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WAREHOUSEMEN INDUSTRIAL AND ALLIED  
WORKERS OF AMERICA, LOCAL 166, IBT

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
Region 21

LABORERS INTERNATIONAL UNION OF )	MOTION FOR
NORTH AMERICA, LOCAL NO. 1184, )	RECONSIDERATION BY
)	TEAMSTERS LOCAL 166
Respondent )	
and )	Case No. 21-CD-674
)	
AMES CONSTRUCTION, INC., )	
)	
Employer )	
and )	
)	
TEAMSTERS, CHAUFFEURS, WARE- )	
HOUSEMEN, INDUSTRIAL AND ALLIED )	
WORKERS OF AMERICA, LOCAL 166, )	
)	
Party in Interest )	
)	

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This Motion for Reconsideration is made by TEAMSTERS,  
CHAUFFEURS, WAREHOUSEMEN , INDUSTRIAL AND ALLIED WORKERS OF  
AMERICA, LOCAL 166, A/W INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS ("Teamsters") pursuant to NLRB Rules and

Regulations, Part 102, Section 102.48 on the grounds that material errors were made as to material facts and the law. This Motion is based upon the Brief in Support of the Motion for Reconsideration which cites to specific findings of fact and the basis for claiming error with the cite to the record of the proceedings.

The specific grounds and findings of material error are as follows:

1. Work Preservation Dispute - The basis for rejecting the claim of Teamsters Local 166 that this case presents a dispute between Ames and Teamsters over the preservation of bargaining unit work was the limited history between Ames and Teamsters which the Board deemed insufficient to establish a work preservation claim (Decision II D, p. 2-3). While the Teamsters do not dispute that in California the only work between the Teamsters and Ames was the Cajon project (mistakenly referred to as El Cajon in the Decision), the Teamsters submit that reliance on this fact alone ignores material evidence supporting a finding of work preservation.

2. Collective-Bargaining Agreements - The Board in its decision finds that "the factor of collective-bargaining agreements does not favor awarding the work in dispute to either group of employees." (Decision II E, p. 3) The

evidence demonstrates that the collective-bargaining agreements favor awarding the work in dispute to employees represented by the Teamsters.

3. Area and Industry Practice - The Board found that area and industry practice "does not favor an award of the work in dispute to employees represented by either Laborers or Teamsters." (Decision II, E3, p. 4) The evidence supports a finding that area and industry practice supports an award of the work in dispute to employees represented by the Teamsters

4. Relative Skills and Ability - Prior to the Laborers performing the truck driving work in issue in this case, the Laborers performed no truck driving for the Employer.

5. Employer preference alone cannot be the basis of the award of disputed work.

Dated: December 24, 2009 TOSDAL, SMITH, STEINER & WAX



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Fern M. Steiner, attorney for  
TEAMSTERS, CHAUFFEURS,  
WAREHOUSEMEN, INDUSTRIAL AND  
ALLIED WORKERS OF AMERICA, LOCAL  
166, A/W INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS

1 Re: Laborers International Union of North America, Local No. 1184 (Ames Construction, Inc.)  
2 Case No. 21-CD-674

3 PROOF OF SERVICE

4 I, the undersigned, hereby declare and state:

5 I am over the age of eighteen years, employed in the city of San Diego, California, and not  
6 a party to the within action. My business address is 401 West A Street, Suite 320, San Diego,  
7 California 92101.

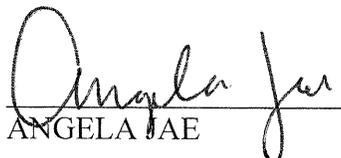
8 I served the within document described as:

9 **Motion for Reconsideration by Teamsters Local 166**

10 on the date(s) and method indicated below:

11 <u>Party</u>	<u>Date &amp; Method of Service</u>
12 <b>Thomas A. Lenz</b>	<b>12/24/09 - First Class Mail</b>
13 <b>Atkinson, Andelson, Loya, Ruud &amp; Romo</b>	<b>12/24/09 - Via E-Mail</b>
14 <b>17871 Park Plaza Drive</b>	<b>TLenz@aalrr.com</b>
15 <b>Cerritos, Ca. 90703-8597</b>	
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18 <b>Robert M. Dohrmann</b>	<b>12/24/09 - First Class Mail</b>
19 <b>Schwartz, Steinsapir, Dohrmann &amp; Sommers</b>	<b>12/24/09 - Via E-Mail</b>
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22 <b>Los Angeles, California 90048-5268</b>	
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24 <b>James Small, Regional Director</b>	<b>12/24/09 - First Class Mail</b>
25 <b>National Labor Relations Board</b>	<b>12/24/09 - Via E-Mail</b>
26 <b>Region 21</b>	<b>James.Small@nlrb.gov</b>
27 <b>888 South Figueroa Street, 9th Floor</b>	
28 <b>Los Angeles, Ca. 90017-5449</b>	

24 I declare under penalty of perjury under the laws of the State of California that the foregoing  
25 is true and correct. Executed on December 24, 2009, at San Diego, California.

26  
27   
28 ANGELA IAE