

LETTER OF UNDERSTANDING #2

Highway, Heavy, and Utility Division – Indiana Constructors, Inc. – Labor Relations Division (ICI-LRD)
Elkhart, Kosciusko, Marshall, Noble, Fulton, LaGrange, Newton, Pulaski, Jasper, Starke

ORIGINAL

During the 2017 negotiation of the Collective Bargaining Agreement between Highway, Heavy, and Utility Division – Indiana Constructors, Inc. – Labor Relations Division (ICI-LRD) (the Association) and International Union of Operating Engineers Local 150, AFL-CIO (herein the parties), the parties discussed existing challenges to the union construction market in the 10 county area covered by the Collective Bargaining Agreement (herein The Agreement). This Letter of Understanding shall apply to private work, public work projects without prevailing wage, and/or prevailing wages which are set inaccurately by the public body. As a result the parties recognized that they need to cooperate more fully to allow unionized contractors to maintain a competitive position in the market place for the benefit of the industry and the unionized employees, and specifically operating engineers, who provide labor for the projects.

Therefore pursuant to the Craft Competition Committee provisions of Paragraph 57 of the Collective Bargaining Agreement, the parties have agreed as follows:

1) For any project for which there is advanced knowledge that Niblock Excavating Inc, Selge Construction Co Inc. or C & E Excavating, Inc., is expected to be a bidder or involved in a bid for the project the following will apply:

- The provisions of Paragraphs 36 Helper and Apprentice Equipment Coverage, 41 Minor Equipment, 44 Changing Machines, 49 Dewatering and 50 Craft Foreman of the Agreement will be of no binding effect for the term of the project. The parties further agree that to the extent a contractor exercises its discretion to operate a project with an oiler or staff minor equipment or dewatering systems in a manner consistent with Paragraphs 36, 41 or 49 respectively, then it will do so with an employee covered by the Agreement.
- The APPRENTICESHIP AND TRAINING FUND rate shall be reduced by FORTY CENTS (\$0.40) per hour for the duration of the project.
- The CONSTRUCTION INDUSTRY RESEARCH AND SERVICE TRUST FUND rate shall be reduced by FIFTEEN CENTS (\$0.15) per hour for the duration of the project.
- The SUBSTANCE ABUSE TESTING PROGRAM rate shall be reduced by THREE CENTS (\$0.03) per hour for the duration of the project.
- The INDIANA CONSTRUCTORS INDUSTRY ADVANCEMENT FUND rate shall be reduced by THIRTEEN CENTS (\$0.13) per hour for the duration of the project.
- Paragraph 27 SINGLE SHIFT Waive restrictions on starting time as follows:
 - "27 SINGLE SHIFT. On a single shift job, the regular work day shall consist of eight (8) consecutive hours commencing at 7:00 a.m., 7:30 a.m. or 8:00 a.m. unless otherwise agreed upon, with a meal period of one-half (1/2) hour on the employee's time between the fourth and fifth hour." The starting time will apply to all employees, and exceptions will be made for certain equipment on which, due to the nature of the work, the same hours of work would not be practical.
- Paragraph 28 TWO SHIFT OPERATION and Paragraph 29 THREE SHIFT OPERATION, waive all shift premiums.
- Paragraph 31 REPORTING TIME, to be "two (2) and actual" as follows:
 - i. "31. REPORTING TIME. *Employees shall report every work day unless otherwise notified by 9:30 p.m. before their scheduled starting time or by quitting time the previous day. If an employee working is not notified not to report and reports to work, he shall receive two (2) hours pay at the applicable rate for reporting. However, such employee may be required to remain on the job for the two (2) hour period.*

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If an employee starts work, he shall be paid for four (4) hours, and if he works over four (4) hours he shall be paid for eight (8) hours, unless the reason the employee does not continue to work is due to rain or snow, major equipment breakdown or governmental action, then he shall be paid at the applicable rate for the actual hours worked over two (2) hours. If such employee reports for work, is sent home and called back the same day, he shall be paid for the full shift at the applicable rate.

When an employee, who regularly operates a particular piece of equipment, is told not to report for work and the Employer subsequently determines to operate the equipment, the employee who was told not to report for work and who regularly operates the particular piece of equipment shall be given first chance to perform the work including all overtime. If the equipment regularly assigned to an employee is operated by another employee, both employees shall be paid in accordance with the terms of this Agreement."

- On a case by case basis, IUOE Local 150 may agree to the following provisions:
 - i. Workweek consisting of 4 10-hour days at the regular rate of pay, Monday through Friday. The provisions of Paragraph 27 SINGLE SHIFT and Paragraph 34 OVERTIME shall be automatically modified to accommodate 4 10-hour days at the regular rate of pay, Monday through Friday.
 - ii. Wages and benefit contribution rates will be frozen for the duration of the project.
 - iii. The WELFARE FUND rate shall be reduced by SIX DOLLARS AND ZERO CENTS (\$6.00) per hour for the duration of the project.

2) Additionally, the Parties recognize there may be other circumstances where the parties may mutually agree to apply this Letter of Understanding in advance of bidding for a project in order to allow bidding contractor members of the Association or signatory contractors to be more competitive.

3) A contractor bidding on a project in accordance with this Letter of Understanding will notify the Union in writing in advance of the submission of its bid of its decision to apply this Letter of Understanding and in such written notification the contractor will notify the Union which of the contractors identified in paragraph 1 that it expects will be a bidder or involved in the bidding process on the project. A contractor who has submitted a bid utilizing this Letter of Understanding and is awarded such bid, will report the award of the bid to the Union so that the benefit funds may be notified. Failure to do so will restrict use of the Letter of Understanding.

4) The parties' representatives will meet quarterly to discuss the competitive effect of this Letter of Understanding and they agree to cooperate in making efforts to measure the impact of this Letter of Understanding on unionized contractors' abilities to be more competitive in the area covered by the parties' Agreement.

5) If one of the contractors named in paragraph 1 of this Letter of Understanding becomes signatory to the Agreement, then the provisions of paragraph 1 will no longer apply to projects where that contractor is the only contractor of those contractors named in paragraph 1 above bidding on the project or involved with a bid for the project.

6) This Letter of Understanding is a specific exception to Paragraph 53 of the collective bargaining agreement. Therefore, the parties agree that this Letter of Understanding is incorporated into the parties' contractual relationship and becomes a mutual agreement between the parties of full force and effect for the duration of the parties' collective bargaining agreement effective April 1, 2017 through March 31, 2022, and for so long as that collective bargaining agreement shall remain in full force and effect.

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7). The aforementioned conditions shall only apply to Union primes and subs bidding to Union primes, except on a case by case basis.

8). Furthermore, the Craft Competition Committee shall have the authority to revoke this Letter of Understanding based on multiple mistakes or deliberate abuse. When it is revoked, such revocation shall only apply for the specific contractor with multiple mistakes or deliberate abuse for the duration of the Agreement.

The parties recognize that by virtue of the provisions of this Letter of Understanding as provided for herein, signatory contractors will be able to prepare bids for certain projects without including the expected costs attributable to those clauses.

The parties acknowledge this Letter of Understanding was negotiated during and as a part of the 2017 renegotiation of the parties Collective Bargaining Agreement.

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Dated: 4/4/17

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Dated: 4-6-17