Plasterers & Cement Masons Local No. 94 Pension Plan

Application to the
Pension Benefit Guaranty Corporation
for a Partition Order

March 30, 2018

APPLICATION FOR PARTITION ORDER FOR
PLASTERERS & CEMENT MASONS LOCAL NO. 94 PENSION FUND

Table of Contents

Page

Section 1. Background and Purpose 1

Section 2. Definitions.....2

Section 3. Application Filing Requirements.....3

Section 4. Information to be Filed 4

Section 5. Plan Information 5

Section 6. Partition Information.....7

Section 7. Actuarial and Financial Information.....17

Section 8. Participant Census Data 23

Section 9. Financial Assistance Information 24

APPLICATION FOR PARTITION ORDER FOR
PLASTERERS & CEMENT MASONS LOCAL NO. 94 PENSION FUND

Section 1. Background and Purpose

In December 2014, Congress enacted, and the President signed, the Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113–235 (128 Stat. 2130 (2014)), of which MPRA is a part. MPRA contains a number of statutory reforms intended to help financially troubled multiemployer plans, and to improve the financial condition of PBGC's multiemployer insurance program. In addition to increased premiums, sections 121 and 122 of MPRA provide PBGC with new statutory authority to assist financially troubled multiemployer plans under certain conditions, if doing so would reduce potential future costs to PBGC and if PBGC can certify that its ability to meet existing financial assistance to other plans will not be impaired.

This application is submitted in accordance with PBGC Regulation §4233 and the section numbers and exhibits included with this application match those in the Regulation.

Section 2. Definitions

Defined terms in this application follow the definitions in PBGC Regulation §4233.2.

Plasterers & Cement Masons Local No. 94 Pension Plan
Application for a Partition Order

Section 3. Application Filing Requirements

(a) Method of filing.

This application has been sent by email to Multiemployerprogram@pbgc.gov and sent by US Mail to:

Multiemployer Program Division
Pension Benefit Guaranty Corporation
1200 K Street, NW, Suite 9537
Washington, DC 20005

(b) Who may file.

I am signing this application on behalf of the plan sponsor, the Board of Trustees of the Plasterers & Cement Masons Local No. 94 Pension Plan. I am a current member of the Board of Trustees of the Plasterers & Cement Masons Local No. 94 Pension Plan.

The plan sponsor acknowledges that during any time in which this application is pending final action by PBGC, the plan sponsor must promptly notify PBGC in writing of any material fact or representation contained in or relating to the application, or in any supporting documents, that is no longer accurate, or any material fact or representation omitted from the application or supporting documents, that the plan sponsor discovers.

Under penalties of perjury, I declare that I have examined this application, including accompanying documents, and, to the best of my knowledge and belief, the application contains all the relevant facts relating to the application, and such facts are true, correct, and complete.

3/29/18

Joseph Diehl Date
Authorized Trustee on behalf of Board of Trustees

Section 4. Information to be Filed

(a) General Information.

This application includes the information specified in:

- §4233.5 (plan information) in Section 5
- §4233.6 (partition information) in Section 6
- §4233.7 (actuarial and financial information) in Section 7
- §4233.8 (participant census data) in Section 8, and
- §4233.9 (financial assistance information) in Section 9.

(b) Additional information.

The plan sponsor acknowledges that it may be required to submit additional information necessary to make a determination on an application and any information PBGC may need to calculate or verify the amount of financial assistance necessary for a partition.

3/29/18

Joseph Diehl Date
Authorized Trustee on behalf of Board of Trustees

(c) Duty to amend and supplement application.

The plan sponsor acknowledges that it must promptly notify the PBGC in writing of any material fact or representation contained in or relating to the application, or in any supporting documents, that is no longer accurate, or any material fact or representation omitted from the application or supporting documents, that the plan sponsor discovers during any time in which the application is pending final action by PBGC.

3/29/18

Joseph Diehl Date
Authorized Trustee on behalf of Board of Trustees

Section 5. Plan Information

(a) The name of the plan, Employer Identification Number (EIN), and three-digit Plan Number (PN).

Plan Name	Plasterers & Cement Masons Local No. 94 Pension Plan
Plan EIN / PN	23-6445411 / 001

(b) The name, address, and telephone number of the plan sponsor and the plan sponsor's duly authorized representative, if any.

Sponsor Name	Board of Trustees of the Plasterers & Cement Masons Local No. 94 Pension Plan
Address	c/o PATH Administrators 4785 Linglestown Road Suite 200 Harrisburg, PA 17112
Telephone	717-671-8551

Plan Sponsor's Duly Authorized Representative:

Name	James J. McKeogh, Enrolled Actuary
Address	200 Barr Harbor Drive, Suite 225 West Conshohocken, PA 19428
Telephone	484-530-0692

(c) The most recent trust agreement, including all amendments adopted since the last restatement.

The most recent trust agreement and all amendments adopted since the last restatement are attached as Exhibit 5c.

(d) The most recent plan document, including all amendments adopted since the last restatement.

The most recent plan document and all amendments adopted since the last restatement are attached as Exhibit 5d.

(e) The most recent summary plan description (SPD), and all summaries of material modification (SMM) issued since the effective date of the most recent SPD.

The most recent SPD, and all SMMs issued since the effective date of the most recent SPD are attached as Exhibit 5e.

(f) The most recent rehabilitation plan (or funding improvement plan, if applicable), including all subsequent amendments and updates, and the percentage of total

contributions received under each schedule of the rehabilitation plan for the most recent plan year available.

The most recent rehabilitation plan, including all subsequent amendments and updates is attached as Exhibit 5f. All contributing employers have been following the default schedule.

(g) A copy of the plan's most recent IRS determination letter.

A copy of the plan's most recent IRS determination letter is attached as Exhibit 5g.

(h) A copy of the plan's most recent Form 5500 (Annual Report Form) and all schedules and attachments (including the audited financial statement).

A copy of the plan's most recent Form 5500 and all schedules and attachments including the audited financial statement are attached as Exhibit 5h.

(i) A current listing of employers who have an obligation to contribute to the plan, and the approximate number of participants for whom each employer is currently making contributions.

Contributing Employer	Participant Count as of May 1, 2017
GM McCrossing, Inc.	1
Macri Concrete Inc.	10
McKinney Drilling Company LLC	2
Novinger's Inc.	10
Shamokin Dam Construction LLC	13

(j) A schedule of withdrawal liability payments collected in each of the most recent five plan years.

Plan Year Beginning	Withdrawal Liability Payments
May 1, 2016	$0
May 1, 2015	$0
May 1, 2014	$0
May 1, 2013	$0
May 1, 2012	$0

Section 6. Partition Information

(a) A detailed description of the proposed partition, including the proposed structure, proposed effective date, and any larger integrated transaction of which the proposed partition is a part (including, but not limited to, an application for suspension of benefits under section 305(e)(9)(G), or a merger under section 4231 of ERISA). With respect to coordinated applications for partition and suspension of benefits, proposed effective dates for both transactions must satisfy the requirements of section 305(e)(9)(D)(v) of ERISA.

The Trustees' proposed effective date for the partition is May 1, 2019. The proposed structure of the partition is to transfer the PBGC guaranteed benefits for the following participant groups to the Successor Plan:

- 100% of the liability associated with Terminated Vested Participants
- 50% of the liability associated with Retirees currently in pay status
- 0% of the liability associated with current Beneficiaries in pay status
- 0% of the liability associated with current Active Participants

An application for suspension of benefits under section 305(e)(9)(G) has been submitted simultaneously with this application. A copy of that application is attached as Exhibit 10.

(b) A narrative description of the events that led to the plan sponsor's decision to submit an application for partition (and, if applicable, application for suspension of benefits).

Since the start of the Plan Year beginning May 1, 2007, the Fund has seen significant decreases in both assets and contribution hours due, in particular, to the financial crisis of 2008. Specifically, the Fund has seen a 44% decrease in the market value of assets from 2007 to 2017 and a 58% decrease in contribution hours when comparing the Plan Year beginning in 2007 to the average hours during the Plan Years beginning in 2008 through 2016. The collapse of the financial markets in 2008 resulted in the Fund's experiencing the worst investment losses on record and resulted in the collapse of the building and construction industry in the geographic area covered by the Fund and also in the geographic area where contributing employers performed work. This, along with the maturity of the Fund, has made it difficult for the Fund to recover from the economic downturns it has experienced. With an inactive to active ratio over 300% for most of the period since 2010, the Fund has found itself in a situation where the contributions from active members are not substantial enough to keep the Fund from becoming insolvent.

On July 27, 2010, the Fund was first certified to be in "Critical Status" within the meaning of the Pension Protection Act of 2006 (the "PPA") for the Plan Year beginning on May 1, 2010. In March 2011, the Board of Trustees adopted a Rehabilitation Plan that contained four schedules providing reductions in benefits, increases in contributions or both, that were reasonably expected to enable the Fund to emerge from critical status at the end of the Rehabilitation Period (10-year period beginning on May 1, 2011).

Section 6. Partition Information

Following the adoption of the Rehabilitation Plan, the economic conditions in the building and construction trades did not improve but rather continued to decline. In light of this information and based on reasonable actuarial assumptions the Trustees concluded that the Fund could not reasonably be expected to emerge from critical status by the end of the Rehabilitation period. In reaching this conclusion, the Fund's Trustees considered, as of fall 2011, anticipated investment losses for the Plan Year ending April 30, 2012.

The Trustees therefore decided to amend the Rehabilitation Plan on October 21, 2011. The updated Rehabilitation Plan eliminated all four schedules and replaced them with one Default Schedule calling for an increase in the contribution rate from $8.10 per hour to $9.10 per hour. The Fund's Trustees concluded that a further reduction in benefits would be inconsistent with the goal of presenting a viable plan with ongoing value to active participants. The magnitude of the employer contribution increases needed to satisfy the requirements for a 10-year rehabilitation plan, however, would almost certainly result in lower negotiated wages for participants and/or decreased employer contributions to other benefit plans covering these participants (such as the plan providing their health benefit coverage). If participants perceived a significant decrease in value in their total overall compensation—including wages, pension benefits and health benefits—the Fund's Trustees concluded that they would be likely to encourage their employers to withdraw from the Fund. Such actions would also make the plan less attractive to new employers and could also lead to increased employer withdrawals or reductions in contributions from current employers, as the collective bargaining parties would see less benefit to ongoing participation.

Due to a combination of unfavorable investment returns and lower than expected industry activity during the Plan Year that ended April 30, 2012, the Fund was certified in July 2012 to not project to emerge from critical status by the end of the Rehabilitation period.

In February 2013 the Trustees again decided to amend the Rehabilitation Plan in light of continuing poor economic conditions. Hours had reached a new low in the Plan Year ending April 30, 2012 and as of February 2013 the Fund was on pace to have contribution hours similar to this number in the Plan Year ending April 30, 2013. The Trustees reviewed the Fund's contribution rates and the Fund's benefits with a view to making modifications to these so as to further enable the Fund to forestall insolvency. In considering contribution rate increases, the Trustees concluded that it would not be realistic to increase the rate of contributions given the impact of the severe economic decline in the building and construction industry. The Trustees then reviewed possible modifications to the Plan of Benefits and concluded that changes could be made that would allow the Rehabilitation Plan to reflect a more meaningful effort to forestall the Fund's insolvency. The monthly benefit multiplier was reduced from $77.50 to $33.00, the Early Retirement Pension reduction factor was increased from 3.33% to 6.00% per year and the Pre-Retirement Death Benefit was decreased in value by applying a 6.00%

per year reduction for commencement prior to Normal Retirement Date. Despite these actions the Fund's funded percentage and the Funding Standard Account Credit Balance were projected to continue to decline.

While the Fund saw an improved investment return in the Plan Year ending April 30, 2014 it again saw hours decrease to a new low. Despite the decreased contribution hours, the improvement in general economic conditions provided the Trustees the ability to amend the Rehabilitation Plan effective May 1, 2014 to increase the contribution rate from $9.10 per hour to $9.30 per hour, effective May 1, 2014, as part of the Default Schedule.

The Plan Year ending April 30, 2016 was once again a challenging year in the markets and the Fund experienced an investment return of -1.42%. This loss led the Trustees to amend the Rehabilitation Plan to further reduce benefits. The Board decided to eliminate the Fund's Disability benefit for those with disability retirement effective dates on or after March 15, 2017, eliminate the post-disability-retirement death benefit for those with disability retirement effective dates on or after March 15, 2017, and eliminate the Pop-Up Provision of the Husband-Wife 50%, Husband-Wife 75% and Husband-Wife 100% forms of Pension payments for those with retirement effective dates on or after March 15, 2017.

It is the Trustees' opinion that as of the filing of this application all reasonable measures the Fund can take have been exhausted in the efforts to avoid insolvency. Despite these measures, the Fund is projected to become insolvent unless benefits are suspended to the maximum allowable extent and a partition of benefits is approved.

(c) A narrative description of significant risks and assumptions relating to the proposed partition and the projections provided in support of the application.

The assumptions relating to the proposed partition and the projections supplied with this application are detailed in Exhibit 6c.

The most significant risks include a return on plan assets lower than that assumed, the withdrawal of additional employers, future reduction in the workforce beyond that which was anticipated in this application, participants living longer than anticipated, and plan expenses increasing beyond what was anticipated.

(d) If applicable, a copy of the plan sponsor's application for suspension of benefits (including all attachments and exhibits).

A copy of the plan sponsor's application for suspension of benefits including all attachments and exhibits is attached as Exhibit 10.

Section 6. Partition Information

(e) A detailed description of all measures the plan sponsor has taken (or is taking) to avoid insolvency, and any measures the plan sponsor considered taking but did not take, including the factor(s) the plan sponsor considered in making these determinations. Include all relevant documentation relating to the plan sponsor's determination that it has taken (or is taking) measures to avoid insolvency.

(1) Reductions in Plan Benefits

- Benefit Accrual Rate: The benefit accrual rate for future service only was reduced from $77.50 to $33.00 effective May 1, 2013.

- Pre-Retirement Surviving Spouse Benefit: The pre-retirement surviving spouse benefit was changed from 50% of the Straight Life Annuity amount to 50% of the 50% Joint and Survivor Annuity amount effective May 1, 2013.

- Early Retirement Subsidies: The early retirement reduction factors were changed from 3.33% per year to 6.00% per year effective May 1, 2013.

- Optional Form of Payment Subsidies: The pop-up feature for future retirements was eliminated for retirements on or after March 15, 2017.

- Disability Benefits for Current Active Participants: The Disability Retirement Pension was eliminated for participants whose disability benefit commencement dates would have been on or after March 15, 2017.

- Death Benefit: The Post-Disability Death Benefit was eliminated for future deaths effective March 15, 2017.

Section 6. Partition Information

(2) Contribution Rate Increases

The hourly contribution rates have increased as shown below. They are expected to remain at $9.30 for the duration of the projections enclosed in this application.

May 1,	Rate
2007	$ 5.60
2008	6.10
2009	7.10
2010	8.10
2011	9.10
2012	9.10
2013	9.10
2014	9.30
2015	9.30
2016	9.30
2017	9.30

(3) Plan Factors

In accordance with §432(e)(9)(C)(ii), the following factors were taken into account in the plan sponsor's determination that all reasonable measures have been taken to avoid insolvency:

A. Contribution Levels. Contribution rates are summarized in Section 6(e)(2) of this application. Contribution dollars and hours are summarized in the table below:

Plan Year Beginning May 1,	Total Contributions	Contribution Base Units
	(1)	(2)
2007	$ 348,439	62,221
2008	$ 225,864	37,011
2009	$ 177,336	24,979
2010	$ 216,622	26,746
2011	$ 162,284	19,774
2012	$ 178,924	19,662

Section 6. Partition Information

Plan Year Beginning May 1,	Total Contributions	Contribution Base Units
2013	$ 129,065	14,183
2014	$ 173,121	18,618
2015	$ 222,293	23,903
2016	$ 388,128	41,252

B. Levels of benefit accruals are provided in Section 6(e)(1) of this application.

C. Prior reductions of adjustable benefits under § 432(e)(8) are provided in Section 6(e)(1) of this application.

D. Measures undertaken by the plan sponsor to retain or attract contributing employers:

The Trustees have taken multiple measures to attract and retain employers. First, shortly after developing a Rehabilitation Plan consisting of multiple schedules with large contribution increases the Trustees realized that forcing the small set of contributing employers to adopt these schedules would inevitably force them out of business or, at the very least, out of the Fund. Instead the Trustees revised the Rehabilitation Plan to consist of one Default Schedule which called for a more sustainable contribution increase.

Similarly, the Trustees reviewed the possibility of continued cuts to benefits accruals and the overall benefits package of the Fund. While the Trustees committed to making a number of benefit reductions as noted throughout this application they were also aware that reducing the Plan of Benefits too much would negatively impact employer retention. The Trustees feel that too significant a decrease in the total compensation received by the Active Participants would lead to Active Participants pushing their employer to withdraw from the Fund. Ultimately the Trustees removed almost all subsidies from the Fund and brought the accrual rate down to a level they felt was as diminished as they could afford while not risking the loss of the contribution base it had remaining.

E. Remaining Ancillary Benefits. There are no remaining ancillary benefits for active participants. Almost all subsidies for Active Participants have

been removed from the Fund as part of the Rehabilitation Plan. The only subsidies remaining are as follows: (1) as noted in Section 6(e)(1), early retirement factors have been reduced to 6% per year prior to Normal Retirement and (2) form of payment conversion factors are based on a table provided in the Amended and Restated Plan of Benefits.

F. Compensation levels of active participants relative to employees in the participants' industry generally.

Compensation level of Active Participants are substantially higher than non-union employees in the industry covered by the Fund, particularly when taking into account benefit costs.

G. Competitive and other economic factors facing contributing employers

Since the start of the Plan Year beginning May 1, 2007, the Fund has seen significant decreases in both assets and contribution hours due, in particular, to the financial crisis of 2008. Specifically, the Fund has seen a 44% decrease in the market value of assets from 2007 to 2017 and a 58% decrease in contribution hours when comparing the Plan Year beginning in 2007 to the average hours during the Plan Years beginning in 2008 through 2016. The collapse of the financial markets in 2008 resulted in the Fund's experiencing the worst investment losses on record and resulted in the collapse of the building and construction industry in the geographic area covered by the Fund and also in the geographic area where contributing employers performed work. This, along with the maturity of the Fund, has made it difficult for the Fund to recover from the economic downturns it has experienced. With an inactive to active ratio over 300% for most of the period since 2010, the Fund has found itself in a situation where the contributions from active members are not substantial enough to keep the Fund from becoming insolvent.

(4) How Plan Factors Were Taken Into Account

The factors listed in Section 6(e)(3) of this application were taken into account in the plan sponsor's determination that all reasonable measures have been taken to avoid insolvency, as follows:

(A) Contribution levels

As shown in Section 6(e)(1), contribution rates have increased by 66% since 2007, from $5.60 to $9.30. The Trustees determined that

contribution rates could not be increased above the current levels for fear of driving contributing employers out of the Fund.

(B) Benefit accrual levels

The benefit accrual rate was significantly reduced from $77.50 to $33.00 effective May 1, 2013, a reduction of approximately 57%. This benefit level is already below the maximum PBGC guarantee for multiemployer plans. Furthermore, for an Active Participant earning 0.70 years of credited service in a year, an accrual equal to 1% of contributions would be approximately $91, an accrual almost 3 times as large as the accrual these Active Participants are receiving. The Trustees thus determined that reducing accrual levels even further would create too great a level of intergenerational inequity in benefits.

(C) Prior reductions of adjustable benefits under § 432(e)(8)

Prior reductions in adjustable benefits under § 432(e)(8) are discussed in in Section 6(e)(1) of this application.

(D) Measures undertaken by the plan sponsor to retain or attract contributing employers

See Section 6(e)(3) for measures undertaken by the Plan Sponsor to retain or attract contributing employers. See Sections 6(b) and 6(e)(4) of this application for a narrative description of how these measures were taken into account in the plan sponsor's determination that all reasonable measures have been taken to avoid insolvency.

(E) Effect on plan solvency of the subsidies and ancillary benefits, if any, available to active participants.

As noted in Section 6(e)(1), there are no remaining ancillary benefits for active participants. The remaining subsidies available to active participants which are noted above are considered to be immaterial relative to the Plan's projected insolvency.

(F) Compensation levels of active participants relative to employees in the participants' industry generally.

Compensation level of Active Participants are substantially higher than non-union employees in the industry covered by the Fund, particularly when taking into account benefit costs.

Section 6. Partition Information

(G) Competitive and other economic factors facing contributing employers.

The collapse of the financial markets in 2008 resulted in the Fund experiencing the worst investment losses on record and resulted in the collapse of the building and construction industry. This led to an extreme downturn in the building and construction industry in the geographic area covered by the Fund and also in the geographic area where contributing employers performed work as well. As a result, the magnitude of the employer contribution increases needed to satisfy the requirements for a 10-year Rehabilitation Plan would almost certainly result in lower negotiated wages for Active Participants and/or decreased employer contributions to other benefit plans covering these Active Participants (such as the plan providing their health benefit coverage). If Active Participants perceived a significant decrease in value in their total overall compensation—including wages, pension benefits and health benefits—the Fund's Trustees concluded that they would be likely to encourage their employers to withdraw from the Fund. Thus, the Fund's Trustees concluded that a further reduction in benefits would be inconsistent with the goal of presenting a viable plan with ongoing value to Active Participants. Such actions would also make the Fund less attractive to new employers and could also lead to increased employer withdrawals or reductions in contributions from current employers, as the collective bargaining parties would see less benefit to ongoing participation.

(H) The factors described in § 432(e)(9)(C)(ii)(VIII) (the impact of benefit and contribution levels on retaining active participants and bargaining groups under the plan), and the factors described in §432(e)(9)(C)(ii)(IX) (the impact of past and anticipated contribution increases under the plan on employer attrition and retention levels) were taken into account in the plan sponsor's determination that all reasonable measures have been taken to avoid insolvency, as follows:

As noted elsewhere, contribution levels have increased by 66% since 2007, from $5.60 to $9.30. The Trustees determined that contribution levels cannot be increased above the current levels for fear of driving contributing employers out of the Fund. Furthermore, the Trustees fear that increased contributions to a failing Fund will cause Active Participants to perceive a decrease in value in their total overall compensation package which could encourage Active Participants to advocate for their employers to withdraw from the Fund while also making the Fund less attractive to new employers.

The Board of Trustees had discussions with the Board of Trustees of

another Pension Plan affiliated with the Operative Plasterers and Cement Masons International Association regarding the possibility of a merger. The Board of Trustees of that Plan rejected the proposed merger.

(f) A detailed description of the estimated benefit amounts the plan sponsor has determined are necessary to be partitioned for the plan to remain solvent, including the following information:

(1) The estimated number of participants and beneficiaries whose benefits (or any portion thereof) would be transferred, including the number of retirees receiving payments (if any), terminated vested participants (if any), and active participants (if any).

15 Terminated Vested participants
16 Retirees receiving payments
0 Beneficiaries
0 Active participants

(2) Supporting data, calculations, assumptions, and a description of the methodology used to determine the estimated benefit amounts.

The supporting data and calculations are attached as Exhibit 8. The certification is based, in part, on the assumptions and plan provisions from May 1, 2017 actuarial valuation, which is included as Exhibit 7a1, as well as the assumptions detailed in Exhibit 6c. The groups chosen were selected as described below in (3).

(3) If applicable, a description of any classifications or specific group(s) of participants and beneficiaries whose benefits (or any portion thereof) the plan sponsor proposes to transfer, and the plan sponsor's rationale or basis for selecting those classifications or groups.

All Terminated Vested participants were selected to defer the financial assistance requested from the PBGC. No Active participants were selected to keep the calculations as straight-forward as possible. The youngest retirees were selected to keep the number of participants with transferred benefits at a minimum.

(g) A copy of the draft notice of application for partition described in §4233.11

A copy of the draft notice of application for partition is attached as Exhibit 6g.

Section 7. Actuarial and Financial Information

(a) Required information. An application for partition must include the following plan actuarial and financial information:

(1) A copy of the plan's most recent actuarial report and copies of the actuarial reports for the two preceding plan years.

The May 1, 2015, May 1, 2016 and May 1, 2017 actuarial valuation reports are attached as Exhibit 7a1.

(2) A copy of the plan actuary's most recent certification of critical and declining status, including a detailed description of the assumptions used in the certification, the basis for the projection of future contributions, withdrawal liability payments, investment return assumptions, and any other assumption that may have a material effect on projections.

The May 1, 2017 certification is attached as Exhibit 7a2. This certification references the most recent actuarial valuation for a description of some of the assumptions. The valuation is attached as Exhibit 7a1.

(3) A detailed statement of the basis for the conclusion that the plan will not remain solvent without a partition and, if applicable, suspension of benefits, including supporting data, calculations, assumptions, and a description of the methodology. Include as an exhibit annual cash flow projections for the plan without partition (or suspension, if applicable) through the projected date of insolvency.

The attached Exhibit 7a3 shows the plan becoming insolvent in the Plan Year ending April 30, 2027 without a partition and suspension of benefits. The assumptions used in the projections are detailed in Exhibit 6c.

The conclusion that the plan will not remain solvent without a partition is based, in part, on the May 1, 2017 certification of critical and declining status which is attached as Exhibit 7a2. Additional details regarding the basis for the conclusion that the plan will not remain solvent without a partition and suspension of benefits can be found in Section 6 of this application.

(4) A long-term projection reflecting reduced benefit disbursements at the PBGC guarantee level after insolvency, and a statement of the present value of all future financial assistance without a partition (using the interest and mortality assumptions applicable to the valuation of plans terminated by mass withdrawal as specified in §4281.13 of this chapter and other reasonable actuarial assumptions, including retirement age, form of benefit payment, and administrative expenses, certified by an enrolled actuary).

Section 7. Actuarial and Financial Information

The attached Exhibit 7a4 contains the requested long-term projection and the statement of the present value of future financial assistance without a partition.

Exhibit 7a4 contains supporting information, including a year-by-year projection of the benefit payments and expected PBGC financial assistance, reflecting reduced benefit disbursements at the projected PBGC guarantee level after insolvency.

The certification is based, in part, on the assumptions and plan provisions from May 1, 2017 actuarial valuation, which is included as Exhibit 7a2, as well as the assumptions detailed in Exhibit 6c.

Actual future results will differ from projected valuation results to the extent that future experience deviates from the above assumptions.

In my opinion, the projections are based on reasonable actuarial estimates, assumptions and methods that, other than the projected industry activity supplied by the Trustees, offer my best estimate of anticipated experience under the Plan.

Based on the above, I hereby certify to the statement of the present value of all future financial assistance without a partition or benefit suspension shown in Exhibit 7a4.

James J. McKeogh 3/29/18

James J. McKeogh Date
Enrolled Actuary (EA# 17-02963)

(5) A detailed statement of the basis for the conclusion that the original plan will remain solvent if the application for partition, and, if applicable, the application for suspension of benefits, is granted, including supporting data, calculations, assumptions, and a description of the methodology, which must be consistent with section 305(e)(9)(D)(iv) and the regulations thereunder (including any adjustment to the cash flows in the initial year to incorporate recent actual fund activity required to be included under that section). Annual cash flow projections for the original plan with partition (and suspension, if applicable) must be included as an exhibit.

The attached Exhibit 7a5 contains the requested projections showing that the original plan will avoid insolvency if both applications for partition and suspension of benefits are granted. The projections are based, in part, on the

assumptions and plan provisions from May 1, 2017 actuarial valuation, which is included as Exhibit 7a1, as well as the assumptions detailed in Exhibit 6c.

(6) If applicable, a copy of the plan actuary's certification under section 305(e)(9)(C)(i) of ERISA.

The attached Exhibit 7a5 contains deterministic projections supporting the Actuary's certification that the plan is projected to avoid insolvency, within the meaning of IRC Section 418E, taking into account the proposed benefit suspension (see suspension application included as Exhibit 10) and the proposed partition of the Plan and assuming that the proposed suspension continues indefinitely.

Exhibit 7a5 contains supporting information, including a year-by-year projection of the available resources and benefit payments, demonstrating that the plan is projected to avoid insolvency during the relevant period.

The certification is based, in part, on the assumptions and plan provisions from May 1, 2017 actuarial valuation, which is included as Exhibit 7a1, as well as the assumptions detailed in Exhibit 6c.

Actual future results will differ from projected valuation results to the extent that future experience deviates from the above assumptions.

In my opinion, the projections are based on reasonable actuarial estimates, assumptions and methods that, other than the projected industry activity supplied by the Trustees, offer my best estimate of anticipated experience under the Plan.

Based on the above, I hereby certify that the Fund is projected to avoid insolvency, within the meaning of IRC Section 418E, taking into account the proposed benefit suspension and the proposed partition of the Fund and assuming that the proposed suspension continues indefinitely.

James J. McKeogh 3/29/18

James J. McKeogh Date
Enrolled Actuary (EA# 17-02963)

(7) The plan's projected insolvency date with benefit suspension alone (if applicable), including supporting data.

The plan is projected to become insolvent with benefit suspensions alone during the Plan Year ending April 30, 2029. The supporting data and projections are

attached as Exhibit 7a7.

(8) A long-term projection reflecting benefit disbursements from the successor plan (organized by participant status (*e.g.*, active, retiree, terminated vested, beneficiary)), and a statement of the present value of all future financial assistance to be paid as a result of a partition (using the interest and mortality assumptions applicable to the valuation of plans terminated by mass withdrawal as specified in § 4281.13 of this chapter and other reasonable actuarial assumptions, including retirement age, form of benefit payment, and administrative expenses, certified by an enrolled actuary).

The attached Exhibit 7a8 contains the requested long-term projection reflecting benefit disbursements from the successor plan and the statement of the present value of future financial assistance to be paid as a result of the partition.
The certification is based, in part, on the interest and mortality assumptions applicable to the valuation of plans terminated by mass withdrawal as specified in § 4281.13 of this chapter, the assumptions and plan provisions from May 1, 2017 actuarial valuation, which is included as Exhibit 7a1, and the assumptions detailed in Exhibit 6c.

Actual future results will differ from projected valuation results to the extent that future experience deviates from the above assumptions.

In my opinion, the projections are based on reasonable actuarial estimates, assumptions and methods that, other than the projected industry activity supplied by the Trustees, offer my best estimate of anticipated experience under the Plan.

Based on the above, I hereby certify to the statement of the present value of all future financial assistance to be paid as a result of a partition.

James J. McKeogh 3/29/18

James J. McKeogh Date
Enrolled Actuary (EA# 17-02963)

(9) A long-term projection of pre-partition benefit disbursements from the original plan reflecting reduced benefit disbursements at the PBGC-guarantee level beginning on the proposed effective date of the partition (using a closed group valuation and no accruals after the proposed effective date of the partition, and organized separately by participant status groupings (*e.g.*, active, retiree, terminated vested, beneficiary).

The attached Exhibit 7a9 contains the requested long-term projection reflecting

pre-partition benefit disbursements from the original plan reflecting reduced benefit disbursements at the PBGC-guarantee level beginning on the proposed effective date of the partition. The projections are based, in part, on the assumptions and plan provisions from May 1, 2017 actuarial valuation, which is included as Exhibit 7a1, as well as the assumptions detailed in Exhibit 6c.

(10) A long-term projection of pre-partition benefit disbursements from the original plan reflecting the maximum benefit suspensions permissible under section 305(e)(9) of ERISA beginning on the proposed effective date of the partition (using an open group valuation and organized separately by participant status groupings (*e.g.*, active, retiree, terminated vested, beneficiary)).

The attached Exhibit 7a10 contains the requested long-term projection reflecting pre-partition benefit disbursements from the original plan reflecting the maximum benefit suspensions permissible under section 305(e)(9) of ERISA beginning on the proposed effective date of the partition. The projections are based, in part, on the assumptions and plan provisions from May 1, 2017 actuarial valuation, which is included as Exhibit 7a1, as well as the assumptions detailed in Exhibit 6c.

(b) Additional projections. PBGC may ask the plan for additional projections based on assumptions that it specifies.

The plan will provide any additional projections requested by the PBGC.

(c) Actuarial calculations and assumptions.

(1) General. All calculations required by this part must be performed by an enrolled actuary.

All calculations required by this part were performed by an enrolled actuary.

(2) Assumptions. All calculations required by this part must be consistent with calculations used for purposes of an application for suspension of benefits under section 305(e)(9) of ERISA, and based on methods and assumptions each of which is reasonable (taking into account the experience of the plan and reasonable expectations), and which, in combination, offer the actuary's best estimate of anticipated experience under the plan. Any change(s) in assumptions from the most recent actuarial valuation, and critical and declining status certification, must be disclosed and must be accompanied by a statement explaining the reason(s) for any change(s) in assumptions.

Section 7. Actuarial and Financial Information

All calculations required by this part were consistent with the calculations used for purposes of the application for suspension of benefits under section 305(e)(9) of ERISA, and based on methods and assumptions each of which is reasonable (taking into account the experience of the plan and reasonable expectations), and which, in combination, offer the actuary's best estimate of anticipated experience under the plan. The assumptions used in the calculations required by this part, as well as any change(s) from the most recent actuarial valuation, and critical and declining status certification, are detailed in Exhibit 6c.

Section 8. Participant Census Data

An application for partition must include a copy of the census data used for the projections described in § 4233.7(a)(3) and (5), including:

- **(a) Participant type (retiree, beneficiary, disabled, terminated vested, active, alternate payee).**
- **(b) Date of birth.**
- **(c) Gender**
- **(d) Credited service for guarantee calculation (i.e., number of years of participation).**
- **(e) Vested accrued monthly benefit before benefit suspension under section 305(e)(9) of ERISA.**
- **(f) Vested accrued monthly benefit after benefit suspension under section 305(e)(9) of ERISA.**
- **(g) Monthly benefit guaranteed by PBGC (determined under the terms of the original plan without respect to benefit suspensions).**
- **(h) Benefit commencement date (for participants in pay status and others for which the reported benefit is not payable at Normal Retirement Date).**
- **(i) For each participant in pay status—**
  - **(1) Form of payment, and**
  - **(2) Data relevant to the form of payment, including:**
    - **(i) For a joint and survivor benefit, the beneficiary's benefit amount (before and after suspension) and the beneficiary's date of birth;**
    - **(ii) For a Social Security level income benefit, the date of any change in the benefit amount, and the benefit amount after such change;**
    - **(iii) For a 5-year certain or 10-year certain benefit (or similar benefit), the relevant defined period.**
    - **(iv) For a form of payment not otherwise described in this section, the data necessary for the valuation of the form of payment, including the benefit amount before and after suspension.**
- **(j) If an actuarial increase for postponed retirement applies or if the form of annuity is a Social Security level income option, the monthly vested benefit payable at normal retirement age in normal form of annuity.**

The above requested information is attached as Exhibit 8.

Section 9. Financial Assistance Information

(a) Required information. An application for partition must include the estimated amount of annual financial assistance requested from PBGC for the first year the plan receives financial assistance if partition is approved.

The Plan requests approximately $143,000 in financial assistance for the period from the proposed partition date of May 1, 2019 through the April 30, 2020 end of that plan year.

(b) Additional information. PBGC may ask the plan for additional information in accordance with § 4233.4(b)(1)

The Plan will provide any additional information requested by the PBGC.

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Exhibit 5c
Most Recent Trust Agreement

AMENDED AND RESTATED AGREEMENT AND DECLARATION OF TRUST OF THE PLASTERERS AND CEMENT MASONS LOCAL NO. 94 PENSION FUND

THIS AMENDED AND RESTATED AGREEMENT AND DECLARATION OF TRUST is effective the 14th day of November, 2014, by and between Local No. 592 of the Operative Plasterers and Cement Masons (hereinafter called the "Union"), and the Keystone Contractors Association (hereinafter called the "Association").

W I T N E S S E T H :

THAT WHEREAS, the parties hereto have entered into a Collective Bargaining Agreement which provides for the establishment of a jointly administered defined benefit pension benefit fund (hereinafter the "Fund") to provide retirement benefits to individuals eligible to participate in the Fund; and

WHEREAS, the parties wish to amend and restate the Fund's Agreement and Declaration of Trust.

NOW, THEREFORE, in consideration of the foregoing premises and intending to be legally bound, the Union and the Association adopt this Amended and Restated Agreement and Declaration of Trust.

SECTION 1: DEFINITIONS

The terms used herein shall have the following meanings:

1.01 "Agreement" or "Trust Agreement" means this instrument and all amendments hereafter made to it.

1.02 "Beneficiary" means a person designated by a Participant by the terms of the Plan or by operation of law as one who is or may become eligible for a benefit under the Plan.

1.03 "Board" means the Board of Trustees created by this Agreement.

1.04 "Board Member" or "Trustee" means an individual who has been appointed to the Board and has filed an acceptance of appointment with the Board.

1.05 "Code" shall mean the Internal Revenue Code.

1.06 "Collective Bargaining Agreement" means a Collective Bargaining Agreement between the Union and an Employer or the Association that requires the Employer to make contributions to the Fund.

1.07 "Contract Administrator" means a person retained by the Board to perform certain bookkeeping, accounting, administrative, collection, reporting, and related functions.

1.08 "Covered Employee" means any employee of a Covered Employer with respect to whom the Covered Employer is obligated, consistent with this Agreement, to make contributions to the Fund.

1.09 "Covered Employer" means:

(A) An employer who is a member of, or who is represented in collective bargaining by, the Association ("Association Employer"), and who is bound by a Collective Bargaining Agreement with the Union which provides for the making of payments to the Fund with respect to any Covered Employee.

(B) An employer who is not a member of, nor represented in collective bargaining by, the Association ("Non-Association Employer"), but who has executed, has assented to, or is bound by a Collective Bargaining Agreement with the Union providing for the making of payments to the Fund with respect to any Covered Employee.

(C) Such other employer to which the Trustees may extend the coverage of this Agreement upon such terms and conditions consistent with this Agreement as the Trustees shall determine, provided such employer agrees in writing to conform to the terms and conditions of this Agreement and such other terms and conditions as determined by the Trustees.

1.10 "Covered Employment" means employment by a Covered Employee for which a Covered Employer is obligated, consistent with this Agreement, to contribute to the Fund.

1.11 "ERISA" means the Employee Retirement Income Security Act of 1974, and any amendments made to it.

1.12 "Custodian" means a bank or corporation with whom the Board has entered into a written agreement under which the Custodian serves as custodian of any Fund Assets and carries out orders of the Board, its investment committee or Investment Manager concerning the handling of investments or sale or purchase of investments.

1.13 "Fund Assets" means: (1) such sums of money that have been or will be paid, or which are due and owing to the Fund by covered Employers as required by Collective Bargaining Agreements or Participation Agreements; (2) investments made therewith, the proceeds thereof and the income therefrom; (3) all other contributions and payments to or due and owing

to the Fund from any source, to the extent permitted by law; and (4) supplies, property and other assets used by the Trustees in the administration of the Fund.

1.14 "Investment Manager" means the same meaning given the term in Section 3(38) of ERISA.

1.15 "Member" means a Board Member.

1.16 "Participant" means an individual who is, or who may become eligible to receive a benefit under the Plan, or whose Beneficiaries may be eligible to receive a benefit under the Plan.

1.17 "Participation Agreement" means an agreement that an employer has signed agreeing to contribute to the Fund consistent with the terms and conditions of this Agreement and such other terms and conditions as determined by the Trustees.

1.18 "Plan" means the Plan of Benefits to be created by the Board, as provided in Section 8.01, including all amendments and modifications as may from time to time be made hereafter.

1.19 "Reciprocal Agreement" means an agreement between the Fund and another employee pension benefit plan to cover the circumstance in which a Participant of one Fund works in the geographical area covered by the other Fund.

1.20 "Trustee" means the Board itself, if the Board has declared itself trustee in writing, or an individual or corporate trustee with which the Board has entered into a written agreement under which the individual or corporate trustee holds any Fund Assets for the benefit of the Fund, its Participants, and its Beneficiaries.

SECTION 2: CREATION OF TRUST

2.01 There is hereby established a Trust to be known as the Plasterers and Cement Masons Local No. 94 Pension Fund, for the purpose of providing pension benefits to Participants and Beneficiaries in accordance with the provisions herein set forth and in the Plan.

2.02 The Fund shall be used to establish and maintain a defined benefit pension plan.

SECTION 3: CREATION OF BOARD; APPOINTMENT, REMOVAL AND RESIGNATION OF BOARD MEMBERS; GENERAL PROVISIONS CONCERNING BOARD MEMBERS

3.01 The Board shall consist of any number of Trustees agreed to by the parties; however, regardless of the number of Trustees, the Union-appointed group of Trustees and the Association-appointed group of Trustees shall have equal voting strength, and each group shall have

an equal number of votes. Each of the Trustees shall be a "named fiduciary" as defined in Section 402(a)(2) of ERISA.

3.02 The Trustees and successor Trustees shall execute a written acceptance in a form satisfactory to the Board and consistent with the Act, and thereby shall be deemed to have accepted the Trust, to have consented to act as Trustees, and to have agreed to administer the Trust as provided herein.

3.03 Each Board Member shall serve until his removal by the party which appoints him, or until his death, incapacity, or resignation.

3.04 To the fullest extent permitted by ERISA or applicable law, the Trustees shall be indemnified by the Fund as provided in any contract, agreement or policy duly executed or adopted by the Trustees pursuant to this Agreement.

3.05 Each Board Member may resign by giving written notice to the party which appointed him. The notice of resignation shall state a date when the resigning Board Member wishes it to be effective, and the resignation shall be effective on that date unless a successor Board Member is appointed at an earlier date. If a successor Board Member is appointed at an earlier date, the resignation shall take effect immediately upon the appointment of and acceptance by the successor Board Member.

3.06 If a Covered Employer-appointed Member shall die, become incapable of acting, resign or be removed, a successor Member shall be immediately appointed by the Association. The appointment shall be effective and binding in all respects immediately upon the filing with the remaining Board Members of a writing, signed by the Association, certifying the appointment of the successor Member, and a written acceptance of the appointment by the newly designated Member.

3.07 Any Covered Employer-appointed Member may be removed at any time by the Association by the filing with the remaining Board Members a writing, signed by the Association, certifying the removal of the Member.

3.08 If any Union-appointed Member shall die, become incapable of acting, resign, or be removed, a successor Member shall be immediately appointed by the Union. The appointment shall be effective and binding in all respects immediately upon the filing with the remaining Board Members of a writing, signed by the president or secretary of the Union, certifying the appointment of the successor Member, and a written acceptance of the appointment by the newly designated Member.

3.09 Any Union-appointed Member may be removed at any time by the Union by the filing with the remaining Board Members a writing, signed by the president or secretary of the Union, certifying the removal of the Member.

3.10 Upon the receipt by the Board of notice that any Board Member has died, become incapable of acting, resigned, or been removed, or that a successor Board Member has been designated, the secretary of the Board shall notify the other Board Members, the Union, the Association, and any other interested persons.

3.11 If a vacancy on the Board is not filled within 30 days after it occurs by the party having authority to fill the vacancy, the other Board Members who were appointed by that party shall have authority to fill the vacancy. If the vacancy is to be filled by Union-appointed Members, it shall be filled from among the Union membership eligible to serve under the Union's constitution and by-laws.

3.12 Board Members shall not receive compensation for their services, but they shall be reimbursed for wages lost and for all reasonable expenses incurred because of or in the performance of their duties to the extent permitted by ERISA and authorized by the Board pursuant to an expense and reimbursement policy.

SECTION 4: MANNER IN WHICH BOARD SHALL ACT; GENERAL POWERS AND DUTIES OF THE BOARD

4.01 The Board shall elect a chairman and a secretary, one of whom shall be a Covered Employer-appointed Member and the other of whom shall be a Union-appointed Member, and any other officers it deems necessary. All officers shall serve at the pleasure of the Board.

4.02 A quorum of the Board shall be a majority of its Members, so long as at least one Member appointed by the Union and the Association is present.

4.03 The Board shall designate the place and time of its meetings.

4.04 The Board may act without meeting provided any action taken by the Board is reflected in writing and signed by a majority of its members, with at least one member appointed by the Union and one member appointed by the Association signing. Any Trustee may participate in a meeting of the Board of Trustees by means of a conference telephone or similar communication equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute "presence in person" at the meeting.

4.05 Except as otherwise provided herein, all actions of the Board shall be taken by majority vote.

4.06 Whenever all Union-appointed Members present at a meeting vote the same way on any motion pertaining to the administration of the Fund, and all Covered Employer-appointed Members present at a meeting vote on the motion in the opposite way, the vote shall be deemed a tie vote, regardless of the number of Board Members present representing each side. If such a tie vote occurs, the Board shall appoint an impartial umpire to resolve the impasse. If the Board is unable to agree on the selection of an impartial umpire within seven days from the date on which

the impasse arose, either the Union-appointed Members or the Covered Employer-appointed Members may request the American Arbitration Association to appoint an impartial umpire. In such an event, this Agreement shall constitute a warrant of authority to the American Arbitration Association to make the appointment under its Impartial Umpire Procedures For Arbitration Of Impasses Between Trustees Of Joint Trust And Pension Funds. The impartial umpire chosen or appointed shall sit with the Board as a neutral Board Member to resolve the impasse. The impartial umpire shall vote on the motion, and his vote shall determine whether the motion shall pass or be defeated. The resultant vote of a majority of the Board shall constitute the decision of the Board, and shall be final and binding on the parties, the Participants, and the Beneficiaries. The cost of the services of the impartial umpire and any charge by the American Arbitration Association shall be paid as an administration expense of the Fund.

4.07 The Board shall have the full and exclusive discretionary power and authority, which shall be final and binding upon the parties, the Participants and the Beneficiaries, to construe and interpret the provisions of the Trust Agreement and the Plan, the terms used therein, and the rules, regulations and policies related thereto. The Trustees shall have full, discretionary and exclusive power and authority to administer the Plan and to determine all questions of coverage and eligibility, methods of providing or arranging for the benefits specified in the Plan, and all other related matters.

4.08 The Board shall invest any Fund Assets. If a majority of the Board agrees, the Board may invest without being restricted to investments authorized for fiduciaries.

4.09 Notwithstanding any other provision of this Agreement, the Trustees may cause any part or all of this Trust to be commingled with the money of trusts created by others. Money of this Trust so added to any commingled fund at any time shall be subject to all of the provisions of the declaration of trust creating said commingled fund, as it is amended from time to time. Said declaration of trust creating the commingled fund is hereby made a part of this Agreement.

4.10 The Trustees shall have the power and authority to appoint one or more Investment Managers in accordance with Section 402(c)(3) of the Act, who shall be responsible for the management, acquisition, disposition, investing and reinvesting of such of the Fund Assets of the Trust as the Trustees shall specify. In accordance with Section 405(d)(1) of the Act, the Trustees shall not be liable for the acts or omissions of such Investment Manager, nor have any investment obligation with respect to any Fund Asset managed by such manager. Any appointment of an Investment Manager may be terminated by the Trustees upon written notice, or as specified in written agreements with such managers. The fees of such Investment Manager and its expenses to the extent permitted by law, shall be paid by the Fund. Any such Investment Manager shall be a fiduciary who is either: (a) registered as an Investment Manager under the Investment Advisors Act of 1950, (b) a bank, as defined in the Investment Advisers Act of 1940, (c) an insurance company qualified to perform investment management services under the laws of more than one state, or (d) such other person or organization authorized by the Act. Such Investment Manager shall acknowledge in writing that he or she is a fiduciary with respect to the Fund.

4.11 The Trustees shall from time to time adopt appropriate investment policies and/or guidelines.

4.12 The Trustees shall have the power and authority to employ reputable and qualified investment consultants to assist the Trustees in exercising their investment powers and authority by reviewing the investment policy and types and kinds of investments made by the Trustees and/or the Investment Manager(s) and to contract for investment measurement services.

4.13 Each agreement between the Board of Trustees and an Investment Manager, investment consultant, Contract Administrator, Custodian, or other agent of the Board will be a written agreement that specifies the consideration to be paid and the services to be performed. Each agreement will also state that the consideration will not be increased without express, written approval of the Board of Trustees.

4.14 The Board of Trustees will keep true and accurate books of accounts and records of all of transactions that involve any Fund Assets. These books and records will be open to inspection, at all times, by any Trustee. These books and records will be audited, by a Certified Public Accountant, at least annually and at any other time that the Board deems appropriate, or as required by law. These audits will be available, upon written request, to any party entitled by law to have access to them.

4.15 The Board of Trustees will require all Investment Managers, investment consultants, Contract Administrators, Custodians or other agents of the Board to keep true and accurate books of accounts and records of all transactions that involve any Fund Assets. These books and records will be open to inspection, at all times, by any Trustee. These books and records will be audited, by a Certified Public Accountant, at least annually, if an annual audit is required by law, and at any other time that the Board deems appropriate, or as required by law.

4.16 The Board of Trustees has the power and authority to use Fund Assets to pay, or provide for payment of, the reasonable and necessary expenses of administering the Plan. The Board of Trustees has the power and authority to use Fund Assets to pay, or provide for payment of pension benefits to eligible Participants and Beneficiaries, pursuant to the terms, provisions and conditions of the Plan of Benefits.

4.17 The Board of Trustees will authorize and direct the payment of Plan benefits, and Plan expenses. Administration expenses will include, but will not be limited to, charges for the services of any Investment Managers, Contract Administrators, Custodians or other agents of the Board; charges for educational materials, memberships in educational associations, attendance at educational conferences, or other expenses of the Board of Trustees; salaries or retainers of employees and professional advisors; and charges or expenses for collecting employer contributions to the Plan. The Board may authorize or direct any employee, Contract Administrator, or Trustee to sign checks that are drawn on Fund Assets provided. that the Board of Trustees has approved or approves issuance of the check.

4.18 The Trustees are hereby empowered and authorized to promulgate, adopt and thereafter amend or rescind any and all necessary rules, regulations or policies which they deem needed or desirable to facility the proper administration of the Fund, including the Plan. Said rules, regulations or policies may include, by way of illustration and not limitation: conditions of eligibility for Participants and Beneficiaries; procedures for applying for benefits; procedures for the distribution of benefits; indemnification of Fund officials, fiduciaries, employees and service providers; and procedures for the collection of contributions. All such rules, regulations or policies adopted by action of the Trustees shall be binding upon the Participants and Beneficiaries and their families, dependents and/or legal representatives.

4.19 In addition to the other powers granted to it by this Agreement and conferred by law, the Board shall have the following powers:

(A) To lease or purchase any premises, materials, supplies, and equipment, and to hire, employ, and retain any Contract Administrator, Custodian, legal counsel, administrative, accounting, actuarial, or clerical personnel, and any other personnel which it, in its discretion, deems necessary to the performance of its duties or the administration of the Fund and the Plan;

(B) To enter into any and all contracts and agreements to carry out the terms of this Agreement and to administer the Fund and the Plan and to do all acts which it, in its discretion, deems necessary or advisable;

(C) To authorize a Covered Employer-appointed Member and a Union-appointed Member, or any group composed of equal numbers of Covered Employer and Union Board Members, to execute on behalf of the Board any notice or other instrument on which all persons, partnerships, corporations, or associations may rely as the duly authorized and binding action of the Board;

(D) To compromise, settle, arbitrate and release claims or demands in favor of or against the Fund on such terms and conditions as it deems advisable;

(E) To borrow or to authorize the borrowing of money in the amount and on the terms and conditions as it deems advisable and necessary to carry out the Plan, and to pledge or to authorize the pledging of any Fund Assets for the repayment of borrowed money;

(F) To authorize the holding of all or any part of the Fund Assets uninvested for reasonable periods of time;

(G) To make any applications and representations to the Internal Revenue Service necessary to secure or to retain rulings that the Fund is qualified as tax exempt under the pertinent provisions of the Internal Revenue Code;

(H) To enter into an agreement with any person to provide for the collection of contributions due to the Fund the transmission of those contributions to Trustees;

(I) To do all acts, whether or not expressly authorized herein, which it deems necessary or proper for the protection of the Fund and the attainment of its goals;

(J) To open bank accounts for the deposit of Fund Assets of which it is Trustee;

(K) To sell, exchange, lease, convey, or dispose of any property, whether real or personal, at any time forming a part of the Fund Assets of which it is Trustee, upon whatever terms it deems proper, and to execute and deliver any and all instruments of conveyance and transfer in connection therewith;

(L) To vote in person or by proxy any securities held by it as Trustee and to exercise by attorney any other rights of any nature pertaining to securities or any other property at any time held by it as Trustee;

(M) To exercise options, conversions, privileges or rights coincident with Fund Assets of which it is Trustee, to subscribe for additional securities and to make payments therefor out of Fund Assets of which it is Trustee;

(N) To consent to or to participate in dissolutions, reorganizations, consolidations, mergers, sales, leases, mortgages, transfers, or other changes affecting securities held by it as Trustee, and in connection therewith, and to pay assessments, subscriptions, or other charges;

(O) To demand and collect the contributions of the Covered Employers to the Fund, and to take such steps as the Board, in its discretion, deems in the best interest of the Fund to effectuate the collection or preservation of contributions which may be owed to the Fund.

(P) To have an auditor designated by the Board inspect and audit, at the expense of the Fund, Covered Employer records that the Board deems pertinent in connection with the administration of the Fund, to the extent necessary to determine whether proper contributions required to be made to the Fund have been made; and in its sole discretion, in the event an underpayment is found to exist, to charge a Covered Employer all or a portion of the expense of the audit.

4.20 All actions of the Board authorized by this Agreement shall be binding and conclusive on the parties, the Participants, and the Beneficiaries.

SECTION 5: LIMITATIONS ON LIABILITY OF BOARD MEMBERS AND FIDUCIARIES; PURCHASE OF LIABILITY INSURANCE

5.01 To the extent permitted by ERISA and other applicable law:

(A) No Board Member, in his official or individual capacity, shall be liable for any act or omission or because of any fact or circumstance relating to the Fund, unless the Board Member is guilty of intentional or willful misconduct;

(B) No Board Member, in his official or individual capacity, shall be liable for any act or omission taken or not taken in reliance upon any instrument, application, notice, request, signed letter, telegram, or other paper, including writings purportedly signed by a majority of the Board, if the Member believes them to be genuine;

(C) Whenever the Board has exercised its authority under this Agreement to allocate fiduciary or administrative responsibilities among its Members, or to designate persons other than Named Fiduciaries to carry out fiduciary or administrative responsibilities, no Board Member to whom a fiduciary or administrative responsibility has not been allocated or delegated shall be liable, in his official or individual capacity, for any act or omission of the person to whom the responsibility has been allocated or delegated, if the Board acted prudently in making the allocation or delegation and periodically reviewed the performance of the person to whom the responsibility was allocated or delegated and found that performance to be satisfactory;

(D) No successor Board Member, in his official or individual capacity, shall in any way be liable or responsible for any act or omission or because of any fact or circumstance relating to the Fund which occurred or arose prior to the date on which he became a Board Member;

(E) The Board may purchase, on behalf of the Fund, insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if the insurance permits recourse by the insurer against the fiduciary in the case of a breach of fiduciary obligation by the fiduciary;

(F) Any fiduciary may purchase insurance to cover his liability from and for his own account resulting from service as a fiduciary to the Fund;

(G) The Union and the Covered Employers may purchase insurance to cover potential liability of any fiduciary resulting from service as a fiduciary to the Fund.

5.02 To the fullest extent permitted by ERISA or applicable law, the Trustees, Fund fiduciaries, Fund employees and Fund service providers shall be indemnified (both as to advances and reimbursements) by the Fund, as may be provided in any contract, agreement or policy duly executed or adopted as provided under this Agreement.

5.03 The Fund is intended to constitute a Fund described in Section 404(c) of the Employee Retirement Income Security Act, and Title 29, C.F.R. Section 2550.404c-1. If and to the extent that the Account of a Participant is invested in accordance with such Participant's allocation designations and instructions, the Trustees shall have no investment responsibility with respect to the Participant's Account. No person who is otherwise a fiduciary of the Fund shall be liable to the designating Participant or to any other person claiming through such Participant for any losses or damages which are the direct and necessary result of investment instructions given by the Participant.

5.04 The Trustees have been given the authority to designate investment options which shall be available for the investment of Accounts. The Trustees shall, from time to time, designate investment options which shall be available for the investment of Accounts.

5.05 Each Participant with an established Account shall be solely responsible for the selection of the Participant's investment options. The Fund, its Trustees and its service providers are not empowered to advise a Participant as to the manner in which such Participant's Account shall be invested. The fact that a particular investment option is available to Participants for investment under the Fund shall not be construed as a recommendation for investment in that investment option. A Participant shall have the right and opportunity to designate the manner in which the amounts credited and to be credited to such Participant's Account shall be allocated among and invested in the investment options.

5.06 If and to the extent that a Participant fails to designate an allocation for his/her Account, the Trustees shall select one or more of the available investment options to which or among which the undesignated amounts in such Participant's Account shall be allocated.

5.07 The Trustees shall adopt and enforce such rules and procedures as they deem necessary or advisable with respect to all matters relating to the designation of investment alternatives, provided that all similarly situated Participants are treated in a uniform and non-discriminatory manner.

5.08 The Account of any Participant who fails to make an investment election shall be invested by the Trustees in a Qualified Default Investment Alternative, as that term is defined under Department of Labor Regulation Section 2550.404c-5, until such Participant makes an election to invest otherwise.

SECTION 6: RECIPROCAL AGREEMENTS

6.01 The Board may enter into Reciprocal Agreements with other employee pension benefit plans if those plans are qualified under the Internal Revenue Code. These Reciprocal Agreements will be on those terms and conditions that the Board establishes.

SECTION 7: PAYMENT AND COLLECTION OF EMPLOYER CONTRIBUTIONS

7.01 Each Covered Employer shall pay, by the fifteenth of each calendar month, except as provided herein, or in the Collective Bargaining Agreement, to the Fund's designated collection agent, the hourly amount set forth in the Collective Bargaining Agreement and/or Participation Agreement for the preceding calendar month, as described in this Article.

7.02 Any Covered Employer who has agreed to contribute to the Fund on behalf of the employees in a Union bargaining unit:

(A) shall contribute on behalf of each and every one of its employees in the Union bargaining unit;

(B) may contribute on behalf of each and every non-bargaining-unit employee who meets the following conditions: the employee has earned at least one Year of Credited Service (as defined in the Plan of Benefits for the Fund) and, during the current Plan Year or a prior Plan Year, at least one-half (1/2) of the employee's total hours of service for that year with any and all Covered Employers were performed in the Union bargaining unit ("alumni coverage");

(C) shall pay contributions due under B to the Fund for each non-bargaining-unit employee at the hourly rate set forth in the Collective Bargaining Agreement between the Union and Association for the total of all paid hours (whether worked or non-worked hours) to the employee, but no less than forty (40) hours per calendar week; and

(D) for purposes of coverage under B, need not contribute on behalf of employees who are included in another unit of employees covered by a Collective Bargaining Agreement with a labor union, if retirement benefits were the subject of good faith bargaining between such Covered Employer and the labor union; and

(E) shall contribute to the Plan, as required by the Uniformed Services Employment and Reemployment Rights Act, on behalf of any Covered Employee who was last employed by a Covered Employer (Association and non-Association Employers) prior to entry into Uniformed Services. During any Plan Year where the Covered Employee has a period of uniformed service and where contributions have been received by the Plan on behalf of the Covered Employee for periods of Covered Employment, the Covered Employer(s) shall be entitled to have credited against its obligation to contribute for the period of uniformed service the amount of contributions received by the Plan for the periods of Covered Employment during the Plan Year in which there is a period of uniformed service.

(F) shall contribute to the Plan, as required by the Uniformed Services Employment and Reemployment Rights Act, on behalf of any Covered Employee who was last employed by a Covered Employer (Association and non-Association Employers) pri-

or to entry into Uniformed Services and who dies or becomes permanently disabled under the terms of the Plan's Plan of Benefits while in Uniformed Service. During any Plan Year where the Covered Employee has a period of uniformed service and where contributions have been received by the Plan on behalf of the Covered Employee for periods of Covered Employment, the Covered Employer(s) shall be entitled to have credited against its obligation to contribute for the period of uniformed service the amount of contributions received by the Plan for the periods of Covered Employment during the Plan Year in which there is a period of uniformed service.

7.03 The Trustees shall permit related organizations (meaning the Union, joint apprenticeship and training committees, jointly administered trust funds providing health and welfare coverage, pensions, and pooled vacations, similar funds affiliated with the Operative Plasterers and Cement Masons International Union, the Union, or other affiliates of the Operative Plasterers and Cement Masons International Union) which so elect and which agree to satisfy the following conditions, to be Covered Employers. Such a related organization:

(A) shall contribute on behalf of each and every one of its employees; or, in the alternative,

(B) shall contribute on behalf of each and every employee who meets the following conditions: the employee has earned at least one Year of Credited Service (as defined in the Plan of Benefits for the Fund) and, during the current Plan Year or a prior Plan Year, at least one-half (1/2) of the employee's total hours of service for that year with any and all Covered Employers were performed in the Union bargaining unit ("alumni coverage").

(C) shall pay contributions due under A or B to the Fund for each non-bargaining-unit employee at the hourly rate set forth in the Collective Bargaining Agreement between the Union and Association for the total of all paid hours (whether worked or non-worked hours) to the employee, but no less than forty (40) hours per calendar week; and

(D) for purposes of coverage under A and B, need not contribute on behalf of employees who are included in another unit of employees covered by a Collective Bargaining Agreement with a labor union, if retirement benefits were the subject of good-faith bargaining between such related organization and the labor union.

7.04 For any coverage permitted under Sections 7.02B and 7.03, each Covered Employer must:

(A) execute a written Participation Agreement as required by the Trustees, which binds the Covered Employer to the terms of this Agreement and thereby specifies the amount of contributions and the detailed basis upon which the contributions are to be made to the Fund;

(B) specify in its written Participation Agreement whether such Covered Employer is electing coverage of all non-bargaining-unit employees or only "alumni coverage," which election, when made, cannot be changed to the other type of non-bargaining unit coverage without a new written Participation Agreement;

(C) for coverage under Section 7.03A, certify in a manner acceptable to the Trustees that it is in fact covering all of its employees not in the Union bargaining unit, except those who may be excluded pursuant to Sections 7.02D and/or 7.03D;

(D) for "alumni coverage" under Sections 7.02B and 7.03B, certify in a manner acceptable to the Trustees that it is in fact covering all of its "alumni" employees, except those who may be excluded pursuant to Sections 7.02D and/or 7.03D; and

(E) execute such documents as may be required by the Internal Revenue Service, or reasonably required by the Trustees, to enable the Fund to secure a determination letter of federal tax exemption or to support its tax exemption and/or qualified plan status.

7.05 In administering the types of coverages provided in this Article, the Trustees shall not permit any coverage inclusions or exclusions which would contravene the non-discrimination requirements of the Code. The Trustees are authorized to take any and all steps as outlined herein and otherwise to ensure compliance with such Code requirements, including requiring a Covered Employer to retroactively include in its coverage one or more of its eligible employees who are not highly compensated employees and make contributions on behalf of such employees in accordance with the terms of this Agreement, and such authority is expressly recognized by all Covered Employers which hereby agree to be bound by such actions.

7.06 Covered Employers shall, by the making of payments to the Fund, be deemed to have accepted and be bound by this Agreement and any subsequent amendments.

7.07 Covered Employers shall pay contributions to the Fund only by check, bank draft, or such other method of transmitting money as the Trustees may permit. Except as provided herein, all contributions shall become a debt due and owing the Fund on the last day of each month. The payment of contributions shall be made not later than fifteen (15) calendar days or the days provided in the Collective Bargaining Agreement, from the date on which the sum became a debt due and owing. All contributions shall be accompanied by a payroll report in such form as may be prescribed by the Trustees.

7.08 If a Covered Employer's workforce did not perform any Covered Employment within a particular month, a payroll report shall nevertheless be filed as provided herein indicating that no Covered Employment was performed. Failure to do so shall subject the Covered Employer to liability for all fees and costs resulting from its failure to file such report.

7.09 In connection with the proper administration of the Fund, the Trustees may, by their authorized representative, audit and examine, whenever such audit and examination is deemed necessary or advisable by the Trustees, any records of a Covered Employer deemed per-

tinent and necessary by the Trustees, including but not limited to job, employment, payroll and financial records, to verify each Covered Employer's compliance with the terms of this Agreement and the collective bargaining agreement. The Trustees shall have the power to require a Covered Employer to furnish to the Trustees a Bond, with a reputable Surety thereon, with the Trustees as Obligees thereunder, in an amount determined by the Trustees, and with notice provisions acceptable to the Trustees.

7.10 The Trustees shall have the power to demand, collect, and receive Covered Employer payments and all other money and property to which the Trustees may be entitled, and shall hold the same until applied to the purposes provided in this Agreement. The Trustees shall be authorized to adopt and amend a collection (or delinquency) policy or procedure. They shall take such steps, including the institution and prosecution of, or the intervention in, such legal or administrative proceedings, and the compromise, settlement or release thereof as the Trustees determine to be in the best interest of the Fund for the purpose of collecting such payments, money and property. The Trustees may also, where appropriate, join in the collection actions of other funds. No matter respecting the Trustees' rights herein shall, without their written consent, be compromised or settled under, or subject to, the grievance or arbitration procedure established in any local Collective Bargaining Agreement; provided, however, that this provision shall not affect the rights and liabilities of any of the parties to each other under any such Collective Bargaining Agreement.

7.11 Employers contributing to the Fund recognize and agree that, insofar as payments by Covered Employers to the Fund are concerned, time is of the essence. Regular and prompt payment of amounts due by Covered Employers to the Fund is essential for the maintenance of the Fund, and it would be extremely difficult, if not impracticable, to fix the actual expense and damage to the Fund and to the benefits provided by the Fund which will result from the failure of a Covered Employer to make such monthly payments in full by the required date. Employers contributing to the Fund further recognize and agree that Covered Employers who fail to meet their contribution obligations on a timely basis cause the Fund to incur administrative costs. These costs include, but are not limited to, expenses related to employees and service providers who provide delinquency collection services and expenses for additional accounting and reporting activities. In the event that a Covered Employer is referred to counsel to collect delinquent contributions, the Fund incurs additional administrative costs. Because the exact amount of the administrative costs is difficult, if not impossible, to ascertain with respect to each delinquent Employer, the Fund shall assess liquidated damages against delinquent Employers. Those liquidated damages are estimated, to the best of the Trustees' ability, to approximate the cost of the additional administrative expenses and losses incurred when the Fund takes legal action to collect delinquent contributions and are consistent with the provisions of ERISA and are therefore not penalties. In the event a Covered Employer has failed or fails to make required contributions, the Trustees are authorized and empowered:

(A) to impose on and receive from such Covered Employer all costs of any audit;

(B) to assess and receive from such Covered Employer liquidated damages from the delinquent amounts as set forth in the Collective Bargaining Agreement; however, if none is set forth in the Collective Bargaining Agreement or Participation Agreement, then the amount of fifteen percent (15%) of the amount found to be delinquent shall be assessed, since the failure of the Covered Employer to make the required payment of contributions imposes additional burden and expense upon the Trustees in the collection thereof in the administration of the Fund, including but not limited to the communication with said Covered Employer; and, in addition thereto may cause a loss of benefits to Covered Employees, all of which are difficult of accurate ascertainment:

(C) to assess and receive from such Covered Employer the lost interest from the delinquent amounts as set forth in the Collective Bargaining Agreement; however, if none is set forth in the Collective Bargaining Agreement or Participation Agreement, then to be calculated at one percent (1%) per month throughout the period of the delinquency;

(D) to impose on and receive from such Covered Employer any amounts the Trustees are required to pay for the benefit of an eligible Covered Employee of Such Covered Employer, or a Covered Employee who would be eligible except for the failure of such Covered Employer to make required contributions on his behalf;

(E) to impose on and receive from such Covered Employer all costs, audit expenses, actuarial expenses, and attorneys fees incurred by the Trustees in enforcing the provisions hereof, whether by litigation or otherwise;

(F) to require such Covered Employer to make weekly deposits of contributions in an amount determined by the Trustees, based on objective standards; provided that the Trustees have given such Covered Employer reasonable notice of such requirement for weekly deposits, the amount to be deposited, the date such deposits are due, and the basis on which the weekly deposit is determined and required;

(G) to require such Covered Employer to furnish to the Trustees a bond, with reputable surety thereon:

(1) with the Trustees as obligee thereunder,

(2) in an amount, determined by the Trustees, consistent with the anticipated future obligations of such Covered Employer, and

(3) with notice provisions acceptable to the Trustees, consistent with purposes of such bond; and/or

(4) to require such Covered Employer to furnish the Trustees an acceptable personal guaranty and/or irrevocable letter of credit.

7.12 Non-payment by any Covered Employer of any contribution or other moneys owed to the Fund shall not relieve any other Covered Employer from his or its obligation to make required payments to the Fund.

7.13 Failure of a Covered Employer to comply with this Agreement or with the rules regulations or policies adopted by the Trustees, shall constitute a violation of this Agreement and of the Covered Employer's Collective Bargaining Agreement or other agreement with the Union, provided that neither the Association nor other Covered Employers shall be responsible for such violation.

7.14 The Fund will consider Employer requests for the return of contributions that were made due to a mistake of fact or law. Contributions paid to the Fund prior to the last full Plan Year prior to the date of the Employer request for the return of the contributions shall not be subject to return. Contributions that may be returned are subject to the sole discretion of the Trustees. The Fund may require that the costs and expenses resulting from the mistaken employer contributions be deducted from any refunds. These deductions may include the administrative costs of correcting the mistake, and any benefits paid in reliance on the mistaken contributions. Any contributions that are returned to the Employer shall not be subject to interest or earnings attributable to the contributions. Any Fund losses attributable to the contributions shall reduce the amount of the contributions to be returned to the Employer. Fund losses shall mean the Fund-wide investment experience during the applicable period since the date the contributions were made to the date of the return of the contributions.

SECTION 8: BENEFITS

8.01 The Union and Association have the power and authority to use and apply the Trust for the purpose of providing retirement benefits to eligible Participants and Beneficiaries in accordance with the terms, provisions and conditions of the Plan of Benefits.

SECTION 9: EMPLOYER WITHDRAWAL LIABILITY

9.01 A Covered Employer that withdraws from the Fund after May 1, 2000, in either a complete or partial withdrawal, shall owe and pay withdrawal liability to the Fund, as determined under this Article and the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980, and the applicable regulations of Pension Benefit Guarantee Corporation.

9.02 For purposes of this Article, Trade or Craft means all of the type of work performed by members of the bargaining unit covered by the Collective Bargaining Agreements that require Covered Employers to contribute to the Fund. The term Covered Employer for purposes of this Article shall also have the meaning set forth in the applicable provisions of ERISA. For purposes of this Article, Collective Bargaining Agreement shall also mean Participation Agreement.

9.03 A complete withdrawal occurs if a:

(A) Covered Employer ceases to have an obligation to contribute to the Fund, and

(B) The Covered Employer:

(1) continues to perform work in the Trade or Craft in the jurisdiction of the Collective Bargaining Agreements of the type in the Trade or Craft of which contributions were previously required, or

(2) resumes such work in the Trade or Craft within five (5) years after the date on which the obligation to contribute under the Fund ceased, and does not renew the obligation to contribute to the Fund at the time of the resumption.

9.04 A Covered Employer's obligation to contribute ceases when the Covered Employer is no longer required by a Collective Bargaining Agreement or by the National Labor Relations Act or other law to contribute to the Fund. If a Covered Employer was delinquent in making contributions for a period when it did have a contractual or statutory obligation to contribute, this will not prevent a withdrawal from occurring, even though the Covered Employer remains liable for the delinquent contributions.

9.05 A Covered Employer's obligation to contribute is not considered to have ceased solely because the:

(A) Covered Employer continues to have a Collective Bargaining Agreement requiring contributions for covered work in the Trade or Craft, but the Contributing Employer has no employees performing covered work in the Trade or Craft for a period of time, or

(B) Covered Employer goes out of business, or

(C) Covered Employer's Collective Bargaining Agreement requiring contributions is not renewed, but the Covered Employer does not continue to perform work in the Trade or Craft for which contributions had been required in the same jurisdiction, or

(D) Covered Employer temporarily suspends contributions during a labor dispute involving its employees covered by a Collective Bargaining Agreement.

9.06 The date of a complete withdrawal is the date the Covered Employer's obligation to contribute ceased.

9.07 A partial withdrawal by a Covered Employer occurs if the Covered Employer's obligation to contribute to the Fund is continued for no more than an insubstantial portion of its work in the Trade or Craft in the jurisdiction of the Collective Bargaining Agreement or there is