

**PENSION PLAN**  
**OF**  
**LABORERS PENSION TRUST FUND**  
**DETROIT AND VICINITY**  
**(As Amended Through June 1, 2016)**

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**PENSION PLAN  
OF  
LABORERS PENSION TRUST FUND - DETROIT AND VICINITY**

**(As Amended Through June 1, 2016)**

The Trustees of the Laborers Pension Trust Fund - Detroit and Vicinity, pursuant to the powers and duties vested in them by the Agreement and Declaration of Trust, as amended effective May 1, 1976, did publish the post-ERISA Pension Plan of the Fund effective May 1, 1976. Subsequently, they adopted, at different times, several amendments to the Plan that were integrated in the Restated Plan published September 2, 1998. The 1998 Plan was amended twelve times and those amendments were integrated into the Restated Plan published January 1, 2009. It has been amended ten times and those amendments were integrated into the 2015 Restated Plan. The 2015 Plan has now been amended once. What follows is the Plan as in effect on June 1, 2016.

**ARTICLE I - DEFINITIONS**

**Section 1 - TRUST AGREEMENT:** The term "Trust Agreement" as used herein shall mean the Agreement and Declaration of Trust establishing the Laborers Pension Trust Fund - Detroit and Vicinity, effective July 9, 1958, and that instrument as from time to time amended.

**Section 2 - TRUST FUND:** The term "Trust Fund" or "Fund" shall mean the Laborers Pension Trust Fund - Detroit and Vicinity and the entire assets thereof.

**Section 3 - TRUSTEES:** The term "Trustees" shall mean the individuals designated in the manner provided by the Trust Agreement collectively to administer the Fund and the Pension Plan.

**Section 4 - UNION:** The term "union" shall mean Laborers' International Union of North America, Local Unions 1076 and 1191.

**Section 5 - EMPLOYEE:** The term "employee" shall mean:

- (a) any person who is or has been employed by an employer to perform tasks coming within the trade jurisdiction of the union;
- (b) any person who, after accruing at least one Credit Year based on employment within the trade jurisdiction of the union, is or has been employed by an employer to perform tasks outside the trade jurisdiction of the union and whose employer elects to contribute under such terms and conditions as the Trustees may prescribe;
- (c) any person employed in a paid capacity by the union; and

- (d) any person employed by any board of trustees, committee or other agency established to administer or be responsible for fringe benefit funds, educational or other programs established through collective bargaining by the union and one or more employers.

**Section 6 - EMPLOYER:** The term "employer" shall mean:

- (a) the members of the AGC of Michigan, the Michigan Infrastructure and Transportation Association, and the Poured Concrete Wall Association, Inc., and other individuals, partnerships, corporations or other business entities which are engaged in work using or employing the services of individuals performing work tasks coming within the trade jurisdiction of the union and which have a Pension Agreement in effect;
- (b) the union to the extent, and solely to the extent, that it acts in the capacity of an employer of employees in whose behalf it makes contributions to the Trust Fund pursuant to a Pension Agreement; and
- (c) any board of trustees, committee or other agency established to administer or be responsible for fringe benefit funds, educational or other programs established by collective bargaining by the union and one or more employer associations, the members of which maintain a collective bargaining relationship with the union, to the extent, and solely to the extent, that it acts in the capacity of an employer of employees in whose behalf it makes contributions to the Trust Fund pursuant to a Pension Agreement.

**Section 7 - PENSION AGREEMENT:** The term "Pension Agreement" shall mean any collective bargaining agreement or article thereof or other agreement which provides for employer contributions to the Trust Fund (or adopts, expressly or implicitly, a written agreement which so provides) and details the basis upon which such contributions are to be made and, with respect to employees working outside the trade jurisdiction of the union, the terms and conditions prescribed by the Trustees for acceptance of such contributions.

**Section 8 - PENSION PLAN:** The term "Pension Plan" or "Plan" shall mean the plan adopted by the Trustees by which rights of active participants, inactive participants, retirees and their beneficiaries are determined.

**Section 9 - ACTIVE PARTICIPANT:** The term "active participant" shall mean an employee who has, pursuant to Article II, Section 1, established initial eligibility and has acquired or is acquiring eligibility to receive benefits pursuant to the Pension Plan and who is not an inactive participant, a retiree or a former participant.

**Section 10 - INACTIVE PARTICIPANT:** The term "inactive participant" shall mean a person who was an active participant but has, pursuant to Article II, Section 5, separated from employment covered by the Plan but has not terminated participation.

**Section 11 - FORMER PARTICIPANT:** The term "former participant" shall mean either a person who has been an active participant but has terminated participation by suffering a permanent break in service pursuant to Article II, Section 4, and whose accumulated Credit Years and Vesting Years, if any, have therefore been cancelled or a person who has been an active participant but has terminated participation by receiving a single sum disability benefit pursuant to the former Sections of Article V or a lump sum payment pursuant to Article VII, Section 3(a), and whose accumulated Credit Years have therefore been cancelled.

**Section 12 - RETIREE:** The term "retiree" shall mean a person who was an active or inactive participant and who has applied for and is entitled to receive or is receiving monthly early or normal retirement benefits from the Fund, including any such person whose entitlement to benefits has been suspended pursuant to Article III, Section 8, or Article IV, Section 7.

**Section 13 - RETIRE:** The term "retire" shall mean a participant's complete cessation of work of any kind for an employer whether or not such work comes within the jurisdiction of the union. The term 'retire' shall also mean the complete cessation of all kinds of work in the same craft or industry included within the jurisdiction of the union whether or not performed for an employer. Once a participant commences receiving monthly benefits under the Plan, he shall not be deemed to be 'retired' for any month in which the conditions set forth in Section 8 of Article III which permit a suspension of his monthly benefits have been met.

**Section 14 - BENEFICIARY:** The term "beneficiary" shall mean any person who, because of relationship to or designation by an active or inactive participant or a retiree, may be entitled to benefits from the Fund.

**Section 15 - SURVIVING SPOUSE:** Subject to any valid order which the Trustees determine is a qualified domestic relations order under applicable federal law, the term 'surviving spouse' shall mean the person to whom a participant or retiree was legally married at the time of his death, except 1) with respect to a retiree whose benefits are in a 50% Joint and Survivor form, a 75% Joint and Survivor form, or a 100% Joint and Survivor form, 'surviving spouse' shall mean the person to whom he was legally married at the time such benefits became payable, and 2) with respect to a participant who fails to apply for a benefit to which he is entitled before the first day of April of the year following the calendar year in which he reaches age 70½, "surviving spouse" shall mean the person to whom he was legally married on that April 1.

**Section 16 - PLAN YEAR:** The term "Plan Year" shall mean a consecutive twelve month period beginning on a May 1 and ending on an April 30.

**Section 17 - HOURS OF WORK:** The term "hours of work" shall mean the number of hours (a) for which an employee is paid, or entitled to payment, for the performance of bargaining unit duties for one or more employers whose status with the Fund at the time the work is performed has not been terminated by the Trustees and hours for which back pay, irrespective of mitigation of damages, is awarded or agreed to by an employer, to the extent such award or agreement is intended to compensate the employee for periods during which the employee would have been engaged in the

performance of bargaining unit work for the employer (such hours shall be credited to the Plan Year or Plan Years to which the award or agreement for back pay pertains) or (b) in respect to which contributions are otherwise received by the Fund from such employers.

**Section 18 - HOURS OF SERVICE:** The term "hours of service" shall mean the hours with which an employee is credited under the Plan. For this purpose, each 435 hours of work shall be equivalent to 500 hours of service and each 870 hours of work shall be equivalent to 1000 hours of service.

**Section 19 - ACTUARIAL EQUIVALENT:** The term 'actuarial equivalent' shall mean a benefit having the same value as the benefit for which it is substituted. In converting one form of monthly benefit to another form of monthly benefit, the actuarial equivalent shall be determined by using a 6 1/2% annual compound rate of interest and the UP-1984 mortality table. In calculating the current single sum value of a deferred monthly benefit, the actuarial equivalent shall be determined by using, for each Plan Year, the annual rate of interest on 30-year Treasury securities in effect for the month preceding the first day of each such Plan Year and the Commissioner's standard mortality table, described in Section 807(d)(5)(A) of the Internal Revenue Code, used to determine reserves for group annuity contracts issued on the date as of which the present value is being determined (without regard to any other subparagraph of Section 807(d)(5)).

Effective May 1, 2008 the minimum lump-sum value shall be the present value using the applicable mortality table and applicable interest rate as described below. The applicable mortality table will be a mortality table, modified as appropriate by the I.R.S., based on the mortality table specified for the Plan Year under I.R.C. § 430(h)(3)(A) (without regard to the §430(h)(3)(C) substitute mortality table or the I.R.C. §430(h)(3)(D) mortality table for the disabled). The applicable interest rate means the 417(e)(3) spot rate as published by the IRS, which is the adjusted first, second, and third segment rates applied under rules similar to the rules of I.R.C. §430(h)(2)(C) for the month preceding the first day of each such Plan Year in which the distribution is paid. The adjusted first, second, and third segment rates are the first, second, and third segment rates determined under I.R.C. § 430(h)(2)(C) if:

1. The I.R.C. §430(h)(2)(D) definition of 'corporate bond yield curve' was applied by substituting the average yields for the month, as described in I.R.C. §430(h)(2)(D)(ii) for the average yields for the 24-month period, as described in such section.
2. For Plan Years beginning in 2008 through 2011, the first, second, and third segment rate for any month is equal to the sum of: (a) the product of the segment rate determined under the general rule above, multiplied by the applicable transitional percentage for the Plan Year; and (b) the product of the annual rate of interest on thirty year Treasury securities as specified by the Commissioner of Internal Revenue for the month preceding the first day of each such Plan Year in which the distribution is paid, multiplied by the applicable transitional percentage for the Plan Year. The transitional percentages are as follows:

<b>in Plan Year Beginning</b>	<b>Distributions for 30 Year Treasury Rates</b>	<b>Transition Factor Transition Factor for Segment Rates</b>
2008	80 percent	20 percent
2009	60 percent	40 percent
2010	40 percent	60 percent
2011	20 percent	80 percent
2012	0 percent	100 percent

**Section 20 - ACCRUED BENEFIT:** The term "accrued benefit" shall mean the benefit which has accrued pursuant to the terms of this Plan which shall be expressed as the Single Life Benefit form of the normal retirement benefit to which the participant will be entitled upon meeting the applicable eligibility requirements.

**Section 21 - CONTIGUOUS SERVICE:** The term "contiguous service" shall mean:

- (a) hours worked by an employee outside the bargaining unit represented by the union for one or more employers that are, at the time of such employment, maintaining the Plan, provided that immediately following the period of such employment the employee becomes an active participant; and
- (b) hours worked by an active or inactive participant outside the bargaining unit represented by the union for one or more employers that are, at the time of such employment, maintaining the Plan, provided that the period of such employment begins while the employee is an active participant. Service shall no longer be considered contiguous when it is interrupted by a period of two Plan Years during which the employee is neither credited with hours of service under the Plan nor employed in contiguous service.

## **ARTICLE II - PARTICIPATION AND BENEFIT ACCRUAL**

**Section 1:** An employee shall become a participant under this Plan on the May 1 or November 1 next following any twelve month period during which he has been credited with 1000 hours of service.

**Section 2:** For each Plan Year in which a participant is credited with 1000 or more hours of service, the participant shall accrue a Credit Year, provided, however, that once a participant has accrued 15 Credit Years, he shall accrue an additional Credit Year for each Plan Year in which he is credited with 500 or more hours of service.

**Section 3:** Credit Years shall be the units by which each participant's benefit accrual shall be measured. No more than one Credit Year may be accrued in a single Plan Year.

**Section 4:** For each Plan Year in which an active or inactive participant is credited with fewer than 500 hours of service, the active or inactive participant shall accrue a Non-Credit Year. When an active or inactive participant who has not become vested pursuant to Article VII hereof accumulates five consecutive Non-Credit Years, the active or inactive participant shall suffer a permanent break in service and his participation in the Plan shall be terminated.

No active or inactive participant shall, however, accrue a Non-Credit Year for any year in which the failure to be credited with sufficient hours of service under the Plan results from employment by the Laborers International Union of North America, or any other department or agency of any labor organization or council of labor organizations with which the union or one of the locals is affiliated or the state or federal Department of Labor.

If an active participant timely notifies the Trustees and furnishes the information required by them to establish that absence from work is due to pregnancy, childbirth, placing of a child with the active participant for adoption or caring for such a child immediately following birth or placement, hours which the active participant would otherwise have worked shall be counted as hours of service, for the purpose of preventing one Non-Credit Year only, up to a maximum of 500 hours of service either in the Plan Year in which the absence began or, if not needed to prevent a Non-Credit Year in that Plan Year, then in the next Plan Year. Notification shall be timely if given 90 days in advance of the beginning of such absence or, upon submission of a satisfactory reason for not giving advance notice, after the absence, but no later than 30 days following the end of the Plan Year in which the absence occurred.

If an employee who had suffered a break in service under the Prior Plan as a result of no employer contributions being received for two Plan Years and was not paid a Termination Benefit becomes an active participant in this Plan on or after May 1, 1993, the Prior Plan break in service will be reevaluated using the rule of parity and, if the break in service would not have occurred under that rule, the pre-break service shall be reinstated and those hours counted for all purposes.

**Section 5:** An active participant who is credited with no hours of service for two consecutive Plan Years shall, at the end of the second such Plan Year be deemed to have separated from employment covered by the Plan and shall become an inactive participant. No active participant shall, however, become an inactive participant as a result of years in which he is credited with no hours of service during which he is receiving monthly disability benefits under the Plan. The benefits to which an inactive participant is entitled, if any, shall be determined by the provisions of the Plan in effect at the time the participant became inactive.

**Section 6:** If an inactive participant, who has not terminated participation by receiving a single sum disability benefit pursuant to the former Sections of Article V or a lump sum payment pursuant to Article VII, Section 3(a), resumes employment as an employee covered by this Plan, he shall again become an active participant, retroactive to the date upon which he resumed employment, when he has, within any twelve month period, been credited with the hours of service required to accrue a Credit Year under the terms of Section 2 of this Article II.

**Section 7:** If a former participant who has terminated participation by receiving a single sum disability benefit pursuant to the former Sections of Article V or a lump sum payment pursuant to Article VII, Section 3(a), resumes employment as an employee covered by this Plan, he shall again become an active participant, retroactive to the date upon which he resumed employment, when he has, within any twelve month period, been credited with the hours of service required to accrue a Credit Year under the terms of Section 2 of this Article II. If, however, the former participant chooses to repay to the Fund the amount of the single sum disability benefit or lump sum payment received by him, with interest at 5% compounded annually from the date such payment was made until the date of repayment, then the Credit Years previously cancelled shall be reinstated, provided that repayment is made within five Plan Years after the date as of which the former participant again becomes an active participant.

**Section 8:** If an employee enters service in the Armed Forces or other uniformed services of the United States (hereinafter "Forces") and serves for a period of five years or less (or, for a longer period, if his service is extended by the government) and resumes employment as an employee covered by this Plan within twelve months of the date of his discharge under honorable conditions from the Forces, he shall be credited with hours of service and shall accrue Credit Years for the period of his service in the Forces, provided that the requirement that he resume employment within twelve months of discharge shall be waived if his failure to do so is because of an illness or injury incurred during or aggravated by his service in the Forces. The number of hours of service with which he is credited for each month of his service in the Forces shall be the average of the number of hours of service with which he was credited each month during (1) the three Plan Years or (2) the twelve consecutive month period immediately preceding his entry into the Forces, whichever is higher. If he first became an employee within three Plan Years of his entry into the Forces, the hours of service with which he is credited shall be the average of the number of hours of service with which he was credited each month during (1) the shorter period or (2) the twelve consecutive month period immediately preceding his entry into the Forces, whichever is higher.

An employee who is a Reservist or National Guardsman and is called to active service by the United States Government for a period of at least three consecutive months shall be credited with hours of service and shall accrue Credit Years for the period of that service in accordance with the provisions set out in the above paragraph.

The beneficiaries of a participant who dies while serving in the Armed Forces, but who would otherwise have been eligible to be credited with hours of service under this Section 8, shall be entitled to all additional benefits provided under the Plan (except benefit accruals relating to the period of the participant's service in the Armed Forces) to which they would have been entitled had the participant resumed employment in a timely manner and then terminated employment on the date of his death.

The participant (or his beneficiaries) shall be required to submit such documents and information as required by the Trustees to determine his (their) eligibility hereunder.

Hours of service credited to an employee under this Section shall be credited as though employer contributions were made to the Fund for each month of his service in the Forces at the contribution rate(s) in effect during that month.

Any cost associated with the granting of credit as set out in this Section 8 shall be a liability of the Fund as a whole and not allocated to any individual employer.

**Section 9:** An active participant who receives Workers' Compensation benefits as a result of an injury or disability suffered in the course of his employment as a laborer by an employer contributing to this Fund, or another fund which is party to a reciprocal agreement with this Fund, shall be credited with hours of service for vesting and eligibility for all benefits provided under the Plan, except disability benefits, but not for benefit accrual purposes, as follows:

- (a) The active participant shall be credited with 40 hours of work for each full week for which he receives or is determined to be entitled to receive Workers' Compensation benefits, to a maximum of the hours of service required for him to accrue a Credit Year in any Plan Year under the terms of Section 2 of this Article II, even if he also is receiving disability benefits under this Plan.
- (b) If the active participant's Workers' Compensation claim is redeemed, the monetary amount of the redemption shall be pro-rated on the basis of the weekly Workers' Compensation benefits he received immediately prior to the redemption in order to determine the number of hours of service with which he is to be credited pursuant to subsection (a) above.
- (c) No hours of service shall be credited under subsection (a) above for any week during which or after:
  - (i) the active participant's Workers' Compensation benefit is terminated, unless it is subsequently reinstated retroactively;
  - (ii) the active participant returns to covered employment, or;
  - (iii) the active participant engages in employment of a kind which would, if he were a retiree, result in a suspension of his benefits.
- (d) In order to receive credit for hours of service under this Section, the active participant shall be required to submit proof of the following:
  - (i) receipt of Workers' Compensation benefits;
  - (ii) the amount of the weekly benefits received;
  - (iii) the period during which such benefits were received;

- (iv) the amount, form and date of any redemption of his Workers' Compensation claim; and,
- (v) any other information requested by the Trustees.

(e) No hours of service shall be credited under this Section for any Plan Year in which the active participant earns a Credit Year based on hours of work performed in covered employment.

### **ARTICLE III - NORMAL RETIREMENT BENEFITS**

**Section 1:** An active participant shall be eligible to retire voluntarily and receive normal retirement benefits anytime after the later of:

- (a) the date upon which the active participant reaches his 65th birthday, or
- (b) the fifth anniversary of the date the active participant commenced participation in the Plan (except that in the case of an active participant who previously suffered a permanent break in service pursuant to Article II, Section 4, the date upon which he resumed participation following the most recent permanent break in service shall be the commencement date used).

The right of an active participant to receive normal retirement benefits shall be nonforfeitable on the later of the dates set out in subsections (a) and (b) above.

**Section 2:** An active participant who applies for normal retirement benefits in a form satisfactory to the Trustees shall be entitled to begin receiving benefits as of the first day of the first month following receipt of his application by the Trustees upon which he is found to have retired and to have met the eligibility requirements set out in the preceding Section. Entitlement to receive such benefit, in the absence of an earlier application by an active participant, shall commence no later than the first day of April following the calendar year in which the active participant reaches age 70 1/2.

If a participant is credited with hours of service as a result of work performed after the first day of April following the calendar year in which he reached age 70 1/2 or after he has retired, he shall be entitled to receive an additional monthly benefit effective the following January 1 based on those hours of service. Monthly benefits shall be increased effective each January 1 thereafter based upon the hours of service, if any, with which he was credited during the immediately preceding calendar year. Each such increase in monthly benefits payable shall be calculated in the same benefit form in which the retiree's monthly benefit is being paid using the benefit rate in effect on the January 1 as of which each increase is effective. If the benefit is being paid in a Joint and Survivor form, the reduction factors used shall be those applicable under that form on that same January 1. If the benefit is being paid in a Life-Ten Year Certain form, the reduction factor applied to the increase shall be adjusted to take into account the number of monthly benefit payments by which the one hundred and twenty monthly benefit payments have been reduced.

**Section 3:** Normal retirement benefits shall be payable monthly in five alternative forms. There is no limitation upon the amount of benefits an active participant may accrue except as provided under Section 9 of this Article. The five forms of benefit shall be:

(a) **SINGLE LIFE BENEFIT.** The amount which results from the application of the following formulae, applying only those for which the active participant qualifies and using the one which results in the highest amount:

(i) For those who were active participants on or after May 1, 1978, an amount equal to 3.5% of the first \$6,000 or less of the total employer contributions made to the Fund in respect to hours of work performed by the active participant after April 30, 1961, plus 2% of such contributions in excess of \$6,000, but not less than the applicable amount determined in accordance with the following table:

Less than \$500 contributed in respect to work performed on or after May 1, 1961.....	\$100
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\$500 or more, but less than	
\$1,000.....	\$110

\$1,000 or more, but less than	
\$1,500.....	\$120

\$1,500 or more.....	\$130
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(ii) For those who were active participants on or after May 1, 1979, an amount equal to 3.85% of the first \$6,000 or less of the total employer contributions made to the Fund in respect to hours of work performed by the active participant after April 30, 1961, but prior to May 1, 1980, plus 2.2% of such contributions in excess of \$6,000, but not less than the applicable amount determined in accordance with the following table:

Less than \$500 contributed in respect to work performed on or after May 1, 1961.....	\$110
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\$500 or more, but less than	
\$1,000.....	\$121

\$1,000 or more, but less than	
\$1,500.....	\$132

\$1,500 or more.....\$143

(iii) For those who were active participants on or after May 1, 1980, an amount equal to 4.235% of the first \$6,000 or less of the total employer contributions made to the Fund in respect to hours of work performed by the active participant after April 30, 1961, but prior to May 1, 1980, plus 2.42% of such contributions in excess of \$6,000, plus 2.5¢ for each hour of work performed by the active participant on or after May 1, 1980, but not less than the applicable amount determined in accordance with the following table:

Less than \$500 contributed in respect to work performed on or after May 1, 1961.....	\$121
\$500 or more but less than	
\$1,000 .....	\$133
\$1,000 or more, but less than	
\$1,500 .....	\$145
\$1,500 or more.....	\$157

(iv) For those who were active participants on or after May 1, 1981, an amount equal to 4.65% of the first \$6,000 or less of the total employer contributions made to the Fund in respect to hours of work performed by the active participant after April 30, 1961, but prior to May 1, 1980, plus 2.65% of such contributions in excess of \$6,000 plus 2.9¢ for each hour of work performed by the active participant on or after May 1, 1980, but not less than the applicable amount determined in accordance with the following table:

Less than \$500 contributed in respect to work performed on or after May 1, 1961.....	\$133
\$500 or more, but less than	
\$1,000 .....	\$146
\$1,000 or more, but less than	
\$1,500.....	\$159
\$1,500 or more .....	\$172

(v) For those who were active participants on or after December 1, 1982, an amount calculated in accordance with subparagraph (iv) with the table for determining the minimum benefit amount amended

to read:

Less than \$500 contributed in respect to work performed on or after May 1, 1961 .....\$146

\$500 or more, but less than  
\$1,000 .....\$161

\$1,000 or more, but less than  
\$1,500 .....\$175

\$1,500 or more .....\$189

- (vi) For those who were active participants on or after May 1, 1983, an amount equal to 4.65% of the first \$6,000 or less of the total employer contributions made to the Fund in respect to hours of work performed by the active participant after April 30, 1961, but prior to May 1, 1980, plus 2.65% of such contributions in excess of \$6,000 plus 3.9¢ for each hour of work performed by the active participant on or after May 1, 1980, but not less than the applicable amount determined in accordance with the table set out in subparagraph (v).
- (vii) For those who were active participants on or after May 1, 1984, an amount equal to 4.65% of the first \$6,000 or less of the total employer contributions made to the Fund in respect to hours of work performed by the active participant after April 30, 1961, but prior to May 1, 1980, plus 2.65% of such contributions in excess of \$6,000 plus 4.3¢ for each hour of work performed by the active participant on or after May 1, 1980, but not less than the applicable amount determined in accordance with the table set out in subparagraph (v).
- (viii) For those who were active participants on or after May 1, 1986, an amount equal to 4.65% of the first \$6,000 or less of the total employer contributions made to the Fund in respect to hours of work performed by the active participant after April 30, 1961, but prior to May 1, 1980, plus 2.65% of such contributions in excess of \$6,000 plus 5.15¢ for each hour of work performed by the active participant on or after May 1, 1980, but not less than the applicable amount determined in accordance with the table set out in subparagraph (v).
- (ix) For those who were active participants on or after May 1, 1987, an amount equal to 4.65% of the first \$6,000 or less of total employer contributions made to the Fund in respect to hours of work performed by the active participant after April 30, 1961, but prior to May 1, 1980, plus 2.65% of such contributions in excess of \$6,000

plus 6.4¢ for each hour of work performed by the active participant on or after May 1, 1980, but not less than the applicable amount determined in accordance with the table set out in subparagraph (v).

- (x) For those who were active participants on or after May 1, 1988, an amount equal of 4.65% of the first \$6,000 or less of total employer contributions made to the Fund in respect to hours of work performed by the active participant after April 30, 1961, but prior to May 1, 1980, plus 2.65% of such contributions in excess of \$6,000 plus 6.75¢ for each hour of work performed by the active participant on or after May 1, 1980, but not less than the applicable amount determined in accordance with the table set out in subparagraph (v).
- (xi) For those who were active participants on or after May 1, 1989, an amount equal to 4.65% of the first \$6,000 or less of total employer contributions made to the Fund in respect to hours of work performed by the active participant after April 30, 1961, but prior to May 1, 1980, plus 2.65% of such contributions in excess of \$6,000 plus 7.1¢ for each hour of work performed by the active participant on or after May 1, 1980, but not less than the applicable amount determined in accordance with the table set out in subparagraph (v).
- (xii) For those who were active participants on or after May 1, 1990, and who retire before May 1, 1991, an amount equal to 4.65% of the first \$6,000 or less of total employer contributions made to the Fund in respect to hours of work performed by the active participant after April 30, 1961, but prior to May 1, 1980, plus 2.65% of such contributions in excess of \$6,000 plus 7.7¢ for each hour of work performed by the active participant on or after May 1, 1980, but not less than the applicable amount determined in accordance with the table set out in subparagraph (v).
- (xiii) For those who were active participants on or after May 1, 1990, and who retire on or after May 1, 1991, an amount equal to 4.65% of the first \$6,000 or less of total employer contributions made to the Fund in respect to hours of work performed by the active participant after April 30, 1961, but prior to May 1, 1980, plus 2.65% of such contributions in excess of \$6,000 plus 8.0¢ for each hour of work performed by the active participant on or after May 1, 1980, but not less than the applicable amount determined in accordance with the table set out in subparagraph (v).
- (xiv) For those who were active participants on or after May 1, 1991, and who retire on or after May 1, 1992, an amount equal to 4.65% of the

first \$6,000 or less of total employer contributions made to the Fund in respect to hours of work performed by the active participant after April 30, 1961, but prior to May 1, 1980, plus 2.65% of such contributions in excess of \$6,000 plus 8.35¢ for each hour of work performed by the active participant on or after May 1, 1980, but not less than the applicable amount determined in accordance with the table set out in subparagraph (v).

- (xv) For those who were active participants on or after May 1, 1993, an amount equal to 4.65% of the first \$6,000 or less of total employer contributions made to the Fund in respect to hours of work performed by the active participant after April 30, 1961, but prior to May 1, 1980, plus 2.65% of such contributions in excess of \$6,000 plus 8.75¢ for each hour of work performed by the active participant on or after May 1, 1980, but no less than the applicable amount determined in accordance with the table set out in subparagraph (v).
- (xvi) For those who were active participants on or after May, 1994, an amount equal to 4.65% of the first \$6,000 or less of total employer contributions made to the Fund in respect to hours of work performed by the active participant after April 30, 1961, but prior to May 1, 1980, plus 2.65% of such contributions in excess of \$6,000 plus 9.0¢ for each hour of work performed by the active participant on or after May 1, 1980, but no less than the applicable amount determined in accordance with the table set out in subparagraph (v).
- (xvii) For those who were active participants on or after May 1, 1996, an amount equal to 4.65% of the first \$6,000 or less of total employer contributions made to the Fund in respect to hours of work performed by the active participant after April 30, 1961, but prior to May 1, 1980, plus 2.65% of such contributions in excess of \$6,000 plus 9.50¢ for each hour of work performed by the active participant on or after May 1, 1980, but no less than the applicable amount determined in accordance with the table set out in subparagraph (v).
- (xviii) For those who were active participants on or after May 1, 1998, an amount equal to:
  - (A) 4.65% of the first \$6,000 or less of total employer contributions made to the Fund in respect to hours of work performed by the active participant after April 30, 1961, but prior to May 1, 1980, plus
  - (B) 2.65% of such contributions in excess of \$6,000, plus

- (C) 10.0¢ for each hour of work performed by the active participant on or after May 1, 1980, but prior to May 1, 2009, plus
- (D) 8.0¢ for each hour of work performed by the active participant on or after May 1, 2009, but prior to November 1, 2012, plus
- (E) 8.0¢ for each hour of work performed by the active participant on or after November 1, 2012, but prior to May 1, 2013, except for those active participants whom contributions are being received at a contribution rate lower than that required for a construction laborer under the Michigan Infrastructure and Transportation Agreement, an amount for each such hour of work determined by pro rating the amount of the actual contribution rate to the construction laborer rate in the Michigan Infrastructure and Transportation Agreement, rounded up, if necessary, to the next highest full cent, plus
- (F) 8.0¢ for each hour of work performed by the active participant on or after May 1, 2013 but prior to May 1, 2014, except for those active participants whom contributions are being received at a contribution rate lower than that required for a construction laborer under the Michigan Infrastructure and Transportation Agreement, an amount for each such hour of work determined by pro rating the actual contribution rate to the construction laborer rate in the Michigan Infrastructure and Transportation Agreement, rounded up, if necessary, to the next highest full cent, plus
- (G) 7.0¢ for each hour of work performed by the active participant on or after May 1, 2014, except for those active participants whom contributions are being received at a contribution rate lower than that required for a construction laborer under the Michigan Infrastructure and Transportation Agreement, an amount for each such hour of work determined by pro rating the actual contribution rate to the construction laborer rate in the Michigan Infrastructure and Transportation Agreement, rounded up, if necessary, to the next highest full cent, but

In any event, no less than the applicable amount determined in accordance

with the table set out in subparagraph (v) or"

(b) **50% JOINT AND SURVIVOR.** For active participants who retire and whose effective date for commencing to receive benefits is prior to May 1, 2000, an amount actuarially equivalent to the Single Life Benefit reduced to provide an immediate benefit payable to the retiree for his life and, upon his death, to the retiree's surviving spouse for the remainder of her life in an amount equal to one half of the benefit payable to the retiree, or, for active participants who retire and whose effective date for commencing to receive benefits is on or after May 1, 2000, an amount determined by reducing the Single Life Benefit by a factor based upon the difference between the ages of the retiree and the retiree's surviving spouse in accordance with the following formula: a five percent reduction modified by increasing the reduction one half of one percent for each year the spouse is more than three years younger than the retiree or decreasing the reduction one half of one percent for each year the spouse is more than three years older than the retiree, provided, however, that the reduction factor shall never be less than one percent, to provide an immediate benefit payable to the retiree for his life and, upon his death, to the retiree's surviving spouse for the remainder of her life an amount equal to one half of the benefit payable to the retiree, or

(c) **75% JOINT AND SURVIVOR.** For active participants who retire and whose effective date for commencing to receive benefits is on or May 1, 2002, an amount determined by reducing the Single Life Benefit by a factor based upon the difference between the ages of the retiree and the retiree's surviving spouse in accordance with the following formula: a seven and one half percent reduction modified by increasing the reduction one half of one percent for each year the spouse is more than three years younger than the retiree or decreasing the reduction one half of one percent for each year the spouse is more than three years older than the retiree, provided, however, that the reduction factor shall never be less than one percent, to provide an immediate benefit payable to the retiree for his life and, upon his death, to the surviving spouse for the remainder of her life an amount equal to three quarters of the benefit payable to the retiree, or

(d) **100% JOINT AND SURVIVOR.** For active participants who retire and whose effective date for commencing to receive benefits is prior to May 1, 2000, an amount actuarially equivalent to the Single Life Benefit reduced to provide an immediate benefit payable to the retiree for his life and, upon his death, to the retiree's surviving spouse for the remainder of her life an amount equal to the benefit payable to the retiree or, for active participants who retire and whose effective date for commencing to receive benefits is on or after May 1, 2000, an amount determined by reducing the Single Life Benefit by a factor based upon the difference between the ages of the retiree and the retiree's surviving spouse in accordance with the following formula: a ten percent reduction modified by increasing the reduction one half of one percent for each year the spouse is more than three years younger than the retiree or

decreasing the reduction one half of one percent for each year the spouse is more than three years older than the retiree, provided, however, that the reduction factor shall never be less than one percent, to provide an immediate benefit payable to the retiree for his life and, upon his death, to the retiree's surviving spouse for the remainder of her life an amount equal to the benefit payable to the retiree, or

(e) **LIFE-TEN YEAR CERTAIN.** An amount actuarially equivalent to the Single Life Benefit reduced to provide a benefit payable, should the retiree die after the first benefit becomes payable but before one hundred and twenty monthly benefits have been paid, to a beneficiary designated by the retiree at the time of retirement commencing the first day of the month following the retiree's death and continuing until the number of payments made to the retiree and to the beneficiary combined is one hundred and twenty. If the retiree should die without being survived by a beneficiary or the beneficiary should survive the retiree and then die before, in either case, a total of one hundred and twenty monthly benefits has been paid, the commuted value of the remaining payments needed to reach one hundred and twenty shall be paid in a lump sum to the person or persons to whom a benefit would be payable upon the death of certain active participants pursuant to Article VI, Section 4, provided that claim therefor is made within twelve months of the death of the retiree or beneficiary.

The retiree shall be permitted, before a total of one hundred and twenty monthly benefits have been paid, to change his original beneficiary designation, subject to the written consent of the spouse to whom he was legally married at the time benefits first became payable if she is still living. Any such designation or change in designation shall be effective the first of the month following the receipt of written notice signed by the retiree and, if required, written spousal consent.

**Section 4:** Each active participant eligible to receive a normal retirement benefit shall have the option of electing any of the five alternative forms of benefit at the time he applies for the benefit, subject to the restrictions set out in this section.

If the active participant is legally married, the benefit shall be paid in the Qualified Joint and Survivor Annuity form unless he elects to waive that form and his spouse consents to the waiver. Spousal consent to the participant's waiver of the Qualified Joint and Survivor form is not required for a participant who, at the time he applies for benefits, is legally separated, pursuant to a court order, or where the Trustees determine that the spouse cannot be located. For each participant, the Qualified Joint and Survivor Annuity form is the Joint and Survivor form, described in Article III, Section 3, with the greatest value when compared to the Single Life form. Each affected active participant shall be provided with a written explanation of the Qualified Joint and Survivor Annuity form of benefit, waiver and spousal consent and the relative values of the optional forms of benefit in a manner that would satisfy the notice requirements of Section 417(a)(3) of the Internal Revenue Code and Treasury Regulation 1.417(a)(3)-1, no less than 30 days and no more than 180 days before the date of which the first benefit becomes payable. Distribution of an optional form of benefits may

begin less than 30 days but not less than 7 days after the written explanation is given if the participant elects, and his spouse consents, to waive the requirement that the written explanation be given at least 30 days before the annuity starting date.

Any such waiver and any spousal consent thereto must be in writing on a form prescribed and furnished by the Trustees. To be valid, any spousal consent must be executed within 180 days prior to the date upon which the first normal retirement benefit becomes payable and must be witnessed by an authorized Fund representative or a notary public.

The 180 day maximum time period for providing the written explanation shall not be considered violated merely because, due solely to administrative delay, distribution commences more than 180 days after the written explanation is provided to the participant.

If a retiree has begun receiving a normal retirement benefit in any of the Joint and Survivor forms and the person to whom he was legally married at the time such benefit became payable dies, the benefit shall be recalculated in the Single Life Benefit form and shall thereafter be paid to the retiree in that form.

If the active participant is not legally married, the benefit shall be paid in the Single Life form unless he elects to waive that form.

The election of any option may be rescinded and a different option elected any number of times by the same process used to elect the original option, subject to the same restrictions, at any time prior to the date upon which the first benefit thereunder becomes payable.

**Section 5:** If it is determined that an administrative delay, error or omission on the part of any person engaged by the Fund with respect to determining eligibility for or the amount of the benefit, or in paying the benefit, delayed the commencement of benefit payments to a participant, the participant may affirmatively elect a retroactive annuity starting date which precedes the date on which the written explanation required by Article III, Section 4, was provided to the participant and distribution may begin not less than seven (7) days after the explanation of the Qualified Joint and Survivor Annuity was provided to the participant.

If the participant so elects, he shall receive a make-up payment equal to any missed payment(s) for the period from the retroactive annuity starting date to the date of the actual make-up payment plus interest, calculated using the rate of interest on 30-year Treasury securities as specified by the Commissioner of the Internal Revenue for the third calendar month preceding the first day of the Plan Year during which the actual make-up payment is made, from the date(s) of the missed payment(s).

The participant's spouse, determined as of the date of the actual make-up payment, must, in addition to consenting to any election to waive the Qualified Joint and Survivor Annuity form, consent to the distribution based on the retroactive annuity starting date. Any such waiver and any spousal consent thereto must be made pursuant to Article III, Section 4, using the date of the make-

up payment in place of the date as of which monthly benefit payments are to commence. Consent to the distribution based on the retroactive annuity starting date is not required if the amount of the survivor annuity payable upon the death of the participant is not less than the amount that the survivor annuity would have been under the same form of benefit if the participant had not elected a retroactive annuity starting date.

If the person to whom the participant was legally married on the retroactive annuity starting date is no longer his legal spouse on the date of the actual make-up payment, consent of the former spouse to the retroactive annuity starting date and to the waiver of the Qualified Joint and Survivor Annuity is not required, unless otherwise required under a Qualified Domestic Relations Order.

Benefit payments and calculations will be made as required by Section 417 of the Internal Revenue Code and the rules and regulations applicable thereto at any time of reference or by subsequent applicable Federal legislation and in accordance with the form of benefit elected by the participant.

**Section 6:** The Trustees may remedy a delay in the payment of any benefit under the terms of the Plan if it is determined that it resulted from an administrative delay, error or omission on the part of any person engaged by the Fund with respect to determining eligibility for or the amount of the benefit, or in paying the benefit. The remedy shall be a make-up payment equal to the missed payment(s) plus interest, calculated using the rate of interest on 30-year Treasury securities as specified by the Commissioner of the Internal Revenue for the third calendar month preceding the first day of the Plan Year during which the actual make-up payment is made, from the date(s) of the missed payment(s), provided that the Fund Office determines that the participant, alternate payee, or beneficiary was otherwise eligible for the benefit as of the date of the first delayed payment.

**Section 7:** If an active participant does not retire at age 65, or the earliest date at which he would be eligible to commence receiving normal retirement benefits if later, the Single Life form of his benefit shall be the greater of:

- (a) an amount actuarially equivalent to the normal retirement benefit to which he would have been entitled had he applied to receive payments on the first day of the month following the month in which he became eligible for normal retirement benefits, or
- (b) an amount calculated in accordance with Section 3 of this Article including any additional employer contributions made to the Fund in respect to hours of work performed by the active participant after the month in which he became eligible for normal retirement benefits.

**Section 8:** A retiree who has begun to receive normal retirement benefits shall have his monthly benefit suspended for any period prior to the first day of April following the calendar year in which he reaches age 70 1/2 if he meets all of the following conditions:

- (a) he becomes actively employed or self-employed for at least forty hours in any

calendar month or for at least forty hours in the payroll periods falling within a calendar month. Such hours shall include hours for which the retiree is paid or entitled to payment for performance of duties as well as hours for which he is paid or entitled to payment on account of a period of time for which no duties are performed due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military leave or leave of absence,

- (b) such employment is in the same industry as the type of business activity engaged in by any employer who was an employer at the time the retiree first received monthly benefits (or would have received monthly benefits had he not remained in or returned to an employed status),
- (c) such employment is in the same trade or craft in which the retiree was employed at any time while participating in the Plan, and
- (d) such employment is within the State of Michigan or within the remainder of any Standard Metropolitan Statistical Area (SMSA), part of which is within the State of Michigan.

A retiree who has begun to receive normal retirement benefits and who intends to return to employment as described above must notify the Trustees in advance on a form prescribed and furnished by them of his intent to do so and must again notify the Trustees on a form prescribed and furnished by them when he no longer meets all four of the conditions set forth above so that his monthly benefits may be resumed. Should such a retiree who returns to such employment without notifying the Trustees of his intent to do so be found to be or to have been working on a job, the Trustees will presume that he has been re-employed under the four conditions set forth above for the entire period that his employer has been working or worked on that particular jobsite and suspend the retiree's monthly benefits for such period. This presumption shall be rebuttable and the retiree shall have thirty days from the date the notice of suspension is issued to submit evidence to rebut, failing which the presumption shall become irrebuttable.

In the event a retiree receives monthly benefits to which he is not entitled under the provisions of this Section, the Trustees shall recoup any overpayments from benefits which subsequently become payable to him or a beneficiary claiming through him to the extent permitted by applicable federal law or valid regulation.

The Trustees may waive, in whole or in part, the forfeiture aspect of this provision for a specified period of time by resolution, subject only to the condition that any such waiver be equally applicable to similarly situated retirees then receiving normal retirement benefits.

For the portion of the accrued benefit based on hours of work performed on or before April 30, 2010, a Retiree shall be permitted to continue receiving monthly benefits under the Plan while employed open cut, tunnel or shaft work for an employer or a business entity obligated to contribute to another pension fund affiliated with the Laborers International Union of North America.

**Section 9:** There is no limitation on the amount of benefits a participant may accrue or receive hereunder except as required by Section 415 of the Internal Revenue Code and the rules and regulations applicable thereto in limitation years beginning on and after July 1, 2007, which are incorporated herein by reference, except as otherwise provided herein. The Plan's limitation year is the calendar year, January 1 to December 31, so these provisions will apply under the Plan on and after January 1, 2008.

The application of the provisions of this Section shall not cause the maximum permissible benefit of any participant to be less than the participant's accrued benefit as of December 31, 2006, provided the Plan met the applicable requirements of the statute, regulations and other published guidance on Section 415 in effect immediately before July 1, 2007, which it did.

For purposes of applying the limitations imposed by Section 415:

- (a) the only benefits accrued under this Plan which are aggregated with other benefits are those based on contributions by an employer that also maintains(ed) another, non-multiemployer plan under which the participant accrued or is accruing benefits.
- (b) annual cost-of-living adjustments to the Section 415 dollar limitation, which are incorporated by reference, shall apply to all remaining benefit payments to a participant who has commenced receiving benefits under the Plan and to the benefits of a participant who has terminated employment with a contributing employer.
- (c) the dollar limitation on a participant's annual benefit, which is \$185,000 in 2008, shall be adjusted if the participant commences receiving benefits before he attains age 62 or after he attains age 65 in accordance with Section 415, but shall not be adjusted to reflect the probability of the participant's death before he attains age 62 or between the date he attains age 65 and his annuity starting date for purposes of determining the actuarially equivalent amount described in Treas. Reg. 1.415(b)-1(d)(1)(i) and 1.415(b)-1(e)(1)(i).

#### **ARTICLE IV - EARLY RETIREMENT BENEFITS**

**Section 1:** An active participant shall be eligible to retire voluntarily and either receive early retirement benefits prior to the attainment of age 65 or defer commencement of receipt of retirement benefits until attainment of age 65, provided:

- (a) that the active participant has accumulated ten Credit Years and has reached his 55th birthday, or
- (b) on or after May 1, 1997,

- (i) for benefits accrued through April 30, 2014, that the active participant has reached an age and accrued a number of Credit Years, the sum of which, when added together, is at least 80, and
- (ii) for benefits accrued on or after May 1, 2014, that the active participant has reached an age and accrued a number of Credit Years, the sum of which, when added together, is at least 85, and
- (iii) effective May 1, 2014, for benefits accrued on or after this date, that the active participant is eligible to receive the portion of his benefits accrued through April 30, 2014 as provided in subparagraph (b)(i), or

(c) on or after May 1, 1998, that the active participant has accrued 30 or more Credit Years.\*

**Section 2:** An active participant who applies for early retirement benefits in a form satisfactory to the Trustees shall be entitled to either:

- (a) begin receiving benefits as of the first day of the first month following receipt of his application by the Trustees upon which he is found to have retired and to have met the eligibility requirements set out in the preceding Section or as of the first day of any month between such day and his 65th birthday, as he may elect, or
- (b) begin receiving deferred retirement benefits to commence as of the first day of the month next following his 65th birthday or, should the active participant, after electing to defer commencement of receipt of retirement benefits, have returned to work and be working on his 65th birthday, the date he re-applies for commencement of his benefits, whichever is later.

If an active participant eligible to receive early retirement benefits elects not to have payment commence as of the earliest date permitted under this Section, the active participant must file a written request with the Trustees stating the date he wishes to have benefits commence, which date must be later than the date the request is filed.

If a participant is credited with hours of service as a result of work performed after the first day of April following the calendar year in which he reached age 70½ or after he has retired, he shall be entitled to receive an additional monthly benefit effective the following January 1 based on those hours of service. Monthly benefits shall be increased effective each January 1 thereafter based upon the hours of service, if any, with which he was credited during the immediately preceding calendar year. Each such increase in monthly benefits payable shall be calculated in the same benefit form in which the retiree's monthly benefit is being paid using the benefit rate in effect on the January 1 as of

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\* For the purpose of applying the eligibility requirements of Article IV, Section 1, only, consecutive years prior to May 1, 1961, shall be counted as Credit Years, if they would have been counted toward "Continuous Service" on April 30, 1976, under the plan then in effect.

which each increase is effective. If the benefit is being paid in a Joint and Survivor form, the reduction factors used shall be those applicable under that form on that same January 1. If the benefit is being paid in a Life-Ten Year Certain form, the reduction factor applied to the increase shall be adjusted to take into account the number of monthly benefit payments by which the one hundred and twenty monthly benefit payments have reduced.

**Section 3:** Subject to the limitations in Article III, Section 9, the amount and form of early retirement benefits shall be determined as follows:

- (a) The early retirement Single Life Benefit shall be equal to the normal retirement Single Life Benefit unless the active participant's eligibility to receive his entire, or a portion of, his early retirement benefits is established solely pursuant to Section 1(a) or Section 1(b)(iii) of this Article and he elects to commence receiving retirement benefits prior to his 65th birthday.
  - (i) If the early retirement benefit is payable only pursuant to Section 1(a) of this Article, the Single Life Benefit shall be reduced by five-twelfths of one percent (5/12%) for each complete calendar month by which the active participant is under age 65 on the day as of which payment of early retirement benefits commences.
  - (ii) If a portion of the early retirement benefit is payable only pursuant to Section 1(b)(iii) of this Article, the portion of the Single Life Benefit related to benefits accrued on or after May 1, 2014 shall be reduced by five-twelfths of one percent (5/12%) for each complete calendar month by which the active participant is under age 65 on the day as of which payment of early retirement benefits commences. The portion of the Single Life Benefit related to benefits accrued through April 30, 2014 shall be unreduced.
- (b) The early retirement benefit may be paid in the form of a Single Life Benefit, or in any of the alternate forms provided in Article III, Section 3. The amount payable in each of the alternate forms shall be equal to the Single Life Benefit after it has been reduced pursuant to subsection (a) above and adjusted pursuant to Article III, Section 3(b), 3(c), 3(d), or 3(e), as applicable. The resulting amount shall be the monthly retirement benefit thereafter payable to him throughout his retirement.

**Section 4:** Each active participant eligible to receive an early retirement benefit shall have the option of electing any of the five alternative forms of benefit at the time he applies for the benefit, subject to the restrictions set out herein.

If the active participant is legally married, the benefit shall be paid in the Qualified Joint and Survivor Annuity form unless he elects to waive that form and his spouse consents to the waiver. Spousal consent to the participant's waiver of the Qualified Joint and Survivor form is not required for a participant who, at the time he applies for benefits, is legally separated, pursuant to a court

order, or where the Trustees determine that the spouse cannot be located. For each Participant, the Qualified Joint and Survivor Annuity form is the Joint and Survivor form, described in Article III, Section 3, with the greatest relative value when compared to the Single Life form. Each affected active participant shall be provided with a written explanation of the Qualified Joint and Survivor Annuity form of benefit, waiver and spousal consent and the relative values of the optional forms of benefit in a manner that it would satisfy the notice requirements of Section 417(a)(3) of the Internal Revenue Code and Treasury Regulation 1.417(a)(3)-1, no less than 30 days and no more than 180 days before the date of which the first benefit becomes payable. Distribution of an optional form of benefits may begin less than 30 days but not less than 7 days after the written explanation is given if the participant elects, and his spouse consents, to waive the requirement that the written explanation be given at least 30 days before the annuity starting date.

Any such waiver and any spousal consent thereto must be in writing on a form prescribed and furnished by the Trustees. To be valid, any spousal consent must be executed within 180 days prior to the date upon which the first early retirement benefit becomes payable and must be witnessed by an authorized Fund representative or a notary public.

The 180 day maximum time period for providing the written explanation shall not be considered violated merely because, due solely to administrative delay, distribution commences more than 180 days after the written explanation is provided to the participant.

The election of any option may be rescinded and a different option elected any number of times by the same process used to elect the original option, subject to the same restrictions, at any time prior to the date upon which the first benefit thereunder becomes payable.

If a retiree has begun receiving an early retirement benefit in any of the Joint and Survivor forms and the person to whom he was legally married at the time such benefit became payable dies, the benefit shall be recalculated in the Single Life Benefit form and shall thereafter be paid to the retiree in that form.

If the active participant is not legally married, the benefit shall be paid in the Single Life form unless he elects to waive that form.

**Section 5:** If it is determined that an administrative delay, error or omission on the part of any person engaged by the Fund with respect to determining eligibility for or the amount of the benefit, or in paying the benefit, delayed the commencement of benefit payments to a participant, the participant may affirmatively elect a retroactive annuity starting date which precedes the date on which the written explanation required by Article IV, Section 4, was provided to the participant and distribution may begin not less than seven (7) days after the explanation of the Qualified Joint and Survivor Annuity was provided to the participant.

If the participant so elects, he shall receive a make-up payment equal to any missed payment(s) for the period from the retroactive annuity starting date to the date of the actual make-up

payment plus interest, calculated using the rate of interest on 30-year Treasury securities as specified by the Commissioner of the Internal Revenue for the third calendar month preceding the first day of the Plan Year during which the actual make-up payment is made, from the date(s) of the missed payment(s).

The participant's spouse, determined as of the date of the actual make-up payment, must, in addition to consenting to any election to waive the Qualified Joint and Survivor Annuity form, consent to the distribution based on the retroactive annuity starting date. Any such waiver and any spousal consent thereto must be made pursuant to Article IV, Section 4, using the date of the make-up payment in place of the date as of which monthly benefit payments are to commence. Consent to the distribution based on the retroactive annuity starting date is not required if the amount of the survivor annuity payable upon the death of the participant is not less than the amount that the survivor annuity would have been under the same form of benefit if the participant had not elected a retroactive annuity starting date.

If the person to whom the participant was legally married on the retroactive annuity starting date is no longer his legal spouse on the date of the actual make-up payment, consent of the former spouse to the retroactive annuity starting date and to the waiver of the Qualified Joint and Survivor Annuity is not required, unless otherwise required under a Qualified Domestic Relations Order.

Benefit payments and calculations will be made as required by Section 417 of the Internal Revenue Code and the rules and regulations applicable thereto at any time of reference or by subsequent applicable Federal legislation and in accordance with the form of benefit elected by the participant.

**Section 6:** The Trustees may remedy a delay in the payment of any benefit under the terms of the Plan if it is determined that it resulted from an administrative delay, error or omission on the part of any person engaged by the Fund with respect to determining eligibility for or the amount of the benefit, or in paying the benefit. The remedy shall be a make-up payment equal to the missed payment(s) plus interest, calculated using the rate of interest on 30-year Treasury securities as specified by the Commissioner of the Internal Revenue for the third calendar month preceding the first day of the Plan Year during which the actual make-up payment is made, from the date(s) of the missed payment(s), provided that the Fund Office determines that the participant, alternate payee, or beneficiary was otherwise eligible for the benefit as of the date of the first delayed payment.

**Section 7:** A retiree who has begun to receive early retirement benefits shall have his monthly benefit suspended if he meets the conditions applicable to the suspension of normal retirement benefits set out in Article III, Section 8, subject to the same procedures and requirements described therein.

**Section 8:** An active participant who retires early and begins receiving early retirement benefits on or after May 1, 1998, and whose eligibility to receive those benefits is established pursuant to Section 1(a) of this Article shall receive, in addition to his monthly early retirement benefit, a supplemental benefit each month from the month following the month in which he reaches

his 60<sup>th</sup> birthday to the month in which he reaches his 62<sup>nd</sup> birthday. An active participant who retires early and begins receiving early retirement benefits on or after May 1, 1998, and whose eligibility to receive those benefits is established pursuant to Section 1(b) or (c) of this Article shall receive, in addition to his monthly early retirement benefit, a supplemental benefit each month from the month in which his first monthly early retirement benefit is payable to the month in which he reaches his 62<sup>nd</sup> birthday. An active participant who retires early and begins receiving early retirement benefits on or after May 1, 2014, and whose eligibility to receive those benefits is established pursuant to Section 1(b) or (c) of this Article shall receive, in addition to his monthly early retirement benefit, a supplemental benefit each month from the later of the month following the month in which he reaches his 55<sup>th</sup> birthday or the month in which his first monthly early retirement benefit is payable to the month in which he reaches his 62<sup>nd</sup> birthday.

The amount of the supplemental benefit payable shall be determined as follows:

- (a) For those who retire and begin receiving early retirement benefits before May 1, 2014,
  - (i) the amount of the supplemental benefit payable through April 30, 2014, shall be determined by multiplying \$25 for those who have accrued at least five but fewer than fifteen Credit Years, \$32.50 for those who have accrued at least fifteen but fewer than twenty-five Credit Years or \$40 for those who have accrued twenty-five or more Credit Years by the number of Credit Years the retiree had accrued before retirement up to a maximum of thirty Credit Years,
  - (ii) the amount of the supplemental benefit payable on and after May 1, 2014 shall be determined in accordance with Section 8(a)(i) above, but then reduced by 15%.
- (b) For those who retire and begin receiving early retirement benefits on or after May 1, 2014 and have accrued a minimum of twenty-five Credit Years as of the effective date of retirement,
  - (i) by multiplying the number of Credit Years the retiree had accrued as of May 1, 2014 by, (1) \$15 for those who have accrued at least five but fewer than fifteen Credit Years as of May 1, 2014, (2) \$20 for those who have accrued at least fifteen but fewer than twenty-five Credit Years as of May 1, 2014 or (3) \$25 for those who have accrued twenty-five or more Credit Years as of May 1, 2014 up to a maximum of thirty Credit Years, and,
  - (ii) for those who have accrued less than thirty Credit Years as of the effective date of retirement, the maximum amount of benefits shall not exceed \$500.

No supplemental benefit shall be payable for any month during which the retiree's monthly benefit is suspended pursuant to Article IV, Section 7. Supplemental benefits shall be payable only to the retiree, not to his surviving spouse or other beneficiary.

## **ARTICLE V - DISABILITY BENEFITS**

**Section 1:** A totally and permanently disabled participant is one who has been determined by the Social Security Administration to be entitled to receive Social Security Disability Benefits, which entitlement commenced while the individual was an active participant.

**Section 2:** A totally and permanently disabled participant who applies for disability benefits in a form satisfactory to the Trustees shall be entitled to begin receiving benefits as of the first day of the month following receipt of his application by the Trustees provided:

- (a) that he shall have accrued five Credit Years, and
- (b) that he is not then eligible for normal retirement benefits pursuant to Article III, Section 1, and
- (c) that he is not then eligible to receive his entire accrued benefit based upon an unreduced Single Life Benefit pursuant to Article IV, Sections 1 and 3, except that this Subsection (c) shall not apply if he is then receiving or is determined to be eligible to receive Workers' Compensation benefits from an employing unit covered by this Plan, and
- (d) that his disability is not the result of an intentionally self-inflicted injury or of a felonious enterprise in which he engaged or an event or occurrence which entitled him to receive Workers' Compensation benefits from an employing unit other than an employer covered by this Plan.

The Trustees may require, as a condition of payment of disability benefits, any active or inactive participant who has made application for or is receiving disability benefits to submit such evidence of eligibility, or continued eligibility, for Social Security Disability Benefits and such other information as the Trustees, in their discretion, deem appropriate.

If any participant found to be totally and permanently disabled, pursuant to Section 1 above, presents proof of entitlement to Social Security Disability Benefits with an entitlement date which precedes the date upon which disability benefits would otherwise be payable hereunder, he shall receive additional monthly disability benefits to the date of entitlement under Social Security or for twelve months, whichever is the lesser number.

The Trustees shall have the sole and exclusive authority to modify, reduce or terminate all current and future disability benefits provided pursuant to this Article V. Disability benefits are not a vested benefit.

**Section 3:** The monthly disability benefit payable under this Article shall be \$550 a month effective May 1, 1998.

Unless terminated for a reason set out in Section 4 of this Article or replaced by a normal or an early retirement benefit, the disability benefit shall be payable during continued disability. Any totally and permanently disabled participant receiving a disability benefit shall, upon reaching age 65, thereupon begin receiving a normal retirement benefit in the form elected by him subject to the conditions set out in Article III, Section 4. Any totally and permanently disabled participant receiving a disability benefit who becomes eligible to receive an early retirement benefit that is not subject to reduction pursuant to Article IV, Section 3, shall thereupon begin receiving an early retirement benefit in the form elected by him subject to the conditions set out in Article IV, Section 4, unless he chooses instead to continue receiving the disability benefit. When the benefit of a totally and permanently disabled participant is converted to a normal retirement benefit or an early retirement benefit, the accrued benefit payable shall not be less than the monthly disability benefit then being paid.

**Section 4:** Disability benefits shall be terminated:

- (a) On the effective date of the participant's termination of eligibility for Social Security Disability Benefits, or
- (b) Immediately upon the participant's refusing or failing to provide satisfactory evidence of continuing eligibility for Social Security Disability Benefits when requested, or
- (c) If the Plan no longer provides for disability benefits.

**Section 5:** Disability benefits received under this Plan shall not be coordinated pursuant to Michigan Compiled Laws Annotated (MCLA) §418.354, if that provision is found to be applicable to this Plan, with any workers' disability compensation benefits to which the totally and permanently disabled participant may be or may become entitled.

## **ARTICLE VI - DEATH BENEFITS**

**Section 1:** A death benefit may, upon application in a form satisfactory to the Trustees accompanied by proper proof of death, be payable upon the death of an active or inactive participant or a retiree. Distribution of any death benefit payable pursuant to Sections 3 and 5 hereof shall commence no later than one year after the death of the active or inactive participant or retiree. Distribution of any other death benefit payable hereunder to a designated beneficiary shall be made no later than five years after the death of the active or inactive participant or the retiree.

**Section 2:** If an active participant dies after he has accrued five Vesting Years but before he has met the eligibility requirements for normal or early retirement and is survived by a surviving spouse, the surviving spouse shall be the beneficiary to whom the death benefit shall be payable. The beneficiary shall be entitled to receive a monthly benefit commencing on the earliest date on which the deceased active participant would have been eligible to receive a normal or early retirement benefit and calculated as though the deceased active participant had:

- (a) become inactive on the date of his death,
- (b) survived to the earliest date on which he would have been eligible to receive a normal or early retirement benefit,
- (c) retired on that date under the 100% Joint and Survivor form, and
- (d) died the following day.

If the beneficiary should die before payment of the deferred monthly benefit commences, a single sum death benefit shall be determined and paid as provided in Section 4 of this Article with the deceased beneficiary substituted for the deceased active participant throughout.

If the higher of the single sum death benefit determined pursuant to Section 4 of this Article and the single sum actuarial equivalent of the deferred monthly benefit is \$5,000 or less, the surviving spouse shall be paid that higher single sum as the death benefit. If the higher of the single sum death benefit determined pursuant to Section 4 of this Article and the single sum actuarial equivalent of the deferred monthly benefit is more than \$5,000, the surviving spouse may choose to receive that higher single sum as the death benefit in lieu of the deferred monthly benefit. Receipt and acceptance of such a single sum death benefit shall terminate the rights of the beneficiary hereunder.

**Section 3:** If an active participant dies after he has met the eligibility requirements for early or normal retirement but before he either applies for early or normal retirement benefits or any early or normal retirement benefit for which he has applied becomes payable, and is survived by a surviving spouse, the surviving spouse shall be the beneficiary to whom the death benefit shall be payable. The beneficiary shall be entitled commencing the first day of the month following the date of the active participant's death to receive for the remainder of her life a monthly benefit equal to the benefit the deceased active participant would have received had he retired rather than died on the date of his death and elected to have his benefit paid in the 100% Joint and Survivor form.

**Section 4:** If an active participant dies after he has accrued five Credit Years but before he has commenced receiving normal or early retirement benefits and is not survived by a surviving spouse, the death benefit payable shall be seventy-five percent of the total employer contributions made to the Fund in respect to hours of work performed by the deceased active participant after April 30, 1961.

The death benefit payable under this Section shall be payable to the following beneficiary(ies):

- (a) any person(s) designated by the deceased active participant as beneficiary with this Fund in equal shares or such other proportion designated by the participant, or
- (b) if none of the above survives, any person(s) designated by the deceased active participant as contingent beneficiary(ies) with this Fund in equal shares or such other proportion designated by the participant, or
- (c) if no designation(s) is made, any person(s) (including any organization) who has paid or incurred the expense of burial of the deceased active participant, provided that claim therefor is made within 45 days of death or before any other death benefit payable hereunder has been paid, shall receive, on a pro-rata basis, the lesser of the death benefit payable or the actual expenses of burial, and then
- (d) the excess, if any, or the entire death benefit payable, if no claim for burial expenses has been timely made, shall be paid to such of the following as survive the active participant:
  - (i) the children of the deceased active participant in equal shares, or
  - (ii) if none of the above survives, then the parents of the deceased active participant in equal shares, or
  - (iii) if none of the above survives, then the brothers and sisters of the deceased active participant in equal shares, or
  - (iv) if none of the above survives, the participant's estate or the person who delivers to the Fund a sworn Affidavit of Decedent's Successor for Delivery of Certain Assets Owned by Decedent with respect to the participant in accordance with MCL §§700.3983-700.3984.

**Section 5:** If a retiree dies after normal or early retirement benefits in any of the Joint and Survivor forms for which he has applied become payable, the death benefit payable shall be as set out in Article III, Section 3(b), (c) or (d).

**Section 6:** If a retiree dies after normal or early retirement benefits in the Life-Ten Year Certain form for which he has applied becomes payable, the death benefit payable shall be as set out in Article III, Section 3(e).

**Section 7:** Upon the death of any retiree, a lump sum death benefit in the amount of \$4,000 shall be payable to the person to whom the retiree is married at the time of his death, whether or not

that person is his surviving spouse, or, if the retiree is not married at the time of his death, to the beneficiary(ies) determined in accordance with Article VI, Section 4.

**Section 8:** If the active or inactive participant has designated his spouse as a beneficiary and they are subsequently divorced, the status of the spouse as beneficiary shall terminate upon entry of the judgment or decree of divorce. It shall be the responsibility of the active or inactive participant to notify the Trustees of the entry of a judgment or decree of divorce and to provide a copy of it. A former spouse shall be recognized as a beneficiary only if designated by the active or inactive participant as a beneficiary with the Fund after the entry of the judgment or decree of divorce or if so designated by a qualified domestic relations order.

**Section 9:** The death benefit provisions of this Article shall be applicable to inactive participants who qualify to receive deferred monthly retirement benefits under Article VII, Section 3(b), and their beneficiaries, except that the vesting percentages set out in Article VII, Section 2(a)(B), shall also be applied to the death benefit amounts calculated pursuant to this Article.

**Section 10:** In the event an active or inactive participant or a retiree dies and the Trustees find that no person or persons qualify as beneficiary pursuant to the terms of this Article, then no death benefit shall be payable to anyone.

## **ARTICLE VII - VESTED BENEFITS**

**Section 1:** An active participant shall accrue a Vesting Year for each accumulated Credit Year. An active participant or inactive participant shall also accrue a Vesting Year for any Plan Year in which he is employed in contiguous service or in a combination of contiguous service and hours of service for the number of hours required for him to accrue a Credit Year under the terms of Article II, Section 2. Subject to the set of principles adopted by the Trustees on May 8, 1985, as those principles have been or may hereafter be amended, hours worked in other building trades in the area as reflected in the records of their pension funds shall be presumed to be employment in contiguous service. No more than one Vesting Year may be accrued in a single Plan Year. (All times during which any active or inactive participant has been employed by the Detroit Board of Education, even though within the bargaining unit represented by the Union through the Greater Detroit Building and Construction Trades Council, shall be counted in determining Vesting Years.)

**Section 2:** Each participant shall, after accruing five Vesting Years, become vested in a basic vested amount, which shall be calculated as follows:

- (a) For an employee covered by a collective bargaining agreement:
  - (A) determine the amount which results from the application of the formulae by which the normal retirement benefit of an eligible active participant is determined under the Single Life Benefit form pursuant to Article III, Section 3(a), subject to the limitations of Article III, Section 9,

(B) determine the applicable vesting percentage to which the active or inactive participant's accrued Vesting Years entitle him in accordance with the following table:

Five Vesting Years.....	50%
Six Vesting Years.....	60%
Seven Vesting Years.....	70%
Eight Vesting Years.....	80%
Nine Vesting Years.....	90%
Ten or more Vesting Years.....	100%

but for any participant who is an active participant on May 1, 1997, or who accrues at least one hour of service on or after May 1, 1997, the applicable vesting percentage to which the active or inactive participant's accrued Vesting Years entitle him is determined in accordance with the following table:

Fewer than five Vesting Years.....	0%
Five or more Vesting Years.....	100%

(C) apply the percentage determined under subparagraph (B) to the figure determined under subparagraph (A).

(b) For all other employees, use the amount which results from the application of the formulae by which the normal retirement benefit of an eligible active participant is determined under the Single Life Benefit form pursuant to Article III, Section 3(a), subject to the limitations of Article III, Section 9.

(c) If the benefit in the Single Life form which results from the application of the Article III, Section 3(a), formulae is a minimum benefit and the active or inactive participant has accrued fewer Vesting Years than required at the time of reference for 100% vesting, the benefit determined under Section 2(a)(A) or Section 2(b) of this Article shall be reduced by a fraction, the numerator of which is the number of Vesting Years accrued and the denominator of which is the number of Vesting Years required for 100% vesting at that time.

**Section 3:** An inactive participant who is no longer accruing Vesting Years and who applies in a form satisfactory to the Trustees for vested benefits shall:

(a) if the single sum actuarial equivalent of the basic vested amount in which he is vested is \$5,000 or less, be paid that amount in a lump sum. Receipt and acceptance of such a lump sum payment by an inactive participant shall terminate his participation in the Plan.

(b) if the single sum actuarial equivalent of the basic vested amount in which he is vested is more than \$5,000, be entitled:

(A) to receive a deferred monthly retirement benefit to begin as of the first day of the month following his 65th birthday, which benefit shall be governed by those provisions governing normal retirement benefits set out in Article III hereof in effect at the time the participant became inactive with the basic vested amount substituted throughout for the Single Life Benefit, except that a participant who was last active prior to May 1, 2002, shall also be entitled to elect a 75% Joint and Survivor annuity form of benefit in an amount actuarially equivalent to the Single Life Benefit reduced to provide an immediate benefit payable to the retiree for his life and, upon his death, to the retiree's surviving spouse for the remainder of her life in an amount equal to three quarters of the benefit payable to the retiree.

(B) to receive a reduced deferred monthly retirement benefit on or after his 55th birthday but before his 65th birthday, which benefit shall be governed by those provisions governing reduced early retirement benefits set out in Article IV, Sections 2 through 5, hereof in effect at the time the participant became inactive with the basic vested amount substituted throughout for the Single Life Benefit; provided (i) that this option shall only be available to an inactive participant who has accumulated ten Credit Years, (ii) that, any other provision of the Plan to the contrary notwithstanding, the portion of the Single Life Benefit accrued through April 30, 2014 of an inactive participant whose age at the time he became inactive and the number of Credit Years he has accumulated added together equal 80 or who has accumulated 30 or more Credit Years shall not be reduced and (iii) that, if the inactive participant was an active participant on or after May 1, 1986, but before May 1, 1997 and accumulated 25 Credit Years before he became inactive, his Single Life Benefit, other provisions of the Plan to the contrary notwithstanding, shall not be reduced. A participant who was last active prior to May 1, 2002, shall also be entitled to elect a 75% Joint and Survivor annuity form of benefit in an amount actuarially equivalent to the Single Life Benefit reduced to provide an immediate benefit payable to the retiree for his life and, upon his death, to the retiree's surviving spouse for the remainder of her life in an amount

equal to three quarters of the benefit payable to the retiree.

**Section 4:** A retiree who has begun to receive monthly benefits pursuant to Section 3 of this Article shall have his monthly benefit suspended if he meets the conditions applicable to the suspension of normal retirement benefits set out in Article III, Section 8, subject to the same procedures and requirements described therein.

## **ARTICLE VIII - ADMINISTRATION OF THE PLAN**

**Section 1:** The Plan shall be administered solely by the Trustees and employees or agents of the Trustees, acting for them as authorized, and the decisions of the Trustees in all matters pertaining to the administration of the Plan shall be final. The Trustees shall make such rules and prescribe such procedures for the administration of the Plan as they shall deem necessary and reasonable.

**Section 2:** No employee, active participant, inactive participant, former participant, retiree, beneficiary or any other person claiming by or through any such person, shall have any right, interest or title to any benefits under the Trust Agreement, the Plan, or the Fund, except as such right, interest or title shall have been specifically granted pursuant to the terms of the Plan.

**Section 3:** Except as may be required to comply with Qualified Domestic Relations Orders under the provisions of the Retirement Equity Act of 1984 or a valid levy imposed by the Internal Revenue Service, no benefits payable at any time under the Plan shall be subject in any manner to alienation, sale, transfer, assignment, pledge, attachment or encumbrance of any kind. Any attempt to alienate, sell, transfer, assign, pledge or otherwise encumber any such benefit, whether presently or thereafter payable, shall be void. Neither any retirement benefit nor the Pension Fund shall, in any manner, be liable for or subject to the debts or liability of any person entitled to any retirement benefits. A totally and permanently disabled participant or a retiree may authorize payment of a portion of his benefit to an organization through which he is provided with health benefits. Any such authorization shall be revocable by him at any time and must be made and revoked in a form satisfactory to the Trustees. Any such authorization or revocation shall be effective the first day of the month following receipt of the authorization or revocation by the Trustees.

Notwithstanding the preceding, a totally and permanently disabled participant or a retiree may authorize payment of a portion of his benefit to an entity which has been approved by the Board of Trustees and has filed a written acknowledgment with the Plan's Administrator stating that it has no enforceable right to any benefit payments made to it. Any such authorization shall be revocable by him at any time and must be made and revoked in a form satisfactory to the Trustees. Any such authorization or revocation shall be effective the first day of the month following receipt of the authorization or revocation by the Trustees.

**Section 4:** The Trustees shall have the right to require, as a condition precedent to the payment of any benefit under the Plan, all information which they reasonably deem necessary, including records of employment, proof of dates of birth and death, marital status, etc., and no

benefit dependent in any way upon such information shall be payable unless and until such information so required shall be furnished. Such evidence shall be furnished by the union, employers, employees, active or, inactive participants, former participants and beneficiaries as applicable.

**Section 5:** Once benefit payments commence, if any benefit payment is unclaimed or uncashed for a period of two years, it shall revert to, and again become part of, the Fund; provided that any such forfeited amount shall be reinstated upon application therefor by the Participant, his Surviving Spouse, or Beneficiary entitled thereto.

**Section 6:** The Trustees shall, in the absence of contrary evidence presented to them, have the right in administering the Plan to rely upon information provided to them by the union, employer associations, employers, employees, active or inactive participants, former participants, retirees, beneficiaries and/or alternate payees. Neither they nor the Fund shall be held liable for good faith reliance thereon.

**Section 7:** In the event that the Trustees determined that an active participant, inactive participant or beneficiary is mentally or physically unable to give a valid receipt for any benefit due him under the Plan, such payment may, unless claim shall have been made therefor by a legally appointed guardian, committee or other legal representative, be paid to any person or institution then in the judgment of the Trustees providing for the care and maintenance of such active participant, inactive participant or beneficiary. Any such payment shall be a payment for the account of the active participant, inactive participant or beneficiary, and shall be a complete discharge of any liability of the Plan or the Trustees therefor.

**Section 8:** The Trustees may make arrangement for the payment of small monthly retirement benefits in less frequent payments of larger amounts.

**Section 9:** No employer shall have any right, title, or interest in the contributions made to the Pension Fund and no part of the Pension Fund shall revert to the employers or any of them.

**Section 10:** Contributions by an employee shall not be permitted under the Plan.

**Section 11:** Effective May 1, 1976, the phrase “total employer contributions made to the Fund in respect to hours of work” in the subsections of Article III, Section 3 (a), shall include all employer contributions made or required to be made.

**Section 12:** The Trustees may enter into reciprocal agreements with trustees of other pension funds for the exchange of credit and/or contributions for the protection of employees who may periodically work in other areas or trades and the protection of employees from other areas or trades who may periodically work within the area or trade covered by this Fund. If, as a result of a pro rata reciprocal agreements, an active participant who would otherwise have become inactive pursuant to Article II, Section 5, remains active, the minimum benefits set out in the subsections of Article III,

Section 3(a), and any disability benefit payable under Article V shall, if the number of Credit Years the active participant has accumulated in this Plan is less than five, be multiplied by a fraction, the numerator of which is the number of those accumulated Credit Years and the denominator of which is five. Decisions of the Trustees as to the interpretation and application of any such reciprocal agreements shall be final.

**Section 13:** All retirement and death benefits under the Plan shall be payable under either a group annuity contract entered into by the Trustees with an insurance company or through employees or agents of the Trustees, acting under their authority. Anything in the Plan to the contrary notwithstanding, no benefits shall be payable except those which can be provided under the Plan and no person shall have any claim for benefits against the union, any employer, the Trustees, or the associations.

**Section 14:** Personal pronouns used in the Plan shall, in each case, be construed to include the opposite gender as the facts and the context warrant.

**Section 15:** Benefits payable as a lump sum to a participant, his spouse, former spouse and/or surviving spouse, including a former spouse designated as surviving spouse by a qualified domestic relations order, and/or to a non-spouse beneficiary are, pursuant to Section 401(a)(31) of the Internal Revenue Code, eligible rollover distributions.

At the option of each such recipient, all or a portion of the lump sum benefit may be paid as a direct rollover subject to the following:

- (a) the benefit amount is \$200 or more;
- (b) if only a portion of the benefit is to be rolled over, that portion is not less than \$500;
- (c) the benefit, if payable to a participant, surviving spouse, or spouse or former spouse designated as an alternate payee by a qualified domestic relations order is paid to a Section 401(a) qualified plan or a Section 457 plan which accepts rollovers, to an individual retirement account or annuity (IRA), to a Section 403(a) qualified annuity, to a Section 403(b) tax-sheltered annuity; or to a Section 402A Roth IRA;
- (d) the direct rollover elected by a non-spouse beneficiary is paid to an individual retirement account or annuity (IRA) or to a Section 402A Roth IRA that is established on behalf of the designated beneficiary and that will be treated as an inherited IRA; and
- (e) the election to have the benefit rolled over is made in writing on a form prescribed and furnished by the Trustees and in accordance with procedures adopted by the Trustees.

That portion of a lump sum benefit required under the minimum distribution rule of Section 401(a)(9) of the Internal Revenue Code is not an eligible rollover distribution.

**Section 16:** If a claim under the Plan has been denied, in whole or in part, the claimant is entitled, either in person or by his duly authorized representative, to:

- (a) request, in writing, a review of the claim by the Trustees. Where written notice of denial was given to the claimant, the claimant must submit the request for review of the claim within sixty (60) days after claimant received that notice (180 days in the case of a claim relating to benefits payable due to disability);
- (b) review pertinent documents relating to the denial; and
- (c) submit issues and comments in writing.

The Trustees shall review the claim promptly and render their final decision not later than five (5) days after the Trustees' meeting next occurring after the appeal was received, unless the appeal was received within 30 days prior to the next meeting, in which case the response must be provided to the claimant five (5) days after the second Trustees' meeting. These periods may, under special circumstances, be extended to, at the latest, five (5) days after the third Trustees' meeting after receipt of the request, but the claimant must be notified of this within the unextended time period. The final decision of the Trustees shall be in writing, give specific reasons for the decision and make specific references to the pertinent Plan provisions on which the decision is based.

**Section 17:** Notwithstanding any internal appeal process, any action in law or equity brought against the Fund, the Board of Trustees, any of the Trustees individually, or any agent of any of the foregoing under or relating to this Plan shall be barred unless the complaint is filed within three years after the first date the participant receives a determination of his rights and/or benefits under the terms of the Fund's Plan, unless a shorter period is established by applicable statute, regulation or case law.

Any action in law or equity brought by a participant or beneficiary against the Fund, the Board of Trustees, any of the Trustees individually, or any agent of any of the foregoing under or relating to this Plan shall be brought in the United States District Court where the Plan is administered.

**Section 18:** The Fund shall pay benefits in accordance with the terms of this Plan and with Section 401(a)(9) of the Internal Revenue Code and the regulations, including the incidental benefits requirements of Section 401(a)(9)(G) of the Internal Revenue Code, specifically Sections 1.401(a)(9)-2 through 1.401(a)(9)-9, revenue rulings, notices and other guidance published in the Internal Revenue Bulletin, applicable thereto at any time of reference. If any provision of this Plan is inconsistent with Section 401(a)(9) and the regulations, revenue rulings, notices and other guidance published in the Internal Revenue Bulletin, that Section and the regulations, revenue rulings, notices

and other guidance published in the Internal Revenue Bulletin, will control the manner and form in which benefits are paid.

**Section 19:** The Board of Trustees has the right to recover any amount paid by this Fund in any form to which the participant or beneficiary is determined to be either fully or partially ineligible when the recipient received such amount. The Board may recover such overpayments by any lawful means, including, but not limited to, recoupment of such overpayments from any other current or future benefits paid by the Fund of any kind to which the participant or beneficiary of the overpayment is or may become entitled.

## **ARTICLE IX - PRIOR PLAN**

**Section 1:** If a participant in respect to whose work employer contributions were received during at least five plan years, as defined therein, under the plan in effect on April 30, 1976, and whose continuous service thereunder had not been interrupted on or before that date should become an inactive participant hereunder before becoming one hundred percent vested under either this Plan or the plan in effect on April 30, 1976, his vested rights shall, other provisions of this Plan notwithstanding, be determined as follows:

- (a) calculate the monthly benefit to which he would have been entitled had the prior plan remained in effect, and
- (b) calculate the basic vested amount in which he is vested pursuant to Article VII hereof, and
- (c) if the subparagraph (b) amount is greater than the subparagraph (a) amount, the provisions of Article VII hereof shall apply in full, but
- (d) if the subparagraph (a) amount is greater than the subparagraph (b) amount, the inactive participant shall be entitled to receive a benefit calculated pursuant to the prior plan, but subject to the method of payment provisions contained in Article VII, Section 3, hereof.

## **ARTICLE X - EMPLOYER WITHDRAWAL LIABILITY**

Employer withdrawal liability, if any, shall be calculated under the basic presumptive method as prescribed in Section 4211(b) of the Employee Retirement Income Security Act of 1974, as amended (ERISA).

Disputes between the Fund and an Employer concerning withdrawal liability shall, if not satisfactorily resolved by the parties, be submitted to arbitration. Except as otherwise provided in the Withdrawal Liability Policy and Procedure adopted by the Board of Trustees, such arbitration proceeding shall be conducted in accordance with the Multiemployer Pension Plan Arbitration Rules for Withdrawal Liability Disputes of the American Arbitration Association.

## **ARTICLE XI - BENEFIT ADJUSTMENTS**

**Section 1:** The benefits payable on or after May 1, 1979, to all retirees and all beneficiaries who began receiving monthly benefits before May 1, 1979, shall be increased ten percent.

**Section 2:** The benefits payable on or after May 1, 1980, to all retirees and all beneficiaries who began receiving monthly benefits before May 1, 1980, shall be increased ten percent.

**Section 3:** The benefits payable on or after May 1, 1981, to all retirees and all beneficiaries who began receiving monthly benefits before May 1, 1981, shall be increased ten percent.

**Section 4:** The benefits payable on or after December 1, 1982, to all retirees and all beneficiaries who began receiving monthly benefits before December 1, 1982, shall be increased ten percent.

**Section 5:** The benefits payable on or after May 1, 1984, to all retirees and all beneficiaries who began receiving monthly benefits before May 1, 1984, shall be increased five percent.

**Section 6:** The benefits payable on or after May 1, 1986, to all retirees and all beneficiaries who began receiving monthly benefits before May 1, 1986, shall be increased five percent.

**Section 7:** The benefits payable on or after May 1, 1987, to all retirees and all beneficiaries who began receiving monthly benefits before May 1, 1987, shall be increased ten percent.

**Section 8:** The benefits payable on or after May 1, 1988, to all retirees, and all beneficiaries who began receiving monthly benefits before May 1, 1988, shall be increased five percent.

**Section 9:** The benefits payable on or after May 1, 1989, to all retirees, and all beneficiaries who began receiving monthly benefits before May 1, 1989, shall be increased five percent.

**Section 10:** The benefits payable on or after May 1, 1990, to all retirees and all beneficiaries who began receiving monthly benefits before May 1, 1990, shall be increased ten percent.

**Section 11:** The benefits payable on or after May 1, 1991, to all retirees and all beneficiaries who began receiving monthly benefits before May 1, 1991, shall be increased four percent.

**Section 12:** The benefits payable on or after May 1, 1992, to all retirees and all beneficiaries who began receiving monthly benefits before May 1, 1992, shall be increased three percent.

**Section 13:** The benefits payable on or after May 1, 1994, to all retirees and all beneficiaries who began receiving monthly benefits before May 1, 1993, shall be increased four percent.

**Section 14:** The benefits payable on or after May 1, 1995, to all retirees and all beneficiaries who began receiving monthly benefits before May 1, 1994, shall be increased two percent.

**Section 15:** Each retiree and each beneficiary who was paid or was entitled to be paid a monthly benefit on April 1, 1996, shall be paid an additional benefit in like amount on or about June 1, 1996.

**Section 16:** Each retiree and each beneficiary who was paid or was entitled to be paid a monthly benefit on April 1, 1997, shall be paid an additional benefit in an amount equal to his monthly benefit rounded up to the nearest \$100 on or about June 1, 1997

**Section 17:** Each retiree and each beneficiary who paid or was entitled to be paid a monthly benefit on May 1, 1998 and May 1, 1999, shall be paid an additional benefit in the amount of \$800 on or about June 1, 1999.

**Section 18:** The benefits payable on or after May 1, 1999, to all retirees and beneficiaries who began receiving monthly benefits before May 1, 1999, shall be increased three percent.

**Section 19:** The benefits payable on or after May 1, 2000, to all retirees and beneficiaries who began receiving monthly benefits before May 1, 2000, shall be increased two percent.

**Section 20:** The benefits payable on or after May 1, 2001, to all retirees and beneficiaries who began receiving monthly benefits before May 1, 2001, shall be increased one percent.

**Section 21:** The benefits payable as of April 30, 2001, of each participant who is an active participant on May 1, 2001, shall be increased one percent.

## **ARTICLE XII - PLASTERERS' TENDERS FUND MERGER**

(On May 1, 1997, the assets of the Plasterers' Tenders Pension Fund were transferred to the Laborers Pension Trust Fund - Detroit and Vicinity and this Plan assumed responsibility for payment of benefits previously accrued under the Pension Plan of the Plasterers' Tenders Pension Fund pursuant to a Merger Agreement between the two Funds. The following terms were established to govern the implementation of that Agreement.)

**Section 1:** All benefits accrued under the Plan of the Plasterers' Tenders Pension Fund shall be paid in accordance with the terms of that Plan in effect on May 1, 1997, as that Plan may thereafter be amended by the Trustees of the Laborers Pension Trust Fund - Detroit and Vicinity, provided that no amendment may reduce the benefit of any participant or beneficiary accrued before May 1, 1997.

**Section 2:** An active participant in the Plasterers' Tenders Pension Fund on April 30, 1997, shall be considered to be an active participant in the Laborers Pension Plan on May 1, 1997. An active participant in the Plasterers' Tenders Pension Plan for this purpose shall be any participant in that Plan upon whom employer contributions were or should have been made to the Plan during the preceding two Plan Years. The prior years of participation in the Plasterers' Tenders Plan of such participants shall be treated under the Laborers Pension Plan for vesting and eligibility (but not for

benefit accrual) purposes as though they were Credit Years.

**Section 3:** Any employee who was previously a participant in the Plasterers' Tenders Pension Plan, but is not considered an active participant under the preceding Section, shall become an active participant in the Laborers Pension Plan only upon establishing initial eligibility pursuant to Article II, Section 1, of this Plan. Prior years of participation by that employee in the Plasterers' Tenders Plan shall not be counted under the Laborers Pension Plan for any purpose.

**Section 4:** If monthly benefits are payable under both Plans, they shall be combined and paid in a single check.

### **ARTICLE XIII - AMENDMENT, MERGER OR TERMINATION OF THE PLAN**

**Section 1:** The Trustees may, by majority vote, amend this Plan. Unless required by law, no amendment of benefits payable under this Plan shall be permitted to reduce the accrued benefit of any active or inactive participant or the benefits of any person who is already receiving benefits on the date the benefit amendment is effective. Further, no amendment of the benefit structure of this Plan shall be made except upon the advice and counsel of an enrolled actuary. If fewer than all of the Trustees are present at a meeting, no amendment to the Plan may be adopted even though a quorum be present, unless the notice to the Trustees for that meeting or the minutes of the preceding meeting, if supplied to the Trustees in advance, contained the fact that amendment of the Plan would be considered at the meeting. Any amendatory document signed by all of the Trustees then serving shall, notwithstanding the foregoing, be sufficient to amend the Plan. Any modification, alteration, or amendment of this Plan which may be required to qualify and maintain this Plan as a qualified plan and trust under the applicable provisions of the Internal Revenue Code, shall be made by the Trustees. Any amendment may be made retroactively by unanimous action of the Trustees.

Notwithstanding the foregoing paragraphs in this Section, any amendment to this Plan that modifies, reduces or terminates any benefit payable under the Plan, other than an accrued benefit, may be made at any time, as permitted by law, by majority action of the Trustees.

**Section 2:** In the event that this Plan should merge or be consolidated with another qualified plan as authorized in the Trust Agreement, or if the assets and/or liabilities of this Plan are transferred to another such plan, the benefits of anyone entitled thereto, immediately after such merger, consolidation, or transfer, shall be at least as great as they were immediately prior to such merger, consolidation, or transfer.

**Section 3:** In the event the Pension Plan is terminated, wholly or partially, while Section 4041A of the Employee Retirement Income Security Act of 1974 (or any subsequent act mandating the allocation of assets upon termination of such plans) is in effect, the assets of the Plan available to provide benefits shall be allocated in accordance therewith.

**Section 4:** In the event the Pension Plan is terminated, wholly or partially, when there is in effect no such statute requiring a particular allocation of the assets of the Plan upon termination, the

amount in the Trust Fund will be allocated to the extent available to provide retirement benefits for active participants, inactive participants, retirees and beneficiaries in the following order of priority, subject to provision for expense of administration or liquidation:

- (a) to provide benefits for those persons already receiving benefits;
- (b) to provide benefits for those active participants then eligible to retire and receive normal or early retirement benefits;
- (c) to provide benefits for those active or inactive participants who are at the time of termination of the Plan vested;
- (d) to provide benefits for all other persons as their respective interests appear.

The amount of benefits for each such person shall be calculated on the basis determined by the Trustees to be consistent with the operation of the Fund as set forth herein, but recognizing the termination of the Plan and the funds then available, and such amounts, when determined, shall remain fixed regardless of the status of any person's service after termination. The allocation, when determined by the Trustees, may be implemented through the continuation of the existing Fund for that purpose or through the purchase by the Trustees of insurance annuity contracts or by a combination of these media.