DEPUTY PRESIDENT GOSTENCNIK

MELBOURNE, 29 MAY 2015


[1] An application has been made for approval of an enterprise agreement known as the EHA Construction Pty Ltd Single Enterprise Agreement 2015 - 2019 (the Agreement). The application was made pursuant to s.185 of the Fair Work Act 2009 (the Act). It has been made by EHA Construction Pty Ltd T/A EHA Construction Pty Ltd. The agreement is a single enterprise agreement.

[2] The Applicant has provided written undertakings. A copy of the undertakings is attached in Annexure A. I am satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement and that the undertakings will not result in substantial changes to the Agreement.

[3] Subject to the undertakings referred to above, and on the basis of the material contained in the application and accompanying statutory declaration, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 as are relevant to this application for approval have been met.

[4] The Agreement was approved on 29 May 2015 and, in accordance with s.54, will operate from 5 June 2015. The nominal expiry date of the Agreement is 29 May 2019.
ANNEXURE A

IN THE FAIR WORK COMMISSION
FWC Matter No.:
AG2015/1179 Application for approval of the EHA Construction Pty Ltd Single Enterprise Agreement 2015 – 2019

Applicant:
EHA Construction

Section 185 – Application for approval of a single enterprise agreement

Undertaking - Section 190

I, Edward Allen, Director for EHA Construction Pty Ltd give the following undertakings with respect to the EHA Construction Pty Ltd Single Enterprise Agreement 2015 – 2019 ("the Agreement"):

1. I have the authority given to me by EHA Construction Pty Ltd to provide this undertaking in relation to the application before the Fair Work Commission.

2. 9. PERIOD OF OPERATION
This Agreement will come into effect from the date of approval by Fair Work Australia and will continue in force for four years from that nominal commencement date. The nominal expiry date of the agreement will be four years from the date of approval, unless terminated beforehand in accordance with the Fair Work Act 2009.

23. Annual Leave
(e) Broken service:
Where an employee breaks his/her continuity of service by an absence from work for any reason other than a reason set out in 23(f) hereof, the amount of leave to which he/she would have been entitled under 23(a) hereof shall be applied consistently with the NES.

24. Leave Payment
(b) Annual Leave Loading
An annual Leave loading of 17.5% will be paid in addition to the payments specified in clause 22(c).

28. PERSONAL (SICK and CARER’S) LEAVE
(c) The following are members of an employee’s immediate family:
* a spouse, child, parent, grandparent, grandchild or sibling of the employee; and
* a child, parent, grandparent, grandchild or sibling of a spouse of the employee provided that:
* spouse includes a former spouse, a de facto spouse and a former de facto spouse
* de facto spouse means a person, not limited to couples of the opposite sex, who lives with the employee as the employee’s husband or wife on a genuine domestic basis although not legally married to the employee and
* child includes an adopted child, a stepchild, an ex-nuptial child and an adult child.
(e) Paid Personal Leave may be taken to care for an immediate family or household member who is sick or injured or to help during a family emergency (Carer's leave). Carer's leave shall be applied consistently with the NES.

(i) The provisions of (h) above apply to a casual employee and shall be applied consistently with the NES.

48. DISPUTE SETTLEMENT PROCEDURE

(c) In the event of a dispute about a matter under this agreement, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.

(d) If a dispute about a matter arising under this agreement is unable to be resolved at the workplace, and all appropriate steps have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.

4. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

________________________
Signature

________________________
Date
(h) Paid Parental Leave may be taken to care for an immediate family or household member who is sick or injured or to keep during a family emergency (Carer's leave). Carer's leave shall be applied consistently with the NES.

(i) The provisions of (h) above apply to a casual employee and shall be applied consistently with the NES.

40. DISPUTE-SETTLEMENT PROCEDURE

(a) In the event of a dispute about a matter under this agreement, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.

(b) If a dispute about a matter arising under this agreement is unable to be resolved at the workplace, and all appropriate steps have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.

These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

[Signature]

36/05/15

[Date]
Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of the agreement.

EHA Construction Pty Ltd  
Single Enterprise Agreement  
2015 – 2019

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1. TITLE

EHA Construction Pty Ltd Single Enterprise Agreement 2015 – 2019

2. DEFINITIONS

For the purposes of this Agreement:

“Award” means the Building and Construction General On-site Award 2010 (as amended).
“Company” means EHA Construction Pty Ltd
“Employee” means a weekly hire employee of the company performing work within the scope of this Agreement.
“Standard rate” means either the weekly or hourly minimum wage as stated for a Level 3 (CW/ECW 3) employee in clause 19.1 of the Building and Construction General On-site Award 2010.

3. INTRODUCTION

This is a Single Enterprise Agreement (hereafter referred to as “The Agreement”) made in accordance with the provisions of the Fair Work Act 2009. It contains standard terms and conditions mutually agreed as applying to the employment of employees by EHA Construction Pty Ltd.

This agreement satisfies the minimum standards for agreements as prescribed in the Fair Work Act 2009 and the National Employment Standards and does not include any content which is prohibited under the act.

4. OBJECTIVES

The parties to this agreement recognize that EHA Construction Pty Ltd must achieve real and sustained performance improvements if the Company is to meet client needs and improve its market share. Such performance improvement is the shared goal of the parties to this agreement.

The objectives of this agreement are to:-

- Establish practices that will enable the creation of a cooperative and productive workplace.
- Improve Company performance enabling it to achieve increased market share
- Improve efficiency at the workplace.
- To support the implementation of high levels of Occupational Health and Safety practices, procedures and training.
- Develop international best practice and promote a culture of continuous learning and improvement.
- Improve the standard of living, job satisfaction and continuity of employment for employees.
5. COMMITMENTS

The parties to this Agreement commit themselves to ensuring that:

- The efficiency measures contained in this agreement are implemented and lead to real gains in productivity.
- The Agreement is consistent with the provisions of the Fair Work Act 2009.
- Productivity gains will not be achieved at the expense of Occupational Health and safety standards.
- The dispute settlement procedures provided herein are strictly adhered to.

6. PARTIES AND PERSONS BOUND

This Agreement shall be binding on EHA Construction Pty Ltd (“the Company”) and employees of the Company engaged under the classification specified in Appendix B of this Agreement.

7. SCOPE AND APPLICATION

This Agreement with respect to its employees referred to in clause 6 shall apply to the following worksites in Victoria:

- a) Engineering/civil construction projects on which the principal major component of work is freeway, arterial or road construction, bridgework including road, rail and pedestrian bridges, rail track construction and associated works, water and waste water facilities.
- b) Commercial and industrial building projects.
- c) Residential subdivision and cottage type housing (including new work and maintenance.
- d) General works associated with local government.
- e) Maintenance and production work in quarries and waste tips, extractive or mining industries, the forestry industry and the agricultural and pastoral industries.

The terms and conditions of the Building and Construction General On-site Award 2010 (“the Award”) are incorporated into and form part of this Agreement (“Incorporated Terms”) as if the same were set out in full. The express terms of this Agreement are supplementary to, and should be read and incorporated wholly in conjunction with the Incorporated Terms provided that where there is any inconsistency between this Agreement and the Award this Agreement will prevail to the extent of the inconsistency.

8. VARIATION OF AGREEMENT

This Agreement may only be varied during the term of the Agreement in the following circumstances:

- a) Where the Employees remuneration increases as a result of promotion or wage review, but their terms of employment are otherwise not changed, variation of wages may be effected by written advice from the Company to the Employee.
- b) In other circumstances, either a new Agreement or a formal variation to this agreement must be made and may only be made by mutual agreement between Company and the Employees and lodged with the Fair Work Commission.
9. **PERIOD OF OPERATION**

This Agreement will come into effect from the date of approval by Fair Work Australia (nominal commencement date) and will continue in force for four years from that nominal commencement date. The nominal expiry date of the agreement will be four years from the commencement date, unless terminated beforehand in accordance with the Fair Work Act 2009.

10. **CONSULTATION REGARDING MAJOR WORKPLACE CHANGE**

(a) Employer to notify
(i) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
(ii) Significant effects include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this award makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.

(b) Employer to discuss change
(i) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 10(a) of this agreement, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
(ii) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 10(a) of this agreement.
(iii) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, if any, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer’s interests.

(c) Where an employer proposes to change an employee’s regular roster or ordinary hours of work, the employer must consult with the employee or employees affected and their representatives, if any, about the proposed change.

(d) The employer must:
(i) provide to the employee or employees affected and their representatives, if any, information about the proposed change (for example, information about the nature of the change to the employee’s regular roster or ordinary hours of work and when that change is proposed to commence);
(ii) invite the employee or employees affected and their representatives, if any, to give their views about the impact of the proposed change (including any impact in relation to their family or caring responsibilities); and
(iii) give consideration to any views about the impact of the proposed change that are given by the employee or employees concerned and/or their representatives.

(e) The requirement to consult under this clause does not apply where an employee has irregular, sporadic or unpredictable working hours.

(f) These provisions are to be read in conjunction with other award provisions concerning the scheduling of work and notice requirements.

11. HOURS OF WORK

(a) The ordinary hours of work shall be an average of 36 hours per week Monday to Friday, plus a requirement to work a reasonable number of additional hours.
(b) For day employees these hours will be worked between 6.00am and 6.00pm each day.
(c) For night shift employees these hours will be worked between 6.00pm and 6.00am each day.
(d) Any employee required to work night shift will be given at least 48 hours’ notice thereof.
(e) The arrangements for alteration of start and finish times will be agreed by the parties to this agreement. Any change in start time will be confirmed by the Company in writing.
(f) Prior to the Company altering start and finish times it shall, by consultation with affected employees:
   (i) Provide not less than 18 hours’ notice to affected employees of the change to start and finish times;
   (ii) Provide an opportunity to affected employees to advise of individual personal or family circumstances relevant to change in start and finish times, and shall consider any such advice from affected employees;
   (iii) Have regards to its obligations to provide a safe and healthy workplace; and
   (iv) Have regard to the intention of avoiding excessive overtime.

12. WORK CYCLES & ROSTERED DAYS OFF

(a) Ordinary hours will be worked in a 10 day 2 week cycle, with 8 hours worked for nine of the days, and 0.8 of an hour on each day worked accruing towards an RDO. Employees will accrue 26 RDO’s over 12 months continuous service.
(b) The RDO will be paid at the employees applicable hourly rate as described in clause 22 plus the daily travelling allowance as described in that clause.
(c) Subject to this clause the accrued RDO’s will be taken in conjunction with the RDO and Christmas Closedown schedules that may be determined from time to time in the Victorian Building Industry. It is agreed that any Victorian Building Industry Schedules for 2015, 2016, 2017 and 2018 will be advised to employees once they are determined.
(d) Each day of paid leave taken and any public holiday as described in clause 27 occurring during any 2 week cycle shall be regarded as a day worked for accrual purposes.
(e) The Parties recognise that changes to RDOs are necessary from time to time to improve productivity and to meet the construction program on certain projects. The Parties agree that work may take place on a scheduled RDO following consultation between the Company and the relevant Employees. In such circumstances the employee will be given as much notice as possible and will be permitted to take the untaken RDO within 6 weeks of the original scheduled day on a day to be agreed
with the Company. If agreement cannot be reached the matter is to be determined in accordance with the Dispute Settlement Procedure specified in clause 36.

(f) Upon termination of employment an adjustment will be made to ensure that the full RDO entitlement, and no more, has been provided. This means that employees then having received more RDOs than they were entitled to will have the relevant amount removed from their final termination payments, and employees who have received less than their full RDO entitlement will have the outstanding amount added to their final termination payments.

(g) Where the Company and a majority of its employees agree another day may be substituted for a scheduled RDO. If agreement cannot be reached the matter is to be determined in accordance with the Dispute Settlement Procedure specified in clause 36.

13. REST PERIODS AND MEAL BREAKS

a) For day employees a 10 minute paid rest period is allowed and to be taken between 9am and 11am.

b) For day employees a 30 minute unpaid meal break will be scheduled on each day worked. The meal break is to be taken between noon and 1pm, or as otherwise agreed between an employer and a majority of employees, provided that an employee must not be required to work more than 5 hours without a break for a meal.

c) For night shift employees 1 x paid 30 minute break will be scheduled for each shift worked, to be taken no later than 5 hours after the commencement of each shift.

14. INDIVIDUAL FLEXIBILITY CLAUSE

(a) The Company may agree with an Employee covered by this Agreement to an arrangement (an individual flexibility arrangement) which varies clause 10 of this Agreement to meet the genuine needs of the Company and Employee.

(b) Where the Company wants to enter into an arrangement it must provide a written proposal to the Employee. Where the Employee's understanding of written English is limited, the Company must take measures, including translation into an appropriate language, to ensure the Employee understands the proposal. Provided however that the Company must ensure that any arrangement is genuinely agreed to by the Company and the Employee.

(c) The Company must also ensure that any such arrangement is:
   (i) In writing (including details of the terms that will be varied, how the arrangement will vary the effect of the terms, how the Employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement, and the day on which the arrangement commences);
   (ii) Signed by the Parties, and if the Employee is under 18, by a parent or guardian of the Employee;
   (iii) Provided to the Employee within 14 days after it is agreed to; and
   (iv) Able to be terminated by either party giving written notice of not more than 28 days, or at any time by both Parties agreeing in writing.

(d) The Company must further ensure that the terms of the individual flexibility arrangement:
   (i) Are about permitted matters under section 172 of the Fair Work Act 2009;
   (ii) Are not unlawful terms under section 194 of the Fair Work Act 2009; and
(iii) Result in the Employee being better off overall than the Employee would be if no arrangement was made.

15. WORKPLACE HEALTH AND SAFETY

(a) All employees are required to comply with the Company’s policies, procedures and rules on Occupational Health and Safety and those applying on each site on which they are engaged.

(b) All employees shall be issued with protective clothing/ personal protective equipment (PPE), as required to ensure their occupational health and safety. Where an employee who has been issued with the required protective safety equipment, including safety clothing, and is found not to be wearing the same on the job then the employee will be counselled by their supervisor or a director. Protective clothing and safety equipment is not to be used for the employee’s personal use. The employee will pay for such wear and tear sustained as a result of personal use or unreasonable loss of provided items.

(c) The Company’s offices, workshops, vehicles, plant and equipment are all considered to be a non-smoking environments with which all employees are required to comply.

(d) Any employee who is required to operate machinery or vehicle in the vicinity of earthmoving plant/ vehicles must make sure that they report any medication that they are taking to the relevant site manager.

16. FITNESS FOR WORK, ALCOHOL CONSUMPTION AND DRUG USE

(a) Employees are required to attend work fit and ready to commence work.

(b) An employee who, in the genuine belief of the Company, is unfit for work by virtue of the effects of drugs or alcohol and accordingly represents an Occupational Health and Safety risk to themselves or others, will be stood down from work without pay for the balance of that day and until deemed fit to safely perform their duties.

(c) The use of alcohol or drugs on a worksite or during working hours is strictly forbidden.

(d) The Company may require employees to undertake random breath testing. Where approached to provide a breath testing sample, each employee has the right to decline a sample being taken with no conclusion being drawn by the company.

(e) The parties to this Agreement shall in addition to ensuring compliance with OH&S legislation (including Regulations, Code of Practice and Industry Standards), implement the best achievable level of health and safety. Particular emphasis will be placed on the establishment of OH & S mechanisms to facilitate and enhance effective consultation and communication between the Company and its employees.

17. OH&S ISSUE RESOLUTION PROCEDURES

(a) As soon as possible after any occupational health and safety issue has been reported, the Company’s management representative and any elected safety representative or the relevant employee or employees must meet to try to resolve the issue.

(b) The resolution of the issue must take into account those of the following factors that are relevant:

(i) Whether the hazard or risk can be isolated;

(ii) The number and location of employees affected;
(iii) Whether appropriate temporary measures are possible or desirable;
(iv) Whether environmental monitoring is desirable;
(v) The time that may elapse before the hazard or risk is permanently corrected;
(vi) Who is responsible for performing work and overseeing the removal of the hazard or risk.
(c) As soon as possible after the resolution of an issue, details of the agreement must be brought to the attention of affected employee or employee in an appropriate manner.
(d) Should the matter not be resolved, the issue shall be dealt with in accordance with the relevant provisions of the Victorian Occupational Health and Safety Act 2004.

18. PROTECTIVE CLOTHING & EQUIPMENT
While not being part of any issue of protective clothing/equipment, the Company shall be required to provide the following protective equipment (SAA approved) for use, when necessary, by employees during the performance of their required duties:
(a) safety helmets;
(b) ear/hearing protection;
(c) gloves;
(d) skin protective cream/sun screen (15+ rating).

In addition, one pair of UV-rated safety glasses or UV rated clip-ons suitable to overlay prescription spectacles (as recommended by the Victorian Building Industry Consultative Committee), shall be made available for employees who are required to work on reflective surfaces such as:
- metal decking;
- large concrete slabs exposed to sunlight;
- roofing;
- curtain walling.

Wherever possible, protective clothing/equipment shall be Australian made.

19. INDUCTION PROCEDURES
(a) The parties to this Agreement acknowledge that it is in the interests of the Industry that all new employees and employers on a building project understand their obligations to this Agreement and are introduced to their jobs in a manner which will help them work safely and efficiently.
(b) Before attending any site all employees shall have attended the Basic Site Induction (Red Card) Course and hold a properly issued card evidencing same.
(c) In addition and in order to achieve this it is recommended that, new employees be given an explanation of the following:
- The Rights and Obligations of this Agreement including its disputes/grievance resolution procedures;
- The appropriate issue of work clothing and safety equipment as per this Agreement;
- Safety Rules and Procedures including relevant legislation;
- Site Emergency procedures;
- Enterprise Agreement rates of pay;
- Site-specific matters such as security, etc. procedures.
(d) The induction presentation and material shall have regard to the language skills of the employee/employer.
20. MATERIAL HANDLING

An employee shall not be required to lift material in an unsafe manner unless such employee is provided with a mechanical aid or with an assisting employee.

21. FIRST AID

An employee nominated by the Company as a First Aider is required to hold a current First Aid Level 2 certificate.

Nominated First Aiders will be paid an allowance of 0.36% of the weekly standard rate per day or week to compensate that person for the additional responsibilities, skills obtained and time spent acquiring the relevant qualifications.

22. CLASSIFICATION STRUCTURE, RATES OF PAY & ALLOWANCES

(a) Employees will be classified in accordance with the Building and Construction on-site Award 2010.
(b) Employees agree to assist in training other employees when required to do so by the Company.
(c) The applicable hourly rates of pay for each employee are set out in Appendix A. Unless otherwise specified in this Agreement these rates of pay are inclusive of all Award allowances, follow the job loadings, shift loadings, overtime and penalty payments that may otherwise apply.
(d) Unless otherwise specified in this Agreement these applicable hourly rates will be paid for all hours and days worked in accordance with this Agreement.
(e) The applicable hourly rates are also paid in recognition of each employee’s responsibilities, skills, qualifications, relevant licenses and certificates held, equipment used and any disabilities encountered whilst performing the duties. With respect to these matters no additional allowance or loading will be paid by the Company.
(f) Employees will be required to commence work at the particular site where they are engaged at the designated start time and will be paid a Travel Allowance of $26.00 for each day so worked. This Travel Allowance will be in consideration of all expenses and costs of travelling to and from the particular site each day, including any freeway or motorway toll charges.
(g) The hourly rates specified in Appendix A and the Travel Allowance specified in sub-clause (f) will be adjusted in accordance with any relevant increase to the Building and Construction On-site Award 2010.
(h) In the event of an employee being required to live away from home the Company will arrange and pay for reasonable board and lodging, including 3 adequate meals each day, in well-kept single room accommodation with adequate furnishings, good bedding and floor coverings, good lighting and heating with hot and cold running water. Alternatively a weekly allowance of $398.40, or $57 per day for broken parts of the week will be paid to cover expenses, including meals.
23. ANNUAL LEAVE

(a) Period of Leave
(i) Annual leave is provided for in the National Employment Standards. Accumulated annual leave hours will be credited to an employee upon the completion of each week of service with the Company.
(ii) In the event that an employee has used up their annual leave, an employee may request the Company grant a period of leave without pay. Subject to the operational requirements of the business the employer shall not unreasonably withhold its permission to grant leave without pay.
(iii) A 17.5% loading based on the employee’s hourly rate described in clause will be paid on any period of entitled annual leave taken.

(b) Method of taking leave:
(i) The Company and its employees believe that it is important that all employees take annual leave on a regular basis to ensure that employees are sufficiently rested and have the opportunity to balance work, family and recreational interests. Employees can take annual leave at a time that is mutually agreed between themselves and the Company taking into account the operational requirements of the workplace. The employer will not unreasonably refuse the taking of annual leave.
(ii) Where an employee requests that leave be allowed in one continuous period such request shall not be unreasonably refused. In the event of lack of agreement between the parties the matter shall be dealt with in accordance with Clause 40 - Settlement of Disputes.
(iii) In the circumstances where a public holiday falls within one day of a weekend or another public holiday, by agreement between the employer and a majority of employees affected under this agreement to provide that a day of annual leave entitlement may be granted on the day between the said public holidays and/or weekend if an employee, or employer, requests it.
(iv) Where annual leave is proposed to be given and taken in two periods, one of which is to be in conjunction with the Christmas and New Year holidays, representatives of the Company and its employees shall meet not later than 31 July in each year in order to fix the commencing and finishing dates for the following Christmas/New Year period of leave. In the event of lack of agreement between the parties the matter shall be dealt with in accordance with Clause 40 - Settlement of Disputes.

(c) Leave allowed before due date:
(i) The Company may allow an employee to take his/her annual leave prior to the employee's right thereto. In such circumstances the qualifying period of further annual leave shall not commence until the expiration of twelve months in respect of which the leave so allowed is taken.
(ii) Where the Company has allowed an employee to take annual leave pursuant to 21(c) hereof and the employee's services are terminated (by whatsoever cause) prior to the employee completing the twelve months continuous service for which leave was allowed in advance, the Company may for each completed week of the qualifying period of twelve months not served by the employee, deduct from whatever remuneration is payable upon the termination of the employment 1/52nd of the amount of wages paid on account of the annual leave.

(d) Proportionate leave on termination:
Where an employee has given five working days or more continuous service, inclusive of any day off as prescribed by clause 8 - Hours of Work and he/she either leaves his/her employment or his/her employment is terminated by the Company he/she shall be paid 1/12th of an ordinary week’s wages in respect of each completed five working days of continuous service with his/her current employer for which leave has not been granted or paid for in accordance with this agreement.

(e) Broken service:
   (i) Where an employee breaks his/her continuity of service by an absence from work for any reason other than a reason set out in 21(f) hereof, the amount of leave to which he/she would have been entitled under 21(a) hereof shall be reduced by 1/48th for each week or part thereof during which any such absence occurs and the amount of payment in lieu of leave to which he/she would have been entitled under 21(d) hereof shall be reduced by 1/12th of a week’s pay for each week or part thereof during which any such absence occurs.
   (ii) Provided, however, that no reduction shall be made in respect of any absence unless the employer informs the employee in writing of his/her intention so to do within fourteen days of the termination of the absence.

(f) Calculation of continuous service
For the purposes of this clause service with the Company shall be deemed to be continuous notwithstanding an employee’s absence from work for any of the following reasons:
   (i) illness or accident up to a maximum of four weeks after the expiration of paid sick leave;
   (ii) bereavement leave;
   (iii) jury service;
   (iv) injury received during the course of employment and up to a maximum of 26 weeks for which workers' compensation has been received;
   (v) where called up for military service for up to three months in any qualifying period;
   (vi) long service leave;
   (vii) any reason satisfactory to the Company or in the event of dispute satisfactory to the Fair Work Commission. Provided that the reason shall not be deemed satisfactory unless the employee has informed the employer within 24 hours of the normal commencing time or as soon as practicable thereafter of the reason for the absence and probable duration thereof.

24. LEAVE PAYMENT

(a) Payment for period of leave:
Each employee, before going on leave, shall be paid in advance the wages which would ordinarily be paid during the period of the leave, or, by agreement between the Company and the employee, the employee shall continue to be paid by the week for the period of annual leave.
(b) Annual leave loading:
An annual Leave loading of 17.5% will be paid in addition to the payments specified in clause 22(b).

25. ANNUAL CLOSE DOWN

Notwithstanding anything contained in this agreement whenever annual leave is to be taken in conjunction with any Christmas/New Year holiday period it will be taken in accordance with the following procedure:
(i) Subject to this clause the Company will observe the Victorian Building Industry RDO and Christmas Closedown Schedules as specified in clause 11 (b) of this Agreement and will require employees to take some annual leave at this time.
(ii) The Company may stand off without pay during the period of the closedown any employee who has not yet accrued sufficient pro rata annual leave prior to the closedown.
(iii) Where the Company decides to close down for a period in excess of the period specified in the applicable Schedule referred to in this clause it must give the employees at least 4 weeks’ notice of its intention so to do.
(iv) The Company may require an employee or employees to work in unforeseen or emergency circumstances during the closedown period on essential projects. In any such event the Company will endeavor to give the employee or employees as much notice as is reasonably practicable in the circumstances.
(v) Notwithstanding this clause the Company may seek to reschedule work 1 week earlier than the return to work day specified in the applicable Schedule as referred to in clause 11 (b) of this Agreement to maximize good weather conditions for earthworks, subject to the following:
(a) The decision on any early return will be on a project by project basis.
(b) Wherever reasonably practicable the decision will be made prior to the commencement of the closedown period.
(c) The decision is made by the Company after consulting with its employees and taking into account their personal circumstances.
(d) An alternative period of annual leave will be taken by each employee at a time agreed with the Company.

26. COMMENCEMENT OF LEAVE - DISTANT JOBS

If an employee is still engaged on a distant job when annual leave is granted and the employee returns by the first reasonable means of transport to the place of engagement, or if employed prior to going to country work the place regarded as the employer's headquarters, annual leave shall commence on the first full working day following the employee's return to such place of engagement or headquarters as the case may be.

27. PUBLIC HOLIDAYS

The following Public Holidays shall apply to employees covered by this agreement. By agreement of all employees on site, other days may be substituted for Australia Day, Anzac Day and Melbourne Cup Day in some situations by agreement in order to maximise production. Agreement of the employees shall not be unreasonably withheld.

The Public Holidays are:
- Christmas Day
- Boxing Day
- New Year's Day
- Australia Day
- Labour Day
- Good Friday
- Easter Saturday
- Easter Monday
- Anzac Day
- Queen's Birthday
- Melbourne Cup Day
If a Public Holiday falls on a weekend then the following weekday(s) will be substituted.

28. PERSONAL (SICK and CARER’S) LEAVE

(a) Personal leave is provided for in the National Employment Standards.
(b) Personal Leave is to be used in situations where an employee is unable to attend work due to personal injury or illness (Sick Leave) or due to the need to care for or support a member of the Employee’s immediate family or household because of a personal illness or injury of the member or an unexpected emergency affecting the member (Carer’s Leave).
(c) The following are members of an employee’s immediate family:
   • a spouse, child, parent, grandparent, grandchild or sibling of the employee; and
   • a child, parent, grandparent, grandchild or sibling of a spouse of the employee
   provided that:
   • spouse includes a former spouse, a de facto spouse and a former de facto spouse
   • de facto spouse means a person of the opposite sex to the employee who lives with the employee as the employee’s husband or wife on a genuine domestic basis although not legally married to the employee and
   • child includes an adopted child, a stepchild, an ex-nuptial child and an adult child.
(d) Full-time employees are entitled to 10 days of paid Personal Leave per annum accruing pro rata by pay period with any unused portion accumulating from one year to the next.
(e) Of this entitlement, a maximum of 10 days of paid Personal Leave may be granted as Carer’s Leave in any one year.
(f) Part-time employees accrue paid Personal Leave on a pro rata basis.
(g) Casual employees are not entitled to paid Personal Leave.
(h) In circumstances where an Employee has exhausted the paid Personal Leave entitlement, an additional two day of unpaid Carer’s Leave may be granted for each occasion on which an Employee is unable to attend work due to the need to care for an ill or injured family or household member. This does not accumulate.
(i) The provisions of (g) above apply to a casual employee.
(j) The Employee is required to notify the Company prior to their scheduled starting time on any day that they are unable to attend for work.
(k) The Company may require an employee to provide satisfactory evidence of incapacity for work (e.g. via a certificate of incapacity issued by a duly qualified medical practitioner) for absences in excess of one day or absences either side of a weekend or a public holiday.
(l) Unused Personal Leave is not paid out on termination of employment.

29. LONG SERVICE LEAVE

(a) Employees will be entitled to long service leave in accordance with the Long Service Leave Act (Victoria) 1992, with an entitlement of 13 weeks for leave for 15 years continuous service with the Company.
(b) An employee who has completed at least 7 years of eligible service at the time of termination of employment has an entitlement to payment in lieu of long service leave (or any unused portion thereof) on termination.
(c) Long service leave accrues pro rata by pay period at the rate of 0.8667 weeks per year of service.
(d) The Company may allow an employee access to Long Service Leave after 7 years of continuous service
(e) Long Service Leave will be administered in accordance with the Company’s policy and the provisions of the Victorian legislation as specified in this clause.
(f) Part-time employees accrue Long Service Leave on a pro rata basis.
(h) For the purposes of this clause the employees Long Service Leave start date will be the date the Employee commenced work with the Company.

30. PARENTAL LEAVE

(a) Parental leave is provided for in the National Employment Standards.
(b) In accordance with the provisions of the Fair Work Act 2009, an employee may be eligible for the grant of up to 52 weeks of unpaid Parental (Maternity, Paternity or Adoption) Leave.
(c) To be eligible, an employee must have completed 12 months service with the Employer and be subject to the circumstances prescribed in the relevant provisions of the Fair Work Act 2009.
(c) Entitlements to Personal leave, Annual Leave and long service leave will not accrue while on unpaid parental leave.

31. COMPASSIONATE LEAVE

(a) Compassionate leave is provided for in the National Employment Standards.
(b) All employees are entitled to compassionate leave (casual employees are entitled to unpaid leave).
(c) Compassionate leave can be taken when a member of an employee’s immediate family or household dies or suffers a life threatening illness or injury.
(d) Immediate family is an employee’s:
   - Spouse
   - De facto partner
   - Child
   - Parent
   - Grandparent
   - Grandchild
   - Sibling, or a
   - Child, parent, grandparent, grandchild or sibling of the employees spouse or de facto partner.

(e) Permanent Employees shall be entitled to up to 2 days of paid leave upon the death or threat to life of a member of the Employee’s immediate family as defined in Clause 28(c).
(f) The Company may require the Employee to provide evidence of the requirement to take Compassionate Leave.

32. COMMUNITY SERVICE LEAVE

Community Service leave which includes Jury Service is provided for in the National Employment Standards.

33. PAYMENT OF WAGES

Wages and other monies may be paid weekly by electronic funds transfer (EFT) to a financial institute account of the employee’s choice.

34. WORK PRACTICES REVIEW
The parties to this Agreement recognise and endorse the principles of best practice, continuous improvement and client satisfaction. It is therefore agreed that the parties will develop and undertake a program for the revision of work practices as follows:

(i) All existing work practices will be reviewed with the full participation of employees with the objective of practices being adopted which fully utilise the skills and experience of employees, and which are efficient and effective.

(ii) The process of review will have the fullest possible participation of employees.

(iii) Provision will be made for such training of employees as is necessary for them to adapt to new practices.

35. INCLEMENT WEATHER

(a) Inclement weather means the existence of rain or abnormal climatic conditions (whether hail, extreme cold, high wind, severe dust storm, extreme high temperature or the like or any combination of these conditions) where it is not reasonable or it is unsafe for employees to continue working in those conditions.

(b) The employer or its representative, when requested by the employees or their representative, must confer within a reasonable time (which does not exceed 60 minutes) for the purpose of determining whether or not the conditions referred to in this clause apply.

(c) The time of the cessation of work due to inclement weather and the resumption of work after a period of inclement weather has ended will be recorded by the employer.

(d) When inclement weather conditions exist an affected employee is not required to commence or continue to work where it is unreasonable or unsafe to do so.

(e) The employees on any inclement weather affected site or section of a site can be transferred to another site or section of a site for productive work. The Company will take a reasonable approach when requiring employees to transfer from site to site. This shall include giving consideration to the distance to be travelled and the time of day. However, the Company maintains the right to make the final decision as to when the transfer of employees from site to site is appropriate or when works on each affected site should cease and personnel stand down until conditions improve.

(b) Where an employee attends work on a wet day and works for less than 4 hours, the employee will be paid for 4 hours work plus the daily Travel Allowance referred to in clause 22 (f). These arrangements will also apply to Saturday work.

(c) On wet days any work operating plant from within an enclosed cabin will be considered as work able to be performed in a dry area.

(d) On hot days any work performed from within an air conditioned cabin or area will continue as normal.

36. TERMINATION OF EMPLOYMENT

(a) Notice of termination is provided for in the NES.

(b) Other than in the case of casual employees, termination of employment may be effected by either the Company or an employee giving notice to the other in writing as follows:

<table>
<thead>
<tr>
<th>Length of Service</th>
<th>Period of Notice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1 year</td>
<td>1 week</td>
</tr>
<tr>
<td>Over 1 year and up to completion of 3 years</td>
<td>2 weeks</td>
</tr>
<tr>
<td>Over 3 years and up to completion of 5 years</td>
<td>3 weeks</td>
</tr>
<tr>
<td>Over 5 years</td>
<td>4 weeks</td>
</tr>
</tbody>
</table>

Provided that an employee over 45 years of age and with not less than 2 years continuous service at the time of giving notice shall receive an additional week’s notice.
The services of any casual employee may be terminated with the giving of one hour’s notice. The Employer may elect to make payment for all or that part of the period of notice that it does not require the employee to work.

The Employee may forfeit salary equivalent to that part of the period of notice which the employee fails to work.

In circumstances where the Employee is terminated on the grounds of serious and willful misconduct, no notice period or payment in lieu thereof shall apply. Serious and willful misconduct includes but is not limited to bringing the Company into disrepute or failing to comply with a reasonable work request by the Company.

The Employer and the Employee undertake to settle any mutually agreed debt of one to the other on termination.

The Employee agrees that the Employer may recover the amount of any debt owing by the Employee to the Employer on termination of employment by deduction of the amount from the Employee’s final entitlements.

The Employee undertakes to return to the Employer on termination all physical and intellectual property of the Employer whether in material, electronic, documentary or any other form.

37. REDUNDANCY

(a) Redundancy is provided for in the Award (Clause 17 – Industry specific redundancy scheme).

(b) Where an employee’s termination is due to redundancy, this refers to a situation where an employee ceases to be employed by an employer to whom the award applies, other than reasons of misconduct or refusal of duty. An employee being made redundant shall, in addition to the period of notice specified in Clause 36 above, be entitled to a severance payment based on their hourly rate as described in clause 22 as follows:

<table>
<thead>
<tr>
<th>Period of continuous service with an employer</th>
<th>Redundancy/severance pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 year or more but less than 2 years</td>
<td>2.4 weeks’pay plus for all service in excess of 1 year, 1.75 hours pay per completed week of service up to a maximum of 4.8 weeks’pay</td>
</tr>
<tr>
<td>2 years or more but less than 3 years</td>
<td>4.8 weeks’pay plus, for all service in excess of 2 years, 1.6 hours pay per completed week of service up to a maximum of 7 weeks’pay</td>
</tr>
<tr>
<td>3 years or more than but less than 4 years</td>
<td>7 weeks’pay plus, for all service in excess of 3 years, 0.73 hours pay per completed week of service up to a maximum of 8 weeks’pay</td>
</tr>
</tbody>
</table>
(b) Provided that an employee employed for less than 12 months will be entitled to a redundancy/severance payment of 1.75 hours per week of service if, and only if, redundancy is occasioned otherwise than by the employee.

38. SUPERANNUATION

(a) The Company will pay compulsory superannuation contributions on each employee’s behalf, currently being 9.5% of an employee’s wages into a Superannuation Fund of the employee’s choice. The Company contributions may vary dependent on Superannuation Legislation.
(b) Within 28 days of commencing employment an employee will be given a standard choice form by the Company, in which the employee can nominate an eligible superannuation in which contributions can be made. Where an employee does not choose a Superannuation Fund within 28 days, their superannuation contributions will automatically be paid into the Construction and Building Unions Superannuation Scheme (C+BUS).
(c) All superannuation contributions shall be paid monthly as required by the trust deed.
(d) Where an employee wishes to have their pay salary sacrificed for additional superannuation, the company will comply with the employee’s request without unreasonable delay. All entitlements and benefits contained in this agreement will be calculated on the pre-salary sacrifice pay rate.

39. NO EXTRA CLAIMS

The Parties acknowledge and agree that this Agreement covers the field, and is in full and final settlement of all matters, claims and demands however described whether or not any matter, claim or demand is specifically addressed within this Agreement.

The Parties to this Agreement undertake not to pursue any further claims as to wage increases/decreases, or improvements/reductions to conditions of employment, whether they are Award or over-award, during the life of this Agreement.

40. DISPUTE SETTLEMENT PROCEDURE

(a) This procedure is designed to promote the resolution of issues that arise at the lowest possible level and to provide a step-by-step process which will be accessed if the parties are genuinely unable to resolve the issue.
(b) At each step in the procedure, reasonable time is to be allowed for the parties to resolve the matter. The parties agree not to proceed to each next step in the procedure until the previous step has been completed. Following these procedures will ensure the dispute is resolved in the most efficient manner.
(c) In the event of a dispute about a matter under this award, or a dispute in relation to the NES, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavor to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.
(d) If a dispute about a matter arising under this award or a dispute in relation to the NES is unable to be resolved at the workplace, and all appropriate steps have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
(e) The parties may agree on the process to be utilised by the Fair Work Commission including mediation, conciliation and consent arbitration.
(f) Where the matter in dispute remains unresolved, the Fair Work Commission may exercise any method of dispute resolution permitted by the Act that it considers appropriate to ensure the settlement of the dispute.
(g) An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
(h) While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace that is safe and appropriate for the employee to perform.
(i) This dispute resolution procedure does not apply to Occupational Health and Safety matters which will be dealt with in accordance with clause 17 of this Agreement.

41. SIGNATORIES

On behalf of EHA Construction Pty Ltd .................................
(Edward Allen) ............................................
Director
Date:

On behalf of the Employees .............................................

(signature)

Name:

Address:

Date:
APPENDIX A – CLASSIFICATION & PAY RATES

Positions are classified in accordance with Building and Construction On-site Award 2010.

<table>
<thead>
<tr>
<th>Position</th>
<th>Classification</th>
<th>Day Shift pay rate</th>
<th>Night Shift pay rate</th>
<th>Fares and Travel allowance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water Truck Driver – New entrant/learner</td>
<td>CW1(a, b &amp; c) (after 12 months experience progress to CW1(d))</td>
<td>$28/hour</td>
<td>Not applicable – New entrants only day shift</td>
<td>$30 per day</td>
</tr>
<tr>
<td>Water Truck Driver</td>
<td>CW1(d)</td>
<td>$31/hour</td>
<td>$42/hour</td>
<td>$30 per day</td>
</tr>
</tbody>
</table>

APPENDIX B – CLASSIFICATION STRUCTURE

Water Truck Operator: Pay load above 12 tonnes and up to 60 tonnes
Each employee shall have undertaken and completed training so as to enable the person to perform work within the scope of this grade.

New entrant/Learner
Employees will be engaged and paid as such for a maximum of three months.
IN THE FAIR WORK COMMISSION

FWC Matter No.:
AG2015/1179 Application for approval of the EHA Construction Pty Ltd Single Enterprise Agreement 2015 – 2019

Applicant:
EHA Construction

Section 185 – Application for approval of a single enterprise agreement

Undertaking- Section 190

I, Edward Allen, Director for EHA Construction Pty Ltd give the following undertakings with respect to the EHA Construction Pty Ltd Single Enterprise Agreement 2015 – 2019 ("the Agreement"):

1. I have the authority given to me by EHA Construction Pty Ltd to provide this undertaking in relation to the application before the Fair Work Commission.

2. 9. PERIOD OF OPERATION
This Agreement will come into effect from the date of approval by Fair Work Australia and will continue in force for four years from that nominal commencement date. The nominal expiry date of the agreement will be four years from the date of approval, unless terminated beforehand in accordance with the Fair Work Act 2009.

23. Annual Leave
(e) Broken service:
Where an employee breaks his/her continuity of service by an absence from work for any reason other than a reason set out in 23(f) hereof, the amount of leave to which he/she would have been entitled under 23(a) hereof shall be applied consistently with the NES.

24. Leave Payment
(b) Annual Leave Loading
An annual Leave loading of 17.5% will be paid in addition to the payments specified in clause 22(c).

28. PERSONAL (SICK and CARER’S) LEAVE
(c) The following are members of an employee’s immediate family:
• a spouse, child, parent, grandparent, grandchild or sibling of the employee; and
• a child, parent, grandparent, grandchild or sibling of a spouse of the employee provided that:
  • spouse includes a former spouse, a de facto spouse and a former de facto spouse
  • de facto spouse means a person, not limited to couples of the opposite sex, who lives with the employee as the employee’s husband or wife on a genuine domestic basis although not legally married to the employee and
  • child includes an adopted child, a stepchild, an ex-nuptial child and an adult child.
(e) Paid Personal Leave may be taken to care for an immediate family or household member who is sick or injured or to help during a family emergency (Carer’s leave). Carer’s leave shall be applied consistently with the NES.

(i) The provisions of (h) above apply to a casual employee and shall be applied consistently with the NES.

40. DISPUTE SETTLEMENT PROCEDURE
(c) In the event of a dispute about a matter under this agreement, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.
(d) If a dispute about a matter arising under this agreement is unable to be resolved at the workplace, and all appropriate steps have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.

4. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

________________________________________
Signature

________________________________________
Date
(e) Paid Personal Leave may be taken to care for an immediate family or household member who is sick or injured or to help during a family emergency (Carer’s leave). Carer’s leave shall be applied consistently with the NES.

(i) The provisions of (h) above apply to a casual employee and shall be applied consistently with the NES.

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4. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

[Signature]

26/05/18

[Date]