

2012-2023

LANDSCAPE AGREEMENT

between the

LABOR RELATIONS DIVISION

of the

MICHIGAN INFRASTRUCTURE & TRANSPORTATION ASSOCIATION

and the

**LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO
MICHIGAN LABORERS' DISTRICT COUNCIL**

EFFECTIVE DECEMBER 10, 2012

PREAMBLE

This Agreement made and entered into this 10th day of December, 2012 by and between the MICHIGAN INFRASTRUCTURE & TRANSPORTATION ASSOCIATION (MITA) (hereinafter called the "Association") for and on behalf of its members, and all other persons, firms, partnerships, corporations and joint ventures who sign this Agreement and agree to be bound by the terms and conditions thereof, individually and collectively (hereinafter called the "Contractors and/or Employers") and the LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, MICHIGAN LABORERS' DISTRICT COUNCIL for and on behalf of its affiliated Local Unions having jurisdiction over work covered by this Agreement in the State of Michigan (hereinafter called the "Union").

It is understood and agreed that the Association is acting only as an agent for those persons, firms, partnerships, corporations or joint ventures who have authorized it to negotiate and execute this Agreement and in no event shall the Association be bound as principal or be held liable in any manner for any breach of this Agreement by any Contractors. It is further agreed and understood that the liabilities of the Contractors who are bound by this Agreement shall be several and not joint.

It is further understood that no liability shall arise on the part of the Laborers' International Union of North America or the Michigan Laborers' District Council herein by reason of any unauthorized act by any employee of the said Contractors or any Local Union or official thereof affiliated with the Laborers' International Union of North America and the Michigan Laborers' District Council, unless and until such unauthorized act is brought to the attention of the Laborers' International Union of North America and the Michigan Laborers' District Council, and a reasonable opportunity given to the Union to correct such act or rectify same.

SCOPE OF WORK

1. All work pertaining to landscaping where seeding, sodding, planting, cutting, trimming, backfilling, rough grading and maintaining of landscape projects by any and all methods.
2. Installation of all materials and products incidental to landscaping when same are to be furnished and/or installed by a landscape Contractor signatory to this Agreement.
3. This Agreement shall include all landscape work as defined by this Agreement on building sites, but shall not include all work covered by the Agreements between the Union and the Michigan Infrastructure & Transportation Association (Road, Underground, Utility Distribution and Railroad Agreements), and the Pipe Line Contractors Association (Main Line Pipe Line Agreement).

4. It is mutually agreed and understood that the Agreement covers all maintenance work in conjunction with a landscape construction project covered by the Agreement including the watering, trimming, pruning and mowing of landscape materials during and until completion of the project.

The Agreement does not cover the maintenance of lawns and landscaping not done in conjunction with a construction project. This Agreement does not cover the installation of brick, concrete, clay, stone or asphalt pavers.

ARTICLE 1

1.1 **BARGAINING UNIT.** With respect to wages, hours and working conditions, the Contractor recognizes the Union as the sole and exclusive bargaining agent for all employees, excluding mechanics, office and clerical employees, professional employees, salesmen and yard maintenance worker for the purpose of collective bargaining for the life of this Agreement.

1.2 **NO STRIKE/WORK STOPPAGE/SLOW DOWN.** It is mutually agreed and understood that there will be no interruption of operations by the Union or any of its members, nor will any member of the Union take part in any strike or work stoppage or slow down, total or partial, until all steps of the grievance procedure have been exhausted if applicable.

1.3 **SUBCONTRACTING.** The Contractor agrees to refrain from contracting work that is covered by this Agreement to a subcontractor, except where such Contractor subscribes and agrees in writing to be bound by this Agreement and complies with all the terms and conditions of this Agreement.

ARTICLE 2

Union Membership and Checkoff

2.1 **UNION SECURITY.** All employees covered by this Agreement and all employees subsequently hired must become and remain members of the Union in good standing after seven (7) days from the date of hire, by any Contractor and shall remain a member of the Union for the term of his/her employment by any Contractor covered by this Agreement.

2.2 For purposes of this article, a member in good standing shall be defined as an employee who shall pay an amount equal to the Union's initiation fee and the regular monthly dues and fees in effect for other employees in the bargaining unit or members of the Union.

2.3 Should any employee fail to make application to and become a member of the Union within said period of time or fail to maintain his/her Union membership in good standing by his/her failure to pay the periodic dues to the Union, the Contractor

shall be obligated to discharge such employee upon written notice by the Union, signed by the proper official, setting forth that the employee has refused to join the Union, although he/she has been offered membership on the same terms as other members, or that the employee's membership in the Union has been terminated for reason on non-payment of periodic dues, working dues or regular initiation fees, and that the Union requests that said employee be discharged for one of these reasons.

2.4 **CHECKOFF.** The Contractor agrees to honor, upon presentation by the Union, all assignments for initiation fees, membership dues, readmission fees and working dues which have been properly signed by an employee and pay to the Local Union in the amount so deducted; provided, however, that this Section shall apply only to those assignments which are not irrevocable for more than one (1) year or until this Agreement expires, whichever occurs sooner, and to those assignments which, in addition, provide that they shall automatically renew themselves for successive yearly or applicable contract periods thereafter, whichever is lesser and which further provides that the employee may revoke said assignment by giving written notice thereof to the Contractor and the Union at least sixty (60) days and not more than seventy-five (75) days before any periodic renewal date.

2.5 All deductions shall be forwarded to the Local Union indicated on the checkoff authorization no later than the 15th of each month with a list of employees' names.

2.6. **LIUNA Code of Performance** - To implement the LIUNA Code of Performance adopted by LIUNA, the Employer agrees to designate discharges "for cause," when appropriate, as described in the following Notification of Termination clause and to substantiate such cause if necessary in proceedings under the Code of Performance.

This clause is intended only to assist the Union in implementing its Code of Performance and a worker's only rights thereunder are in connection with future referrals under the Union's hiring hall procedures. This clause does not create any new or additional rights whatsoever for workers under this Agreement, including not creating any new or additional right to reinstatement with or back pay from the Employer.

Notification of Termination Form

Instructions: Immediately upon termination of an employee for any cause other than lack of work, please mail, fax or scan and email this completed form to the District Council or Local Union.

Name of Employer completing this form:

Address

City State Zip

Telephone Fax

Authorized Signature

Name of Authorized Person

Name of Employee Being Terminated

Date of Termination

Reason for Termination (Check one or more):

Excessive Absenteeism: _____

Excessive Tardiness: _____

Lack of Required Skills: _____
(This area cannot be checked for Apprentices)

Insubordination: _____

Theft: _____

ARTICLE 3

3.1 **RIGHTS.** In conformity with and subject to the provisions of this Agreement, workers shall be free to select the Contractor for whom they desire to work, and the Contractor shall be free to select the workers whom he desires to employ.

3.2 The terms and conditions of this Agreement shall be equally applicable to all employees without regard to sex, age, race, creed, color, ancestry or national origin.

3.3 Workers are to be paid wages applicable to the work performed without any discount, and in return, the Contractors are to receive a fair and honest day's work without slowing down or stoppage of work.

3.4 The Contractor is to be the sole judge as to the satisfactory performance of work by a worker and may lay off permanently or temporarily any worker whose work is unsatisfactory or who fails to observe the safety precautions or other rules and regulations prescribed by the Contractor for health, safety and protection of his workers. However, no employee shall be laid off for defending the rights of any employee under the terms of this Agreement.

The number of workers to be employed is also at the sole discretion of the Contractor and the fact that certain classifications and rates are established does not mean that the Contractor must employ workers for any one or all such classifications or to man any particular piece of equipment that happens to be on the work site, unless that Contractor has need for such workers. However, this does not relieve the Contractor from the responsibility of properly manning any piece of equipment that is placed in operation.

3.5 A Contractor shall not be hindered or prevented in using any type or quantity of machinery, tools or appliances and may secure materials or equipment from any market or source as he sees fit, except prison made goods, without interference of any kind.

3.6 The Contractor shall have the right to take his employees or former employees covered by this Agreement from one location to another within the jurisdiction of this Agreement. When the Contractor needs additional help beyond the Contractors' regular employees, including employees who are laid off and/or transferred from another project of the same Contractor, the Contractor agrees to give the Local Union having jurisdiction over the work to be performed first opportunity to refer any additional employees. A regular employee shall be defined as one who has been on the payroll of said Contractor within the immediate past nine (9) months. The Contractor shall have the right to reject any and all applicants.

3.7 The Contractor will notify the job Steward or Business Representative of the Union, at their request, of the names of all newly hired employees performing work covered by this Agreement. The Contractor will advise all newly hired employees that under the terms of this Agreement, and as a condition of employment, all employees must become members of the Union after the seventh (7th) day following the beginning of their employment. An employee shall be a member of the Union, for purposes of this Agreement if he/she is a member of a Local Union affiliated with the Laborers' International Union of North America, AFL-CIO having jurisdiction over any work covered by this Agreement.

3.8 This Agreement covers the entire understanding between the parties hereto. No oral or written rule, regulation or understanding which is not mentioned or referred to herein will be of any force or effect upon any parties hereto.

3.9 The Union shall designate a representative or representatives (hereinafter referred to as "Union Representative(s)") who may confer with the Contractors in all matters pertaining to this Agreement. The authorized representatives of the Union may visit jobs during working hours without undue hindrance.

3.10 The Union may select an employee from among the workers working on a job to be the Union Steward. In the event the Union determines there is no employee working on the job who is capable of performing the duties of a Steward, then the Union may recommend an applicant for employment to the Contractor. Any such applicant shall be a competent worker and shall be capable of performing the duties of a Steward. Any applicant for employment recommended by the Union must be satisfactory to the Contractor. The selection of a job Steward shall not increase the number of workers to be employed by the Contractor.

The Steward shall perform the duties of the job to which he/she is assigned, but will be allowed a reasonable time to perform such of his/her Union duties as cannot be performed during non working hours. The Steward shall not interfere with the job in carrying out his/her duties.

The Union shall notify the Contractor of the name of the employee appointed to act as Steward. Such notice shall be given by letter to the Contractor. The Contractor will give the Union at least twenty-four (24) hours' notice before the job Steward is laid off, transferred or discharged.

If the Steward is not on the job for any reason, the Union or the Steward may appoint an Acting Steward to act in his/her place so that the Union can have a representative on the job whenever employees covered by this Agreement are working. The Steward and any Acting Steward, shall have no authority to take strike action or any other action interrupting the Contractor's business.

ARTICLE 4
Hours of Work

4.1 **WORK WEEK.** The work week shall be from Monday A.M. through Saturday P.M.

4.2 **OVERTIME.** Overtime at one and one-half (1½) times the straight time rate will be paid for all work in excess of forty (40) per week or ten (10) hours per day.

4.3 **HOLIDAYS.** The Holidays recognized under this Agreement are: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. All employees performing work on Holidays will be paid at double (2) times the employee's regular rate.

4.4 **SHOW UP TIME.** When workers are scheduled to report for work on any day and they show up, they shall be paid two (2) hours pay if they are not put to work. When workers are scheduled to report for work on any day and work less than two (2) hours, they shall be paid two (2) hours pay. Workers shall perform any duties assigned them by the Contractor during said two (2) hours.

ARTICLE 5
Pay Day

5.1 All wages shall be paid to the workers at least once each week on the job site.

5.2 The weekly pay day established by the Contractor for a particular job site shall remain the same for the life of the job. Workers shall be paid in United States currency or check drawn on a Michigan bank. If the regular pay day falls on a holiday, the employee will be paid the day before the holiday.

5.3 The worker's pay stub shall show the straight time hours worked, overtime hours worked, gross pay, normal straight time rate, deduction for Federal, State, City income taxes, Social Security contributions, Vacation contributions and the total of all other deductions.

5.4 If workers are permanently laid off, they shall be paid immediately on the job site.

5.5 If workers quit of their own accord or are temporarily laid off, they shall wait for their pay until the next regular pay day.

The definition of a temporary lay off shall be a lay off when a worker is given a specific back to work date.

5.6 When a worker's weekly pay check or lay off or discharge check is not paid timely, the worker shall be paid at the hourly rate for the time the worker is required to wait for his/her pay. This shall be construed to apply to normal working hours of eight (8) hours per day and not to exceed twenty-four hours.

ARTICLE 6
Wage Rates and Fringe Benefits

6.1 The following job classifications and rate of wages shall apply to all work and every worker covered by this Agreement. The wage rates upon the effective dates shall apply on all such work, both old and new, as follows:

CLASS A: Irrigation Foremen and Construction Foremen.

<u>Class A</u>	
*Base Rate	\$18.01
*Vacation	2.00
Health Care	5.30
Annuity	1.00
Training	.20
LECET	<u>.02</u>
TOTAL	\$26.53
IAP	.10

CLASS B1: Skilled Landscape Operator includes air, gas and diesel equipment operators, lawn sprinkler installers, skid steer/track loaders, mini excavators, off-road dump vehicle, articulated haulers, hydroseeder, backhoe loaders, wheel loaders, excavators, ride and walk-behind trenchers and telescope handlers.

<u>Class B1</u>	
*Base Rate	\$15.79
*Vacation	2.00
Health Care	5.30
Annuity	1.00
Training	.20
LECET	<u>.02</u>
TOTAL	\$24.31
IAP	.10

Class B2: Skilled Landscape Laborer includes small power tool operator, lawn sprinkler installers' tender, irrigation installers' tender and material mover.

Class B2

*Base Rate	\$13.79
*Vacation	2.00
Health Care	5.30
Annuity	1.00
Training	.20
LECET	<u>.02</u>
TOTAL	\$22.31
IAP	.10

Class C: Landscape Laborer with ninety (90) plus calendar days worked.

Class C

*Base Rate	\$11.65
*Vacation	2.00
Health Care	5.30
Annuity	1.00
Training	.20
LECET	<u>.02</u>
TOTAL	\$20.17
IAP	.10

Class D: Inexperienced Landscape Laborer is defined as an individual who has not worked ninety (90) calendar days under the terms and conditions of this or a similar collective bargaining agreement. An Inexperienced Laborer may be employed by the Contractor Foreman. The ratio may be utilized by the Contractor on a company-wide basis or a project basis. The ratio may be modified by mutual agreement of the Local Union having jurisdiction and the Contractor. The Local Union having jurisdiction on the project shall have first opportunity to refer new employees. See Article 3, Section 3.6.

Class D

*Base Rate	\$9.25
*Vacation	<u>2.00</u>
TOTAL	\$11.25
IAP	.10

*Subject to Federal Withholding & FICA.

Effective the first full pay period on or after June 1, 2013, there will be an increase of Seventy Cents (\$0.70) for each wage classification. Any fringe benefit adjustment will be allocated from the negotiated increase first or come off the Base Rate—breakdown to be determined by the Union.

Effective the first full pay period on or after June 1, 2014, there will be an increase of Forty Cents (\$0.40) for each wage classification. Any fringe benefit adjustment will be allocated from the negotiated increase first or come off the Base Rate—breakdown to be determined by the Union.

Effective the first full pay period on or after June 1, 2015, there will be an increase of Forty Cents (\$0.40) for each wage classification. Any fringe benefit adjustment will be allocated from the negotiated increase first or come off the Base Rate—breakdown to be determined by the Union.

Effective the first full pay period on or after June 1, 2016, there will be an increase of Forty Cents (\$0.40) for each wage classification. Any fringe benefit adjustment will be allocated from the negotiated increase first or come off the Base Rate—breakdown to be determined by the Union.

Effective the first full pay period on or after June 1, 2017, there will be an increase of Forty-Three Cents (\$0.43) for each wage classification. Any fringe benefit adjustment will be allocated from the negotiated increase first or come off the Base Rate—breakdown to be determined by the Union.

Effective the first full pay period on or after June 1, 2018, there will be an increase of Forty-Three Cents (\$0.43) for each wage classification. Any fringe benefit adjustment will be allocated from the negotiated increase first or come off the Base Rate—breakdown to be determined by the Union.

Effective the first full pay period on or after June 1, 2019, there will be an increase of Forty-Three Cents (\$0.43) for each wage classification. Any fringe benefit adjustment will be allocated from the negotiated increase first or come off the Base Rate—breakdown to be determined by the Union.

Effective the first full pay period on or after June 1, 2020, there will be an increase of Forty-Five Cents (\$0.45) for each wage classification. Any fringe benefit adjustment will be allocated from the negotiated increase first or come off the Base Rate—breakdown to be determined by the Union.

Effective the first full pay period on or after June 1, 2021, there will be an increase of Forty-Five Cents (\$0.45) for each wage classification. Any fringe benefit adjustment will be allocated from the negotiated increase first or come off the Base Rate—breakdown to be determined by the Union.

Effective the first full pay period on or after June 1, 2022, there will be an increase of Forty-Five Cents (\$0.45) for each wage classification. Any fringe benefit adjustment will be allocated from the negotiated increase first or come off the Base Rate—breakdown to be determined by the Union.

6.2 FRINGE BENEFITS. The following Trust Agreements which establish the following Trust Funds, together with any later Agreements signed by the Trustees of the respective Funds shall become a part of this Agreement by reference:

1. The Trust Agreement for the Michigan Laborers' Vacation Fund dated October 1, 1968.
2. The Trust Agreement for the Michigan Laborers' Training and Apprenticeship Fund, dated September 1, 1971.
3. The Trust Agreement for the Michigan Laborers' Health Care Fund, dated May 1, 1973.
4. The Trust Agreement for the Michigan Laborers' and Employers' Cooperation and Education Trust Fund dated June 1, 1994.
5. The Trust Agreement for the Michigan Laborers' Annuity Fund dated March 1, 1997.

The Contractor specifically agrees to be bound by the Trust Agreements establishing the above Trust Funds and any amendments, rules, regulations or other requirements relating to the Funds adopted by the Trustees of each respective Fund.

COLLECTION CHARGES. Contributions to the above-referenced Fringe Benefit Funds shall be paid by the 15th day of the month following the month the employee worked. The parties agree that the failure of the Contractor to pay the fringe benefit contributions on time, or in correct amounts in accordance with the Joint Delinquency Collection (JDC) Policy shall pay, in addition to the contribution amounts owed, late payment assessments (LPAs).

1. If contributions are paid after thirty (30) days of delinquency, the Contractor shall pay eight percent (8%) annual interest, calculated daily.

AUDIT ASSESSMENTS, INTEREST AND AUDIT COSTS

Whenever a payroll audit discloses a delinquency, the Employer must pay the unpaid contributions. In addition, whenever a payroll audit discloses that the amount actually owed by the Employer exceeds, by five percent (5%), the amount actually paid by the Employer, the JDC will charge and the Employer must pay:

1. Interest on the unpaid contributions as determined by the JDC;
2. Liquidated damages (referred to as "audit assessments") in an amount equal to

- eight percent (8%) of the unpaid contributions; and
3. The cost of the audit itself.

The Contractor also agrees that if, as a result of an audit ordered by the Trustees of one of the Fringe Benefit Funds, he is found to have been substantially inaccurate in reporting, or late in remitting contributions due, he may be charged the cost of conducting such audit, at the discretion of the Trustees involved.

Finally, the Contractor agrees that if, as a result of the Contractor's failure to pay fringe benefit contributions and liquidated damages as required by this Agreement, the Fund Trustees institute legal proceedings, the Contractors shall be responsible for all costs, including actual attorney fees, incurred by the Funds as a result of such litigation.

It is expressly understood that the Trustees may amend and change the JDC policies as deemed appropriate by the Trustees at any time, further nothing contained in this Agreement shall deny the Trustees of any Fund the right to collect delinquent contributions and liquidated damages or otherwise enforce their rules, regulations and Trust Agreement provisions. The pursuit of such legal remedies by the Trustees shall not render any other provision of this Agreement inoperative.

Section A. Health Care. The amount of contributions shall be at the rate specified in Article 6.1 on actual hours worked without regard to whether the employee was working on straight time or overtime and shall be paid on all A and B Classified employees working under this Agreement whether they are probationary, non-union members, temporary, seasonal or casual employees. These contributions shall be deposited each month as determined by the Trustees of the Michigan Laborers' Health Care Fund to such depository as designated by said Trustees.

Section B. Annuity. The amount of contributions shall be at the rate specified in Article 6.1 on actual hours worked without regard to whether the employee was working on straight time or overtime and shall be paid on all A and B Classified employees working under this Agreement whether they are probationary, non-union members, temporary, seasonal or casual employees. These contributions shall be deposited each month as determined by the Trustees of the Michigan Laborers' Annuity Fund to such depository as designated by said Trustees.

Section C. Vacation. All vacation contributions shall be at the rate specified in Article 6.1 on actual hours worked without regard to whether the employee was working on straight time or overtime. The employer agrees to make this contribution on all employees included in the bargaining unit and working under this Agreement whether probationary, non-union members, temporary, seasonal or casual. This vacation contribution shall be deducted from the employee's pay and therefore shall be included in the employee's gross wages for the purpose of computing all other authorized payroll deductions. These contributions shall be deposited each month as determined by the Trustees of the Michigan Laborers' Vacation Fund to such depository as designated by said Trustees.

Overtime pay to Vacation Fund: The above specified Vacation Fund payments shall be subject to overtime rates the same as wages, but the amount of such payment representing overtime payment shall be included in the employee's pay check. For example, an employee working at overtime shall receive time and one-half (1½) rate for Vacation pay. One Dollar (\$1.00) per hour shall be paid to the Vacation Fund and fifty cents (.50) per hour shall be included in the employee's pay check.

Section D. Training and Apprenticeship Fund. All Training and Apprenticeship Fund contributions shall be paid at the rate specified in Article 6.1 on actual hours worked without regard to whether the employee was working on straight time or overtime. These contributions shall be made on all A and B Classified employees working under this Agreement whether probationary, non-union members, temporary, seasonal or casual. These contributions shall be deposited each month as determined by the Trustees of the Michigan Laborers' Training and Apprenticeship Fund to such depository as designated by said Trustees.

It is agreed that the Training and Apprenticeship Fund adopted by the Trustees of the said Training and Apprenticeship Fund shall at all times conform with the requirements to treat contributions to the Training and Apprenticeship Fund as a deduction for Income Tax Purposes.

Section E. LECET. The amount of contributions shall be at the rate specified in Article 6.1 on actual hours worked without regard to whether the employee was working on straight time or overtime and shall be paid on all A and B Classified employees working under this Agreement whether they are probationary, non-union members, temporary, seasonal or casual employees. These contributions shall be deposited each month as determined by the Trustees of the Michigan Laborers' and Employers' Cooperation and Education Trust Fund to such depository as designated by said Trustees.

Section F. Reports. The Employer agrees to file monthly reports along with the payment of the above fringe benefit contributions to the depository, Administrator and Union in the time and manner prescribed by the Trustees.

Section G. Adjustments of Contributions. If, during the life of this Agreement, changes need to be made in the amounts of the Employer Contributions to any of the Fringe Benefit Funds; the Employer, upon at least sixty (60) days' notice (by certified mail) from the Union prior to the anniversary date, shall change the Employer Contribution to any of the Fringe Benefit Funds on the anniversary date. The Employee's hourly rate shall be adjusted accordingly. There shall be no change in the amount of the total package.

If, during the life of this Agreement, any of the Fringe Benefit Funds cease to exist, the amount of the Employer Contribution shall be added to the employee's hourly rate of pay.

Section H. Violation of Fringe Benefit Contributions. In the event any Contractor is delinquent in the payment of his contributions to the Laborers' Training and Apprenticeship Fund, Vacation Fund, Health Care Fund, Annuity Fund and the LECET Fund, the Local Union, after giving the Contractor seventy-two (72) hours' notice, excluding Saturdays, Sundays, of such delinquency by registered letter or telegram, shall have the right to take strike action against such Contractor, notwithstanding any other provision of this Agreement.

6.3 Market Recovery. It is recognized by the parties that on certain projects, the union construction market is threatened by non-union competition. Where the mutual interests of the Union and the Contractor are served by cooperating to enable Union Contractors to compete more effectively, it is agreed that the Local Union having jurisdiction can negotiate a market recovery addendum to this Agreement on a job by job basis.

The market recovery addendum must be reduced to writing and signed by the Local Union and the Contractor prior to implementation. When the Local Union has entered into market recovery on a project with a Contractor, the Local Union shall give the same market recovery to any Contractor signatory to this Agreement for the project upon request.

ARTICLE 7 **Equipment and Facilities**

7.1 Tools, rubber boots, hard hats, rain gear, implements and safety equipment, other than those customarily furnished by Laborers, shall be supplied by the Contractor when necessary, to those workers required to work under conditions which require the use of such articles. Upon furnishing any such articles to the worker, the worker may be required to sign a receipt acknowledging receipt of such articles and the worker shall be responsible for the care, safekeeping and return thereof. Any article or articles furnished to a worker by the Contractor shall be returned by the worker to the Contractor in the same condition as when received by the worker, subject to normal wear and use. Upon request and upon failure to return any such articles to the Contractor, the Contractor may deduct the cost of such articles from any pay owing to the worker. The Contractor will replace any article or articles furnished by the Contractor to the worker which become unserviceable through normal wear and use, provided the unserviceable article is returned to the Contractor.

7.2 Adequate toilet facilities and clean drinking water will be provided by the Contractor.

7.3 All safety tools and wearing apparel as required by law, shall be supplied by the Contractor.

ARTICLE 8

Equal Treatment

8.1 If the Union shall furnish workers to any Contractor on work covered by this Agreement upon any more favorable terms or conditions (including wage rates) that those contained herein, the Union agrees that such more favorable terms and conditions shall automatically be extended to Contractors covered by this Agreement.

8.2 This provision shall not apply to Market Recovery Addendums negotiated under this Agreement.

ARTICLE 9 **Grievance and Arbitration**

9.1 Should differences of any kind arise between any Contractor and the Union or any employees as to the interpretation, application or claimed breach of any of the terms of this Agreement, all such differences shall be submitted to the grievance procedures herein provided. It is specifically agreed that there will be no lockouts, strikes or stoppage of any work of any sort during the term of this Agreement.

9.2 Any employee who has a grievance shall promptly report the same to the Contractor or to his/her Steward who shall present the grievance to the Contractor and attempt to effect a settlement. In the event the grievance is not settled between the Steward and the Contractor, the same shall be taken up between the authorized Business Representative of the Union and the Contractor.

9.3 If any grievance is not settled as provided above, then either the Union or the Contractor may submit the grievance to the Joint Grievance Board herein provided for; provided, however, the grievance must be submitted in writing to the Board not later than thirty (30) days from the date of the event or happening upon which the grievance is based. All employee grievances shall be signed by the employee and an authorized representative of the Union.

9.4 A Joint Grievance Board shall be created consisting of two (2) representatives selected by the Association and two (2) representatives selected by the Michigan Laborers' District Council. All four (4) members of the Board shall constitute a quorum and must be present at all hearings.

9.5 The duty of the Joint Grievance Board shall be to hear all grievances submitted to the Board. Decisions of the Board shall be reached by a majority vote of the entire Board. The decisions of the Board shall be final and binding on the Contractor, Union and the employee or employees involved.

9.6 If the Joint Grievance Board cannot settle or adjust a grievance or dispute within ten (10) working dues, the matter shall be submitted to a disinterested arbitrator who shall be selected by and be acceptable to the Joint Grievance Board. In the event the Board is unable to mutually agree upon an arbitrator within five (5) days from the

date of reaching impasse on a grievance or dispute, then the arbitrator shall be selected according to the rules and procedures of the American Arbitration Association. The arbitrator's fee shall be shared equally by the Contractor and the Local Union.

9.7 The arbitrator shall confine his/her decision to the dispute in question, and he/she shall have no authority to add to, subtract from, or in any way modify the terms of this Agreement. The arbitrator's decision shall be final and binding upon the Contractor and the Local Union and the Employee or Employees involved.

9.8 It is mutually agreed that the provisions of this Article shall not apply if the dispute arises over failure or refusal of a Contractor to pay the wage rates, overtime, health care payments, pension payments, vacation payments or Laborers' Training Fund and LECET contributions provided for in this Agreement, provided, however, that any dispute involving a particular employee's proper wage rate classification or eligibility to receive overtime pay, health care payments, pension payments, vacation payments or Laborers' Training Fund and LECET Contributions shall be subject to the provisions of this Article.

ARTICLE 10
Industry Advancement Program

10.1 A Contractor performing work under this Agreement agrees to pay into the Industry Advancement Program of the Michigan Infrastructure & Transportation Association the sum of ten cents (\$.10) per hour for all hours worked by the Contractor covered by this Agreement in accordance with the Supplement to this Agreement.

ARTICLE 11
Savings Clause

11.1 Any provision of this Agreement that shall be found to be in violation of any law whatsoever shall not invalidate any other part of this Agreement not in violation thereof; and the balance of this Agreement shall remain in full force and effect as above written.

ARTICLE 12
Drug Testing

The Association and the Union acknowledge the fact that the U.S. Department of Transportation (DOT), through its research and Special Programs Administration (RSPA), has established Drug Testing Rules which require Contractors and Sub-Contractors to have an anti-drug program for employees. This means that such a testing is mandated by law.

The rules mentioned above include regulations on the following elements of such drug testing: documentation procedures; specimen collection procedures; laboratory analysis procedures; quality assurance and quality control; Medical Review Officer (MRO) qualifications and duties; reporting and review of results; protection of employees records; individual access to test and laboratory certification results; and use of Department of Health and Human Services (DHHS) certified laboratories.

The Association and the Union hereby agree that the Association members shall be free under the Collective Bargaining Agreement to comply with such rules, subject to the following conditions:

1. The cost of any drug test shall be paid by the Employer.
2. The Employer agrees to indemnify and hold the Union harmless from all claims, suits or causes of action arising from his administration of the provisions of this Section, except those resulting from the Union's negligent or intentional misconduct. Such indemnity shall include payment of costs, attorney fees, judgments, damage awards and settlements.

ARTICLE 13
Termination

13.1 This Agreement shall remain in full force and effect until the 30th day of June, 2023, and thereafter shall continue in force from year to year, unless either party hereto shall notify the other party in writing at least sixty (60) days prior to the 30th day of June, 2023, or the end of any additional contract year, of its' intentions to make changes in or terminate this Agreement. Such written notice shall specify any changes

or amendments desired by the party giving such notice and shall be sent by Certified Mail to the other party.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by these respective officers duly authorized as of the day and year first above written.

LABOR RELATIONS DIVISION
OF THE MICHIGAN
INFRASTRUCTURE &
TRANSPORTATION ASSOCIATION

LABORERS' INTERNATIONAL UNION
OF NORTH AMERICA, AFL-CIO,
MICHIGAN LABORERS' DISTRICT COUNCIL

By:

By:

Michael Nystrom
Executive Vice President

Geno Alessandrini, Sr.
Business Manager

Alex Zurek
Secretary-Treasurer

**2013-2023 CONTRACT TO BE EXECUTED BETWEEN AN EMPLOYER
WHO IS NOT A MEMBER OF THE SIGNATORY
GROUPS COVERED BY THIS MITA-LANDSCAPE AGREEMENT**

We, the undersigned, hereby agree to be bound by all the terms and conditions set forth in the foregoing 2012-2023 Agreement by and between the LABOR RELATIONS DIVISION of the MICHIGAN INFRASTRUCTURE & TRANSPORTATION ASSOCIATION and the MICHIGAN LABORERS' DISTRICT COUNCIL of the LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO, and to become a party thereto. It is also agreed by the undersigned Employer that any notice given by the Union to the Association pursuant to Article 13 of the Agreement shall be notice to the Employer and shall have the same legal force and effect as though it was served upon the Employer personally. Finally, the Employer agrees that, unless he notifies the Union to the contrary by certified mail at least sixty (60) days prior to the termination date of this Agreement or any subsequent Agreement, the Employer will be bound by and adopt any Agreement reached by the Union and the Association during negotiations following the notice by the Union referred to in the preceding sentence.

The Employer acknowledges and agrees that a majority of its employees have authorized the Union to represent them in collective bargaining.

The Employer also agrees to recognize and does hereby recognize the Union, its agents, representatives or successors as the exclusive collective bargaining agent for all employees within the unit covered by this Agreement.

FUTURE RECOGNITION CLAUSE

It is hereby agreed that the Employer shall voluntarily recognize the Union as the exclusive collective bargaining representatives, within the meaning of Section 9(a) of the NLRA, of all employees in the unit defined in this collective bargaining Agreement, whenever the Union presents evidence of its designation by a majority of the workforce then employed in such unit (in the form of authorization cards or forms, union membership applications, or any combination thereof).

Firm Name _____

Address _____

City _____ State _____ Zip _____

Phone (____) _____ Fax (____) _____

Signature _____

Title _____

Date _____ Local No. _____ By _____

(Please send a signed copy to the Michigan Laborers' District Council, 1118 Centennial Way, #100, Lansing, MI 48917-9280)

LABORERS' LOCAL UNIONS

Battle Creek, #355: 1500 E. Columbia Avenue, 49014-5137, Phone: 269/962-8010, Toll Free: 877/616-9845, Fax: 269/962-1431, website: www.local355.org. Counties: Allegan, Barry, Berrien, Branch, Calhoun, Cass, Ionia (excluding the City of Portland), Kalamazoo, Kent, Lake, Manistee, Mason, Mecosta, Montcalm, Muskegon, Newaygo, Oceana, Osceola, Ottawa, St. Joseph and Van Buren. Business Manager: Arlandar Washington.

Ann Arbor, #499: 3080 Platt Road, 48108-1808, Phone: 734/971-5212, Toll Free: 877-499-2100, Fax: 734/971-0094. Counties: Clinton, Eaton, Hillsdale, Ingham, Jackson, Lenawee, Livingston, Monroe and Washtenaw. Business Manager: Robert Malcolm.

Flint, #1075: P.O. Box 5188, 48505-0188, Phone: 810/686-8381, Fax: 810/686-1906. Counties: Genesee, Lapeer, Sanilac, Shiawassee and St. Clair. Business Manager: Dan Husted.

Pontiac, #1076: 760 Joslyn Avenue, 48340-2917, Phone: 248/334-0509, Fax: 248/334-0584, website: www.constructionlaborers1076.org. Counties: Oakland and the Northeast portion of Livingston County bordered by M-151 (Oak Grove Road) on the West and M-59 on the South. Business Manager: Bill Bass.

Saginaw, #1098: 345 Morley Drive, 48601-9402, Phone: 989/752-6146, Fax: 989/752-5799, website: www.local1098.org. Counties: Alcona, Alpena, Arenac, Antrim, Bay, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traverse, Gratiot, Huron, Iosco, Isabella, Kalkaska, Leelanau, Midland, Missaukee, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, Saginaw, Tuscola and Wexford. Business Manager: Brent Pilarski.

Detroit, #1191: 2161 W. Grand Boulevard, 48208-1115, Phone: 313/894-2241, Fax: 313/894-6250, website: www.laborerslocal1191.org. Counties: Wayne and Macomb Counties. Business Manager: Michael Aaron.

Iron Mountain, #1329: P.O. Box 863, 49801-0863, Phone: 906/774-6070, Fax: 906/774-1199. Counties: Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon and Schoolcraft. Business Manager: Joseph Gallino.

Michigan Laborers' District Council: 1118 Centennial Way, Suite 100, Lansing, MI 48917-9280, Phone: 517/321-2349, Fax: 517/321-3266, website: www.mi-laborers.org. Business Manager: Geno Alessandrini, Sr., Secretary-Treasurer: Alex Zurek.