B.A.C. LOCAL NO. 3
DEFINED CONTRIBUTION PENSION PLAN
(As amended and restated effective January 1, 2019)

Amendment 3

Pursuant to the authority set forth in Article XII, Section 12.2 of the B.A.C. Local No. 3 Defined Contribution Pension Plan and Article IV, Section 4.05 of the Trust Agreement, the Trustees, hereby amend the Plan as follows:

1. Effective December 31, 2019, amend Article I in its entirety to state as follows:

ARTICLE I
EFFECTIVE DATE

This Plan, originally known as the Supplemental Retirement Benefit Plan, was established between Bricklayers Local Union No. 8 and California Conference of Mason Contractors Associations, Inc. on July 1, 1982. The Plan was restated effective May 18, 1994, restated and renamed B.A.C. Local No. 3 Defined Contribution Pension Plan effective July 1, 1994, restated again effective July 1, 1999, and restated again effective October 1, 2012. The Plan is hereby restated effective January 1, 2019.

Prior versions of the Plan and of the San Jose B.A.C. Local No. 10 Pension Trust Fund Defined Contribution Plan, which merged into the Plan effective July 1, 1994, and of the San Francisco Bricklayers Local No. 7 Defined Contribution Plan, which merged with the Plan effective December 31, 2019, shall continue to be effective, binding and controlling with respect to all rights and obligations accrued prior to the effective dates of this restated Plan.

Effective as of June 30, 2012, money purchase contributions under the Plan shall discontinue and, effective July 1, 2012, profit sharing contributions shall be made to the Plan in accordance with Article IV.

2. Effective December 31, 2019 amend Section 6.6 in its entirety to state as follows:

6.6. A Participant shall be entitled to distribution of his or her account if the Participant is permanently disabled. Permanent disability shall be deemed to exist if the Board of Trustees determines, upon the basis of medical evidence, that a Participant is unable to engage in the work of a bricklayer, stonemason, tuckpointer and cleaner, bricklayer, terrazzo worker, an apprentice in any of those trades or any other worker within the work jurisdiction of Local Union #3 as determined by the International Union of Bricklayers and Allied Craftsmen, AFL-CIO, by reason of any medically determinable physical or medical impairment which can be expected to result in death or could be of long continued duration. In the event of disagreement as to disability, the Trustees in their sole discretion, may require certification of disability by a physician selected by the Trustees at the expense of the Trust.
Effective January 1, 2020, a Participant shall be entitled to distribution of his or her account if the Participant is permanently disabled. A Participant becomes permanently disabled if the Participant is precluded from employment in any occupation covered by the Collective Bargaining Agreement and such disability continues for not less than six months and is medically considered to be permanent and continuous for life as determined by the Social Security Administration. The Administration Office may periodically require satisfactory evidence of continued disability. The Participant must provide the Trustees with such proof of disability as they deem necessary. The Trustees have the sole discretion to determine a disability.

Disability benefits attributable to hours worked on or after January 1, 2001 shall be paid in the form of a life annuity or monthly payments as described in Section 6.12(c) unless:

(a) The Participant has obtained a Social Security disability award and has furnished a copy of such award to the Plan, or

(b) The Participant has ceased all employment in the industry, has applied for Social Security disability benefits, and suffers from a terminal illness and his or her life expectancy is less than twelve (12) months.

In the event a Participant elects to receive monthly payments pursuant to Section 6.12(c), the specified monthly amount shall be no less than one percent (1%) and no more than three percent (3%) of the Participant’s account balance at the time the disability retirement application is approved.

Effective for applications received on or after April 1, 2014, a Participant deemed permanently disabled under this Section shall be entitled to distribution of his or her account. The Participant may elect to receive this distribution in any of the forms of payment allowable under the Plan.

Benefits shall commence no later than sixty (60) days after the close of the Plan Year in which the Participant is determined to be permanently disabled and shall be paid until the account is exhausted or until the Participant recovers from the disability, whichever occurs first.

3. Effective December 31, 2019, amend Article VIII in its entirety to state as follows:

**ARTICLE VIII**

**LOANS TO PARTICIPANTS**

8.1. **Loan Amount.** A Participant may apply to the Board of Trustees, or its designate, for a loan of up to fifty percent (50%) of the total balance in all of his or her Accounts, or Twenty-Five Thousand Dollars ($25,000), whichever is less for loans with a purpose described in Sections 8.3(b)(2) and 8.3(b)(4). Effective January 1, 2020 and thereafter, for loans with a purpose described in Sections 8.3(b)(2), a Participant may apply to the Board of Trustees, or its designate, for a loan of up to fifty percent (50%) of the total balance in all of his or her
Accounts, or Fifty Thousand Dollars ($50,000), whichever is less. For loans with a purpose described in Sections 8.3(b)(1) and 8.3(b)(3), a Participant may apply to the Board of Trustees or its designate, for a loan of up to fifty percent (50%) of the total balance in all of his or her Accounts, or Fifty Thousand Dollars ($50,000), whichever is less. If the Participant had a prior loan outstanding at any time during the twelve (12) months preceding the effective date of the new loan, the Twenty-Five Thousand Dollar ($25,000) limit and the Fifty Thousand Dollar ($50,000) limit are reduced by the Participant’s highest outstanding loan balance during that twelve (12) month period. The minimum loan amount is One Thousand Dollars ($1,000).

8.2. General Requirements for Loans. Loans granted shall (1) be adequately secured, (2) bear a reasonable rate of interest, (3) be offered to Participants on a reasonably equivalent basis and in accordance with the Plan and any rules and regulations adopted by the Board of Trustees or its delegate.

Plan loans shall be available to current Plan Participants who are parties in interest with respect to the Plan, have a total balance in all of his or her Accounts of at least Two Thousand Five Hundred Dollars ($2,500), and have worked in covered employment during the twenty-four (24) months preceding the requested date of the loan. Pursuant to Department of Labor regulations, loans are not available to individuals who are not parties in interest with respect to the Plan, such as individuals who have separated from service or retired, or who work in the Masonry, Terrazzo and Marble Construction Industry for employers that do not contribute to this Plan.

8.3. Specific Loan Rules. In addition, the following loan conditions will apply for each Participant:

(a) Loan Refinancing. A Participant with an outstanding loan may refinance that loan if collectively the original loan and the replacement loan satisfy the amount limitations set forth in Section 8.1. Only one refinancing is permitted in a twenty-four (24) month period.

(b) Loan Purpose. Loans will be permitted for the purchase of a Participant’s principal residence. Payment of the loan amount shall be made directly to the escrow company involved in the purchase. In addition, effective May 6, 2009 through May 1, 2011, June 1, 2014 through June 30, 2015, and January 1, 2020 and thereafter, loans will be permitted for the following purposes:

(1) For the purchase of a Participant’s principal residence;

(2) For medical expenses or for amounts necessary to obtain such medical coverage incurred by the Participant, the Participant’s spouse, and the Participants children or other dependents;

(3) For payment of tuition and related education fees for the Participant, the Participant’s spouse, and the Participant’s children, grandchildren or other dependents;
Effective May 6, 2009 through May 1, 2011, and June 1, 2014 through June 30, 2015, a loan will also be permitted for the following purpose:

(4) For prevention of eviction or foreclosure from the Participant’s primary residence.

(c) **Loan Term.** The maximum term of a loan under Section 8.3(b)(1) is twenty (20) years, fully amortized in equal monthly payments, with no final “balloon” payment that exceeds an amount equal to the sum of any two (2) regular installments, exclusive of any late charges and/or collection costs. Payment of the loan shall be made directly to the escrow company involved in the purchase of the new residence. The maximum term of a loan under Sections 8.3(b)(2), (3), and (4) is five (5) years, fully amortized in equal monthly payments with no final “balloon” payment. Payment of the loan shall be made directly to the institution (i.e. hospital, educational institution, landlord, or mortgage holder) to which the debt that is the underlying reason for the loan is owed.

(d) **Valuation Date.** The value of the account of a Participant seeking a loan shall be determined as of the most recent Valuation Statement prior to submission of the loan application form, and shall not include or anticipate any Contributions received or which are receivable after said Valuation Date immediately preceding the date the application is received by the Plan Office.

(e) **Segregated Account.** The outstanding loan balance, including any outstanding interest payments, shall be treated as a segregated portion of the Participant’s account and shall not share in the general Trust Fund earnings allocation for the year. Interest paid on the loan shall be segregated from other Trust Fund earnings and shall be credited to the non-segregated portion of the Participant’s account.

(f) **Loan Interest.** The annual rate of interest charged to the borrower shall be a reasonable rate fixed at the discretion of the Trustees or their designate. In determining the rate, the prevailing interest rates being charged by commercial lenders in the local business community for similar loans shall be considered. The interest rate may be changed without a formal Plan amendment. The Trustees may delegate the loan function to a third party.

The Trustees shall not discriminate among Participants in the matter of interest rates. However, loans granted at different times may bear different rates as justified by changes in the rates charged by lenders and changes in general economic conditions.

(g) **Adequate Security.** The Trustees, or their delegate, shall determine the proper security for each loan. Each loan shall be made only if adequate security is pledged as collateral, including without limitation, the assignment of one-half (1/2) of the borrower-Participant’s interest in his or her account. The borrower-Participant shall be required to sign a promissory note for the amount of the loan, including interest, payable to the Plan.

(h) **Basis on Which Loans Will Be Approved or Denied.** An applicant seeking a loan shall have his or her loan application reviewed in the same manner and under similar conditions
as loan applicants at financial institutions. Factors considered shall include but not be limited to the Participant’s income, assets, outstanding loans or other debt, past repayment record on loan payments and credit reports. If a Participant is in a bankruptcy action, federal bankruptcy regulations must be complied with before incurring new debt.

If a Participant defaults on a Participant loan, he or she will not be eligible for another loan.

There is no vested right to a loan and the Trustees may terminate or suspend the loan program at any time.

(i) **Due Date.** All payments must be received by the due date established by the Trustees or their designate, and shall be considered late if not received by such date. Loan payments shall be returned to the specific account type (Money Purchase, Profit Sharing or Rollover) from which the funds were drawn.

(j) **Delinquency Fees.** The Plan may assess a non-refundable delinquency fee for each monthly payment not paid in full by the fifth (5th) day following the due date. The fee may be changed by the Trustees without amendment of the Plan. Such delinquency charge may be payable to the entity administering the loan program. Such charge shall be deducted from the Participant’s account as an administrative expense.

(k) **Acceleration Provision.** If a Participant/borrower is ninety (90) days delinquent on any single installment payment, the Trustees may require that all remaining installment payments under the note accelerate and become immediately due and payable to the Plan.

(l) **Death or Retirement of Participant.** Upon the death or retirement of a Participant, the Participant or his or her beneficiary (or estate) will be responsible for the timely payment of any loan payments due prior to a distribution. However, the subsequent distribution of the Participant’s interest in his or her account shall have the effect of paying off any outstanding Participant loan balance, including principal and interest. Notwithstanding any Plan provision to the contrary, no payment of any benefit to a Participant or his or her heirs shall be made if the balance remaining in the Participant’s account after that payment would be less than the Participant’s unpaid loan balance, including principal and interest.

(m) **Fees.** To help defray the cost of Participant loans, Participants will be charged fees for loan preparation, loan collection, and a credit check. Such fees shall be uniformly applied to Participant/borrowers, but may be changed periodically. All loan fees shall be deducted from the Participant’s account as an administrative expense.

A credit check fee shall apply and be deducted from Participant’s account regardless of whether or not the loan is approved.

(n) **Changes.** The terms and conditions of the Plan’s Participant loan program as set forth herein may be changed by the Board of Trustees without a formal Plan amendment.
(o) Spousal Consent. Loans to married Participants shall not be granted without the written consent of the Participant’s lawful spouse, witnessed by a Notary Public or authorized representative of the Plan. The Trustees may establish rules and regulations for determining whether a person is married or whether a lawful spouse cannot be located to provide consent.

(p) Loan in Default. The Trustees may declare that a loan payment is in default and, if this is done, the Trustees shall charge the Participant’s account with the balance of the loan, any costs incurred relating to such loan default (including attorney’s fees) and any fees charged by the entity administering the loan program. In the absence of Trustee action, a loan shall be deemed in default if any payment remains delinquent on the last day of the calendar quarter following the calendar quarter in which the first missed payment was due.

In the event of default the Plan will not accept any payments on that loan. The entire outstanding amount of the loan shall be reported to the Service as a deemed distribution to the Participant in the calendar year in which the default occurred. The income that results from the deemed distribution does not increase the Participant’s tax basis in the Plan. The defaulted loan amount is offset against the Participant’s account balance at the time of an actual Plan distribution.

(q) Credit Reporting Agency. At the Trustees’ discretion, a negative credit report reflecting on a Participant’s credit may be submitted to a credit reporting agency if a Participant fails to fulfill the terms of his or her credit obligations.

(r) The obligation to repay any loan made to a Participant who is performing service in the uniformed services, is suspended, as permitted under Code section 414(u)(4). Such a suspension of loan repayments shall not trigger a distribution under Code section 72(p) or constitute a loan default.

8.4 Wildfire Loan Relief.

(a) New Loans Between February 9, 2018 and December 31, 2018. New loans between February 9, 2018 and December 31, 2018 to a Participant whose principal place of abode during any portion of the period from October 8, 2017, to December 31, 2017, is located in the California Wildfire Disaster Area and who has sustained an economic loss (whether personal or business) by reason of the wildfires, will qualify for an increase in the maximum permissible loan amount. The total maximum permissible loan amount is 100% of the amount in the Principal’s Individual Account, or $100,000, whichever is less. The limit will be further reduced by the following: (a) the Participant’s highest outstanding loan balance during the twelve (12) months preceding the effective date of the new loan; (b) the amount of any defaulted loan charged to the Participant’s account; and (c) any accrued interest on a defaulted loan, including interest accruing after the date of default.

(b) Outstanding Loans On or After October 8, 2017. A Participant whose principal place of abode during any portion of the period from October 8, 2017, to December 31, 2017, is located in the California Wildfire Disaster Area and who has sustained an economic loss
(whether personal or business) by reason of the wildfires, will qualify for delayed repayment. With respect to monthly payments occurring during the period beginning on October 8, 2017 and ending on December 31, 2018, such due dates shall be delayed one (1) year. All subsequent payment due dates will be appropriately adjusted to reflect the delay in due date and any interest accruing during such delay. This delay under this section shall be disregarded from the term of the loan under Section 8.3(c).

(c) For purposes of this Section, “California Wildfire Disaster Area” means an area with respect to which between January 1, 2017 through January 18, 2018 a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of wildfires in California.

(d) Notwithstanding the foregoing, a Participant who has been employed in the Masonry Industry within the jurisdiction of the Union for a non-contributing employer shall not be eligible for the wildfire loan relief available under this section.

4. Effective December 31, 2019, amend Article XI in its entirety to state as follows:

ARTICLE XI
MERGERS

11.1 Mergers. No merger of the Plan with any other plan or transfer of its assets shall be permitted which would result in any Participant receiving a benefit immediately after the merger or transfer less than the benefit, to which he or she would have been entitled if the Plan had been terminated immediately prior thereto.

11.2 Merger Between the B.A.C. Local No. 3 Defined Contribution Pension Plan and the San Francisco Bricklayers Local No. 7 Defined Contribution Plan.

(a) General. In accordance with the Merger Agreement between the B.A.C. Local No. 3 Defined Contribution Pension Plan and the San Francisco Bricklayers Local No. 7 Defined Contribution Plan, the assets and liabilities of the two Plans are merged with the B.A.C. Local No. 3 Defined Contribution Plan being the surviving plan and successor in interest to the San Francisco Bricklayers Local No. 7 Defined Contribution Plan (hereinafter “Local 7 Plan”). As of the effective date of the merger, all participants and beneficiaries of the Local 7 Plan shall cease to be participants and beneficiaries of that plan and will become participants and beneficiaries of the B.A.C. Local No. 3 Defined Contribution Pension Plan.

(b) Effective Date of Merger. The effective date of the merger is December 31, 2019

(c) Benefits.
(1) As of the effective date of the merger, the accumulated benefits of each Local 7 Plan participant shall be deemed to be transferred to the B.A.C. Local No. 3 Defined Contribution Pension Plan and to be 100% vested. In no event will the accumulated benefits of a Local 7 Plan participant immediately after the merger be less than his or her accumulated benefits under the Local 7 Plan immediately prior to the merger, subject to the final valuation of such benefits.
(2) Subsequent to the effective date of the merger, the accumulated benefits of the former Local 7 Plan participants shall participate in the B.A.C. Local No. 3 Defined Contribution Pension Plan valuations as described in Section 5.3 of this
Plan and shall have subsequent Contributions made to this Plan in accordance with the terms of the applicable Collective Bargaining Agreements and the Trust Agreement.

(3) On or after the effective date of the merger, the rights and obligations of former Local 7 Plan participants shall be determined in accordance with this Plan.

(d) Other Notes. Notwithstanding any other provisions herein, this Section 11.2 shall be interpreted with the intent of complying with the requirements set forth in Revenue Procedure 2005-23.

Executed on November 13, 2019 at Walnut Creek, California.

EMPLOYER TRUSTEES

[Signatures]

UNION TRUSTEES

[Signatures]