

THIS AGREEMENT, made this 16<sup>th</sup> day of Oct., 1996, by and between

R. SALVATORE MAURO and RODERICK W. CIFERRI, III, constituting the present employer Trustees of BRICKLAYERS and ALLIED CRAFTWORKERS LOCAL 5 NEW YORK RETIREMENT FUND, hereinafter referred to as "Employer Trustees",

and

ANDREW T. GALLANTE, JR. and PHILIP J. MOSCA, constituting the present union Trustees of BRICKLAYERS and ALLIED CRAFTWORKERS LOCAL 5 NEW YORK RETIREMENT FUND, hereinafter referred to as "Union Trustees".

W I T N E S S E T H

WHEREAS, the Pension Fund of Bricklayers, Masons & Plasterers Local Union No. 44 was established by Agreement and Declaration of Trust dated the 1st day of January, 1959, as amended, and;

WHEREAS, the Annuity Fund of Bricklayers, Masons & Plasterers Local Union No. 44 was established by Agreement and Declaration of Trust dated the 1st day of July, 1970, as amended, and;

WHEREAS, each of the above Funds were previously separate and distinct entities, however, the Trustees were the same, and;

WHEREAS, the Collective Bargaining Agreement entered into between the Union and the Employers, effective the 1st day of July, 1975, required the merger of the aforesaid Pension and Annuity Funds, and;

WHEREAS, effective July 1, 1975, the Pension Fund and the Annuity Fund were merged into the Bricklayers, Masons and Plasters Local Union No. 44 Retirement Fund, and;

WHEREAS, effective June 1, 1990, the name of the Retirement Fund was changed to the HUDSON VALLEY DISTRICT COUNCIL BRICKLAYERS and ALLIED CRAFTSMEN RETIREMENT FUND, and;

WHEREAS, effective April 2, 1996 the name of the Retirement Fund was changed to the BRICKLAYERS and ALLIED CRAFTWORKERS LOCAL 5 NEW YORK RETIREMENT FUND, and;

WHEREAS, the undersigned, constituting the Trustees of the said Retirement Fund, desire to restate the above mentioned Agreement and Declaration of Trust, as subsequently amended; and;

WHEREAS, said agreement and declaration of trust may be amended at any time by an amendment in writing, executed by the Trustees, and;

WHEREAS, the Union Trustees and Employer Trustees have affixed their signatures hereto thereby accepting the Trust obligations herein contained,

NOW, THEREFORE, in consideration of the premises, it is hereby agreed as follows:

RESTATED AGREEMENT AND DECLARATION OF TRUST, dated the \_\_\_\_ day of \_\_\_\_\_, 1996, by and between the Trustees of the BRICKLAYERS and ALLIED CRAFTWORKERS LOCAL 5 NEW YORK RETIREMENT FUND with its principal office at 124 Innis Avenue, Poughkeepsie, New York.

W I T N E S S E T H

WHEREAS, the Union has executed a Collective Bargaining Agreement with various Employers, and may from time to time hereafter execute further Collective Bargaining Agreements or supplements or amendments to Collective Bargaining Agreements with various Employers, and has executed or may from time to time hereafter execute Collective Bargaining Agreements or supplements or amendments thereto, with certain other employers, all of which Collective Bargaining Agreements provide and will provide, among other things, for contributions to be made by Employers on behalf of their Employees performing masonry work to a Fund, known as the BRICKLAYERS and ALLIED CRAFTWORKERS LOCAL 5 NEW YORK RETIREMENT FUND, hereinafter referred to as the "Fund".

NOW, THEREFORE, in consideration of the premises and the covenants herein contained, it is mutually understood and agreed as follows:

ARTICLE I

Section 1. EMPLOYER OR EMPLOYERS. The term "Employer" or "Employers" as used herein shall mean an Employer who has duly executed a Collective Bargaining Agreement providing for periodic payments into the Fund. The term "Employer" shall also include the Union, the Fund, and any and all affiliated employee benefit Funds.

Section 2. UNION. The term "Union" as used herein shall mean the BRICKLAYERS and ALLIED CRAFTWORKERS LOCAL 5 NEW YORK.

Section 3. EMPLOYEE OR EMPLOYEES. The term "Employee" or "Employees" as used herein shall mean:

(a) All of the Employees employed by an Employer or all or any class or classes thereof, or retirees, such class or classes to be based upon conditions of employment, and any other rules of eligibility as may be established by the Trustees.

(b) The term "Employee" or "Employees", as used herein, shall include the full time employees of the Union, the Fund and any and all affiliated employee benefit Funds.

Section 4. FUND. The term "Fund", as used herein, shall mean the BRICKLAYERS and ALLIED CRAFTWORKERS LOCAL 5 NEW YORK RETIREMENT FUND.

Section 5. TRUSTEES. The term "Trustee" as used herein, shall mean the Trustees named in this Agreement, together with their successors, designated as hereinafter provided.

Section 6. AGREEMENT AND DECLARATION OF TRUST and/or TRUST. The term "Agreement and Declaration of Trust and/or Trust", as used herein shall mean this agreement, together with any amendments hereto.

Section 7. POLICY OR POLICIES. The term "Policy" or "Policies", as used herein shall mean the Insurance Policies, including any endorsements or amendments thereto purchased by the Trustees pursuant to this Agreement and Declaration of Trust.

Section 8. ERISA. The term "ERISA" as used herein, shall mean the Employee Retirement Income Security Act of 1974, and as subsequently amended.

Section 9. ASSOCIATION. The term "Association" shall mean the Mason and Concrete Contractors Association of the Hudson Valley, Inc.

## ARTICLE II

Section 1. There has been heretofore created a Retirement Fund, known as the BRICKLAYERS and ALLIED CRAFTWORKERS LOCAL 5 NEW YORK RETIREMENT FUND to be administered by a Board of Trustees.

Section 2. The Trustees, in their names as Trustees, shall have the power to demand, collect, receive, and hold Employer Contributions and may take such steps, including the institution and prosecution of or the intervention in any proceeding at law, in equity or in bankruptcy as may be necessary or desirable to effectuate the collection of such Employer Contributions.

Section 3. The Trustees are hereby authorized to allocate fiduciary responsibilities among the Trustees and to designate persons other than the Trustees to carry out fiduciary responsibilities as provided in this Agreement and Declaration of Trust. The power to allocate fiduciary responsibilities shall not apply to the allocation of the responsibility to manage and/or control the assets of the Fund, other than the power to appoint an investment manager or managers.

Section 4. The Trustees shall have exclusive authority and discretion to manage and control the assets of the Fund, except to the extent that such authority to manage, acquire, or dispose of the assets of the Fund is delegated to one or more investment managers, in accordance with the following paragraph.

In their discretion, the Trustees shall also have the authority to appoint an investment manager or managers to manage, acquire, or dispose of any assets of the Fund. An "Investment Manager" is any fiduciary who has been appointed by the Trustees to manage, acquire,

or dispose of any Fund assets, who is (i) registered as an investment advisor under the Investment Advisors Act of 1940; (ii) is a bank in the Investment Advisors Act of 1940; (iii) or is an insurance company qualified to manage, acquire, or dispose of any assets of the Fund under the laws of more than one state, and who has acknowledged, in writing that it is a fiduciary with respect to the Fund.

Section 5. The Trustees shall use and apply for the Trust Estate for the following purposes:

(a) To pay or provide for the payment of all reasonable and necessary expenses of collecting the employer contributions and administering the affairs of this Trust, including the employment of such administrative, actuarial, legal, accounting, investment counsel and clerical assistance, the purchase or lease of such premises as may be necessary for the operations of the affairs of the Fund, the purchase or lease of such materials, supplies, and equipment as the Trustees in their discretion find necessary or appropriate in the performance of their duties.

(b) To pay directly or provide for the payment of premiums for pension and retirement annuities as the Trustees may determine, insuring any employees and their families of contributing employers, subject to such conditions as length of service in the industry, length of payment by the employer of employer contributions, and such other provisions, limitations and conditions as the Trustees, in their discretion, may from time to time determine. Full time employees of the Union, the Fund and all affiliated employee benefit Funds, whether or not such Funds' employees are members of the Union, shall likewise

be eligible for benefits hereunder, subject to such limitations and conditions as the Trustees, in their discretion, may from time to time determine.

(c) To establish and accumulate such reserve funds as the Trustees, in their discretion, deem necessary or desirable for the proper execution of the Trust herein created.

(d) The Trustees shall have the power to formulate the provisions, regulations, and conditions of the Pension and Annuity programs herein contemplated, including those relating to eligibility of Employees, severance age and any or all matters relating thereto which the Trustees may deem appropriate for the determination of benefits and the administration of the plans in accordance with the terms of ERISA. A copy of such plans shall be adopted and filed by the Trustees as part of the records and minutes of the Trustees. The Trustees may amend such plans from time to time provided that such amendments shall be adopted and filed by the Trustees as part of records and minutes of the Trustees.

(e) The plans to be formulated by the Trustees shall be such as to qualify under the Internal Revenue Code, as amended, so that contributions by employers to the Fund will be deductible for tax purposes and approval of such plan by the United States Treasury Department shall be obtained.

Section 6. Neither an Employer nor any employee of any such Employer, nor the Union, nor any member of the Union, nor any persons claiming by, through or under any of them, shall have any right, title or interest in or to the Trust Estate or any part thereof, except the

right of a person or his beneficiary who is covered by the policies of group insurance to such insurance or direct benefits in the amount and subject to the terms and conditions specified in such policy, or as may be specified and determined by the Trustees. No person shall have the option to receive instead of the insurance benefits or direct benefits any part of the employer contributions. The assets of the Fund shall never inure to the benefit of the Employers except in the following circumstances:

(a) Reversion to an Employer upon termination of the Fund, in accordance with the applicable provisions of ERISA.

(b) In the case of a contribution which is made by an Employer by a mistake of fact, such contributions may be returned by the Trustees to such Employer only in accordance with Section 403 of ERISA.

### ARTICLE III

#### THE TRUSTEES

Section 1.(a) The Trustees shall consist of four (4) persons, two (2) of whom shall be named by the Union in accordance with its constitution and by-laws and two (2) of whom shall be appointed by the Mason and Concrete Contractors Association of the Hudson Valley, Inc. (the Association). The Trustees shall serve at the pleasure of the party by whom each was appointed. The current Employer Trustees, Roderick W. Ciferri, III and R. Salvatore Mauro, shall continue to serve as Employer Trustees until such time as each may die, resign or be removed by the Association.

Any vacancy occurring by reason of death or resignation shall be

promptly filled by the Association or Union as the case may be.

Written notice of the death or resignation of a Trustee shall be given at once by the remaining Trustees to the Association and the Union.

It is the intention of the parties that the total number of Trustees designated by the Union shall, at all times, be equal to the total number of Trustees designated by the Association. Regardless of whether the number of Trustees shall be increased or decreased, or whether there be resignations or replacements of any Trustee the equal division of Trustees shall at all times remain constant. In the event of an increase or decrease in the number of Trustees appropriate steps will be taken to maintain the equal balance. During such time as any vacancy exists, the minority group of Trustees shall be allowed the vote or votes of the vacant Trusteeship, so that the voting rights of the minority group of Trustees shall equal the majority.

(b) A quorum at meetings shall be not less than three (3) Trustees. When there are less than all of the Association-designated Trustees or less than all of the Union-designated Trustees, the Trustees from such group or groups having less than all of their Trustees present may table any matter under consideration to the next regular or special meeting of the Trustees. In such event, the written notice for such next regular or special meeting shall contain the text of the tabled matter, with a statement that such tabled matter will be resolved by vote at such next regular or special meeting. Decisions shall be made by the majority of those present. The vote of the Trustees must be cast in person by them at a designated meeting. The rule of one vote per Trustee present shall

always be followed unless a vacancy exists.

All decisions of the Trustees shall be by majority vote. Whenever a deadlock shall exist as to a proposal, nomination, motion or resolution and it appears that the deadlock cannot be broken, the Trustees shall meet immediately to agree to an umpire to decide the matter in question. Should the Trustees be unable to agree upon an impartial umpire, then, upon the petition of a Trustee, the District Court of the United States, within whose jurisdiction the principal office of the Fund is located, shall be empowered to make such appointment of an umpire and the decision or award of such umpire shall be final and binding upon all parties.

(c) Meetings shall be held regularly in about January, June, and October. Only Trustees and those parties directly concerned with the Fund (i.e. Fund legal counsel, consultants, accountants, etc.) shall be present unless a majority of the Trustees vote to allow another person's attendance. Either the Chairman or any two Trustees may call a special meeting of the Trustees at any time by giving at least 48 hours written notice of the time and place thereof to each Trustee, except that any meeting so called shall be adjourned for a reasonable period not to exceed three days upon the request of any Trustee upon a showing of justifiable cause therefore to the satisfaction of the other Trustees. Meetings of the Trustees may also be held at any time without notice, if all the Trustees consent thereto. All meetings of the Trustees shall be held at the Fund's Office (unless all the Trustees agree to a different location for any meeting) and the Fund's Office shall be permanently located in Poughkeepsie, New York. The

Trustees may take any action without holding a meeting, provided that all of the Trustees shall concur, in writing, upon the proposition.

Section 2. During the month of June in each year, the Trustees shall select from among the Trustees, a Chairman and a Secretary, each to serve for a term of one year commencing that 1st day of the month immediately following their selection or until his or their successors have been duly selected.

The Chairman shall be selected from either the Employer or Union group of Trustees and the Secretary shall be selected from the other group of Trustees; it being the intention of the parties that the Chairman shall always be chosen from one of such groups and the Secretary shall always be chosen from the other of such groups. At no time shall the Chairman and Secretary be chosen from the same group of Trustees.

Section 3. It shall be the duty of the Chairman to preside at all meetings of the Trustees. He shall conduct such meetings in accordance with the Trust Agreement and shall decide all questions of order subject to an appeal to the meeting. In the absence of the Chairman, the Secretary shall conduct the meeting.

Section 4. The Trustees may designate a salaried Fund Manager Employee and/or Contract Administrative Agent to perform the operational functions of the Fund at the direction of and in accordance with procedures established by the Trustees. The Fund Manager and/or Agent so chosen need not, but may, be a Trustee. Any Fund manager and/or Agent designated shall perform only such duties and have only such authority as may be delegated to him by the

Trustees. The designation of such Fund Manager and/or Agent shall not relieve the Trustees of their responsibility to manage or control the assets of the Fund.

Section 5. The Trustees may receive reasonable compensation for the performance of their duties as Trustees, and may be reimbursed for all expenses properly and actually incurred in the performance of such duties, provided same is permitted under ERISA.

The costs and expenses of any suit or proceeding brought by or against the Trustees, individually or in their capacities as Trustees (including counsel fees) shall be paid from the Trust Estate so long as such suit or proceeding arises from the administration of the Trust or in their capacities as Trustees and such payment is permissible under ERISA or other applicable laws.

Section 6. The Trustees shall keep true and accurate books of account and records of all their transactions as Trustees which shall be audited annually or more often as determined by the Trustees, by an independent qualified public accountant, copies of which audits shall be furnished to each of the Trustees.

Section 7. Except as hereinafter provided, all checks, drafts, vouchers, or other withdrawals of funds from the accounts or account of the Trust Estate shall be signed by one Employer Trustee and one Union Trustee. The Trustees may designate, in writing, two or more Trustees to sign said withdrawals provided that any two such designated Trustees who actually sign checks are not both members of the Employers or Union group. The Trustees may by resolution authorize the Fund Manager and/or Agent or other Employees of the Fund

to be the sole signatory on checks drawn on an office account.

Section 8. The Trustees are hereby authorized to do any acts, which the Trustees may deem necessary or advisable to accomplish the general objectives of maintaining the Fund, solely in the interests of the participants and beneficiaries for the exclusive purpose of (i) providing benefits to participants and beneficiaries; and (ii) defraying the reasonable expenses of administering the Fund. Such actions shall be taken with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. Such actions shall include the diversification of the investments of the Fund so as to minimize the risk of large losses, unless under the circumstances, it is clearly prudent not to do so, and all such actions shall be in accordance with the documents and instruments and are consistent with applicable law.

If an Investment Manager has been appointed in accordance with Article II, Section 4, hereof, no Trustee shall be liable for the acts or omissions of such investment Manager or Managers or be under an obligation to invest or otherwise manage any asset of the Fund which is subject to the management of such Investment Manager.

Section 9. Trustees shall also have authority to purchase with Fund assets, insurance for all fiduciaries acting as such on behalf of the Fund and/or for the Fund itself, to cover liability or losses occurring by reason of the act or omission of a fiduciary in accordance with Section 410 of ERISA.

Section 10. (a) The Trustees are hereby authorized to formulate and promulgate any and all necessary rules and regulations to facilitate the proper functioning of this Trust, provided that same are not inconsistent with the terms hereof.

(b) Any Trustee may resign, by instrument in writing, executed for that purpose and delivered to the remaining Trustees.

(c) The Trustees may compromise, settle, arbitrate and release claims or demands in favor of, or against the Fund, on such terms and conditions as the Trustees may deem advisable.

(d) No vacancy or vacancies in the office of Trustee shall impair the power of remaining Trustees, acting in the manner herein provided, to administer the affairs of this Trust and, should any vacancies not be filled in the manner herein elsewhere provided, the number of Trustees necessary to constitute a quorum shall be reduced by the number of such vacancies.

Section 11. In the administration of the Trust, the Trustees shall have the following powers, all of which shall be exercised in a fiduciary capacity:

(a) To sell, exchange, encumber or lease all, or any part of the Trust Fund upon such terms, cash or credit, or both, as they may deem advisable.

(b) To invest the Trust Fund in real property, mortgages on real property (including but not limited to the existing bond and mortgage currently and previously held by the trustees on a building owned by Bricklayers, Local 44 Realty Trust and located at 124 Innis Avenue, Poughkeepsie, New York), or interest therein, stocks, bonds,

debentures or other securities of corporations and similar entities and shares or interests in investment trusts and investment companies.

(c) The Trustees shall have the power to give proxies, deposit securities with, and transfer title to, committees representing security holders participating in voting trusts, reorganizations and other arrangements and transactions requiring participation by and among security holders for their common benefit.

(d) The Trustees may freely act under all or any of the powers under this Agreement and Declaration of trust after forming their judgment, based upon all circumstances of any particular situation as to the wisest and best course to pursue in the interest of this Trust and the beneficiaries hereunder, without the necessity of obtaining the consent or permission of any person interested therein or the consent or approval of any court provided, however, that they shall exercise such powers at all times in a fiduciary capacity, in the interest of the beneficiaries hereunder.

(e) To deduct, retain, expend and pay out of any money belonging to the Fund, any and all necessary and proper expenses in connection with the operation and conduct of the Agreement and Declaration of Trust and to pay all taxes, insurance premiums and other legal assessments, debts, claims, or charges which at any time, may be due and owing by, or which may exist against, the Fund.

(f) To incur and pay the ordinary and necessary expenses of administration, including (but not by way of limitation) reasonable attorneys' fees, accountant fees, actuarial fees, investment management fees and the like.

(g) To borrow money for any purpose of the Agreement and Declaration of Trust, or incidental to the administration thereof, upon their promissory note, as Trustees, and with respect to the purchase of any property as part of the consideration given therefor, to assume a liability of the transferor or to acquire such property subject to a liability.

(h) The powers herein granted to the Trustees shall be deemed to be supplementary and not exclusive of the general powers of Trustees, pursuant to law, and shall include all powers necessary to carry the same ~~into~~ effect.

Section 12. No party dealing with the Trustees in relation to this Trust shall be obliged to see to the application of any money or property of the Fund, or to see that the terms of this Trust have been complied with, or be obliged to inquire into the necessity of expediency of any of the Trustees and every instrument executed by the Trustees shall be conclusive in favor of every person relying thereon:

(a) That at the time of the delivery of said instrument, the Trust hereby created was in full force and effect;

(b) That said instrument was executed in accordance with the terms and conditions contained in this Trust; and

(c) That the Trustees were duly authorized and empowered to execute such instrument.

Section 13. Subject to the provisions of ERISA, the receipt given by the Trustees for any monies or other properties received by them shall effectually discharge the person or persons paying or transferring the same and such person or persons shall not be bound to

the application or be answerable for the loss or misapplication thereof.

Section 14.

(a) The Trustees shall have the power to require any employer and an employer, when so required, shall furnish to the Trustees such information and reports as they may require in the performance of their duties under this Agreement and Declaration of Trust. The Trustees or any authorized agent or representative of the Trustees shall have the right, at all reasonable times during business hours, to enter upon the premises of employers to examine and copy such of the books, records, papers and reports of said employers as may be necessary to permit the Trustees to determine whether said employers are making full payment to the Trustees of the amounts required by the aforementioned Collective Bargaining Agreement.

(b) In addition to any remedies which the Union may by virtue of any provisions in any Collective Bargaining Agreement with the employer to enforce the payment of the employer contributions to the Fund, the Trustees shall also have the power to require any employer who does not make proper and timely contributions as required by its Collective Bargaining Agreement to pay in addition to such contributions, (1) the expenses incurred in the auditing of such employer's books and records, and (2) liquidated damages pursuant to the collective bargaining agreement. In the event litigation is begun to collect any delinquent contributions, the employer shall also pay (1) interest, (2) penalty interest, (3) the Fund's attorneys' fees, and (4) the costs and disbursements of the case all in accordance with

Section 502(g) of ERISA.

Section 15. The trustees have had, and shall continue to have, the discretionary authority to finally determine all issues involving interpretation and application of both this Trust Agreement and the Plan Documents, including, but not limited to, participation, eligibility for benefits, extent and duration of coverage, amount and duration of benefits and all other issues which may arise with respect to the administration or operation of the Fund or Plan. The trustees determination may not be overruled absent a finding that it was arbitrary or capricious, or an abuse of discretion.

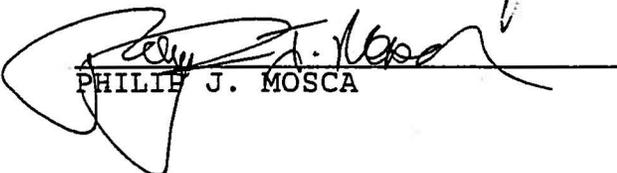
#### ARTICLE IV RECIPROCAL AGREEMENTS

Section 1. The Trustees are authorized to negotiate, enter into and effect with the Trustees or governing body of any other Fund similar in nature and purpose to this Fund, any and all types of Agreements which the Trustees may deem desirable to fully effectuate the purpose of this Fund including, but not limited to reciprocity agreements whereby employer contributions received and credited for hours worked by a member who is normally employed within the jurisdiction of such other Fund and is a member of or potential member of such other Fund, but who is temporarily employed within the jurisdiction of this Fund, or vice versa, may be transmitted from one Fund to the other to give such employee the maximum opportunity to become and remain eligible for benefits of his home Fund, with such terms, conditions and covenants as to the Trustees may seem reasonable and proper in their sole discretion.

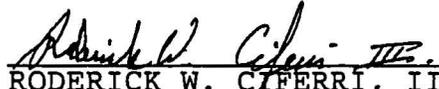
ratification and consent to be bound by the Trust created herein, the day and year first above written.

UNION TRUSTEES

  
ANDREW T. GALLANTE, JR.

  
PHILIP J. MOSCA

EMPLOYER TRUSTEES

  
RODERICK W. CIFERRI, III

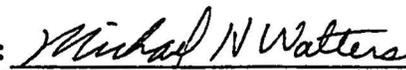
  
R. SALVATORE MAURO

Receipt of a copy hereof acknowledged.

BRICKLAYERS and ALLIED  
CRAFTWORKERS LOCAL 5 NEW YORK

By:   
ANDREW T. GALLANTE, President

MASON AND CONCRETE CONTRACTORS  
ASSOCIATION OF THE HUDSON  
VALLEY, INC.

By:   
MICHAEL N. WALTERS, Vice President

**AMENDMENT TO THE TRUST AGREEMENTS OF THE  
BRICKLAYERS AND ALLIED CRAFTWORKERS  
LOCAL 5 NEW YORK RETIREMENT FUND, WELFARE FUND,  
TRAINING FUND AND LABOR MANAGEMENT COALITION FUND**

THIS AGREEMENT, made the 27<sup>th</sup> day of March, 2003 by and between the present Employer Trustees and the present Union Trustees of the BRICKLAYERS AND ALLIED CRAFTWORKERS LOCAL 5 NEW YORK RETIREMENT FUND, WELFARE FUND TRAINING FUND and LABOR MANAGEMENT COALITION FUND (hereinafter the "Funds"),

W I T N E S S E T H:

WHEREAS, the Funds were each established by a separate Agreement and Declaration of Trust as amended; and

WHEREAS, in accordance with Article VI of each Agreement and Declaration of Trust the same may be amended by instrument in writing executed by the Trustees; and

WHEREAS, the Trustees of each Fund desire to amend each Agreement and Declaration of Trust as herein set forth.

NOW, THEREFORE, in consideration of the premises, it is mutually understood and agreed that:

Article III, Section 1 (a) of the Retirement Fund and the Welfare Fund Agreements [and Article III, Sections 3.1 through 3.3 inclusive of the Labor Management Coalition Fund Agreement] shall and the same hereby are amended, retroactively to 14th day of November, 2002 by deleting said Sections in their entirety and substituting the following language in each:

ARTICLE III

THE TRUSTEES

Section 1.(a) [or 3.1 and 3.2 and 3.3] The Trustees shall consist of six (6) persons, three (3) of whom shall be named by the Union per its constitution and by-laws and three (3) of whom who have heretofore been appointed by an Employer Association. The current Union Trustees, Tony Piacente, Philip Mosca and Manuel Valente shall continue to serve as Union Trustees until such time as each may die, resign or be removed by the Union. Any vacancy occurring by reason of death or resignation or removal of a Union Trustee shall be promptly filled by the Union.

The current Employer Trustees, Roderick W. Ciferri, III, R. Salvatore Mauro and Michael Walters, shall continue to serve as Employer Trustees until such time as each may die, resign or be removed for just cause by the three current Employer Associations acting in unity. Any dispute, whether among the Associations or with the affected Employer Trustee, as are to whether there exists just cause for removal shall be resolved in the same manner as trustee deadlocks under this agreement. Any vacancy occurring by reason of the death, resignation or removal of an Employer Trustee shall promptly be filled by three Employer Associations acting in unity.

Written notice of the death, resignation or removal for just cause of any Trustee shall be given at once by the Union or the Association as the case may be to all the remaining Trustees.

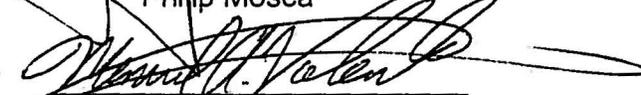
It is the intention of the parties that the total number of Union Trustees at all times, be equal to the total number of Employer Trustees. Regardless of whether the number of Trustees shall be increased or decreased, or whether there be resignations or replacements of any Trustee the equal division of Trustees shall at all times remain constant. In the event of an increase or decrease in the number of Trustees appropriate steps will be taken to maintain the equal balance. During such time as any vacancy exists, the minority group of Trustees shall be allowed the vote or votes of the vacant Trusteeship, so that the voting rights of the minority group of Trustees shall equal the majority.

Approved this <sup>2<sup>nd</sup></sup> 27 day of March, 2003

UNION TRUSTEES

  
Tony Piacente

  
Philip Mosca

  
Mahuel Valente

EMPLOYER TRUSTEES

  
R. Salvatore Mauro

  
Roderick W. Ciferri, III

  
Michael Walters

**AMENDMENT TO THE TRUST AGREEMENTS OF THE  
BRICKLAYERS AND ALLIED CRAFTWORKERS  
LOCAL 5 NEW YORK RETIREMENT FUND AND WELFARE FUND**

THIS AGREEMENT, made the 1<sup>st</sup> day of January, 2004 by and between the present Employer Trustees and the present Union Trustees of the BRICKLAYERS AND ALLIED CRAFTWORKERS LOCAL 5 NEW YORK RETIREMENT FUND and WELFARE FUND (hereinafter the "Funds"),

**WITNESSETH:**

WHEREAS, the Funds were each established by a separate Agreement and Declaration of Trust as amended; and

WHEREAS, in accordance with Article VI of each Agreement and Declaration of Trust the same may be amended by instrument in writing executed by the Trustees; and

WHEREAS, the Trustees of each Fund desire to amend each Agreement and Declaration of Trust as herein set forth.

NOW, THEREFORE, in consideration of the premises, it is mutually understood and agreed that:

Article III, Section 11(b) of the Retirement Fund and the Welfare Fund Agreements shall and the same hereby are amended, as of the 1<sup>st</sup> day of January, 2004 by adding the following language in each:

**ARTICLE III**

**THE TRUSTEES**

Notwithstanding any other provision of this Trust Agreement, the Trustees may cause any part or all of the Trust Fund to be invested as a part of the collective investment funds maintained by a bank. The portion of the Trust Fund so invested may be commingled with the funds of other trusts, to the extent allowed by law. The portion of the Trust Fund so invested shall be subject to all of the provisions of the declaration(s) of trust creating said collective investment fund(s), as amended from time to time. Such

declaration(s) of trust, as amended, are hereby (or shall be) incorporated by reference into and made a part of this Trust Agreement.

Approved this \_\_\_ day of \_\_\_\_\_, 2004

UNION TRUSTEES

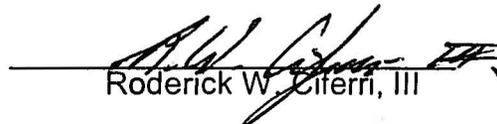
  
\_\_\_\_\_  
Tony Piacente

  
\_\_\_\_\_  
Philip Mosca

  
\_\_\_\_\_  
Manuel Valente

EMPLOYER TRUSTEES

  
\_\_\_\_\_  
R. Salvatore Mauro

  
\_\_\_\_\_  
Roderick W. Ciferri, III

  
\_\_\_\_\_  
Michael Walters  
*Patrick W. Murphy Jr.*

**AMENDMENT TO THE TRUST AGREEMENTS OF THE  
BRICKLAYERS AND ALLIED CRAFTWORKERS  
LOCAL 5 NEW YORK RETIREMENT FUND, WELFARE FUND,  
APPRENTICE TRAINING and JOURNEYMEN UPGRADING FUND,  
LABOR MANAGEMENT COALITION FUND and SUPPLEMENTAL  
EMPLOYMENT BENEFITS FUND**

THIS AGREEMENT, made the 14<sup>th</sup> day of January, 2008<sup>9</sup> by and between the present Employer Trustees and the present Union Trustees of the BRICKLAYERS AND ALLIED CRAFTWORKERS LOCAL 5 NEW YORK RETIREMENT FUND, WELFARE FUND, APPRENTICE TRAINING and JOURNEYMEN UPGRADING FUND, LABOR MANAGEMENT COALITION FUND and SUPPLEMENTAL EMPLOYMENT BENEFITS FUND (hereinafter the "Funds"),

W I T N E S S E T H:

WHEREAS, the Funds were each established by a separate Agreement and Declaration of Trust as amended; and

WHEREAS, in accordance with Article VI of each Agreement and Declaration of Trust the same may be amended by instrument in writing executed by the Trustees; and

WHEREAS, the Trustees of each Fund desire to amend each Agreement and Declaration of Trust as herein set forth, effective September 30, 2008.

NOW, THEREFORE, in consideration of the premises, it is mutually understood and agreed that:

1. Article I, Section 8 shall be amended by deleting the following language:

"Section 8 - ASSOCIATIONS. The term "Associations as used herein shall mean Construction Contractors Association of the Hudson Valley, and the Construction

Industry Council of Westchester and Hudson Valley, Inc.

and substituting the following language therefore:

"Section 8 - ASSOCIATIONS. The term Associations as used herein shall mean the Construction Contractors Association of the Hudson Valley, Inc., the Building Contractors Association of Westchester and Mid-Hudson, Inc., and the Mason and Concrete Contractors Association of Hudson Valley, Inc."

2. Article III, Section 1(a), shall be amended by deleting the following language:

"Section 1(a) - The Trustees shall consist of six (6) persons, three (3) of whom shall be named by the Union per its constitution and by-laws and three (3) of whom shall be named by the two Employer Associations. The current Union Trustees, Tony Piacente, Philip Mosca and Manuel Valente shall continue to serve as Union Trustees until such time as each may die, resign or be removed by the Union. Any vacancy occurring by reason of death or resignation or removal of a Union Trustee shall be promptly filled by the Union."

and substituting the following language therefore:

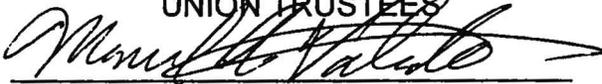
"Section 1(a) - The Trustees shall consist of six (6) persons, three (3) of whom shall be named by the Union per its constitution and by-laws and three (3) of whom shall be named, one each by the three Employer Associations. The

current Union Trustees, Philip Mosca and Manuel Valente shall continue to serve as Union Trustees until such time as each may die, resign or be removed by the Union. Any vacancy occurring by reason of death or resignation or removal of a Union Trustee shall be promptly filled by the Union."

3. On page 1 of the Trust Agreement of the Bricklayers and Allied Craftworkers Local 5 New York Apprentice Training and Journeymen Upgrading Fund, the term Welfare Fund be deleted and the term Bricklayers and Allied Craftworkers Local 5 New York Apprentice Training and Journeymen Upgrading Fund shall be substituted therefore.

Approved this 14<sup>th</sup> day of January, 2008

UNION TRUSTEES



Manuel Valente

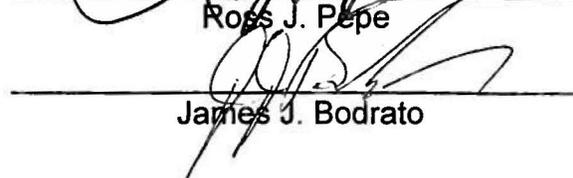


Philip Mosca

EMPLOYER TRUSTEES



Ross J. Pepe



James J. Bodrato

**AMENDMENT TO THE TRUST AGREEMENTS OF THE  
BRICKLAYERS AND ALLIED CRAFTWORKERS  
LOCAL 5 NEW YORK RETIREMENT FUND, WELFARE FUND,  
APPRENTICE TRAINING AND JOURNEYMEN UPGRADING FUND,  
LABOR MANAGEMENT COALITION FUND AND  
SUPPLEMENTAL EMPLOYMENT BENEFITS FUND**

THIS AGREEMENT, made the 1<sup>st</sup> day of Jan, 2014 by and between the present Employer Trustees and the present Union Trustees of the BRICKLAYERS AND ALLIED CRAFTWORKERS LOCAL 5 NEW YORK RETIREMENT FUND, WELFARE FUND, APPRENTICE TRAINING AND JOURNEYMEN UPGRADING FUND, LABOR MANAGEMENT COALITION FUND AND SUPPLEMENTAL EMPLOYMENT BENEFITS FUND (hereinafter the "Funds"),

**WITNESSETH:**

**WHEREAS**, the Funds were each established by a separate Agreement and Declaration of Trust as amended; and

**WHEREAS**, the current Trustees are Ross Pepe, Alan Seidman, Michael Clifford and Manuel Valente; and

**WHEREAS**, in accordance with Article VI of each Agreement and Declaration of Trust the same may be amended by instrument in writing executed by the Trustees; and

**WHEREAS**, the Trustees of each Fund desire to amend each Agreement and Declaration of Trust as herein set forth, effective Jan 1, 2014.

**NOW, THEREFORE**, in consideration of the premises, it is mutually understood and agreed that:

1. Article III, Section 1(a), shall be amended by deleting the following language:

“Section 1(a) – The Trustees shall consist of six (6) persons, three (3) of whom shall be named by the Union per its Constitution and By-laws and three (3) of whom shall be named, one each by the three Employer Associations. The current Union Trustees, Philp Mosca and Manuel Valente shall continue to serve as Union Trustees until such time as each may die, resign or be removed by the Union. Any vacancy occurring by reason of death or resignation or removal of a Union Trustee shall be promptly filled by the Union.”

and substituting the following language:

“Section 1(a) – The Trustees shall consist of four (4) persons, two (2) of whom shall be named by the Union per its Constitution and By-laws and two (2) of whom shall be named, by the Employer Associations. The current Union Trustees, Michael Clifford and Manuel Valente shall continue to serve as Union Trustees until such time as each may die, resign or be removed by the Union. Any vacancy occurring by reason of death or resignation or removal of a Union Trustee shall be promptly filled by the Union.”

2. Article III, Section 1(b) shall be amended by deleting the following language:

“A quorum of meetings shall not be less than five (5) Trustees”

and substituting the following language:

“A quorum of meetings shall not be less than three (3) Trustees.”

Approved this 1<sup>st</sup> day of January, 2014

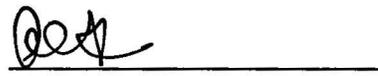
UNION TRUSTEES

  
Manuel Valente

EMPLOYER TRUSTEES

  
Ross J. Pepe

  
Michael Clifford

  
Alan Seidman

AMENDMENT TO THE TRUST AGREEMENTS OF THE  
BRICKLAYERS AND ALLIED CRAFTWORKERS  
LOCAL 5 NEW YORK RETIREMENT FUND, WELFARE FUND,  
APPRENTICE TRAINING AND JOURNEYMEN UPGRADING FUND AND  
LABOR MANAGEMENT COALITION FUND

MAR 04 2016

THIS AGREEMENT, made the 12 day of June, 2014 by and between the present Employer Trustees and the present Union Trustees of the BRICKLAYERS AND ALLIED CRAFTWORKERS LOCAL 5 NEW YORK RETIREMENT FUND, WELFARE FUND, APPRENTICE TRAINING AND JOURNEYMEN UPGRADING FUND, AND LABOR MANAGEMENT COALITION FUND (hereinafter the "Funds"),

WITNESSETH:

WHEREAS, the Funds were each established by a separate Agreement and Declaration of Trust as amended; and

WHEREAS, the current Trustees are Ross Pepe, Alan Seidman, Michael Clifford and Manuel Valente; and

WHEREAS, in accordance with Article VI of each Agreement and Declaration of Trust the same may be amended by instrument in writing executed by the Trustees; and

WHEREAS, the Trustees of each Fund desire to amend each Agreement and Declaration of Trust as herein set forth, effective May 20, 2014.

NOW, THEREFORE, in consideration of the premises, it is mutually understood and agreed that:

1. Article III, Section 1(a), shall be amended by deleting the following language:

*March 20*

“Section 1(a) – The Trustees shall consist of six (6) persons, three (3) of whom shall be named by the Union per its Constitution and By-laws and three (3) of whom shall be named, one each by the three Employer Associations. The current Union Trustees, Philp Mosca and Manuel Valente shall continue to serve as Union Trustees until such time as each may die, resign or be removed by the Union. Any vacancy occurring by reason of death or resignation or removal of a Union Trustee shall be promptly filled by the Union.”

and substituting the following language:

“Section 1(a) – The Trustees shall consist of four (4) persons, two (2) of whom shall be named by the Union per its Constitution and By-laws and two (2) of whom shall be named, by the Employer Associations. The current Union Trustees, Michael Clifford and Manuel Valente shall continue to serve as Union Trustees until such time as each may die, resign or be removed by the Union. Any vacancy occurring by reason of death or resignation or removal of a Union Trustee shall be promptly filled by the Union.”

2. Article III, Section 1(b) shall be amended by deleting the following language:

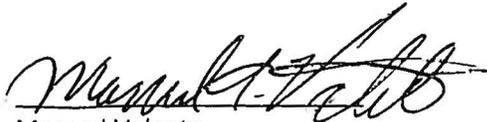
“A quorum of meetings shall not be less than five (5) Trustees”

and substituting the following language:

“A quorum of meetings shall not be less than three (3) Trustees.”

Approved this 2 day of Jan, 2014

UNION TRUSTEES

  
Manuel Valente

EMPLOYER TRUSTEES

  
Ross J. Pepe

  
Michael Clifford

  
Alan Seidman