

**NINTH AMENDMENT TO THE
BRICKLAYERS PENSION PLAN OF
WESTERN PENNSYLVANIA
(As Amended and Restated January 1, 2015)**

This Ninth Amendment to the Bricklayers Pension Plan of Western Pennsylvania, as amended and restated effective January 1, 2015 (“Plan”), is made by the Board of Trustees for the Bricklayers Pension Plan of Western Pennsylvania (“Trustees”).

WITNESSTH

WHEREAS, the Trustees currently administer and maintain the Plan for the benefit of members covered thereunder; and

WHEREAS, the right to further amend the Plan has been reserved to the Trustees under Article XIII of the Plan; and

WHEREAS, the Pension Fund is in critical status as of April 25, 2019. At that time, certain plan amendments were made to reflect changes required under the Rehabilitation Plan adopted by the Trustees, including provisions regarding the elimination of lump sum payments; and

WHEREAS, the Trustees evaluated the impact that the required changes had on the plan operations and believe that certain sections need further revisions and clarification.

NOW, THEREFORE, the Trustees agree and declare that the Plan be, and hereby is, amended in the following respects:

ARTICLE V, SECTION 5.04 shall be amended in its entirety to read as follows:

5.04 Eligibility for Reduced Normal Retirement Benefits

- (a) Effective on or after April 25, 2019, this form of benefit is no longer available from the Pension Fund.
- (b) Effective for time periods prior to April 25, 2019 when the Plan was not in Critical Status, a Participant who has permanently retired from employment with all Employers in the jurisdiction of the Fund (and is not eligible for Normal Retirement under Section 5.01) shall be eligible for a Reduced Normal Retirement Benefit provided the Participant has attained age 65 and has applied for a Reduced Normal Retirement Benefit on a form prescribed by the Trustees and the Trustees have approved the application.

ARTICLE V, SECTION 5.05 shall be amended in its entirety to read as follows:

5.05 Amount of Reduced Normal Retirement Benefits

- (a) Effective on or after April 25, 2019, this form of benefit is no longer available from the Pension Fund.
- (b) Effective for time periods prior to April 25, 2019 when the Plan was not in Critical Status, upon retirement at his Reduced Normal Retirement Date, each Participant shall be entitled to receive 100% of the contributions accumulated on his behalf, payable in a single sum as soon as administratively feasible (after the Participant applies for the benefit).

ARTICLE V, SECTION 5.06 (c) shall be amended in its entirety to read as follows:

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- (c) Reduced Normal Retirement. Effective on or after April 25, 2019, this form of benefit is no longer available from the Pension Fund.

ARTICLE V, SECTION 5.11 shall be amended to read as follows:

5.11 Reemployment of Participants Receiving Retirement Benefits

Any Participant that is receiving a monthly pension benefit and returns to work in Covered Employment shall be subject to the Suspension of Benefits rules set forth in Section 5.12.

ARTICLE V, SECTION 5.12(b)(2) shall be amended effective for new service accrued on or after April 1, 2020 to add a new subsection (D) to read as follows:

5.12 Suspension of Benefits

- (b) Suspension of Benefits on or after May 1, 2015:
 - 2) For Pensioners Under Age 65:
 - (A) Effective for benefits accrued on or after April 1, 2020 shall be subject to the following expanded definition of “Disqualifying Employment.”

“Disqualifying Employment” shall mean (i) any type of employment with an Employer (ii) any type of employment with an employer in the same or related business as an Employer, (iii) any employment or self-employment (including a sole proprietor, partner, independent contractor or consultant) based on or using the skills related to or acquired by Covered Employment, and (iv) any employment or self-employment (including a sole proprietor, partner, independent contractor or consultant) in the construction industry.

ARTICLE V, SECTION 5.13 shall be amended to read as follows:

5.13 Adjustment of Retirement Benefits

- (a) Any Pensioner receiving Normal Retirement Benefits who returns to work in Covered Employment for less than 200 hours in a plan year will not be entitled to any adjustment in his monthly Retirement Benefit.

- (b) A Pensioner received Normal Retirement Benefits who returns to work in Covered Employment and who is credited with 200 or more Hours of Credited Employment in a plan year, shall be entitled to an adjustment in his Retirement Benefit following such termination of employment. The amount of such adjustment will be based on the hours of Credited Employment earned during the period of reemployment and the Retirement Benefits in effect during the period of reemployment. Furthermore, any such adjustment in Retirement Benefits will become effective with the first month immediately following the date of termination of such period of reemployment. The Participant and spouse shall be given a new opportunity to elect a form of payment applicable to the entire recomputed monthly Retirement Benefit. The election shall be made in accordance with the terms of the Plan.
- (c) Any Pensioner receiving Early Retirement Benefits who returns to work in Disqualifying Employment and whose monthly Retirement Benefits are suspended as a result of such reemployment under Section 5.12, shall be entitled to an adjustment in his monthly Early Retirement Benefit upon termination of such reemployment. This does not apply to pensioners that return to work under the Limited Capacity Employment as set forth in Section 5.12(d). Eligible Pensioners shall have the adjustment made based upon the number of months he was reemployed during which his monthly Retirement Benefit was suspended. His Early Retirement Benefit shall be decreased by the same early retirement factor that was used to compute his original reduced Early Retirement Benefit for each such month of reemployment, but such adjustment shall not result in an amount that exceeds the monthly Normal Retirement Benefit he would have received had he retired at age 65. Further, such adjustment will be based on the Retirement Benefit in effect at the time of his original retirement.

ARTICLE VII, SECTION 7.05 shall be amended in part to read as follows:

7.05 Disabled Retirees Who Recover or Return to Work

A Disabled Retiree who recovers, or who returns to work prior to attaining age 65, shall be immediately removed from the Pension rolls. Upon termination of employment, such person shall be required to reapply for Normal, Early or Deferred Vested Pension Benefits and shall have another Annuity Starting Date for the purpose of the waiver of the Joint and 50% Survivor Benefit and election of another form of payment. There shall be no adjustment in his retirement benefit unless he has worked 200 or more hours in Covered Employment during a Plan Year in which he was reemployed. If he has worked 200 or more hours in a Plan Year during the prior of reemployment, and again applies for Retirement Benefits following termination of such reemployment, his benefits will be recomputed as though this were his initial retirement application. [removed – except that the guaranteed refund of contributions otherwise provided shall be reduced to reflect the amount of monthly payments such Participant received prior to his return to active employment.]

ARTICLE X, SECTION 10.01 shall be amended in part to read as follows:

10.01 Application for Retirement Benefits, Death Benefits or Vested Benefits

- (a) No Retirement Benefit, Death Benefit, or Vested Benefit shall be paid unless application is made therefor within the 180-day period ending on the Annuity Starting Date and approved by the Trustees. The applicant shall notify the Trustees or the office

of the Administrator of the Plan of his desire to apply for Plan benefits. The office of the Administrator of the Plan will send the applicant all proper application forms and information within 30 day of the receipt of the request to apply for benefits.

- (b) An applicant for benefits shall furnish, at the request of the Trustees any information or proof reasonably required to determine his benefit rights. If the applicant makes a willful, false statement material to his application or furnishes fraudulent information or proof material to his application, benefits not vested under this Plan may be denied suspended, or discontinued. The Trustees shall have the right to recover any benefit payments made in reliance on any willful, false or fraudulent statement, information or proof submitted by an applicant for benefits, or any benefit payment made in error.
- (c) The Trustees have the right to recoup benefits overpaid due to false statements through offset of future benefit payments, if any vested benefits are still owed, or filing a legal proceeding. The recovery will include the benefits plus interest and costs. The Trustees have the right to adjust the monthly benefit to the correct amount immediately upon discovery of the false information or proof. The Trustees can adjust the future benefit to reflect the lifetime of the participant based upon the current age and outstanding payment plus interest at the time the error is discovered. In the alternative, if the full amount of the overpayment plus interest can be recouped within twelve (12) months through offset of up to 100% per month, the Trustees can pay the corrected future monthly benefit without actuarial adjustment.
- (d) When benefits are paid in error not caused by false information from the participant, the monthly benefit will be adjusted immediately to reflect the benefit amount calculated under the terms of the Pension Plan and any overpayments may be recouped with interest by the Trustees. The Trustees can adjust the future benefit to reflect the lifetime of the participant based upon the current age and outstanding payment plus interest at the time the error is discovered. In the alternative, if the full amount of the overpayment plus interest can be recouped within twelve (12) months through offset of up to 25% per month, the Trustees can pay the corrected future monthly benefit without actuarial adjustment.
- (e) Interest on underpayments and overpayments (except for overpayments because of a Retiree's work in disqualifying employment under Section 6.09) will be calculated according to the Pension Benefit Guaranty Corporation interest rate for employer liability, unpaid contributions and late premium payments in effect on the 1st day of the month in which the overpayment was discovered by the Trustees or by any employee, agent or representative of the Trustees.

ARTICLE X, SECTION 10.03 shall be amended in its entirety to read as follows:

10.03 Latest Date for Commencement of Retirement Benefits

- (a) General Rules
 - (1) Effective Date. The provisions of this Section 10.03 will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
 - (2) Precedence. The requirements of this Section 10.03 will take precedence over any inconsistent provisions of the Plan.
 - (3) Requirements of Treasury Regulations Incorporated. All distributions required under the Section 10.03 will be determined and made in accordance with the Treasury regulations under Code Section 401(a)(9), including sections 1.401(a)(9)-1 through 1.401(a)(9)-9.
- (b) Time and Manner of Distribution

- (1) **Required Beginning Date.** Payment of retirement benefits under this Plan to a Participant shall begin not later than 60 days after the close of the Plan Year in which the Participant attains Normal Retirement Age or terminated employment, whichever is later; provided, however, (A) the Participant may elect a later date of payment, and (B) the Participant's failure to file an application for a pension shall be deemed to be such an election of a later date of payment. Notwithstanding the above, the Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.

Prior to December 31, 2019, a Participant's "Required Beginning Date" shall be the April 1 following the calendar year in which the Participant attains age 70 1/2; provided, however, if a Participant attained age 70 and 1/2 before January 1, 1988, Retirement Benefits shall commence no later than April 1 of the calendar year following the later of (1) the calendar year in which he attains age 70 and 1/2 or (2) the calendar year in which his employment terminates.

For any Participant that has not yet met their Required Beginning Date on December 31, 2019, the term shall mean the April 1st of the calendar year following the calendar year in which the Participant reaches age 72 or ceases to work in Covered Employment, whichever is later.

- (2) **Death of Participant Before Distributions Begin.** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

- (A) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained their Required Beginning Date, if later.
- (B) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year following the calendar year in which the Participant died.
- (C) If there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (D) If the Participant's surviving spouse is the Participant's sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this section (b)(2), other than (b)(2)(A), will apply as if the surviving spouse were the Participant.

For purposes of this Section (b)(2) and section (e), distributions are considered to begin on the Participant's Required Beginning Date (or, if section (b)(2)(D) applies, the date distributions are required to begin to the surviving spouse under section (b)(2)(A)). If annuity payments irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under section (b)(2)(A)), the date distributions are considered to begin is the date distributions actually commence.

- (3) **Form of Distributions.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning

Date, as of the first distribution, calendar year distributions will be made in accordance with sections (c), (d) and (e) of this Section 10.03. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury regulations.

(c) **Determination of Amount to be Distributed Each Year.**

- (1) **General Annuity Requirements.** If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:
 - (A) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;
 - (B) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in section (d) or (e);
 - (C) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
 - (D) payments will either be non-increasing or increase only as follows:
 - (i) by an annual percentage that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
 - (ii) to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in section (d) dies or is no longer the Participant's beneficiary pursuant to a Qualified Domestic Relations Order within the meaning of Section 414(p);
 - (iii) to provide cash refunds of employee contributions upon the Participant's death; or
 - (iv) to pay increased benefits that result from a plan amendment.
- (2) **Amount Required to be Distributed by Required Beginning Date.** The amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin under section (b)(2)(A) or (B)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if the payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g. bi-monthly, monthly, semi-annually or annually. All of the Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's Required Beginning Date.
- (3) **Additional Accruals After First Distribution Calendar Year.** Any additional benefits accruing to the Participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(d) **Requirements for Annuity Distributions that Commence During Participant's Lifetime.**

- (1) **Joint Life Annuities where the Beneficiary is not the Participant's Spouse.** If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a non-spouse beneficiary, annuity payments to be made on or after the Participant's Required Beginning Date to the designated Beneficiary after the Participant's

death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6 of the Treasury Regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and non-spouse beneficiary and period certain annuity, the requirement in the preceding sentence will apply to the annuity payments to be made to the designated Beneficiary after the expiration of the period certain.

- (2) **Period Certain Annuities.** Unless the Participant's spouse is the sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the Annuity Starting Date. If the Annuity Starting Date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the Annuity Starting Date. If the Participant's spouse is the Participant's sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this section (d)(2), or the joint life and last survivor expectancy of the Participant and the Participant's spouse as determined under the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and Spouse's birthdays in the calendar year that contains the Annuity Starting Date.
- (e) **Requirements for Minimum Distributions Where Participant Dies Before Date Distributions Begin.**
- (1) **Participant Survived by Designated Beneficiary.** If the Participant dies before the date distribution of his or her interest begins and there is a designated Beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in section (b)(2)(A) or (B) over the life of the designated Beneficiary or over a period certain not exceeding:
 - (A) unless the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or
 - (B) if the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year that contains the Annuity Starting Date.
 - (2) **No Designated Beneficiary.** If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year that contains the fifth anniversary of the Participant's death.
 - (3) **Death of Surviving Spouse Before Distributions to Surviving Spouse Begin.** If the Participant dies before the date distribution of his or her interest begins, the Participant's

surviving Spouse is the Participant's sole designated Beneficiary, and the surviving Spouse dies before distributions to the surviving Spouse begin, this section (e) will apply as if the surviving Spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Section (b)(2)(A).

(f) Definitions.

- (1) Designated Beneficiary. The individual who is designated as the beneficiary under Section 9.04 of the Plan and is the designated Beneficiary under Code Section 401(a)(9) and Section 1.401(a)(9)-1, Q&A A-4, of the Treasury regulations.
- (2) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which the distributions are required to begin pursuant to Section (b)(2).
- (3) Life Expectancy. Life Expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury Regulations.
- (4) Required Beginning Date. Prior to December 31, 2019, the Required Beginning Date of a Participant shall mean the April 1 of the calendar year following the later of (i) the calendar year in which the Participant attains age 70 ½ or (ii) the calendar year in which the Participant retires. For any Participant that has not yet met their Required Beginning Date on December 31, 2019, the term shall mean the April 1st of the calendar year following the calendar year in which the Participant reaches age 72 or ceases to work in Covered Employment, whichever is later.

ARTICLE X, SECTION 10.07 shall be added in its entirety to read as follows:

10.07 Payments to Missing Participants.

If the Board of Trustees is unable to make payments to a Participant or Beneficiary under this Plan when such payments become due because the identity or whereabouts of such person cannot be ascertained, the payments shall be forfeited. However, in the event that the identity or whereabouts of such person is later determined, payment shall be made to said person or to his account upon proper application filed with the Trustees.

ARTICLE XIII, SECTION 13.01 shall be amended in part to read as follows:

13.01 Plan Amendments

The Trustees who are present and voting may amend the Plan by majority action. No amendment to the Plan (including a change in the actuarial basis for determining an optional or early retirement benefit) or restricting a Participant's right to those Retirement Benefits, shall be effective to the extent that it has the effect of decreasing a Participant's Accrued Benefit. Notwithstanding the preceding sentence, a Participant's Accrued Benefit may be reduced if (i) such reduction is allowed under the Pension Protection Act of 2006, Multiemployer Pension Reform Act of 2014 or future federal laws; (ii) is subject to reduction under Title IV of ERISA due to insolvency of the Pension Fund; or (iii) the Trustees file a notice with the Secretary of Labor notifying him of such amendment and the Secretary of Labor approves such amendment or, within 90 days after the date on which such notice was filed, fails to disapprove of such amendment.

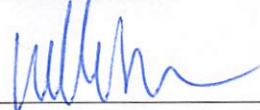
ARTICLE XIII, SECTION 13.03 shall be deleted in its entirety and replaced with the following:

13.03 Procedures in Event of Termination

In the event of termination of this Plan, the rights of all affected Participants to benefits then accrued, to the extent then funded, shall thereupon become 100% vested and non-forfeitable. Upon a termination of the Plan, the Trustees shall take such steps as they deem necessary or desirable to comply with Sections 4041A and 4281 of ERISA.

IN WITNESS WHEREOF, pursuant to the proper approval and delegation by the Trustees, the following Employer and Union Trustees have affixed their signatures as of this 21st day of May, 2020.

UNION TRUSTEE

By: 

EMPLOYER TRUSTEE

By: 