

Bricklayers Holiday Trust Fund Metropolitan Area



Summary Plan Description

Effective May 1, 2018

BRICKLAYERS HOLIDAY TRUST FUND – METROPOLITAN AREA

SUMMARY PLAN DESCRIPTION

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1.1 INTRODUCTION TO YOUR PLAN

We are pleased to furnish you with this summary of the principal features of the Holiday Plan of the Bricklayers Holiday Trust Fund – Metropolitan Area (“Plan”). This summary describes how your Holiday Fund operates, how you receive your benefits, your responsibilities as a participant in the Fund, and a very important section setting forth your rights as a participant. This is only intended as a summary of the Plan, and therefore if this document conflicts with the Plan, the Plan, and not this summary, will govern.

It is important that you read this summary to become familiar with the way the Fund operates.

Please remember that in order to provide accurate and prompt service to you, the Fund Office must have on file your correct name, address, and Social Security number. You should report any changes promptly (as described in the second paragraph of the section headed “Your Responsibility As a Participant”).

We hope you enjoy your holiday pay in the best of health. Should you have any questions about the Fund, please contact the Third Party Administrator for the Fund whose address and phone number are provided below.

2.1 General Information. The Bricklayers Holiday Fund (“the Fund”) was adopted by the Trustees as a Fund wherein Employer Contributions are received and accepted for the payment of holiday benefits to Employees. The Fund has been in existence since 1957. It covers all masons and related workers under the craft jurisdiction of collective bargaining agreements in the counties of Wayne, Oakland, Macomb, Monroe and St. Clair, and the Detroit metropolitan area.

For filing various governmental reports, the following Employer Identification Number (EIN) is used to identify the Bricklayers Holiday Fund: 38-2105545. The Plan’s records are maintained on a 12-month period of time with the fiscal year of the Fund being May 1 to April 30.

The affairs of the Fund are managed by a Board of Trustees composed of Union Trustees appointed by the Bricklayers & Allied Craftworkers Local 2 of Michigan, and Employer Trustees appointed by both of the Employers’ Associations. These Trustees are responsible for making all policy decisions affecting the Fund.

2.2 Board of Trustees.

UNION TRUSTEES

Mr. Charles Kukawka, Chairman
BAC Local 2
21031 Ryan Road
Warren, MI 48091
(586) 754-0888
(586) 754-5889 (Fax)
chuck.kukawka@bricklayers.org

EMPLOYER TRUSTEES

Mr. Brad Leidal, Secretary
Leidal & Hart Mason Contractors
12100 Globe St.
Livonia, MI 48150
(734) 522-2400
(734) 522-8650 (Fax)
bleidal@leidalandhart.com

Mr. Brett Gierak
BAC Local 2
21031 Ryan Road
Warren, MI 48091
(586) 754-0888
(586) 754-5889 (Fax)
brett.gierak@bricklayers.org

Mr. Charles Costella
Monte Costella & Co.
P.O. Box 621
Novi, MI 48376
(810) 602-2042 (Cell)
charlescostella@att.net

Mr. Tommy Ward
BAC Local 2
21031 Ryan Road
Warren, MI 48091
(586) 754-0888
(586) 754-5889 (Fax)
Tom.ward@bricklayers.org

Mr. Kevin Ryan
Masonry Developers, Inc.
5940 Westchester Ct.
Rochester, MI 48306-2389
(248) 608-0203
(248) 608-0206 (Fax)
masonrydevelopers@gmail.com

2.3 The Plan Administrator. The day-to-day operation of the Fund is handled, on behalf of the Trustees, by the firm of BeneSys, Inc. which serves as the Fund's Third Party Administrator:

Jeffrey Allen, Plan Manager
BeneSys, Inc.
P.O. Box 4506
Troy, MI 48099
Office: (248) 813-9800 Ext. 3136 - Jeff
Fax: (248) 813-9898
jeffrey.allen@benesys.com

Lorna Rafou, Plan Associate
Office: (248) 813-9800 ext. 3322
Lorna.rafou@benesys.com

2.4 Service of Legal Process. Service of legal process may be made on the Fund's legal counsel at the following address:

Novara, Tesija & Catenacci, P.L.L.C.
2000 Town Center, Suite 2370
Southfield, MI 48075

Service of legal process may also be made upon a Trustee or the Plan Administrator.

HOW THE FUND OPERATES

QUESTION: *How does this Plan work?*

ANSWER: The Fund receives moneys ("Contributions") deducted from the net pay of masons and related trades people in the employ of contributing employers or employer associations. This money is accumulated for your benefit, until distributed. Currently, the Plan has one annual

distribution, usually in November of each year. The distribution includes employer contributions for work performed during the twelve-month period ending with the preceding September 30, provided the contributions have actually been received by the October 31 before the benefit checks are issued. Contributions due but not received by the Fund by October 31 may, in the discretion of the Trustees, be paid out in a supplemental distribution which, in the recent past, has generally taken place near the middle of the following January.

QUESTION: *How am I eligible to receive holiday pay?*

ANSWER: Any Employee whose Employer is required to make Contributions on their behalf is eligible to participate and receive holiday pay.

QUESTION: *Do I have to report these benefits as taxable income to the IRS?*

ANSWER: Since the monies remitted by the employer have already been deducted from your net pay, and all applicable social security and income taxes have already been withheld and should be shown on your W-2 form, the amount of any holiday benefit check is not additional income.

QUESTION: *How are the costs of operating this Fund handled?*

ANSWER: The Fund incurs certain costs in the administration of the program. These costs include the fee paid to the Plan Manager, fees for the annual audit (which is required by federal law), premiums for bonding Trustees (which is also required by federal law), legal and payroll audit expenses incurred in policing employer contributions to the Fund, and printing and postage costs. While the money to pay these expenses generally comes from the interest income that the Fund is able to realize by investing the contributions between the date they are received and the distribution of holiday pay benefit checks, the Trustees may, if the amount of interest income earned is less than the overhead expenses incurred, allocate the cost of these expenses among those participants to whom benefit checks are to be distributed. This allocation may be by means of an assessment in a flat dollar amount or an assessment as a percentage of the contributions credited to each participant.

QUESTION: *How are earnings on the Plan's assets handled?*

ANSWER: If the interest income earned by the Fund is more than the amount needed to meet overhead expenses, the excess may be distributed, in the form of a dividend, to all participants who are scheduled to receive a check.

QUESTION: *Can my benefits ever be forfeited?*

ANSWER: For administrative simplicity, the Trustees have decided that no benefit check will be issued for less than \$5.00. If, at the time of the distribution of an annual benefit check, a participant is credited with less than \$5.00 in contributions, the amount shall be forfeited.

The Fund is sometimes unable to distribute benefit transfers because it does not have correct current information in its records. Deposit transfers and checks are sometimes returned undelivered. Sometimes benefit distributions are not returned, but the holiday pay amounts they

represent stay on the books and records of the Fund because the distributions remain unclaimed. When the amount credited to a particular participant remains unclaimed under these circumstances, or for any other reason, for 12 months after the date the amount was due to be distributed, the amount involved shall be forfeited. However, any participant whose rights are affected by such forfeiture may apply to the Trustees to receive the money to which he had been entitled and the Trustees may, in their discretion, reinstate and pay the benefit.

QUESTION: *Can my benefits be attached by my creditors?*

ANSWER: Holiday pay from the Fund may be subject to individual debts or obligations under certain circumstances provided by law, and could be attached by your creditors or to pay alimony or child support.

QUESTION: *When can I or my beneficiaries receive benefits?*

ANSWER: Benefit distributions are issued only on the dates of authorized distributions, except that the Trustees may, when requested, pay benefits in advance of the normal distribution time in the following two situations:

1. Upon death, the amount of Holiday Fund contributions with which a participant has been credited may be paid to the participant's beneficiary without the necessity of waiting until the next distribution date. The beneficiary who would receive these benefits would be the beneficiary designated by the deceased participant with the Bricklayers Pension Fund – Metropolitan Area. If no designation has been made, the benefit shall be payable first to the surviving legal spouse, if any, then to his or her executor or administrator, for the benefit of his or her estate, if any. (Effective September 16, 2013, the term "spouse" shall mean individuals who are lawfully married to a Participant under any state law, including individuals married to a person of the same sex who were legally married in a state that recognizes such marriages, but who live in a state that does not recognize such marriages). If the participant is not married at the time of his or her death and had not appointed an executor or administrator to handle his or her estate, the amount shall be paid in equal shares to those surviving members of one of the following classes in the following order of precedence: (a) children, (b) parents, (c) brothers and sisters.
2. If a participant enters qualified military service, a request to receive a check representing the contributions with which the participant has been credited as of the date of the request will be honored without the necessity of waiting until the next distribution date.

In the case of divorce, a beneficiary designation of one's spouse will be deemed revoked unless the designation is renewed by you or by court order following the divorce.

HOW TO COLLECT VACATION AND HOLIDAY PAY

QUESTION: *How are my benefits distributed?*

ANSWER: Generally speaking, so long as your current address is on file at the Fund Office, your employers have remitted contributions to the Fund within the prescribed time under your correct Social Security number, your holiday pay benefit check will be mailed to you automatically.

QUESTION: *What should I do if I do not receive all of the benefits I am entitled to?*

ANSWER: If, at the time the distributions are made, you do not receive a benefit distribution for the full amount to which you are entitled, you should contact, by phone or mail, the Fund Office. In most cases, failure to receive a benefit distribution on time will be because the Fund Office does not have a correct address on file, because contributions were not submitted under the correct Social Security number by the employer, or because the employer has failed to remit the proper amounts to the Fund.

Usually you will be able to have your questions answered or problems resolved by a phone call.

If, however, you are not satisfied with the answer you receive or do not shortly thereafter receive full benefit you think is payable to you, you should submit a written claim for payment to the Fund Office under the claim and appeal process set forth in Article VI, below. Your written claim should be addressed to the Bricklayers Holiday Trust Fund – Metropolitan Area in care of the Fund's Third Party Administrator, identified in Article II Section 2.3, and should state your full name, address and Social Security number. No particular form is required. Your written claim should merely state as briefly as possible the nature of your complaint.

If you believe that you are entitled to a benefit which you did not receive or that the amount you received was less than it should have been, please list the names of the employers for whom you worked during the period involved and the months during which you worked for each. In this way, the Fund Office can investigate to see if the contributions were actually received by the Fund and, if so, whether they were accurately reported by your employers.

YOUR RESPONSIBILITY AS A PARTICIPANT

QUESTION: *What do I have to do to ensure my rights under the Plan?*

ANSWER: The purpose of the Holiday Fund is to receive and pay holiday benefits to all those who are entitled thereto. However, in order for the Trustees and the Fund Office staff to do this, your cooperation is needed.

It is most important that you keep the Fund Office advised of your correct address and Social Security number and that, whenever you contact the Fund Office, you identify yourself as a participant in the Bricklayers Holiday Fund and give your full name and Social Security number. To report a change of address, you must do so through the Fund Office.

Many participants have the same last name and often the same first initials. This makes it

necessary to refer to Social Security numbers to identify each participant correctly.

QUESTION: *What should I do if I believe my employer owes more contributions to the Fund?*

ANSWER: Since contributions to the Fund are deducted by your employers from your gross pay, the amount of these deductions should be shown on your pay stubs. You should retain all of your pay stubs to verify the amount of benefits to which you are entitled. You should have these available to show the Fund personnel in case there is any dispute about the amount of the benefits to which you are entitled.

There have been cases in which employers have deducted amounts from a participant's pay and then failed to remit the amount deducted to the Fund. Saving your pay stubs will also allow you to help the Fund to detect and correct such situations.

If you find that contributions were submitted on your behalf under an incorrect Social Security number, be sure to notify the employer who was using the incorrect Social Security number (as well as the Fund Office) so that the employer will not continue making the same error on future reports.

QUESTION: *What should I do if I receive more benefits than I should have?*

ANSWER: If you are ever paid benefits that should not have been paid for any reason, you must promptly return the overpayment amount to the Fund. Failure to return overpayment may result in you being disqualified from eligibility for further benefits and the Trustees may offset overpayments from any future benefit payments.

CLAIMS AND APPEALS

QUESTION: *How do I apply for benefits under the Plan?*

ANSWER: Benefit payments are made automatically once per year. If you do not receive a benefit check, you should file a written claim for benefits in the manner described in Article IV above.

Your claim for benefits will be subject to a full and fair review. If your claim is wholly or partially denied, the Administrator will furnish you with a written notice of this denial. This written notice must be provided to you within a reasonable period of time after the receipt of your claim by the Administrator. This time period is generally 90 days from receipt of your claim. These times may be extended by the Trustees if necessary. The written notice must contain the following information:

- a. The specific reason or reasons for any denial;
- b. Specific reference to those Plan provisions on which any denial is based;
- c. A description of any additional information or material necessary to correct your claim and an explanation of why such material or information is

necessary; and

- d. Appropriate information as to the steps to be taken if you or your beneficiary wish to submit your claim denial for review and your right to bring a civil action under ERISA Section 502(a) following an adverse benefit determination on appeal.

QUESTION: *What rights do I have if my claim is denied?*

ANSWER: If your claim has been denied, and you wish to submit your appeal, you must follow the Appeals Procedure.

- a. Upon the denial of your claim for any benefit provided by the Plan, you may file your request for review, in writing, with the Administrator.
- b. YOU MUST FILE THE APPEAL NO LATER THAN 60 DAYS AFTER YOU HAVE RECEIVED WRITTEN NOTIFICATION OF THE DENIAL OF YOUR CLAIM.
- c. You may review all pertinent documents relating to the denial of your claim and submit any issues and comments, in writing, to the Administrator.
- d. Your appeal must be given a full and fair review. If your appeal is denied, the Administrator must provide you with written notice of this denial. For appeals filed within 30 days of a regularly scheduled Board of Trustees' meeting, you must be notified of the decision within 5 days after the second meeting following the receipt of your notice of appeal. For appeals filed more than 30 days before a regularly scheduled Board of Trustees' meeting, you must be notified of the decision within 5 days after the next Board of Trustees' meeting. There may be times when this period may be extended. This extension may only be made, however, where there are special circumstances that are communicated to you in writing within the applicable period. If there is an extension, a decision shall be made as soon as possible, but not later than the third meeting after receipt by the Administrator of your claim for review.
- e. The Administrator's decision on your appeal shall be communicated to you in writing and shall include specific references to the pertinent Plan provisions on which the decision was based.
- f. If the determination is adverse, you shall be entitled to receive copies of all documents relevant to the benefit claim and a statement regarding your right to bring a civil action under ERISA Section 502(a).

PLAN AMENDMENT OR TERMINATION

QUESTION: *Can the Plan or Trust Be Amended?*

ANSWER: The Board of Trustees has the right to amend the Plan and Trust at any time.

QUESTION: *Can the Fund Be Terminated?*

ANSWER: The Trustees may, by unanimous action, terminate the Plan if there no longer exists a CBA between the Union and any Employer.

QUESTION: *What happens if the Fund is terminated?*

ANSWER: In the event of the termination of the Plan, the Board of Trustees will allocate the assets of the Plan, after expenses are paid, among Participants, Former Participants and Beneficiaries in the manner provided by ERISA. If termination of the Plan occurs, your Accrued Benefit will be totally non-forfeitable to the extent funded on the date of termination.

YOUR ERISA RIGHTS AS A PARTICIPANT

QUESTION: *What are my ERISA rights?*

ANSWER: As a participant in the Holiday Plan you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all plan participants shall be entitled to:

Receive Information About Your Plan and Benefits: Examine, without charge, at the plan administrator's office and at other specified locations, such as worksites and union halls, all documents governing the plan, including insurance contracts and collective bargaining agreements, and a copy of the latest annual report (Form 5500 Series) filed by the plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Pension and Welfare Benefit Administration.

Obtain, upon written request to the plan administrator, copies of documents governing the operation of the plan, including insurance contracts and collective bargaining agreements, and copies of the latest annual report (Form 5500 Series) and updated summary plan description. The administrator may make a reasonable charge for the copies.

Receive a summary of the plan's annual financial report. The plan administrator is required by law to furnish each participant with a copy of this summary annual report.

Prudent Actions By Plan Fiduciaries: In addition to creating rights for plan participants ERISA imposes duties upon the people who are responsible for the operation of the employee benefit plan. The people who operate your plan, called "fiduciaries" of the plan, have a duty to do so prudently and in the interest of you and other plan participants and beneficiaries. No one, including your employer, your union, or any other person, may fire you or otherwise

discriminate against you in any way to prevent you from obtaining a holiday benefit for exercising your rights under ERISA.

Enforce Your Rights: If your claim for a holiday benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of plan documents or the latest annual report from the plan and do not receive them within 30 days, you may file suit in a Federal court. In such a case, the court may require the plan administrator to provide the materials and pay you up to \$110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the administrator. If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or Federal court. In addition, if you disagree with the plan's decision or lack thereof concerning the qualified status of a domestic relations order or a medical child support order, you may file suit in Federal Court. If it should happen that plan fiduciaries misuse the plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a Federal court. The court will decide who should pay court costs and legal fees. If you are successful the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim frivolous.

Assistance with Your Questions: If you have any questions about your plan, you should contact the plan administrator. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the plan administrator, you should contact the nearest office of the Employee Benefits Security Administration, U. S. Department of Labor, listed in your telephone directory of the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration.