

May 18, 2004

PORT OF HOUSTON  
ATTRACTION AND RETENTION OF WORK  
MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made and entered into by and between the West Gulf Maritime Association on behalf of its regular member Owners and/or Operators and/or Agents and/or Terminal Operators and Stevedores who operate in Harris County, Texas, and the South Atlantic and Gulf Coast District, International Longshoremen's Association on behalf of all of its affiliated locals in Harris County, Texas.

It is hereby agreed and understood that this Memorandum of Understanding has been revised during the life of the various existing Collective Bargaining Agreements in order to allow for changes which have become necessary to attract and retain work.

It is further agreed and understood that the Parties will meet with the Port of Houston in order to establish a "volume incentive" program to reward customers who increase their volume of work.

It is understood and agreed that this Memorandum of Understanding shall only apply to covered operations in Harris County, Texas.

It is further agreed and understood that this Memorandum of Understanding, as well as, all of the various Collective Bargaining Agreement(s) between the Parties shall continue in existence unless modified through mutual agreement through September 30, 2010, and that the terms and conditions of those Collective Bargaining Agreement(s) are adopted under this Memorandum of Understanding and shall continue to cover all terms and conditions of employment not modified under this Memorandum of Understanding. Pursuant to the above it is also agreed and understood that this Memorandum of Understanding will be reviewed at the end of its third "contract year" and that changes may be made through mutual agreement between the Parties.

All parties who conduct operations under this Memorandum of Understanding shall be bound under all of its terms and conditions through September 30, 2010.

It is agreed and understood that it is the expressed goal of all of those covered under this Memorandum of Understanding to achieve the highest level of efficiency and service.

Based upon the above, it is hereby agreed by the Parties that the various Collective Bargaining Agreement(s) in force in the West Gulf covering all crafts and all operations worked in Harris County, Texas, excluding all "fully automated" container operations including Barbour's Cut, Bayport and any other "fully automated" facilities which shall be covered in a separate Memorandum of Understanding are modified as follows:

All work conducted outside the "fully automated" facilities to be covered under this Memorandum of Understanding with all work other than "fully automated" container operations to be considered as "break bulk" operation(s).

"Fully automated container vessel operation" shall be defined as an operation involving the loading and/or discharging of containers only, utilizing shoreside gantry type crane(s).

It is further understood that any gang working containers utilizing a ship's gantry crane which averages thirty (30) or more containers per hour from vessel(s) with cell guides in all of the hatches being worked will be treated as if working a "fully automated container vessel operation" and will carry the same wages, gang size and guarantees as a "fully automated" vessel.

All non "fully automated" containers handled using ship's gear or shoreside cranes or equipment, floating derricks, etc. will be considered as regular general

cargo operations covered under this Memorandum of Understanding with a basic wage rate of \$16.50 (SIXTEEN DOLLARS AND 50 CENTS).

All non "fully automated" stuffing and stripping operations will be worked at the \$16.50 (SIXTEEN DOLLARS AND 50 CENTS) basic wage rate and all jobs at the various covered container yard facilities will be considered to be regular general cargo operations, but the \$16.50 (SIXTEEN DOLLARS AND 50 CENTS) basic wage rate will not be applied to the original regular salaried CIC/Timekeeper(s) and Warehouse Foreman at the various covered container yard facilities with those six (6) original regular positions to continue to be paid based upon the "fully automated" basic wage rate for the term of the Agreement(s) unless they are eliminated because of lack of work.

All non "fully automated" container operations will be worked at the \$16.50 (SIXTEEN DOLLARS AND 50 CENTS) basic rate of pay and no "Core Gang" differential will apply to non "fully automated" container operation(s). A non "fully automated" container \$3.00 (THREE DOLLARS AND NO CENTS) differential will be added to the \$16.50 (SIXTEEN DOLLARS AND 50 CENTS) basic wage rate on all hours worked when non "fully automated" container operation(s) are conducted on Saturdays from 7:00 a.m. until 6:00 p.m. Time and one-half (1-1/2) the basic straight time wage rate to be paid for all hours worked between 7:00 p.m. and 6:00 a.m. six (6) days a week Monday through Saturday and all hours worked on Sundays, and on all of the Holidays contained in this Memorandum of Understanding.

All skilled differentials as set forth in the various Collective Bargaining Agreement(s) between the Parties shall continue to be paid where applicable unless modified by this Memorandum of Understanding.

All crafts to only have the minimum number of worker(s) needed on various covered operations set forth in revised Memorandum of Understanding with additional labor to be added only based upon the needs of the overall operation with complete flexibility in the shifting of workers within their general craft as needed to operate efficiently with right to increase or decrease gang sizes and/or manning at any time with individual(s) to be paid based upon their individual guarantee. All gang(s) will perform all required longshore work including flagging, fitting and securing and cleaning as directed by the direct employer.

Rule 20. Size of Gangs is modified as follows:

When more than ~~twelve (12)~~ containers are loaded and/or discharged on conventional vessels, a minimum of ~~fourteen (14)~~ men, including foreman and three (3) drivers will be employed.

The minimum "Pipe and Steel" gang manning will be seven (7) men with the foreman to flag when required.

It is agreed and understood that Rule 20. Size of Gangs will otherwise remain as it is in the current Collective Bargaining Agreement with the understanding that when ~~flagging~~ is not required, the gang size will be reduced by ~~one (1)~~ man.

It is agreed that the basic "grain gang" shall consist of two (2) men. One (1) of these men will act as a gang foreman. This minimum gang will handle up to three (3) spouts with one (1) additional man added for each additional spout used at the same time and requiring that men be required to perform any and all work of any type on the operation as directed by the direct employer, with additional men to be hired with individual guarantees as may be needed by the direct employer on a specific operation.

It is agreed that gang(s) may also be utilized to perform any fitting and securing during any covered operation with additional individual(s) added to gang(s) as

**FINALIZED DRAFT PORT OF HOUSTON  
MEMORANDUM OF UNDERSTANDING**

May 18, 2004

determined by the direct employer to assist. When the direct employer wishes to perform separate fitting and securing work at various hatches a separate fitting and securing gang consisting of a minimum of three (3) men, one (1) of who will be paid at the Gang Foreman's rate of pay, will be utilized. Any number of additional fitting and securing men may be added above the minimum gang size.

It is also agreed that the minimum Clerk(s) and Checker(s) manning on "Turning Basin" operation(s) shall be modified as follows:

One (1) CIC/Timekeeper who will handle all work in connection with the operation with the understanding that when three (3) or more gang(s) are being utilized one (1) Assistant Clerk will be utilized. When loading and discharging of cargo is being handled simultaneously then the one (1) Assistant Clerk will be utilized when two (2) or more gang(s) are being worked.

Each direct employer who has a permanent freight handling assignment to continue to employ a minimum of one (1) regular salaried freight handling CIC/Timekeeper.

Individual vessel/warehouse Clerk(s) and Checker(s) will be allowed to be ordered back by the direct employer for night work and from day to day to complete operations.

Regular salaried "Ship Clerk(s)" may be utilized by their direct employer to perform any required ship or warehouse work as directed by the direct employer.

Usual "proper notice" will be changed to seven (7) days.

It is agreed and understood that the minimum warehouse manning on "Turning Basin" operations shall be modified as follows:

One (1) Working Walking Foreman paid the current Walking Foreman's differential.

Warehouse labor ordered at 6:00 a.m. for 7:00 a.m. or 8:00 a.m. starts may be ordered back by the direct employer for night work and from day to day to complete operation(s).

Flextime shall be instituted on all dock operation(s) for all craft(s) at the direct employer(s) discretion at one and one quarter (1 1/4) times the individual(s) applicable hourly rate for flextime hour(s) worked. Direct employer(s) will order through the local Hiring Hall(s) when flextime is to be worked by other than regular workers.

The direct employer(s) shall have complete discretion in determining whether or not to utilize the "flextime" option. When a direct employer(s) determine to utilize "flextime" they will order through the local Hiring Hall(s) and indicate when "flextime" is to be worked by other than regular worker(s).

"Flextime" may be started at 7:00 A.M., 8:00 A.M., 9:00 A.M. or 10:00 A.M. seven (7) days per week utilizing a three (3) hour flexible meal hour window starting "on the hour" paid pursuant to the fifteen (15) minute interval system between 11:00 A.M. to 2:00 P.M.

Individual(s) who work on "flextime" will received an eight (8) hour guarantee.

Individual(s) who start the "flextime" shift at 7:00 A.M. will have a normal meal period between 11:00 A.M. and 12:00 Noon. If such individual(s) are worked through this meal period they will be paid one (1) hour at time and one quarter (1 1/4).

**FINALIZED DRAFT PORT OF HOUSTON  
MEMORANDUM OF UNDERSTANDING  
May 18, 2004**

Individual(s) who start the "flextime" shift at 8:00 A.M. will have a normal meal period between 12:00 Noon and 1:00 P.M. If such individual(s) are worked through their normal meal period they will be paid one (1) hour at time and one quarter (1-1/4).

Individual(s) who start the "flextime" shift at 9:00 A.M. will have a normal meal period between 1:00 P.M. and 2:00 P.M. If such individual(s) are worked through their normal meal period they will be paid one (1) hour at time and one quarter (1-1/4).

Individual(s) who start the "flextime" shift at 10:00 A.M. who are required to work through to 7:00 P.M. will be paid one (1) hour at time and one quarter (1-1/4).

It is agreed and understood that the basic wage rate on automobile operation(s) is \$17.50 (SEVENTEEN DOLLARS AND FIFTY CENTS) per hour with the understanding that the hour between 5:00 p.m. and 6:00 p.m. will be treated as a "straight time" hour.

It is agreed and understood that all work in the "Turning Basin," other than "fully automated" container, Ro/Ro and automobile operations, is covered under this Memorandum of Understanding and may be worked on a "straight time" basic wage rate between the hours of 7:00 a.m. through 6:00 p.m. excluding the noon meal period six (6) days a week, Monday through Saturday. Time and one-half (1-1/2) the basic straight time wage rate to be paid for all hours worked between 7:00 p.m. and 6:00 a.m. six (6) days a week Monday through Saturday and all hours worked on Sunday, and on all of the Holidays contained in this Memorandum of Understanding.

Time and one-half (1-1/2) to be paid on all straight time hours worked over forty (40) hours in one (1) payroll week for one (1) direct employer in a port.

There shall be a three (3) hour flexible meal period window paid pursuant to the fifteen (15) minute interval system as follows:

From 11:00 a.m. to 2:00 p.m. - Dinner

When gang(s) and/or individual(s) work through the second meal hour period at "Dinner", they shall be paid "double time" based on fifteen (15) minute intervals after the meal period until released or relieved. There will be a three (3) hour guarantee if called back after the 11:00 a.m. to 12:00 noon meal hour.

Only the following Holidays shall be recognized and will be considered as "overtime days" under this Memorandum of Understanding:

Thanksgiving Day (Fourth Thursday in November)  
Christmas Day (December 25th) - No Work Day  
New Year's Day (January 1)  
Martin Luther King's Birthday (Third Monday in January)  
Memorial Day (Last Monday in May)  
July 4<sup>th</sup>  
Labor Day (First Monday in September) - No Work Day

It is agreed and understood that anyone required to work on any Holiday shall only be paid for the time they work or their normal guarantee, whichever is greater, but that they shall not be eligible to be paid both.

Regular starting times of 7:00 a.m., 8:00 a.m., 10:00 a.m., 1:00 p.m., 3:00 p.m. and 7:00 p.m.



All crafts must have the same ordering and cancellation times seven (7) days a week, including Sunday(s) and Holiday(s), with right to cancel 7:00 a.m. and 8:00 a.m. starts for all crafts to be made by 5:00 a.m. in the morning of the day work was scheduled to begin for any reason. Gang(s) and/or individual(s) ordered for 7:00 p.m. starting times seven (7) days per week, including Sunday(s) and Holiday(s), must be ordered by 4:00 p.m. Two (2) hours notice to be given for ordering labor at other agreed upon starting times seven (7) days per week, including Sunday(s) and Holiday(s). It is agreed and understood that the cancellation time will be changed to 5:30 a.m. at the local Hiring Hall(s) as they are automated.

A one-half (1/2) time "inclement weather" option after guarantee period is hereby instituted.

Basic Rate of pay will be \$14.00 (FOURTEEN DOLLARS AND NO CENTS) for non-New Entry and \$10.00 (TEN DOLLARS AND NO CENTS) for New Entry and New Worker.

It is agreed that gearmen, mechanic(s) and mobile crane operator(s) work is "waterfront" work covered under the Collective Bargaining Agreement with the understanding that current hiring practices, wages, working conditions and other terms of employment involving such work shall be continued unless modified by the Parties by mutual written agreement.

It is agreed and understood that the "Payloador" basic rate of pay will be \$17.00 (SEVENTEEN DOLLARS AND NO CENTS).

The parties hereto agree to make every effort to assure that a sufficient number of experienced and efficient individual(s) qualified to do and perform all work covered under the "Scope of Work" of this Agreement shall be available at all required starting times and places as needed and that any and all individual(s) who are unwilling or do not efficiently perform any and all work within their craft that they are required to perform will be considered to have violated the Agreement. Failure of gang(s) and/or individual(s) to efficiently perform work as directed by the direct employer shall be considered as just cause for discipline.

The Parties hereto agree that any individual(s) employed under the terms of the Agreement who leave the job without prior approval by the direct employer or otherwise abandons his duties or who is unwilling or does not perform his duties as required by the direct employer or who improperly handles or deliberately damages equipment and/or cargo shall be deemed to have violated the Agreement and shall be subject to discipline up to and including termination.

Penalties and/or discipline may also be applied by mutual agreement and/or pursuant to the Agreement's Grievance Procedure and Arbitration language.

The parties hereto further agree that any individual(s) who work under any WGMA/ILA Agreement(s) during any suspension from employment through any and all I.L.A. Hiring Halls shall be considered to have violated the Collective Bargaining Agreement(s) and shall be given three (3) additional days suspension from employment through any and all I.L.A. Hiring Halls for any day or portion of a day they worked during their suspension.

It is agreed and understood that a "Dedicated Core Gang" and "Dedicated Regular Worker" system(s) have been established and the "Dedicated Core Gang" Rules are an integral part of this Agreement.

"Core Gang" gang size to be five (5) men which will include a Working Gang Foreman, except for bulk operations which will continue to be worked in accordance with past practice, with additional men to be hired under individual

guarantees as may be needed on a specific operation to satisfy minimum gang sizes under the contract.

A minimum Securing "Core Gang" size to be three (3) men, which will include a working Core Securing Gang Foreman.

Securing "Core Gangs" and Securing Gang Foremen will be jointly selected and will follow the "Core Gang" Rules.

"Break Bulk" Operation(s) - The WGMA and ILA have jointly selected a sufficient number of "Dedicated Core Gangs". If additional "Dedicated Core Gangs" are needed to meet the direct employer's "Dedicated Core Gang" needs, they will be jointly selected by the Joint Productivity Review Committee.

"Dedicated Core Gang" Working Gang Foreman to receive an added "Dedicated Core Gang Foreman" differential of \$1.50 (ONE DOLLAR AND 50 CENTS) per hour.

Securing "Core Gang" Working Gang Foreman to receive an added "Core Gang Foreman" differential of \$1.50 (ONE DOLLAR AND 50 CENTS) per hour.

The four (4) regular members of the "Core Gang" and the two (2) members of the Securing Core Gang will receive a "Core Gang" differential of \$.25 (TWENTY-FIVE CENTS) per hour.

"Core Gang(s)" and/or individual(s) may be ordered back by the direct employer for night work and from day to day to complete operations.

Guarantees for "Core Gang" members will be as follows:

Gang Foreman	(8) hours
CWS (ships)	(8) hours
CIC/Timekeeper	(4) & (4)
Clerk	(4) & (4)
CWS (towed barges)	(4) & (4)
All others, including Gang(s) and Checker(s)	(4) & (2)

Day "Core Gang(s)" and/or individuals ordered back after "Supper" will be guaranteed three (3) hours and "Core Gang" Gang Foreman guaranteed four (4) hours.

The Parties established guidelines will be utilized for regular employment of "Dedicated Regular Worker(s)".

A warehouse "House Gang" system has been established as follows:

The direct employer will have the option of employing Warehouse "House Gangs" made up of warehousemen based upon the "Core Gang" differentials.

Direct employers will make every effort to notify the local Hiring Hall before warehousemen are moved from a container yard to a warehouse or from the warehouse to the container yard and such moves will be made based upon mutual agreement.

All new workers to be screened based upon the joint criteria developed by WGMA and the I.L.A., to be required to meet hazmat/hazcom, maritime security requirement(s), ADA approved standards and pass a physical examination, including drug test administered by WGMA, and to be required to successfully complete a mandatory "Entry Training" program administered by WGMA.

WGMA to implement additional skilled training requirements as required to meet industry efficiency standards.

"Joint Productivity Review Committee" as set forth in the general WGMA/ILA Collective Bargaining Agreement(s) shall be implemented.

Fringe Benefit contribution rate to be a maximum of \$6.615 per manhour for the life of the Agreement(s).

Beginning October 1, 2004 and continuing through September 30, 2010 it is agreed that the maximum contribution rate shall be \$3.615 per man hour for all breakbulk cargo except bulk, bags, automobiles and Ro/Ro operations, with the understanding that the parties may review the effects of the contribution based upon a written request from either party submitted to the other party no later than sixty (60) days prior to the end of a contract year. After review, the \$3.615 per man hour contribution may be extended by mutual agreement of the Parties. In the event the Parties do not mutually agree to extend the \$3.615 contribution rate, such rate shall automatically revert to \$6.615 effective at the beginning of the next contract year.

"New Entry/New Worker" individual(s) who have worked four thousand (4,000) or more hours between October 1, 2000 and September 30, 2004 will be considered as "Previously Employed" for all basic wages as set forth in the Agreement(s) between the Parties and will become eligible to qualify for the basic industry fringe benefit system in effect at that time.

"Previously Employed" individual(s) who have not worked four thousand (4,000) or more hours between October 1, 2000 and September 30, 2004 will be considered as "New Entry" and will be paid at the \$12.00 basic rate for the life of the new Agreement(s) unless they meet the following category rule requirements.

"New Entry" individual(s) who have not worked four thousand (4,000) or more hours between October 1, 2000 and September 30, 2004 will be considered as a "New Worker" and will be paid at the \$10.00 basic rate for the life of the new Agreement(s) unless they meet the following category rule requirements.

Any individual(s) who have worked no hours during the previous two (2) "contract years" shall be considered as "New Workers" paid at the \$10.00 basic rate for the life of this Memorandum of Understanding. This requirement may be modified in individual cases by mutual agreement of the Parties.

The following category rule requirements shall become effective October 1, 2004 but will not affect the wage rate tiers as set forth in the "Master Contract":

When a "New Entry" individual has reached a cumulative total of four thousand (4,000) or more manhours during a rolling consecutive four (4) contract year period during the life of this Agreement, the individual will be considered as "Previously Employed" for fringe benefits at the end of the contract year and will become eligible to qualify for the basic industry fringe benefit system in effect at that time.

When a "New Worker" individual has reached a cumulative total of four thousand (4,000) or more manhours during a rolling four (4) contract year period during the life of this Agreement, the individual will be considered as "New Entry" for fringe benefits at the end of the contract year and will become eligible to qualify for the basic industry fringe benefit system in effect at that time.

\* "New Entry" and "New Workers" who work one thousand (1,000) or more hours in a contract year will receive a .50¢ increase effective over their previous base rate of pay in the first payroll period of the next "payroll year" up to the maximum \$14.00

**FINALIZED DRAFT PORT OF HOUSTON  
MEMORANDUM OF UNDERSTANDING  
May 18, 2004**

(FOURTEEN DOLLARS AND NO CENTS) basic rate cap for work under this Memorandum of Understanding.

It is agreed and understood that the "Mobile Shore Crane Operators" basic rate of pay will be ~~\$19.00~~ (NINETEEN DOLLARS AND NO CENTS) per hour effective December 4, 1998. <sup>20.00</sup>

It is agreed and understood that the "Assistant Clerk" basic rate of pay will be \$16.00 (SIXTEEN DOLLARS AND NO CENTS) per hour effective December 4, 1998.

It is agreed and understood that a New Entry/New Worker ordered by name as a "Clerk Working Ship" shall be paid at the "Previously Employed" Memorandum rate of pay.

It is agreed and understood that a "Bulk Gang Foreman" basic rate of pay will be \$14.00 (FOURTEEN DOLLARS AND NO CENTS).

General cargo supplemental funds have been established as an additional incentive to encourage employees from Locals 24, 28 and 1351 to work break bulk cargo under the terms of this Memorandum, and the direct employers agree to pay \$1.00 (ONE DOLLAR AND NO CENTS) per hour for each hour worked at employment described in paragraph (a) below to such workers subject to the following terms and conditions:

- (a) For purposes of this section, the work in question shall include all work under the Houston memorandum excluding straight container ship operations, Ro/Ro operations, bulk operations including grain, automobiles, fully automated container vessel and fully automated container yard operations and other fully automated wages and all operations at "fully automated" facilities, including Barbour's Cut and Bayport, and all fully automated stuffing and stripping operations.
- (b) The funds provided for in this section shall be paid on a quarterly basis, and shall be subject to the normal deductions for payroll taxes and service charge. The first such payment shall be over the period from December 4, 1998, to March 18, 1999, and shall be paid within fifteen (15) working days following March 18, 1999.

Subsequent calculations shall be made on the basis of performance during the WGMA quarterly payroll period. In each case, the payment shall be paid by no later than fifteen (15) working days following the close of the quarterly payroll period.

- (c) The total funds shall be shared by those employees who have worked a minimum of 200 hours out of each of the respective Locals during a given quarter in the performance of work described in paragraph (a) above.
- (d) The funds due each employee shall be calculated on the basis of using of a formula using the Container Royalty model.
- (e) The number of hours required for qualification may be adjusted during the life of this agreement as deemed necessary by the Joint Productivity Review Committee to see that the purpose of this section is realized. The Committee, may, in their sole discretion, may increase or decrease the number of hours required to qualify in a given Local and may establish different requirements for each of the three (3) participating Locals. Any changes in hours required must be announced to the effective Local at least thirty (30) days prior to the commencement of the quarter in which it applies.
- (f) WGMA will provide each employee with an accumulative total of hours of work under this agreement by including the accumulated total on their weekly payroll check stub. WGMA will also provide respective Locals 24, 28, and 1351 with



accumulative total of all hours worked by their respective employees on a weekly basis.

**The following shall apply to Local 1351 and be effective March 18, 2002:**

The Productivity Review Committee will consist of individuals from Management and individuals selected by Local 1351. Management will have one vote and Local 1351 will have one vote. Issues that are deadlocked may be referred to the Grievance Procedure.

West Gulf Maritime Association Employers will review training needs.

**Dedicated Work Force Program:**

1. Direct Employers will determine collectively the total number of the Dedicated Work Force individuals needed from Local 1351.
2. Local 1351 will post a notice of availability of employment for a Dedicated Work Force for a period of one (1) week. Local 1351 will then provide the list of individuals who desire to participate in the Dedicated Work force Program to the Direct Employers.
3. The Direct Employers will interview and select from the list, giving seniority due consideration. The selected individual may decline employment with the selecting Direct Employer.
4. If an individual is struck from the list by the Direct Employer the individual may appeal the decision to the Productivity Review Committee within two (2) weeks of the notification.
5. Dedicated employees must be notified by 7:00 P.M. for the next day's work or they will be released to accept work from the Extra Board. Work in the Turning Basin shall receive first consideration. If the Direct Dedicated Employee accepts other employment after being released by his Employer the Dedicated Worker who is working will not be available to his Direct Employer prior to 7:00 P.M. and allowances will be made if they are being worked through the 6:00 P.M. meal hour.
6. Existing Regular Salaried Clerks/Timekeeper positions will be replaced by Regular Salaried Clerks/Timekeepers only unless the position is eliminated due to lack of work or changes in the working conditions.
7. Dedicated workers can be utilized on any operations other than fully automated container operations and one (1) dedicated worker may be assigned to perform any required work outside of the office on any auto or Ro/Ro operation.

Individuals from the Extra Board cannot be replaced by Dedicated Clerk and Checkers until after 6:00 A.M. the next day.

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Walter A. Niemand, President  
West Gulf Maritime Association

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Clyde Fitzgerald, President  
South Atlantic and Gulf Coast  
District International  
Longshoremen's Association

Date \_\_\_\_\_

Date \_\_\_\_\_