in the case of operations of less than a month's duration, or in the case of employers who are repeatedly delinquent in payments, the payment shall be due weekly and payable within three (3) days after the end of the payroll week.

4) The Employer agrees that the obligation to make payments shall be on a parity with and enforceable, with respect to each fund, as the obligation to pay wages and this inclusive of the priorities incident to and in proceedings for the relief of debtors; and this ARTICLE shall bind all legal representatives, successors and assigns of the Employer.

5) The Trustees, or their representatives, when authorized by the Trustees in each case, shall have the right to inspect at all reasonable times the payroll records of an Employer as are deemed necessary and pertinent to determine whether such Employer is making due and full payment of its Employer Contributions.

6) Failure of the Employer to comply with this ARTICLE, or part thereof, may be treated as a breach of the working Agreement between the Union and the defaulting Employer; and notwithstanding other provisions of this Agreement (Arbitration, page 17), or otherwise to the contrary, immediate work stoppage and the use of picket lines against such defaulting Employer are permitted. The defaulting Employer will also be assessed interest charges, at the current prime rate after sixty (60) days and liquidated damages at the rate of ten percent (10%) after ninety (90) days. An Employer who is continually delinquent may be required to furnish the Trustees with a Surety Bond, and all costs inclusive of legal fees incurred by the Funds in collection of such obligations shall be borne by the defaulting Employer.

7) Notwithstanding any termination or cancellation under this Agreement or otherwise, the obligations of this ARTICLE and the several Declarations of Trust shall be deemed continuous and the Health & Welfare Plan, Pension Plan, Central Pension Plan, Training Plan, Annuity Plan and the Cooperative Trust shall not be discontinued pending negotiations of a new Agreement.

8) The Welfare, Pension, Central Pension, Annuity and Cooperative Trust shall be respectfully administered by an equal number of Trustees appointed and/or elected by the Union and by the Associations (unless it shall be mutually agreed to increase/decrease the number of Trustees or to consolidate the Welfare Fund, Pension Funds, Training, Annuity and Cooperative Trust with the funds respective of other similar Funds) under one or more Agreements or Declaration of Trust as they are or shall be executed by such Trustees.

9) Employer agrees to be bound by the Agreement and Declaration of Trust entered into as of September 7, 1960, establishing the Central Pension Fund of the International Union of Operating Engineers and Participating Employers and by any amendments to said Trust Agreement. Employer irrevocably designates as his representatives among the Trustees of said Fund such Trustees as are named in said Agreement and Declaration of Trust as Employer Trustees, together with their successors selected in the manner provided in said Agreement and Declaration of Trust as Employer Trustees, together with their successors selected in the manner provided in said Agreement and Declaration of Trust, as that document may be amended from time to time.

10) The Welfare Fund shall be used for the purpose of providing health and welfare benefits for employees covered by this Agreement and their dependents by means of insurance or otherwise, in the discretion of the Trustees.

11) The Pension Funds shall be used for the purpose of providing pension benefits for employees covered by this Agreement by means of insurance or otherwise, in the discretion of the Trustees.

12) The Training Fund shall be used for the purpose of providing and defraying the costs of apprenticeship or other training programs.

13) The Annuity Fund shall be used for the purpose of providing retirement or lump sum benefits for employees covered by this Agreement, in the discretion of the Trustees.

14) The Cooperative Trust shall be used for the purpose of providing relief to our signatory contractors who are bidding work against non-union contractors in an effort to obtain more work for our members.

WORKING CONDITIONS

- 1) Engineers on broken time shall report daily, unless otherwise instructed on the previous day not to do so, and they will be paid as follows:
 - a) for reporting but not starting, they shall receive two (2) hours pay
 - b) for starting work they shall receive four (4) hours pay
 - c) for continuing beyond the fourth hour, they shall receive eight (8) hours pay at the premium rate
 - d) When a night shift is employed at the broken time rate of pay, if an engineer is ordered to report, he shall receive two (2) hours pay and if he starts to work, no less than eight (8) hours pay.
- 2) In the event that engineers are ordered out for work on Saturdays or Sundays, they shall be paid as follows:
 - a) For reporting but not starting, they shall receive two (2) hours pay at the premium rate.
 - b) For starting work, they shall receive no less than four (4) hours pay at the premium rate.
 - c) For work continuing beyond the fourth hour, they shall receive a minimum of eight (8) hours pay at the premium rate.
- 3) For hoisting and rigging work, not related to Building Construction work, time and one half (1-1/2) will be paid for all overtime except Sundays and Holidays and when no other trades on the job are working double time.
- 4) Operating Engineers will work at time and one half for all overtime on site work outside the building foundation, when no other Trade is working at double time.
- 5) Any engineer or assistant engineer desiring to quit his job shall notify his Employer and the Business Agent of the Local Union. He shall continue on the job until relieved by a competent engineer or assistant engineer.
- 6) An Employer may put an engineer on straight time the day he starts to work, regardless of what day it may be, and must notify the engineer.

- 7) If an engineer is put on straight time at the end of a fraction of a week, he shall be paid the broken time rate for the time already worked.**
- 8) When an employer changes an engineer from straight time to broken time, or from broken time to straight time, he shall notify the engineer of the change made and same takes effect the following Monday.**
- 9) Engineers and assistants shall be paid before stopping time on regular pay day. In case they are not paid, they shall receive single time for waiting for their pay.**
- 10) On overtime, nothing less than one half hour's pay for a fraction of an hour worked.**
- 11) Engineers shall not be laid off on a pay day until they have received their pay.**
- 12) No engineer shall operate other than his own machine. Any changes to be made in an engineer or any machine by Master Mechanic or Superintendent, the Business Agent will be notified before any changes are made.**
- 13) An engineer who feels he has been wrongly discharged must make a complaint to the Union or the Business Agent of the Union within twenty four (24) hours of his discharge. If it is found that he is discharged through no fault of his own, or for unjust reason, then he is to be returned to the job and the employer shall have to pay for his lost time, providing it does not exceed one week's pay.**
- 14) When there is an extra boiler attached to furnish steam for a machine, there shall be a second engineer employed.**
- 15) It is agreed that the International Union of Operating Engineers, Local Union 98 and its branches claim jurisdiction over hoisting and portable engines, boilers and machinery operated by steam or mechanical power, including pumps, syphons, pulsometers, concrete mixers, stone crushers, elevators used for hoisting material, street rollers, all power shovels, cranes scrapers, tractors, bulldozers, compressors, front end loaders, scoopmobiles, well point systems (operating and installing), valves controlling permanent plant air or steam pressure, cable ways, orange peel and clam shell buckets, pile drivers, dinky locomotives or any machine used irrespective of its motive power.**
- 16) In the case of any jurisdictional dispute, the Union agrees to be bound by the decision of the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry, Building and Construction Trades Department, AFL-CIO, Washington, DC.**
- 17) The Business Agents will be allowed to visit all job and see that the terms of this Agreement are complied with.**
- 18) Assistant engineers and oilers shall be under the immediate supervision of his engineer and be subject to the same rules, regulations and working conditions as his engineer.**

19) On any job where there are six or more engineers in Classifications 1 through 4 (excluding automatic elevators in Classification 3) employed by any one employer on the regular day shift, a Master Mechanic will be employed. He shall supervise all repairs; ordinary repairs will be done by the engineer or crew operating the machine under the direction of the Master Mechanic. The Master Mechanic shall not operate any machine except in cases of emergency or to demonstrate and will work with tools when required for repairs. If a second or third shift is employed, a Foreman Mechanic will be employed who will work under the direction of the first shift Master Mechanic.

20) The Union shall have the right to select one of the regular employees on the job to act as Steward and will notify the Employer of its' selection. In the selection of a Steward, regard shall be given to the employee's regular duties, in order that he may be given sufficient time to perform his duties as Steward.

21) The Employer and the Union do hereby agree to work together to promote safety on the job for the benefit of all. Safety rules and regulations will be made known to all employees and the use of safety equipment will be continually promoted by both parties. Where the Employer has a safety committee on any job, one of the employees who is a member of the Union shall be a party to such committee. The duties of the committee will be described by the Employer. Safety equipment required and furnished by the Employer shall be properly used by the employees at all times, when so required and shall be returned to the Employer when not needed. Where safety shoes are required by the Employer, the Employer shall make available proper shoes; and half the cost of the shoes shall be borne by the Employer. Men required to work in foul weather to be supplied with rain gear consisting of jackets and hats. Pants and boots will be furnished by the Employer when he deems it necessary or when required by law. The employee shall be held responsible for the gear assigned to him and shall return same upon termination of his employment. Dozers, tractors, scrapers, loaders and graders will be furnished with cabs or curtains; also summer and winter fans. Welders will be supplied with hoods, gloves goggles and glasses.

22) The safety and health standards and rules contained herein are minimum standards and are not intended to imply that the Union objects to the establishment and imposition of the Employer of additional or more stringent rules to protect the health and safety of the employees. It shall be the exclusive responsibility of the Employer to insure compliance with safety and health standards and rules.

23) Any Employer who is a party to this Agreement, which concerns itself primarily with Building Construction work, shall be bound by the terms of any existing working agreement of this Union as related to Heavy & Highway Construction, if said Employer shall engage in Heavy and Highway Construction in any territory within the jurisdiction of this Union.

24) Any Employer who requires an employee to move equipment to any job, location, project or yard and such assignment causes the employee to be without his own vehicle, shall provide the employee with transportation back to his own vehicle and shall pay him at the premium rate when such takes place outside the employee's regular working hours.

25) No employee shall be held responsible for equipment not properly registered or because a permit was not obtained under any applicable law or regulation or for overloading a vehicle or for operating a vehicle or other equipment which is overloaded. In any such case, the Employer will assume the legal costs involved in the defense of the employee and shall pay any fines or other assessments levied against the employee. The Employer shall reimburse the employee for any working time lost in connection with any such proceedings.

In the event the employee's operating license is suspended for reasons stated herein, the Employer shall provide transportation to and from work or shall be liable for the work opportunity lost at no less than his regular earnings.

26) Any employee required to stay away from home overnight shall be compensated for reasonable room and board costs.

27) An engineer or assistant engineer (oiler/apprentice) employed on a daily basis shall be employed each day the machine on which he is employed is assigned to a job. A machine shall be considered assigned to a job on the day the machine is dispatched to a job and for each subsequent day the machine is on such job. Thereafter, a machine shall be considered to be unassigned to a job when:

a) It is returned to the Employer's yard.

b) It is removed from a job and parked on some location other than the jobsite.

c) Because of unusual traffic conditions, the machine is parked on the job to which it had been assigned.

d) The machine is moved to and parked on another jobsite and is to be activated on a day subsequent to the day following the day on which it is parked on such site.

28) The Employer will use its best efforts to maintain a journeyman/apprentice ratio of six (6) to one (1).

29) An oiler is not required on a seventy (70) ton and below hydraulic crane.

30) The IUOE, Local 98 Training Fund shall establish a ten (10) hour OSHA certification class and all bargaining unit employees must successfully complete this class within three years of June 1, 2002.

31) The use of cell phones while engaged in the operation of a piece of construction equipment is prohibited.

32) When an engineer operates a higher rated piece of equipment than the one he was assigned to for that day, he shall receive the higher rate for the entire day.

LIGHT DUTY WORK

The following applies to any bargaining unit employee who has been injured on the job and has been released to light duty work by the employee's attending physician, with such release in writing and identifying any limitations for work. The parties agree that the injured bargaining unit employee, released to light duty (as described above), will perform any light duty work the Employer may have, within the attending physician's written restrictions, regardless of the type of work involved. It is understood that this light duty work is temporary in nature (less than six months) and such work will not give rise to a craft jurisdiction claim by any other person, entity, union or employer. If such occurs, the light duty work shall cease.

The Employer agrees the assigned light duty work will not replace a worker of any craft and the Employer further agrees to pay the light duty employee his/her normal bargaining unit employee hourly rate and make the required fringe benefit contributions. Light duty work will be limited to eight (8) hours per day and forty (40) hours per week.

Additionally, in the event an employee returns to work under this clause, who thereafter ceases employment for the Employer, the Employer shall not affect the employee's right to unemployment benefits or workers compensation benefits because of work, as a result of this clause. For example, work under this clause shall not reduce the worker's compensation or unemployment benefits an individual (who has ceased work under this clause) is entitled to because of such work.

The aforementioned light duty work clause shall terminate May 31, 2013. Prior to that date, the parties will meet, confer and negotiate any extension and/or changes in the language regarding the light duty work.

SUB-CONTRACTING AND EQUIPMENT RENTAL

- 1) The Employer agrees that in the event he shall subcontract any item of work contained in his prime contract which is within the craft jurisdiction of the Local and which is to be performed on the job-site proper, he shall provide in the sub-contract that the subcontractor shall assume the terms and conditions of this Agreement. This paragraph shall be interpreted and enforced consistent with Section 8(e) of the Labor-Management Act, as amended.
- 2) Any rented equipment used on any job by any Employer, Parties to this Agreement, shall also comply with conditions of employment and wage rates contained herein, as stated above.

LIABILITY INSURANCE

The Employer agrees, without cost to the employees, to provide liability insurance coverage in the amount of no less than \$500,000.00 for each occurrence and \$1,000,000.00 aggregate for all employees covered by this Agreement.

ADMINISTRATIVE EXPENSE DUES

Upon notification by the Union that a uniform administrative dues deduction has been authorized, the Employer shall deduct said uniform administrative dues. The Union shall be responsible for obtaining all individual signed authorizations.

The Union will hold harmless the Employers for any liabilities under said deductions.

SOCIAL ACTION FUND

1) Upon notification by the Union that a uniform Social Action Fund deduction has been authorized, the Employer shall deduct said uniform Social Action Fund. The Union shall be responsible for obtaining all individual signed authorizations.

2) It shall be the sole responsibility of the Union to procure, pursuant to the provisions of Section 302 © of the Labor-Management Relations Act of 1947, the signed individual authorization of every employee subject to this Agreement, both present and future. The Local shall indemnify and hold harmless the Employer from any claims arising under this Article, including the furnishing of counsel to defend against any such actions.

PRE-JOB CONFERENCE

The Employer agrees that as soon as a contract for a job has been awarded or within a reasonable time thereafter, he will notify the Union of such job award, make arrangements and hold a pre-job conference with the Union. This clause shall apply to every job or project undertaken by the Employer.

ARBITRATION

1) In any case of violation, misunderstanding, disagreement or difference in interpretation of this Agreement by either Party, either Party shall refer the matter to the Business Agent within fifteen (15) days after the alleged violation occurred. The Business Agent will meet forthwith with the Parties concerned. Failure to reach a settlement of the misunderstanding, either Party may refer the same to the Grievance Committee, as hereinafter set forth.

2) The Grievance Committee shall be comprised of two (2) representatives chosen by the Employer together with two (2) representatives chosen by the employees. This Committee will meet within forty eight (48) hours of notification to hear arguments on both sides of the controversy and shall render its decision within ninety six (96) hours from the time of this first meeting.

3) Should the Grievance Committee fail to arrive at a decision within the time specified, an umpire shall be chosen by the Committee and the matter in dispute shall be referred to him for decision. Selection of the umpire shall be made within twenty four hours of expiration of the Committee's time. If the Committee is unable to agree upon an umpire, the matter shall be

referred to the American Arbitration Association. Pending final decision of the grievance, work shall be continued in accordance with the provisions of this Agreement.

EQUAL OPPORTUNITY

The Parties to this Agreement agree to actively promote and adhere to the intent and purpose of the Civil Rights Act of 1964 and the Executive Orders issued pursuant thereto.

SEVERAL LIABILITY

The obligation of each Employer-Member of the Associations covered by this Agreement shall be several and not joint.

TERMINATION

This Agreement, effective June 1, 2011 shall continue in effect until May 31, 2013.

This Agreement shall continue to be effective from year to year unless either Party on or before March 1, 2013 or prior to March 1st in any year thereafter, gives notice in writing to the other Party of its intention to terminate, alter or amend this Agreement.

IN WITNESS THEREOF, the Parties hereto have caused these present to be signed by their duly authorized representatives this 15th day of June, 2011.

Labor Policy Division
CONSTRUCTION INDUSTRY ASSOCIATION
OF WESTERN MASSACHUSETTS, INC.

William J. Sullivan

Gilbert Heister

International Union of Operating Engineers
HOISTING AND PORTABLE ENGINEERS
LOCAL 98, 98A, 98B, 98R, AFL-CIO

Eugene P. McHale

Business Manager/President
Philip C. Chaffer

Recording-Corresponding Secretary