

**INDEPENDENT
HEAVY CONSTRUCTION DOCKBUILDING
MARINE AND FOUNDATION
AGREEMENT**

between

and

**THE DISTRICT COUNCIL FOR THE
NEW YORK CITY AND VICINITY
OF THE
UNITED BROTHERHOOD OF CARPENTERS AND
JOINERS OF AMERICA,
AFL-CIO**

for

DOCKBUILDERS LOCAL UNION NO. 1456

JULY 01, 2002 - JUNE 30, 2006

DOCKBUILDERS

<u>INDEX</u>	<u>PAGE</u>
A.J.R.E.I. Promotional Fund	52
Apprentice Manning	24
Arbitration	36
Area Jurisdiction	4
Assessment	21
Auditing	33
Binding Subcontractor and Other Firms	27
Completeness of Agreement	4
Conditions	21
Conditions - Divers & Tenders	41
Creosote Pay	25
Declaration of Principles	2
Disputes	6
Drilling Machines Utilized on Caissons	23
Drug Testing	25
Effectuating Clause	53
Employees Covered - Marine Diving & Tending	38
Equipment	25
Funds - Contributions -Collection	29
Hazardous/Toxic/Contaminated Waste Sites	26
Heavy Construction Industry Fund (HCIF)	50

INDEX	PAGE
Purposes	1
Scope	10
Sharpening of Tools	23
Shifts	16
Size of Work Crews	25
Spirit of Agreement	27
Status Quo	9
Storage of Tools and Clothing	22
Supplemental Fund	34
Surety Bond	46
Term-Renewal	6
Termination of Employment During a Work Stoppage	10
Timekeeping Devices	24
U.B.C. National Health & Safety, Apprenticeship Training, and Education and Development Funds.	36
Union Security - Union Visitation	5
Variable Shift Commencement	22
Welder-Burner	25
Work Classifications-Wages-Total Fringes	19
Work Stoppage for Default in Fringe Benefit Fund Contributions	32

INDEX	PAGE
Heavy Construction Work - Employees Covered	13
Holiday	18
Hours-Wages-Conditions	15
Hours Wages Fringes Conditions - Divers	39
Intoxicating Beverages	25
Job Injury - Medical Attention	24
Job Steward	18
Jurisdictional Disputes	10
Legality	52
Liability for Subcontractors	31
Liquidated Damages	32
Make-Up Day	26
Miscellaneous	48
New York City & Vic Carps Joint Labor-Mgmt Fund	35
New York State	50
No Lockout - Strike - Work Stoppage	7
No Work Stoppage	10
Off Shift	22
Other Union Agreements	10
Overtime-Lunch - Job Steward Hours	18
Payment of Wages (including fringe benefit contributions)	17
Procedures of Grievance-Arbitration	8

THIS AGREEMENT made and entered into this 1st day of July 2002, and effective as of November 18,2003, by and between

HEREIN REFERRED TO AS

(THE "EMPLOYER")

and the

**DISTRICT COUNCIL OF NEW YORK CITY AND
VICINITY OF THE UNITED BROTHERHOOD OF
CARPENTERS AND JOINERS OF AMERICA
AFFILIATED WITH THE AFL-CIO, WASHINGTON, DC
HEREIN REFERRED TO AS
(THE "UNION" and/or THE "DISTRICT COUNCIL")**

for Dockbuilders, Pier Carpenters, Shorers, House Movers, Pile Drivers and Foundation Workers and Marine Constructors Local Union 1456. NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, the parties agree as follows:

ARTICLE I

Purposes - Declaration of Principles

Section 1 - Purposes

The purposes for which this Agreement is entered into are as follows:

- (a) prevent strikes and lockouts;

- (b) facilitate peaceful adjustment of grievances and disputes between the Employer, employee and Union;
- (c) prevent waste, unnecessary and avoidable delays, which result in unnecessary costs and expense to the Employer and Union, and the loss of wages and fringe benefits to the employee;
- (d) enable the Employer to secure at all times sufficient forces of skilled workmen;
- (e) provide as far as possible for the continuous employment of labor;
- (f) provide that employment hereunder shall be in accordance with conditions and at wages and fringe benefits herein agreed upon;
- (g) bring about stable conditions in the Industry;
- (h) keep costs of work in the Heavy Construction and Marine Diving and Tender work in the Industry as low as possible consistent with fair wages and proper working conditions, as provided for hereunder;
- (i) continue the custom and practice heretofore prevailing for many years on Heavy Construction and Marine Diving and Tender Work of the agreement, as to the terms and conditions of employment, and as to the necessary procedure for amicable adjustment of all disputes or questions that may arise.

Section 2 - Declaration of Principles

Both parties to this Agreement acknowledge that this Agreement is the uniform agreement for the Heavy Construction and Marine Diving and Tender Work and its execution will further the interests of said Industry. This Agreement will be interpreted under the following principles:

- (a) that there shall be no limitation as to the amount of work an employee shall perform during his working day, it being understood that said employee shall perform a fair

- and honest day's work, within the limits of safety;
- (b) that there shall be no restrictions on the use of machinery, tools or appliances, within the limits of safety. If an employee is required to use powder actuated tools, he is to be qualified to use said powder actuated tools by securing from the tool manufacturer, or equally responsible certifying agency agreed upon by both parties hereto, an Operator's Card or similar proof of qualification, and the Union shall cooperate with the Employer and tool manufacturer in having the employee expeditiously qualified. No powder actuated tool shall be used that has not been previously approved by the New York City Board of Standards and Appeals;
 - (c) that there shall be no restriction on the use of any raw or manufactured materials, except prison made;
 - (d) that no person shall have the right to interfere with employees or workmen during the working hours;
 - (e) that employees are at liberty to work for whomsoever they see fit, and they are entitled to and shall receive the wages and fringe benefits agreed upon as hereinafter set forth in this Agreement;
 - (f) the Employers are at liberty to employ and discharge whomsoever they see fit, providing that no person shall be discharged without good cause;
 - (g) that the Employer and the Union agree that they have not, and will not discriminate because of race, creed, color, national origin, age, sex, disability, marital status, sexual orientation citizenship status or Union membership against any individual.

For the purposes of this Article, "citizenship status" means the citizenship of any person or the immigration status of any person

lawfully residing in the United States who is not a citizen or national of the United States.

Section 3 - Completeness of Agreement

It is understood that the Purposes and Declaration of Principles, herein set forth, are a part of this Agreement and said Purposes and Principles govern all parties hereto in the performance thereof and shall be complied with as conditions of this Agreement. The parties hereto enter into this Agreement and agree to carry out, conform and to comply with its terms and provisions as provided and set forth herein by reason of the mutual advantages of so doing and in order to effectuate and provide for the carrying out and putting into effect, during the term hereof, the Purposes and Principles of this Agreement.

ARTICLE II

Jurisdiction

The Employer hereby recognizes the Union as the exclusive collective bargaining representative of all employees covered by the jurisdiction of the Union as described herein. This Agreement shall cover work performed by or on behalf of a signatory Employer hereto in the Heavy Construction field, as hereinafter defined in Article VIII, when said work is to be performed in whole, or in part, within the territorial jurisdiction of the Union. Said jurisdiction shall include:

In New York State, the Counties of:

Bronx	Putman
Westchester	Richmond
Kings	Rockland
Nassau	Queens
New York	Suffolk

All the Islands in and all the waters of the adjacent harbors, the Rivers, Bays, Long Island Sound and the Atlantic Ocean. Also, in the State of New Jersey, the following Counties:

Bergen	Morris
Essex	Passaic
Hudson	Union
Hunterdon	Somerset
Mercer	Sussex
Middlesex	Warren
Monmouth	

All of the Islands in and the adjacent Harbors, Rivers, Bays Delaware River and the Atlantic Ocean. If the Employer engages in any class of work not embodied in Heavy Construction Dockbuilding and Marine Foundation Work, as hereinafter defined, both parties shall comply with all of the Union conditions then existing in that class of work.

ARTICLE III

Union Security - Union Visitation

Section 1 - Union Security

All employees who are members of the Union at the time of the signing of this Agreement shall continue membership in the Union. All other employees covered by this Agreement must become members of the Union on or after the seven (7) days following the beginning of employment or the date of this Agreement, whichever is later, and must maintain their membership in good standing in the Union as a condition of continued employment. If the provisions for Union security clauses are modified by Congress during the term of this Agreement, this clause alone will be open for negotiation.

Section 2 - Union Visitation

Authorized Representatives of the Union shall be allowed to visit jobs and interview the Employer

and employees covered by this Agreement, but shall in no way interfere with or hinder the progress of the work.

ARTICLE IV

Term-Renewal

This Agreement shall continue in effect until and including June 30, 2006.

ARTICLE V

Disputes

Section 1 - New Equipment

If new machinery or modified equipment is to be utilized on a project, the N.Y.C. District Council is to be notified of the proposed use of said machinery and/or equipment, by the Employer, and the Employer will discuss and come to agreement regarding the manning of same with the N.Y.C. District Council prior to designating and assigning employees to the equipment.

It is agreed under this Section that:

- a) The crew size for the use of Stihlworker machine is a minimum of two (2) journeyman and one (1) foreman providing the length of the driven piles or extracted piles or any other driven or vibrated material is twenty-five (25) feet or less in length. This does not effect the bull gang crew size.
- b) The crew size for the use of back hoe & front end loader & hydraulic cranes shall be a minimum of two (2) journeyman and one (1) foreman providing the length of the driven or extracted piles, sheet piling or any driven or vibrated material twenty-five (25) feet or less in length. It is also agreed for the setting of sheet piling, that the

previous sheet must be a length of five (5) feet or less for this paragraph to apply for a two (2) journeyman and one (1) foreman crew size. If the prior sheet is over five (5) feet in length, the crew size shall consist of three (3) journeyman and one (1) foreman. This does not effect the bull gang crew size.

- c) The crew size for the use of Fork Lifts for the driving of piling shall be a minimum of two (2) journeyman and one (1) foreman providing the length of the pile is twenty-five (25) feet or less. This does not effect the bull gang crew size.
- d) The crew size for the use of Junttan TM20 (small machine) driving pile bottoms with no added on piling (no splicing), the pile driving crew will consist of a minimum of two (2) journeyman and one (1) foreman. This does not effect the bull gang crew size.

Section 2 - No Lockout - Strike - Work Stoppage

It is hereby agreed that no question or dispute or breach of this Agreement, which may be caused by any of the parties hereto, shall be the occasion for or cause of any lockout, strike or work stoppage.

The Employer expressly agrees that it will not lock out its employees covered by this Agreement.

The Union expressly agrees not to strike or in any other manner stop or hinder work covered by this

Agreement. It is agreed that under no circumstances shall there be strikes, lockouts, or work

stoppages, both parties agreeing to settle any question or dispute that may arise from any of the

parties hereto by submitting same for determination as herein provided, with the express agreement

that the parties hereto will honor, obey, be bound by and carry out such decision or determination

upon any question or dispute which may be submitted.

The Union will not call or sanction any strike or concerted stoppage during the term of this

Agreement except for:

- (1) the Employer's refusal to submit a matter to arbitration, pursuant to the arbitration clause of this Agreement,
- (2) the Employer's failure to comply with any decision of any Board of Arbitration established hereunder within twenty (20) working days after such decision, unless appealed to a court of competent jurisdiction which grants a stay, and,
- (3) any other reason explicitly provided for in this Agreement.

Section 3 - Procedures of Grievance - Arbitration

For the purpose of settling disputes between the parties hereto as to any claims or violation of this Agreement, or of any dispute or breach that may arise in connection therewith, or for construing the terms and provisions thereof, the following procedure is established:

- (a) Either party may advise the other of an alleged grievance, in writing, and the party alleging the grievance may call for a meeting to be held not less than twenty-four (24) hours after receipt of the grievance notice, at a place designated by the party calling the grievance. Both parties to the grievance shall be given full opportunity to be heard and present witnesses. The grievance shall be resolved by majority decision. At each grievance hearing, one of the arbitrators listed below will be chosen by random selection to hear the grievance should it reach the arbitration stage. If the grievance is not resolved within seventy-two (72) hours of notification thereof, as set forth above, or if the agreement reached is not complied with by the guilty party within 24 hours after notification of the agreement, either party may proceed to arbitration immediately.
- (b) Any grievance not resolved pursuant to (a) above, shall be submitted to arbitration before one of the following three (3) arbitrators:

1) Roger Maher

2) Robert Herdoz

3) Joseph Lipowski

The arbitrator shall conduct a hearing in such manner as he shall consider proper and shall serve as sole arbitrator of the dispute between the parties. The arbitrator shall have the right to conduct an ex parte hearing in the event of the failure of either party to be present at the time and place designated for the arbitration, and shall have the power to render a decision based on the testimony before him at such hearing. The decision of the arbitrator shall be final and binding upon both parties and may be entered as a final decree or judgment in the Supreme Court of the State of New York or in a court of appropriate jurisdiction in any state where such decision shall be rendered. The costs of arbitration, including the arbitrator's fee, shall be borne equally by the Employer and the Union. It is the intent of the parties hereto that all disputes between them, both within and outside of the Agreement, shall be submitted to arbitration, as provided within, and that no defense to prevent the holding of the arbitration shall be permitted. Service of any document or notice referred to above, or service of any notice required by law in connection with arbitration proceedings, may be made by registered or certified mail.

- (c) This Article is not, in any manner, meant to prohibit or restrict the Union's right to strike or withhold services upon the expiration of this Agreement or any extension hereof or under the terms and conditions set forth in Article XI, Section 4 hereof.

Section 4 - Status Quo

Until a decision shall have been rendered, neither party shall take any action of any character as to the complaint, statement or matter in question.

ARTICLE VI

Jurisdictional Disputes

Section 1 - Scope

- (a) The Employers bound by this Agreement recognize the jurisdictional claims of the United Brotherhood of Carpenters and Joiners of America..

Section 2 - No Work Stoppage

It is agreed that where a jurisdictional dispute arises, there shall be no stoppage of work by trades affiliated with the AFL-CIO, and the trade in possession of the work shall proceed with the job and the question in dispute shall be submitted by the trades to the Panel, authorized for settlement of jurisdictional disputes for decision.

ARTICLE VII

Other Union Agreements

It is agreed that the Union and the Employer will carry out this Agreement in all details, regardless of whatever conditions and wages exist for members of any other Local Union, whether or not employed in Heavy Construction Dockbuilding and Foundation Work.

ARTICLE VIII

Heavy Construction - Dockbuilding and Foundation Work

Section 1 - Heavy Construction - Dockbuilding and Foundation Work

Heavy Construction Work, where referred to in this Agreement, is hereby defined as the Construction of Engineering Structures and Building Foundations whether land or marine exclusive of the Erection of Building Superstructures since this latter work is agreed to be a separate and

distinct branch of the Construction Industry.

Dockbuilding, Marine and Foundation Work where referred to in this Agreement is hereby defined as the construction and/or performance of:

- (a) All temporary or permanent timber trestles, temporary bridges, all work on waterfront boardwalks, caissons, cofferdams and drilling of same coal pockets, underpinning, shoring, dry packing for underpinning, lagging, slurry walls in conjunction with other trades, jetties constructed of wood, steel and concrete, cable laying in water, uplift anchors in foundation, caissons and cofferdams; riprap when placed with floating equipment, all in accordance with Local 1456 jurisdiction.
- (b) All pile driving on docks and foundations which utilize wood, steel and/or concrete piles, and sheeting including pile driving for subway, sewer and other engineering construction. Sand drains, wick drain piles, augered in piles, included jetted in piles, load tests for all piling, whether manual or automatic. The pulling and extraction of all piles and the bracing of all work listed in **Subsections (a) through (n)**. All compaction and bearing piles where pile driving equipment is used.
- (c) Guard rails and anchor bolts on all structures built by Dockbuilders and all structures used to restrain or contain tidal waters including sea walls and boom logs of any nature. The building and assembling of forms for pre-cast or pre-stressed structural shapes or units and also the setting of same pre-cast or pre stressed structural shapes or units pertaining to all work classified as within the jurisdiction of Local Union 1456 on the job site.
- (d) All work on docks, piers, wharves, bulkheads and waterfront structures from and below the top elevation level of the backing log. All demolition work when

manpower is needed.

- (e) All work on inland foundations from and below the top elevation of the column base
- (f) House moving, supporting building with post or needle beams.
- (g) Vertical and/or horizontal sheet piling and/or piling for embankments, bridge abutments and land foundations for building, including pier holes and trenches.
- (h) Bracing and wedging of old and new walls, installing of tiebacks, placing and jacking tierods for building foundations, and underpinning of walls and columns with tubes driven by hydraulic, air, screw jacks, steam hammers or any other machine which may be needed to drive or extract same.
- (i) Raising and lowering floors and roofs when it is done as one unit or section units.
- (j) Building overhead bridges, sidewalk bridges when related to Local Union 1456 jurisdiction, gangways and platforms for any of the work listed in this Article VIII.
- (k) Handling of all materials and equipment relating to Local Union 1456 on the job site listed in this Article VIII.
- (l) The installation of any and all form lining material such as knob-loc.
- (m) Plant work, as defined; the erection of all fences; the erection of all shanties, offices, or any other temporary building; the fabrication of all benches, horses, platform for the use by the Dockbuilders and any other trades.
- (n) All the work of: cutting, burning, welding, bracing concrete forms, pile capping and monolithic form incorporating piles, tremie pours, sea walls, running all anchors, handling of floating equipment and jack up barges, all signaling and tagging, the pulling of all pipe, rigging of pile driving equipment and/or equipment used by Dockbuilders including cable on drums, adjustment of length of boom from heel out,

handling, loading or unloading of all pile driving equipment, operation of all deck engines, tuggerhoists, pile augers and moon beam, operation of all valves pertaining to pile driving equipment, setting up and removal of power equipment used for operating hammer, assembling and disassembling of all pile driving equipment, on job site, of all work listed in **Subdivision (a) through (n)** above.

- (o) Installation of Slurry Walls in conjunction with other trades. Dockbuilders working on slurry walls will perform all work pertaining to the forming of guide walls, the placing of inserts in rebar cage, and the setting and removal of all bulkheads or endstops. Drilling, stardrilling or chiseling for rock sockets or keyways, air lifting for desanding and tremi pours on these walls.

All jurisdictional work provided for herein as specifically granted to the employees under the jurisdiction of Local 1456 is to be interpreted and assigned in accordance with past work practices in geographical areas, and in relationship with other Unions of the United Brotherhood of Carpenters and Joiners of America, AFL-CIO, other Unions in the heavy construction industry, including but not limited to the International Union of Operating Engineers AFL-CIO, the Laborers International Union of North America, AFL-CIO.

Jurisdictional work assignments as they relate to past practices in specific areas of work performed by employees under the jurisdiction of Local 1456, e.g. marine construction, land foundation work, parkways, sewers, have had different practices and trades doing the work therein and in other areas employees under the Jurisdiction of Local 1456 have assisted other trades, and in other areas performed it exclusively and in still others have not participated in the work, exclusively.

Section 2 - Employees Covered

- (a) This Agreement is applicable to qualified Journeyman Dockbuilder, Journeyman

Dockbuilder Foreman, Journeyman Dockbuilder General Foreman Marine Divers and Tenders and Dockbuilder Apprentices and New York Plan Trainees, 1st, 2nd, 3rd and 4th year who are employed under the classifications as set forth in **Article IX, Section 6** of the Agreement.

- (b) All employees assisting Dockbuilders in the performance of their duties outlined in this Agreement who are members of Timbermen's Local Union 1536 of the District Council of Carpenters of New York City and Vicinity at the time of the execution of this Agreement shall continue membership in Local Union 1536.
- (c) All other employees assisting Dockbuilders in the performance of their duties outlined in this Agreement must become members of the Timbermen's Local 1536 on or after seven (7) days following the beginning of employment or the date of the Agreement whichever is later, and must maintain their membership in the Union as a condition of continued employment.

Section 3

- (a) Journeymen Dockbuilders assigned to land pile drivers shall work in crews of four (4) men and a foreman. Their duties shall be all jobs related to the particular pile driver to which they are assigned.

These duties shall include driving piles, the loading, unloading and handling of materials to be used on the pile driver to which they are assigned, the cutting, welding, burning and splicing of piles which have been driven by the pile driver to which they are assigned. When the hammer is in operation, it shall be manned by not less than a Foreman and two Journeymen Dockbuilders.

- (b) The Union shall appoint one Dockbuilder per shift to function as a job steward. He

shall perform the regular duties of a Dockbuilder but shall be allowed sufficient time to perform his duties as steward. If his duties as steward are performed in a manner not satisfactory to the Union, he may designate another Dockbuilder to function as job steward, all in accordance with existing jurisdictional precedents in the area. All jobs regardless of what type of agreement they work under shall have a New York City District Council certified shop steward if available from the gang. When a signatory Contractor lays-off a shop steward during continuous employment, the Contractor must notify the Union and have a meeting on the job with the Union within twenty-four (24) hours. If termination takes place a letter must be sent to the Union by the Employer.

ARTICLE IX

Hours - Wages - Conditions

Section 1 - Hours of Work

- (a) Eight (8) hours shall constitute a day's work. Forty (40) hours shall constitute a week's work. Any failure to work these hours gives the Employer the right to pay only for hours actually worked and the Employer may deduct from the employee's wages and fringes the value of the time period not worked less than eight (8) hours. All journeyman Dockbuilders in pile driving gangs shall perform all duties in relation to the driving of piles, and in addition shall perform all associated duties. All employees engaged in work outlined in Article VIII of this Agreement shall perform those duties as outlined and any other work coincidental with these duties.
- (b) All General Foreman, Foreman, first and second year Apprentices shall be paid forty

(40) hours per week during continuous employment on a job. The only time may be paid less than forty hours would be the first week and the last week of work in which case the Employer would only be required to pay for days actually worked in those weeks. If any of said employees is laid off from his work assignment and rehired within five (5) consecutive working days for the same work assignment, said employee shall be paid for the actual working days for which he was not employed, if he was not employed by another Employer during the layoff period. During the course of continuous employment on a project said employees shall be paid on a weekly basis, except for project shutdowns, and shall not receive holiday pay as an addition to their weekly pay unless worked.

All other employees covered by this Agreement shall be employed on a daily or hourly basis.

- (c) The first employee hired as a Dockbuilder shall be designated by the Employer as the Dockbuilder Foreman. The Union shall designate the Job Steward.

Section 2 - Shifts

- (a) A single shift shall be a continuous nine (9) hours, starting at 8:00 a.m., except when necessary to conform with the provisions of this Article IX, Section 7, Subdivision (b). The mealtime shall be one (1) hour, but it may be curtailed by one-half (½) hour.
- (b) When two (2) shifts are employed, the work period for each shift shall be a continuous eight (8) hours.

Effective July 1, 1997, when two shifts are employed, each shift shall be eight and one-half hours with one-half (½) hour for lunch.

- (c) When three (3) shifts are employed, each shift will work seven and one-half (7½) hours but will be paid for eight (8) hours, since only one-half (½) hour is allowed for mealtime.
- (d) When two (2) or more shifts of Dockbuilders are employed, single time will be paid for each shift.
- (e) A week shall start at 8:00 a.m. Monday and end at 8:00 a.m. Saturday, except when necessary to conform with the provisions of this **Article IX, Section 7, Subdivision (b)**.

Section 3 - Payment of Wages (including fringe benefit contributions)

All wages & fringe benefit contributions payable under this Agreement shall become due and be paid on the job every week and not more than three (3) days pay shall be held back. Wages shall be paid at the Employer's option either in cash or by check provided:

- (a) The check is a Todd Insured ABC System Payroll Check or similar type of check, and the delivery of the checks shall be made at least one (1) day preceding a banking day;
- (b) The Employer has complied with the provisions of **Article XVI** relating to Bonding.

If for any reason the Employer terminates the services of any employee working under this Agreement, the accrued wages and fringe benefits of that employee shall be paid to him at the time of termination of his employment, otherwise waiting time shall be charged for the accrued wages.

If any employee shall, of his own volition, leave the services of his Employer, then his Employer may retain his wages until the next regular pay day.

Should an employee be required to wait for his pay after the hours specified in **Article IX, Sections 1, 2, 3 and 4**, except for reasons beyond the Employer's control, then in addition, the employee shall

receive time and one half for the first two (2) hours of waiting time on pay day or lay off and single time for any additional waiting time, except on Saturday, Sunday or holidays. However, such waiting time shall not exceed sixteen (16) hours. An employee claiming said waiting time shall be required to show proof that he was actually present on the job during the waiting time claimed.

Section 4 - Overtime - Lunch - Job Steward Hours

- (a) Time and one-half (1½) shall be paid for all work performed in excess of eight (8) hours per day, for all work performed in excess of forty (40) hours per week, and for all work performed on Saturdays. Sundays and holidays shall be paid at the double time rate, except when being performed under **Article IX, Section 2, Shifts**.
- (b) **Lunch**
12:00 noon to 12:30 p.m.
- (c) **Job Steward**
On variable shift jobs, each Steward is to work only eight (8) hours.

Section 5 - Holidays

- (a) Holidays shall be observed in accordance with the New York State Law and shall be as follows:

New Year's Day	Labor Day
President's Day	Columbus Day
(3 rd Monday in February)	Election Day (in a
Memorial Day(Decoration Day)	Presidential Election Year Only)
Independence Day	Thanksgiving Day
(4 th of July)	Christmas Day

For employees working in the geographical jurisdiction of the State of New Jersey as provided for herein, Columbus Day is not a holiday, Armistice Day (Veteran's Day) is a holiday.

If an employee does not work on said holiday he shall receive no pay for said day.

If an employee works on said holiday he will be paid only the double time rate.

When work is performed in an area outside of New York City, conditions as to holidays shall prevail, except that provisions of this paragraph herein shall be operative within the jurisdictional territory of the Union.

- (b) Where the workday ends at 8:00 a.m. on a Saturday, Sunday, or holiday, the Employer may, at its discretion, define Saturday, Sunday, or holiday, as beginning at 8:00 a.m. of the Saturday, Sunday, or holiday, and continuing until 8:00 a.m. of the following day, except when necessary to conform to the provision of **Article IX, Section 7, Subdivision (b)**.

Section 6 - Work Classification - Wages - Total Fringes

- (a) Wage rates and fringe benefits contributions within the bargaining unit shall be determined and/or reallocated by the Union at its sole discretion, in conjunction with the fund trustees.
- (b) The rate of wages to be paid employees covered by this agreement shall be as follows:

1. DOCKBUILDER - GENERAL FOREMAN:

Eff Date:	<u>07/01/02</u>	<u>07/01/03</u>	<u>07/01/04</u>	<u>07/01/05</u>
Wage	\$41.66			
Fringe	\$24.91			
Total W&F	\$66.57			
H.C.I.F.	\$ 0.35	\$ 0.35	\$ 0.35	\$ 0.35

2. DOCKBUILDER - FOREMAN:

Eff Date:	<u>07/01/02</u>	<u>07/01/03</u>	<u>07/01/04</u>	<u>07/01/05</u>
Wage	\$38.66			
Fringe	\$24.91			
Total W&F	\$63.57			
H.C.I.F.	\$ 0.35	\$ 0.35	\$ 0.35	\$ 0.35

3. DOCKBUILDER - JOURNEYMAN:

Eff Date:	<u>07/01/02</u>	<u>07/01/03</u>	<u>07/01/04</u>	<u>07/01/05</u>
Wage	\$35.66			
Fringe	\$24.91			
Total W&F	\$60.57	\$64.01	\$67.45	\$70.89
H.C.I.F.	\$ 0.35	\$ 0.35	\$ 0.35	\$ 0.35

APPRENTICES

Apprentice wage increases may be deferred for reasons determined by the Joint Apprenticeship Committee or its training director by written notice to the Employer.

4. FOURTH YEAR DOCKBUILDER APPRENTICE & NEW YORK PLAN TRAINEE

Eff Date:	<u>07/01/02</u>	<u>07/01/03</u>	<u>07/01/04</u>	<u>07/01/05</u>
Wage	\$28.53			
Fringe	\$17.16			
Total W&F	\$45.69			
H.C.I.F.	\$ 0.35	\$ 0.35	\$ 0.35	\$ 0.35

5. THIRD YEAR DOCKBUILDER APPRENTICE & NEW YORK PLAN TRAINEE

Eff Date:	<u>07/01/02</u>	<u>07/01/03</u>	<u>07/01/04</u>	<u>07/01/05</u>
Wage	\$23.18			
Fringe	\$17.16			
Total W&F	\$40.34			
H.C.I.F.	\$ 0.35	\$ 0.35	\$ 0.35	\$ 0.35

6. SECOND YEAR DOCKBUILDER APPRENTICE & NEW YORK PLAN TRAINEE

Eff Date:	<u>07/01/02</u>	<u>07/01/03</u>	<u>07/01/04</u>	<u>07/01/05</u>
Wage	\$17.83			
Fringe	\$17.16			
Total W&F	\$34.99			
H.C.I.F.	\$ 0.35	\$ 0.35	\$ 0.35	\$ 0.35

7. FIRST YEAR DOCKBUILDER APPRENTICE & NEW YORK PLAN TRAINEE

Eff Date:	<u>07/01/02</u>	<u>07/01/03</u>	<u>07/01/04</u>	<u>07/01/05</u>
Wage	\$14.26			
Fringe	\$17.16			
Total W&F	\$31.42			
H.C.I.F.	\$ 0.35	\$ 0.35	\$ 0.35	\$ 0.35

(c) Dockbuilder Foreman - General Dockbuilder Foreman

The Dockbuilder Foreman shall receive three (\$3.00) dollars per hour above the Journeyman scale on all pile driving and dockbuilding work. The wage of the General Foreman Dockbuilder shall be mutually agreed upon with the Employer, and it shall not be less than six (\$6.00) dollars per hour more than that of the Dockbuilder Journeyman as set forth in the rates above.

(d) Assessment

Two (2.0%) percent assessment of the hourly rate of wage, excluding fringes, to be deducted from employees under the jurisdiction of the Local Union No. 1456 upon signed authorization by employee and paid by check to Local Union 1456 weekly.

Section 7 - Conditions

(a) General Dockbuilder Foreman

Where five (5) or more Dockbuilder and Foundation Foreman with gangs are employed on any one (1) shift under one (1) contract, there will one General

Dockbuilder Foreman, selected by the Employer, employed for that contract, during the employment of the five (5) or more Dockbuilder Foremen with gangs.

(b) Variable Shift Commencement

A shift commencing Monday through Friday, shall begin two (2) hours before and two (2) hours after normal starting time, in one-half hour increments. In variable shifts the Employer may vary the shift of a Foreman and his entire crew, or part of his crew and such work shall be paid at the appropriate shift rate. It is agreed that on tide work, the Contractor can start his or her job according to tide schedules providing the eight hour shift is completed between the hours of 6:00 a.m. and 6:00 p.m. A Dockbuilder cannot work more than eight (8) hours in a twenty-four (24) hour time period unless it is determined as overtime.

(c) Off Shift

An Off Shift may commence between the hours of 5:00 p.m.. and 10:00 p.m.. and shall work for eight and one-half (8 ½) continuous hours allowing for one-half (½) hour for lunch.

The rate of pay shall be nine (9) hours pay including benefits at the straight time rate for eight (8) hours work.

(d) Storage of Tools and Clothing

The Employer shall provide a suitable shed or room of sufficient size for the Dockbuilder's tools and clothing when the project is operating and employees covered by this Agreement are employed on the project. Said room or shed shall not be used for the storage of any other materials. The Steward or Foreman shall be furnished a key for said storage facility, and the employees will store therein all tools

not actually being used by them. These requirements shall not apply whenever less than four (4) dockbuilders are employed on any job under a single contract, however, adequate facilities whether mutual or otherwise shall be provided for said Dockbuilders. If an employee covered by this Agreement is storing his tools and/or clothing in said storage facility, the Employer shall be responsible for the loss of said tools and/or clothing due to fire, flood or theft but only if the employee has previously filed with the Employer a list of the tools he has brought to the job. The Employer's liability shall be limited to a sum not to exceed:

Tools	\$500.00 (concrete)
Overcoat	\$150.00
Other Clothing	\$150.00
Shoes	\$125.00

Upon submission of appropriate proof of loss to the Employer following the acceptance of said submission, the employee shall be paid for said loss. Payment shall be made within fourteen (14) working days of receipt of the proof of loss. If proof of loss is not accepted by the Employer, it shall be submitted within forty-eight (48) hours thereafter for final determination jointly to the Employer and the Union.

(e) Sharpening of Tools

Employees' tools which become dulled on the job shall be reconditioned at the expense of the Employer by an employee covered under this Agreement.

(f) Drilling Machines Utilized on Caissons

- (1) A Dockbuilder covered by this Agreement shall operate a drilling machine which is utilized on caissons with employees covered by the agreements between the International Union of Operating Engineers

and Members of the New York City District Council of Carpenters.

- (2) If three (3) or more drilling machines which are utilized on caissons are in operation on one (1) shift under one (1) contract, a Foreman covered by this Agreement shall be employed.
- (3) All drill rigs being used in conjunction with foundations, access holes pertaining to Dockbuilder work, retaining walls, or when used to replace materials traditionally installed by Dockbuilders, the installation and extracting of all casing, shall be manned by one Dockbuilder Foreman. Additional Dockbuilder man power will be agreed upon mutually between the Union and the Employer. These Foreman shall not count toward the requirement of a General Foreman.

(g) Timekeeping Devices

Employees shall not be required to pick up or operate any timekeeping device, except during the normal work shift.

(h) Job Injury - Medical Attention

There shall be no reduction in a day's wages to any employee on the day of injury when medical attention is required to said employee while working on the Employer's job, provided the employee submits a note from the doctor or clinic stating that the employee cannot work that day.

(i) Apprentice Manning

There shall be two (2) apprentices to every six (6) journeyman and one of those apprentices must be a third or fourth year apprentice referred from the out of work

list by the District Council.

(j) Welder-Burner

Each Welder and Burner shall be licensed in accordance with applicable laws, and present said license to his Employer when requested.

(k) Intoxicating Beverages or Use of Drugs

The consumption of intoxicating beverages or use of drugs on a jobsite is prohibited. Violation of this rule, after due warning is sufficient reason for dismissal.

(l) Drug Testing Clause

The Employer and the Union agree that when required by the contract of any City, State, Federal and/or Quasi Public Agency or Utility Company to test the employees covered by this agreement for Drugs and/or Alcohol abuse, they shall comply.

(m) Size of Work Crews

Bull gangs to consist of two (2) Dockbuilders and one (1) Dockbuilder Foreman minimum, where equipment is used exclusively for Local 1456 to handle their material.

(n) Equipment

Where fork lifts, Ross Carriers or front end loaders are utilized for handling material and equipment, one (1) Dockbuilder will be used to handle sleepers, signal and guide said equipment, for Local 1456 work jurisdiction exclusively.

(o) Creosote Pay

While working on land pile driving, floating marine construction and the construction of wharves, Dockbuilders shall receive twenty-five (\$0.25) cents per hour premium for hours actually worked while handling and working with creosote

and creosote impregnated products.

(p) Saturday Make-up

When conditions beyond the control of the Employer, such as severe weather, wide spread power failure, fire, natural disaster, etc., prevent the operation of the job on one or more normal working days, the Employer may, with notification to the Union, schedule the Saturday of that calendar week during which work was prevented, as a make-up day at straight time. All hours worked in excess of the normal work day shall be paid for at the rate of time and one-half. When a holiday falls on a Saturday, then the make-up day rate shall be double time. In order to utilize a Saturday as a make-up day, the Employer must declare a regular work day "terminated", for one of the reasons listed above, no later than 10:00 a.m. of the day terminated, and must notify the Union of its desire to work a make-up day by noon of the day preceding the make-up day. Employees employed by the Employer on the day so "terminated" shall have the right of first refusal to work on the make-up Saturday, but said employees shall also have the right to decline work on a make-up Saturday, without any penalty. If men are needed to work a make-up Saturday, other than those already working on the job, the Employer shall call the District Council for men before employing men secured from any other source.

(q) Hazardous/Toxic/Contaminated Waste Sites

- (i) Conditions of employment at a hazardous/toxic/contaminated waste site shall be subject to all appropriate safety and insurance regulations required by appropriate governmental agencies.
- (ii) Dockbuilders engaged in hazardous/toxic/contaminated waste removal, on a

State or Federally-designated hazardous/toxic/contaminated waste site, where the Dockbuilder comes into contact with hazardous/toxic/contaminated waste material, and when A. B. or C. personal protective equipment is required and used for respiratory, skin or eye protection, the Dockbuilder shall receive an additional twenty (20%) percent premium above the hourly wage set forth in this agreement.

ARTICLE X

Intent of Agreement - Subcontractors

Section 1 - Spirit of Agreement

This Agreement and all of its terms and provisions are predicated on an effort and a spirit of bringing about more equitable conditions in the Construction Industry, and the language herein shall not be misconstrued to evade the principles or intent of this Agreement.

Section 2 - Binding Subcontractors and Other Firms

- (a) The terms, covenants and conditions of this Agreement shall be binding upon all Subcontractors at the site to whom the Employer may have sublet all or part of any contract entered into by the Employer.

The Employer will only award on site subcontracts necessitating employment of employees covered by this Agreement to Subcontractors who are under agreement or are willing to enter into agreement with the Union.

The Employer will violate this Agreement if it willfully neglects to notify the Union in writing by certified mail or hand delivery to the offices of the District Council within thirty (30) days after an award of a subcontract necessitating employment of

employees covered by this Agreement.

The Employer will not sublet to another Contractor the safety protection of openings and stairways. This does not include the planking or other protection of openings in concrete arches during the form work stage until the time of stripping; nor does it include a restriction on the subletting of sidewalk bridge construction or maintenance. Nothing in this Agreement will forbid the Employer which has an agreement with the New York District Council of Carpenters from hiring on its payroll on a temporary basis, Dockbuilders who may be performing work for other Contractors on the same jobsite, or to perform protection work on a time-and-material basis.

- (b) This Agreement shall be binding on the Employer, its successors and/or assigns as well as any firm, be it corporation, partnership or joint venture, which the Employer, its successors and/or assigns, has, or acquires, a financial interest in.
- (c) At least five (5) working days prior to the inception of any job where the Dockbuilding work is one hundred thousand (\$100,000) dollars or more, the Employer shall contact the Union to arrange a conference on the jobsite to discuss work assignment and the application of this Agreement to the particular job.

Section 3 - Lists

The Union shall monthly furnish a list of Employers who are in default on payment of wages and/or contributions to all Funds listed in Article XI.

ARTICLE XI

Fringe Benefit Funds

Section 1 - Funds - Contributions - Collection

The Employer shall pay the amounts indicated herein, for employees covered by this Agreement, and employed within the jurisdictional territory of the Union into a United States treasury-approved:

The District Council of Carpenters
of New York City & Vicinity

- Welfare Fund (hereinafter "Welfare Fund")
- Pension Fund (hereinafter "Pension Fund")
- Vacation Fund (hereinafter "Vacation Fund")
- Annuity Fund (hereinafter "Annuity Fund")
- Apprenticeship, Journeyman Retraining, Education and Industry Fund (hereinafter "AJRE&I Fund")
- Supplemental Fund (hereinafter "Supplemental Fund")
- N.Y.C. and Vic L/M Coop Fund (hereinafter "NYDCC Fund")
- U.B.C. National Health & Safety, Apprenticeship Training, and Education and Development Funds. (hereinafter "U.B.C. & J.A. Fund")

All hereinafter collectively "Fringe Benefit Funds" each Fund to be administered by Trustees, one-half of whom shall be designated by the Union and one-half by the Employers.

The Employer is bound by all the terms and conditions of the Agreement and Declaration of Trust with respect to each of the Fringe Benefit Funds, which Agreement and Declaration of Trust are hereby made part of this Agreement and shall be considered as incorporated herein.

The Employer shall pay all required fringe benefits weekly by stamp. The following contributions shall be paid for hours worked but not on the premium portion of the overtime rate:

Journeyman, Forman, and General Foreman

Eff Date:	<u>07/01/02</u>	<u>07/01/03</u>	<u>07/01/04</u>	<u>07/01/05</u>
WELFARE	\$ 8.80			
PENSION	\$ 5.91			
ANNUITY	\$ 5.20			
AJREIF	\$ 0.35			
VACATION	\$ 4.40			
SUPPLE	\$ 0.04			
UBC&JA	\$ 0.06			
NYDCC	\$ 0.15			
TOTAL	\$24.91			
H.C.I.F.	\$ 0.35	\$ 0.35	\$ 0.35	\$ 0.35

All Apprentices and Trainees shall receive fifty (50%) percent of the Pension, Annuity, and Vacation contributions in accordance with the following schedule.

Apprentices

Eff Date:	<u>07/01/02</u>	<u>07/01/03</u>	<u>07/01/04</u>	<u>07/01/05</u>
WELFARE	\$ 8.80			
PENSION	\$ 2.96			
ANNUITY	\$ 2.60			
AJREIF	\$ 0.35			
VACATION	\$ 2.20			
SUPPLE	\$ 0.04			
UBC&JA	\$ 0.06			
NYDCC	\$ 0.15			
TOTAL	\$17.16			
H.C.I.F.	\$ 0.35	\$ 0.35	\$ 0.35	\$ 0.35

In the case of Foreman, General Foreman, Apprentice and New York Plan Trainees 1st year and 2nd year, contributions shall be made to the Fringe Benefit Funds on the basis of hours for which said employee is actually paid, regardless of whether said hours are actually worked. This provision does not apply to Bonus, Vacation or Sick Pay paid voluntarily to said employee.

A stamp plan has been established which provides for the payment of contributions to the Welfare,

Pension, Vacation, Annuity, A.J.R.E.I.F., Supplemental Funds, N.Y.C. and Vic. L/M Coop., U.B.C. National Health & Safety, Apprenticeship Training, and Education and Development Funds and the Heavy Construction Industry Fund through a consolidated stamp. The Employer will comply with procedures established by the Benefit Fund Trustees to assure that the employee receives the consolidated stamp together with his/her pay. The stamps shall be purchased through facilities established by the Bank of New York or such other agencies authorized by the Trustees.

Section 2 - Coverage of Additional Employees Under the Welfare and Pension Plan

Every present and future salaried regular employee of the Union, the Welfare Fund, and the Pension Fund may participate in the benefits provided herein for employees of each Employer for whose benefit the aforementioned contributions are made to the Welfare Fund and Pension Fund, provided that contributions at the rate herein before stated are made to the Welfare Fund and Pension Fund for or on behalf of said employees of the Union, the Welfare Fund, and the Pension Fund by the respective Employers of said employees.

Section 3- Liability for Subcontractors

If the Union has furnished the Employer with the list specified in **Article X, Section 3** of this agreement, and in the event that any Subcontractor, or Subcontractor of a Subcontractor, fails to make contributions to the New York District Council of Carpenters respective Fringe Benefit Funds, as set forth in **Article XI, Section 1**, including dues checkoff, as required by this agreement, and if the Union by an officer, by written notice with report of delivery, notifies the Employer that a Subcontractor is not complying, the Employer shall be responsible for such non-compliance for the period only beginning two (2) working days after the day of receipt of such notice. The Employer will only be liable for the unpaid contribution, and in no event shall an Employer be liable for any of the listed liquidated damages, interests, costs or fees for which its Subcontractor may be liable.

Section 4 - Work Stoppage for Default in Fringe Benefit Funds Contributions

Whenever an Employer is in default on payments to the Fringe Benefit Funds and reasonable notice of such default is given to the Employer, the Union may remove the employees from the work of said Employer. If said employees who are removed remain at the work site during regular working hours, they shall be paid for lost time not to exceed three (3) days' pay.

Section 5 - Liquidated Damages

- (a) In the event the Employer fails to make contributions to the Fringe Benefit Funds as specified in **Article XI Section 1** herein, the Employer shall be obligated to pay to said Fringe Benefit Funds as liquidated damages as provided for in the Agreement and Declaration of Trust establishing such Fund.
- (b) If an audit is required of the Employer's books and records and there is established an unpaid balance in contributions to the Fringe Benefit Funds and said unpaid balance is not paid within thirty (30) days of notification to the Employer, then in addition to the costs as set forth in (a) above, as additional liquidated damages the Employer shall be obligated to pay to said Fringe Benefit Funds five (5%) percent of the unpaid contributions.
- (c) If thereafter, in the sole discretion of the Trustees, the matter is referred to legal counsel for collection, then in addition to the costs set forth in (a) and (b) above, the Employer shall be obligated to pay to said Fringe Benefit Funds five (5%) percent of the unpaid contributions as attorney's fees.
- (d) It is understood that the above liquidated damages are cumulative.
- (e) In no event shall an Employer be liable for any of the above listed liquidated damages, interests, costs or fees for which its Subcontractor may be liable.

- (f) In the event that formal proceedings are instituted before a court of competent jurisdiction by the trustees of a Benefit Fund or Funds to collect delinquent contributions to such Fund(s), and if such court renders a judgment in favor of such Fund(s), the Employer shall pay to such Fund(s), in accordance with the judgment of the court, and in lieu of any other liquidated damages, costs, attorney's fees and/or interest, the following:
- (a) the unpaid contributions; plus
 - (b) interest on the unpaid contributions determined at the prime rate of Citibank plus two (2.0%) percent; plus
 - (c) an amount equal to the greater of --
 - (1) the amount of the interest charges on the unpaid contributions as determined in (b) above, or
 - (2) liquidated damages of twenty (20%) percent of the amount of the unpaid contributions; plus
 - (d) reasonable attorney's fees and costs of the action; and
 - (e) such other legal or equitable relief as the court deems appropriate.
- (g) In the event that proceedings are instituted before an arbitrator under this Agreement to collect delinquent contributions to a Benefit Fund or Funds, and such arbitrator shall be empowered to award such interest, liquidated damages, and/or costs as may be applicable under the Agreement and Declaration of Trust establishing such Fund(s).

Section 6 - Auditing

Seven (7) days after a written request for audit is received the Employer shall make available records

consisting of wage payments and contributions to the Fringe Benefit Funds and said records shall include time cards, Foreman's cards, time sheets, payroll sheets, payroll checks and cash disbursement records pertaining to said job(s). If an auditor for the Fringe Benefit Funds schedules an appointment in writing with an Employer, and the Employer confirms said appointment in writing, and the auditor is prevented by the Employer from commencing his audit on the agreed upon date, the Employer will be liable to the above mentioned Funds for one hundred (\$100.00) dollars cost due to the delay.

Section 7 - Supplemental Fund

The Employer contribution commencing July 1, 1996 shall be in the amount of four (\$0.04) cents per hour for all hours worked.

Said contribution shall be allocated in the following manner:

The Carpenters Relief & Charity Fund
(two and one-half (\$0.025) cent per hour)

Scholarship Fund
(one and one-half (\$0.015) cent per hour)

The Supplemental Fund shall be established in accordance with applicable law, and any employee authorization that is required shall be secured by the Union.

Relief and Charity Fund

The purpose of the Carpenters Relief and Charity Fund is to enable the parties to make charitable donations in the name of the carpentry industry from time to time. Said donations shall be made to duly recognized tax exempt institutions within the meaning of the Internal Revenue Code and to provide emergency assistance to bona fide victims of disaster, catastrophe and community projects for the good of the general public. The contributions shall be included in the payment of the Fringe Benefit Stamp. The Fund shall be administered by a minimum of two persons, one designated by

the Union and the other by the Association. They shall serve without pay and shall be bonded to the extent required by law. All moneys received by the Fund shall be deposited in a bank selected by the two administrators and shall be disbursed only by check signed by both administrators. At least once a year the entire balance of the Fund on hand shall be disbursed to organizations and persons who meet the qualifications set forth above. The administrators shall keep such books of record as may be necessary. Once a year the administrators shall account for all moneys received and disbursed.

Section 8 - New York City and Vicinity Carpenters Joint Labor-Management Fund

Effective July 1, 1996 the parties to this agreement recognize the New York and Vicinity District Council of Carpenters Joint Labor-Management Industry Committee. The Committee will be funded by contributions of fifteen (\$0.15) cent per hour worked through the Trusts Funds Benefit Plan. Said contributions shall be made in accordance with all applicable Federal and State Laws pertaining thereto. If any of the above allocations are determined, in the opinion of counsel, legally improper, then in that event said allocation may be reallocated by the Union to a presently existing Fringe Benefit Fund or to another fund to be established by the Union and the Employer.

Section 9

The Employer and the Union acknowledge that they are represented by their duly designated trustees to administer the various Fringe Benefit Trust Funds provided for in this contract. Because of the various liabilities and responsibilities placed upon all parties to this agreement, including all Contractors and Union representatives and their respectively designated trustees, each Contractor hereby agrees that the Fringe Benefit Fund Trustees shall have the necessary powers to fulfill their fiduciary obligations in order to fully protect each Employer signed to this agreement and their employee-beneficiaries under the respective fund plans.

Section 10 - U.B.C. National Health & Safety, Apprenticeship Training, and Education and Development Funds

In addition to any contributions otherwise called for herein, the parties agree that the Employer shall make a contribution of two (\$.02) cents per hour worked for each employee covered by this Agreement to the United Brotherhood of Carpenters Apprenticeship & Training Fund of North America (the "Training Fund"). The parties also agree that the Employer shall make a contribution of two (\$.02) cents per hour worked for each employee covered by this Agreement to the United Brotherhood of Carpenters Health & Safety Fund of North America (the "Health & Safety Fund"). The parties also agree that the Employer shall make a contribution of two (\$.02) cents per hour worked for each employee covered by this Agreement to the Labor-Management Education and Development Fund. The Employer hereby agrees to be bound by the trust indenture agreement applicable to the U.B.C. National Health & Safety, Apprenticeship Training, and Education and Development Funds as they exist and as they may be amended or restated, and to such rules, regulations and other governing documents adopted pursuant to such Trusts.

Section 11 - Arbitration

Should any dispute or disagreement arise between the parties hereto, or between the Union and any Employer-member signatory hereto, concerning any claim arising from payments to the Fund of principal and/or interest which is allegedly due, either party may seek arbitration of the dispute before the impartial arbitrator designated hereunder by filing a notice of intent to arbitrate, in writing, with said impartial arbitrator and serving a copy of said notice on the Association and Employer or the Union, as the case may be, and in a manner permitted by law. Unless a waiver is mutually agreed to, in writing, by the parties hereto, a hearing shall be convened within twenty (20) days of submission, and the arbitrator shall submit his award within twenty (20) days of the close of the

hearing. The arbitrator shall have full and complete authority to decide any and all issues raised by the submission and to award appropriate damages. The arbitrator's award in this regard shall be final and binding upon the parties hereto and the individual Employer, if any, and shall be wholly enforceable in any court of competent jurisdiction. The cost of the arbitration, including the fees to be paid to the arbitrator, shall be included in the award and shall be borne by the losing party. Roger Maher, Esq., Robert Herdoz, Esq. or Joseph Lipowski, Esq. is hereby designated as impartial arbitrator hereunder. In the event Roger Maher, Robert Herdoz or Joseph Lipowski is unwilling or unable to serve as impartial arbitrator, the New York State Board of Mediation shall designate an impartial arbitrator to serve in his place and stead.

The agreement of the parties to submit said matters regarding the payment of contributions to an arbitrator does not excuse an Employer from any statutory, civil or criminal liability which may attach to his actions under Municipal, State or Federal law. The submission of a matter to arbitration is in no way meant to affect the right of the Union to remove its members from an Employer's premises, as provided for in this Agreement.

ARTICLE XII

Jurisdiction

Section 1 - Marine Diving and Tending

As the successor to Local Union 2295, Local Union 1456 claims all territorial jurisdiction heretofore granted to, or claimed by, said Local Union.

ARTICLE XIII

Employees Covered

Section 1 - Marine Diving & Tending

Marine Diving and Tending work, where referred to in this Agreement, shall consist of all foundation, heavy construction work, salvage work, underwater photography, underwater television, soil sampling when diving is required, demolition work, blast drilling, airlifting, jetting, repairing, removing, recovering and inspecting of all objects related to construction and all offshore oil field exploration and maintenance related to diving.

- (a) The underwater work of inspecting pumps and screen wells, and the internal and external inspection of all enclosures, the underwater work of inspecting, connecting, aligning, placing and handling of all submarine pipelines made of plastic, concrete, steel of any other composition or combination of materials. The underwater work on all cooling intake and outfall pipelines, regardless of the material used to fabricate the pipe. The underwater work on all sewer outfall pipes regardless of length, diameter or material used to fabricate same.
- (b) All underwater work involved in the pulling and laying of cables and wire. All underwater work involved in the repair of cable and wire. All underwater inspection of hulls. All underwater burning, welding and cutting by whatever method used, and all underwater work related to the work defined in this **Section 1** requiring the use of any type of diving apparatus or equipment.

All jurisdictional work provided for herein as specifically granted to the employees under the jurisdiction of Local 1456 is to be interpreted and assigned in accordance with past work

practices in geographical areas, and in relationship with other unions of the United Brotherhood of Carpenters and Joiners of America, AFL-CIO, and other unions in the heavy construction industry, including but not limited to the International Union of Operating Engineers, AFL-CIO and the Laborers International of North America AFL-CIO.

ARTICLE XIV

Hours - Wages - Fringes - Conditions

Section 1 - Hours of Work - Eight Hour Basis of Pay

All Divers and Tenders shall be paid on no less than eight (8) hour basis, per day.

Stand-By Time Payment - Divers

A Master Diver and Marine Diver shall receive the Marine Diver's rate of wage for Stand-By Time. A Marine Diver Tender shall receive the Marine Diver Tender's rate of wage for Stand-By Time.

MARINE DIVER WAGE RATE (PER HOUR)

Eff Date:	<u>07/01/02</u>	<u>07/01/03</u>	<u>07/01/04</u>	<u>07/01/05</u>
Wage	\$43.80			
Fringe	\$24.91			
Total W&F	\$68.71	\$72.61	\$76.51	\$80.41
H.C.I.F.	\$ 0.35	\$ 0.35	\$ 0.35	\$ 0.35

MARINE DIVER TENDER WAGE RATE (PER HOUR)

Eff Date:	<u>07/01/02</u>	<u>07/01/03</u>	<u>07/01/04</u>	<u>07/01/05</u>
Wage	\$32.40			
Fringe	\$24.91			
Total W&F	\$57.31	\$60.56	\$63.81	\$67.06
H.C.I.F.	\$ 0.35	\$ 0.35	\$ 0.35	\$ 0.35

Wage rates and fringe benefit contribution within the bargaining unit shall be determined and/or reallocated by the Union at its sole discretion.

MARINE DIVER AND MARINE DIVER TENDER FRINGE BENEFIT RATE (PER HOUR)

Eff Date:	<u>07/01/02</u>	<u>07/01/03</u>	<u>07/01/04</u>	<u>07/01/05</u>
WELFARE	\$ 8.80			
PENSION	\$ 5.91			
ANNUITY	\$ 5.20			
AJREIF	\$ 0.35			
VACATION	\$ 4.40			
SUPPLE	\$ 0.04			
UBC&JA	\$ 0.06			
NYDCC	\$ 0.15			
TOTAL	\$24.91			
H.C.I.F.	\$ 0.35	\$ 0.35	\$ 0.35	\$ 0.35

The Employer shall pay all required fringe benefits weekly by stamp. The contributions shall be paid for hours worked, but not on the premium portion of the overtime rate.

Depth and Penetration Rates - Divers

In addition to the wage and benefit rates set forth in this Agreement, employees who dive will be paid the following depth and penetration rates:

Depth Rates

AIR DIVES

0 ft. - 59 ft.	No depth rate
60 ft. - 74 ft.	25 cents/ft./day from & over depths of 60 ft.
75 ft. - 125 ft.	78 cents/ft./day from & over depths of 75 ft.

MIXED GAS DIVES

0 ft. - 74 ft.	No depth rate
75 ft. - 125 ft.	78 cents/ft./day from & over depths of 75 ft.

On dives with depths of 126 feet to 200 feet, the additional pay shall be at the rate of \$1.60 per foot. Any dive over 200 feet shall be negotiated between the Diver and the Employer.

Penetration Rates

PENETRATION DIVES

126 ft. to 200 ft.	\$1.00 per foot
201 ft. to 275 ft.	\$1.25 per foot
276 ft. to 350 ft.	\$1.50 per foot
351 ft. to 425 ft.	\$2.00 per foot

On Penetration Dives over 426 feet, the penetration rate will be a matter of negotiation between the Diver and the Employer, but in no event shall it be less than the maximum per foot rate set forth above, and the Diver will notify the District Council of the rate agreed upon between the Diver and the Employer.

Section 2 - Conditions-Divers And Tenders

(a) **Diving Unit**

A Master or Marine Diver and a Marine Diver Tender shall constitute a diving unit. The Marine Diver Tender shall attend only one (1) Marine Diver at one (1) time. A Marine Diver may serve as a Marine Diver Tender on any shift during which he is available to dive, and Marine Diver shall be paid at the Marine Diver's rate of wage, for any shift during which he is employed exclusively as a Marine

Diver Tender. On all dives where only one Dive Team is needed, the Dive Team will consist of a minimum of three (3) people as determined by OSHA regulations. On all construction jobs where one or more Dive teams are needed, they will always be assisted by Dockbuilders. A diver must be qualified to operate all life supporting equipment, when applicable, as per O.S.H.A. and U.S. Coast Guard requirements.

(b) Varying Shift Commencement

It is understood and agreed that, because of certain ordinances governing certain operations, such as blasting and similar operations, shift hours will be arranged to conform with such regulations, and such shift work will be paid for at the single time rate, in conformity with the terms contained in this Agreement. It is also agreed that on tide work a shift may commence at any time between 7:00 a.m. and 9:00 a.m., and furthermore, if the Employer receives prior permission of the Union, at any time between 6:00 a.m. and 9:00 a.m.

(c) Decompression Chamber

A Decompression Chamber will be available at a job site when decompression is required by O.S.H.A. or U.S. Coast Guard requirements.

(d) Diver Employee Tools and Dressing Room

The Employer shall provide a suitable shed or room of sufficient size for the Divers' tools and clothing when the project is operating and employees covered by this Agreement are employed on the project. If an employee covered by this Agreement is storing his tools and/or clothing in said facility, the Employer shall be responsible for the loss of said tools and/or clothing due to fire, flood or theft, but such liability shall be limited to a sum not to exceed:

Tools:	\$300.00
Overcoat:	\$100.00
Clothing:	\$100.00
Shoes:	\$ 50.00

Upon submission of appropriate proof of loss to the Employer following the acceptance of said submission, the employee shall be paid immediately after proof of loss has been determined.

(e) Equipment

Each Marine Diver and Marine Diver Tender shall furnish his own knife and underwear. All other equipment required to function as a Marine Diver or Marine Diver Tender shall be based on the following guidelines:

<u>Gear Rental:</u>	(Daily Rates) Diver's Hats	-	\$25.00
	Diver's Dress	-	\$20.00

Diver's full setup includes the following:

Hat	Dress	Compressor	Filter Rack
Air Hose	Radio	Volume Tank	

\$125.00 Daily Rate

ALL GEAR RENTAL IS TO BE PAID TO THE DIVER ON A WEEKLY BASIS.

(f) Physical Examination, First Aid Training & Training in Tools

All Marine Divers and Marine Diver Tenders should be certified as Divers. To be considered qualified to dive, a Diver must show proof that he has had a physical exam administered by a physician, as defined in O.S.H.A. (P. 1910. 411 Medical Requirements) indicating he is medically fit to dive, within the last twelve (12) months. In the case of hospitalization for more than twenty-four (24) hours the Diver must have an additional exam indicating his fitness. All Marine Divers and

Marine Diver Tenders must show proof of training or experience in all the tools and diving operations and emergency procedures, as set forth in O.S.H.A. All Marine Divers and Marine Diver Tenders shall show proof they have had First Aid Training (American Red Cross Standard Course of equivalent) and training in Cardio-Pulmonary Resuscitation to be considered qualified as set forth in O.S.H.A. All Marine Diver Tenders should have training in a Diver Tender Course, which will be available at the New York District Council of Carpenters Apprenticeship School.

Section 3 - Stand-by Time Divers and Tenders

(a) Stand-by Time is defined as:

- (1) time when a Marine Diver is requested to report to a job for consultation but makes no descent; or
- (2) time when a Marine Diver is requested to report to a job and through no fault of his own makes no descent.

Section 4 - Shifts - Divers and Tenders

a) A single shift shall be a continuous nine (9) hours, starting at 8:00 a.m., except when necessary to conform with the provisions of this **Article XIV, Section 2, Subdivision (b)**. The mealtime shall be one (1) hour, but it may be curtailed by one-half (½) hour.

(1) When Inspection Dives or Investigation Dives, which can be completed within eight (8) hours, are performed, for the sole purpose of determining underwater conditions on any off-shift where no other trades are working, the following conditions shall prevail:

a) No tools are to be utilized for construction purposes, only those tools

which are needed for the proper ascertaining of the underwater conditions of the site to be inspected or investigated shall be used.

- b) Ordinary diving gear and other appropriate safety gear which meet governmental standards and codes and conform to all the requirements of this Agreement may be worked or utilized.
- (2) On all inspection dives where only one Dive Team is needed, there shall always be a third person present at all times, for safety purposes.
 - (3) When any work is performed on off-shifts with other trades that receive premium wages, then the employees covered by this Agreement shall also receive premium wages. When divers and diver tenders are working off-shift and no other trade is present and receiving premium wages, then said divers and diver tenders shall work at straight time rates for the first eight (8) hours of said off-shift.
 - a) When two (2) shifts are employed, the work period for each shift shall be a continuous eight (8) hours.
 - b) When three (3) shifts are employed, each shift will work seven and one-half (7½) hours but will be paid for eight (8) hours, since only one-half (½) hour is allowed for mealtime.
 - c) When two (2) or more shifts of Marine Divers and Tenders are employed, single time will be paid for each shift.
 - d) A week shall start at 8:00 a.m. Monday and end at 8:00 a.m. Saturday, except when necessary to conform with the provisions of this Article XIV, Section 2, Subdivision (b)

Section 5 - Overtime - Marine Divers & Tenders

Time and one-half the wage rate shall be paid for all work performed in excess of eight (8) hours per day, and for all work performed on Saturdays. Work performed on Sundays and holidays will be at the double time rate. No employee shall be required to work more than ten (10) hours. When a Diver is required, in accordance with O.S.H.A. or U.S. Coast Guard standards, to remain in a Decompression Chamber beyond his eight (8) hour shift, such time shall be paid at the appropriate rate of pay, as provided herein.

ARTICLE XV

Mobility of Divers and Tenders

This Agreement will reflect the mobility of Divers and Tenders as outlined in the United Brotherhood of Carpenters and Joiners of America's General Executive Board Meeting. All Fringe Benefit Payments shall be made to the New York District Council of Carpenters.

ARTICLE XVI

Surety Bond

Section 1

An Employer is required to post a bond as set forth in **Article XVI, Section 5** of this agreement to guarantee payment of contributions to the Funds as provided for in **Article XI**.

Section 2 - Employer's Acknowledgment of Prompt Payments to the Funds

The Employer further acknowledges and the parties agree that prompt payment of fringe benefit contributions is essential to the proper administration of the Agreement, the appropriate funding and actuarial soundness of the Funds and the timely payment of benefits to participating employees. The

Employer agrees to comply with the Funds' Collection Procedures, as may be adopted by the Board of Trustees, including responding to information and other requests on a timely basis, promptly including but not limited to permitting and cooperating with an audit. When a signatory Employer owes to the Benefit Funds an amount greater than the face amount of its surety bond, the surety bond must be increased to cover such indebtedness. An Employer determined to be delinquent shall be required to make weekly cash payments to the Funds by certified check to cover on-going contribution obligations. If this is not done, the Union at its discretion may remove all members of the bargaining unit from the employ of that Employer.

Section 3 - Job Action for Non-Complying Employer

The Employer agrees to provide a bond in such amounts as provided for here in **Article XVI** relating to Bonding before commencing any work. In the event that the Employer fails to provide such bond within seven (7) days of commencing work, the District Council may consider the Employer in default and remove its members, upon reasonable notice, from each of the Employer's job sites. If the members remain on the site, they shall each receive no more than three (3) days of wages and fringe benefit contributions during such job action.

Section 4

(a) **No Limitations**

This **Section** shall in no way relieve or excuse any Employer of the obligation to provide the required Bond regardless of the business form under which the Employer does business, nor shall this provision limit the personal liability of any corporate officers or shareholders based on operation of law.

(b) **Application to Non-Complying Employer**

Any Employer commencing work in violation of this **Section** shall be in violation of **Article**

XI relating to the Funds.

Section 5 - Bond Amount

The Funds' Trustees shall determine the amount of Bond the Employer is required to provide, but such amount shall be no less than an amount equal to sixty days of estimated contributions.

The Employer shall provide a Bond in the minimum amounts as follows:

<u>Number of Employees</u>	<u>Bond Amount</u>
1-3	\$ 10,000.00
4-7	\$ 15,000.00
8-15	\$ 20,000.00
16-20	\$ 30,000.00
21-25	\$ 75,000.00
26 or more	\$125,000.00

The Funds may seize the bond if the Funds determine that the Employer has failed to make required contributions to the Funds or if the Employer has violated the Funds' Collection Procedures. The amount of the bond shall be subject to increase or decrease, in the discretion of the Trustees, depending on the number of employees employed on a particular job site or period.

ARTICLE XVII

Miscellaneous

- a) All Dockbuilders will be given time to have coffee in the morning and wrap up their tools and wash up before quitting time.
- b) Any Contractor found guilty of offering cash to Dockbuilders for hours worked shall pay a fine of five thousand (\$5,000.00) dollars to the carpenter relief and charity fund after he has paid all monies that were due the benefit funds. This will be decided through the Collective Bargaining Agreement grievance and arbitration clause.
- c) The Employer will make every effort to give reasonable notice of overtime and a

Dockbuilder will never be penalized for being unable to work the overtime. Nor shall the Dockbuilder be compensated for any overtime not worked.

- d) When a Contractor is bidding against non-Union competition and can show proof of this with a Contractors bidders list the Union will give permission to the Contractor to use whatever crew size he needs for the job provided that they perform the operation safely.
- e) No Dockbuilder is to start work before the designated start time unless it is determined to be overtime.
- f) Other than an emergency, notice of all overtime work should be given to the Dockbuilders before noon if possible.
- g) Every signatory Employer party to this contract shall notify the District Council on its specified form, by fax, certified mail, or telephone, of the awarding of any contract on which any of the work described in **Article VIII** hereof shall be performed by said Employer or a Subcontractor. Said notice shall include the location of the job, the name and address of the Contractor or Subcontractor involved, and the identity of the General Contractor. The District Council shall then provide the Employer with a specified job identification number for that specific job. This identification number will be utilized for the District Council job referral list, Steward's reports, and summary/remittance reports. In addition, the Foreman, General Foreman and/or the first employee is required to report his/her presence on said jobsite and obtain this identification number.

Failure to comply with this **Section**, shall be a breach of this Agreement and shall authorize the Union to remove its members from any job on which said Contractor or Subcontractor has not complied with this notice. The aforesaid notice shall be given within thirty (30) days of the award of a contract, and in any event, prior to the commencement of work, or after the

cessation of work, prior to the recommencement thereof. It is understood that the provisions of this Section will be strictly enforced by the Employer, as set forth above, a pre-job conference will be held, if one is requested by the Union. The Employer shall fax a notice of job closure to the District Council to signify the completion of the job.

ARTICLE XVIII

New York State

The Employer agrees that if it performs any service or work described in the Trade Agreements of the Local County Carpenter Union, within the geographic jurisdiction of the state, it shall be bound by all the terms and conditions of the Trade Agreement applicable to the location where said service or work is being performed for the period of time that said service or work is being performed in said location in the same manner as if it were a direct signatory to the applicable Trade Agreement.

ARTICLE XIX

Heavy Construction Industry Fund

Heavy Construction Industry Fund

In order to adequately protect the Heavy Construction Industry and in the interests of the employees in the industry, each Employer shall contribute to the Heavy Construction Industry Fund thirty-five (\$0.35) cent per hour effective July 01, 2002, applied only to the straight time payroll of each employee. No contributions shall be made to this Fund on the premium portion of double time or overtime of the payroll of the employees covered by this Agreement.

This Fund is designed for, but not limited to, the following purposes: 1) to increase employment opportunities through promotional activities which will increase the use of the Industry and its

employees covered under this Agreement; 2) to acquaint Employers and employees with the most efficient safety regulations for the safety of the employees as well as the training of employees in first aid and other safety programs; 3) to provide financial aid, guidance and assistance to the New York Plan for Training to assist the training of minorities and women for employment in the Industry in conformity with various governmental regulations; 4) to conduct educational research directed at the utilization of new and safer machines and equipment for the protection of employees covered under this Agreement; 5) to provide and assure equitable Industry labor relations through established Grievance Panels and Arbitrations for the expeditious and equitable hearings of the grievances of employees and Employers covered herein; 6) to assist in defraying the costs of the time spent by trustees representing management in connection with their work for and attendance at trustee meetings of the Benefit Funds in behalf of and for the benefit of the employees covered herein and 7) for the administrative costs in supervising and administering the above in behalf of this Fund. Payment to this Fund shall be included in the consolidated stamp. The bank servicing the Benefit Funds shall deliver all such contributions to the Heavy Construction Industry Fund after verifying that the amount of each such contribution has been correctly computed by the Employer. All costs for clerical, legal and administrative services will be borne by the Heavy Construction Industry Fund. The Fund agrees to indemnify and to hold harmless the Union from any and all claims, actions and/or proceedings arising out of said Fund. There shall be no commingling of the check with funds of the Union. The parties are authorized to adopt other procedures to implement the collection of this contribution. Each Employer voluntarily authorizes the collection of the contribution per hour to this Fund and each Employer shall be bound by all the terms and conditions of the Agreement and Declaration of Trust of the Heavy Construction Industry Fund and by all By-Laws adopted to regulate said Fund.

ARTICLE XX

A.J.R.E.I. Promtional Fund

In the event an Employer does not wish to be bound to contribute to the Heavy Construction Industry Promotional Fund, as set forth in Article XIX hereof, then said Employer hereby agrees to be bound to contribute thirty-five (\$0.35) cents per hour, applied only to the straight time payroll of each employee, to the Apprenticeship, Journeyman Retraining, Educational and Industry Promotional Fund. No contributions shall be made to this Fund on the premium portion of double time or overtime of the payroll of the employees covered by this Agreement. This contribution is in addition to the contribution of thirty-five (\$0.35) cents per hour provided for in Article XI of this Agreement.

ARTICLE XXI

Legality

Any provision of this Agreement which provides for Union security or Employment in a manner and to an extent prohibited by any law or the determination of any governmental board or agency, shall be and hereby is of no force or effect during the term of any such prohibition. It is understood and agreed, however, that if any of the provisions which are hereby declared to be of no force or effect because of restrictions imposed by law is, or are, determined either by Act of Congress or other legislative enactment or by a decision of the court of highest recourse to be legal or permissible, then any such provisions shall immediately become and remain effective during the remainder of the term of this Agreement. In the event that there shall be changes in applicable laws as to Union security, the parties shall negotiate any provisions concerning Union security.

In the event that any provision of this Agreement shall be declared to be in violation of law, the remaining provisions of this Agreement shall continue in full force and effect.

ARTICLE XXII

Effectuating Clause

The parties hereto make and enter into this Agreement, in witness whereof, we, their duly authorized and empowered representatives, have hereunto set our hands and seal this 18th day of NOVEMBER, 2003.

EMPLOYER:

By: _____ DATE: _____

DISTRICT COUNCIL OF NEW YORK CITY AND VICINITY OF THE UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL-CIO

By: _____
**AUTHORIZED SIGNATURE
OF THE DISTRICT COUNCIL**

The party of the First Part, herein referred to as the Employer, signatory to this Agreement, hereby acknowledges receipt of copies of the Agreement and Declaration of Trust of the New York City District Council of Carpenters Welfare Fund; Pension Fund; Apprenticeship, Journeymen Retraining, Educational and Industry Fund; Annuity Fund; United Brotherhood of Carpenters and Joiners of America Fund; Vacation Fund; New York City and Vicinity Carpenters Labor Management Fund; Supplemental Funds; and Vacation Fund.

EMPLOYER:

By: _____

Promotional Fund contribution acknowledgment

Apprenticeship, Journeyman Retraining, Educational and Industry Promotional Fund

EMPLOYER:

By: _____

or

Heavy Construction Industry Promotional Fund

EMPLOYER:

By: _____