

**FIRST AMENDMENT TO THE  
OHIO LOCAL NO. 1 OPERATIVE PLASTERERS' AND  
CEMENT MASONS' PENSION PLAN**

**WHEREAS**, effective as of May 1, 1971, the Cement Masons Local No. 536 Pension Plan (hereinafter "Plan") was established; and

**WHEREAS**, effective as of May 1, 2002, the Plan was amended and restated and was redesignated as the Ohio Local No. 1 Operative Plasterers' and Cement Masons' Pension Plan, with the Plan last being amended and restated effective May 1, 2019; and

**WHEREAS**, it is the intention of the Trustees to amend the Plan to comply with the changes made to the Required Minimum Distributions ("RMDs") rules under the Setting Every Community Up for Retirement Enhancement Act of 2019 ("SECURE Act"), including the new Required Beginning Date, the addition of the stretch distribution for Eligible Designated Beneficiaries, and the ten (10) year distribution period for Designated Beneficiaries; and

**WHEREAS**, it is also the intention of the Trustees to amend the Plan to comply with the suspension of RMDs for the 2020 taxable year as set forth in the Coronavirus Aid, Relief, and Economic Security Act of 2020 ("CARES Act"); and

**WHEREAS**, the right to amend the Plan has been reserved to the Board of Trustees under Article XIII, Section 13.01, which right the Board of Trustees now desires to exercise.

**NOW, THEREFORE**, the Board of Trustees hereby amends the Plan in the following manner as of this 3<sup>rd</sup> day of June 2020, but to be effective as of January 1, 2020, unless otherwise set forth below:

1. **Section 10.02 of the Plan, entitled, "Time and Manner of Distribution," is hereby amended by removing that Section in its entirety and replacing it with the new Section 10.02.**

**(A) Required Beginning Date**

Notwithstanding any provision of the Plan to the contrary, all distributions from the Plan shall comply with the minimum distribution requirements of Code Section 401(a)(9), including the minimum distribution incidental benefit requirement under Code Section 401(a)(9)(G), and of Sections 1.401(a)(9)-1 through 1.401(a)(9)-9 of the Final and Temporary Treasury Regulations that were published by the Internal Revenue Service on April 17, 2002. The Participant's entire interest shall be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date. For minimum distribution requirements that begin on or before December 31, 2019, the term "Required Beginning Date" means April 1<sup>st</sup> of the calendar year following the later of:

- (1) the calendar year in which the Participant attains age 70½; or
- (2) the calendar year in which the Participant retires.

For minimum distribution requirements that begin after December 31, 2019, the term “Required Beginning Date” means April 1<sup>st</sup> of the calendar year following the later of:

- (1) the calendar year in which the Participant attains age 72; or
- (2) the calendar year in which the Participant retires.

However, Subsection (A)(2) shall not apply (regardless of whether the Required Beginning Date is before or after December 31, 2019), except as provided in Code Section 409(d), in the case of a Participant who is a 5 percent owner (as defined in Code Section 416) with respect to the Plan Year ending in the calendar year in which the Participant attains his or her Required Beginning Date, or for purposes of Code Section 408(a)(6) or (b)(3). In the case of a Participant to whom Subsection (A)(2) applies who retires in a calendar year after the calendar year in which the Participant attains his or her Required Beginning Date (i.e., age 70 ½ or 72, depending on the date on which minimum distributions are set to commence), the Participant’s accrued benefit shall be actuarially increased to take into account the period after his or her Required Beginning Date which the Participant was not receiving any benefits under the Plan.

In the event that a Participant meets the eligibility requirements to be entitled to a Normal Retirement Benefit and has not applied for the benefits by the sixtieth (60th) day after the close of the Plan Year in which he was eligible, then the benefits shall commence, unless the Participant otherwise elects in writing.

**2. Section 10.02(B) of the Plan, entitled, “Death of Participant before Distribution Begin,” is hereby amended by removing that provision in its entirety and replacing it with the following new Section 10.02(B).**

**(B) Death of Participant before Distributions Begin**

If the Participant dies before distributions begin, the Participant’s entire interest shall be distributed, or begin to be distributed, no later than as follows:

- (1) If the Participant’s surviving Spouse is the Participant’s sole Designated Beneficiary, then distributions to the surviving Spouse shall begin by December 31<sup>st</sup> of the calendar year immediately following the calendar year in which the Participant died, or by December 31<sup>st</sup> of the calendar year in which the Participant would have attained his or her Required Beginning Date, if later.

- (2) If the Participant's surviving Spouse is not the Participant's sole Designated Beneficiary, but all Designated Beneficiaries qualify as Eligible Designated Beneficiaries then distribution to the Designated Beneficiary shall begin by December 31<sup>st</sup> of the calendar year immediately following the calendar year in which the Participant died.
- (3) If the Participant's surviving Spouse is not the Participant's sole Designated Beneficiary, and such Designated Beneficiary does not qualify as an Eligible Designated Beneficiary, then the Participant's entire interest will be distributed by December 31<sup>st</sup> of the calendar year containing the tenth (10<sup>th</sup>) anniversary of the Participant's death.
- (4) If there is no Designated Beneficiary as of September 30<sup>th</sup> of the year following the year of the Participant's death, the Participant's entire interest shall be distributed by December 31<sup>st</sup> of the calendar year containing the fifth (5<sup>th</sup>) anniversary of the Participant's death.
- (5) If the Participant's surviving Spouse is the Participant's sole Designated Beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, the provisions of this Subsection (B), other than Subsection (B)(1) above, shall apply as if the surviving Spouse were the Participant.

For purposes of this Subsection (B) and Section 10.05, distributions are considered to begin on the Participant's Required Beginning Date (or, if Subsection (B)(4) applies, the date distributions are required to begin to the surviving Spouse under Subsection (B)(1)). If annuity payments irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving Spouse under Subsection (B)(1)), the date distributions are considered to begin is the date distributions actually commence.

**(C) Form of Distribution**

Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions shall be made in accordance with Sections 10.03, 10.04, and 10.05. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder shall be made in accordance with the requirements of Code Section 401(a)(9) and Treasury regulations thereunder. Any part of the Participant's interest which is in the form of an individual account described in Code Section 414(k) shall be distributed in a manner satisfying the requirements of Code Section 401(a)(9) and Treasury regulations that apply to individual accounts.

3. **Section 10.05 of the Plan, entitled, “Requirements for Minimum Distribution Where Participant Dies before Date Distribution Begin,” is hereby amended by removing Section 10.05 in its entirety and replacing it with the new Section 10.05.**

**(A) Participant Surviving by Designated Beneficiary (Date of Death on or before December 31, 2019)**

If the Participant dies before the date distribution of his or her interest begins, has date of death is on or before December 31, 2019, and there is a Designated Beneficiary, the Participant’s entire interest will be distributed, beginning no later than the time described in Section 10.02(B)(1) and (2) over the life of the Designated Beneficiary or over a period certain not exceeding:

- (1) Unless the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the Designated Beneficiary determined using the Beneficiary’s age as of the Beneficiary’s birthday in the calendar year immediately following the calendar year of the Participant’s death; or
- (2) If the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the Designated Beneficiary determined using the Beneficiary’s age as of the Beneficiary’s birthday in the calendar year that contains the Annuity Starting Date.

**(B) Participant Survived by Eligible Designated Beneficiary or Designated Beneficiary (Date of Death after December 31, 2019)**

If the Participant dies before the date distribution of his or her interest begins, has a date of death after December 31, 2019, and there is a Designated Beneficiary, then the Participant’s entire interest must be completely distributed to the Designated Beneficiary by December 31<sup>st</sup> of the calendar year that contains the tenth (10<sup>th</sup>) anniversary of the Participant’s date of death. However, if the Designated Beneficiary qualifies as an Eligible Designated Beneficiary, then the Participant’s remaining interest will be distributed in the same manner as set forth in Section 10.05(A) above. Upon the death of such Eligible Designated Beneficiary, any remaining portion of the Participant’s interest shall be distributed to the beneficiary of the Eligible Designated Beneficiary within ten (10) years after the date of such Eligible Designated Beneficiary’s death.

**Special Rule for Children.** If the Eligible Designated Beneficiary is a child who has not reached the age of majority in the year of the Participant’s death, such child shall cease to be an Eligible Designated Beneficiary as of the date the individual reaches majority age. Any remaining portion of the Participant’s interest shall then be distributed within ten (10) years after the date of the beneficiary reached the age of majority and ceased to qualify as an Eligible Designated Beneficiary.

**(C) No Designated Beneficiary**

If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30<sup>th</sup> of the year following the year of the Participant's death, distribution of the Participant's entire interest shall be completed by December 31<sup>st</sup> of the calendar year containing the fifth (5<sup>th</sup>) anniversary of the Participant's death.

**(D) Death of Surviving Spouse before Distribution to Surviving Spouse Begin**

If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving Spouse is the Participant's sole Designated Beneficiary, and the surviving Spouse dies before distributions to the surviving Spouse begin, this Section shall apply as if the surviving Spouse were the Participant, except that the time by which distributions must begin shall be determined without regard to Section 10.02(B)(1).

4. **Section 10.07 of the Plan, entitled, "Definitions," is hereby amended by adding the new Subsection 10.07(E) to the end of the existing language in that Subsection.**

**(E) Eligible Designated Beneficiary.** Any Designated Beneficiary who is (i) the surviving Spouse of the Participant; (ii) a child of the Participant who has not reached majority age; (ii) is disabled (within the meaning of Code Section 72(m)(7)); (iv) is chronically ill (within the meaning of Code Section 770B(c)(2) and subject to the conditions set forth in Code Section 401(a)(9)(E)(iv)); and (v) an individual not described in any of the preceding categories that is no more than ten (10) years younger than the Participant. For the purposes of this Section 10.07(E), the determination as to whether a Designated Beneficiary qualifies as an Eligible Designated Beneficiary shall be made as of the date of death of the employee.

5. **The Plan is hereby amended by adding the new Section 10.08 thereto, entitled, "Waiver of Required Minimum Distributions for 2020," as follows.**

**(A) Required Minimum Distribution for 2020**

Notwithstanding any other provisions of this Article X, any Participant or Designated Beneficiary who would have been required to receive required minimum distributions for 2020 but for the enactment of Code Section 401(a)(9)(I) ("2020 RMDs"), and who would have satisfied that requirement by receiving distributions that are—

- (1) equal to the 2020 RMDs; or
- (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for—

- (i) the life (or life expectancy) of the Participant,
- (ii) the joint lives (or joint life expectancy) of the Participant and the Participant's designated Beneficiary, or
- (iii) a period of at least 10 years ("Extended 2020 RMDs")

shall receive those distributions for 2020 unless the Participant or designated Beneficiary chooses not to receive such distributions. Any Participant or Designated Beneficiary that qualifies for this waiver shall be given the opportunity to elect to stop receiving the 2020 RMD that would otherwise be due but for the enactment of Code Section 401(a)(9)(I).

**IN WITNESS WHEREOF**, this First Amendment has been executed this 3<sup>rd</sup> day of June 2020 but is effective as of the dates set forth above.

**BOARD OF TRUSTEES OF THE  
OHIO LOCAL NO. 1 OPERATIVE PLASTERERS' AND CEMENT MASONS'  
PENSION PLAN**

**UNION TRUSTEES**



Rory Haines, Co-Chair

**EMPLOYER TRUSTEES**



Stephen J. Prosek, Co-Chair