

# HOD CARRIERS LOCAL UNION No. 166

of the

LABORERS INTERNATIONAL

*Affiliated with*

8400 Enterprise Way, Room 103

Phones: (510) 568-0141 (510) 568-0142



UNION OF NORTH AMERICA

*the AFL-CIO*

Oakland, California 94621

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## MASONRY AGREEMENT

### TABLE OF CONTENTS

	<b>Page</b>
<b>Article I</b> Area and Work Covered	2
<b>Article II</b> Union Security and Employment	3
<b>Article III</b> Regular Workday	7
<b>Article IV</b> Subsistence Pay	7
<b>Article V</b> Wage Scale and Fringe Contributions	7
<b>Article VI</b> Foreman and Premium Pay	9
<b>Article VII</b> Overtime, Holidays, Shift Work, and Wage Payments	10
<b>Article VIII</b> Stewards and Union Representatives	13
<b>Article IX</b> Safety Requirements	14
<b>Article X</b> Working Rules	14
<b>Article XI</b> Joint Board and Grievance Procedure	15
<b>Article XII</b> Subcontracting Work	17
<b>Article XIII</b> General Savings Clause	17

<b>Article XIV</b>	Liability of the Parties	18
<b>Article XV</b>	Hiring Hall Practices	18
<b>Article XVI</b>	Surety Bond Requirement	18
<b>Article XVII</b>	Term of this Agreement	19
<b>Article XVIII</b>	Employers Bound to This Agreement	20

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## MASONRY AGREEMENT

This agreement made this first (1<sup>st</sup>) day of July 2008 by and between the Northern California Masonry Contractors Multi-Employer Bargaining Association, hereinafter referred to as the "Association", for and on behalf of the employers who have delegated to this Association the authority to negotiate and sign collective bargaining agreements on their behalf and listed in this agreement,

**And**

HOD CARRIERS' LOCAL UNION #166, affiliated with the LABORERS' INTERNATIONAL UNION OF North America, AFL-CIO, hereinafter referred to as the "Union",

### **Witnesses**

Whereas, it is the desire of the parties hereto to formulate an agreement, which will prevent strikes or lockouts, insure peaceful adjustment between said parties, prevent stoppage of work, and tend to stabilize and strengthen the building industry, it is agreed between the parties as follows:

### **Recognition**

1. The Association hereby recognizes and acknowledges Hod Carriers' Local Union #166 as the sole and exclusive collective bargaining representative of all employees in the areas and work covered by this Agreement.
2. The Union recognizes the Association as the sole and exclusive bargaining representative of all employers who have delegated their bargaining rights to the Association. In the event the Union receives added work area jurisdictions, the Union recognizes the Association as the authorized bargaining agent for any new jurisdictions.

## Definition

1. The term, "Association", shall mean **Northern California Masonry Contractors Multi-Employer Bargaining Association**.
2. The term, "**Member of the Association**", shall mean any person, firm, or corporation who is now and hereafter may become a member of the **Northern California Masonry Contractors Multi-Employer Bargaining Association** and who has either signed a delegation of his bargaining rights to the Association or has this Agreement.
3. The term, "**Individual Employer**", shall mean any person, firm, or corporation who has delegated their bargaining rights to the Association and thereby agrees to the terms of this Agreement or amendments, modifications, or extensions to this agreement negotiated and agreed to by the and between the **Association** and the **Union**.
4. The term, "**Independent Employer**", shall mean any person, firm, or corporation who signs this Agreement or any copy thereof and thereby agrees to the terms of this agreement or any amendments, modifications, or extensions to the Agreement negotiated and agreed to by and between the **Association** and the **Union**.
5. The term, "**Employer**", shall mean any member of the **Northern California Masonry Contractors Multi-Employer Bargaining Association**, **Individual Employer**, or **Independent Employer**.
6. The term, "**Employee**", shall mean any Hod Carrier employed by any employer within the jurisdiction of Hod Carriers Local Union #166, covering Alameda, Contra Costa, San Francisco, and San Mateo Counties of California.

## ARTICLE I: AREA AND WORK COVERED

Section 1: This agreement shall apply to Alameda, Contra Costa, San Francisco, and San Mateo Counties and any and all other Northern California counties as may, going forward, fall into the jurisdiction of Hod Carriers Union Local #166.

**Section 2:** Without limiting the scope of the work covered hereby, it is agreed that the work shall include, but not be limited to, mixing, preparing, tempering, and conveying all materials used by the brick masons, stone masons, tuck pointers, and caulkers, whether done by hand or machine; building erecting and planking all scaffolds, regardless of height, to be used by brick masons, stone masons, tuck pointers, and caulkers; building all necessary trestles, cleaning all job debris caused by the brick masons, stone masons, tuck pointers, and caulkers; handling all materials upon arrival on the job site whether by truck freight car, to be used by brick masons, stone masons, tuck pointers, and caulkers. Hod Carriers tending a brick mason or stone mason shall mean any person serving brick

masons, stone masons, tuck pointers, and caulkers in any capacity. All mechanical equipment replacing in whole or in part the work of the Hod Carrier shall be cleaned and operated by the Hod Carriers. This includes mixtures, grout pumps, wheelbarrows, forklifts, boom winches, tusk type automatic, semi automatic, or manually operated hoists, gas or electric powered, etc. The employer agrees to hire personnel in accordance with Article 11 to perform this work. It is further agreed that there will be at the least one Hod Carrier employed wherever brick mason, stone mason, tuck pointer, caulkers are working in any capacity. All Hod Carriers must take orders and instructions from job foremen and supervisors in order that the job will be efficiently manned.

## **ARTICLE II: UNION SECURITY AND EMPLOYMENT**

**Section 1:** Every employee employed by an employer or employers for a period of seven (7) working days continuously or cumulatively within the area covered by this Agreement, shall, as a condition of employment become a member of the Union, and all persons accepted into the membership shall thereafter maintain their continuous good standing in the Union as a condition of employment. The employee shall become a member of the union on the eighth day following the date of employment or effective date of this agreement, whichever is later. The employer shall discharge any employee who has failed to become a member as herein above required, immediately upon written notice of such non compliance, and further agrees not to again employ or re-employ a person so discharged until he/she is a member of the Union. Membership in the Union shall be available to persons employed in work covered by this Agreement upon the term and qualifications not more burdensome than those applicable generally to other applicants for such membership.

### **Section 2:**

- (a) The employer shall retain full freedom to employ, reject, and discharge any person who is referred for work covered by this Agreement, subject to the provisions of this Agreement. An employer shall notify the **Union** of an original rejection of a particular person.
- (b) The employer shall notify the Union of its need for all workmen and shall not recruit applicants directly or hire additional persons not referred by the **Union**, except as herein after provided.
- (c) Effective after the date of the commencement of this Agreement, an employer who either:
  - (1) Commences for the first time a bona fide new masonry contracting business in the geographical area covered by this Agreement, or

- (2) Is engaged in a bona fide masonry contracting business at the time of the execution of this Agreement with his principal place of business outside of the geographical area embraced herein, and who commences a bona fide contracting construction job or project within the said geographical area embraced herein, shall have the right, at the time specified in subsection (1) and (2) of subsection (c) hereof to initially select and employ directly one man of his own choice.
- (3) Any employer who is not a member of the **Association** and has its corporate headquarters (as defined by the address on its Contractor's License) outside the Counties of Alameda, Contra Costa, San Francisco, and San Mateo may be permitted to bring one (1) key man to each job performed within the Counties covered by this Agreement. An employer who is a member of the Association or has its corporate headquarters within the Counties covered by this Agreement shall have no such limitation.
- (d) The **Union** shall maintain an open non-discriminatory hiring hall and there shall be no participation in the activities of the Union, and the selection of applicants for referral to jobs shall not be based upon, or in any way be affected by Union membership, by-laws, rules, regulations, constitutional provisions or any other aspect or obligation of Union membership, policies or requirements. It is mutually agreed by the Committee and the Union to fully comply with all of the provisions of Title 7 of the Civil Rights Act of 1964, Presidential Executive order # 10925 and #11114 and the California Fair Employment Practices Act, to the end that no person shall, on the grounds of sex, race, color or national origin, be denied the benefits of or be otherwise subjected to discrimination by not having full access to the contents of Article 11 of this Agreement.
- (e) All employers who desire to employ persons for work covered by this Agreement shall notify the office of the **Union** of the number and qualifications of the persons desired, the type of work to be performed, the location of the job site, the starting time of the job, the expected duration of the job and such other information as is deemed essential by the employer in order to enable the **Union** to make proper referral of applicants.
- (f) Upon receipt of such notice from the employer, the **Union** shall use its best efforts to furnish the required number of qualified and competent workmen, provided however, that the **Union**, its Officers, agents and representatives undertake no obligation to search for or by any means locate an applicant on the current referral list who is not physically present in the Union Hall when referrals are made pursuant to such request from the employer.
- (g) If the **Union** is unable to refer the number of persons desired within twenty-four (24) hours after notice of such job order, the employer may procure additional employees up to the desired number from any other source or sources, provided however, that the employer shall immediately notify the **Union** of the name,

address, social security account number of the employees procured from such other source, and the date of employment and location of the job on which he or she is employed. The employer, upon written request from the **Union**, shall notify the **Union** of the name, address, social security account number and classification of every person who is employed in, rejected for, or discharged from work covered by this Agreement, together with the date of such employment, rejection or discharge and the location of their place or respective place of employment, Whenever a person is rejected for, or discharged from such work, the employer shall notify the Union of the reason or reasons thereof. The notice required by this subsection shall be made in writing within forty-eight (48) hours after such employment, rejection or discharge as the case may be.

- (h) Each person upon referral shall receive a referral slip to be presented to the employer's representative at the job site, indicating the name, address, social security account number, type of work, date of proposed employment and date of referral and time of dispatch.
- (i) The employer shall have the right to call for by name any person who is registered for work and who has been employed by said employer within 120 working days immediately prior to such request being made.
- (j) Registration and Referral of Applicants shall be in accordance with the following:

### **1. Registration**

- (a) For purpose of referral the Union shall maintain Journeyman and Apprentice List of applicants.

#### **Qualifications for said lists are as follows:**

- (i) To be eligible for the Journeyman List, a person must have worked and been employed for at least three hundred sixty (360) working days on the type of work covered by this Agreement
  - (ii) To be eligible for the Apprentice List, a person must be registered with the Association and the Union, established by and between the Association and Local Union # 166, and have less than three hundred sixty (360) working days of employment on the type of work covered by this Agreement.
- (b) Names of all persons shall be entered on said Lists in the order in which they come to the Union office seeking employment. Each person, at the time of applying for a job, shall indicate his own qualifications for such type of work.
  - (c) After each workman's name, there shall be entered a designation corresponding to the type or types of work the workman is qualified to perform

- (d) Registration hours at the Union shall be from 7:00 a.m. to 9:00 a.m. daily (Saturdays, Sundays and holidays excluded).
- (e) To insure the maintenance of a current register list, all persons who do not register daily shall be removed from the registration list, if such persons register pursuant to the provisions of this section, they shall maintain their previous position on such list subject to the provisions of this section.
- (f) Individuals shall be eliminated from the registration list for the following reasons: (1) when such individual is dispatched to a job, except that, if any such individual is rejected by the employer, he shall retain his position on said list; (2) failure to accept employment two times during the current week at the time of dispatch; or (3) dispatched to a job, but fails to report for work.

## 2. Referral:

- (a) Referral hours from the Union shall be 7:00 a.m to 9:00 a.m daily (Saturdays, Sundays and holidays excluded).
- (b) Persons shall be referred in the order in which they are registered with preference given to persons qualified to perform the type of work involved.
- (c) Any person who feels that he or she has not been registered or referred in accordance with the provisions of this Agreement may appeal within ten (10) days following the occurrence of the event which constitutes the basis of such person's grievance to a Hiring Practices Association by filing with said Association a written statement of the grievance clearly and specifically setting forth the violation charged. In the event that the decision of such **Association** is less than unanimous, the party aggrieved may appeal to a mediator to be selected jointly by such person and the **Union**, if the grievance relates to either registration or referral; or jointly by such person, the employer and the Union, if such grievance relates to hiring. Such appeal is taken by filing with such impartial mediator written notice of such appeal within ten (10) days after receipt in writing of the decision of such Committee. If the parties cannot agree upon such mediator, the State Conciliation Service of the State of California shall select him. A unanimous decision of the Hiring Practices Association shall be final and binding. The decision of the mediator shall be final and binding. The cost of proceedings before the mediator shall be borne equally by the employer, the workman, and the Union, or the workman and the Union, as the case may be. The Hiring Practices Association shall consist of two (2) Members selected by the NCMCA Masonry Association and two (2) members selected by the Union. Such Committee need not be a standing committee but maybe formed at the time the need for it arises.



### 3. Posting:

- (a) Employers and the Union shall post the provisions of this Section relating to Union Security and hiring hall in appropriate places where notices to employees and applicants are customarily posted, including the bulletin board of the Union.

## ARTICLE III - REGULAR WORK DAY

**Section 1:** On maintenance and repair of existing structures performed in the refractory industry, i.e. existing stacks, furnaces, glass tanks and boilers in refineries, ships and industrial plants, eight (8) hours shall constitute a day's work, from 8:00 a.m. to 12:00 noon and 12:30 p.m. to 4:30 p.m., Monday through Friday inclusive. **THE STARTING TIME SHALL BE OPTIONAL WITH THE EMPLOYER.** All wage and fringe contributions shall be as shown in Article V, Section 3, of this Agreement.

**Section 2:** On all masonry work, other than that herein above excluded, a regular work day shall consist of seven (7) or eight (8) hours per day at the option of the employer. A regular work week shall consist of five (5) regular week days totaling thirty-five (35) or forty (40) hours per week. The lunch period shall be thirty (30) minutes beginning no later than five (5) hours after the beginning of the work day. The regular working hours shall be seven (7) or eight (8) consecutive hours between 6:00 a. m and 4:30 p.m. Set up time shall be payable at the rate of five dollars (\$5.00) per day.

## ARTICLE IV - SUBSISTENCE

**Section 1:** It is agreed that subsistence shall be paid in accordance with the following: Subsistence shall be paid at the maximum rate of fifty dollars (\$50.00) per day, as shown on receipts for expenses, for each day worked. If the job site is located over one hundred (100) road miles from the closer of the employee's residence or the employer's shop, subsistence shall be paid at the maximum rate of fifty dollars (\$50.00) per day. In addition to subsistence pay, transportation expenses for one (1) trip per week at thirty-one cents (\$.31) per mile each way plus bridge tolls, until the job is completed or the employee is laid off. The employer, at his option, may provide covered transportation in lieu of payment of transportation or bridge tolls as heretofore set forth.

## ARTICLE V - WAGE SCALE AND FRINGE CONTRIBUTIONS

**Section 1:** The Association and the Union agree that fringe benefit contributions for work performed in Alameda and Contra Costa Counties payments will be made into the existing Hod Carriers' Union Local #166 Health & Welfare Fund, the Hod Carriers' Union Local #166 Pension Funds, the Hod Carriers' Union Local #166 Vacation Fund, and the Local Union #166 Cash Bond Trust Fund. Fringe benefit contribution for work performed in San Francisco and San Mateo Counties shall be made to the Hod Carriers

Local #36 Trust Funds. All contributions shall be made in accordance with the requirements as set forth in this Article V. Each employer covered by or signatory to this Agreement agrees to, and shall be bound by all the terms, conditions and provisions of these certain trust agreements establishing the Funds herein above listed and any changes, additions, amendment or amendments thereto which are not in conflict with the terms of this Agreement. It is understood, however, that this Agreement, beyond requiring the payments, cash bond, liquidated damages, interest and collection costs for failure to make payments as required by this Agreement, does not obligate any of the parties signatory hereto, or covered hereby, to furnish or to guarantee the benefits provided by the Funds herein above listed. In addition, the employer agrees in the same manner to the terms and conditions of the Local #166 Cash Bond Trust Agreement established to hold and assess the cash bond contributions as required by this Agreement.

**Section 2:** The payments and contributions that are provided herein shall be made in accordance with the applicable trust agreements and regulation prescribed by the Board of Trustees of the applicable trust. The payments provided for herein are due and payable on or before the fifteenth (15<sup>th</sup>) day of the current month and are for hours worked in the preceding month. Postal dates on private postage meters shall not be considered as official. Payments received after the fifteenth (15<sup>th</sup>) day of the month, unless bearing an official postmark of the U.S. Postal Service indicating mailing on or before the fifteenth (15<sup>th</sup>) day of the month, shall thereupon become delinquent. Such delinquent employer shall pay such Fund twenty percent (20%) of any unpaid amount or twenty dollars (\$20.00), whichever is greater, as and for liquidated damages plus interest upon the total amount from the date due and cost of collection, including attorney's fees, accountant's fees and court costs. Any employer whose payment is not received by the thirtieth (30<sup>th</sup>) day of the month shall no longer be furnished employees. Any employer who fails to pay the contributions shall be liable under the Agreement for benefits due employees specified in the Plans herein above referred to, if said employees do not receive said benefits by reason of such employer's failure to make such contributions on their behalf.

**Section 3:** The Journeyman Hod Carrier wage and fringe benefit increases (to be allocated by the Union subject to paragraph 8 above) will be as follows: (See attachment for the most current wage rates and fringe benefit contributions.)

**Section 4:** As of May 10, 2010, the wage rates and fringe benefit rates for the Counties of San Francisco and San Mateo will be identical to those of Alameda and Contra Costa Counties. If not, employers may pay the lower wage rate and the lower fringe benefit package for all work performed within the area covered by this Agreement.

Alameda & Contra Costa Counties:

July, 1, 2008 - \$2.00

May 1, 2009 - \$2.26

May 1, 2010 - \$1.80

May 1, 2011 - \$1.70

May 1, 2012 - \$1.70

San Francisco & San Mateo Counties:

July, 1, 2008 - \$1.66

May 1, 2009 - \$1.92

May 1, 2010 - \$1.46

May 1, 2011 - \$1.70

May 1, 2012 - \$1.70

The subsistence as required under Article IV of this Agreement shall apply to apprentice Hod Carriers during the entire Apprenticeship period.

**Section 5:** In addition to the wage and fringe benefit payments required in Section 3 above, each employer who is not covered by the **Northern California Masonry Contractors Multi-Employer Bargaining Association**, Blanket Bond Guarantee covering wages, fringes and liquidated damage payments required by this Agreement shall upon becoming signatory to this Agreement, be required, in accordance with Article XVI of this Agreement, to deposit a Twenty Thousand Dollars (\$20,000.00) surety bond into the Hod Carriers' Local Union #166 Surety Bond Trust Fund to secure the wages and fringes for Hod Carriers covered hereunder. At the time an employer becomes signatory hereto, the employer must provide a Surety Bond to the Union in the amount of Twenty Thousand Dollars (\$20,000.00). Proof of the surety bond deposit shall be served upon the **Union, the Association,** and the Trustees of Hod Carriers' Local Union #166 Cash Bond Trust Fund.

**Section 6:** Hod Carriers are working on jobs where heat-protective clothing is required, they shall receive time and one-half per hour for every hour worked and double said amount on overtime. The employer is to furnish all necessary clothing and heat fatigue aids.

**ARTICLE VI - FOREMAN AND PREMIUM PAY**

**Section 1:** If five (5) or more Hod Carriers are employed on a job, one of the five Hod Carriers shall be designated as a foreman. All Hod Carrier foremen shall receive seventy-five cents (\$ 0.75) per hour above the regular hourly wage scale. On refractory work in refineries, a foreman shall not be required unless there are six (6) or more Hod Carriers employed on the crew. Hod Carriers shall be under the direct supervision of the Hod

Carrier Foreman and the Hod Carrier foreman shall be under the direct supervisor of the employer or employer's representative on the job.

**Section 2:** All Hod Carriers working at grinders shall receive twenty-five cents (\$ 0.25) per hour above the regular hourly wage scale.

**Section 3:** All Hod Carriers employed in manhole work shall be paid the regular wage scale plus two dollars (\$ 2.00) per day additional.

## **ARTICLE VII - OVERTIME, HOLIDAYS, SHIFT WORK AND WAGE PAYMENTS**

**Section 1:** All time worked in excess or outside of the regular work day or the regular work week or on holidays is overtime work and shall be paid for at the following rates of pay:

- (a) The first two (2) hours of overtime immediately following the regular quitting time shall be paid for at one and one-half (1½) times the hourly wage rate. All hours in excess of two (2) hours overtime shall be paid at double the hourly wage rate.
- (b) The first eight hours worked on Saturday shall be paid for at one and one-half times the hourly wage rate. AM hours worked on Saturday in excess of eight (8) hours or all hours worked on Sunday and the following holidays shall be paid at double the hourly wage rate: New Years Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday immediately following Thanksgiving, and Christmas Day. No work shall be performed on Labor Day except to save life or property.
- (c) In the event a crew on a project is prevented from working on a regular week day due to inclement weather or act of God, that crew will be permitted to work on the following Saturday at the regular straight time rate on a voluntary basis.

**Section 2:** It is agreed that two (2) or three (3) shifts may be worked at straight time provided that in all cases the hours worked by Hod Carriers conform with the hours worked by bricklayers, stonemasons, tuck pointers and caulkers whom they tend, but in no case shall a Hod Carrier work more than one (1) shift in any twenty-four (24) hour day unless the overtime rate is paid.

**Section 3:** Whenever shifts are worked by bricklayers and Hod Carriers, time shall be paid as in the previous Section provided unless the bricklayers working shifts with Hod Carriers are paid overtime, in which event the Hod Carriers working with bricklayers receiving overtime pay shall likewise receive overtime.

**Section 4:** On all refractory work, the following shifts may be worked at straight time:

- (a) Day shift will commence at 8:00 a.m. and terminate at 4:00 p.m. Swing Shift, 4:00 p.m. to 12:00 midnight, Graveyard Shift, 12 midnight to 8:00 am
- (b) The straight time week shall be as follows: When one shift is worked, it shall commence at 8:00 a.m., Monday, and terminate at 4:30 p.m., Friday; when two (2) or three (3) shifts are worked, it shall commence at 8:00 a.m., Monday, and terminate at 12:00 midnight, Friday.
- (c) Day shift will receive prevailing rate; swing shift shall receive ten percent (10%) per hour above the prevailing rate; and graveyard shift shall receive fifteen percent (15%) per hour above the prevailing rate to the nearest one-cent.
- (d) The final shift on any job shall be paid for the complete shift and all shifts shall have thirty (30) minutes for lunch on the employer's time.

**Section 5:** On all other masonry work, the following shifts may be worked at straight time:

- (a) Day shift will commence at 8:00 a.m. and terminate at 3:00 p.m., the swing shift shall commence at 3:00 p.m. and terminate at 10:00 p.m., and the graveyard shift shall commence at 10: 00 p. m and terminate at 5: 00 a. m
- (b) The final shift on any job shall be paid for a complete shift and all shifts shall have thirty (30) minutes for lunch on the employer's time.
- (c) The swing shift shall receive ten percent (10%) above the regular basic hourly wage rate and the graveyard shift shall receive fifteen percent (15%) above the regular basic wage rate.
- (d) The Hod Carriers working the day shift from 8:00 a.m. till 3:00 p.m. shall begin work fifteen (15) minutes before 8:00 a.m. and shall be paid the starting time rate. The Hod Carriers working the swing and graveyard shifts shall not receive starting time.
- (e) When an employee is required to work more than two (2) hours unscheduled overtime beyond his regular scheduled shift, the employer will arrange either to have him receive one (1) hot meal or give him three dollars (\$ 3.00) in lieu of the meal. This provision will be repeated after each four (4) hours of overtime thereafter.

**Section 6:** When a Hod Carriers is cleared from the Union to any job or shop, he must report to work for that specific job at least one (1) day. If conditions are such that said cleared Hod Carriers cannot work, he shall call the office and wait on the job until replaced or the Business Representative arrives on the job. When only one Hod Carrier is working on a job and conditions beyond his control prevent him from going to work, he shall notify the Union and the employer and get a replacement.

**Section 7:** In the event a Hod Carrier is injured on the job and requires hospitalization, he shall receive compensation for the fifth day.

**Section 8:** Every Hod Carriers must be paid his wages in full on the job fifteen (15) minutes before quitting time on Friday. In order to facilitate the making of payrolls, the employer may be allowed two (2) days' hold back or less on the payroll to be optional with the employer; however, every effort shall be made to only hold back one (1) day's pay on each weekly period.

**Section 9:** If a Hod Carriers is ordered and sent to a job and not put to work and reasonable excuse exists to the contrary, except bad weather on the job site, he shall paid two (2) hours wages at straight time for week days, time and one-half if the work day is Saturday or double the hourly rate if the work day is Sunday or a holiday.

**Section 10:** Hod Carriers' pay shall be based on the full day or one-half day providing no reasonable excuse exists except bad weather. In the event there is a dispute over reasonable excuse between the Union and the employer, the portion concerning reasonable excuse shall be referred to the Joint Board as set forth in Article XI of this Agreement.

**Section 11:** All Hod Carriers laid off or discharged must be paid in full immediately or if given an office notice order, he must be allowed one (1) hour additional time going from the job to office where payment is to be made. Whenever employees are not paid fifteen (15) minutes before the normal quitting time, they shall receive full waiting time for each hour, at straight time, until payment is made but not to exceed seven (7) hours in any twenty-four (24) hour period.

**Section 12:** If a Hod Carriers does not receive his wages when due, he shall demand time at the regular rate of wages for each hour until paid, not to exceed the normal days' pay at straight time for each twenty-four (24) hour period, If a Hod Carriers quits, he is to return his employees badge and equipment before wages are due and shall be paid within seventy-two (72) hours after quitting the job.

**Section 13:** Hod Carriers shall be permitted 10-minute rest periods and 30-minute unpaid, uninterrupted meal/lunch periods in accordance with California law. Rest periods and meal periods may be scheduled by the foreman on the job, and the foreman may require workers to rotate their rest periods and meal periods to prevent the complete shutdown of the job. Any disputes regarding an employer's alleged failure to provide meal periods or rest periods as required by California law or this Section shall be resolved in accordance with the grievance and arbitration procedures set forth in Article XII. It is the intent of the parties that all claims for meal period and rest period violations arising under California law to be submitted to arbitration and not be the subject of a court proceeding.

**Section 14:** The foreman on the job shall have the right to require all or some of the mortar men on the job to take their lunch period ten minutes early in order that they may have materials ready when the bricklayers return from lunch.

**Section 15:** When dispatched for work on the first day, all Hod Carriers must fill out a W-4 form before going to work.

**Section 16:** All employees, when working on acid brick repair work, boilers, furnace or stack work, where acid or fumes of acid or acid containing soot affect clothing, shall be supplied with work or protective clothing.

**Section 17:** It shall be a violation of this Agreement for a foreman or employer to order a forklift drive to lift other craft's materials.

**Section 18:** All complaints must be registered within forty-eight (48) hours to the Business Manager.

**Section 19:** The Union hereby confirms that it has waived all benefits of San Francisco's paid sick leave ordinance, codified as Chapter 12W of the San Francisco Administrative Code. If the State of California or any other city or county within the area covered by this Agreement adopts a paid sick leave ordinance, the Union waives the benefit of any such ordinance to the extent permitted by law.

## **ARTICLE VIII - STEWARDS AND UNION REPRESENTATIVES**

**Section 1:** The Business Representative of the Union may appoint a steward on any job or shift who shall inspect the working cards of the Hod Carriers' on the job, and shall perform his duties with the least inconvenience to the employer and the men on the job,

**Section 2:** The employer and the Union recognize the need for the steward's protection against discrimination in upholding the conditions of this Agreement and the By Laws of Local Union #166, which are not in conflict with this Agreement. The employer agrees that no steward shall be discharged for performing his steward's duties; the grievance shall be resolved as outlined under Article XI, Section 3 of this Agreement.

**Section 3:** No steward shall have the power to stop any job, but shall at the occurrence of any grievance notify the representative of the Local Union and await his arrival without cessation of work.

**Section 4:** The Employer agrees that the Union and its representative shall at all times have free access to the job for purposes of checking that the conditions of this Agreement are complied with.

## **ARTICLE IX - SAFETY REQUIREMENTS**

**Section 1:** Every employer employing Hod Carriers shall provide for the safety of his employees by complying with all Federal State and Municipal Laws and ordinances pertaining to the masonry industry.

**Section 2:** Every employer employing Hod Carriers shall provide hard hats, goggle, respirators, and drinking water in compliance with the Occupational Safety and Health Act. The employer shall also be required to see that the job site is provided with adequate toilet facilities if such facilities are not provided by the general contractor or owner of the project. CALOSHA requires all employees to wear hard hats at all times under the following conditions:

- (a) Exposed to any possible falling object or electrical shock,
- (b) If employer requires same as a part of his adopted safety policy, and (c) If the construction job is posted as a "HARD HAT JOB".

## **ARTICLE X - WORKING RULES**

**Section 1:** The standard hod accepted by the Union shall be equivalent to the inside measurement of twenty-two inches (22") in length, eleven inches (11") in height and twelve inches (12") in width. No Hod Carrier shall be allowed, nor shall the employer require him to carry a hod other than the standard hod.

**Section 2:** All employees are required for safety measures to Hod Carriers' ladders on jobs requiring the carrying of a hod. On all other jobs, carpenter's ladders or some patented ladder will be required. Standard Hod Carriers' ladders shall not be more than nine inch (9") step wood ladder.

**Section 3:** If a Hod Carrier is required to drive a truck or other vehicle as part of his/her duties, the time spent driving will be compensated.

**Section 4:** Hod Carriers shall not be allowed, nor shall an employer require him to haul tools or materials other than a hammer and a saw to or from the job site in their own car or truck. All Hod Carriers shall be required to wear white pants or overalls to be furnished by the Hod Carrier.

**Section 5:** No Hod Carrier shall be allowed, nor shall an employer require him to infringe on the jurisdiction of another Hod Carriers' or Bricklayers' Local Union.

**Section 6:** No Hod Carrier shall be allowed, nor shall an employer require him to perform any act that is prejudicial to organized labor.



**Section 7:** No Hod Carrier shall be required to work when contractors, foremen, apprentices, masons or any employee or an employer bound to or signatory to this Agreement persists in infringe on the work of the Hod Carrier as defined by this Agreement.

## **ARTICLE XI - JOINT BOARD AND GRIEVANCE PROCEDURE**

**Section 1:** It shall not be a violation of this Agreement for the Union to remove employees of an employer, or to refuse to man any job for an employer who is signatory to or bound to an agreement with a Local Union affiliated with the Bay Area Conference of Hod Carriers when such employer is, or has become delinquent in his payment of wages, fringe benefits or other -remuneration.

**Section 2:** Except as provided in Section 1 above, during the term of this Agreement there shall be no lockouts, strikes (including sympathy strikes), picketing, handbilling, work slow downs, or other disruptions of work at any time.

**Section 3:** If during the term of this Agreement, a question arises concerning the interpretation of this contract, the Committee and the Union agree to settle such dispute as follows:

- (a) In the event any grievance of dispute arises, excepting those set forth, between Hod Carriers' Local Union # 166 or its members and an employer or between the **Association and the Union**, which cannot within forty-eight (48) hours be amicably settled, the **Union and the Association** may reduce the grievance or dispute to writing and require the creation of a Joint Board which shall hear the positions of the parties and render a decision. Said Joint Board shall be composed of two (2) representatives selected by the **Union** and two (2) representatives selected by the **Association**.
- (b) Said Joint Board shall organize within twenty-four (24) hours at the request of the Union of the Association, elect a chairman and a secretary and adopt rules of procedure which will bind the Association, the Union, the employees, and the employers to any decision of the Joint Board on the particular dispute. Said Joint Board shall select a date certain not to exceed ten (10) days from the date of organization of the Joint Board for hearing on the merits of the dispute or grievance, Notice by mail of time, date and place of said hearing shall be sent to the Union, the Association, members of the Joint Board, the employer who is involved in the dispute and the employees who are involved in the dispute by the secretary of the Joint Board. The written notice shall be deemed served when said written notice is served upon a responsible representative of the employer or at the employer's principal place of business or deemed served if said written notice is mailed or delivered to the Union to notify the employees involved in the dispute.

- (c) The hearing before the Joint Board shall not be delayed except in the event of the dispute being adjusted or grievance being settled by mutual agreement between the parties to the dispute. A grievance or dispute must be reduced to writing and served on the other party within thirty (30) calendar days after the aggrieved party becomes aware, or should have been aware, of the alleged violation of this Agreement. If not, the grievance shall be considered untimely and the arbitrator shall have no authority to act upon the grievance and the Joint Board shall have no obligation to hear the grievance.
- (d) In the event the parties or representatives of the parties to the dispute do not appear at the appointed place and time for the hearing, the Joint Board shall have the authority to decide the matter in accordance with the evidence presented to them.
- (e) This grievance procedure shall apply equally to members of the **Association** and independent signatory employers who are not members of the **Association**. Any decision rendered by the Joint Board shall be immediately placed in effect and work thereafter continued in accordance with this Agreement and the terms of such decision. In the event a non-member of the **Association** is brought before the Joint Board by the **Union** or the **Association**, such employer may be required to pay reasonable compensation for the services of the employer members of the Joint Board and/or the neutral arbitrator.
- (f) Notwithstanding any provision in this Agreement to the contrary, the proven failure of an employer to pay wages and fringe contributions or cash bond provision of this Agreement, it shall not be a violation of this Agreement for the Union to withdraw its members, or to refuse to man any job of an employer who fails to comply with such provisions herein contained and such withdrawal of members or refusal to man the job shall not be a strike or work stoppage within the terms of this Agreement.
- (g) Said Joint Board shall have the power to adjust any difference of any character that may arise regarding the meaning or enforcement of this Agreement. If the Joint Board, within twenty-four (24) hours after such meeting cannot agree upon the decision to be rendered on the matter referred to it, the members of the Joint Board shall choose a fifth (5<sup>th</sup>) member in accordance with the procedure adopted by the American Arbitration Association who shall have not business or financial connection with either part of this Agreement. The decision of the Joint Board shall be determined by the majority of its members and shall be rendered in writing within five (5) days after the selection of the fifth (5<sup>th</sup>) member, any decision rendered by said Joint Board shall be final conclusive and binding on the Committee, the expenses of the members of the Joint Board selected by it and the expenses of the fifth (5<sup>th</sup>) member of the Joint Board shall be borne equally by the parties hereto, in the event the employer involved in the dispute is a Member of the **Northern California Masonry Contractors Multi-Employer Bargaining Association**, or between the employer and the **Union** if the employer is not a Member of the **Northern California Masonry Contractors Multi-Employer Bargaining Association**.

**Section 4:** During the term of this Agreement and so long as the Union, the Association or any employer is not proven to be in violation of any provision of this Agreement; there shall be no strike or lockout. It shall not, however, be a violation of this section for employees covered by this Agreement, to honor a Building Trades sanctioned picket line of another Union.

## **ARTICLE XII - SUBCONTRACTING OF WORK**

Work covered by this agreement, which is to be performed at the site of construction, alteration, painting, or repair of any building, structure, or other work may be subcontracted only to persons, firms, or corporations who are signatory to this Agreement. The individual employer who is the prime contractor will notify the Union of the identity of the subcontractor prior to the commencement of work by the subcontractor. This obligation may be enforced, at the option of the Union and the Trusts Funds, either through the grievance and arbitration procedures set forth in this Agreement or any other legal means available to the Union or the Trust Funds; provided, however, that the Union may not enforce this section through a strike or any other economic action.

## **ARTICLE XIII - GENERAL SAVINGS CLAUSE**

**Section 1:** It is not the intent of the Union or the Association to violate any laws, rulings or regulations of any governmental authority or agency having jurisdiction over the subject matter in this Agreement, and the Union and the Association and any employer signatory or bound to this Agreement agree that, in the event that any portion of the provisions of this Agreement are finally held or determined to be illegal or void as being contravention of any of such laws, rulings or regulations- nevertheless, the remainder of this Agreement shall remain in force and effect, unless the parts so found to be void are wholly inseparable from the remaining portion of this Agreement, the Association and the Union agree that, if and when any provisions of this Agreement are finally held or determined to be illegal or void, they will then promptly enter into lawful negotiations concerning the substance thereof

**Section 2:** In particular, and without limiting the generality of the foregoing provisions, in the event that a charge or complaint is filed with the National Labor Relations Board based upon discriminatory practices of any nature whatsoever practiced or caused by the Union and a finding of the facts is made by the National Labor Relations Board that an alleged discriminatory practice in violation of the provisions of Article 11 of this Agreement has been committed or caused by the Union, then and in that event, the Union covenants and agrees to hold harmless the Association and the employer or the employers or employees involved from any loss liability under the joint and served order or judgement which may be rendered by said National Labor Relations Board as a result thereof In the event that a charge or complaint is lodged against an employer based upon discriminatory labor practices which were not included or caused by any act of the Union, and further, in the event a joint and served order of judgement is entered by the

National Labor Relations Board against the Union, and the particular employer or employers involved, or against the Union, the Association and any such employer or employers involved covenant and agree to hold the Union and the Association harmless from any loss or liability under said order or judgement rendered by said National Labors Relation Board.

**Section 3:** In the event Federal controls are placed on cost items of this Agreement and such controls reduce the amount agreed to under this Agreement, it is agreed that when such controls are lifted, the amounts agreed to under the Agreement will then be in effect.

#### **ARTICLE XIV - LIABILITY OF THE PARTIES**

**Section 1:** It is mutually understood and agreed that neither the Association, the members of the **Northern California Masonry Contractors Multi-Employer Bargaining Association, Inc.**, the Individual Employer, the Independent Employer, nor the Union shall be liable for damages caused by the acts or conduct of any individual or groups of individuals who are acting or conducting themselves in violation of the terms of this Agreement without authority of the respective part, provided that such act of conduct has been specifically authorized, participated in, fomented or conducted by the Committee, Member of the **Northern California Masonry Contractors Multi-Employer Bargaining Association**, the Individual Employer, the Independent Employer or the Union as the case may be.

#### **ARTICLE XV- HIRING HALL PRACTICES**

**Section 1:** The Association shall have the right to designate a representative of the Association to investigate the Hiring Hall Practices of the Union provided said inspections are made during reasonable business hours. This right of inspection extends only to the written records of the Union and to general hiring practices and does not extend any right in said representative to inspect financial records of the Union. Any discrepancies noted by said shall be promptly brought to the attention of the Union by letter addressed to its duly elected business representative.

#### **ARTICLE XVI- SURETY BOND REQUIREMENT**

**Section 1.** In order to secure payment of wages, employer contributions, liquidated damages or any financial obligation of the independent employers under this Agreement, every employer who is not a member of the **Association** or whose corporate headquarters is located outside the Counties of Alameda, Contra Costa, San Francisco and San Mateo, agrees to deposit with the Local Union #166 Surety Bond Trust Fund the sum of twenty thousand dollars (\$20,000.00) in a surety bond acceptable to the Trust. The applicable surety bond deposit shall, at all times for the duration of this Agreement or any amended

or modified agreement following this Agreement, be maintained with the Local Union #166 Surety Bond Trust Fund through the Health & Welfare Fund Administrator.

**Section 2.** The Local Union #166 Surety Bond Trust Fund shall receive and hold all bonds for assessment of any or all financial obligations of the independent employers under this Agreement in the event such an employer fails or refuses to pay any financial obligation found to be owing by the Joint Board or Trustees of the Trust Funds established by this Agreement. The **Association**, the **Union** and all independent employers bound to or signatory to this Agreement agree to the terms and conditions of the Trust Agreement established to cover the terms and conditions and operation of the Local Union #166 Surety Bond Trust Fund.

**Section 3.** The Local Union #166 Surety Bond Trust Fund shall be administered solely by the Trustees selected by the **Northern California Mason Contractors Multi-Employer Bargaining Association**. The Trust Agreement Document, previously approved by the Union, provides that no amendment thereto shall be effective to reduce the protection to employees and to the fringe benefit trust required by this Agreement. Union representatives shall be accorded advisory positions, but shall be without power to alter or amend the Trust, or in any other manner administer said Fund. No Union representative shall, except for bona fide services rendered the Trust, receive any Trust monies. The Union, through its representatives, shall have the right to inspect or cause to be inspected any and all financial records of the Trust. Union representatives shall be invited to observe all regular and special meetings of the Local Union #166 Surety Bond Trust Fund Trustees.

**Section 4.** Any independent employer who completes any work covered by this Agreement and who signs a notarized statement that he will have no future work within the jurisdiction of Local Union #166 for the ensuing twelve (12) month period may, upon written application to the Trustees of the Local Union #166 Surety Bond Trust Fund and a written statement from the Union that said employer does not owe any wages or fringe contributions, withdraw any bond deposited in the Surety Bond Trust Fund. Release of the Employer upon his application for withdrawal may be delayed for a reasonable period not to exceed ninety (90) days. In the event that said employer returns to work within the jurisdiction of Local Union #166 within the twelve (12) month period following the return of his surety bond deposit, he will be required, prior to commencement of such work, to re-deposit the full amount of the surety bond.

## **ARTICLE XVII- TERM OF THIS AGREEMENT**

**Section 1:** This agreement shall remain in effect from July 1, 2008 through April 30, 2013, and shall be renewed from year to year thereafter unless either party gives written notice to other party by certified mail of its desire to change, modify, or terminate this Agreement at least sixty (60) days prior to the anniversary date of this Agreement.

**Section 2:** If, after notice as provided in Section 1, herein above, no agreement has been reached between the **Union and the Association** by the expiration date, then this Agreement shall terminate at midnight on such expiration date.

**Section 3:** The parties hereto agree that this Agreement is and shall be binding upon and shall insure to the benefit of the respective heirs, executors, administrators, successors, transferees and assigns of the parties hereto.

**Section 4:** It is agreed that all members of the **Northern California Masonry Contractors Multi-Employer Bargaining Association**, and individual employers who delegated their bargaining right to the Association and appear on the list which is a part of this Agreement, and all independent contractors who sign this agreement shall be bound by the terms of this Agreement until the expiration date and the expiration date of any amendments or modifications to this Agreement, and subsequent agreements entered into between the **Union and the Association** providing this Agreement and subsequent agreements entered into between the Union and the Association is signed by all four (4) representatives of the **Northern California Masonry Contractors Multi-Employer Bargaining Association**, until such time this Agreement, any amendments or modifications of this Agreement, and subsequent agreements entered into between the **Union and the Association** is ratified by the members of the Union and signed by all five (5) representatives of the **Northern California Masonry Contractors Multi-Employer Bargaining Association**, such agreements shall be considered tentative pending such ratification and signatures.

**Section 5:** It is mutually agreed that the portion of this Agreement concerning hours may at any time during the life of this Agreement be reopened by the presentation in writing by either party to the other, notification of the desire to reopen. Upon the presentation in writing, it is agreed that the negotiations will begin within seven (7) days. Failure of the Association and the Union to agree to any change, modifications, amendment, of that portion of this Agreement concerning hours shall in no way affect this Agreement or because for either party to declare this agreement null and void, or for either party to engage in a strike or lockout.

#### **ARTICLE XVIII- EMPLOYERS BOUND TO THIS AGREEMENT**

**Section 1:** It is agreed by the Union and the Association that the employers who have delegated their bargaining right to the **Northern California Masonry Contractors Multi-Employer Bargaining Association, Inc.**, as listed herein after in this Agreement are bound to this Agreement on the effective date of this Agreement. It is also understood and agreed by the Union that the employers who are bound to the Agreement effective July 1, 2008 through April 30, 2013, through delegation of their bargaining right to the **Northern California Masonry Contractors Multi-Employer Bargaining Association, Inc.**, and who do not appear on the list attached to this Agreement, **ARE NOT BOUND TO THIS NEW AGREEMENT EFFECTIVE July 1, 2008 AND THE UNION AGREES TO BARGAIN INDIVIDUALLY WITH SAID EMPLOYERS OVER**

**TERMS AND CONDITIONS FOR EMPLOYMENT OF WORKMEN THE UNION REPRESENTS.**

**ARTICLE XIX - AMENDMENTS TO THIS AGREEMENT**

**Section 1:** Nothing contained in this Agreement shall prohibit the Union and the Association from negotiating and signing amendments or modifications to this Agreement to become effective prior to the anniversary date of this Agreement if such amendments or modifications are agreed to and signed by the union and each of the five (5) representatives of the **Northern California Masonry Contractors Multi-Employer Bargaining Association**.

**ARTICLE XX - WORKING OUTSIDE THIS JURISDICTION**

**Section 1:** Whenever an employee covered by this Agreement works outside the jurisdiction of this Agreement or with employees covered by an agreement with another Local Union in the same craft, and the scale of wages varies, such employee shall receive the higher scale of wages.

**ARTICLE XXI- PROJECT AGREEMENTS**

**Section 1:** The Union reaffirms its intentions not to sign Project Labor Agreements with masonry contractors who are not signatory to the terms of this Agreement.

**ARTICLE XXII - BENDING CLAUSE**

**Section 1:** IN WITNESS OF THE FOREGOING, AND IN AGREEMENT THERE WITH WE, THE UNDERSIGNED AUTHORED REPRESENTATIVES OF THE PARTIES TO TIES Agreement, hereby attach our signatures binding the Association, the Union employers, and all employees to this Agreement.

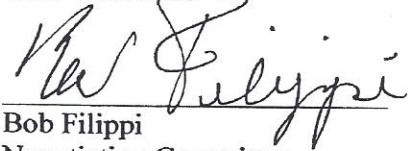
**FOR THE EMPLOYERS:**  
Northern California Masonry  
Contractors Multi - Employer  
Bargaining Association  
2882 Grove Way  
Castro Valley, CA 94546



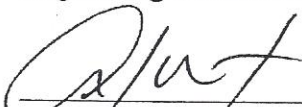
Ron Bennet  
President



Bob Mazza  
Vice- President



Bob Filippi  
Negotiating Committee



Art Mattie  
Negotiating Committee

**FOR THE EMPLOYEES:**  
Hod Carriers Local Union #166  
affiliated with the Laborer's International  
Union of North America, AFL-CIO  
8400 Enterprise Way, Rm. 109  
Oakland, CA 94621



Samuel Robinson  
Business Manager/ Secretary- Treasurer



Michael Davis  
President



**Other Employers:**

Contractor: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone No.: \_\_\_\_\_

Signature & Title: \_\_\_\_\_

License No.: \_\_\_\_\_

Classification: \_\_\_\_\_

Date: \_\_\_\_\_

## MEMORANDUM OF AGREEMENT EXTENDING CURRENT AGREEMENT

This Agreement is made by and between the Northern California Masonry Contractors Multi-Employer Bargaining Association (NCMCMBA) and Hod Carriers Local Union 166 for the term of July 1, 2008 to April 30, 2013.

This agreement modifies and extends the existing July 1, 2008 to April 30, 2013 Agreement as follows:

1. Extension of Agreement –

July 1, 2008 to April 30, 2013 Agreement shall be extended one year and expire April 30, 2014.

**RECEIVED**  
Department of Industrial Relations  
APR 12 2012

2. Periodic Wage Increases:

July 1, 2008 to April 30, 2013 Agreement wage and/or benefit increase for allocation on May 1, 2012 was negotiated at \$1.70.

Div. of Labor Statistics & Research  
Chief's Office

This Wage and Benefit increase shall be changed and allocated as follows:

Effective Date	Wage Increase	Benefit Increase	Total Increase
5/1/12	\$0.00	\$0.70	\$0.70
5/1/13	TBD	TBD	\$1.00

3. Agreement terminates April 30, 2014.
4. In all other respects the agreement remains the same without any changes.
5. These changes are agreed to by the parties below effective April 11, 2012.



Samuel Robinson, Business Manager  
HODCARRIERS LOCAL UNION 166

Date: 4/11/12



Ronald G. Bennett, Northern California Masonry  
Contractors Association

Date: 4-11-2012