

BUILDING MATERIAL DRIVERS LOCAL 436

PENSION FUND



SUMMARY PLAN DESCRIPTION

Updated as of January 1, 2014

**6051 Carey Road
Valley View, Ohio 44125**

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INTRODUCTION

The Building Material Drivers Local 436 Pension Plan (the “**Plan**”) was initially established effective May 1, 1961. The primary purpose of the Plan is to provide retirement and related benefits to you, the members of the Excavating, Building Material, Construction Drivers and Race Track Employees Local Union 436 (hereinafter, the “**Union**”). The actual terms and conditions are stated in the Plan which is fairly complicated legal document. This Summary Plan Description is not the Plan document. Instead, it is a summary of the Plan and is intended to help you understand and appreciate the benefits provided to you, your family, and your other beneficiaries.

This Summary Plan Description (hereinafter “**Summary**” or “**SPD**”) is intended to present the important features of a complicated legal document so you can understand how it operates. We have tried to be accurate and unambiguous. However, in all cases, the actual terms of the Plan will prevail.

Since it was originally adopted on December 26, 1961, the Plan has been restated and amended numerous times. The most recent restatement was adopted in January 2010 and is effective January 1, 2002 (the “2002 Restatement”). This Summary reflects the 2002 Restatement and all subsequent amendments. If additional changes occur we will keep you informed so that you will understand how they affect you.

The Plan is governed in accordance with the provisions set forth under the Employee Retirement Income Security Act of 1974 (ERISA), as amended and the Internal Revenue Code of 1986, as amended (the “Code”) and applicable regulations issued by either the Department of Labor or the Treasury Department. The requirements set forth under ERISA, the Code and any related regulations are intended to protect your benefits and give you necessary information about the administration and operation of the Plan.

The provisions of the Plan and the information in this Summary apply to members who are participating in the Plan as of January 1, 2002 or who became eligible to participate after that date. The purpose of the Plan is to provide security for you and your family. If you left the union before 2002, regardless of whether you have returned, the provisions of the Plan at the time you left may govern the retirement benefit you have accrued and the eligibility for such benefit under the Plan. If you are in doubt, please call the Fund Office at 216-328-0436 or 877-396-3436 for assistance.

If you have any questions about your situation and entitlement to benefits under the Plan please call the Fund Office for assistance. In addition, a copy of the Plan is available for your review at the Fund Office..

JOINING THE PLAN

How Do I Know if I Am Eligible to Join the Plan?

You are eligible to participate in the **Plan** if you work for an **Employer** who has a collective bargaining agreement with the **Union** which covers the terms and conditions of your employment and which requires them to make contributions to the Pension Fund on your behalf. Ask your **Employer** if you are not sure.

Note: Words in **Bold** have special meaning and are defined in this Summary. An Index is located on the last page of this Summary (page 37) that identifies where the definition of a particular bolded term can be found.

When Do I Become a Participant?

You automatically join the **Plan** the day you start working for an **Employer** in worked covered under the collective bargaining agreement in placed between the **Union and your Employer**.

Do I Have to Do Anything to Start My Participation?

You will be asked to complete and sign certain forms which gives the Fund Office information about you such as your date of birth and the name of any **Beneficiary** who will receive any **Plan** benefits that are payable if you die. You will also agree to accept the terms and conditions of the **Plan**.

If you are married, your **Beneficiary** is your spouse unless you and your spouse mutually agree to designate another individual or individuals as your **Beneficiary** (any such consent by your spouse must be in writing and notarized). If you are single, your **Beneficiary** is the individual or individuals you have designated by completing the necessary form with the Fund Office.

RECEIVING BENEFITS

Retirement Benefits

STARTING BENEFITS

When Can I Start Receiving Benefits?

The primary purpose of the **Plan** is to provide retirement income after you have completed your career working in **Covered Service**. **Covered Service** includes all hours for which you are paid or entitled to payment pursuant to the terms of a collective bargaining agreement between your **Employer** and the **Union**. As discussed in this SPD, the earliest date you can commence receiving your benefits under the **Plan** has changed in the past few years. For all periods after November 19, 2009, you can start receiving benefits as early as age 62 so long as your benefits are **Vested** in the Plan. However, your benefit in this case will be actuarially reduced to account for the early commencement of such benefit. To receive an unreduced retirement benefit you have to begin receiving your benefits after you attain your **Normal Retirement Date**.

The definition of **Normal Retirement Date** under the Plan depends upon whether you earned your benefits before January 1, 2007 or after.

For Service Before January 1, 2007

For benefits earned before January 1, 2007, the Plan's technical definition of **Normal Retirement Date** is the earlier of:

- (i) The later of your 62nd birthday or the date you complete ten years of **Credited Service**; or
- (ii) The later of your 65th birthday or the fifth anniversary of your joining the **Plan**.

It's not as difficult as it sounds and in fact usually is pretty straight forward. As long as you join the Plan before age 52, your **Normal Retirement Date** is age 62 for benefits earned before January 1, 2007. The **Plan** calls this unreduced benefit your **Normal Retirement Benefit**.

The complications regarding the definition of **Normal Retirement Date** only apply if you join the Plan when you are older than 52. In that situation, if you don't have the ten years at 62, you can only receive your unreduced **Normal Retirement Benefit** when you have earned ten years of Credited Service.

In addition, if it is earlier, you can receive your unreduced **Normal Retirement Benefit** beginning on the fifth anniversary of your participation in the **Plan** after you are at least age 65. This provision is only important if you join the **Plan** after age 60.

For Service After December 31, 2006

For benefits earned after December 31, 2006 the Plan's definition of **Normal Retirement Date** also seems complicated. However, it is straight forward for almost all participants. It is the earlier of:

- (i) The later of your 65nd birthday or the date you complete ten years of Credited Service; or
- (ii) The later of your 65th birthday or the fifth anniversary of your joining the Plan.

Similar to the above definition, the earliest date you can receive an unreduced **Normal Retirement Benefit** is generally age 65 for benefits earned after December 31, 2006. It only gets complicated if you join the plan after age 55.

You can start benefits earlier than either **Normal Retirement Date** and receive a so-called **Early Retirement Benefit**. If you elect to receive an **Early Retirement Benefit** your monthly benefit payments will be reduced. However, you are not really losing anything with this reduction. Your benefit amount is reduced to reflect the fact that you will be receiving benefits for a longer period of time since you started such benefits before your **Normal Retirement Date**. This reduction is called an actuarial reduction.

In addition, if your day of birth is in the first ten days of your month of birth you will receive a payment on the first day of your birth month. In other cases, your first payment will begin on the first day of the month after your birth month.

Some of My Benefits Were Earned Before 2007 and Some After? Do I Have To Wait Until Age 65 to Receive an Unreduced Benefit?

In most cases, yes. However, as mentioned above, you can receive some of your benefits on a reduced basis. An example of how this works can be found on page 12 of this **SPD**.

In addition, in some cases you can actually receive an unreduced benefit at age 62 even though some of your **Credited Service** is after 2006. If you already had 32 years of **Credited Service** by December 31, 2006, you already had earned the maximum benefit and you can start receiving your benefit at age 62 without any actuarial reduction.

Can I Begin Receiving My Benefits Earned Before January 1, 2007, and Wait to Receive My Post-December 31, 2006 Benefits?

No. When you apply to receive benefits you must apply for both pieces at the same time.

BENEFIT AMOUNTS IN GENERAL

How Much Will I Get When I Retire?

After your **Normal Retirement Date**, the payment you receive each month is called your **Normal Retirement Benefit**. The amount of such benefit will depend upon the following factors:

- (i) The years of **Credited Service** you have earned - The more **Credited Service** you have earned the larger your benefit will be; and
- (ii) The Benefit Level of your **Employer** when you earn your **Credited Service** - The higher the Benefit Level, the larger the benefit. Right now, the highest benefit level provides a monthly benefit of \$2,700 after 32 years of **Credited Service**.

Credited Service is explained more fully beginning on page 9. Basically, after December 31, 2006 you earn one year of **Credited Service** if you work at least 2080 hours in a calendar year for an **Employer**.

THE PLAN'S VARIOUS BENEFIT LEVELS

What Are The Benefit Levels Provided by the Plan?

Right now there are a number of Benefit Levels provided under the Plan. Among the benefit Levels provided under the Plan are the following: (i) Regular; (ii) Low; (iii) the 1992 Plan Level; (iv) the 1995 Plan Level; (v) the 1997 Plan Level, (vi) the 1998 Plan Level; (vii) the 2000 Plan Level; (viii) the 2001(\$2,300) Plan Level, (ix) the 2001(\$2,500) Plan Level, and (x) the 2001(\$2,700) Plan Level).

Except for the Regular and Low benefit levels they all have this same format - four (4) different benefit rates that vary according to the amount of **Credited Service** accrued by the Participant.

The mechanics of the Regular and Low Plan are a bit different. If your benefit is determined under either the Regular or Low benefit level, please contact the Fund Office if you want detailed information about your retirement benefit under the Plan.

The following table shows the monthly benefit you will get for each year of **Credited Service** you earn based on the Benefit Level that has been negotiated with your **Employer**.

1992 (\$1,002) Plan Level: The exact benefit rates that apply to the 1992 Plan Level are as follows:

Years of Credited Service	Monthly Benefit Per Year of Credited Service
Less than 10 Years	\$27.00
Between 10 and 20 Years	\$31.00
Between 20 and 30 Years	\$35.00
Years 30 through 32	\$36.00

1995 (\$1,302) Plan Level: The exact benefit rates that apply to the 1995 Plan Level are as follows:

Years of Credited Service	Monthly Benefit Per Year of Credited Service
Less than 10 Years	\$35.10
Between 10 and 20 Years	\$40.30
Between 20 and 30 Years	\$45.50
Years 30 through 32	\$46.50

1997 (\$1,525) Plan Level: The exact benefit rates that apply to the 1997 Plan Level are as follows:

Years of Credited Service	Monthly Benefit Per Year of Credited Service
Less than 10 Years	\$41.10
Between 10 and 20 Years	\$47.20
Between 20 and 30 Years	\$53.30
Years 30 through 32	\$54.50

1998 (\$1,750) Plan Level: The exact benefit rates that apply to the 1998 Plan Level are as follows:

Years of Credited Service	Monthly Benefit Per Year of Credited Service
Less than 10 Years	\$47.20
Between 10 and 20 Years	\$54.20
Between 20 and 30 Years	\$61.10
Years 30 through 32	\$62.50

2000 (\$2,100) Plan Level: The exact benefit rates that apply to the 2000 Plan Level are as follows:

Years of Credited Service	Monthly Benefit Per Year of Credited Service
Less than 10 Years	\$56.70
Between 10 and 20 Years	\$65.00
Between 20 and 30 Years	\$73.30
Years 30 through 32	\$75.00

2001 (\$2,300) Plan Level: The exact benefit rates that apply to the 2001 (\$2,300) Plan Level are as follows:

Years of Credited Service	Monthly Benefit Per Year of Credited Service
Less than 10 Years	\$62.10
Between 10 and 20 Years	\$71.20
Between 20 and 30 Years	\$80.30
Years 30 through 32	\$82.00

2001 (\$2,500) Plan Level: The exact benefit rates that apply to the 2001 (\$2,500) Plan Level are as follows:

Years of Credited Service	Monthly Benefit Per Year of Credited Service
Less than 10 Years	\$67.20
Between 10 and 20 Years	\$77.50
Between 20 and 30 Years	\$87.50
Years 30 through 32	\$89.00

2001 (\$2,700) Plan Level: The exact benefit rates that apply to the 2001 (\$2,700) Plan Level are as follows:

Years of Credited Service	Monthly Benefit Per Year of Credited Service
Less than 10 Years	\$72.60
Between 10 and 20 Years	\$83.70
Between 20 and 30 Years	\$94.50
Years 30 through 32	\$96.00

EXAMPLE # 1

What would be a participant benefit base upon the following assumptions:

Age at Retirement: 62
Credited Service: 15.5 years (all before December 31, 2006)
Plan Benefit Level: 2001 Plan (\$2,700) Level

The monthly retirement benefit would be determined as follows:

- (i) For the first 10 years, the benefit rate is \$72.60 per month per year of **Credited Service**.

$$10 \times \$72.60 = \$726.00 \text{ per month.}$$

- (ii) For the next 5.5 years, the benefit rate is \$83.70 per month per year of **Credited Service**.

$$5.5 \times \$83.70 = \$460.35 \text{ per month.}$$

- (iii) The total monthly benefit is **\$1,186.35** (\$726.00 plus \$460.35).

If you are married, the law requires that your retirement benefit be paid in the form of a **50% Qualified Joint and Survivor Annuity** (“**50% QJ&S Annuity**”). A **50% QJ&S Annuity** includes “life insurance coverage” to provide certain benefits to a Participant’s surviving spouse, only if the Participant predeceases his or her surviving spouse.

Because this life insurance to your surviving spouse has a cost, your **Normal Retirement Benefit** is reduced if you decide to accept this protection. The **50% QJ&S Annuity** is explained further on page 16 along with the ability to waive such coverage and select another distribution method instead of a **50% QJ&S Annuity**.

How Can I Find Out My Employer’s Negotiated Benefit Level?

Ask your **Employer** or contact the Fund Office.

What If I Work For Different Employers Who Have Different Contribution Rates?

These situations can get complicated. The general rule is that the benefit level is determined by the provisions of the **Plan** when you earned each year of your **Credited Service**. The intent is to treat you and the **Plan** fairly. The **Plan** does not want to penalize you and it does not want to give you a windfall.

For example if you work and earn a total of 18 years of **Credited Service**, the first 15 under the 2000 Plan Benefit Level and the last 3 under the 2001 Plan (\$2700) Benefit Level, your benefit would be determined as follows:

EXAMPLE # 2

- (i) For the first 15 years in 2000 Plan:
 $\$567 + 5 \text{ years times } \$65 \text{ per month per year of } \textbf{Credited Service}$
or $\$567 + \$325 = \underline{\$892.00}$.
- (ii) For the last 3 years which were in the 2001 Plan (\$2700):
 $3 \text{ years times } \$83.70 \text{ per month per year of } \textbf{Credited Service}$
or $3 \text{ times } \$83.70 = \underline{\$251.10}$.
- (iii) Total monthly benefit is **\$1,143.10** (\$892.00 + \$251.10)

CREDITED SERVICE

What is Credited Service?

Credited Service is one of the most important terms and conditions of the **Plan** because it is one of the key components used in determining the monthly amount of your **Normal or Early Retirement Benefit**, , as well as the amount of any benefits your **Beneficiary** or **Beneficiaries** may be entitled to upon your death. For each calendar year that you are working in **Covered Employment** you can earn up to one year of **Credited Service** depending upon how many hours you work. **Credited Service** is also one of the **Plan's** more complicated aspects because different rules apply to different time periods.

1961 through 1990

After 1961 and before December 31, 1991, if you worked 750 hours in a calendar year you earned a half year of **Credited Service**. If you worked at least 1,500 hours, you earned a full year. For hours between 751 and 1,499 credit under the Plan was pro-rated according to the following table:

HOURS WORKED	CREDITED SERVICE(YRS)
1,500 or more	1.0
1,350 to 1,499	.90
1,200 to 1,349	.80
1,050 to 1,199	.70
900 to 1,049	.60
750 to 899	.50

1991 through 2006

Between January 1, 1991 and December 31, 2006, the rules related to the award of **Credited Service** were different. You had to work at least 1,300 hours to receive a full year of **Credited Service**. If you did not qualify for a full year of Credited Service because you did not work at least 1,300 hours, you could earned partial credit (in 1/10ths) if you worked at least 650 hours during the year. Partial credit was earned according to the following table:

HOURS WORKED	CREDITED SERVICE(YRS)
1,300 or more	1.0
1,170 to 1,299	.90
1,040 to 1,169	.80
910 to 1,039	.70
780 to 909	.60
650 to 779	.50

After 2006

Beginning January 1, 2007, you have to work at least 1,000 hours to earn any **Credited Service** and you have to work 2,080 hours to earn a full year of Credited Service. If you work less than 2,080 hours (but at least 1,000) your credit is pro-rated by dividing your hours by 2,080 and rounding to the nearest thousandth.

EXAMPLE #3

If you work 1,700 hours, you will earn .82 years of Credited Service ($1,700/2,080 = .817$).

If you work 1,250 hours you will earn .60 years of Credited Service ($1,250/2,080 = .60$)

Except for the last year in which you work in **Covered Service** and retire, you will not earn any **Credited Service** if you work less than the minimum required to earn any credit. For your last year after 2006, you will earn a credit equal to your hours worked divided by 2080, rounded to the nearest hundredth.

What If Happens If I Have To Wait Until Age 67 To Receive my Unreduced Social Security Retirement Benefits?

Normal or early retirement ages allowed in Social Security only affect your Social Security benefits. They do not affect the benefit provided to you under the **Plan**.

Early Retirement**Can I Receive Benefits Before Age 65?**

Yes, however, the earliest age you can retire was changed effective as of November 19, 2009 in accordance with the Rehabilitation Plan as adopted by the Trustees on that date and updated annually. The Rehabilitation Plan and any updates was adopted in order to comply with the requirements imposed upon the Plan by the pension Protection Act of 2006 ("PPA"). You can request copies of the Rehabilitation Plan and any annual updates by contacting the Fund Office.

Prior to November 19, 2009 If you have at least 15 years of **Credited Service** you were eligible to commence receipt of your benefits as early as age 57. However, if you start receiving benefits before the applicable **Normal Retirement Date(s)** the monthly amount of your benefit was actuarially reduced. Your benefits were reduced because starting early meant that benefits will be paid to you for a longer period of time.

After November 19, 2009. Early Retirement will only be allowed after attainment of age 62. Participants can no longer retire prior to age 62 under the Rehabilitation Plan.

EARLY RETIREMENT FACTORS

How Much Will They Be Reduced?

The factor that is applied to your **Normal Retirement Benefit** depends on three things: 1) the age you start receiving benefits; 2) when you earned your benefits; and 3) the **Normal Retirement Date** associated with the benefit.

The following table is effective for benefits that commence before November 19, 2009 and gives the applicable retirement factors at each full year age .

EARLY RETIREMENT FACTORS		
Retirement Age	Benefits Earned	
	Before	After
	January 1, 2007	December 31, 2006
57	59.01%	41.86%
58	65.32%	46.34%
59	72.44%	51.39%
60	80.49%	57.10%
61	89.62%	63.58%
62	100.00%	70.94%
63	100.00%	79.34%
64	100.00%	88.95%
65	100.00%	100.00%

So, if you start receiving benefits at age 60 and all of your benefit was earned before January 1, 2007 (and commence receipt of such benefits prior to November 19, 2009); you multiply your **Normal Retirement Benefit** by 80.49% to determine your monthly payment. If all of your service was earned after December 31, 2006; the age 60 early retirement factor is 57.1%. When you actually apply for benefits, the early retirement factors will be based on your age in years and months. So, for example, if you apply at age 60½, the factor will be slightly larger than the amounts shown.

Of course, for most participants, your benefit will be based on service before and after December 31, 2006. This means different retirement factors will be applied to the two pieces of your total benefit, the piece earned before January 1, 2007 and the piece earned after December 31, 2006.

To understand how this works, let's return to Example #2 on page 8. In Example # 2 we determined that 15.5 years of Credited Service, all earned before December 31, 2006, would earn a monthly benefit of \$1,186.35 with payments starting at age 62. Of this, the first ten (10) years of Credited Service earned \$726 per month and the last 5.5 years earned \$460.35.

Let's change the facts a little and say that the total **Credited Service** still is 15.5 years but that the first ten (10) years occurred before January 1, 2007, and the last 5.5 occurred after January 1, 2007. Further for purposes of this Example #4 let's say that benefit payments are to start at age 62 (since a participant can no longer retire before age 62 under the Rehabilitation Plan) and payment commenced as of January 1, 2012.

Since the **Normal Retirement Date** is age 65 for the \$460.35 amount earned after December 31, 2006, and is age 62 for the \$726.00 amount earned before that date, these two amounts must then be multiplied by the applicable early retirement factors because the benefit will commence at age 62.

The amount payable at 62 in this case would be determined as follows:

EXAMPLE #4

1.	a. Benefit earned before January 1, 2007:	\$726.00
	b. Early Retirement Factor at 62:	N/A
	c. Benefit Payable at 62:	\$726.00

plus

2.	a. Benefit earned after December 31, 2006:	\$460.35
	b. Early Retirement Factor at 62:	70.94%
	c. Benefit Payable at 62 (a multiplied by b):	\$326.57

3.	Total Benefit at age 62 (1c+2c)	<u>\$1,052.57</u>
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Post-Retirement Return To Work

What If I Return To Work After I Retire?

The **Plan** set forth certain restrictions on the ability to work and receive a pension benefit under the **Plan**. Whether you can return to work after you retire will depend on several factors, including the type of work you wish to perform and whether you are under or over the age of 65 (for periods on or after January 1, 2007). You may request an advance determination from the Fund Office of whether a particular job is considered disqualifying or otherwise prohibited under the terms of the **Plan**. However, if you retired before January 1, 2007, you may be able to return to work prior to age 65. You should contact the Fund Office with any questions.

WORK BEFORE AGE 65. Your monthly pension benefit will be suspended during any month in which you are employed in so-called "**Disqualifying Employment**". **Disqualifying Employment** for the period before age 65 shall include performing work within the jurisdiction of the **Union**, which is of the type covered by a labor agreement between the **Union** and any **Employer**, or in any type of work normally performed by the

Union. However, you are allowed to work any job that is not within the jurisdiction of the **Union** and is not work that is performed by the **Union**.

With respect to any Disability pensioner, he shall have his payments suspended for any calendar month in which he performs any work of any type for which he receives or is entitled to receive compensation.

WORK AT AGE 65 OR OLDER. You will lose your pension for any month in which you work for forty (40) hours or more in **Disqualifying Employment**, or other work in an industry in the jurisdiction and geographic area of the **Plan** and in a job in which you worked under the **Plan**, or any job covered by the **Plan** when your pension began.

Notwithstanding the above restriction, you can work up to 110 hours per month and also continue to receive benefit payments. However, there are several conditions that must be met for this to happen:

- (i) The work must be performed during May through October for a contributing employer;
- (ii) Your **Employer** must make contributions on your behalf in accordance with the applicable Collective Bargaining Agreement;
- (iii) Your **Employer** cannot have any union members on layoff;
- (iv) You retired under the **Plan**'s provisions with either a Normal or Early Retirement;
- (v) The Welfare Fund of Teamsters Union Local 436 does not require contributions; and
- (vi) You and your **Employer** sign documents developed by the **Plan** that acknowledge **Plan** provisions and responsibilities in this regard.

What Happens If I Violate These Rules?

If you under age 65 and work in **Disqualifying Employment** or are over age 65 and do not satisfy the hour limitation and other rules set above, your pension will be cancelled for the affected month or months related to such employment. Your benefits will be suspended until you notify the **Plan** that you have retired from your reemployment in the industry. You may request a review of the determination to suspend your benefits by filing a written request with the **Board of Trustees** within 180 days of the notice of suspension. This same right to review applies to an advance determination as to whether a job constitutes **Disqualifying Employment**. If you have worked in prohibited employment, the Trustees shall presume that you have worked for at least 40 hours in such month and any subsequent month before you provide notice that you have ceased the prohibited work. You will have the right to overcome this presumption by presenting proof satisfactory to the Trustees that you did not work in **Disqualifying Employment**.

If your pension benefit has been suspended, payment of such pension shall resume no later than the first day of the third calendar month after the calendar month in which you cease to be employed in **Disqualifying Employment**. The initial payment upon resumption will include the payment scheduled to occur during the month of recommencement along with any amount withheld during the period between the cessation of benefits due to the **Disqualifying Employment** and resumption of the benefit payments.

What If I Work Beyond Age 70 ½?

Federal tax law requires that you start receiving **Plan** benefits no later than the April 1 following the calendar year you reach age 70 ½. However, the **Plan** will permit you to defer commencement of your benefit payments until you actually retire, if you so elect. Upon reaching age 70 ½, you may choose to either begin payments and continue working in covered service, or defer payments until you retire. This choice is irrevocable. If you defer payments until you retire, you will be compensated for any missed payments in the manner described below.

To compensate you for any missed payments of the benefits you have earned up to the date the law says that payments should have started plus any new benefits you earn after that date will be actuarially increased to provide you equal value to what you would have received had payments started. There will also be an adjustment for any payments you receive. However, there will be no actuarial adjustment if you decide to begin payments at the legally required beginning date (usually age 70 ½) and continue to work in covered service.

Note: That no work performed after you reach the required beginning date for receipt of your pension (in general, age 70 ½) will be treated as **Disqualifying Employment**.

Do I Have To Do Anything Special If I Return To Work?

You need to tell the Fund Office in writing within 15 days after you go back to work and you need to provide any information regarding such employment as may be requested by the Fund Office. You need to do this even if you do not expect to work more than 40 hours per month or you do not believe such employment constitutes disqualifying employment.

Forms of Payment

LIFE ANNUITY

How Will My Benefits Be Paid?

Once payments start, you will receive a monthly payment as of the first of each month as long as you remain alive. Your payments will start on the first day of the month after you have satisfied the requirements for a pension benefit and have filed the necessary application and required documentation with the Fund Office. However, if you eligible for a **Normal Retirement Benefit** and your birthday occurs during the first ten (10) days of the month, you will receive your first monthly benefit retroactive to the beginning of the month.

If you unmarried at the time you commence your retirement benefit will generally be paid in the form of a Life Annuity, unless you elect a different form of benefit. A Life Annuity is a monthly benefit payable for your life and will cease upon your death; provided, however, in the past the Life Annuity provide a sixty (60) months guarantee of payments, even if you did not live that long that would be paid to your designated beneficiary. This sixty (60) month guarantee was eliminated as of November 19, 2009 in accordance with the Rehabilitation Plan adopted under PPA.

If you have been married for at least one year prior to the start of your benefit payments, the mandatory form of payment is a **50% Qualified Joint and Survivor Annuity**. In addition, effective as of January 1, 2008, you can also elect to have your benefit paid in the form of a **75% Qualified Optional Survivor Annuity**.

50% QUALIFIED JOINT AND SURVIVOR ANNUITY

What is a 50% Qualified Joint and Survivor Annuity?

A **50% Qualified Joint and Survivor Annuity** (“**50% QJ&S Annuity**”) is a form of benefit that provides a reduced benefit to you for your life along with a surviving monthly benefit payable to your spouse upon your death. In other words, you will receive a monthly benefit that is slightly smaller than your **Normal Retirement Benefit** or your **Early Retirement Benefit** would be if paid in the form of a Life Annuity; however, when you die your surviving spouse will receive 50% of the benefit that was being paid to you while you were alive. Spousal payments continue as long as your spouse is alive.

The amount of reduction that is applied to your monthly benefit to provide a **50% QJ&S Annuity** depends on your age and your spouse’s age when payments begin. For most people, the reduction is between 10% and 15%. That means you will typically receive 85% to 90% of the benefit that would have been payable without the **50% QJ&S Annuity** feature. When you apply for retirement benefits the Fund Office will tell you about all the payment options you have and the exact amounts payable under each option

so you can make an informed choice. They will also supply all the forms you will need to complete to make a benefit election.

75% QUALIFIED OPTIONAL SURVIVOR ANNUITY

What is the 75% Qualified Optional Survivor Annuity?

The **75% Qualified Optional Survivor Annuity** is a payment form that was added to the Plan by the Trustees and is effective for any distributions made on or after January 1, 2008. The **75% Qualified Optional Survivor Annuity** means that the Participant will receive a reduced monthly amount for life and, if the Participant dies before his Qualified Spouse, the Qualified Spouse will be entitled to receive 75% of the reduced lifetime amount that the retired Pensioner was receiving at the time of his death. The participant can elect payment of his retirement benefit in the form of a **75% Qualified Optional Survivor Annuity** without written spousal consent

OTHER PAYMENT FORMS

If I Am Married Do I Have To Take My Benefit in Either the Form of a 50% QJ&S Annuity or 75% Qualified Optional Survivor Annuity?

No. The **50% QJ&S Annuity** is the default payment form if you are married and the **75% Qualified Optional Survivor Annuity** is another option available to a married participant on or after January 1, 2008; however, you and your spouse may elect for payment of Single Life Annuity or one of the optional benefit payment form provided under the Plan. However, any decision to forego the **50% QJ&S Annuity or the 75% Qualified Optional Survivor Annuity** and/or select a beneficiary other than your spouse must be made in writing and must be agreed to by both you and your spouse.

At the time you apply for benefits you will receive distribution election forms to commence your pension benefit and select the form of payment you and your spouse want. These forms must be signed by you and your spouse in front of a notary public and must generally be completed within 30 days before benefit payments begin.

Regardless Of Whether I Am Married or Not, Are There Other Ways To Receive Benefits Besides Either a Life Annuity, a 50% QJ&S Annuity or a 75% Optional Survivor Annuity?

Yes. You have two other options:

1. 120 Month Certain Option

This form of benefit is paid as a Life Annuity with guaranteed payments for a period of at least 120 months. If you die prior to receipt of a 120 monthly payment the remaining guarantee payments will be made your designated beneficiary. Obviously, because of the 120 month guarantee there is also a

reduction in your **Normal Retirement Benefit** for this feature. This reduction depends on the age at which you start to receive benefits. If you married and want to select this form of payment, your spouse has to agree and consent to the election of this **120 Month Certain Option**.

2. **50% Contingent Pension**

You can also decide to have your benefits paid in a manner that is very similar to the **50% QJ&S Annuity** that has to be offered to married participants. The **Plan** calls this a **50% Contingent Pension**. The difference between the two is that the person who receives the continuing benefits if you die first, your Beneficiary, does not have to be your spouse. You do not have to be married to receive this form of payment.

Of course, if you want this form of payment and you are married, your spouse has to agree in writing to waive the **50% QJ&S Annuity** and consent to the non-spouse beneficiary you have selected. There are some restrictions on when this benefit option is available. The Board of Trustees can reject this option when certain parameters are not satisfied. For example, this benefit option may not be available if there is a very large difference between your age and the age of your designated Beneficiary. The **Plan** office will inform whether this option is available based upon the information provided and the age of the Beneficiary you have selected.

As with the **50% QJ&S Annuity**, the benefit you receive under the **50% Contingent Pension** is reduced to pay for the cost of this feature. The actuarial reduction depends upon your age and the age of your beneficiary. You will receive the reduced benefit and your beneficiary receives **50% QJ&S Annuity** of this amount if you die first. If you are interested in this option, the Fund Office will give you the estimated amounts that would be payable to you and your Beneficiary.

You Mean I Can't Get A One Time Lump Sum Payment Of My Benefit?

That is generally correct. However, a lump sum payment will be made if the Plan determines that the actuarial value of your benefit payments is less than \$1,000.

So, if you terminate employment and apply for a pension benefit, and the **Plan** determines that the value of your retirement benefit is less than \$1,000, such benefit will automatically be paid to you in the form a single lump sum payment.

If the actuarial value of your benefit payments is \$1,000 or greater, but does not exceed \$5,000, you may elect to receive a single lump sum payment as soon as administratively feasible after your retirement or termination of employment. If this situation exists you will be contact by the Fund Office at the time of your retirement or termination of employment

Most recent summary plan description (SPD) and all subsequent summaries of material modification (Checklist Item #37)

After payment of any lump sum amount whether mandatory or permissible, the Plan will have no other future obligations to you or your Beneficiaries.

Death Benefits

What Does the Plan Provide When I Die?

The Plan is a retirement Plan not a life insurance plan so you should not count on it to provide your life insurance needs. Nonetheless, the **Plan** is set up so that your spouse or other beneficiaries are protected from completely losing your **Vested** retirement benefits because of an untimely death. The death benefits payable from the **Plan** depend upon when you die and your **Plan** status (Are you a retiree, actively at work past age 62, **Vested** terminated, etc.).

The term **Vested** is fully explained on page 24. You usually become **Vested** after earning 5 years of **Credited Service** under the **Plan**. The following questions highlight some of the possible payment situations.

DEATH AFTER RETIREMENT PAYMENTS HAVE STARTED

What Happens If I Die After Benefit Payments Have Started?

As explained previously, if you are married when you apply for benefits, the default form of payment is a **50% QJ&S Annuity**. This will occur unless both of you agree to another form of payment in writing before a notary. Under the **50% QJ&S Annuity** your spouse will continue to receive half of the monthly amount that was paid to you while you were alive. These payments will continue as long as your spouse is alive.

If you are single and have selected a Life Annuity (or you are married and have selected Life Annuity with proper spousal consent) no additional benefits will be to you upon death. However, if you are single or you are married and have selected the **120 Month Certain Option** (with proper spousal consent if married), you are guaranteed that 120 payments will be made to you and/or your designated Beneficiary. For example, if you choose **120 Month Certain Option** benefit option and you die after 48 monthly payments have been made; your **Beneficiary** will receive monthly payments for the next 72 months. If your **Beneficiary** dies prior to receiving the 72 monthly payments, the remaining payments will be paid to his/her designated Beneficiary and if none was selected, then the remaining amounts will be paid to your Beneficiary's estate.

Further, if you are single or you are married and have selected the **50% Contingent Pension** (with proper spousal consent if married), an annuity equal to 50% of the benefit paid to you will be paid to your contingent beneficiary upon your death.

DEATH BEFORE PAYMENTS HAVE STARTED

What Happens If I Die After I Am Eligible To Receive An Early Or Normal Retirement Benefit But I Have Not Started Receiving Benefits?

It depends upon whether you are married or not at the time of your death. If you are not married, no benefits are payable. If you are married, benefits are payable as follows.

The **Plan** pretends as if you retired the day before you died, applied for benefits, and such benefits were paid in the default form of a **50% QJ&S Annuity**, and then passed away the next day.

This means the **Plan** will determine what you would have received if you had lived and retired. Your spouse will then receive 50% of this amount. Remember that an actuarial reduction for the **50% QJ&S Annuity** form of payment will apply and an actuarial reduction for Early Retirement may also apply. The **Plan** calls this death benefit a **Pre-Retirement Surviving Spouse Annuity**.

Your surviving spouse can decide that they would like to postpone the beginning of benefit payments. If they do, the monthly amount they eventually receive will be actuarially adjusted, usually increased, to reflect the fact that payments will ultimately be paid over a shorter time period.

DEATH AFTER VESTING BUT BEFORE ELIGIBILITY FOR EARLY RETIREMENT

What Happens If I Die After I Become Vested But Before I Am Eligible For An Early Retirement Benefit? Does It Matter Whether I Am An Active Participant or Not?

It doesn't matter whether you are active or whether you have left the Union. If you are **Vested** (generally you have five or more years of **Credited Service**) your surviving spouse will be eligible to receive a **Pre-Retirement Surviving Spouse Annuity** from the **Plan**. If you are not married, the **Plan** does not pay any death benefits.

In this situation to determine what your spouse will receive, the **Plan** pretends a few things happen. First it pretends that you terminate your membership in the **Plan**. Then it pretends that you will live to the day before the earliest date you could receive a retirement benefit (usually age 62 for periods on or after November 19, 2009) and apply for your benefits under a **50% QJ&S Annuity** form of payment. Finally it pretends you then die. The **Plan** also calls this death benefit a **Pre-Retirement Surviving Spouse Annuity**.

The end result of this is that your surviving spouse is eligible to receive a **50% QJ&S Annuity** of the amount that would have been payable if all these things had happened. For example if you die when you are age 40 and have 20 years of **Credited Service** and

your wife is 35; in 22 years when you would have been 62 and when your surviving spouse is 55, she can start receiving benefits.

Please note that not only will your spouse usually have to wait several years to receive benefits; the **Pre-retirement Surviving Spouse Annuity** monthly benefit amounts will usually be fairly small since several actuarial adjustments are applied. These adjustments could include an early retirement adjustment, as well as the adjustment related to payment as a **50% QJ&S Annuity** adjustment.

Your surviving spouse can decide that they would like to postpone the beginning of benefit payments. If they do, the monthly amount they eventually receive will be actuarially adjusted, usually increased, to reflect the fact that payments will ultimately be paid over a shorter time period.

Disability Benefits

What Happens If I Become Disabled?

As previously discussed, on November 19, 2009 the **Board of Trustees** adopted a Rehabilitation Plan in order to comply with the requirements imposed by Congress under PPA. Under the Rehabilitation Plan, the Disability Pension benefit as provided under the Plan was eliminated. Therefore, you will not be eligible for a Disability Pension unless you were already approved for such benefit prior to the later of: (i) November 19, 2009; or (ii) the date that your Employer's CBA with the Union expired that was in place as of November 19, 2009.

In the past a participant was eligible for a Disability Pension if he or she became "Totally and Permanently Disabled", while an active participant. In addition to being Totally and Permanently Disabled the participant must also have had 15 years of **Credited Service** as of the date of disability.

If the **Plan** decided that you are eligible for a disability benefit you will receive the amount of your **Normal Retirement Benefit** based on your **Credited Service** as of your date of disability and the applicable Benefit Level of your **Employer** on that date. No actuarial adjustment for early commencement of payments is made for a Disability Pension.

How Do I Know if I am "Totally and Permanently Disabled" According to the Plan?

The **Plan** will consider you to be Totally and Permanently Disabled if it is determined by the **Board of Trustees** that you cannot perform your normal job functions because of physical or mental impairment, disease, loss of limb(s), or any combination of these. It also must conclude that this inability to do your job is likely to be permanent during your lifetime and that your condition will not improve.

How Does The Plan Make This Determination?

After the condition(s) causing your disability have persisted for at least six months from your date of disability, the **Board of Trustees** will make this determination based on competent medical evidence. Eligibility for Social Security disability payments will be considered but will not guarantee that you are eligible for a Disability Pension under the Plan. You may be asked to provide additional proof that you are still disabled after payments have started.

Additionally the **Board of Trustees** may enlist the aid of an independent medical professional to assist them in making this decision.

Are Any Conditions Automatically Considered To Be The Cause Of “Total And Permanent” Disability?

Yes, if you lose sight in both eyes, severe both hands above the wrist, both feet above the ankle, or one hand above the wrist and one foot above the ankle.

Are Any Situations Automatically Excluded?

Yes. If your disability is the result of your participation in a felonious criminal act, is the result of your habitual drunkenness, addiction to narcotics, a self-inflicted injury, or military service for which a governmental disability pension is payable.

Does The Credited Service Used To Determine My Benefit Include The Six Month Waiting Period?

No **Credited Service** is counted only through your date of disability, the first day you are unable to perform your job. However, once a determination has been made that you are eligible for benefits; benefits will be paid retroactively beginning with the day of the first month following your date of disability.

How Long Can I Receive Disability Payments?

Disability payments continue as long as the **Plan** believes you are Totally and Permanently Disabled, until you die.

What Happens If I Die While I Am Receiving Disability Benefits?

If you are married your disability benefits will be paid under the **50% QJ&S Annuity** form of payment, unless both you and your spouse agree in writing that you do not want this. Remember under the QJ&S form your disability payments will be reduced slightly. If you die, your spouse will receive **50% QJ&S Annuity** of this amount for as long as she lives.

If you are not married or if you both elect away from the **50% QJ&S Annuity**, your **Beneficiary or Beneficiaries** will receive the **Plan** will finish paying any of the remaining 60 payments that are guaranteed. However, the 60 payment guarantee applies only if you retired with this benefit. If you retired after effective date of the rehabilitation plan, please call Fund Office to determine if this benefit is available to you.

What Happens If I Live To 65?

Your Disability Pension will continue without interruption.

LEAVING THE PLAN AND RETURNING

LEAVING THE PLAN

If I Leave The Union, The Plan, and/or My Employer Can I Ever Receive Benefits From The Plan?

It depends. If you are **Vested** when you leave you will be entitled to a pension benefit under the Plan. If you have at least five years of **Eligibility Service** and are **Vested**, you cannot lose any benefits you earned while you were in the **Plan**. If you aren't **Vested** when you leave the **Plan** you may eventually lose your **Credited Service** and associated benefits. However, you will not lose your **Credited Service** immediately when you quit working. You have up to five years to return to **Covered Employment** before you will forfeit the Credited Service you previously accrued under the Plan.

Technically after you are **Vested** (and even if you are not Vested but have not been gone for five years) you are still a participant in the **Plan** even if you aren't working for an **Employer**, aren't paying dues, etc.

The five year limbo period is explained more fully below in the question regarding **One Year Breaks in Service**. The important point is that once you are **Vested** you cannot lose anything, but if you are not Vested your accrued benefits are potentially subject to forfeiture.

VESTING AND ONE YEAR BREAKS IN SERVICE

What Does The Term “Vested” Mean?

“**Vested**” and all terms like it (Vesting, Vested Benefits, etc.) simply indicate complete ownership of your future benefits. You start earning benefits the moment you join the **Plan**. However, you don't own them until you become “**Vested**.” This happens when you have earned at least five (5) years of **Eligibility Service**. After you are **Vested** you cannot lose benefits or credit for any hours you have worked in **Covered Service**.

Eligibility Service is one of the two types of service that are defined in the **Plan** (the other is **Credited Service** which was discussed on page 9). For each calendar year beginning with 1976, you earn 1 year of **Eligibility Service** if you work at least 870 hours. If you work less, you will receive a partial year credit equal to whatever **Credited Service** you earned for that year.

What is a One Year Break in Service?

If you left work before January 1, 1999 you must have 10 years of **Eligibility Service** to be **Vested**. If you have worked at least one hour after January 1, 1999, you only need to have 5 years of **Eligibility Service** to be **Vested**.

If you are not **Vested** you need to be aware of the so-called “Break in Service” rules. Effective as of January 1, 1976, if you don’t work at least 435 hours in a given calendar year you will incur a **One Year Break in Service** for that year.

If you do not work 435 hours or leave **Covered Service** before you are **Vested**, i.e. before you have 10 years of **Eligibility Service**, and then incur five consecutive **One Year Breaks in Service** your previously accrued benefits under the Plan will be forfeited.

Therefore, if you incur 4 or fewer One Year Breaks, when you return to **Covered Service** with an **Employer**, your **Eligibility Service** (and your **Credited Service**) will be restored and you will not lose or forfeit anything.

However, if you return after you have five or more consecutive **One Year Breaks in Service** it will be deemed a Permanent Break in Service and you will lose both your past **Eligibility Service** and your **Credited Service**. You will be treated like a new participant upon your return to work.

What If I Leave The Union and/or My Employer? How Do I Get My Contributions Back?”

You can’t. Your **Employer(s)** make contributions to the **Plan** based on the hours you work and their negotiated contribution rate under the CBA. However, these amounts are not “your contributions.” They are made on your behalf for the purpose of funding the **Plan** for all participants. There is no individual account in your name or in any other member’s name.

If you leave employment you may be entitled to receive a benefit immediately or at some point in the future, if you are **Vested**. Your spouse will also be eligible to receive certain benefits if you die before you begin to receive benefit payments under the Plan. Receiving benefit payments is the only way you can receive the contributions that were made on your behalf.

How Do I Apply for Benefits if I Am Not Working For an Employer?

Just like if you were still working. Contact the Fund Office and requested a pension application. Of course, if you die, your surviving spouse or other **Beneficiary** will need to contact the Fund Office.

RETURNING TO THE PLAN

What Happens if Leave Covered Service and Return?

You are treated just like a new participant. The only issue is whether you are **Vested** and/or have not incurred five consecutive **One Year Breaks in Service**. As addressed above, if you have incurred five consecutive **One Year Breaks in Service** this will be deemed a Permanent Break in Service and you will forfeit and lose all of the **Eligibility Service and Credited Service** previously earned under the Plan. If you have not experienced five consecutive **One Year Breaks in Service** then your past **Credited Service** is re-instated and added to any new service you earn.

RECIPROCITY

What Happens if I Have Participated in Another Teamsters Pension Plan?

The **Board of Trustees** has mutual agreements, called **Reciprocal Agreements**, with a number of other Teamster Pension Plans to try to prevent you from being hurt if you worked for different Unions in various geographical locations and participate in multiple pension plans. The **Reciprocity Agreements** between plans may allow you to qualify for benefits you would not otherwise qualify for if each plan was looked at separately and it may also increase the pension benefits you are entitled to receive. Further, it will keep you from incurring one or more One Year Breaks in Service that would otherwise occur without reciprocity.

For example, you need 15 years of **Credited Service** to be eligible for **Early Retirement**. If you have 10 years in our **Plan** and 10 years in another plan with a **Reciprocal Agreement** with us, you would qualify for **Early Retirement** based on your combined service.

Without a **Reciprocal Agreement**, you would not qualify for these benefits. In general a **Reciprocal Agreement** tries to treat you as having worked continuously for **Employers** in our **Plan** instead of having your service split between our **Plan** and one or more other plans.

What is Related Service Credit and Combined Service Credit?

When you work in our **Plan** you earn **Credited Service**. When you work in another plan with a **Reciprocal Agreement**, the **Credited Service** you earn in that **Plan** under its terms is called Related Service Credit. Of course, you can't earn more than one year of service for any given calendar year.

When you add your **Credited Service** from our **Plan** to your Related Service Credit the total is your Combined Service Credit. When each plan is trying to determine your eligibility for various benefits, if you don't have enough **Credited Service** both will then check to see if you have enough Combined Service Credit to qualify. Combined Service Credit is also used to determine the amount of your **Partial Pension**.

What is a Partial Pension?

Partial Pension is just the term used when the benefit you are eligible for from our **Plan** depends upon one or more Reciprocal Agreements. Your **Partial Pension** is determined in three steps:

1. Calculate a benefit from our **Plan** based on your Combined Service Credit and based upon the benefit level of the last **Employer** you worked for in our **Plan** when you leave it.
2. Divide your **Credited Service** from our **Plan** by your *Combined Service Credit*.
3. Multiply these two amounts.

Are There Any Other Eligibility Requirements To Receive A Partial Pension?

In general you have to meet any requirements that are in our **Plan** for specific benefits (like 15 years for **Early Retirement**) but you get to use Combined Service Credit not just your **Credited Service** in our **Plan** to meet these requirements. In addition:

1. You have to have at least two years of **Credited Service** in our **Plan** **based on actual employment and contributions**;
2. You have to be eligible for a **Partial Pension** from a related plan, that is a plan with which we have a **Reciprocal Agreement**; and
3. You cannot be entitled to a benefit from the related plan, other than a **Partial Pension**. If you are entitled to a separate retirement benefit from the related plan you may elect to waive that benefit in favor of a **Partial Pension** from both plans.

GENERAL INFORMATION ABOUT THE PLAN

THE BOARD OF TRUSTEES

Who Runs the Plan?

All decisions regarding the operation of the **Plan** are made by the **Plan's Board of Trustees**. The **Board of Trustees** is composed of an equal number of representatives of the Union and representatives of the **Employers** who employ individuals who are represented by the **Union** and covered under the **Plan**. The current list of Trustees is set forth on **Table A** that is attached to the SPD

What Kind Of Decisions Do the Board of Trustees Make?

The **Board of Trustees** is responsible for maintaining records of members, receiving claims for benefits, determining eligibility for benefits, making determinations on appeals of claim denials, authorizing payment of benefits, interpreting and administering the Plan document, maintaining accounting records and filing government reports. **The Board of Trustees** employs an accountant, attorney or other specialists to assist in the proper administration of the Plan, and may amend or terminate the **Plan**.

Additionally, the **Board of Trustees** receives and deposits contributions, determines investment policy, invests plan assets, and makes payment of benefits. The **Board of Trustees** operates solely on behalf of the participants and their beneficiaries.

What Happens to All the Contributions That Are Made to the Plan?

They are used to pay benefits and to pay the expenses of administering the **Plan**. The **Board of Trustees** is required by law to invest the **Plan's** assets prudently so that reasonable investment returns are achieved without undue investment risk. Therefore, the Board hires several professional money managers to invest portions of the total assets. Each of these money managers has different areas investment expertise. The intent is for the **Plan's** assets to be broadly invested in all phases of the economy balancing investment opportunities against their associated risk.

The **Board** also hires an investment consultant to help maintain a prudent investment policy and to select the appropriate money managers to implement that policy. The investment consultant also monitors the performance of each money manager to make sure they are achieving the results that are expected from them.

CHANGING AND TERMINATING THE PLAN

Can the Plan Be Changed?

Yes. The **Board of Trustees** has the authority to change the **Plan**. It can be changed in the future and it has been changed in the past. Sometimes Federal law requires such changes. The change from 10 year to 5 year **Vesting** is an example of this. Other times, the changes were made solely because the **Board of Trustees** thought it was appropriate. The numerous improvements that started in 1992 are examples of these kinds of changes. The current changes to the definition of **Normal Retirement Date** and **Credited Service** are other examples.

Most importantly, in most cases the terms of the **Plan** can only be changed going forward. They cannot be changed retroactively. Among other things, this means that once you have earned a benefit and become **Vested**, it cannot be reduced and the age at which you can start receiving it on an unreduced basis cannot be increased.

Can the Plan be Terminated?

Yes. There are two different ways that the Plan can be terminated. One way is that the **Board of Trustees** could amend the **Plan** to terminate it. The other way is that all participating employers could decide they no longer want to participate and withdraw from the plan. This is called a mass withdrawal.

What Happens?

In either case, the **Board of Trustees** continues to operate the Plan and **Employers** are required to make contributions. The **Board** of Trustees continues to be responsible for collecting contributions, making benefit payments, investing assets, and otherwise operating the **Plan**. This responsibility continues until the **Plan** fulfills all of its obligations for future benefits usually by purchasing annuities or by making lump sum payments.

THE PENSION BENEFITS GUARANTY CORPORATION

I Keep Reading About The Pension Benefits Guaranty Corporation (The PBGC), What Relationship Does The PBGC Have To My Plan?

The PBGC is quasi-governmental body that insures certain pension benefits.

Are My Benefits Protected by the PBGC?

Sort of. The PBGC has gotten a lot of publicity recently because of the severely underfunded pension plan from the steel, airline, and automobile industry that have literally been dumped upon the PBGC and which have threatened its financial stability.

However, the insurance coverage and protection provided by the PBGC differs based upon whether the plan is a single employer arrangement or a multiemployer arrangement.

The PBGC protection program for participants of multiemployer plans is significantly different than what it provided for the participants of single employer plans. Generally, the PBGC provides much less coverage for multiemployer plans than it does for the participants of single employer plans.

What is a Multiemployer Plan?

There are a few distinguishing features of multiemployer plans. First, of all as the name suggests these plans are sponsored by a group employers, not one single employer, and their sponsorship and affiliation with the plan is the result of collective bargaining. The plan itself is independent of the employers and union that are involved. Instead it is run by a separate **Board of Trustees**. The **Board of Trustees** is composed of equal numbers of representatives of the union and of the participating **Employers**.

How Does the PBGC's Multiemployer Coverage Work?

Under the multiemployer plan program, the PBGC provides financial assistance through loans to plans that are insolvent. A multiemployer plan is considered insolvent if the plan is unable to pay benefits (at least equal to the PBGC's guaranteed benefit limit) when due.

The maximum benefit that the PBGC guarantees is set by law. Under the multiemployer program, the PBGC guarantee equals a participant's years of service multiplied by (1) 100% of the first \$11 of the monthly benefit accrual rate and (2) 75% of the next \$33 monthly payment per year of service. The PBGC's maximum guarantee limit is \$35.75 per month times a participant's years of service. For example, the maximum annual guarantee for a retiree with 30 years of service would be \$12,870.

The PBGC guarantee generally covers: (1) normal and early retirement benefits; (2) disability benefits if you become disabled before the plan becomes insolvent; and (3) certain benefits for your survivors.

The PBGC guarantee generally does not cover: (1) benefits greater than the maximum guaranteed amount set by law; (2) benefit increases and new benefits based on plan provisions that have been in place for fewer than 5 years at the earlier of: (i) the date the plan terminates or (ii) the time the plan becomes insolvent; (3) benefits that are not vested

because you have not worked long enough; (4) benefits for which you have not met all of the requirements at the time the plan becomes insolvent; and (5) non-pension benefits, such as health insurance, life insurance, certain death benefits, vacation pay, and severance pay.

For more information about the PBGC and the benefits it guarantees, ask your Plan Administrator or contact the PBGC's Technical Assistance Division, 1200 K Street, N.W., Suite 930, Washington, D.C. 20005-4026 or call PBGC toll-free at 1-800-400-7242. TTY/TDD users may call the federal relay service toll-free at 1-800-877-8339 and ask to be connected to 1-800-400-7242. Additional information about the PBGC's pension insurance program is available through the PBGC's website on the Internet at <http://www.pbgc.gov>.

COMMENCING BENEFITS

Do My Benefits Start Automatically When I Reach Normal Retirement Age, Die, or in Any Other Way Become Eligible For Plan Benefits?

No. You, your spouse, or other **Beneficiary** has to contact the Fund Office and inform them of your situation. You must complete an application for retirement and supply the necessary documents to apply for your benefits. The Fund Office will provide you, your spouse, or your **Beneficiary** with the necessary forms and information to process your benefits.

Can My Benefits Be Lowered, Stopped, Or In Changed In Any Way After I Start Receiving Payments?

Assuming that the **Plan** is financially able, once you start receiving benefits Federal law currently forbids your benefits from being reduced or stopped as long as you and your surviving **Beneficiary** are alive and otherwise meet any applicable eligibility requirements. Furthermore, most of the important features of Plan benefits cannot be changed after you have earned them even if you are not receiving payments and even if you have left the union and the industry. For example, the benefits earned at the highest level cannot be changed to something less.

Similarly, once payments start you cannot decide to change the form of payment. For example, you could not change from a **50% QJ&S Annuity** to life-time payments guaranteed for 120 months.

Who Decides Whether I Should Receive Plan Benefits?

The ultimate decision is the **Board's**. But all they really decide is whether the terms of the **Plan** have been followed. To make this determination they rely on the advice of the Fund Office and paid professionals like the **Plan's** attorney.

DISPUTES

What Happens If I, My Spouse, Or My Beneficiary Disagrees With A Decision Made By The Board?

In accordance with the requirements established under ERISA, including the provisions set forth in set forth in Labor Regulation Section 2560.503-1, the Plan has established certain claims and appeal procedure.

The following procedures shall apply to all claims filed on or after January 1, 2002.

1. In order to establish and maintain reasonable claims procedures, the Plan will be administered in accordance with the following rules:
 - a. The **Plan** will not administer the claims and appeals procedures in any way that unduly inhibits or hampers the initiation or processing of claims for benefits.
 - b. The **Plan** will not require payment of a fee or costs as a condition to making a claim or appeal.
 - c. The **Plan** will not preclude an authorized representative of a claimant from acting on behalf of such claimant in pursuing a benefit claim or appeal of adverse benefit determination.
 - d. The **Plan** will follow administrative processes and safeguards to ensure and verify that benefit claim determinations are made in accordance with governing **Plan** documents and that the applicable provisions have been applied consistently with respect to similarly situated claimants.
 - e. If you or a **Beneficiary** contacts the Fund Office and attempts to file an application for benefits, the Fund Office will inform you or a **Beneficiary** of the proper procedures for filing an application for benefits.
2. In the event a claim is initially denied, in whole or part, you, your spouse or Beneficiary (hereinafter the "Claimant") will be advised of the following:
 - a. the specific reason or reasons for the adverse determination;
 - b. reference to specific **Plan** provisions on which the determination was based;
 - c. a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and

- d. a description of the **Plan's** review procedures and the time limits applicable to such procedures, including a statement of the claimant's right to bring civil action under ERISA Section 502(a) following an adverse benefit determination after completion of the review.
- e. If the Claimant disagrees with the denial, the Claimant or their duly authorized representative may:
 - (a) Request review by the Claims Review Board;
 - (b) Review pertinent documents; and
 - (c) Submit issues and comments in writing.

THE REQUEST FOR REVIEW MUST BE IN WRITING AND MADE WITHIN SIXTY (60) CALENDAR DAYS OF YOUR RECEIPT OF THE WRITTEN NOTIFICATION OF DENIAL (OR ONE HUNDRED EIGHTY (180) CALENDAR DAYS IN THE CASE OF A DISABILITY PENSION).

- 3. Review of an adverse benefit determination upon appeal will take into account all comments, documents, records and other information submitted by the Claimant, regardless of whether the information was submitted or considered in the initial benefit determination.

You or your authorized representative will have the right to make an oral presentation to the Claims Review Board.

- 4. The Claims Review Board will continue to review benefit determinations upon appeal at regularly scheduled meetings that take place at least quarterly, except if otherwise required by law. The Claims Review Board shall make benefits determinations upon appeal at the meeting that immediately follows the **Plan's** receipt of a request for review, unless the request is filed within 30 days of the meeting. In such case, the Claims Review Board may make a benefit determination upon appeal at the second meeting following the **Plan's** receipt of the request for review. The Claims Review Board shall notify the Claimant of the benefit determination as soon as possible after the meeting, but not later than 5 days after the benefit determination is made.
- 5. Notification of an adverse benefit determination upon review will contain:
 - a. the specific reason or reasons for the adverse determination;
 - b. reference to specific **Plan** provisions on which the determination is based;
 - c. a statement that the you are entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the claim for benefits; and

- d. a statement of the claimant's right to bring civil action under ERISA Section 502(a) following an adverse benefit determination from the review.
6. If the Claims Review Board can not make a decision on the request for review, the Claims Review will give you notice that it has been unable to reach a decision and the Board of Trustees will consider the request for review at its next meeting. The Board of Trustees take into account all comments, documents, records and other information submitted, regardless of whether the information was submitted or considered in the initial benefit determination including any additional comments, documents, records and other information presented at the Claims Review Board. You or your authorized representative will have the right to make an oral presentation to the Board of Trustees. The Board of Trustees shall notify the Claimant of the benefit determination as soon as possible after the meeting, but not later than 5 days after the benefit determination is made. Notification of an adverse benefit determination upon review will contain the same information contained in paragraph 5, above.
7. The period of time within which a benefit determination is required to be made will begin at the time the claim is filed in accordance with the reasonable procedures of the **Plan**, without regard to whether all information necessary to make a benefit determination accompanies the filing. If additional information is necessary to make a benefit determination, the period of time for making the benefit determination shall be tolled from the date the notification for additional information is requested until the Claimant responds to the request for additional information. If you do not receive the decision within the time set forth herein, the claim shall be deemed denied on review.

The decision of the Claims Review Board, or Board of Trustees, is final and binding on all individuals dealing with or claiming benefits under the **Plan**, and if challenged in court, the **Plan** intends for the decision to be upheld, unless found by a court of competent jurisdiction to be arbitrary and capricious.

You or any other Claimant must comply with these appeal procedures prior to instituting legal action on a claim for benefits. Any legal action must be filed within ninety (90) calendar days following your receipt of the Board of Trustees' decision on review.

TAX ISSUES

Do I Have To Pay Taxes On The Contributions That Are Made Each Year By My Employer?

Before answering this question please note that this answer and the answer to the following question are not intended to serve as tax advice. They are only intended to give you a rough sense of how the tax laws work with respect to the **Plan**.

The Plan is a tax qualified arrangement under the terms of the Internal Revenue Code. This means it qualifies for special tax treatment for you, the **Plan**, and for your **Employer(s)**. For you, this special tax treatment means that you do not pay taxes when contributions are made on your behalf. However, your Employer is still entitled to an immediate tax deduction when he makes the contribution. For the **Plan**, the special tax treatment means that earnings on Fund assets are not subject to taxation.

So When Do I Pay Taxes?

First of all it might not be you. It might be your spouse or another **Beneficiary** who is receiving death benefits. The general rule is that Plan benefits are taxed when they are received. So, whoever is getting them should check with a tax advisor.

CREDITORS, QDRO'S

Can Third Parties, Like Creditors, Take Over My Payments?

Not directly. The general rule is that your benefits or rights to benefits under the **Plan** may not be sold, transferred, assigned, used as collateral for a loan or pledged to another person. However, there is one exception to this general rule.

If the **Plan, Board of Trustees or Employer** receives a **Qualified Domestic Relations Order (QDRO)**, the **Plan** may be required to pay a portion of your benefits to an Alternate Payee. A **QDRO** is a judgment that satisfies certain criteria specified in the **Plan** and under federal law and assigns to an Alternate Payee (for example, your former spouse) the right to receive all or a portion of your benefits. If you are subject to a QDRO which includes provisions related to your **Plan** benefits, you or the Alternate Payee should contact the Fund Office for more information regarding the **QDRO** review process.

RIGHTS UNDER ERISA

As a participant in the Plan you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). ERISA provides that all plan participants shall be entitled to:

Receive Information About Your Plan and Benefits

Examination, without charge, at the plan administrator’s office and at other specified locations, such as worksites and union halls, all documents governing the plan, including insurance contracts and collective bargaining agreements, and a copy of the latest annual report (Form 5500 Series) filed by the plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Employee Benefits Security Administration.

Obtain, upon written request to the plan administrator, copies of documents governing the operation of the plan, including insurance contracts and collective bargaining agreements, and copies of the latest annual report (Form 5000 Series) and updated summary plan description. The administrator may make a reasonable charge for the copies.

Receive a summary of the plan’s annual financial report. The plan administrator is required by law to furnish each participant with a copy of this summary annual report.

Obtain a statement telling you whether you have a right to receive a pension at normal retirement age (age 65) and if so, what your benefits would be at normal retirement age if you stop working under the plan now. If you do not have a right to a pension, the statement will tell you how many more years you have to work to get a right to a pension. This statement must be requested in writing and is not required to be given more than once every twelve (12) months. The plan must provide the statement free of charge.

Prudent Actions by Plan Fiduciaries

In addition to creating rights for plan participants ERISA imposes duties upon the people who are responsible for the operation of the employee benefit plan. The people who operate your plan, called “fiduciaries” of the plan, have a duty to do so prudently and in the interest of you and other plan participants and beneficiaries. No one, including your employer, your union, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a pension benefit or exercising your rights under ERISA.

Enforce Your Rights

If your claim for a pension benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relative to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of plan documents or the latest annual report from the plan and do not receive them within 30 days, you may file suit in a Federal court. In such a case, the court may require the plan administrator to provide the materials and pay you up to \$110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the administrator. If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or Federal court. In addition, if you disagree with the plan's decision or lack thereof concerning the qualified status of a domestic relations order or a medical child support order, you may file suit in Federal court. If it should happen that plan fiduciaries misuse the plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a Federal court. The court will decide who should pay court costs and legal fees. If you are successful the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

Assistance with Your Questions

If you have any questions about your plan, you should contact the plan administrator. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the plan administrator, you should contact the nearest office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Pension and Welfare Benefits Administration.

INDEX - PLAN DEFINITIONS

The definition of the following terms can be found in this SPD on the following pages:

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LOCAL 436 WELFARE AND PENSION FUNDS
BOARD OF TRUSTEES
January 14, 2014

<u><i>Union</i></u>	<u><i>Employer</i></u>
Gary M. Tiboni, Chairman Local Union 436 6051 Carey Drive Valley View, OH 44125-4259	Brock P. Walls, Trustee Westview Concrete Corp. PO Box 38159 Olmsted Falls, OH 44138
Jack Fortesque, Trustee Local Union 436 6051 Carey Drive Valley View, OH 44125-4259	Jeffrey E. Nock, Trustee Terrace Construction 3965 Pearl Road Cleveland, OH 44109-3103
Rosario Sara, Trustee Local Union 436 6051 Carey Drive Valley View, OH 44125-4259	John Sarrouh, Trustee Rockport Ready Mix 3092 Rockefeller Avenue Cleveland, OH 44115
Nicholas M. Magistrelli, Trustee Local Union 436 6051 Carey Drive Valley View, OH 44125-4259	John Ziss Jr., Trustee Kurtz Bros., Inc. 6415 Granger Road Independence, OH 44131
Sal Alioto, Trustee Local Union 436 6051 Carey Drive Valley View, OH 44125-4259	
John G. Golish, Trustee Local Union 436 6051 Carey Drive Valley View, OH 44125	

Most recent summary plan description (SPD) and all subsequent summaries of material modification (Checklist Item #37)

<u><i>Union</i></u>	<u><i>Employer</i></u>
Sponsor:	Board of Trustees, Building Material Drivers Local 436 Pension Plan
Employer Identification No. (EIN):	34-6665225
Plan Number:	001
Fiscal Year End:	December 31
The agent for service of legal process:	Board of Trustees, Plan Administrator
The address is:	6051 Carey Drive Valley View OH 44125-4259

Exhibit 7.06c

Most recent determination letter issued to the Fund (Checklist Item #37)

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: **AUG 17 2015**

BOARD OF TRUSTEES BUILDING MATERIAL
DRIVERS UNION L 436 PENSION FUND
6051 CAREY DRIVE
VALLEY VIEW, OH 44125

Employer Identification Number:
34-6665225
DLN:
17007033075025
Person to Contact:
RUTH CHEN ID# 95048
Contact Telephone Number:
(626) 927-1423
Plan Name:
BUILDING MATERIAL DRIVERS UNION
LOCAL 436 PENSION FUND
Plan Number: 001

Dear Applicant:

Based on the information you provided, we are issuing this favorable determination letter for your plan listed above. However, our favorable determination only applies to the status of your plan under the Internal Revenue Code and is not a determination on the effect of other federal or local statutes. To use this letter as proof of the plan's status, you must keep this letter, the application forms, and all correspondence with us about your application.

Your determination letter does not apply to any qualification changes that become effective, any guidance issued, or any statutes enacted after the dates specified in the Cumulative List of Changes in Plan Requirements (the Cumulative List) for the cycle you submitted your application under, unless the new item was identified in the Cumulative List.

Your plan's continued qualification in its present form will depend on its effect in operation (Section 1.401-1(b)(3) of the Income Tax Regulations). We may review the status of the plan in operation periodically.

You can find more information on favorable determination letters in Publication 794, Favorable Determination Letter, including:

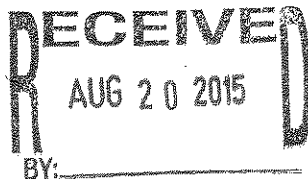
- The significance and scope of reliance on this letter
- The effect of any elective determination request in your application materials
- The reporting requirements for qualified plans
- Examples of the effect of a plan's operation on its qualified status.

You can get a copy of Publication 794 by visiting our website at www.irs.gov/formspubs or by calling 1-800-TAX-FORM (1-800-829-3676) to request a copy.

This determination letter applies to the amendments dated on 1-27-15/1-27-10.

We made this determination on the condition that you adopt the proposed

Letter 5274



IBT436-0218

Exhibit 7.06c
Most recent determination letter issued to the Fund (Checklist Item #37)

-2-

BOARD OF TRUSTEES BUILDING MATERIAL

amendments you submitted in your letter dated 8-11-15, on or before the date the Income Tax Regulations provide under Section 410(b) of the Internal Revenue Code.

You can't rely on this letter after the end of the plan's first five-year remedial amendment cycle that ends more than 12 months after we received the application. This letter expires on January 31, 2020. This letter considered the 2013 Cumulative List of Changes in Plan Qualification Requirements.

The information on the enclosed addendum is an integral part of this determination. Please be sure to read it and keep it with this letter.

If you submitted a Form 2848, Power of Attorney and Declaration of Representative, or Form 8821, Tax Information Authorization, with your application and asked us to send your authorized representative or appointee copies of written communications, we will send a copy of this letter to him or her.

If you have any questions, you can contact the person listed at the top of this letter.

Sincerely,



Karen D. Truss
Director, EP Rulings & Agreements

Addendum

Letter 5274

Exhibit 7.06c
Most recent determination letter issued to the Fund (Checklist Item #37)

- 3 -

BOARD OF TRUSTEES BUILDING MATERIAL

This determination letter does not apply to any portions of the document that incorporate the terms of an auxiliary agreement (collective bargaining, reciprocity, or participation agreement), unless you append to the plan document the exact language of the sections that you incorporated by reference.

Letter 5274

**EXCAVATING AND BUILDING MATERIAL DRIVERS UNION LOCAL 436 PENSION
FUND POLICY STATEMENT ON THE ACCEPTANCE OF PROPOSED BARGAINING
AGREEMENTS FOR PLAN PARTICIPATION**

Effective October 1, 2014

WHEREAS, the undersigned are the duly designated Trustees of the Board of Trustees (the "Trustees") of the **EXCAVATING AND BUILDING MATERIALDRIVERS UNION LOCAL 436 PENSION FUND** (hereinafter the "Fund" or "Pension Fund") and are "fiduciaries" as defined in Section 3 (21) of the Employee Retirement Income Security Act of 1974 ("ERISA"); and

WHEREAS, the Fund is a multiemployer pension benefit plan as defined in Section 3(37)(A) of ERISA, 29 U.S.C. §1002(37)(A); and

WHEREAS, the amended and restated Pension Plan of the Fund has, since January 1, 2009, been certified by the Fund's actuary to be in "critical status", as defined by the Pension Protection Act of 2006 ("PPA"), ERISA Section 305(b)(2), 29 U.S.C. §1085(b)(2), and on or about November 16, 2009, the Trustees adopted (and since amended) a Rehabilitation Plan as required by ERISA Section 305(e)(1), 29 U.S.C. §1085(e)(1); and

WHEREAS, the Fund's actuary has advised that the Pension Plan cannot reasonably be expected to emerge from "critical status" in accord with the initial and amended Rehabilitation Plan at the end of the stated rehabilitation period, and, thus, the Trustees are required to take all reasonable measures to forestall possible insolvency of the Pension Plan, under ERISA Section 305(e)(3), 29 U.S.C. §1085(e)(3); and

WHEREAS, the Trustees, consistent with Section 3.5 of the Pension Plan, are required to accept or reject proposed collective bargaining agreements negotiated by and between employers and Teamsters Local Union No. 436 (the "Union") requiring contributions to the Fund on behalf of bargaining unit employees, as consistent with the terms of the amended Rehabilitation Plan, and which can reasonably be expected to forestall the possible insolvency of the Pension Plan;

WHEREAS, the Trustees heretofore have not adopted a formal written policy for the acceptance or rejection of proposed collective bargaining agreements for participation in the Fund, other than formulation of an ERISA-compliant Rehabilitation Plan; and

WHEREAS, the Trustees desire to confirm in writing those conditions under which the Fund will accept or reject proposed collective bargaining agreements negotiated by and between employers and the Union.

NOW THEREFORE, BE IT RESOLVED BY THE TRUSTEES, by written consent, that this Statement of Policies and Procedures is hereby adopted, as set forth herein.

General Policy on Acceptance of Proposed Collective Bargaining Agreements

The Board of Trustees will act in accordance with the following language from Section 3.5 of the amended and restated Pension Plan, to reject collective bargaining agreements that could result in adverse selection:

Effective as of January 1, 2001, the financing of benefits provided by the Plan is based on the continued contribution of Employers as required by the collective bargaining agreement with the Union. If a Union and an Employer should enter into a collective bargaining agreement requiring contributions to the Fund, and then fail to renew such agreement, or enter into an agreement which does not require the continuation of contributions to the Fund, or requires a lesser rate of contributions, the Trustees have the authority to take such action as is necessary with respect to all of the Employees of all of the Employers in that Union jurisdiction, including, but not limited to the following, in order to maintain the Fund on a sound actuarial basis:

- (a) The Trustees shall have the right to terminate the Employer's status as Employers.*
- (b) The Trustees shall have the right to adjust or cancel the past Service Credit of any Employees or former Employees in order to maintain actuarially sound relationship between the contributions made on account of such Employees or former Employees and any benefits accrued by them.*

The Trustees will approve new and successor collective bargaining agreements only if they have been endorsed by the Fund's actuary as being able to sustain and/or contribute to the solvency of the Pension Plan. Further, the Trustees will only accept new or successor collective bargaining agreements if they contain actuarially sound contractual agreements for the payment of contributions to the Fund.¹ The Trustees will rely upon actuarial calculations to determine the benefit level(s) offered to Participants under each contribution level contained in a proposed collective bargaining agreement. Because of this, the Trustees will avoid, consistent with the Pension Plan's terms, accepting any proposed collective bargaining agreements that restrict pension coverage

¹ For the purpose of this Policy, the phrase "actuarially sound" shall mean as follows in terms of a collective bargaining agreement: a collective bargaining agreement is actuarially sound if the present value of expected contributions made thereunder exceed the present value of future benefits reasonably expected to accrue under the Plan. The determination regarding whether a proposed collective bargaining agreement is actuarially sound shall be made by the Fund's actuary in writing using reasonable actuarial assumptions, and reported in writing to the Fund Trustees.

to only those employees who are likely to receive a benefit and that exclude those employees who are less likely to receive a benefit whereby the contribution rate is insufficient to support the benefit level(s) promised. Further, the Trustees will not accept proposed collective bargaining agreements that, in practice, employ any type of “adverse selection”.

Bargaining parties (i.e. the Union and the Employer) may reach tentative agreements on collectively bargained terms and conditions of employment impacting the Employer’s participation in the Fund. However, all such collective bargaining agreements must be presented to and approved by the Fund’s Trustees in accordance with this Policy before the Employer’s participation (or continued participation) in the Fund is accepted.

Transition Period

The Trustees are aware that some collective bargaining agreements, as presently constituted, may contain terms and conditions that are not consistent with this Policy Statement. Upon expiration and renegotiation of such collective bargaining agreements, the following shall be required for the Trustees to accept such collective bargaining agreements for participation in the Fund:

1. If any bargaining unit employees are currently excluded from participation in the Pension Fund, by Agreement, under the terms of the prior collective bargaining agreement, such partial participation must cease and either all bargaining unit employees must participate in the Fund, or no bargaining unit employees may participate in the Fund. If continued participation of employees is included in a new Agreement, the employer must commence participation in the Pension Fund on behalf of such employees, no later than thirty (30) days after the effective date of such agreement; and
2. A lower contribution rate or schedule for newly hired or covered employees will be permissible provided that such rate or schedule is approved and authorized by the Trustees in the current Rehabilitation Plan and otherwise complies with the General Policy statement above, including the determination by the Fund’s actuary that such contribution rates and corresponding benefits are actuarially sound.

Employer Hardship Circumstances

If an otherwise non-complying contributing employer can demonstrate through the submission of objective evidence satisfactory to the Trustees that: (i) it cannot financially sustain the contribution requirements of this Policy for all or a part of any term of a collective bargaining agreement; (ii) it has not otherwise acted in a manner that undermines, either directly or indirectly, the actuarial solvency of the Plan (e.g. through ‘double breast’ or other non-union operation(s)); and (iii) a complete or partial withdrawal from the Pension Fund would likely result in the employer’s withdrawal

liability being uncollectable. Notwithstanding the foregoing, the Trustees shall be empowered to vary the terms and conditions of this Policy for employers meeting this hardship exception in their sole discretion, so as to permit an employer's continued participation in the Fund, provided that the employer's contribution rates and corresponding benefits to the employer's employees are actuarially sound.

Non-Compliance

If the bargaining parties are unable to negotiate terms and conditions for a proposed collective bargaining agreement that comply with the requirements set forth in this Policy Statement within one hundred eighty (180) days of the expiration of the currently effective bargaining agreement, the Trustees may: (i) implement the "Default Schedule" of the then current Rehabilitation Plan with regard to the employer and its covered employees; or (ii) terminate the employer's participation in the Fund, and assess withdrawal liability in accord with ERISA and the Fund's governing plan documents; or (iii) take any and all other reasonable measures necessary and appropriate that are consistent with their duties as ERISA "fiduciaries" and otherwise in accord with Federal Law.

Review & Modification of Policy Statement

The Trustees will annually review this Policy Statement and any modifications to the provisions set forth above will be forwarded to all employers and to the Union within sixty (60) days after adoption. Further, this Policy Statement will be interpreted and applied in a manner consistent with the current, and any amended, Rehabilitation Plan, as well as ERISA and the PPA.

[the remainder of this page has been left blank intentionally, signatures to follow]

APPROVED, ADOPTED AND EFFECTIVE THIS _____ DAY OF
_____ 2014, BY:

Union Trustees

Gary M. Tiboni, Chairman

Jack Fortesque, Trustee

Sal Alioto, Trustee

Nicholas Magistrelli, Trustee

John G. Golish, Trustee

Dennis Kashi, Sr., Trustee

Employer Trustees

Brock P. Walls, Trustee

Jeffrey E. Nock, Trustee

John E. Sarrouh, Trustee

John Ziss, Jr., Trustee

- B. Employer's liability for payments to the Welfare Fund shall not be subject to the arbitration or grievance procedure of this Agreement. Employer shall be liable for all costs incurred in collecting the payments hereunder, together with attorney's fees and such delinquency expenses as may be assessed by the Trustees of the Welfare Fund.

5. Either the Union or the Welfare Fund shall have the right to enforce the provisions of this Article by suit, either at law or equity or both, and at reasonable times to inspect such of Employer's payroll records as may be necessary to determine compliance with this Article.

6. This Article shall be binding upon the parties hereto, their successors, administrators, executors and assigns. In the event that Employer or any part thereof is sold, leased or transferred, or is taken over by assignment, receivership, or bankruptcy proceedings, the successors shall be bound by the terms and conditions of this Article for the life hereof. Employer shall give notice of the existence of this Article for the life hereof. Employer shall give notice of the existence of this Article to any purchaser, transferee, lessee, assignee, or other successors in interest. Such notice shall be in writing with a copy to the Trustees of the Welfare Fund, not later than ten (10) days prior to the effective date of the transaction. Employer agrees that its failure to notify its successors and the Trustees of the Welfare Fund will operate to continue its obligations under this Article.

7. Employers who have experienced one delinquency must post a performance bond in an amount as solely determined by the Trustees of the Welfare Fund.

8. If comparable benefit programs are available to the Employer at lesser costs, Employer shall have the right to make information on those programs known to the Executive Board of Local Union #436, and, upon approval of the Executive Board of Local #436, to substitute such programs for its employees in place and instead of any further contributions to the Welfare Fund, provided Employer give the Welfare Fund and the Union not less than sixty (60) days written notice of its intentions.

ARTICLE 18

PENSION FUND

1. Employer understands that a Pension Fund, known as "Excavating and Building Material Drivers, Local Union #436 Pension Fund" ("Pension Fund"), has been established by reason of an agreement of trust between the Union and various Employers. The Employer further understands that the Fund is to be held and administered by the Board of Trustees consisting of an equal number of Union and Employer Trustees. The purpose of such Pension Fund is to provide Pension benefits for retired employees of Employer, or such other benefits as may be allowed by the Employee Retirement Income Security Act of 1974 as may be amended from time to time.

Excerpts from Collective Bargaining Agreements (Checklist Item #38) – American Vault

2. For each employee who receives pay for work during any calendar week, Sunday through Saturday, regardless of the number of hours worked, the Employer will pay into the Pension Fund:

Effective 4/1/2015, The Employer shall pay into the Pension Fund **\$ 7.80 per hour on all hours worked**. The Employer shall continue to divert \$.51 per hour on all hours worked from wages. This will be the Employees contribution to the above rate.

Any additional monies needed as deemed necessary by the Executive Board of the Pension Fund shall be deducted from the Employees wages.

3. Employer will make its checks for contributions required by this Agreement payable to "Excavating and Building Material Drivers, Local Union 436 Pension Fund," and will attach a statement showing the name of each employee for whom payment has been made, the number of hours he worked, and the amount paid with respect to him. Such reports are to be made on forms provided by the Pension Fund.

4. Either the Union or the Pension Fund shall have the right to enforce the provisions of this Article by suit, either at law or equity or both, and at reasonable times to inspect such of Employer's payroll record as may be necessary to determine compliance with this Article.

5. The Employer shall not have any duty or responsibility either to the Union, to the Board of Trustees, to any employee covered by this Agreement, or to any employer to inquire into, or be in any way responsible for, the application, use, or disposition of any payment, or any action of the Board of Trustees with respect to the Pension Fund or the payments made to the Pension Fund.

6. The Pension Fund shall continue to be a trustees plan administered by joint trustees appointed by the Employers and the Union, and shall conform with all provisions of State and Federal law applicable thereto.

7. It is understood that the Pension Fund is approved by the Internal Revenue Service under the applicable provisions of the Internal Revenue Code as entitling each participating Employer to deduct its contributions to the Pension Fund as business expenses in computing its tax liability and that such contributions shall not constitute a part of the regular wage rate under the Federal Wage and Hour Law.

8. A Employer will make its payments on or before the 15th day of the month for the preceding month. If the Employer fails to make payment on or before the last day of the month in which payment was due for the preceding month, then the Union shall deem the delinquency to be a breach of this Agreement and it will enforce the Employer's contractual obligations to make contributions to the Pension Fund by such means as it deems necessary, including strike actions. If the Union does impose strike action against an Employer under this Article, it is expressly understood and agreed that it shall be an exception to and not violative of the no strike clause or without regard to the grievance and arbitration procedure of this Agreement. In the even the strike option is taken under this Article, Employer shall be liable for all wages lost by employees participating in or affected by such strike.

Excerpts from Collective Bargaining Agreements (Checklist Item #38) – American Vault

B. Employer agrees that if it becomes delinquent as described in previous section, it may be liable for interest and liquidated damages on such contributions as described in the Welfare funds Trust Agreement or Plan Document.

9. Employer agrees that it is a party to the Agreement and Declaration of Trust establishing the Pension Fund, and agrees to be bound by the actions of the Board of Trustees of said Fund pursuant to said Agreement and Declaration of Trust. It is expressly understood that:

- A. At no time during the term of this Agreement shall the Employer's obligation for payment into the Fund exceed the amount set forth in Paragraph 2 of this Article; and
- B. Employer's liability for payments to the Pension Fund shall not be subject to the arbitration or grievance procedure of this Agreement. Employer shall be liable for all costs incurred in collecting the payments hereunder together with attorney fees and such delinquency expenses which may be assessed by the Trustees of the Pension Fund.

10. This Article shall be binding upon the parties hereto, their successors, administrators, executors and assigns. In the that Employer or any part thereof is sold, leased or transferred, or is taken over by assignment, receivership, or bankruptcy proceedings, the successors shall be bound by the terms and conditions of this Article for the life hereof. Employer shall give notice of the existence of this Article to any purchaser, transferee, lessee, assignee, or other successors in interest. Such notice shall be in writing with a copy to the Trustees of the Pension Fund, not later than ten (10) days prior to the effective date of the transaction. Employer agrees that its failure to notify its successors and the Trustees of the Pension Fund will operate to continue its obligations under this Article.

ARTICLE 20**HEALTH & WELFARE**

All employees will be covered under Employer's Health and Welfare Plan and will share the cost at the same level as other employees. Coverage provided by the Employer shall be as good or better than the coverage provided to union members in the Local 436 Health and Welfare Plan. All Employee contributions negotiated shall be supplied by the company and to be on file at the Local 436 Union Hall.

Union members will share the cost at the same level as other employees for Dental Insurance. In the event the Employer needs to change providers or the level of benefits, it does not have to negotiate the change with the Union as long as the Union members receive the same level of benefits as those Union members in the Local 436 Health and Welfare Plan.

In the event the Employer needs to change providers or the level of benefits, it does not have to negotiate the change with the Union as long as the Union members receive the same level of benefits as those Union members in the Local 436 Health and Welfare Plan.

ARTICLE 21**PENSION FUND**

A. Employer recognizes that a Pension Fund, known as the "Excavating and Building Material Drivers, Local 436, Pension Fund" (Pension Fund) exists by reason of an Agreement between the Union and various employers and by reason of a Declaration of Trust establishing the Pension Fund.

Effective May 1, 2019 contributions to the Local 436 Pension Fund will be **\$7.00 on all hours worked.**

Any additional monies needed for Pension shall be deducted from employee's wages.

B. Employer will make its payments monthly on or before the **15th** day of the month for the preceding month.

C. Employer will make its check covering each payment payable to "Excavating and Building Material Drivers, Local #436, Pension Fund", and will attach a statement showing the name of each employee for whom payment has been made.

D. Either the Union or the Pension Fund shall have the right to enforce the provisions of this Article by suit, either at law or equity or both, and at reasonable times to inspect such Employer's payroll records as may be necessary to determine compliance with this Article. Either the Union or the Fund will, upon written request, submit periodic written reports to the Employer as to its financial status and as to any material changes in its benefit or funding programs.

E. Employer shall not have any duty or responsibility either to the Union, to the Board of Trustees, to any employee covered by this Agreement, or to any employer to inquire into, or be in any way responsible for, the application, use, or disposition of any payment, or any action of the Board of Trustees with respect to the Pension Fund or the payments made to the Pension Fund.

F. The Pension shall continue to be a trustee plan administered by joint trustees appointed by the Employers and the Union, and shall conform with all provisions of State and Federal law applicable thereto.

G. It is understood that the Pension Plan is approved by the Internal Revenue Service under the applicable provisions of the Internal Revenue Code as entitling each participating employer to deduct its contributions to the Pension Fund as business expenses in computing its tax liability and that such contributions shall not constitute a part of the regular wage rate under the Federal Wage and Hour Law.

H. If an Employer fails to pay the contributions provided for above to the Pension Fund on or before the last day of the month in which payment was due for the preceding month, the Union shall deem the delinquency to be a violation of this Agreement and shall enforce the Employer's contractual obligation to make contributions to the Pension Funds by such means as it deems necessary, including strike action. It is specifically understood and agreed that if the Union does impose strike action against an Employer under this Article, it shall be an exception to and not violative of the restrictive provisions of **Article 6** of this Agreement. In the event strike action is taken under this Article, Employer shall be liable for all wages lost by employees participating in or affected by such strike. The Union agrees to give an Employer reasonable written notice before it imposes strike sanctions against it.

I. Employer is a party to the Agreement and Declaration of Trust establishing the Pension Fund, and agrees to be bound by the action of the Board of Trustees of said Fund pursuant to said agreement and Declaration of Trust. It is expressly understood that; (1) at no time during the term of this Agreement shall Employer's obligations for payments into the Fund exceed the amounts set forth in this Article and (2) Employer's liability for payments to the Pension Fund shall not be subject to the arbitration and grievance procedure of this Agreement. Employer shall be liable for all costs incurred in collecting the payments hereunder, together with attorney's fees and such delinquency expenses as may be assessed by the Trustees of the Pension Fund.

J. This Article shall be binding upon both parties hereto, their successors and assigns. In the event that Employer or any part thereof is sold, leased, or transferred or is taken over by assignment, receivership, or bankruptcy proceedings, the successors shall be bound by the terms and conditions of this Article to any purchaser, transferee, lessee, assigns, or other successors in interest. Such notice shall be in writing with a copy to the Trustees of the Pension Fund, not later than ten (10) days prior to the effective date of the transaction. Employer agrees that its failure to so notify the successor and the Trustees of the Pension Fund will operate to continue its obligations under this Agreement.

K. The Pension Fund shall promptly submit to each contributing Employer copies of the monthly and quarterly reports prepared by its accountants and a copy of its annual report prepared by its auditors.

L. The Union reserves the right to divert any part of wages as a contribution to the Pension Fund program. The Union shall notify the Employer in writing of its decision.

ARTICLE 22

401(k) PLAN

The Employer shall permit their employees to participate in the Employer's 401(k). The Employer is under no obligation to provide a matching contribution, or any other contribution to the 401(k) plan on behalf of the employees, as the Employer is participating in the Local 436 Pension Fund.

ARTICLE 23

MANAGEMENT RIGHTS

Unless otherwise indicated in this Agreement, the management of the business and the direction of the working forces, including the right to suspend or discharge employees for proper cause, to transfer employees, to lay off employees because of lack of work, and the prerogative of assigning equipment, is exclusively the Employer's right. The employee and Union reserve the right to grieve the Employer's decision.

Not by way of limitation at the following paragraph, but to only indicate the type of matters or rights which belong to and are inherent to the Employer, the Employer retains the right to: 1) hire, discharge, transfer, suspend and discipline employees for just cause; 2) determine the number of persons required to be employed, laid off, or discharged for just cause; 3) determine the qualifications of employees covered by this Agreement; 4) determine the starting and quitting time and the number of hours to be worked by its employees; 5) make any and all reasonable rules and regulations; 6) determine the work assignments of its employees; 7) determine the basis for selection, retention and promotion of employees to or for positions not within the bargaining unit established by this Agreement; 8) determine the type of equipment used and the sequence of work processes; 9) determine the making of technological alternatives by revising either process or equipment or both; 10) determine reasonable work standards and the quality and quantity of work to be produced; 11) select and locate buildings and other facilities; and 12) establish, expand, transfer and/or consolidate work processes and facilities; 13) consolidate, merge or otherwise transfer any or all of its facilities, property, processes or work with or to any other entity or effect or change in any respect the legal status, management or responsibility of such property, facilities, processes of work; 14) terminate or eliminate all or any part of its work or facilities.

ARTICLE 12**PENSION FUND**

A. Employer understands that a pension fund, known as "Excavating and Building Material Drivers, Local Union 436, Pension Fund" has been established by reason of an agreement between the Union and various Employers and by reason of a Declaration of Trust establishing the Pension Fund. The Employer further understands that the Fund is to be held and administered by the Board of Trustees consisting of an equal number of Union and Employer Trustees.

B. Effective 5/1/2016 for each employee who has worked during any calendar week, his Employer shall contribute at the hourly rate of \$10.05 per hour for all hours worked.

Any additional monies needed for Pension contributions shall be diverted from Employees wages.

C. Employer will make its checks covering each payment payable to "Excavating and Building Material Drivers, Local 436 Pension Fund", and will attach a statement showing the name of each Employee for whom payment has been made, the number of hours he worked, and the amount paid with respect to him.

D. Either the Union or the Pension Fund shall have the right to enforce the provisions of this Article by suit, either at law or equity or both, and at reasonable times to inspect such of Employer's payroll records as may be necessary to determine compliance with this Article.

E. Employer shall not have any duty or responsibility either to the Union, to the Board of Trustees, to any Employees covered by this Agreement, or to any Employer to inquire into, or be in any way responsible for, the application, use, or disposition of any payment, or any action of the Board of Trustees with respect to the Pension Fund or the payments made to the Pension Fund.

F. The Pension Fund shall continue to be a trusteed plan administered by joint trustees appointed by the Employer and the Union, and shall conform with all the provisions of State and Federal law applicable thereto.

G. It is understood that the Pension Fund is approved by the Internal Revenue Service under the applicable provisions of the Internal Revenue Code as entitling each participating Employer to deduct its contributions to the Pension Fund as business expenses in computing its tax liability and that such contributions shall not constitute a part of the regular wage rate under the Federal Wage and Hour Law.

H. Employer will make its payments monthly on or before the 15th day of the month for the preceding month. If an Employer fails to make payment on or before the last day of the month in which payment was due for the preceding month, then the Union shall deem the delinquency to be a breach of this Agreement and it will enforce the Employer's contractual obligation to make contributions to the Pension Fund by such means as it deems necessary, including strike actions. If the Union does impose strike action against an Employer under this Article, it is expressly understood and agreed that it shall be an exception to and not a violation of the no strike clause of without regard to the grievance and arbitration procedure of this Agreement. In the event the strike option is taken under this Article, Employer shall be liable for all wages lost by employees participating in or affected by such strike.

I. Employer agrees that it is a party to the Agreement and Declaration of Trust establishing the Pension Fund, and agrees to be bound by the actions of the Board of Trustees of said Fund pursuant to said Agreement and Declaration of Trust.

J. At no time during the term of this Agreement shall the Employers obligations for payment into the Fund exceed the amount under Article 11, Section A and B.

K. Employer's liability for payments to the Pension Fund shall not be subject to the arbitration or grievance procedure of this Agreement. Employer shall be liable for all costs incurred in collecting the payments hereunder together with attorney's fees and such delinquency expenses which may be assessed by the Trustees of the Pension Fund.

L. This Article shall be binding upon the parties hereto, their successors, administrators, executors and assigns. In the event that Employer or part thereof is sold, leased, or transferred, or is taken over by assignment, receivership, or bankruptcy proceedings, the successors shall be bound by the terms and conditions of this Article for the life hereof. Employer shall give notice of the existence of this Article to any purchaser, transferee, lessee, assignee or other successors

in interest. Such notice shall be in writing with a copy to the Trustees of the Pension Fund, not later than ten (10) days prior to the effective date of the transaction. Employer agrees that its failure to notify its successors and the Trustees of the Pension Fund will continue its obligations under this Article.

M. Employers who have experienced one delinquency must post a performance bond in an amount as solely determined by the Trustees of the Pension Fund.

ARTICLE 13

MISCELLANEOUS

A. There shall be placed in each yard or garage a time clock for the registering of the time of each employee. The employee shall punch his own time card. The Union requests that these time cards shall be kept on file for a period of one (1) year.

B. The Employer agrees that in case a maintenance employee is required to furnish tools it will negotiate a reasonable tool allowance for such employee with the Union.

C. The Employer agrees that washing and bathroom facilities are subjects for negotiation between the Employer and the Union.

D. The Employer will provide necessary safety equipment (such as hard hats, gloves, goggles, masks) once to employees who require such equipment, but the Employer will replace any such item of equipment if damaged only if the damaged equipment is turned in by the employee.

ARTICLE 14

CHECK OFF OF DUES, DRIVE AND SUPPLEMENTAL DUES

A. The Employer shall deduct from the wages payable to any employee, and pay to the Union, the amount of monies which that employee has authorized the Employer to deduct by a written assignment and authorization in the form attached as Exhibit A to this Agreement, including, but limited to initiation fees, re-initiation fees or reinstatement fees, membership dues, supplemental dues including delinquent dues, service fees,

ARTICLE 15**PENSION FUND**

1. Employer understands that a pension fund, known as “Excavating and Building Material Drivers, Local #436, Pension Fund” has been established by reason of agreement between the Union and various Employers and by reason of a declaration of trust establishing the Pension Fund. The Employer further understands that the Fund is to be held and administered by the Board of Trustees consisting of an equal number of Union and Employer trustees.

2. Effective May 1, 2019 for the life of this Agreement the employer will pay into the fund \$8.25 per hour on all hours worked for any new employee who has credited service in the Local 436 Pension Fund. The \$8.25 per hour contribution rate includes a wage diversion of \$.46 (forty-six cents) per hour which shall also be effective for the life of this agreement.

(a) Employees hired on or after May 1, 2016 who do not have credited service with the Local 436 Pension Fund will enter the Fund’s \$318.00 benefit plan with a contribution rate of \$3.56 per hour on all hours worked for the life of this agreement.

Any additional contributions need for Pension shall be deducted from wages.

(b) For New Hires hired after 05/1/2016, no contributions will be made to the Pension Fund for the first thirty-one (31) calendar days of employment. After the first thirty-one (31) days of employment, the new hire shall receive contributions to the Pension Plan at the rate described in Paragraph 2 of this article, and shall be subject to any wage diversion generally applicable to all other employees.

3. Employer will make its checks covering each payment payable to “Excavating and Building Material Drivers, Local 436, Pension Fund”, and will attach a statement showing the name of each employee for whom payment has been made, the number of hours worked, and the amount paid with respect to him.

4. Either the Union or the Pension Fund shall have the right to enforce the provisions of this Article by suit, either at law or equity or both, and at reasonable times to inspect such of Employer’s payroll records as may be necessary to determine compliance with this Article.

5. Employer shall not have any duty or responsibility either to the Union, to the Board of Trustees, to any employee covered by this Agreement, or to any employer to inquire into, or be in any way responsible for, the application, use, or disposition of any payment, or any action of the Board of Trustees with respect to the Pension Fund or the payments made to the Pension Fund.

6. The Pension Fund shall continue to be a trustee plan administered by joint trustees appointed by the Employers and the Union, and shall conform with all provisions of State and Federal law applicable thereto.

7. It is understood that the Pension Fund is approved by the Internal Revenue Service under the applicable provisions of the Internal Revenue Code as entitling each participating Employer to deduct its contributions to the Pension Fund as business expenses in computing its tax liability and that such contributions shall not constitute a part of the regular rate under the Federal Wage and Hour Law.

8. Employer will make its payments on or before the 15th day of the month for the preceding month. If an Employer fails to make payment on or before the last day of the month in which payment was due for the preceding month, then the Union shall deem the delinquency to be a breach of this Agreement and will enforce the Employer's contractual obligations to make contributions to the Pension Fund by such means as it deems necessary, including strike actions. If the Union does impose strike action against an Employer under this Article, it is expressly understood and agreed that it shall be an exception to and not violative of the no strike clause or without regard to the grievance and arbitration procedure of this contract. In the event the strike option is taken under this Article, Employer shall be liable for all wages lost by employees participating in or affected by such strike.

9. Employer agrees that it is a party to the Agreement and declaration of trust establishing the Pension Fund, and agrees to be bound by the actions of the Board of Trustees of said Fund pursuant to said Agreement and Declaration of Trust. It is expressly understood that:

(a) At no time during the term of this Agreement shall the Employers obligation for payment into the Fund exceed the amount set forth in paragraph 2 of this Article; and

(b) Employer's liability for payments to the Pension Fund shall not be subject to the arbitration or grievance procedure of this Agreement. Employer shall be liable for all costs incurred in collecting the payments hereunder together with attorneys fees and such delinquency expenses which may be assessed by the Trustees of the Pension Fund.

10. This Article shall be binding upon the parties hereto, their successors, administrators, executors and assigns. In the event that Employer or any part thereof is sold, leased, or transferred, or is taken over by assignment, receivership or bankruptcy proceedings, the successors shall be bound by the terms and conditions of this Article for the life hereof. Employer shall give notice of the existence of this Article to any purchaser, transferee, leasee, assignee, or other successors in interest. Such notice shall be in writing with a copy to the Trustees of the Pension Fund, not later than ten (10) days prior to the effective date of the transaction. Employer agrees that its to notify its successors and the Trustees of the Pension Fund will operate to continue its obligations under this Article.

11. Employer who has experienced one delinquency must post a performance, bond in an amount as solely determined by the Trustees of the Pension Fund.

ARTICLE XV. PENSION FUND

- A. 1. The Company recognizes that a Pension Fund known as the "Excavating and Building Material Drivers, Local No. 436 Pension Fund" exists by reason of an Agreement between the Union and various employers and by reason of a Declaration of Trust establishing the Pension Fund.
2. For each employee who has one (1) or more years of seniority according to Article II of this agreement and who receives pay for work or for vacation during any calendar week, (Monday through Sunday), regardless of the number of hours worked, the Company will contribute to the Pension Fund the amounts shown below:

<u>Date</u>	<u>Company Contribution</u>
2/1/2019	\$6.35 per hour

No pension payments shall be made to the fund on behalf of those employees who are temporary or part time.

4. The Company contributions accumulated on a monthly basis will be forwarded on or before the fifteenth (15th) day of the month for the preceding month.

The Company will make its checks covering Company's contribution payable to "Excavating and Building Material Drivers, Local 436 Pension Fund" and will attach a statement showing the name of each employee for which payment has been made.

- B. Notwithstanding anything herein contained, it is agreed that in the event any company is delinquent at the end of a monthly period in the payment of its contribution to the Pension Fund, in accordance with the rules and regulations of the Trustees of such Fund and after the proper official of the Local Union shall have given seventy-two (72) hours' notice to the Company of such delinquency in the Pension Fund payments, the Union shall have the right to take such legal action as it deems necessary until such delinquent payments are made and costs are compensated resulting from employer payments of benefits incurred for nonpayment of benefits. Action for delinquent contributions may be instituted by either the Local Union or the Trustees. It is further agreed that in the event such action is taken, the Employer shall be responsible for all losses resulting therefrom. Companies who are delinquent must also pay all attorneys' fees and cost of collections.
- C. It is understood that the Pension Plan is approved by the Internal Revenue Service under the applicable provisions of the Internal Revenue Code as entitling each participating company to deduct its contributions to the Pension Fund as business expenses in computing its income tax liability and that such contributions shall not constitute a part of the regular wage rate under the Federal Wage and Hour Laws.

- D. The Union, in its sole discretion and authority, may divert from wages any amount above and beyond those set forth above as an additional contribution to the Welfare Fund. The Union, in its sole discretion and authority, may also redirect the payment of contributions from one Fund to another so long as the total contributions paid by the Employer do not exceed the above contribution rates.

ARTICLE XVI. STRIKES AND VIOLATIONS

Adequate procedure having been provided for the equitable settlement of any grievance arising under this Agreement, the parties hereto agree that there shall be no suspension of work through strikes, slowdowns, lockouts, or otherwise during the life of this Agreement.

ARTICLE XVII. DURATION AND RENEWAL

- A. This Agreement shall become effective **February 1, 2019** and shall remain in full force and effect until **January 31, 2024** and thereafter shall continue in full force and effect for successive periods of one (1) year unless notice of intention to terminate, amend, change or modify is given as hereinafter provided.
- B. This Agreement shall be binding upon the Company and its successors and assignees; provided that if the Company shall merge with another building materials company in the jurisdiction area of Local 436, the seniority of the respective employees shall be carried on a consolidated roster but shall be based upon their service with their respective employers.
- C. Ninety (90) days prior to **February 1, 2024**, or any succeeding February 1, the Company or the Union may give the other party written notice of intention to terminate, amend, change or modify the provisions of this Agreement. The Company shall not be required, except as agreed herein in the matter of wages, pension, and health and welfare contributions only, prior to **February 1, 2024**, to negotiate with the Union concerning the termination, amendment, change or modification of this Agreement.

F. Such payments shall be made not later than the **15th** day of each month for the preceding month's payroll and such payments when made, shall be accompanied by a copy of Employer's applicable payroll. Payroll records of the Employer shall be made available for inspection by the Fund or the Union at all reasonable times.

G. Payments to the Welfare Fund shall be paid monthly on or before the **15th** day of the following month. If the Employer fails to make the payments within **30** days thereafter, and the Union deems it a breach of this Agreement then it will be mandatory to strike the Employer. Employees of struck Employers shall be paid for lost wages.

1. Employers who have experienced **one (1)** delinquency must post a bond.

H. Above provisions of Health and Welfare Fund shall not be subject to grievance and arbitration procedures under this Agreement.

ARTICLE 8

PENSION FUND

A. The Employer agrees that a Pension Fund is established, known as "Excavating and Building Material Drivers Local Union No. 436 Pension Fund," and hereby agrees to the terms of such Trust Pursuant to which the Fund is administered. Said Fund is administered by a Board of Trustees which consists of an equal number of representatives selected by the Employer and the Union.

B. Effective **March 1, 2014**, the Employer shall pay into the Pension Fund **\$ 9.15 per hour for all hours worked.**

Effective **March 1, 2015**, the Employer shall pay into the Pension Fund **\$ 10.05 per hour for all hours worked.**

Any additional monies needed shall be deducted from employees wages.

C. Payments to the Pension Fund shall be paid monthly on or before the **15th** day of the following month. If the Employer fails to make payments within **30** days thereafter, the Union deems it a breach of this Agreement and it will be mandatory to strike the Employer. Employees of struck Employers shall be paid for lost wages.

D. Employers who have experienced **one (1)** delinquency must post a performance bond.

E. Such payments shall be made no later than the **15th** day of each month for the preceding month's payroll and such payments, when made, shall be accompanied by a copy of Employer's applicable payroll. Payroll records of the Employer shall be made available for inspection by the Fund or the Union at all reasonable times.

or the preceding month's payroll and such payments when made, shall be accompanied by a copy of Employer's applicable payroll. Payroll records of the Employer shall be made available for inspection by the Fund or the Union at all reasonable times.

E. Payments to the Welfare Fund shall be paid monthly on or before the **15th** day of the following month. If the Employer fails to make the payments within **30** days thereafter, and the Union deems it a breach of this Agreement, then it will be mandatory to strike the Employer. Employees of struck Employers shall be paid for lost wages.

1. Employers who have experienced **one (1)** delinquency must post a bond.

F. Above provisions of Health and Welfare Fund shall not be subject to Grievance and Arbitration procedures under this Agreement.

G. The parties acknowledge that the Employer has adopted the Master Cafeteria Plan effective January 1, 2008 which allows Employees to "opt-out" of the Health and Welfare plan and said adoption agreement remains in effect and is incorporated herein by this reference.

ARTICLE 23

PENSION FUND

- A. 1. Employer recognizes that a pension fund, known as the "Excavating, Building Material and Construction Drivers Union Local 436 Pension Fund" ("Pension Fund"), exists by reason of an Agreement between the Union and various employers and by reason of a Declaration of Trust establishing the Pension Fund. Employer further recognizes that the Pension Fund is held and administered by a Board of Trustees consisting of an equal number of Union and Employer Trustees, and is used to provide retirement income for employees of the Employer and other employers and such other benefits as may be agreed upon by the Board of Trustees of the Pension Fund and as allowed by the Employee Retirement Income Security Act, as amended. Employer agrees that it is a party to the Agreement and Declaration of Trust establishing the Pension Fund and agrees to be bound by the actions of the Board of Trustees of said Fund taken pursuant to said Agreement and Declaration of Trust to effectuate the purposes of the Pension Fund.
2. It is expressly understood that at no time during the term of this Agreement shall the Employer's obligation for contributions on behalf of its employees into the Fund exceed the amounts set forth in this Agreement.
3. Any dispute regarding the Employer's or the Pension Fund's obligations pursuant to this article shall not be subject to the arbitration and grievance procedure of this Agreement.

4. The Employer shall not have any duty or responsibility to the Union, the Board of Trustees of the Pension Fund, any employee covered by this Agreement, or any other contributing employer to inquire into, or be in any way responsible for: the application, use, or disposition of any payment made by the Pension Fund; any action of the Board of Trustees of Pension Fund; or the payments made by the Pension Fund.
 5. The Pension Fund Plan is a qualified plan as that term is defined and used by the Internal Revenue Code and other federal laws. The Trustees will continue to maintain the Plan as a qualified plan under the Internal Revenue Code.
- B. 1. Employer agrees to pay to the Pension fund the following contribution amounts for each hour worked for each employee during the calendar week Sunday through Saturday: for contract year starting May 1, 2015.

OPTION C PLAN

Mid America Trucking Company Employees

OPTION C PLAN

<u>Year</u>	<u>Amount</u>
05/01/2018	\$8.05
05/01/2019	\$8.05
05/01/2020	\$8.05

2. Pension contributions for new Employees who have received credited service from the Pension Fund prior to being employed by the Employer will begin when the Employee begins his employment with Employer.
 3. No payment will be made on behalf of any Employee who has been given a withdrawal card by the Union.
 4. The Union, in its sole discretion and authority, may divert from Employees' wages any amount above and beyond those set forth above as an additional contribution to the Pension Fund if needed. The Union, in its sole discretion and authority, may also redirect the payment of contributions from one Fund to another so long as the total contributions paid by the Employer do not exceed the above contribution rates.
- C. 1. Employer will make its payments to the Pension Fund monthly on or before the 15th day of the month for work performed during the preceding month

and will make its checks covering each payment payable to the "Local Union 436 Pension Fund." Employer will submit a remittance report as provided or allowed by the Pension Fund with its payment showing the name of each employee for whom payment has been made and the hours and/or weeks worked during the month reported, as appropriate, and other information necessary to the proper crediting of such contributions.

2. Contributions not paid by the last day of the month in which the contributions are due shall be deemed delinquent and subject to collection by all means necessary, including strike action by the Union. It is specifically understood and agreed that if the Union does impose strike action against an Employer under this Article, it shall be an exception to and not violative of the restrictions of any other provision of this Agreement. In the event strike action is taken, Employer shall be liable for all wages lost by employees participating in or affected by such strike. The Union agrees that it will give an Employer reasonable written notice before it imposes strike sanctions against it.
3. If the Employer becomes delinquent more than twice in any twelve month period, the Employer shall be required to post a bond to assure its future contributions to the Pension Fund in an amount and form prescribed by the Pension Fund. Such bond shall remain in place for the duration of this Agreement and any renewal until the Employer's obligation to make contributions to the Pension Fund has ceased or until the Employer makes twelve consecutive timely contributions, whichever is sooner. Timely contributions are those received by the 15th day of the month for work performed during the preceding month.
4. The Pension Fund shall have the right to inspect at reasonable times such of Employer's payroll records as may be necessary to determine compliance with this Article.
5. Either the Union or the Pension Fund shall have the right to enforce the provisions of this Article by suit, either at law or equity or both. Employer shall be liable for all costs incurred in collecting delinquent contributions hereunder, including attorney fees and litigation expenses where appropriate. Delinquent contributions are subject to the imposition of interest and penalty as allowed by the Pension Fund's Trust Agreement.

D. Either the Union or the Fund will submit periodic written reports to the Employer on its financial status, and as to any material changes in its benefit program or regulations as required by ERISA or as requested by the Employer.

E. This Article shall be binding upon the parties hereto, their successors, administrators, executors and assigns. In the event that Employer or part hereof is sold, leased, or transferred, or is taken over by assignment, receivership, or bankruptcy proceedings, the successors shall be bound by the terms and conditions of this Article for the life hereof. Employer shall give notice to the existence of this Article to any purchaser, transferee, lessee, assignee, or other successors in interest. Such notice shall be in writing with a copy to notify its successor and the Trustees of the Pension Fund will operate to continue its obligations under this Article.

F. Employees may contribute to the 401(k) on a pre-tax basis but there will be no Employer matching contribution.

ARTICLE 24

EXPIRATION AND RENEWAL

A. This Agreement shall become effective as of May 1, 2018 and shall remain in full force and effect until midnight April 30, 2021, and shall be automatically renewed from year to year thereafter, unless sixty (60) days prior to April 30, 2021, or the anniversary of any subsequent April 30th, either party shall give to the other written notice of its desire to terminate this Agreement, in which event this Agreement shall terminate at midnight on June 30th in the contract year in which such notice is given. Upon execution of this Agreement, all pending unfair labor practice charges, litigation and/or other disputes between the parties shall be withdrawn and dismissed with prejudice.

B. In the event of an inadvertent failure by either party to give the notice set forth in Section A of this Article, such party may give such notice at any time prior to the termination or automatic renewal date of this Agreement. If a notice is given in accordance with the provisions of this Section, the expiration date of this Agreement shall be the sixty-first (61st) day following such notice.

- B. Employees may opt-out of the medical and prescription drug coverage by completing the appropriate form supplied by employer and submitting it to the employer during the open enrollment period. Once an election to opt-out is made, the employee may not obtain coverage until next eligible to do so under the terms of the employers medical and prescription drug plan. Employees who elect to opt out of such coverage will receive an additional monthly payment in the amount equal to 20% of the employers fully insured rates of the coverage which the employee would have been eligible to receive at the time the employee opted out. In the event the employee loses other coverage, the employee would become eligible for coverage during the open enrollment and their coverage would start on January 1, or if they currently have other coverage, upon the loss of that coverage, the employee must apply for the plan within 31 days of the loss of the other coverage.

ARTICLE 30

PENSION FUND

1. Employer recognizes that a Pension Fund, known as the "Excavating and Building Material Drivers, Local 436, Pension Fund" (Pension Fund) exists by reason of an Agreement between the Union and various employers and by reason of a Declaration of Trust establishing the Pension Fund.

- A. Contributions. During the term of this Agreement, the Employer shall pay, for each employee who receives pay for work during any calendar week, Monday through Sunday, the following contributions:

Effective July 1, 2014 through June 30, 2015 - \$8.33 per hour for all hours worked.

Effective July 1, 2015 through June 30, 2016 - \$9.15 per hour for all hours worked.

Effective July 1, 2016 through June 30, 2017- \$9.15 per hour for all hours worked.

Effective July 1, 2017 through June 30, 2018 - \$9.15 per hour for all hours worked.

Effective July 1, 2018 through June 30, 2019 - \$9.15 per hour for all hours worked.

Effective July 1, 2019 through June 30, 2024 - \$9.15 per hour for all hours worked.

Any employee hired as of 7/1/14 will be covered by the Local 436 Pension Plan section known as "\$1002.00 Pension Plan".

Effective July 1, 2014 through June 30, 2015 - \$5.10 per hour for all hours worked.

Effective July 1, 2015 through June 30, 2016 - \$ 5.60 per hour for all hours worked.

Effective July 1, 2016 through June 30, 2017- \$5.60 per hour for all hours worked.

Effective July 1, 2017 through June 30, 2018- \$5.60 per hour for all hours worked.

Effective July 1, 2018 through June 30, 2019- \$5.60 per hour for all hours worked.

Effective July 1, 2019 through June 30, 2024 - \$5.60 per hour for all hours worked.

If the Board of Trustees of the Pension Fund decide that additional monies are needed, or if any law or regulation requires additional payment to the Pension Fund, over and above the Employer contribution rates set forth in this Agreement, such additional monies or payment shall be diverted from the Employee's wages, unless otherwise prohibited by law.

B. Employer will make its payments monthly on or before the 15th day of the month for the preceding month.

- C. Employer will make its checks covering each payment payable to "Excavating and Building Material Drivers, Local 436, Pension Fund", and will attach a statement showing the name of each employee for whom payment has been made.
- D. Either the Union or the Pension Fund shall have the right to enforce the provisions of this Article by suit, either at law or equity or both, and at reasonable times to inspect such Employer's payroll records as may be necessary to determine compliance with this Article. Either the Union or the Fund will submit periodic written reports to the Employer as to its financial status and as to any material changes in its benefit or funding programs.
- E. Employer shall not have any duty or responsibility either to the Union, to the Board of Trustees, to any employee covered by this Agreement, or to any employer to inquire into, or be in any way responsible for, the application, use, or disposition of any payment, or any action of the Board of Trustees with respect to the Pension Fund or the payments made to the Pension Fund.
- F. The Pension Fund shall continue to be a trustee plan administered by joint trustees appointed by the Employers and the Union, and shall conform with all provisions of State and Federal law applicable thereto.

G. It is understood that the Pension Plan is approved by the Internal Revenue Service under the applicable provisions of the Internal Revenue Code as entitling each participating employer to deduct its contributions to the Pension Fund as business expenses in computing its tax liability and that such contributions shall not constitute a part of the regular wage rate under the Federal Wage and Hour Law.

H. If an Employer fails to pay the contributions provided for in paragraph B, above, to the Pension Fund on or before the last day of the month in which payment was due for the preceding month, the Union shall deem the delinquency to be a violation of this Agreement and shall enforce the Employer's contractual obligation to make contributions to the Pension Funds by such means as it deems necessary; provided however, that the Pension Fund shall provide thirty (30) days written notice to the Employer prior to suspension of benefits of member employees or beneficiaries; and provided further, the Union shall provide fifteen (15) days prior written notice of its intent to strike. Such strike action against an Employer under this Article shall be an exception to and not violative of the restrictive provisions of Article 4 of this Agreement. In the event strike action is taken under this Article, the Employer shall not be liable for wages lost by employees participating in or affected by such strike.

I. Employer is a party to the Agreement and Declaration of Trust establishing the Pension Fund, and agrees to be bound by the actions of the Board of Trustees of said Fund pursuant to said agreement and Declaration of Trust. It is expressly understood that: (1) at no time during the term of this Agreement shall Employer's obligations for payments into the Fund exceed the amounts set forth in paragraph B of this Article; and (2) Employer's liability for payments to the Pension Fund shall not be subject to the arbitration and grievance procedure of this Agreement. Employer shall be liable for all costs incurred in collecting the payments hereunder, together with attorneys' fees and such delinquency expense as may be assessed by the Trustees of the Pension Fund.

J. This article shall be binding upon the parties hereto, their successors, administrators, executors and assigns. In the Event that Employer or any part thereof is sold, leased or transferred or is taken over by assignment, receivership, or bankruptcy proceedings, the successors shall be bound by the terms and conditions of this Article for the life hereof. Employer shall give notice of the existence of this Article to any purchaser, transferee, lessee, assigns, or other successors in interest. Such notice shall be in writing with a copy, to the Trustees of the Pension Fund, not later than ten (10) days prior to the effective date of the transaction. Employer agrees that its failure to so notify its successor and the Trustees of the Pension Fund will operate to continue its obligations under this Agreement.

K. The Pension Fund shall promptly submit to each contributing employer copies of the monthly quarterly reports prepared by its accountants and a copy of its annual audited reports prepared by its auditors.