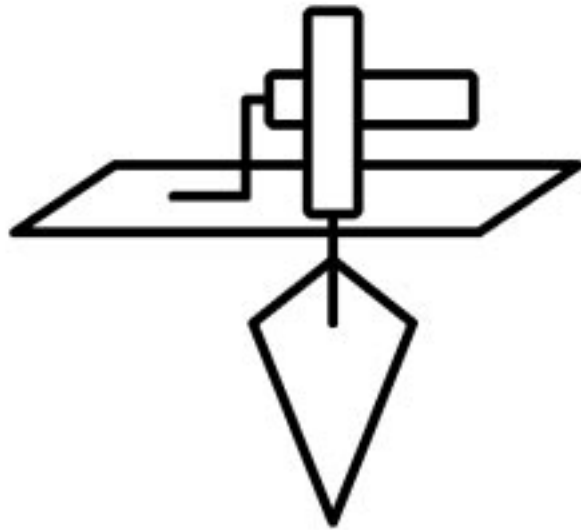


**CEMENT MASONS  
PENSION TRUST FUND  
FOR NORTHERN CALIFORNIA**



**PENSION PLAN**

**SEPTEMBER 1, 2001**

**CEMENT MASONS  
PENSION TRUST FUND  
FOR NORTHERN CALIFORNIA**

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# CEMENT MASONS PENSION TRUST FUND FOR NORTHERN CALIFORNIA

To all Participants covered by the Cement Masons Pension Plan:

We are pleased to provide you with this updated booklet, describing the benefits available from your Pension Plan.

This booklet tells you:

- how and when you become eligible for benefits,
- what your benefits are, and
- general provisions of the Plan.

We have tried to explain some of the most important provisions of the Plan, however, in describing your Pension Plan in summary form, it is not possible to explain every detail. Only the complete text of the Rules and Regulations, which appears in the last part of this booklet, sets forth your actual rights under the Plan. In the event of any conflict between the summary and the Rules and Regulations, the Rules and Regulations will govern.

Please keep in mind that for your protection, only the full Board of Trustees is authorized to interpret the Pension Plan benefits described in this booklet. No union or employer, nor any representative of any union or employer is authorized to interpret the Plan on behalf of the Board—nor can any of these persons act as an agent of the Board of Trustees.

The Pension Plan has been established to provide you with retirement benefits which, in addition to any Social Security benefits to which you may be entitled, should provide a measure of security during your years of retirement. Disability and death benefits are also provided for the security of you and your family.

If you have questions after reading this booklet, or about your benefits in general, contact the Fund Office where the staff will be happy to assist you.

Sincerely,

BOARD OF TRUSTEES

September 1, 2001

## **IMPORTANT INFORMATION CONCERNING THE PLAN**

**Only a summary of the Plan's benefits appears on the following pages. The Pension Plan summary cannot adequately reflect all of the details of the Plan. The rights of a Participant or Beneficiary can only be determined by consulting the actual text of the Pension Plan which is printed in the last part of this booklet.**

**Only the full Board of Trustees is authorized to interpret the Pension Plan described in this booklet. Only the Board of Trustees may give binding answers, and then only if you have furnished full and accurate information concerning your situation. No employer or union nor any representative of any employer or union is authorized to interpret the Plan on behalf of the Board—nor can any of these persons act as an agent of the Board of Trustees.**

**The Plan's Trust Agreement provides that Individual Employers will not be required to make any further payments or Contributions to the cost of operation of the Fund or of the Plan, except as may be provided in the Collective Bargaining Agreement, a Subscriber's Agreement and the Trust Agreement. This provision is subject to the requirements of the Multiemployer Pension Plan Amendments Act of 1980.**

**Este folleto contiene un resumen en inglés de sus beneficios y derechos legales del Plan de "Cement Masons Pension Trust Fund for Northern California" (Fondo Fideicomiso de Pensión de los Albañiles de Cemento del Norte de California). Si usted tiene dificultad en alguna parte de éste folleto, por favor comuníquese con la oficina de éste Plan al siguiente número de teléfono (707) 864-3300 o llame gratis al 1-888-245-5005 por si necesita ayuda. Las horas de oficina son de las 8:30 de la mañana a las 4:00 de la tarde, de Lunes a Viernes.**

# TABLE OF CONTENTS

Pension Plan Terms .....	4
Credited Service .....	6
Break in Service .....	9
Vested Status .....	13
Benefit Units .....	14
Regular Pension .....	17
Early Retirement Pension .....	19
Disability Pension .....	21
Service Pension .....	24
Deferred Vested Pension .....	25
Pro Rata Pension .....	26
Partial Pension .....	28
Supplemental Benefit .....	30
Payment Methods .....	31
Federal and State Income Tax Withholding, Rollover Distributions and Notice of Early Distribution Penalty .....	34
Surviving Spouse Benefits .....	36
Qualified Domestic Relations Orders .....	38
Retirement, Prohibited Employment, and Suspension of Pension Payments .....	40
How to Apply for Benefits and Annuity Starting Dates .....	44
Appeal Procedures .....	46
Plan Termination .....	47
Some Questions and Answers .....	48
Information Required by the Employee Retirement Income Security Act of 1974 .....	50
Statement of Rights Under Employee Retirement Income Security Act of 1974 .....	56
<b>PENSION PLAN:</b>	
Article 1. .... Definitions .....	58
Article 2. .... Participation .....	65
Article 3. .... Pension Eligibility and Amounts .....	66
Article 4. .... Pro Rata Pension .....	75
Article 5. .... Partial Pension .....	78
Article 6. .... Accumulation of Benefit Units and Years of Credited Service .....	80
Article 7. .... Husband-and-Wife Pension .....	94
Article 8. .... Death Benefits .....	100
Article 9. .... Level Income Option .....	101
Article 10. .... Applications, Benefit Payments and Retirement .....	103
Article 11. .... Maximum Benefits .....	116
Article 12. .... Miscellaneous .....	120
Article 13. .... Amendment .....	124
Appendix A .....	125

## PENSION PLAN TERMS

The following are general definitions for terms used in explaining your Pension Plan.

- Employee** The term “**Employee**” means any employee of a Contributing Employer who performs one or more hours of work covered by the Collective Bargaining Agreement providing for Contributions to the Pension Fund. The term also includes certain Union employees and employees of the Northern California Cement Masons Joint Apprenticeship and Training Committee who participate in the Plan.
- Covered Employment** The term “**Covered Employment**” means employment as an Employee for which an Individual Employer contributes or is required to contribute to this Pension Fund.
- Continuous Non-Covered Employment** The term “**Continuous Non-Covered Employment**” means employment after January 31, 1976 for a Contributing Employer in a job not covered by this Plan which is continuous with an Employee’s Covered Employment with the same Contributing Employer.
- A period of Non-Covered Employment is considered to be continuous with Covered Employment only if there is no quit, discharge, or other termination of employment between the periods of Covered and Non-Covered Employment.
- Separation from Covered Employment** The term “**Separation from Covered Employment**” means an Employee has not worked at least 300 hours in Covered Employment in at least one of 2 consecutive Plan Credit Years.
- Plan Credit Year** The term “**Plan Credit Year**” means the period from February 1 of any year through January 31 of the following year. It is the 12-month period used to determine Credited Service, Benefit Units and benefit accruals.
- Credited Service** The term “**Credited Service**” means the hours of work in Covered Employment and Continuous Non-Covered Employment which are recognized by the Plan toward eligibility for a Pension.

- Benefit Units** The term “**Benefit Units**” means the hours of work in Covered Employment which the Plan recognizes in determining the amount of pension payable by the Plan for periods prior to February 1, 1980. Beginning February 1, 1980, pension amounts are based on a percentage of Contributions payable on a Participant’s behalf. Benefit Units are recognized by the Plan toward eligibility for a Service Pension.
- Contribution Date** The term “**Contribution Date**” means the date applicable to the Bargaining Unit in which an Employee was working when the first Employer Contribution was made on behalf of that Employee’s work.
- Participant** The term “**Participant**” describes an Employee who becomes a Participant in the Plan on February 1 or August 1 following a 12-consecutive month period during which an Employee works at least 300 hours in Covered Employment or Continuous Non-Covered Employment with a Contributing Employer. An Employee ceases to be a Participant when he incurs a One-Year Break in Service, unless he is already a Pensioner or Vested Participant.
- Normal Retirement Age** The term “**Normal Retirement Age**” means a Participant who has attained:
- Age 65 or, if later, his age on the fifth anniversary of his participation, disregarding participation before September 1, 1988; or
  - Age 65 or, if later, his age on the tenth anniversary of his participation.

## **CREDITED SERVICE**

*(Refer to Article 6, page 80)*

Credited Service is required in order to qualify for any type of pension provided by this Plan. Credited Service is granted for work for Employers who contribute, or are required to contribute, to the Pension Trust Fund by the Collective Bargaining Agreement. Credited Service is also granted for work performed for a Contributing Employer in Continuous Non-Covered Employment after January 31, 1976. It is also granted for employment as a Cement Mason in the Building and Construction Industry in Northern California and for certain other employment before the Pension Plan was established.

Credited Service is earned in different ways for employment before and after February 1, 1959 and before and after February 1, 1976. These different ways of earning Credited Service are explained in the following paragraphs.

### **Credited Past Service Before February 1, 1959**

*(Refer to Section 6.02, page 80)*

An Employee will receive one year of **Credited Past Service** for each Plan Credit Year in which he worked at least 1,400 hours or more in the Building and Construction Industry in the 46 Northern California Counties before February 1, 1959:

- (1) at a job included under the Collective Bargaining Agreement with the District Council of Plasterers and Cement Masons of Northern California or any of its affiliated local unions, or
- (2) for a local union or the District Council in a job included under the Plan.

One quarter of one year of Credited Past Service is earned for each 350 hours of employment in any Plan Credit Year in which a Participant failed to work at least 1,400 hours.

In the event employment records are not available, the Board may accept records of union membership, W-2 forms, check stubs or statements from the Social Security Administration as evidence of employment.

An Employee will also receive Credited Past Service for military service during the period in which he retained re-employment rights under federal law, if he was employed in the 46 Northern California Counties immediately before going into the service in work of a type for which Credited Past Service is granted *and* he made himself available for that employment in the 46 Northern California Counties within 90 days after release from active duty, or within 90 days after recovery from a disability continuing after his release from active duty.

Employment covered by a pension program of a public agency will not count toward Credited Past Service.

## **Credited Future Service Between February 1, 1959 and February 1, 1976**

*(Refer to Subsections 6.03.a., b., and c., pages 82-84)*

Between February 1, 1959 and February 1, 1976, an Employee earned one year of **Credited Future Service** if he worked at least 870 hours in Covered Employment during a Plan Credit Year.

If an Employee worked less than 870 hours in Covered Employment, he earned fractions of a year of Credited Future Service in different ways depending on the Plan Credit Year in which he performed the work and his age at the time. The schedules for earning fractional Years of Credited Service during this period appear in Subsections 6.03.a., b. and c., pages 82-84 of the Plan Rules and Regulations. You should refer to these pages to find out the schedules that apply to you for Hours Worked in Covered Employment during the Plan Credit Years between February 1, 1959 and February 1, 1976.

## **Credited Future Service Beginning February 1, 1976**

*(Refer to Subsection 6.03.d., page 85)*

An Employee earns **Credited Future Service** for Hours Worked in Covered Employment beginning February 1, 1976, according to the following schedule:

<u>Hours Worked in Plan Credit Year</u>	<u>Credited Future Service</u>
Less than 300 hours	None
300 to 499 Hours	.25
500 to 749 Hours	.50
750 to 869 Hours	.75
870 Hours or More	One Year

Beginning February 1, 1976, an Employee receives Credited Future Service for hours of work in Continuous Non-Covered Employment if he works for a Contributing Employer, and

- moves directly from a covered job with that Employer to a non-covered job with the same Employer.
- moves directly from a non-covered job with that Employer to a covered job with the same Employer.

*Exception:* If enough hours have not been worked to earn a Year of Credited Future Service, fractions of a Year of Credited Service are not granted for work in Continuous Non-Covered Employment.

## **Credited Future Service During Periods of Disability**

*(Refer to Subsections 6.05.a.(2) and (3) and b., pages 89-90)*

An Employee receives credit for periods of absence from Covered Employment after February 1, 1959 for a temporary disability for which an Employee receives California Disability Insurance Benefits or Workers' Compensation Disability Benefits. Credit is granted as follows:

Between February 1, 1971 and February 1, 1976, credit granted for each week of disability depends on when the disability occurred and the Employee's age at the time. To determine the credit, refer to Subsection 6.05.b.(2), page 90 of the Plan Rules and Regulations. For periods between February 1, 1959 and February 1, 1971 and for periods after February 1, 1976, an Employee receives credit of 40 hours per week for a disability.

In order to secure credit for a period of disability, it is necessary to provide proof of the disability at the time you file your pension application (or earlier, if you choose).

## **Credited Future Service During Periods of Military Service**

*(Refer to Section 6.05, page 89)*

An Employee receives credit for periods of absence for military service for which he retains re-employment rights under federal law if he was employed in the 46 Northern California Counties in Covered Employment immediately before going into the service **and** he makes himself available for Covered Employment in the 46 Northern California Counties within 90 days after his release from active duty, or recovery from a disability continuing after his release. Credit is granted as follows:

Between February 1, 1971 and February 1, 1976, credit granted for each week of military service depends on when the military service occurred and the Employee's age at the time. To determine the credit, refer to Subsection 6.05.b.(2), page 90 of the Plan Rules and Regulations. For periods between February 1, 1959 and February 1, 1971 and for periods after February 1, 1976, an Employee receives credit of 40 hours per week for military service.

In order to secure credit for military service, it is necessary to provide proof of military service at the time you file your pension application (or earlier, if you choose).

## BREAK IN SERVICE

(Refer to Section 6.06, page 90)

Once an Employee achieves Vested Status, he cannot lose his Credited Service, Benefit Units, and accrued benefits. Prior to achieving Vested Status, however, an Employee could permanently lose his Credited Service, Benefit Units, and accrued benefits if he does not work the required number of hours in Covered Employment for a certain number of consecutive years as explained below.

### Break in Service Between February 1, 1959 and February 1, 1976

(Refer to Subsection 6.06.a., page 90)

An Employee incurred a Permanent Break in Service between February 1, 1959 and February 1, 1976 if, before he was vested, he did not earn one quarter (.25) of Credited Future Service in either one of 2 consecutive Plan Credit Years.

Here is an example:

<u>Plan Credit Year</u>	<u>Hours Worked in Covered Employment</u>	<u>Credited Service</u>
1972-73	1,150	One Year
1973-74	730	.50
1974-75	100	0
1975-76	0	0

To earn one quarter of Credited Future Service, an Employee must have worked at least 250 hours in a Plan Credit Year. In the above example, the Employee incurred a Permanent Break in Service on January 31, 1976 because he failed to earn one quarter of Credited Service in 2 consecutive Plan Credit Years (1974-75 and 1975-76).

#### ***Exception***

If an Employee who incurred a Permanent Break in Service before February 1, 1976, returns to Covered Employment, he will have his Credited Service and Benefit Units reinstated when he earns 5 Benefit Units without a Permanent Break in Service.

### Break in Service Between February 1, 1976 and February 1, 1985

(Refer to Subsections 6.06.b. and c., page 91)

After January 31, 1976, a One-Year Break in Service occurs if you do not work at least 300 hours in Covered Employment, or beginning February 1, 1976, at least 870 hours in Continuous Non-Covered Employment during a Plan Credit Year. This Break in Service can be temporary or permanent, depending

on how many years of Credited Service you have. A Break in Service becomes permanent if you have at least as many consecutive One-Year Breaks in Service as you have Years of Credited Service.

*Example:* An Employee has earned 7 Years of Credited Service. Then he has 5 years in which he works less than 300 hours per year. He still has not lost his 7 Years of Credited Service. The next year he works only 200 hours which adds another Break in Service and now totals 6. The following year, he works 100 hours - which makes 7 Break-In-Service Years and his 7 Years of Credited Service are permanently canceled.

This is how it looks:

1 <sup>st</sup> year	1,400 hours	Year of Credited Service
2 <sup>nd</sup> year	1,500 hours	Year of Credited Service, total 2 years
3 <sup>rd</sup> year	1,100 hours	Year of Credited Service, total 3 years
4 <sup>th</sup> year	1,300 hours	Year of Credited Service, total 4 years
5 <sup>th</sup> year	1,400 hours	Year of Credited Service, total 5 years
6 <sup>th</sup> year	1,200 hours	Year of Credited Service, total 6 years
7 <sup>th</sup> year	1,200 hours	Year of Credited Service, total 7 years
8 <sup>th</sup> year	175 hours	Break in Service - 1 year
9 <sup>th</sup> year	250 hours	Break in Service - 2 years
10 <sup>th</sup> year	00 hours	Break in Service - 3 years
11 <sup>th</sup> year	00 hours	Break in Service - 4 years
12 <sup>th</sup> year	275 hours	Break in Service - 5 years
13 <sup>th</sup> year	200 hours	Break in Service - 6 years
14 <sup>th</sup> year	100 hours	Break in Service - 7 years

The Employee had a Permanent Break in Service in the 14<sup>th</sup> year when the number of his Break in Service years equaled his Years of Credited Service. If he had worked at least 300 hours in the 14<sup>th</sup> year, he would have had a total of 7 ¼ Years of Credited Service and his previous consecutive Break in Service years would have been eliminated.

A One-Year Break in Service (less than 300 hours of work in Covered Employment or less than 870 hours of work in Continuous Non-Covered Employment in a Plan Credit Year) can be repaired as long as the Break in Service is not permanent. All previous One-Year Breaks in Service are disregarded after a Plan Credit Year in which you work at least 300 hours in Covered Employment or 870 hours in Continuous Non-Covered Employment.

*Important:* Break in Service years are not added together unless they come one right after the other. They will not be added together if there is an interruption of a year of 300 hours or more of work in Covered Employment or 870 hours or more of work in Continuous Non-Covered Employment.

## **Grace Periods Before February 1, 1985**

*(Refer to Subsection 6.06.e., page 91)*

“**Grace Periods**” are periods which are not counted in determining whether a Permanent Break in Service occurred. An Employee will be granted a grace period of up to 3 Plan Credit Years if he was absent from Covered Employment before February 1, 1985 for any of the following reasons:

1. He was totally disabled for work as a cement mason.
2. He was involuntarily unemployed.
3. He was employed in a supervisory capacity in the Building and Construction Industry in the 46 Northern California Counties. A Participant may work in a supervisory capacity outside the 46 Northern California Counties during a grace period for a period not to exceed 18 months.

A grace period does not add to an Employee’s Credited Service, Benefit Units or accrued benefit. Rather, it is a period which is not counted in determining whether the Employee worked enough hours to keep from having a Break in Service.

In order to secure a grace period, it will be necessary to submit a grace period application at the time you file your pension application (or earlier, if you choose) and provide proof of the circumstances on which your application is based.

## **Break in Service After January 31, 1985**

*(Refer to Subsection 6.06.d., page 91)*

Beginning February 1, 1985, a Break in Service becomes permanent if an Employee’s consecutive One-Year Breaks in Service (including at least one after January 31, 1985) equal the greater of 5 One-Year Breaks in Service or the total number of full Years of Credited Service you have earned.

*Example:* A Participant earns 2 Years of Credited Service through the Plan Credit Year ending January 31, 1984. From February 1, 1985 through January 31, 1988, he fails to work 300 hours in any Plan Credit Year. Although he has 4 Break in Service years, he has not lost his 2 Years of Credited Service, since there must be at least 5 consecutive Break in Service years. In the next Plan Credit Year, he works 1,500 hours and prevents a Permanent Break in Service.

This is how it looks:

<b><u>Plan Credit Year</u></b>	<b><u>Hours Worked in Covered Employment</u></b>	<b><u>Credited Service</u></b>
1982-83	1,300 hours	Year of Credited Service
1983-84	1,500 hours	Year of Credited Service, total 2 years
1984-85	250 hours	Break in Service - 1 year
1985-86	-0- hours	Break in Service - 2 years
1986-87	-0- hours	Break in Service - 3 years
1987-88	275 hours	Break in Service - 4 years
1988-89	1,500 hours	Year of Credited Service, total 3 years

**Grace Periods After January 31, 1985**

*(Refer to Subsection 6.06.f., page 92)*

An Employee will be protected from incurring a One-Year Break in Service if the absence from work is the result of the following parental responsibilities:

1. pregnancy of the Employee; or
2. birth or adoption of a child; or
3. child care for a period immediately following childbirth or adoption.

This grace period does not add to the Employee’s Credited Service. Rather, it is a period which is not counted in determining whether the Employee worked enough hours to prevent a Break in Service.

In order to secure a grace period, the Employee must give written notice to the Board within 30 days after the occurrence of the circumstance entitling the Employee to a grace period and present evidence as the Board may require.

## **VESTED STATUS**

*(Refer to Section 3.16, page 71)*

Once you achieve Vested Status, you are entitled to a future benefit from the Pension Plan—even if you cease working and never return to work in Covered Employment. A benefit will be payable once you meet the age and service requirements of a Regular, Early Retirement, or Service Pension.

### **Between September 1, 1976 and September 1, 1996**

Between September 1, 1976 and September 1, 1996, a Participant achieves Vested Status once he has accumulated 10 Years of Credited Service without a Permanent Break in Service.

A Non-Bargained Employee who has at least one hour of work in Covered Employment on or after August 31, 1989, achieves Vested Status once he has accumulated 5 Years of Credited Service without a Permanent Break in Service. (For an explanation of the Plan's vesting requirements prior to September 1, 1976, refer to Section 3.16, page 71 of the Plan Rules and Regulations.)

### **Between September 1, 1996 and January 1, 1997**

Between September 1, 1996 and January 1, 1997, a Participant who works at least 300 hours in Covered Employment on or after September 1, 1996 achieves Vested Status once he has accumulated 8 Years of Credited Service without a Permanent Break in Service.

### **On or After January 1, 1997**

On or after January 1, 1997, a Participant who has at least one hour of work in Covered Employment achieves Vested Status once he has accumulated at least 5 Years of Credited Service without a Permanent Break in Service.

## **BENEFIT UNITS**

Benefit Units are granted for all work for which Employers contribute, or are required to contribute to the Pension Fund by the Collective Bargaining Agreement. Benefit Units are also earned for employment of the same kind before Contributions began (before February 1, 1959). The amount of an Employee's pension is based, in part, on the number of Benefit Units he earned prior to February 1, 1980. On or after February 1, 1980, an Employee continues to accrue Benefit Units, however, the pension amount is based on a percentage of Contributions. Benefit Units are also used to determine eligibility for a Service Pension for work both prior to and after February 1, 1980.

### **Before February 1, 1959**

*(Refer to Subsection 6.04.a., page 85)*

One Benefit Unit is given for each Year of Credited Service earned before February 1, 1959. That is, if an Employee earned a year of Credited Past Service before that date, he also earned one Benefit Unit. The way in which years of Credited Past Service are earned is explained on page 80 in the Plan Rules and Regulations.

### **Between February 1, 1959 and February 1, 1976**

*(Refer to Subsections 6.04.b., c., and d., pages 85 - 88)*

Between February 1, 1959 and February 1, 1976, an Employee earns portions of a Benefit Unit for Hours Worked in Covered Employment, according to the schedules that appear in Subsections 6.04.b., c. and d., pages 85-88 of the Plan Rules and Regulations. Between February 1, 1959 and February 1, 1976, the number of hours required to earn one Benefit Unit in a Plan Credit Year depended on when the work was performed and the Employee's age at the time.

**Between February 1, 1976 and February 1, 1982**

*(Refer to Subsection 6.04.e., page 88)*

Between February 1, 1976 and February 1, 1982, an Employee earned portions of a Benefit Unit for Hours Worked in Covered Employment, according to the following schedule:<sup>1</sup>

<u>Hours Worked in Plan Credit Year</u>	<u>Benefit Units</u>
Less than 300 hours	None
300 to 399 hours	.21
400 to 499 hours	.29
500 to 599 hours	.36
600 to 699 hours	.43
700 to 799 hours	.50
800 to 899 hours	.57
900 to 999 hours	.64
1,000 to 1,099 hours	.71
1,100 to 1,199 hours	.78
1,200 to 1,299 hours	.85
1,300 to 1,399 hours	.93
1,400 hours or more	One

If an Employee earns a Year of Credited Service in a Plan Credit Year after January 31, 1976, but fails to complete 300 Hours of Work in Covered Employment, he will be credited with a portion of a Benefit Unit based on the ratio his Hours Worked in Covered Employment bear to 2,000 hours.

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<sup>1</sup> The amount of an Employee's pension for all work in Covered Employment on or after February 1, 1980 is based on a percentage of the Contributions required to be made on the Employee's behalf for Hours Worked in Covered Employment. This will not include Contributions made in a Plan Credit Year if the Employee failed to work at least 300 hours in Covered Employment. Benefit Units continue to be calculated and used to determine an Employee's eligibility for a Service Pension.

**Beginning February 1, 1982**

*(Refer to Subsection 6.04.f., page 89)*

Beginning February 1, 1982, an Employee earns portions of a Benefit Unit for Hours Worked in Covered Employment, according to the following schedule:

<u>Hours Worked in Plan Credit Year</u>	<u>Benefit Units</u>
Less than 300 hours	None
300 to 399 hours	.25
400 to 499 hours	.33
500 to 599 hours	.42
600 to 699 hours	.50
700 to 799 hours	.58
800 to 899 hours	.67
900 to 999 hours	.75
1,000 to 1,099 hours	.83
1,100 to 1,199 hours	.92
1,200 hours or more	One

**Accrued Benefits for Periods of Disability and Military Service**

*(Refer to Section 6.05, page 89)*

An Employee accrues benefits during periods of absence due to disability or military service based on the number of hours used to determine his Credited Future Service according to the schedules appearing in Section 6.03, pages 82-85 of the Plan Rules and Regulations.

# REGULAR PENSION

## Eligibility

*(Refer to Section 3.02, page 66)*

An Employee who has retired is eligible for a Regular Pension if:

1. he is at least age 65;
2. he has attained Vested Status; and
3. he has worked at least 700 hours in Covered Employment since January 1, 1959.

In any event, an Employee is entitled to a Regular Pension once he attains Normal Retirement Age as described in Section 1.18, page 63 of the Plan Rules and Regulations.

## Pension Amount

*(Refer to Sections 3.03 and 3.19, pages 66 and 73, respectively)*

The monthly amount of the Regular Pension effective on or after September 1, 1999 depends on:

- the number of Benefit Units earned;
- the amount payable for each Benefit Unit for employment before February 1, 1980;
- the Contributions made with respect to an Employee's work on or after February 1, 1980; and
- the amount of the supplemental benefit.

The monthly pension which is payable for a pension effective on or after September 1, 1999 is the sum of:

- \$25.75 for each Benefit Unit (or a proportionate amount for fractions) earned before February 1, 1959, plus
- \$50.00 for each Benefit Unit (or a proportionate amount for fractions) earned between February 1, 1959 and February 1, 1980, plus
- 4.00% of Contributions made for an Employee's work performed **between February 1, 1980 and February 1, 2004**, provided he works a minimum of 300 hours in a Plan Credit Year, plus

- 2.00% of Contributions made for an Employee’s work performed **on or after February 1, 2004**, provided he works a minimum of 300 hours in a Plan Credit Year, plus
- a supplemental benefit of \$240.00, if an Employee has worked a minimum of 500 hours in Covered Employment in the 12-month period immediately preceding his Annuity Starting Date.

The following is an example of how the Regular Pension is calculated for a benefit effective February 1, 2000, assuming the Participant worked continuously in Covered Employment from February 1, 1967 through January 31, 2000 and assuming 1,400 hours per year for Plan Credit Years 1980 – 2000.

<b>Period</b>	<b>Benefit Units/ Contributions</b>	<b>Benefit Rate/ Percentage</b>	<b>Regular Pension Amount</b>
2/1/67-1/31/80	13	\$50.00	\$650.00
2/1/80-1/31/92	\$29,400.00	4%	\$1,176.00
2/1/92-1/31/93	\$2,534.00	4%	\$101.36
2/1/93-1/31/94	\$2,660.00	4%	\$106.40
2/1/94-1/31/95	\$2,856.00	4%	\$114.24
2/1/95-1/31/96	\$3,185.00	4%	\$127.40
2/1/96-1/31/97	\$3,430.00	4%	\$137.20
2/1/97-1/31/98	\$3,500.00	4%	\$140.00
2/1/98-1/31/99	\$3,598.00	4%	\$143.92
2/1/99-1/31/00	\$3,831.00	4%	\$153.24
<b>Sub-total</b>			\$2,849.76
<b>Plus Supplemental Benefit</b>			240.00
<b>Total Amount of Regular Pension</b>			\$3,089.76
<b>Amount after Rounding</b>			\$3,090.00

**Important:** If an Employee incurs a Separation from Covered Employment, the amount of his Regular Pension may be lower than that shown above. (Refer to Section 6.07, page 93 of the Plan Rules and Regulations for an explanation of a Separation from Covered Employment.) The amount of his monthly pension earned *before* a Separation from Covered Employment remains “frozen,” based on the terms of the Plan at the end of the separation period (but not less than \$19.00 will be paid for each Benefit Unit). If he returns to Covered Employment and earns additional benefits, the pension amount earned after his return will be based on the amount payable under the Plan at that time.

The Regular Pension payable to a married Employee will be reduced as described under the 50% Husband-and-Wife Pension on page 96, unless the Employee wants one of the optional Husband-and-Wife forms of payment or he wants it paid as a single life pension (with a Three-Year Guarantee of benefits) and his Spouse consents to that election in writing.

# EARLY RETIREMENT PENSION

## Eligibility

(Refer to Section 3.04, page 67)

An Employee who has retired is eligible for an Early Retirement Pension if:

1. he is at least age 55, but not yet age 65;
2. he has earned at least 10 Years of Credited Service without a Permanent Break in Service (excluding any Credited Service earned as a result of work in Continuous Non-Covered Employment); and
3. he has worked at least 700 hours in Covered Employment since January 1, 1959.

## Pension Amount

(Refer to Sections 3.05 and 3.19, pages 68 and 73, respectively)

To determine the amount of the Early Retirement Pension, the first step is to calculate the amount of the Regular Pension the Employee would receive if he were age 65 when his pension starts. That amount is then reduced by  $\frac{1}{2}$  of 1% for each month the Employee is younger than age 65.

The amount of the Early Retirement Pension is reduced on the assumption that the Early Retirement Pensioner will be paid a pension for a longer period of time, since he is younger than age 65 when his pension payments begin.

*Example:* An Employee retires at age 59. Assume that the amount of the Regular Pension at age 65 would be \$2,849.76 a month before rounding. Since he is only 59—or 72 months younger than age 65—a reduction of  $\frac{1}{2}$  of 1% is made for each month he is younger than age 65.

Monthly Amount of Regular Pension	\$2,849.76
Subtract 36% of Amount of Regular Pension (36 % is the result of multiplying $\frac{1}{2}$ of 1% by 72 months)	- \$1,025.91
Add Supplemental Benefit	<u>\$240.00</u>
Monthly Early Retirement Pension	\$2,063.85
After Rounding	\$2,064.00

The Supplemental Benefit on an Early Retirement Pension is not subject to the reduction factor.

The Early Retirement Pension payable to a married Employee will be reduced as described under the 50% Husband-and-Wife Pension on page 96, unless the Employee wants one of the optional Husband-and-Wife forms of payment or he wants it paid as a single life pension (with a Three-Year Guarantee of benefits) and his Spouse consents to that election in writing.

# DISABILITY PENSION

## **Eligibility**

*(Refer to Section 3.06, page 68)*

A totally disabled retired Employee is eligible for a Disability Pension if:

1. he is not yet age 65;
2. he has earned at least 10 Years of Credited Service, without a Permanent Break in Service (excluding any Credited Service earned as a result of work in Continuous Non-Covered Employment); and
3. he has, as a result of actual work in Covered Employment, earned at least one quarter of Credited Service in either of the 2 Plan Credit Years just before or during the Plan Credit Year in which he became totally disabled.

## **Totally Disabled Means:**

*(Refer to Section 3.08, page 69)*

An Employee is considered totally disabled if he is receiving a Social Security Disability benefit. In the absence of a Social Security award, the Board of Trustees may consider an Employee to be totally disabled if, as a result of a physical or mental impairment, it finds that he is unable to work at any job as a cement mason in the Building and Construction Industry, provided that the disability is expected to result in death or to continue for an indefinite period.

## **Proof of Disability**

An Employee must furnish to the Fund Office one of the following:

1. A copy of his Social Security Disability award; or
2. A letter from the Social Security Administration showing that he is entitled to a Social Security Disability award. The letter must show the effective date of Social Security Disability payments; or
3. If the Employee has appealed for and been denied a Social Security Disability benefit, he must provide a form completed by his doctor describing the disability, together with his doctor's opinion as to whether he is unable to perform work in the Building and Construction Industry. The Employee may obtain the form from the Fund Office.

The Employee must also have an independent medical examination performed by a doctor selected by the Board of Trustees.

The determination of whether an Employee is totally unable to perform work in the Building and Construction Industry rests solely with the Board. The Board may require evidence of the continuance of the disability from time to time.

## **Pension Amount**

*(Refer to Sections 3.07 and 3.19, pages 68 and 73, respectively)*

The monthly amount of the Disability Pension effective on or after September 1, 1997 is \$50.00 for each Benefit Unit (plus a proportionate amount for fractions) up to a maximum based on the 30 Benefit Units earned most recently. In no event will the amount of a Disability Pension be less than 40% of the amount of his accrued Regular Pension.

In addition to any amount calculated above, a supplemental benefit of \$240.00 per month will be added to the total Disability Pension, provided that the Employee has a minimum of 500 Hours Worked in Covered Employment in the 12-month period immediately preceding his Annuity Starting Date.

If an Employee has not worked at least 300 hours in Covered Employment in either one of 2 consecutive Plan Credit Years, the amount of monthly pension earned before a Separation from Covered Employment remains “frozen” (but not less than \$19.00 will be paid for each Benefit Unit).

The Disability Pension payable to a married Employee will be reduced as described under the 50% Husband-and-Wife Pension on page 96, unless the Employee wants one of the optional Husband-and-Wife forms of payment or he wants it paid as a single life pension (with a Three-Year Guarantee of benefits) and his Spouse consents to that election in writing.

## **Disability Payments**

*(Refer to Section 3.09, page 69)*

Disability Pension payments begin after the Employee has been disabled for 6 full calendar months, if he files an application before then, or he files his notice of entitlement to Social Security Disability benefits with the Fund Office within 12 months after the date shown on the notice. Otherwise, payments will not begin until the first of the month after he files an application with the Fund Office.

So that your Plan benefits become payable as soon as possible, you should file an application for a Disability Pension with the Fund Office when you apply for your Social Security Disability benefit.

The Disability Pension is payable for as long as the Pensioner remains Totally Disabled.

## **Recovery by a Disability Pensioner**

*(Refer to Section 3.12, page 70)*

Once a Disability Pensioner recovers from his disability, he can no longer receive a Disability Pension from the Fund. If he returns to work in Covered Employment, he can earn additional benefits.

If a Disability Pensioner younger than age 65 is no longer eligible for a Social Security Disability benefit (or its equivalent) or recovers from his disability, he must report this to the Fund Office, in writing, within 21 days after the date he receives notice from the Social Security Administration of his loss of eligibility or his recovery, as the case may be, in order to avoid any loss of benefits provided in the Plan when he retires again.

Once a Disability Pensioner reaches age 65, his pension will continue for the rest of his life, as long as he remains retired, even if he recovers from his disability.

### **A Totally Disabled Early Retirement Pensioner or a Service Pensioner**

*(Refer to Sections 3.10 and 3.11, pages 69 and 70)*

An Early Retirement Pensioner who was totally disabled when his pension started or a Service Pensioner who becomes totally disabled may change his pension to a Disability Pension if he chooses.

# SERVICE PENSION

## **Eligibility**

*(Refer to Section 3.14, page 71)*

An Employee who has retired is eligible for a Service Pension if:

1. he is at least age 55, but is younger than age 65;
2. he has at least 25 Benefit Units (without a Permanent Break in Service), **or** he is at least age 62, and has at least 20 Benefit Units (without a Permanent Break in Service);
3. he has worked at least 700 hours in Covered Employment since January 1, 1959; and
4. he has not previously received an Early Retirement Pension from the Fund.

Qualifying for a Service Pension means an Employee who starts work in Covered Employment at the age of 30 could retire as early as age 55 (or age 62) and receive a pension (figured in the same way as if he were age 65) for the rest of his life.

## **Pension Amount**

*(Refer to Sections 3.15 and 3.19, pages 71 and 73, respectively)*

The amount of the Service Pension is figured in the same way as the Regular Pension.

If a Service Pensioner returns to work in Covered Employment before he is age 65 and then retires, his pension after he retires will be increased by the amount payable by the Plan when he retires again, but only for the Benefit Units or accrued benefits earned after his return to work.

The Service Pension payable to a married Employee will be reduced as described under the 50% Husband-and-Wife Pension on page 96, unless the Employee wants one of the optional Husband-and-Wife forms of payment or he wants it paid as a single life pension (with a Three-Year Guarantee of benefits) and his Spouse consents to that election in writing.

## DEFERRED VESTED PENSION

### **Eligibility**

*(Refer to Section 3.16, page 71)*

A Participant who has had a Separation from Covered Employment is eligible for a Deferred Vested Pension if:

1. he has attained Vested Status; and
2. he is at least age 65; or
3. he is at least age 55, but not yet age 65 and has met the requirements of an Early Retirement Pension or a Service Pension; and
4. he has worked at least 700 hours in Covered Employment since January 1, 1959.

### **Pension Amount**

*(Refer to Section 3.17, page 72)*

The amount of the Deferred Vested Pension is figured in the same way as the Regular, Early Retirement or Service Pension, depending on the Employee's accrued benefits and age when his pension begins. The pension amount will be frozen at the level payable by the Plan at the end of the separation period (but not less than \$19.00 for each Benefit Unit earned prior to February 1, 1980).

The Deferred Vested Pension payable to a married Employee will be reduced as described under the 50% Husband-and-Wife Pension on page 96, unless the Employee wants one of the optional Husband-and-Wife forms of payment or he wants it paid as a single life pension (with a Three-Year Guarantee of benefits) and his Spouse consents to that election in writing.

## **PRO RATA PENSION**

*(Refer to Article 4, page 75)*

A Pro Rata Pension is provided for an Employee who would not otherwise qualify for a pension, or whose pension would be less than the full amount because his years of employment have been divided between the jurisdiction of this Pension Plan and employment for which he can receive Related Credit under any of the following Pension Funds:

*Arizona Basic Crafts Pension Trust Fund*

*Operative Plasterers & Cement Masons' International Association  
Local Union 394 Pension Trust Fund*

*Cement Masons of Southern California Pension Trust*

*Cement Masons Pension Trust for Northern Nevada*

*San Diego County Cement Masons Pension Trust*

These Related Plans have adopted a similar provision for a Pro Rata Pension wherein the years of Credited Service earned under this Pension Plan can be used toward eligibility for a Pro Rata Pension under those Plans.

### **Eligibility**

*(Refer to Section 4.08, page 76)*

An Employee who has retired is eligible for a Pro Rata Pension if:

1. he would be entitled to a pension under this Plan based on his Combined Credited Service (excluding any Credited Service earned in Continuous Non-Covered Employment), or Combined Benefit Units being treated as Northern California Credited Service or Benefit Units; and
2. he has worked after January 1, 1959 for at least 700 hours for which Contributions were required to be made to this or a Related Plan.

Related Hours will be considered in determining whether an Employee has incurred a Break in Service or a Separation from Covered Employment. However, once an Employee stops working for Employers who contribute to this or a Related Plan, the determination as to whether he has incurred a Permanent Break in Service will be based only on his Northern California Credited Service, not on his Combined Credited Service.

**Pension Amount**

*(Refer to Section 4.09, page 76)*

A Pro Rata Pension is calculated in the same way as the Regular, Early Retirement, Disability or Deferred Vested Pension, depending on the type of Pro Rata Pension for which the Employee is eligible.

Only Northern California Benefit Units and Contributions are used in determining the amount of a Pro Rata Pension under this Plan. Related Plans may also pay Pro Rata Pensions based on the rules and regulations governing each of those plans. The total pension amount will be the sum of all the Pro Rata Pensions to which an Employee may be entitled.

Below is an example of how a Pro Rata Pension is determined for an Employee retiring on February 1, 2000 at age 65.

<b>Plan</b>	<b>Years of Credited Service and Benefit Units</b>	<b>Pro Rata Pension</b>
Northern California (2/63 - 1/71)	8	\$27.00 X 8 = \$216.00
Other Plan (2/71 - 1/80)	9	Amount Payable by other Plan

(In this example, the Employee is not entitled to the Supplemental Benefit because the major portion of his Combined Credited Service is not Northern California Service.)

Without the Pro Rata Pension, this Employee may not have been eligible for a pension from either Fund. However, the Pro Rata Pension permits service under both plans to be combined. As a result, he receives a monthly Pro Rata Pension of \$216.00 from this Plan, plus a monthly Pro Rata Pension from the other Plan.

The Pro Rata Pension payable to a married Employee will be reduced as described under the 50% Husband-and-Wife Pension on page 96, unless the Employee wants one of the optional Husband-and-Wife forms of payment or he wants it paid as a single life pension (with a Three-Year Guarantee of benefits) and his Spouse consents to that election in writing.

## **PARTIAL PENSION**

*(Refer to Article 5, page 78)*

A Partial Pension is provided for an Employee who would not otherwise qualify for a pension, or whose pension would be less than the full amount because his years of employment have been divided between the jurisdiction of this Pension Plan and that of other Cement Masons' Pension Plans in the United States which adopt the National Reciprocity Agreement.

### **Eligibility**

*(Refer to Section 5.05, page 78)*

An Employee who has retired is eligible for a Partial Pension if:

1. he would be entitled to a pension under this Plan based on his Combined Service Credits (excluding any Credited Service earned in Continuous Non-Covered Employment) being treated as Northern California Service Credit; and
2. he had earned 2 years of Service Credit after January 1, 1955 under the jurisdiction of this Plan and 2 years of Service Credit under a Related Plan for which contributions were made; and
3. he would be eligible for a Partial Pension from a Related Plan and his Terminal Plan.

### **Pension Amount**

*(Refer to Sections 3.19 and 5.08, pages 73 and 79)*

A Partial Pension is a proportionate amount of the pension an Employee would have received had his Combined Service Credit been earned under this Plan based on the number of years of Northern California Service Credit earned after January 1, 1955. The benefit amount is determined as follows:

1. First, calculate the pension amount by taking the Employee's Combined Service Credit and applying it to the benefit formula for this Plan.
2. Second, divide the amount of Service Credit earned under this Plan since January 1, 1955 by the Combined Service Credit earned since January 1, 1955.
3. Third, multiply the pension amount in item 1 by the fraction in item 2. The result is the Partial Pension amount payable by this Plan.

The following is an example of how a Partial Pension is determined for an Employee retiring on February 1, 2000 at age 65.

<b>Plan</b>	<b>Service Credit</b>
Northern California Plan	9
Other Plan	7
<b>Total</b>	<b>16</b>

The Employee would not be eligible for a pension benefit from either plan because each plan requires at least 10 service credits to qualify for a pension benefit. However, by considering the Combined Service Credit of both plans, he is eligible for a Partial Pension with a monthly benefit determined as follows:

1. Based on Combined Service Credit of 16 years, the Northern California Pension would be \$432.00 (16 x \$27.00) a month.
2. Now, apply the Partial Pension formula to determine the proportionate amount from the Northern California Plan:

$$\frac{\text{Northern California Service since 1/1/55}}{\text{Combined Service Credit since 1/1/55}} = \frac{9 \text{ Years}}{16 \text{ Years}}$$

$$\text{Northern California Service since 1/1/55} = 9 \text{ Years}$$

3. Multiply the Combined Service Credit amount (\$432.00) by 9/16 to determine the actual monthly amount payable under the Northern California Plan. The result is a monthly benefit of \$243.00 from the Northern California Plan. The Supplemental Benefit of \$240.00 does not apply in this example, since the Employee did not work a minimum of 500 hours in Covered Employment in the 12-month period immediately preceding his Annuity Starting Date.

The Partial Pension payable to a married Employee will be reduced as described under the 50% Husband-and-Wife Pension on page 96, unless the Employee wants one of the optional Husband-and-Wife forms of payment (excluding the Level Income Option) or he wants it paid as a single life pension (with a Three-Year Guarantee of benefits) and his Spouse consents to that election in writing.

## **SUPPLEMENTAL BENEFIT**

*(Refer to Section 3.19, page 73)*

The Board of Trustees approved payment of a supplemental benefit for Pensioners and Beneficiaries receiving a pension benefit under this Plan. If the Pensioner is receiving a Pro-Rata or Partial Pension, the supplemental benefit will be paid **only** if the larger portion of Combined Credited Service is Northern California Credited Service and the Pensioner satisfied the minimum of 500 hours worked in Covered Employment in the 12-month period immediately preceding his Annuity Starting Date.

The monthly amount of the supplemental benefit is \$240.00 for Pensioners and \$120.00 for Beneficiaries, subject to the following conditions:

1. For pensions **effective on or after January 1, 1987**, the Employee must have worked a minimum of 500 hours in Covered Employment in the 12-month period immediately preceding his Annuity Starting Date.
2. For pensions **effective on or after September 1, 1987**, the supplemental benefit is subject to the reduction factor for the Husband-and-Wife Pension.

## PAYMENT METHODS

When you make the decision to retire, you will be asked to choose how you want your pension to be paid. The forms of payment available to you are described below. Regardless of which form you choose, once payments begin, you cannot change that form of payment. **Important:** If you are married on the date you retire, the Fund will automatically pay your retirement benefits in the form of a Husband-and-Wife Pension, unless you elect to waive that form of benefit *and* your Spouse consents to that election in writing, before a Notary Public or an authorized Fund employee. If you are not married, you and your Spouse are legally separated, or you cannot locate your Spouse, you must certify that fact in writing before a Notary Public or authorized Fund employee in order for the Fund to pay your monthly pension without the Husband-and-Wife actuarial reduction. (Additional documentation may be required in some cases.)

### STANDARD PAYMENT METHODS

#### Single-Life Pension

*(Refer to Section 8.01, page 100 and Section 10.05, page 105)*

If you are single, or if you are married but elect to waive a Husband-and-Wife Pension and your Spouse consents to that election in writing, you will receive monthly pension payments for as long as you live. If you die before receiving 36 monthly payments, the balance of the 36 payments will be made to your surviving Spouse. If there is no Spouse, no further benefits are payable.

#### 50% Husband-and-Wife Pension

*(Refer to Article 7, page 94)*

If you are married, you will automatically receive a Husband-and-Wife Pension unless you elect to waive that form of payment and your Spouse consents to that election in writing. The Husband-and-Wife Pension may be waived any time *before* pension payments begin.

This form of payment provides fixed, monthly payments for your lifetime and, after your death, continues to provide a lifetime pension to your surviving Spouse which will be equal to one half (50%) of the amount you were receiving. The amount you will receive will be 95% of a Regular, Early Retirement or Service Pension (whichever applies) if you and your Spouse are the same age. If your Spouse is older, the 95% factor is increased by 0.4% for each full year your Spouse is older than you, up to a maximum of 99%. If your Spouse is younger, the 95% factor is decreased by 0.4% for each full year your Spouse is younger than you. If you are receiving a Disability Pension, a different formula will be used to calculate your Husband-and-Wife Pension.

*Effective for retirements on or after September 1, 1996:* If the Spouse dies before the Pensioner receiving a Husband-and-Wife Pension, the Pensioner's monthly benefit will increase to the amount that would have been payable had the Pensioner not elected the Husband-and-Wife Pension. The increased, monthly

benefit becomes payable on the first of the month following the death of the Spouse. This “pop-up” feature is offered at no additional charge to Pensioners electing the Husband-and-Wife Pension.

## **Some Important Facts Concerning the Husband-and-Wife Pension**

*(Refer to Sections 7.04 and 7.08, pages 95 and 98, respectively)*

1. The Husband-and-Wife Pension will not be paid to the surviving Spouse if the Pensioner and Spouse have not been married to each other for at least one year at the time of the Pensioner’s death.
2. The Husband-and-Wife Pension, once payable, cannot be revoked or the Pensioner’s benefits increased because of divorce.
3. The rights of a former Spouse to any share of a Participant’s pension, as set forth under a Qualified Domestic Relations Order, takes precedence over any claims of the Participant’s Spouse at the time of retirement or death.
4. The Husband-and-Wife Pension payable to the surviving Spouse of a Pensioner receiving a Disability Pension will not begin prior to the date he would have attained age 55, had he lived.

## **OPTIONAL PAYMENT METHODS**

### **Husband-and-Wife Pension**

*(Refer to Section 7.07, page 97)*

Effective for retirements on or after September 1, 1999, you may elect either the 75% or 100% Husband-and-Wife Pension payment form as an alternative to the 50% Husband-and-Wife Pension. These optional payment forms are described below:

- 75% Husband-and-Wife Pension  
This form of payment provides fixed, monthly payments for your lifetime and, after your death, continues to provide a lifetime pension to your surviving Spouse which is equal to 75% of the amount you were receiving. The amount you will receive will be 91% of a Regular, Early Retirement or Service Pension (whichever applies) if you and your Spouse are the same age. If your Spouse is older, the 91% factor is increased by 0.4% for each full year your Spouse is older than you, up to a maximum of 99%. If your Spouse is younger, the 91% factor is decreased by 0.4% for each full year your Spouse is younger than you.
- 100% Husband-and-Wife Pension  
This form of payment provides fixed, monthly payments for your lifetime and, after your death, continues to provide a lifetime pension to your surviving Spouse which is equal to 100% of the amount you were receiving. The amount you will receive will be 87% of a Regular, Early Retirement or Service Pension (whichever applies) if you and your Spouse are the same age. If your Spouse is older, the 87% factor is increased by 0.4% for each full year your Spouse is older

than you, up to a maximum of 99%. If your Spouse is younger, the 87% factor is decreased by 0.4% for each full year your Spouse is younger than you.

If you are receiving a Disability Pension, a different formula will be used to calculate your Husband-and-Wife Pension.

### **Level Income Option**

*(Refer to Article 9, page 101)*

This Plan makes it possible for a Pensioner receiving an Early Retirement, Service, Pro-Rata (with at least 10 years of Northern California Credited Service), or Deferred Vested Pension to receive a higher monthly pension from the Plan until age 62 when Social Security benefits may begin. Once Social Security benefits begin, \$100.00 per month is deducted from the pension amount.

The chart shown in Section 9.02 on page 101 of the Plan Rules and Regulations illustrates the increases in the monthly pension that are payable at different retirement ages. The Level Income Option must be elected before pension payments begin. Once payments begin, you cannot change that form of payment.

If a Pensioner receiving payments under the Level Income Option dies before receiving an amount equal to the total amount which would have been paid had the Level Income Option not been elected, his surviving Spouse will receive any balance due in monthly installments. The total paid to the Pensioner will be subtracted from the amount that would have been payable under the Three-Year Guarantee of Benefits provision. Any balance will be paid to the surviving Spouse (refer to Section 8.01, page 100 of the Plan Rules and Regulations).

**Note: The Level Income Option is not available to Pensioners who are receiving a Husband-and-Wife Pension.**

### **Lump-Sum Payment (In Lieu of Monthly Benefit)**

*(Refer to Section 10.09, page 108)*

If the Actuarial Present Value of the monthly benefit is \$3,500 or less, the Plan will pay to you or your surviving Spouse the lump sum amount of the Actuarial Present Value in lieu of the monthly benefit.

# **FEDERAL INCOME TAX WITHHOLDING, ROLLOVER DISTRIBUTIONS, STATE INCOME TAX WITHHOLDING AND NOTICE OF EARLY DISTRIBUTION PENALTY**

## **Federal Income Tax Withholding**

Federal income taxes will be withheld from any benefits paid by the Plan which exceed the limits established by the Internal Revenue Service, unless you elect *not* to have income taxes withheld. You will be given detailed information and the opportunity to elect or reject withholding when you apply for benefits.

## **Eligible Rollover Distributions**

In addition, beginning January 1, 1993, a federal law called the 1992 Unemployment Compensation Amendment Act requires that if you or your Spouse are receiving certain types of benefits from the Plan, 20% must be withheld for income tax purposes. These types of benefits are: a lump sum, installment payments over a period of less than 10 years, and death benefit payouts. However, these types of benefits are also eligible for a “rollover” into an IRA or other tax-exempt retirement plan. If you rollover your benefits, withholding is not mandatory.

## **State Income Tax Withholding**

State income taxes will be withheld from any benefits paid by the Plan which exceed the limits established by the Franchise Tax Board, unless you elect *not* to have income taxes withheld. You will be given detailed information and the opportunity to elect or reject withholding when you apply for benefits.

## **Notice of Early Distribution Penalty**

The law known as the Tax Reform Act of 1986 places a 10% penalty upon *early* distributions from the Pension Plan, effective January 1, 1987. This penalty is in addition to any income tax due. Unless an Employee meets the requirements of the exceptions shown below, any lump sum payment of his pension following a separation from service which occurs before the Participant reaches age 59½ will be subject to this penalty.

The following distributions made prior to age 59½ are exempt from the early distribution penalty:

1. payment in the form of a life annuity (including a joint and survivor annuity) following separation from service;

2. payment to an Employee who is at least age 55 made in accordance with the Plan's early retirement provisions;
3. payment made due to an Employee's death or disability, or to an alternate payee as decreed by a Qualified Domestic Relations Order; or
4. payment made to an Employee used to pay medical expenses otherwise deductible under Internal Revenue Code Section 213.

If you have any questions concerning income taxes, you should seek the advice of a tax professional. If you have any questions about this information in general, you may contact the Fund Office at (707) 864-3300 or toll-free at 1-888-245-5005.

# SURVIVING SPOUSE BENEFITS

## Surviving Spouse Pension (Pre-retirement)

*(Refer to Section 7.05, page 95)*

Benefits for the surviving Spouse of a Vested Participant who dies prior to retiring are automatically in effect for every active Employee and every Participant who has a separation from service, regardless of age and who:

1. has a vested right to a current or deferred benefit under the Pension Plan;
2. has had at least one hour of service in Covered Employment since September 2, 1974; and
3. dies after August 22, 1984, but before starting to receive retirement benefits from the Fund.

Except to the extent provided in a Qualified Domestic Relations Order, the Surviving Spouse Pension is payable only if you are married on the day you die, *and* you have been married to that same person for at least one year. Your surviving Spouse will receive the Surviving Spouse Pension that would have been paid if you had retired with a 50% Husband-and-Wife Pension on the day before your death. In other words, the survivor benefit will be one half of the pension benefit you had earned by the time of your death, actuarially adjusted for the Husband-and-Wife feature and for Early Retirement (if payments start before you would have reached age 65).

If you die after reaching your earliest retirement age, (age 55 with at least 10 Years of Credited Service or age 65 with at least 5 Years of Credited Service without a Permanent Break in Service), or you qualify for a Service Pension, your Spouse will be paid a Surviving Spouse Pension as though you had retired on a 50% Husband-and-Wife Pension on the day before your death. If you die before attaining your earliest retirement age, the Surviving Spouse Pension will be based on whatever pension you had earned by the date of your death. Payments, however, will not begin until the earliest date you would have been eligible to retire had you lived. For example, if you had 15 years of service and die at age 45, your Spouse's pension payments will start 10 years later, when you would have reached age 55, your earliest retirement age.

There is no charge to you or your Spouse for this pre-retirement coverage, and no extra actuarial adjustment is made in your pension on account of it.

Several general reminders:

- As with surviving Spouse coverage after you retire, the rights of a former Spouse under a Qualified Domestic Relations Order may reduce or eliminate pre-retirement death benefits for the person to whom you are married at the time you die.

- Your surviving Spouse must notify the Fund Office of your death and provide whatever documents are needed in addition to the formal application for benefits, before the Surviving Spouse Pension will be paid.
- These rules apply only to death benefits under the Pension Plan. They do not affect any job-related insurance coverage or other retirement plans.

***Important:*** The Surviving Spouse Pension *does not apply* unless you have attained Vested Status under this Plan.

### **Pensioner's Lump-Sum Death Benefit**

*(Refer to Section 8.02, page 100)*

If a Pensioner dies on or after August 1, 1995, a Lump-Sum Death Benefit will be paid to the Pensioner's surviving Spouse in an amount equal to \$100.00 for each full Benefit Unit (or a proportionate amount for fractions), that the Pensioner had earned under the Plan at the time of retirement. If there is no surviving Spouse, the benefit will be paid to one or more of the Pensioner's surviving relatives in the following order:

- a. Child(ren)
- b. Parent(s)
- c. Sibling(s)

If the Pensioner is not survived by any of the preceding relatives, the Fund will reimburse the individual responsible for the Pensioner's funeral expenses, up to the amount of the Lump-Sum Death Benefit. Any remaining portion will be paid to the estate of the Pensioner.

If a Lump-Sum Death Benefit is not payable under any of the above circumstances, it will be paid to the estate of the Pensioner.

## QUALIFIED DOMESTIC RELATIONS ORDERS

In general, except to the extent required under a Qualified Domestic Relations Order (QDRO), your benefits under the Plan cannot be claimed by any creditor, nor can you, your Spouse or Beneficiary transfer any rights to these benefits to any other person or entity.

Except to the extent provided in a Qualified Domestic Relations Order, the person to whom an Employee is married when the Employee retires with a Husband-and-Wife Pension remains entitled to the survivor benefit, even if the couple subsequently divorces.

With the exception of certain orders entered prior to January 1, 1985, the Fund is only required to comply with a Qualified Domestic Relations Order as defined in the Retirement Equity Act (29 U.S.C. §1056(d)) and Internal Revenue Code §414(p). Under that definition, the order must be a judgment, decree or order made pursuant to state law relating to child or spousal support, or marital property rights directing that all or part of a Participant's benefit be paid to an alternate payee. The order must clearly specify:

1. the names and last known mailing addresses (if any) of the Participant and each alternate payee covered by the order;
2. the amount or percentage of the Participant's benefit to be paid to each alternate payee, or the manner in which the amount or percentage is to be determined;
3. the number of payments or period to which the order applies; and
4. each plan to which the order applies.

The order cannot require the Plan:

1. to provide any type or form of benefit, or any option, not otherwise provided under the Plan, except as permitted by the Retirement Equity Act; or
2. to provide increased benefits (determined on the basis of actuarial value); or
3. to pay benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be qualified.

Domestic Relations Orders must be approved by the Board of Trustees and should be sent to the following address:

Cement Masons Pension Trust Fund for Northern California  
220 Campus Lane  
Suisun, California 94585-1499

If you are considering obtaining a QDRO, your attorney should review the appropriate sections of the law and prepare a Domestic Relations Order to fit your particular situation. It will save time and expense if you first submit your Domestic Relations Order to the plan administrator in draft form before it is signed by a Judge. The plan administrator will review the Domestic Relations Order, advise you of any changes that may be necessary and let you know, in advance, whether the Board of Trustees will find the Domestic Relations Order to be “qualified.”

The Plan’s written procedures for the handling of a Domestic Relations Order may be obtained without charge from the plan administrator.

# RETIREMENT, PROHIBITED EMPLOYMENT AND SUSPENSION OF PENSION PAYMENTS

*(Refer to Section 10.07, page 107 and Sections 10.11 – 10.14, pages 109-113)*

## Retirement

In order to receive monthly pension payments, you must be retired, and must refrain from any employment or self-employment as described below.

## Prohibited Employment

### 1. Prohibited Employment Before Normal Retirement Age (Age 65)

To be and remain retired **before you reach age 65**, you must withdraw completely and refrain from:

- a. any employment covered by the Collective Bargaining Agreement with the District Council of Plasterers and Cement Masons of Northern California or an affiliated local union; or
- b. any employment for the Northern California Cement Masons Joint Apprenticeship and Training Committee, the District Council or an affiliated local union; or
- c. any employment or self-employment for wages or profit in the Building and Construction Industry in the geographical jurisdiction of the Plan or a Related Plan with which the Fund has a reciprocal agreement.

### 2. Prohibited Employment After Normal Retirement Age and Before Required Beginning Date

To be and remain retired **after you reach age 65 and before your Required Beginning Date**, you must refrain from employment or self-employment for wages or profit of 40 hours or more during a calendar month:

- a. in an industry in which employees were employed and accrued benefits under the Plan as a result of their employment at the time your pension commenced (or would have commenced if you had you not continued working); and
- b. in a trade or craft in which you were employed at any time under the Plan; and
- c. in the State of California.

### **3. Employment After the Required Beginning Date**

Once you attain your Required Beginning Date, which occurs April 1 following the calendar year in which you become age 70½, you can engage in any type of employment, anywhere, and still be considered retired.

#### **Suspension of Benefits**

If you are employed or self-employed in work described under “Prohibited Employment Before Normal Retirement Age (Age 65),” your pension payments will be suspended and permanently withheld for a period equal to the number of months you were employed or self-employed. In addition, your pension payments will be suspended for the 3-month period immediately following that period, unless you were receiving a disability pension prior to that employment.

If you are employed or self-employed in work described under “Prohibited Employment After Normal Retirement Age and Before Required Beginning Date,” your pension payments will be suspended and permanently withheld for each calendar month you were employed or self-employed.

After you attain your Required Beginning Date (see Section 1.26, page 64), your pension payments cannot be suspended, regardless of whether you are working or not.

#### **Notice**

Within 15 days after starting any employment described in either “Prohibited Employment Before Normal Retirement Age (Age 65)” or “Prohibited Employment After Normal Retirement Age and Before Required Beginning Date,” you must notify the Plan of that employment, in writing, sent by first class mail addressed to the Plan at 220 Campus Lane, Suisun, California 94585 or at another address as may be furnished to you by the Plan. This written notice must be given regardless of the number of hours of work. You must also notify the Plan, in writing, at the above address when your prohibited employment has ended. The suspension of your pension payments may continue until the notice is filed with the Plan. If you fail to comply with these notice requirements, the Board may act on the **PRESUMPTIONS** provided in Section 10.12.d.(3), page 111 of the Plan Rules and Regulations and may take any other action as is provided in the Plan.

#### **Presumptions**

The Plan applies the following presumptions when a Pensioner works in prohibited employment:

Whenever the Board becomes aware that you are working or have worked in prohibited employment in any month after Normal Retirement Age (age 65), and have failed to give timely notice to the Plan of your employment, the Board may, unless it is unreasonable under the circumstances to do so, act on the basis of a rebuttable presumption that you worked at least 40 hours in that month and any subsequent month before giving notice in writing to the Board that you have ceased prohibited employment. You may

overcome this presumption by establishing that your work was not an appropriate basis for the suspension of your benefits.

In addition, whenever the Board becomes aware that you are working or have worked in prohibited employment for any number of hours for an employer at a construction site and you have failed to give timely notice to the Plan of employment, the Board may, unless it is unreasonable under the circumstances to do so, act on the basis of a rebuttable presumption that you engaged in that employment with that same employer in work at that site for as long as that employer performed work at that construction site. You may overcome this presumption by establishing that your work was not an appropriate basis for the suspension of benefits.

The effect of these presumptions is that the Board may implement the suspension of benefit rules without verifying that you exceeded the number of hours for the period involved. Of course, you may request a review of the suspension of your pension payments as described in Sections 10.12.a. and b., page 110 of the Plan Rules and Regulations. A request for review should be made in accordance with the Appeal Procedures described on page 46.

## **Verification**

As a condition to receiving future benefit payments, you may be required to submit evidence verifying that you are unemployed or that any employment in which you are engaged is not prohibited by the Plan.

## **Retirement on Disability Pension**

If a Disability Pensioner younger than age 65 is no longer eligible for a Social Security Disability benefit (or its equivalent) or recovers from his disability, he must report this to the Fund Office within 21 days after the date he receives notice from the Social Security Administration (or its equivalent) of his loss of eligibility or his recovery, as the case may be, in order to avoid any loss of benefits when he retires again.

Once a Disability Pensioner reaches age 65, his pension will continue for the rest of his life, as long as he remains retired, even if he recovers from his disability.

## **Additional Credits after Return to Covered Employment**

If you return to work in Covered Employment, you will receive additional pension benefits based on the additional benefits you earned when you retire again. The amount of additional pension benefits will be determined in accordance with Section 10.07, page 107 of the Plan Rules and Regulations.

## **Recovery of Overpayments**

Overpayments of benefits made for any month or months during which you engaged in prohibited employment will be deducted from benefits otherwise payable subsequent to the period of suspension. In the case of a Pensioner who is over age 65, the deduction will be 100% of the initial resumption payment

or the full suspendible amount, whichever is less; thereafter, the deduction will not exceed 25% of that month's total benefit payment which would have been due but for the deduction.

If you die before the Plan has recouped the amount, deductions will be made from any benefits payable to your surviving Spouse or Beneficiary, subject to, in the case of Pensioners over age 65, a 25% limit on the rate of deductions on any benefit payments after the first payment.

## HOW TO APPLY FOR BENEFITS AND ANNUITY STARTING DATES

(Refer to Sections 10.01, 10.05, 10.08 and 10.11, pages 103, 105, 108, and 109, respectively)

### Application for a Pension

The first step is to request a pension application from your Local Union or the Fund Office. Complete, sign and mail your application to the Fund Office *before* the month you want your pension to start. (In most cases, at least 3 months are required to process an application.) Along with your application, you must send proof of your date of birth, your Spouse's date of birth and your marriage certificate.

If you are otherwise eligible for a pension, it becomes effective on the *first day of the month* after a completed pension application is filed, or on the *first day of the first month* after you have stopped working and have retired, whichever is later. For example, if you want your pension to be effective on July 1, your application must be received at the Fund Office by June 30 and you must have stopped working on that date.

### Disability Pension

If you are applying for a Disability Pension, you should indicate on your application whether you have applied for a Social Security Disability benefit. If you are awarded a Social Security Disability benefit (or its equivalent), you must submit proof of your entitlement to the Fund Office. You should submit this notice within 12 months after you receive it so that your Disability Pension may begin as soon as possible. If you are denied a Social Security Disability benefit, you must provide a copy of the Denial Notice and submit a doctor's statement certifying that you are unable to perform work in the Building and Construction Industry. You must also submit to an independent medical examination made by a doctor selected by the Board of Trustees.

Disability Pension payments may begin with the seventh calendar month of disability, if you file an application before that date, or file your notice of entitlement to a Social Security Disability benefit or its equivalent no later than 12 months from the date shown on the Social Security notice. Otherwise, payments will not begin until the first of the month after you file the notice of entitlement or the Disability Pension application with the Fund Office.

### Older Than Age 65

An Employee eligible for a Regular Pension will receive pension payments for each complete calendar month between Normal Retirement Age (age 65) and his Annuity Starting Date as long as he did not work in prohibited employment. These pension payments will be made in accordance with Section 10.08, page 108 of the Plan Rules and Regulations.

An Employee may delay receiving benefits, provided the election does not postpone the payment of benefits beyond April 1 following the calendar year in which the Employee reaches age 70½, the Required Beginning Date. This election to postpone benefit payments must be in writing and filed with the Board of Trustees.

If a Pensioner starts receiving a pension and subsequently submits evidence entitling him to additional accrued benefits, an increase in his pension, if any, will become effective:

1. back to the effective date of his pension, if the evidence was submitted within one year after the first pension payment was made to him, or
2. the first of the month following the date evidence of additional accrued benefits is submitted, if more than one year has passed after his first pension payment was made.

If an Employee, previously denied a pension, submits evidence of entitlement to additional Credited Service and/or Benefit Units which qualifies him for a pension, his pension will become effective:

1. back to the date determined by his first application for a pension, if the evidence of additional Credited Service and/or Benefit Units was submitted within one year after he was denied a pension, or
2. on the first of the month following submission of the new evidence, if it was filed more than one year after he was denied a pension.

### **Application for Surviving Spouse Pension or Pre-Retirement Death Benefit**

An eligible Employee's surviving Spouse must file an application with the Fund Office for the Surviving Spouse Pension on a form furnished by the Fund. An application should be obtained from the Fund Office or the Local Union Office immediately following the Employee's death so that payment may begin as soon as possible.

## **APPEAL PROCEDURES**

*(Refer to Section 10.04, page 104)*

If your application for benefits is made and you receive notice that your claim has been denied, or if you believe you did not receive the full amount of benefits to which you may be entitled, you have the right to petition the Board of Trustees to review the action taken on your application. The petition must be in writing and should state clearly the reasons why your claim to benefits should not be denied or should be increased. It must be received in the Fund Office within 60 days after you receive the notice denying your benefits or informing you of the amount of the benefits awarded to you.

A decision will be made by the Board within 60 days after receipt of the petition, unless special circumstances exist (such as a petition for a hearing) which require an extension of time for processing. In that case, the decision will be made available as soon as possible, but not later than 120 days after receipt of the petition for review.

This procedure must be followed by anyone who believes he should not have been denied a benefit; believes his benefit should be greater; or who has any other claim against the Fund.

## PLAN TERMINATION

The Board of Trustees intends to continue this Plan indefinitely. If, for any reason, the Plan should be terminated, you will have a 100% vested interest in your regular retirement benefit to the extent benefits are funded by the assets in the Plan at the time of Plan termination.

Your pension benefits under this multiemployer plan are insured by the Pension Benefit Guaranty Corporation (PBGC), a federal insurance agency. A multiemployer plan is a collectively bargained pension arrangement involving 2 or more unrelated employers, usually in a common industry.

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 \$5 of the monthly benefit accrual rate and (2) 75% of the next \$15. The PBGC's maximum guarantee limit is \$16.25 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 \$5,850.

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 (202) 326-4000 (not a toll-free number). TTY/TDD users may call the federal relay service toll-free at 1-800-877-8339 and ask to be connected to (202) 326-4000. Additional information about the PBGC's pension program is available through the PBGC's Web site on the Internet at <http://www.pbgc.gov>.

## **SOME QUESTIONS AND ANSWERS**

### **Who administers the Plan?**

A **Board of Trustees** consisting of an equal number of Employee and Employer representatives, in accordance with the law.

### **Who is covered by the Plan?**

Only Employees of Contributing Employers who work under the Collective Bargaining Agreement with the District Council of Plasterers and Cement Masons of Northern California or one of its local unions or who perform work for the Northern California Cement Masons Joint Apprenticeship and Training Committee, the District Council, or a local union for which Contributions are made to the Fund. The Plan also covers owners, partners and supervisory personnel above the rank of foreman to the extent permitted by the Collective Bargaining Agreement and by law.

### **Do the pensions provided by this Plan affect Social Security benefits in any way?**

No. The benefits payable under this Plan are in addition to benefits paid under Social Security.

### **May pension benefits be assigned?**

No, except to the extent provided in a Qualified Domestic Relations Order.

### **Are there any deductions from pension benefits?**

Federal and state income tax withholding may be deducted as described on page 34. In addition, if optional health and welfare coverage is elected, the appropriate premium will be deducted from monthly pension benefits.

### **If benefits are denied, may the applicant appeal the denial?**

Yes. Any applicant who is denied a benefit has the right to appeal to the Board of Trustees regarding the denial within 60 days after he receives notice of the denial. The rules for filing an appeal are described under the **APPEAL PROCEDURES** on page 46.

### **Are Plan documents available to Participants and Beneficiaries?**

Yes. Copies of the Trust Agreement, Plan Rules and Regulations, Plan Amendments, the Summary Plan Description, statements of assets and liabilities and income and expenses of the Plan, and a summary of the annual report are available at the Fund Office during regular business hours and, upon written request,

will be furnished by mail. In addition, copies of the collective bargaining agreements and a full annual report (Form 5500) are available for inspection at the Fund Office during regular business hours and, upon written request, will be furnished by mail upon payment of reasonable charges for copying the report. You should find out what those charges will be before writing and requesting copies of these documents.

**INFORMATION REQUIRED  
BY THE  
EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974**

**CEMENT MASONS PENSION TRUST FUND  
FOR NORTHERN CALIFORNIA**

1. The Plan is administered and maintained by a Joint Board of Trustees at the following address:

Board of Trustees  
Cement Masons Pension Trust Fund for Northern California  
220 Campus Lane  
Suisun, California 94585  
(707) 864-3300

The above is the name, address and telephone number of the Plan Administrator.

2. The Fund Office will provide any Plan Participant or Beneficiary, upon written request, information as to whether a particular employer is contributing to this Fund with respect to the work of Participants in the Fund and if the employer is a contributor, the employer's address.
3. The Employer Identification Number (EIN) issued to the Board of Trustees by the Internal Revenue Service is 94-6277669. The Plan Number is 001.
4. The Plan is a defined benefit plan.
5. The person designated as agent for the service of legal process is:

Mr. Marvin D. Johnson, Fund Manager  
Cement Masons Pension Trust Fund for Northern California  
220 Campus Lane  
Suisun, California 94585

The service of legal process may also be made upon a Plan Trustee or the Plan Administrator.

6. The names, titles and business addresses of the Trustees are:

**Employee Trustees**

Mr. Ohnie Oakley, Chairman  
Cement Masons Local 400  
4044 North Freeway Blvd. #120  
Sacramento, CA 95834-6170

Mr. Derrel Hardy  
Cement Masons Local Union 300 Area 429  
101 College Avenue, Suite 1-A  
Modesto, CA 95350

Mr. Steven Scott  
Cement Masons Local Union 300  
703 South B Street, Room 200  
San Mateo, CA 94401

Mr. Karl Bik  
Cement Masons Local Union 400 Area 582  
4044 North Freeway Blvd. #120  
Sacramento, CA 95834-6170

**Employer Trustees**

Mr. Edward T. Bergo, Co-Chairman  
C. Aparicio Cement Contractor, Inc.  
506 Phelan Avenue  
San Jose, CA 95112

Mr. Thomas R. Estrada  
220 Campus Lane  
Suisun, CA 94585

Mr. George R. Wilson  
220 Campus Lane  
Suisun, CA 94585

Mrs. Catherine Escobar  
Escobar & Escobar Concrete Const.  
P.O. Box 3606  
Salinas, CA 93912

7. This program is maintained pursuant to various collective bargaining agreements. Copies of the collective bargaining agreements are available for inspection at the Fund Office during regular business hours and upon written request will be furnished by mail. A copy of any collective bargaining agreement which provides for Contributions to this Fund will also be available for inspection within 10 calendar days after written request at any of the local union offices or at the office of any Contributing Employer to which at least 50 Plan Participants report each day.
8. The Plan's requirements with respect to eligibility for Participation and benefits are shown in Articles 2, 3, 4, 5, 6 and 8 of the Pension Plan Rules and Regulations.
9. The Normal Retirement Age is age 65 or, if later, the age of the participant after the fifth anniversary of his participation. (Participation before a Permanent Break in Service is not counted.)
10. The provisions of the Husband-and-Wife Pension which provides a lifetime pension for a surviving Spouse are set forth in Article 7 of the Pension Plan Rules and Regulations.

11. Description of circumstances which may result in disqualification, ineligibility, denial, suspension or loss of benefits.

- a. A Participant incurs a Permanent Break in Service and his previously accumulated Credited Service, Benefit Units and accrued benefits were canceled if, after February 1, 1959 and before February 1, 1976, he did not earn one quarter of Credited Service in any period of 2 consecutive Plan Credit Years.

On or after February 1, 1976 and before February 1, 1985, a Participant incurs a Permanent Break in Service if the number of consecutive Plan Credit Years (when they exceed 2) in which he failed to complete 300 hours in Covered Employment equals or exceeds the number of full years of Credited Service which he had previously accumulated.

On or after February 1, 1985, a Participant incurs a Permanent Break in Service if the number of consecutive Plan Credit Years (when they exceed 5) in which he fails to complete 300 hours in Covered Employment equals or exceeds the number of full years of Credited Service which he has previously accumulated.

These time requirements can be extended by certain grace periods upon application by the Participant.

*(Refer to Section 6.06 of the Pension Plan Rules and Regulations for a complete description.)*

- b. A Separation from Covered Employment results in limiting the monthly amount payable for accrued benefits earned prior to the Separation to the amount payable by the Plan at the end of the Separation period.

A Participant incurred a Separation from Covered Employment prior to February 1, 1976, if he failed to earn one quarter of Credited Future Service in any period of 2 consecutive Plan Credit Years. After February 1, 1976, a Participant incurs a Separation from Covered Employment at the end of any 2 consecutive Plan Credit Year periods in which he does not work at least 300 hours in Covered Employment in at least one of the 2 Plan Credit Years.

*(Refer to Sections 3.03, 3.07 and 6.07 of the Pension Plan Rules and Regulations for a complete description.)*

- c. If a Disability Pensioner who is under age 65 loses entitlement to his Social Security Disability benefit or if he was awarded a Disability Pension in the absence of a Social Security benefit (or its equivalent), and otherwise recovers from his disability, he must inform the Board of Trustees in writing within 21 days of the date he receives notice of the loss from the Social Security Administration or otherwise recovers from his disability. If he fails to provide the notice, he will, upon subsequent retirement prior to Normal Retirement Age, be disqualified for benefits for up

to 12 months following the date of his retirement plus any additional months during which he received disability pension payments to which he was not entitled.

*(Refer to Section 3.12 of the Pension Plan Rules and Regulations for a complete description.)*

- d. If a Pensioner works in employment prohibited by the Plan, he must inform the Board of Trustees in writing within 15 days after he starts work, and his pension payments will be suspended and permanently withheld for the periods and under the other conditions specified in the Plan.

*(Refer to Section 10.12 of the Pension Plan Rules and Regulations for a complete description.)*

- e. A Pensioner is not eligible to receive a pension until the first day of the month following the date on which he filed an application for a pension except as described in Section 10.05 of the Plan.
- f. To be eligible for benefits under the Plan, Participants must meet the eligibility requirements specified in the Plan.

*(Refer to Articles 3, 4, 5 and 8 of the Pension Plan Rules and Regulations for a complete description.)*

- g. Pension payments may be suspended for failure to comply with a request from the Fund for information promptly, completely and in good faith.

*(Refer to Section 10.02 of the Pension Plan Rules and Regulations for a complete description.)*

- h. Any overpayments of benefits may be offset, recouped and recovered from payments due or thereafter becoming due a Pensioner or his Beneficiary or surviving Spouse in installments and to the extent as the Board determines in accordance with applicable law.

*(Refer to Section 10.18 of the Pension Plan Rules and Regulations for a complete description.)*

- i. A qualified domestic relations order may require that the Plan pay all or a portion of a Participant's benefits to an Alternate Payee named in the order.

- 12. Benefits under this Plan are insured by the Pension Benefit Guaranty Corporation (PBGC) if the Plan terminates. Generally, the PBGC guarantees most vested normal age retirement benefits, early retirement benefits, and certain disability and survivor's pensions. However, PBGC does not guarantee all types of benefits under covered plans, and the amount of benefit protection is subject to certain limitations.

The PBGC guarantees vested benefits at the level in effect on the date of plan termination. However, if a plan has been in effect less than 5 years before it terminates, or if benefits have been increased within the 5 years before plan termination, the whole amount of the plan's vested benefits or the

benefit increase may not be guaranteed. In addition, there is a ceiling on the amount of monthly benefit that PBGC guarantees, which is adjusted periodically,

For more information on the PBGC insurance protection and its limitations, ask your Plan Administrator or the PBGC. Inquiries to the PBGC should be addressed to the Office of Communications, PBGC, 2020 K Street NW, Washington, DC 20006. The PBGC Office of Communications may also be reached by calling (202) 778-8840.

13. The Plan provisions for determining years of service, eligibility to participate, vesting, breaks in service and benefit accrual are explained in Articles 2, 3 and 6 of the Pension Plan Rules and Regulations.

14. Source of financing of the plan and identity of any organization through which benefits are provided:

Benefits are provided directly from the Fund's assets which are accumulated under the provisions of the Trust Agreement and held in custody by the Corporate Co-Trustee, which currently is Union Bank of California.

15. The Board of Trustees may terminate the Plan pursuant to its authority under Section 12.04 of the Plan. Upon termination, no further benefits can be earned by Participants, but all benefits earned to the date of termination will be vested to the extent funded. In no event will the termination of the Plan or Trust result in a reversion of any assets to any Contributing Employer.

All Contributions to the Plan are made by Individual Employers in accordance with collective bargaining agreements in force with the District Council of Plasterers and Cement Masons of Northern California or any of its affiliated local unions or by the Northern California Cement Masons Joint Apprenticeship and Training Committee, the District Council or an affiliated Local Union with respect to certain of their employees pursuant to Board regulations.

Collective bargaining agreements require Contributions to the Fund at fixed rates per hour.

The Plan Trust Agreement provides that Individual Employers will not be required to make any further payments or Contributions to the cost of operation of the Fund or of the Plan, except as may be provided in the collective bargaining agreements, Subscriber's Agreement and the Trust Agreement.

16. The date of the end of the Plan Year is August 31.

## 17. Claims and Appeal Procedures

The procedure for applying for pensions is described on page 103.

If you want to appeal a denial of a claim in whole or in part, you should file a written petition for a review within 60 days after you receive notice of the denial of the claim. If the petition is not filed within the required 60-day period the right to a review of the denial is waived, provided that the Board may relieve a claimant from any waiver for good cause if application for relief is made within one year.

A decision will be made by the Board of Trustees within 60 days after receipt of the petition, unless there are special circumstances which require an extension of time for processing. In that case, the decision will be made available as soon as possible, but not later than 120 days after the request for the review of the denial.

This procedure must be followed by anyone who believes he was improperly denied a benefit.

# **STATEMENT OF RIGHTS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974**

As a Participant in the Cement Masons Pension Trust Fund for Northern California, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all Plan Participants are entitled to:

## **Receive Information About Your Plan and Benefits**

Examine, 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, 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 Pension and Welfare Benefit 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 5500 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 or, if later, your age on the fifth anniversary of your participation) 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 relating 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, 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 Pension and Welfare Benefits Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Pension and Welfare Benefits 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.

# CEMENT MASONS PENSION TRUST FUND FOR NORTHERN CALIFORNIA

## PENSION PLAN AMENDED AND RESTATED EFFECTIVE SEPTEMBER 1, 2001

*(Including Amendments No. 1-9)*

### ARTICLE 1. DEFINITIONS

Unless the context or subject matter otherwise requires, the following definitions will govern in the Plan:

**Section 1.01. “Actuarial Equivalent,”** unless otherwise specified in the Plan, means:

- a. For determinations as of any Annuity Starting Date that is on or after September 1, 2000, a benefit that has the same actuarial value as another benefit based on the “applicable mortality table” and the “applicable interest rate.” For this purpose:
  - (1) The “applicable mortality table” for a calendar year is the table prescribed for use in that year in Regulations under Code Section 417(e) and, which until modified or superseded, is the table set forth in Revenue Ruling 95-6, and
  - (2) The “applicable interest rate” for a calendar year is the annual rate of interest on 30-year Treasury securities as specified by the commissioner of the Internal Revenue Service for the November immediately preceding the calendar year that contains the Annuity Starting Date.
- b. For Annuity Starting Dates prior to September 1, 2000, a benefit that has the same actuarial value as another benefit is determined on the following basis:
  - (1) The interest rate assumption will be the interest rate prescribed by the Pension Benefit Guaranty Corporation for valuing annuities under single employer plans that terminate after November 30, 1980 without Notice of Sufficiency during the first day of the calendar year in which the benefit is valued.
  - (2) For payment where the Participant is not disabled as defined in Section 3.08, the mortality assumption will be the 1971 Group Annuity Mortality Table weighted as follows:
    - (a) for a Participant’s benefit, 100% male and 0% female;

- (b) for the benefit of a Participant's Spouse or former Spouse, 0% male and 100% female; and
  - (c) in any other case, 50% male and 50% female.
- (3) For payment where the Participant is disabled as defined in Section 3.08, the mortality assumption will be the PBGC Mortality Tables for Disabled Lives Eligible for Social Security Disability Benefits weighted according to (2) above.

**Section 1.02. "Annuity Starting Date"** for a Participant means the first day of the first calendar month starting after the Participant has fulfilled all of the conditions for entitlement to benefits and after the later of:

- a. the first day of the month after submission by the Participant of a completed application for benefits, or
- b. 30 days after the Plan advises the Participant of the available benefit payment options, unless
  - (1) the benefit is being paid as a Husband-and-Wife Pension at or after the Participant's Normal Retirement Age, or
  - (2) the benefit is being paid out automatically as a lump sum under Section 10.09, or
  - (3) the Participant and Spouse (if any) consent in writing to the commencement of payments before the end of that 30-day period.

The Annuity Starting Date will not be later than the Participant's Required Beginning Date.

The Annuity Starting Date for a Beneficiary or alternate payee designated under a Qualified Domestic Relations Order will be determined under this Section, except that references to the Husband-and-Wife Pension and spousal consent do not apply.

A Participant who retires *before* his Normal Retirement Age and then earns additional benefit accruals under the Plan through re-employment will have a separate Annuity Starting Date determined under this Section for those additional accruals, including the election of any benefit payment options available under the Plan.

A Participant who retires *after* his Normal Retirement Date and then earns additional benefit accruals under this Plan through re-employment will retain his original Annuity Starting Date. Payment of any additional benefit accruals will be made in accordance with Section 10.07.b.

**Section 1.03. "Bargaining Unit"** means a group of Employees for which the provisions of the Collective Bargaining Agreement requiring Employer Contributions to this Fund are the same. The Bargaining Unit applicable to each Employee is the Bargaining Unit in which the Employee was employed when Contributions were first made on his behalf.

**Section 1.04. “Beneficiary”** means a person who is receiving benefits under this Plan because of designation for those benefits by a Pensioner or Participant.

**Section 1.05. “Board of Trustees” or “Board”** means the Board of Trustees established by the Trust Agreement.

**Section 1.06. “Building and Construction Industry”** means all building construction and all heavy, highway, and engineering construction including, but not limited to, the construction, erection, alteration, repair, modification, demolition, addition or improvement in whole or in part of any building, structure, street (including sidewalk, curb and gutter), highway, bridge, viaduct, railroad, tunnel, airport, water supply, irrigation, flood control and drainage system, sewer and sanitation project, dam, power house, refinery, aqueduct, canal, river and harbor project, wharf, dock, breakwater, jetty, quarrying of breakwater or riprap stone, or any other operation incidental to that construction work.

**Section 1.07. “Code”** means the Internal Revenue Code of 1986 as amended, including any regulations.

**Section 1.08. “Collective Bargaining Agreement”** means the Collective Bargaining Agreement as defined in Section 1 of Article I of the Trust Agreement which provides for the making of Employer Contributions to this Pension Fund.

**Section 1.09. “Continuous Non-Covered Employment”** means employment for a Contributing Employer after January 31, 1976 in a job not covered by this Plan which is continuous with a Participant’s Covered Employment with the same Contributing Employer. A period of Non-Covered Employment will be considered to be continuous with Covered Employment only if there is no quit, discharge, or other termination of employment between the period of Covered and Non-Covered Employment. “Hours Worked in Continuous Non-Covered Employment” means all Hours Worked in Continuous Non-Covered Employment after January 31, 1976.

**Section 1.10. “Contributing Employer,” “Individual Employer,” or “Employer”** means any Individual Employer who is required by the Collective Bargaining Agreement to make Contributions to the Pension Fund or who makes one or more contributions to the Fund. The term “Individual Employer” also includes the Northern California Cement Masons Joint Apprenticeship and Training Committee, the Union or any of its affiliated local unions which makes contributions to the Fund with respect to the work of its Employees under a Subscriber’s Agreement approved by the Board of Trustees, but only to the extent that the inclusion is permitted by existing laws and regulations and subject to the terms and conditions of those laws or regulations. The Committee, the Union or any affiliated local union is an Individual Employer solely for the purpose of making Contributions with respect to the work of its Employees.

An Employer is not deemed a Contributing Employer simply because it is part of a controlled group of corporations, or of a trade or business under common control, some other part of which is a Contributing Employer.

For purposes of identifying highly compensated employees and applying the rules of participation, vesting and statutory limits on benefits under the Fund but not for determining Covered Employment, the term “Individual Employer” includes all members of an affiliated service group with the Individual Employer within the meaning of Code §414(m) and all other businesses aggregated with the Individual Employer under Code §414(o).

**Section 1.11. “Covered Employment”** means employment on work covered by the Collective Bargaining Agreement, employment with the Northern California Cement Masons Joint Apprenticeship and Training Committee, the Union, or any of its affiliated local unions for which Contributions are made to the Pension Fund under regulations adopted by the Board of Trustees. “Hours Worked in Covered Employment” means all Hours Worked for which Employer Contributions are made or are required to be made to the Fund.

**Section 1.12. “Employee”** means any employee of an Individual Employer who performs one or more hours of work covered by the Collective Bargaining Agreement. The term “Employee” also includes employees of the Northern California Cement Masons Joint Apprenticeship and Training Committee, the Union or any of its affiliated local unions with respect to whose work Contributions are made to the Fund under regulations adopted by the Board of Trustees, but only to the extent that the inclusion is permitted by existing laws and regulations and subject to the terms and conditions of any those laws or regulations.

**Section 1.13. “Employer Contribution” or “Contributions”** means the payment made or required to be made to the Fund by any Individual Employer.

“Employer Contribution” or “Contributions” also includes payments otherwise required to be made by an Individual Employer, except as suspended under special collective bargaining agreements for the period of September 1, 1988 through August 31, 1989.

**Section 1.14. “Highly Compensated Employee”** means each highly compensated active employee and highly compensated former employee of an Individual Employer. Whether an individual is a highly compensated employee is determined separately with respect to each Individual Employer, based solely on that individual’s compensation from or status with respect to that Individual Employer.

A highly compensated active employee is an employee of the Individual Employer who performs service for the Individual Employer during the determination year and who:

- a. during the look-back year:
  - (1) received compensation from the Individual Employer in excess of \$75,000 (as adjusted under §414(q) of the Code);
  - (2) received compensation from the Individual Employer in excess of \$50,000 (as adjusted under §414(q) of the Code) and was a member of the top-paid group for that year, or
  - (3) was an officer of the Individual Employer and received compensation from the Individual

Employer in an amount greater than 50% of the dollar limitation in effect for that year under §415(b)(1)(A) of the Internal Revenue Code; or

- b. meets one of the criteria listed in a. above for the determination year and is one of the 100 employees who received the most compensation from the Individual Employer during the determination year, or
- c. is a 5% owner at any time during the look-back year or the determination year.

If no officer received compensation in the determination year or look-back year at the level described in a.(3) above, the officer who received the highest pay in that year will be treated as a highly compensated employee.

A highly compensated former employee is an employee who separated from service (or was deemed to have separated) before the determination year, performs no service for the Individual Employer during the determination year, and was a highly compensated active employee either for the separation year or for any determination year ending on or after the individual's 55<sup>th</sup> birthday.

- a. The "determination year" is the plan year for which the test is being applied, and the "look-back year" is the 12-month period immediately preceding that plan year.
- b. An Individual Employer may elect to make the look-back year calculation for a determination year on the basis of the calendar year ending with or within the applicable determination year, in accordance with Treas. Reg. §1.414(q)-IT.

If an employee is, during a determination year or look-back year, a family member of a Highly Compensated Employee who is either a 5% owner or one of the 10 most highly paid employees of the Individual Employer during that year, then the family member and the Highly Compensated Employee will, to the extent required by specific provisions of the Internal Revenue Code, be treated as a single aggregated individual receiving compensation and benefits equal to the sum of the compensation and benefits of the persons aggregated. For this purpose, someone is a family member of a Highly Compensated Employee if he or she is that person's spouse, lineal ascendant or descendant, or the spouse of the person's lineal ascendant or descendant. In applying specific provisions of the Code, the definition of "family member" may be more limited, as set forth in those provisions.

The determination of who is a highly compensated employee, including the determinations of the number and identity of employees in the top-paid group, the top 100 employees, the number of employees treated as officers and the compensation that is considered, will be made in accordance with §414(q) of the Code, including any regulations.

**Section 1.15. "Hours Worked"** means hours for which an Employee is paid, or entitled to payment for the performance of duties for a Contributing Employer and hours for which back pay, irrespective of mitigation of damages, is awarded or agreed to by a Contributing Employer, to the extent that the award

or agreement is intended to compensate an Employee for periods during which the employee would have been engaged in the performance of duties for the Contributing Employer.

**Section 1.16. “Local Union”** means any local union affiliated with the Union whose members perform work covered by the Master Agreement.

**Section 1.17. “Non-Bargained Employee”** means a Participant whose participation is not covered by the Collective Bargaining Agreement.

**Section 1.18. “Normal Retirement Age”** means age 65 or, if later, the age of the Participant on the fifth anniversary of his participation, disregarding participation before September 1, 1988. For all other Participants, “Normal Retirement Age” means age 65 or, if later, the age of the Participant on the tenth anniversary of his participation.

Participation before a Permanent Break in Service and participation before a temporary Break in Service in the case of a former Participant who has not returned to Covered Employment and re-established participation in accordance with Section 2.04, will not be counted.

**Section 1.19. “Participant”** means a Pensioner or an Employee who meets the requirements for participation in the Plan as set forth in Article 2, or an Employee who has attained Vested Status under this Plan and has Separated from Covered Employment. A “Vested Participant” is an Employee who qualifies for a Deferred Vested Pension in accordance with the provisions of Section 3.16.

**Section 1.20. “Pension Fund” or “Fund”** means the trust fund created and established by the Trust Agreement.

**Section 1.21. “Pension Plan” or “Plan”** means the Pension Plan established by the Collective Bargaining Agreement and the Trust Agreement, including any amendment, extension or renewal of the Plan.

**Section 1.22. “Pensioner”** means a retired Employee receiving pension benefits under the Plan and any other person to whom a pension would be paid but for the time required for administrative processing. A Pensioner who has returned to Covered Employment and is accruing benefits on the same basis as other Employees as of the effective date of a benefit increase will not be considered a Pensioner for purposes of that benefit increase.

**Section 1.23. “Plan Credit Year”** means the period February 1 of any year to January 31 of the succeeding year. For purposes of the Employee Retirement Income Security Act of 1974 (ERISA) regulations, the Plan Credit Year will serve as the vesting computation period and benefit accrual computation period and, after the initial period of employment, the computation period for eligibility to participate in the Plan.

**Section 1.24. “Plan Year”** means the Fund’s fiscal year, the period from September 1 of any year through August 31 of the succeeding year.

**Section 1.25. “Qualified Domestic Relations Order”** means a domestic relations order which has been determined, under procedures established by the Board, to be a qualified domestic relations order as defined in Section 206(d)(3) of ERISA.

**Section 1.26. “Required Beginning Date”** is April 1 of the calendar year following the year the Participant reaches age 70½.

**Section 1.27. “Spouse”** means a person to whom a Participant is legally married. The term also includes a former spouse of a Participant to the extent required by a Qualified Domestic Relations Order or by any law of the United States.

**Section 1.28. “Trust Agreement”** means the Trust Agreement establishing the Cement Masons Pension Trust Fund for Northern California, including any amendment, extension or renewal.

**Section 1.29. “Union”** means the District Council of Plasterers and Cement Masons of Northern California.

**Section 1.30.** Other terms are specially defined as follows:

<u>Term</u>	<u>Section(s)</u>
a. ERISA	2.01
b. Regular Pension	3.02 and 3.03
c. Early Retirement Pension	3.04 and 3.05
d. Disability Pension	3.06 and 3.07
e. Service Pension	3.14 and 3.15
f. Deferred Vested Pension	3.16 and 3.17
g. Pro Rata Pension	4.08 and 4.09
h. Partial Pension	5.05 and 5.08
i. Years of Credited Service:	
Credited Past Service	6.02
Credited Future Service	6.03
j. Benefit Units	6.04
k. Break in Service:	
One-Year Break in Service	6.06
Permanent Break in Service	6.06
l. Separation from Covered Employment	6.07
m. Husband-and-Wife Pension	7.01
n. Retired or Retirement	10.11

## **ARTICLE 2. PARTICIPATION**

### **Section 2.01. Purpose**

This Article contains definitions to meet certain requirements of the Employee Retirement Income Security Act of 1974 (otherwise referred to as ERISA). Once an Employee has become a Participant, he receives Credited Service and Benefit Units for employment before he became a Participant in accordance with the provisions of Article 6.

### **Section 2.02. Participation**

An Employee who works in Covered Employment will become a Participant in the Plan on the February 1 or August 1 following a 12-consecutive-month period during which he worked at least 300 hours in Covered Employment. The 300-hour requirement may also be completed with Hours Worked in Continuous Non-Covered Employment with a Contributing Employer.

After the 12-consecutive-month period used to determine an Employee's initial eligibility for participation, the Plan Credit Year which includes the first anniversary of the Employee's qualifying Hours Worked in Covered Employment and subsequent Plan Credit Years will serve as the computation period for continued eligibility to participate in the Plan.

### **Section 2.03. Termination of Participation**

A Participant who incurs a One-Year Break in Service will cease to be a Participant as of the last day of the Plan Credit Year which constituted the One-Year Break in Service, unless he is a Pensioner or Vested Participant.

### **Section 2.04. Reinstatement of Participation**

An Employee who has lost his status as a Participant in accordance with Section 2.03 will become a Participant by meeting the requirements of Section 2.02 within a Plan Credit Year on the basis of Hours Worked in Covered Employment and Continuous Non-Covered Employment after the Plan Credit Year during which participation terminated.

### **Section 2.05. Pensioners are Participants**

A Pensioner receiving a pension from the Fund is a Participant in the Plan.

## **ARTICLE 3. PENSION ELIGIBILITY AND AMOUNTS**

### **Section 3.01. General**

- a. This Article sets forth the eligibility conditions and amounts payable for the pensions provided by the Plan. The benefit formulas described in this Article apply to pensions with Annuity Starting Dates on or after the effective date(s) shown. Unless otherwise indicated, a pension with an Annuity Starting Date prior to the effective date(s) of the benefit formula(s) shown in this Article is subject to the benefit formula(s) in effect on the Annuity Starting Date of that pension.

The accumulation and retention of Benefit Units and Credited Service for eligibility are subject to the provisions of Article 6. The pension amounts are subject to reduction on account of the Husband-and-Wife Pension as described in Article 7. Entitlement to pension benefits is subject to an eligible Participant's retirement and application for benefits, as provided in Article 10.

Eligibility in most instances depends upon Credited Service, which is defined in Sections 6.02 and 6.03, and takes into account creditable employment both before and after Contributions began. Pension amounts (and in some instances eligibility) are based on accumulated Benefit Units as defined in Section 6.04 which also takes into account creditable employment both before and after Contributions began.

- b. *Pensions Effective Prior to September 1, 1976* Pensioners receiving pensions with an effective date prior to September 1, 1976 will continue to receive the pensions awarded to them without change, subject to the provisions of Sections 3.08, 3.09, 3.12, 3.13, 9.02, 10.01.b., 10.02-10.05, 10.09, 10.11-10.18, 11.04-11.05, and 13.01 of this Plan.

### **Section 3.02. Regular Pension - Eligibility**

A Participant who has retired is entitled to receive a Regular Pension if:

- a. he has received credit for 700 Hours Worked in Covered Employment after January 1, 1959; and
- b. he has attained age 65 and is vested in accordance with Subsection 3.16.c.; or
- c. he has attained Normal Retirement Age in accordance with Section 1.18.

### **Section 3.03. Amount of the Regular Pension**

- a. A Regular Pension effective on or after September 1, 1999, will be a monthly amount determined as follows:

- (1) If there has been no Separation from Covered Employment, the monthly amount of the Regular Pension is the sum of:
  - (a) \$25.75 for each Benefit Unit earned as a result of employment before February 1, 1959, plus any fraction of a Benefit Unit; and
  - (b) \$50.00 for each Benefit Unit earned as a result of employment after January 31, 1959 and before February 1, 1980, plus any fraction of a Benefit Unit; and
  - (c) 4% of Contributions made for Hours Worked in Covered Employment after January 31, 1980 and before February 1, 2004, excluding any Contributions made in a Plan Credit Year during which the Participant failed to work a minimum of 300 hours; and
  - (d) 2% of Contributions made for Hours Worked in Covered Employment on or after February 1, 2004, excluding any Contributions made in a Plan Credit Year during which the Participant failed to work a minimum of 300 hours.
- (2) If there has been a Separation from Covered Employment, the monthly amount of the Regular Pension is the sum of:
  - (a) an amount determined in accordance with Subsection a. above accrued after the most recent Separation from Covered Employment; and
  - (b) the monthly amount payable for service prior to any Separation from Covered Employment is the amount which was payable by the Plan at the end of the separation period. However, in no event will the monthly amount payable for each Benefit Unit earned prior to February 1, 1980 be less than \$19.00.

**Section 3.04. Early Retirement Pension - Eligibility**

A Participant who has retired is entitled to an Early Retirement Pension, if:

- a. he has become age 55, but not yet become age 65; and
- b. he has at least 10 Years of Credited Service (without a Permanent Break in Service), exclusive of any Credited Future Service earned as a result of work in Continuous Non-Covered Employment; and
- c. he has received credit for at least 700 Hours Worked in Covered Employment since January 1, 1959.

**Section 3.05. Amount of the Early Retirement Pension**

The Early Retirement Pension will be a monthly amount determined as follows:

- a. First, determine the amount of the Regular Pension to which the Participant would be entitled if he were 65 years of age at the time his Early Retirement Pension is to be effective.
- b. Second, to take account of the fact the Participant is younger than 65, reduce the first amount by  $\frac{1}{2}$  of 1 % for each month that the Participant is younger than 65 on the effective date of his Early Retirement Pension.

**Section 3.06. Disability Pension - Eligibility**

A totally disabled Participant who has retired is entitled to receive a Disability Pension if he meets the following requirements:

- a. he has not become age 65; and
- b. he has at least 10 Years of Credited Service (without a Permanent Break in Service), exclusive of any Credited Future Service earned as a result of work in Continuous Non-Covered Employment; and
- c. he has, as a result of actual work in Covered Employment, earned at least one quarter of Credited Service in the 2 consecutive Plan Credit Years prior to, or during, the Plan Credit Year in which he becomes totally disabled.

**Section 3.07. Amount of the Disability Pension**

- a. The amount of a Disability Pension effective on or after September 1, 1997, will be a monthly amount equal to the sum of:
  - (1) \$50.00 for each Benefit Unit, plus any fraction of a Benefit Unit, accumulated after the most recent Separation from Covered Employment (if any); and
  - (2) a monthly amount payable for each Benefit Unit accrued prior to any Separation from Covered Employment, as follows: The monthly amount payable for each Benefit Unit earned prior to any Separation from Covered Employment is the amount which was payable by the Plan at the end of the separation period (but not less than \$19.00).
- b. Only the 30 Benefit Units earned most recently will be used to compute the maximum amount of the Disability Pension.

- c. In no circumstances will the monthly amount of the Disability Pension be less than the accrued Regular Pension as determined in Section 3.03, actuarially adjusted in accordance with the formula set forth in Section 3.05, with the total reduction not to exceed 60%.

### **Section 3.08. Total Disability Defined**

A Participant will be deemed totally disabled upon determination by the Social Security Administration that he is entitled to a Social Security Disability Benefit, in accordance with his Old Age, Survivors and Disability Insurance coverage. The Board may, in its sole and absolute judgment, grant a Disability Pension in the absence of an award by the Social Security Administration, provided the Board finds that:

- a. on the basis of competent medical evidence as the Board may require to be shown, the Participant is totally unable, as a result of a physical or mental impairment, to engage in or perform work as a cement mason in the Building and Construction Industry; and
- b. the total disability is expected to result in death or to be of a continued and indefinite duration.

The Board may at any time, or from time to time, require evidence of continued entitlement to Social Security Disability Benefits and may at any time, notwithstanding the prior granting of a Disability Pension under the Plan, require that a Participant satisfy the provisions of this Section as a prerequisite to the continuance of the Disability Pension granted under the Plan.

### **Section 3.09. Disability Pension Payments**

- a. Payment of the Disability Pension will not begin until 6 full calendar months of total disability have passed or until the requirement for advance application has been met, whichever is later. Payment of the Disability Pension will continue as long as the disabled Pensioner remains totally disabled as defined by the Plan. Once a disabled Participant becomes age 65, his benefits will continue, regardless of whether he remains totally disabled, as long as he remains retired as defined in Section 10.11.b.
- b. Effective September 1, 1989, if the Annuity Starting Date for a Participant who is totally disabled is after the date payment would have begun in accordance with paragraph a., that Participant will be entitled to a one time cash payment equal to the monthly amount of his Disability Pension, in the payment form elected, multiplied by the number of calendar months between the date determined in accordance with paragraph a. and the Annuity Starting Date.

### **Section 3.10. Total Disablement of a Pensioner Receiving an Early Retirement Pension**

If a Pensioner receiving an Early Retirement Pension was totally disabled on the date his Early Retirement Pension became effective and had, as a result of actual employment, earned at least one quarter of Credited Service in the 2 consecutive Plan Credit Years prior to the Plan Credit Year in which he became totally disabled, he will be entitled to a Disability Pension under the following conditions:

- a. If the beginning of the seventh month of total disability, as defined in Section 3.08, is coincident with or prior to the effective date of his Early Retirement Pension, his Disability Pension will be effective as of the effective date of his Early Retirement Pension, or with the seventh month of disability, if the filing requirement set forth in Section 10.01 is met.
- b. If the seventh month of total disability, as defined in Section 3.08, begins after the effective date of his Early Retirement Pension, then the higher amount of the Disability Pension will not become payable until the first day of the month following the month when the difference between the Early Retirement Pension amount and the Disability Pension amount equals the amount paid to him as an Early Retirement Pension prior to the beginning of the seventh month of total disability.

### **Section 3.11. Total Disablement of a Participant Entitled to a Service Pension**

If a Participant entitled to a Service Pension is or becomes totally disabled, he may receive a Disability Pension instead of a Service Pension, if he files a written application with the Board of Trustees.

### **Section 3.12. Recovery by a Pensioner on a Disability Pension**

If a Pensioner on a Disability Pension who is under age 65 (a) loses entitlement to a Social Security Disability Benefit, or (b) otherwise recovers from his disability, that information must be reported in writing to the Board within 21 days of the date he (1) received notice from the Social Security Administration of the termination of his Benefit, or (2) otherwise recovered from his disability. If written notice is not provided he may, upon his subsequent retirement prior to Normal Retirement Age, be disqualified for benefits for a period of up to 12 months following the date of his retirement, in addition to the months which may have elapsed since he (i) received notice of the termination of the Social Security Disability Benefit, or (ii) recovered from his disability and in which he received Disability Pension payments from the Fund, subject to the provisions of Section 10.12.

If a Pensioner receiving a Disability Pension (who has attained age 55 and has at least 25 Benefit Units) recovers from his disability, as described above, he may receive a Service Pension, not to exceed the amount payable for a Service Pension at the time his former Disability Pension became effective — plus any increase granted to Pensioners with the same Annuity Starting Date — unless he returns to Covered Employment. If he returns to Covered Employment, the amount of his Service Pension will be determined in accordance with Subsection 3.15.b.

A Disability Pensioner who recovers and subsequently establishes his entitlement to a Disability Pension, under Section 3.08 of the Plan, must again satisfy the 6-month waiting period described in Section 3.09 before Disability Pension Benefits can begin.

### **Section 3.13. Re-employment of a Pensioner on a Disability Pension**

A Pensioner on a Disability Pension who is no longer totally disabled may re-enter Covered Employment and may resume the accrual of Credited Service and Benefit Units.

**Section 3.14. Service Pension — Eligibility**

A Participant who has retired is entitled to a Service Pension if he meets the following requirements:

- a. he has attained age 55 and has at least 25 Benefit Units (without a Permanent Break in Service) or he has attained age 62 and has at least 20 Benefit Units (without a Permanent Break in Service); and
- b. he had not received an Early Retirement Pension before February 1, 1971; and
- c. he has received credit for at least 700 Hours Worked in Covered Employment since January 1, 1959.

**Section 3.15. Amount of the Service Pension**

- a. The monthly amount of the Service Pension is determined in the same way as the monthly amount of the Regular Pension.
- b. If a Pensioner in receipt of a Service Pension returns to Covered Employment at a time when he is younger than age 65, his Service Pension will be increased by the monthly benefit payable under Subsection 3.03.a. at the time of his subsequent retirement for each Benefit Unit earned after his return to Covered Employment.

This method of redetermining the amount of a Service Pension effective prior to September 1, 1984 will be applied to the 30 Benefit Units earned most recently.

**Section 3.16. Deferred Vested Pension — Eligibility**

A Participant who has had a Separation from Covered Employment is entitled to a Deferred Vested Pension at retirement if he meets the following requirements:

- a. he has received credit for at least 700 Hours Worked in Covered Employment after January 1, 1959; and
- b. he has attained age 65 or is between the ages of 55 and 65 and has met the requirements of an Early Retirement Pension, as set forth in Subsection 3.04.b. or a Service Pension, as set forth in Subsection 3.14.a.; and
- c. he has achieved Vested Status under the circumstances described below:
  - (1) A Participant who works at least one hour in Covered Employment on or after January 1, 1997 will attain Vested Status after he has accumulated 5 Years of Credited Service. If he does not work at least one hour in Covered Employment after January 1, 1997, he may achieve Vested Status in accordance with paragraph (2).

- (2) A Participant who worked at least 300 hours in Covered Employment between September 1, 1996 and January 1, 1997 achieved Vested Status if he accumulated at least 8 Years of Credited Service. If he did not work at least 300 hours in Covered Employment after September 1, 1996, he may achieve Vested Status in accordance with paragraph (3).
- (3) A Participant who is a Non-Bargained Employee and who worked at least one hour in Covered Employment on or after September 1, 1989 achieved Vested Status after he had accumulated 5 Years of Credited Service. However, if the Non-Bargained Employee was not a Participant or did not work at least one hour in Covered Employment on or after September 1, 1989, he may achieve Vested Status in accordance with paragraph (4).
- (4) A Participant with a separation date between September 1, 1976 and September 1, 1996 achieved Vested Status if he had accumulated at least 10 Years of Credited Service; or
- (5) A Participant with a separation date between February 1, 1972 and September 1, 1976 achieved Vested Status if he had accumulated at least 10 Benefit Units; or
- (6) A Participant with a separation date between January 1, 1964 and February 1, 1972 achieved Vested Status if he had accumulated at least 15 Benefit Units; or
- (7) A Participant with a separation date between February 1, 1962 and January 1, 1964 achieved Vested Status if he had attained age 55 and accumulated at least 15 Benefit Units; or
- (8) A Participant with a separation date between February 1, 1959 and February 1, 1962 achieved Vested Status if he had attained age 65 and accumulated at least 15 Benefit Units.

***For purposes of determining Vested Status under the above paragraphs (1) through (8), Years of Credited Service or Benefit Units earned prior to a Permanent Break in Service will not be counted.***

**Section 3.17. Amount of the Deferred Vested Pension**

- a. The monthly amount of the Deferred Vested Pension will be based on the formula that was payable by the Plan at the end of the separation period. The end of the separation period is determined as follows:
  - (1) on or after February 1, 1976, the end of a separation period is January 31 of any 2 consecutive Plan Credit Years in which the Participant does not work at least 300 hours in Covered Employment.
  - (2) prior to February 1, 1976, the end of a separation period is January 31 of any 2 consecutive Plan Credit Years in which the Participant does not earn one quarter of Credited Future Service.

- b. In no event, will the monthly amount payable for each Benefit Unit earned prior to February 1, 1980 be less than \$19.00.

**Section 3.18. Non-duplication of Pensions**

A person is entitled to the payment of only one type of pension under this Plan at any one time.

**Section 3.19. Adjustment to Pension**

A Pensioner or Beneficiary receiving a Regular, Early, Disability, or Service Pension or who is receiving a Pro-Rata or Partial Pension (the major portion of whose Combined Credited Service is Northern California Credited Service) will have his pension increased by a supplemental benefit each month in an amount set forth below and subject to the conditions described below:

- a. Pensions effective on or after January 1, 1987 must be based in part upon a minimum of 500 hours of work in Covered Employment in the twelve-month period immediately preceding the pension effective date.
  - (1) For Pensions effective prior to September 1, 1987, all Pensioners and other Beneficiaries on the rolls on September 1, 1987 will receive a supplemental benefit of \$80.00 per month, except that Beneficiaries who are entitled to receive benefits under Section 7.01 will receive a supplemental benefit of \$40.00 per month.
  - (2) For Pensions effective on or after September 1, 1987:
    - (a) The supplemental benefit of \$80.00 is subject to the reduction for the Husband-and-Wife Pension described in Article 7.
    - (b) For Participants retiring on an Early Retirement Pension, the reduction factor for an early retirement will not apply to the supplemental benefit of \$80.00.
  - (3) In addition to the provisions of Subsections a.(1) and (2) above, for Pensions effective prior to September 1, 1988, all Pensioners and Beneficiaries on the rolls on September 1, 1988 will receive a supplemental benefit of \$60.00 per month, except that Beneficiaries who are entitled to receive benefits under Section 7.01 will receive a supplemental benefit of \$30.00 per month.
  - (4) For Pensions effective on or after September 1, 1988:
    - (a) The supplemental benefit of \$60.00 is subject to the reduction for the Husband-and-Wife Pension described in Article 7.
    - (b) For Participants retiring on an Early Retirement Pension, the reduction factor for early retirement will not apply to the supplemental benefit of \$60.00.

- (5) In addition to the provisions of Subsections a.(1) through (4), for Pensions effective prior to September 1, 1993, all Pensioners and Beneficiaries will receive a supplemental benefit of \$150.00 per month, except that Beneficiaries who are entitled to receive benefits under Section 7.01 will receive a supplemental benefit of \$75.00.
- (6) In addition to the provisions of Subsections a.(1) through (5), for Pensions effective prior to September 1, 1996, all Pensioners and Beneficiaries will receive a supplemental benefit of \$25.00 per month, except that Beneficiaries who are entitled to receive benefits under Section 7.01 will receive a supplemental benefit of \$12.50.
- (7) In addition to the provisions of Subsections a.(1) through (6), for Pensions effective prior to January 1, 1997, all Pensioners and Beneficiaries will receive a supplemental benefit of \$30.00 per month, except that Beneficiaries who are entitled to receive benefits under Section 7.01 will receive a supplemental benefit of \$15.00.
- (8) In addition to the provisions of Subsections a.(1) through (7), effective September 1, 1997, all Pensioners and Beneficiaries will receive a supplemental benefit of \$100.00 per month, except that Beneficiaries who are entitled to receive benefits under Section 7.01 will receive a supplemental benefit of \$50.00 per month.

## **ARTICLE 4. PRO RATA PENSION**

### **Section 4.01. Purposes**

Pro Rata Pensions are provided under this Plan for Employees:

- a. who would otherwise be ineligible for a pension because their years of employment have been divided between employment creditable under this Plan and employment creditable under another pension plan, or
- b. whose pensions would otherwise be less than the full amount because of a division of employment.

### **Section 4.02. Related Plans**

By resolution duly adopted, the Board of Trustees may recognize other pension plans as Related Plans under this Article.

### **Section 4.03. Related Hours**

The term “**Related Hours**” means hours of employment which are creditable under a Related Plan.

### **Section 4.04. Related Credit**

The term “**Related Credit**” means Credited Service, or any portion credited to an Employee under a Related Plan, excluding any Related Credit based on work of the type which, had it been performed under this Plan, would be Continuous Non-Covered Employment. No more than one year of Related Credit will be recognized for employment under a Related Plan during any consecutive 12-month period.

### **Section 4.05. Combined Credited Service**

The term “**Combined Credited Service**” means the total of an Employee’s Related Credit plus Northern California Credited Service, excluding any Credited Service earned in Continuous Non-Covered Employment.

### **Section 4.06. Combined Benefit Units**

The term “**Combined Benefit Units**” means the total of an Employee’s Related Credit plus Northern California Benefit Units.

**Section 4.07. Non-Duplication**

An Employee cannot receive double credit for the same period of employment. No more than one Year of Combined Credited Service or one Combined Benefit Unit will be given for employment in any consecutive 12-month period.

**Section 4.08 Eligibility for a Pro Rata Pension**

- a. An Employee who has retired is eligible for a Pro Rata Pension if he meets the following requirements:
  - (1) he would be eligible for a Regular, Early Retirement, Disability or Deferred Vested Pension under this Plan were his Combined Credited Service treated as Northern California Credited Service, and
  - (2) he has worked after January 1, 1959 for at least 700 hours for which contributions were made or were required to be made to this Fund or to a Related Plan under a collective bargaining agreement.
- b. Related Hours will be considered in determining whether an Employee has incurred a Break in Service as defined in Section 6.06 or a Separation from Covered Employment as defined in Section 6.07.

However, the determination as to whether an Employee has had a Permanent Break in Service under this Plan will be based solely on the Credited Service earned under this Plan and not upon the Employee's Combined Credited Service.

- c. Related Credits can only be used to determine an Employee's eligibility for monthly pension payments to a Pensioner (including a Disability Pension) and for vesting in a Deferred Vested Pension, or the eligibility of his surviving Spouse for benefits under Article 7 or Section 8.01.

**Section 4.09. Amount of the Pro Rata Pension**

The monthly amount of a Pro Rata Pension effective on or after September 1, 1984 will be determined in the same way as the Regular, Early Retirement or Disability Pension.

**Section 4.10. Payment**

Payment of a Pro Rata Pension is subject to all of the conditions applicable to the other types of pensions under this Plan.

#### **Section 4.11. General**

The provisions of this Article will not apply to a Pension Plan that is signatory to the “Pro Rata Pension Agreement of Operative Plasterers’ and Cement Masons’ International Association of the United States and Canada,” unless the Board of Trustees has specifically recognized that plan as a Related Plan under this Article by a resolution adopted under Section 4.02. In the absence of a resolution, the provisions of Article 5 will apply with respect to agreement for “Partial Pensions” with Pension Plans signatory to the “Pro Rata Pension Agreement of Operative Plasterers’ and Cement Masons’ International Association of the United States and Canada.” The provisions of Article 5 will not void, change or replace the provisions of this Article with respect to Related Credit specifically recognized under this Article.

An Employee who is eligible for a Pro Rata Pension under this Article may not receive a Partial Pension, the provisions of Article 5 notwithstanding.

## **ARTICLE 5. PARTIAL PENSION**

### **Section 5.01. Purpose**

Partial Pensions are provided under this Plan for employees who would otherwise lack sufficient service credit to be eligible for any pension because their years of employment were divided between different pension plans or, if eligible, whose pensions would be less than the full amount because of a division of employment.

### **Section 5.02. Related Plans**

By resolution duly adopted, the Trustees of this Pension Fund recognize one or more other pension plans, which have executed a Pro Rata Agreement to which this Plan is a party, as a Related Plan.

### **Section 5.03. Related Plan Service Credits**

Service Credits accumulated and maintained by an employee under a Related Plan will be recognized under this Plan as Related Plan Service Credits if the employee has at least 2 years of service credit in that plan based on employment since January 1, 1955, for which contributions have been made. The Trustees will compute Related Plan Service Credits on the basis on which that credit has been earned and credited under the Related Plan and certified by the Related Plan to this Plan.

### **Section 5.04. Combined Service Credit**

The total of an employee's service credit under this Plan and Related Plan Service Credit comprise the employee's Combined Service Credit. No more than one year of Combined Service Credit will be counted in any calendar year.

### **Section 5.05. Eligibility**

An employee is eligible for a Partial Pension under this Plan if he satisfies all of the following requirements:

- a. he would be eligible for any type of pension under this Plan (other than a Partial Pension) if his Combined Service Credit were treated as service credit under this Plan; and
- b. he has at least 2 years of service credit under this Plan, based on employment since January 1, 1955 for which employer contributions have been made; and
- c. he is found to be (1) eligible for a Partial Pension from a Related Plan and (2) eligible for a Partial Pension from the Terminal Plan. The Terminal Plan is deemed to be the Plan associated with the

local union which represents the employee at the time of, or immediately prior to, his retirement. If at that time the employee was not represented by any local union, then the Terminal Plan is the one to which the greatest amount of contributions were paid on behalf of the employee in the 36 consecutive calendar months immediately preceding his retirement; and

- d. a pension is not payable to him from a Related Plan independently of its provisions for a Partial Pension. However, an employee who is entitled to a pension other than a Partial Pension from this Plan or a Related Plan may elect to waive the other pension and qualify for a Partial Pension.
- e. Related Plan Service Credits can only be used to determine an Employee's eligibility for monthly pension payments to a Pensioner (including a Disability Pension) and for vesting in a Deferred Vested Pension or the eligibility of his surviving Spouse for benefits under Article 7 or Section 8.01.

#### **Section 5.06. Breaks in Service**

In applying the rules of this Plan with respect to cancellation of service credit, any period in which an employee has earned Related Plan Service Credit will not be counted in determining whether there has been a period of no Covered Employment sufficient to constitute a Break in Service.

#### **Section 5.07. Election of Pensions**

If an employee is eligible for more than one type of pension under this Plan, he is entitled to elect the type of pension he is to receive.

#### **Section 5.08. Partial Pension Amount**

The amount of the Partial Pension is determined as follows:

- a. compute the amount of the pension to which the employee would be entitled under this Plan, based on his Combined Service Credit, then
- b. divide the amount of service credit earned under this Plan since January 1, 1955 by the total amount of Combined Service Credit earned by the employee since January 1, 1955, then
- c. multiply the pension amount in a. by the fraction determined in b. and the result is the Partial Pension amount payable by this Plan.

#### **Section 5.09. Payment of Partial Pensions**

The payment of Partial Pensions will be subject to all of the conditions contained in this Plan which apply to other types of pensions including, but not limited to, the definition of retirement and timely application.

**ARTICLE 6.  
ACCUMULATION OF BENEFIT UNITS  
AND  
YEARS OF CREDITED SERVICE**

**Section 6.01. General**

The purpose of this Article is to define the basis on which Participants accumulate Benefit Units and Years of Credited Service. This Article also defines the basis on which accumulated Benefit Units and Years of Credited Service may be canceled.

**Section 6.02. Years of Credited Service for Periods Before February 1, 1959**

- a. A Participant will be entitled to Credited Past Service for each Plan Credit Year, or portion of a Plan Credit Year, he was regularly employed prior to February 1, 1959, in one or more classifications included in the Master Agreement on work in the Building and Construction Industry in the 46 Northern California Counties, or was regularly employed by a local union or the Union in a position included under the Plan pursuant to regulations adopted by the Board of Trustees.

A Participant will also be granted Credited Past Service for each Plan Credit Year, or portion of a Plan Credit Year, for military service during a period in the Armed Forces of the United States in time of war or national emergency or under a National Conscription Law for the period during which he retained re-employment rights under federal law; provided (i) the Participant was employed in the 46 Northern California Counties immediately prior to his entry into the Armed Forces on work of the type for which Credited Past Service is granted in Subsection a. above; (ii) he made himself available for employment in the 46 Northern California Counties on work of the type for which Credited Past Service is granted in Subsection a. above within 90 days after his release from active duty or 90 days after recovery from a disability continuing after his release from active duty; and (iii) the Participant furnishes in writing information and proof concerning his availability as the Board may, in its sole discretion, determine. Portions of Credited Past Service will be granted for periods of military service of less than one year.

Employment covered by a pension program of a public agency will not count toward Credited Past Service.

A Participant is entitled to Credited Past Service for each Plan Credit Year in which he was employed in accordance with the following schedule:

<u>Hours Worked in Plan Credit Year</u>	<u>Credited Past Service</u>
Less than 350 hours	None
350 to 699 hours	.25
700 to 1,049 hours	.50
1,050 to 1,399 hours	.75
1,400 hours or more	One Year

- b. Application for entitlement to Credited Past Service must be made on a form approved by the Board and signed by the Participant, which specifies the periods during which the Participant was employed in work entitling him to Credited Past Service and must be confirmed by evidence satisfactory to the Board substantiating the employment claimed by the Participant.

The application will specify all periods for which Credited Service is claimed and, insofar as possible, all Hours Worked for which Credited Service is claimed during each period. Failure to comply with this requirement without good cause, as determined by the Board, will constitute a waiver of any claim for Credited Service for any periods or hours not specified in the application.

The Board may accept as *prima facie* evidence any or all of the following for periods of credit claimed.

- (1) A written statement from any employer certifying that the Participant performed work for that employer entitling him to Credited Past Service.
- (2) A written statement from the secretary or other authorized officer of a local union or the Union, or the membership record from the Operative Plasterers' and Cement Masons' International Association of the United States and Canada showing that the Participant was a member in good standing in the local union, or was employed by the local union or the Union in a position included in the Plan under regulations adopted by the Board.
- (3) A W-2 form or check stub furnished for work performed during the period for any employer known or reputed to have been operating in the Building and Construction Industry in the 46 Northern California Counties during the period.
- (4) A written statement from the Social Security Administration to the effect that according to its records the Participant was employed during the period by a named employer, known or reputed to be operating in the Building and Construction Industry in the 46 Northern California Counties during that period.

**Section 6.03. Years of Credited Service After January 31, 1959**

- a. From February 1, 1959 to February 1, 1971, a Participant will receive Credited Future Service for Hours Worked in Covered Employment during a Plan Credit Year, according to the following schedule:

<b><u>Hours Worked in Plan Credit Year</u></b>	<b><u>Credited Future Service</u></b>
Less than 350 hours	None
350 to 699 hours	.25
700 to 869 hours	.50
870 hours or more	One Year

- b. From February 1, 1971 to February 1, 1972, a Participant will receive Credited Future Service for Hours Worked in Covered Employment during a Plan Credit Year, depending upon his age, according to the following schedules:

- (1) In any Plan Credit Year in which a Participant was younger than 55 years of age, he will receive Credited Future Service for Hours Worked in Covered Employment, according to the following schedule:

<b><u>Hours Worked in Plan Credit Year</u></b>	<b><u>Credited Future Service</u></b>
Less than 350 hours	None
350 to 699 hours	.25
700 to 869 hours	.50
870 hours or more	One Year

- (2) In any Plan Credit Year in which a Participant was or became 55 through 59 years of age, he will receive Credited Future Service for Hours Worked in Covered Employment, according to the following schedule:

<b><u>Hours Worked in Plan Credit Year</u></b>	<b><u>Credited Future Service</u></b>
Less than 300 hours	None
300 to 599 hours	.25
600 to 869 hours	.50
870 hours or more	One Year

- (3) In any Plan Credit Year in which a Participant was or became 60 or more years of age, he will receive Credited Future Service for Hours Worked in Covered Employment, according to the following schedule:

<b><u>Hours Worked in Plan Credit Year</u></b>	<b><u>Credited Future Service</u></b>
Less than 250 hours	None
250 to 499 hours	.25
500 to 749 hours	.50
750 to 869 hours	.75
870 hours or more	One Year

- c. From February 1, 1972 to February 1, 1976 a Participant will receive Credited Future Service for Hours Worked in Covered Employment during a Plan Credit Year, depending upon his age, according to the following schedules:

- (1) In any Plan Credit Year in which a Participant was younger than 55 years of age, he will receive Credited Future Service for Hours Worked in Covered Employment, according to the following schedule:

<b><u>Hours Worked in Plan Credit Year</u></b>	<b><u>Credited Future Service</u></b>
Less than 350 hours	None
350 to 466 hours	.25
467 to 583 hours	.33
584 to 699 hours	.42
700 to 816 hours	.50
817 to 869 hours	.58
870 hours or more	One Year

- (2) In any Plan Credit Year in which a Participant was or became 55 through 59 years of age, he will receive Credited Future Service for Hours Worked in Covered Employment, according to the following schedule:

<b><u>Hours Worked in Plan Credit Year</u></b>	<b><u>Credited Future Service</u></b>
Less than 300 hours	None
300 to 399 hours	.25
400 to 499 hours	.33
500 to 599 hours	.42
600 to 699 hours	.50
700 to 799 hours	.58
800 to 869 hours	.67
870 hours or more	One Year

- (3) In any Plan Credit Year in which a Participant was or became 60 or more years of age, he will receive Credited Future Service for Hours Worked in Covered Employment, according to the following schedule:

<b><u>Hours Worked in Plan Credit Year</u></b>	<b><u>Credited Future Service</u></b>
Less than 250 hours	None
250 to 332 hours	.25
333 to 415 hours	.33
416 to 499 hours	.42
500 to 582 hours	.50
583 to 665 hours	.58
666 to 749 hours	.67
750 to 832 hours	.75
833 to 869 hours	.83
870 hours or more	One Year

- d. A Participant will receive Credited Future Service for Hours Worked in Covered Employment during a Plan Credit Year on or after February 1, 1976, according to the following schedule:

<b><u>Hours Worked in Plan Credit Year</u></b>	<b><u>Credited Future Service</u></b>
Less than 300 hours	None
300 to 499 hours	.25
500 to 749 hours	.50
750 to 869 hours	.75
870 hours or more	One Year

If a Participant works for a Contributing Employer in Continuous Non-Covered Employment, Hours Worked in Continuous Non-Covered Employment after January 31, 1976 will be counted toward a Year of Credited Service. If the Participant does not work sufficient hours for Contributing Employer(s) to earn a full Year of Credited Service in a Plan Credit Year, he will not be entitled to any portion of a Year of Credited Service for hours of work in Continuous Non-Covered Employment.

- e. *Exception:* A Participant will not be entitled to Credited Service for the following periods:
- (1) years preceding a Permanent Break in Service as defined in Subsection 6.06. a. for periods prior to February 1, 1976.
  - (2) years preceding a Permanent Break in Service as defined in Subsections 6.06.c. and d., except as may be required by ERISA regulations.

**Section 6.04. Benefit Units**

- a. A Participant will receive one Benefit Unit or portion of a Benefit Unit for every Year of Credited Past Service or portion of a Year of Credited Past Service to which he is entitled under Section 6.02.
- b. From February 1, 1959 to February 1, 1971, a Participant will receive Benefit Units for Hours Worked in Covered Employment, according to the following schedule:

<b><u>Hours Worked in Plan Credit Year</u></b>	<b><u>Benefit Units</u></b>
Less than 350 hours	None
350 to 699 hours	.25
700 to 1,049 hours	.50
1,050 to 1,399 hours	.75
1,400 hours or more	One Year

c. From February 1, 1971 to February 1, 1972, a Participant will receive Benefit Units for Hours Worked in Covered Employment, depending upon his age, according to the following schedules:

(1) In any Plan Credit Year in which a Participant was younger than 55 years of age, he will receive Benefit Units for Hours Worked in Covered Employment, according to the following schedule:

<b><u>Hours Worked in Plan Credit Year</u></b>	<b><u>Benefit Units</u></b>
Less than 350 hours	None
350 to 699 hours	.25
700 to 1,049 hours	.50
1,050 to 1,399 hours	.75
1,400 hours or more	One Year

(2) In any Plan Credit Year in which a Participant was or became 55 through 59 years of age, he will receive Benefit Units for Hours Worked in Covered Employment according to the following schedule:

<b><u>Hours Worked in Plan Credit Year</u></b>	<b><u>Benefit Units</u></b>
Less than 300 hours	None
300 to 599 hours	.25
600 to 899 hours	.50
900 to 1,199 hours	.75
1,200 hours or more	One Year

(3) In any Plan Credit Year in which a Participant was or became 60 or more years of age, he will receive Benefit Units for Hours Worked in Covered Employment, according to the following schedule:

<b><u>Hours Worked in Plan Credit Year</u></b>	<b><u>Benefit Units</u></b>
Less than 250 hours	None
250 to 499 hours	.25
500 to 749 hours	.50
750 to 999 hours	.75
1,000 hours or more	One Year

d. From February 1, 1972 to February 1, 1976, a Participant will receive Benefit Units for Hours Worked in Covered Employment, depending upon his age, according to the following schedules:

(1) In any Plan Credit Year in which a Participant was younger than 55 years of age, he will receive Benefit Units for Hours Worked in Covered Employment, according to the following schedule:

<b><u>Hours Worked in Plan Credit Year</u></b>	<b><u>Benefit Units</u></b>
Less than 350 hours	None
350 to 466 hours	.25
467 to 583 hours	.33
584 to 699 hours	.42
700 to 816 hours	.50
817 to 933 hours	.58
934 to 1,049 hours	.67
1,050 to 1,166 hours	.75
1,167 to 1,283 hours	.83
1,284 to 1,399 hours	.92
1,400 hours or more	One Year

(2) In any Plan Credit Year in which a Participant was or became 55 through 59 years of age, he will receive Benefit Units for Hours Worked in Covered Employment, according to the following schedule:

<b><u>Hours Worked in Plan Credit Year</u></b>	<b><u>Benefit Units</u></b>
Less than 300 hours	None
300 to 399 hours	.25
400 to 499 hours	.33
500 to 599 hours	.42
600 to 699 hours	.50
700 to 799 hours	.58
800 to 899 hours	.67
900 to 999 hours	.75
1,000 to 1,099 hours	.83
1,100 to 1,199 hours	.92
1,200 hours or more	One Year

- (3) In any Plan Credit Year in which a Participant was or became 60 or more years of age, he will receive Benefit Units for Hours Worked in Covered Employment, according to the following schedule:

<b><u>Hours Worked in Plan Credit Year</u></b>	<b><u>Benefit Units</u></b>
Less than 250 hours	None
250 to 332 hours	.25
333 to 415 hours	.33
416 to 499 hours	.42
500 to 582 hours	.50
583 to 665 hours	.58
666 to 749 hours	.67
750 to 832 hours	.75
833 to 915 hours	.83
916 to 999 hours	.92
1,000 hours or more	One Year

- e. From February 1, 1976 to February 1, 1982, a Participant will receive Benefit Units for Hours Worked in Covered Employment, according to the following schedule:

<b><u>Hours Worked in Plan Credit Year</u></b>	<b><u>Benefit Units</u></b>
Less than 300 hours	None
300 to 399 hours	.21
400 to 499 hours	.29
500 to 599 hours	.36
600 to 699 hours	.43
700 to 799 hours	.50
800 to 899 hours	.57
900 to 999 hours	.64
1,000 to 1,099 hours	.71
1,100 to 1,199 hours	.78
1,200 to 1,299 hours	.85
1,300 to 1,399 hours	.93
1,400 hours or more	One Year

- f. Beginning February 1, 1982, a Participant will receive Benefit Units for Hours Worked in Covered Employment, according to the following schedule:

<u>Hours Worked in Plan Credit Year</u>	<u>Benefit Units</u>
Less than 300 hours	None
300 to 399 hours	.25
400 to 499 hours	.33
500 to 599 hours	.42
600 to 699 hours	.50
700 to 799 hours	.58
800 to 899 hours	.67
900 to 999 hours	.75
1,000 to 1,099 hours	.83
1,100 to 1,199 hours	.92
1,200 hours or more	One Year

- g. If a Participant earns a Year of Credited Service in a Plan Credit Year after January 31, 1976, but works less than 300 hours in Covered Employment, he will be credited with a prorated portion of a full Benefit Unit, in the ratio which his hours of work in Covered Employment bear to 2,000 hours.
- h. **Exception:** A Participant will not be entitled to Benefit Units for the following periods:
- (1) for the period preceding a Permanent Break in Service as defined in Subsection 6.06.a. for periods prior to February 1, 1976.
  - (2) for periods preceding a Permanent Break in Service as defined in Subsections 6.06.c. and d.

**Section 6.05. Credited Service and Benefit Units for Non-Working Periods After February 1, 1959**

- a. Periods of absence from Covered Employment will be credited toward the accumulation of Credited Service and Benefit Units if they were due to any of the circumstances listed below.
- (1) Service in any of the Armed Forces of the United States for the period that the Participant retains re-employment rights under federal law, provided (a) the Participant made himself available for Covered Employment in the 46 Northern California Counties within 90 days after release from active duty or 90 days after recovery from a disability continuing after his release from active duty (excluding periods of voluntary re-enlistment not effected during a national emergency or time of war) and (b) he was employed in the 46 Northern California Counties immediately prior to his service in the Armed Forces.

- (2) Disability for the period for which California UCD benefits were paid, or which constituted a valid waiting period for those benefits.
  - (3) Disability for the period for which Workers' Compensation temporary disability benefits were paid, or which constituted a valid waiting period for those benefits.
- b. Periods of absence described in a. will be credited as follows:
- (1) For periods from February 1, 1959 to February 1, 1971 and periods after February 1, 1976, 40 hours per week, regardless of the age of the Participant.
  - (2) For periods from February 1, 1971 to February 1, 1976:
    - (a) 40 hours per week if the Participant was younger than 55 years of age;
    - (b) 35 hours per week if the Participant was 55 through 59 years of age; and
    - (c) 30 hours per week if the Participant was 60 or more years of age.
- c. In order to secure credit for the periods of military service or disability as provided in this Section, a Participant must furnish in writing information and proof concerning his military service or disability as the Board may, in its sole discretion, determine.

#### **Section 6.06      Breaks in Service - General**

If a person has a Break in Service before he has become a Vested Participant, it has the effect of canceling his participation, his previous Years of Credited Service and his Benefit Units. However, a Break in Service may be temporary, subject to repair by a sufficient amount of subsequent Credited Service. A longer Break in Service may be permanent. The Break-in-Service rule does not apply to a Pensioner or a Vested Participant.

The provisions of Section 5.06 relating to breaks in service apply only to rights under Article 5.

a. Permanent Breaks in Service Before February 1, 1976

Between February 1, 1959 and February 1, 1976, a person incurred a Permanent Break in Service and his Credited Service and accrued benefits were canceled if he failed to earn at least one quarter of Credited Future Service in any period of 2 consecutive Plan Credit Years.

**Exception:** If a Participant who had incurred a Permanent Break in Service subsequently returned to Covered Employment, all of his Credited Service and Benefit Units canceled prior to February 1, 1976 will be reinstated on the last day of any month coincident with or following his subsequent accumulation of 5 Benefit Units, without a Permanent Break in Service.

b. One-Year Break in Service After January 31, 1976

- (1) A person has a One-Year Break in Service in any Plan Credit Year after January 31, 1976 in which he fails to work at least 300 hours in Covered Employment or Continuous Non-Covered Employment.
- (2) A One-Year Break in Service is repairable, in the sense that its effects are eliminated if, before incurring a Permanent Break in Service, the Employee subsequently earns one quarter of Credited Service. More specifically, previously earned Years of Credited Service and Benefit Units are restored. Nothing in this paragraph (2) will change the effect of a Permanent Break in Service.

c. Permanent Break in Service After January 31, 1976 and Before February 1, 1985

A person will have a Permanent Break in Service if he had consecutive One-Year Breaks in Service, including at least one after January 31, 1976, that equal or exceed the number of full Years of Credited Service which he had previously accumulated.

d. Permanent Break in Service After January 31, 1985

A person will have a Permanent Break in Service if he has consecutive One-Year Breaks in Service, including at least one after January 31, 1985, that equal the greater of 5 or the aggregate number of full Years of Credited Service which were previously accumulated.

The foregoing rule will only apply to a Non-Bargained Employee who has at least one hour in Covered Employment after March 31, 1989, if the Break in Service occurs before he has earned 5 Years of Credited Service.

e. Grace Periods Before February 1, 1985

A Participant who was absent from Covered Employment will be allowed a grace period not to exceed 3 Plan Credit Years if he failed to earn sufficient Credited Service to prevent a Permanent Break in Service for the following reasons:

- (1) he was totally disabled for work as a cement mason, or
- (2) he was involuntarily unemployed, or
- (3) he was employed in a supervisory capacity in the Building and Construction Industry in the 46 Northern California Counties. However, a Participant may work in a supervisory capacity outside the 46 Northern California Counties during a grace period for a period not to exceed 18 months.

f. Grace Periods After January 31, 1985

A Participant who was absent from Covered Employment will be allowed a grace period not to exceed 3 Plan Credit Years, if he failed to earn sufficient Credited Service to prevent a Permanent Break in Service, for the following reasons:

- (1) he was totally disabled for work as a cement mason, or
- (2) he was involuntarily unemployed, or
- (3) he was employed in a supervisory capacity in the Building and Construction Industry in the 46 Northern California Counties. However, a Participant may work in a supervisory capacity outside the 46 Northern California Counties during a grace period for a period not to exceed 18 months, or
- (4) the Participant is absent from Covered Employment because of Maternity or Paternity Leave, in which case, the Participant will be credited with a maximum of 300 Hours Worked for the period of that leave.

*Maternity/Paternity Leave Defined:* A Participant is deemed to be on Maternity or Paternity Leave if the Participant is absent from work because of the pregnancy of the Participant, the birth of a child of the Participant, the placement of child with the Participant in connection with the adoption of the child by the Participant, or for the purpose of caring for the child during the period immediately following the birth or placement.

A grace period does not add to a Participant's Credited Service. It is a period which is to be disregarded in determining whether the Participant has worked sufficient hours in Covered Employment to prevent a Permanent Break in Service. In order to secure the benefits of a grace period, a Participant must give written notice to the Board of the circumstances entitling the Participant to the grace period within 30 days after the occurrence of the circumstances and must present written evidence as the Board may require. The Board in its sole discretion will determine whether the Participant is entitled to a grace period in accordance with the provisions of this Section.

g. Effect of a Permanent Break in Service

If a person who has not achieved status as a Vested Participant has a Permanent Break in Service:

- (1) his previous Years of Credited Service and Benefit Units are canceled, and
- (2) his participation is canceled. New participation is subject to the provisions of Section 2.04.

**Section 6.07. Separation From Covered Employment.**

- a. A Participant will be deemed to be Separated from Covered Employment at the end of any 2 consecutive Plan Credit Year periods in which he does not work at least 300 hours in Covered Employment in at least one of the 2 Plan Credit Years.
- b. A Participant will be deemed to have Separated from Covered Employment before February 1, 1976 if he failed to earn one quarter of Credited Future Service during a Plan Credit Year in any period of 2 consecutive Plan Credit Years.

## **ARTICLE 7. HUSBAND-AND-WIFE PENSION**

### **Section 7.01. General**

Upon retirement, the Husband-and-Wife Pension provides a lifetime pension for a married Pensioner who meets the eligibility requirements for any type of Pension under the provisions of Article 3, 4 or 5, plus a lifetime pension for his surviving Spouse, starting after the death of the Pensioner. In the event of death before retirement, the Husband-and-Wife Pension provides a lifetime pension to the surviving Spouse of a married Participant who is vested in accordance with Section 3.16.

- a. The monthly amount to be paid to the surviving Spouse is 50%, 75% or 100% of the monthly amount which was payable or would have been payable to the deceased Pensioner, depending on whether the Pensioner elected payment under the 50%, 75% or 100% Husband-and-Wife Pension at retirement.
- b. The monthly amount to be paid to the surviving Spouse of a Participant who dies prior to retirement and who satisfies the requirements of Section 7.05 will be 50% of the monthly amount which would otherwise have been payable to the deceased Participant under the 50% Husband-and-Wife Pension.
- c. When a Husband-and-Wife Pension is in effect, the monthly amount of the Participant's pension is reduced in accordance with the provisions of the applicable Section 7.06, 7.07.a., or 7.07.b. from the full amount otherwise payable.
- d. For pensions with an Annuity Starting Date on or after September 1, 1996 and, in the event the Spouse predeceases the Pensioner, the monthly benefit payable as a Husband-and-Wife Pension will revert, prospectively, to the full monthly amount of the Pensioner's regular monthly benefit as if the Husband-and-Wife Pension had not been elected. The full monthly benefit is then payable for the lifetime of the Pensioner.

### **Section 7.02. Annuity Starting Date**

The provisions of this Article do not apply:

- a. to a Pensioner, whose Annuity Starting Date was before January 1, 1985; or
- b. to a Vested Participant who has not earned one Hour Worked after August 22, 1984.

### **Section 7.03. Upon Retirement**

All pensions will be paid in the form of a Husband-and-Wife Pension, unless the Participant has filed with the Board, in writing, a timely election to waive that form of pension, subject to all of the conditions of

this Section. No election will be effective unless the Spouse of the Participant consents in writing to the election; the election designates a beneficiary (or form of benefits) which may not be changed without Spousal consent (or the consent of the Spouse expressly permits designation by the Participant without any requirement of further consent by the Spouse); and acknowledges the effect of the election and consent is witnessed by an authorized Fund representative, or a Notary Public. No consent is required if it has been established to the satisfaction of a Fund representative that the consent may not be obtained because there is no Spouse or the Spouse cannot be located, or because of other circumstances as the Secretary of the Treasury may by regulation prescribe. Any consent by a Spouse (or establishment that the consent of a Spouse may not be obtained) is effective only with respect to that Spouse. A Participant may elect to waive the 50% Husband-and-Wife Pension with the consent of his Spouse and a Participant may revoke this election at any time. A Participant and his Spouse are entitled to exercise the right provided in this Section during a period of up to 90 days after they have received a written explanation of the terms and conditions of the Husband-and-Wife Pension, their rights under this Section and the effect of the exercise of those rights.

**Section 7.04. Retirement on a Disability Pension Before Age 55**

Payment of a Husband-and-Wife Pension to the surviving Spouse of a Pensioner on a Disability Pension will start on the later of:

- a. the first of the month following the death of the Pensioner, or
- b. the first of the month following the date the Pensioner would have attained age 55 had he lived.

**Section 7.05. Death of an Eligible Participant Before Retirement - Surviving Spouse Pension**

- a. If a Participant dies after achieving Vested Status and after earning one or more Hours Worked after August 22, 1984, the surviving Spouse will be entitled to a Surviving Spouse Pension.

If the Participant's death occurred after becoming eligible for a non-Disability Pension benefit under the Plan, the Spouse will be paid a Surviving Spouse Pension as if the Participant had retired on a 50% Husband-and-Wife Pension on the day before his death. If the Participant's death occurred before becoming eligible for any non-Disability Pension benefit under the Plan, the Spouse will be paid a Surviving Spouse Pension beginning on the earliest date he would have qualified for a non-Disability Pension benefit from the Plan had he lived. The amount of the Pension will be determined as if the Participant had left Covered Employment on the date of his death (or the date he last worked in Covered Employment, if earlier), retired on a 50% Husband-and-Wife Pension upon attaining the earliest date for which he would have qualified for a non-Disability Pension benefit from the Plan, and died on the last day of the month in which he qualified for benefits.

This Section also applies to an inactive Participant who has achieved Vested Status, had one or more Hours Worked on or after September 2, 1974 and dies after August 22, 1984.

- b. Notwithstanding any other provisions of this Article, a Surviving Spouse Pension will not be paid in the form, manner or amount described above if one of the alternatives set forth in this Subsection applies.
  - (1) If the Actuarial Present Value of the benefit is less than \$3,500, the Board will make a single-sum payment to the Spouse in an amount equal to that Actuarial Present Value, in full discharge of the Surviving Spouse Pension.
  - (2) Subject to paragraph (3) below, the Spouse may elect in writing, filed with the Board, and on whatever form it may prescribe, to defer commencement of the Surviving Spouse Pension until anytime after the death of the Participant. Payments will begin as of the surviving Spouse's Annuity Starting Date. The amount payable at that time will be determined as described in Subsection a. above, except that the benefit will be paid in accordance with the terms of the Plan in effect when the Participant last worked in Covered Employment, as if the Participant had retired with a 50% Husband-and-Wife Pension on the day before the surviving Spouse's payments are scheduled to start, and died the next day.
  - (3) Payment of the Surviving Spouse Pension must start no later than December 1 of the calendar year in which the Participant would have reached age 70½ or, if later, December 1 of the calendar year following the year of the Participant's death. If the Board confirms the identity and whereabouts of a surviving Spouse who has not applied for benefits by that time, payments to that surviving Spouse in the form of a single life annuity (subject to the provisions of paragraph (1) of this Subsection 7.05.b.) will begin automatically as of that date.
- c. Notwithstanding any other provisions of the Plan, if the Annuity Starting Date for the Surviving Spouse Pension is after the Participant's earliest retirement date, the benefit will be determined as if the Participant had died on the Surviving Spouse's Annuity Starting Date after retiring with a Husband-and-Wife Pension the day before, taking into account any actuarial adjustments to the Participant's accrued benefit that would have applied as of that date.
- d. If a surviving Spouse dies before the Annuity Starting Date of the Surviving Spouse Pension, that benefit will be forfeited and there will be no payments to any other party.

**Section 7.06. Adjustment of Pension Amount**

- a. For a Participant who is eligible for a Regular, Early Retirement or Service Pension, the 50% Husband-and-Wife Pension will be 95% of the amount determined from Section 3.03, 3.05, or 3.15, whichever is appropriate, if the Participant and Spouse are the same age. The factor is increased by .4 percentage points for each full year the Spouse is older than the Participant, subject to a maximum factor of 99%; or decreased by .4 percentage points for each full year the Spouse is younger than the Participant.

- b. For a Participant who is eligible for a Disability Pension, the 50% Husband-and-Wife Pension will be 85% of the amount determined from Section 3.07, if the Participant and Spouse are the same age. The factor is increased by .4 percentage points for each full year the Spouse is older than the Participant, subject to a maximum factor of 99%; or decreased by .4 percentage points for each full year the Spouse is younger than the Participant.

The factor determined in the paragraph above will be increased by 2.5 percentage points if the Participant is age 45. The factor is reduced by .25 percentage points for each year the Participant is older than age 45; or increased by .75 percentage points for each year he is younger than age 45. This increase when added to the adjustment factor above cannot exceed 99%.

### **Section 7.07. Optional 75% and 100% Husband-and-Wife Pensions**

In lieu of any other form of pension otherwise payable to him, a married Participant entitled to a Regular, Early Retirement, Service or Disability Pension with an Annuity Starting Date on or after September 1, 1999 may elect to receive the payment of his pension on the basis of either a 75% or 100% Husband-and-Wife Pension. Under either the 75% or 100% Husband-and-Wife Pension, he will receive a lower monthly amount with the provision that 75% or 100%, as the case may be, of that lower amount is continued after his death for the lifetime of his Spouse. The amount payable to the Participant who has elected one of these payment forms is determined as follows:

#### **a. 75% Husband-and-Wife Pension**

- (1) For a Participant who is eligible for a Regular, Early Retirement or Service Pension, the 75% Husband-and-Wife Pension will be 91% of the amount determined from Section 3.03, 3.05, or 3.15, whichever is appropriate, if the Participant and Spouse are the same age. The factor is increased by .4 percentage points for each full year the Spouse is older than the Participant, subject to a maximum factor of 99%, or decreased by .4 percentage points for each full year the Spouse is younger than the Participant.
- (2) For a Participant who is eligible for a Disability Pension, the 75% Husband-and-Wife Pension will be 81% of the amount determined from Section 3.07, if the Participant and Spouse are the same age. The factor is increased by .4 percentage points for each full year the Spouse is older than the Participant, subject to a maximum factor of 99%, or decreased by .4 percentage points for each full year the Spouse is younger than the Participant.

The factor determined in the paragraph above will be increased by 2.5 percentage points if the Participant is age 45. The factor is reduced by .25 percentage points for each year the Participant is older than age 45; or increased by .75 percentage points for each year he is younger than age 45. This increase when added to the adjustment factor above cannot exceed 99%.

b. 100% Husband-and-Wife Pension

- (1) For a Participant who is eligible for a Regular, Early Retirement or Service Pension, the 100% Husband-and-Wife Pension will be 87% of the amount determined from Section 3.03, 3.05, or 3.15, whichever is appropriate, if the Participant and Spouse are the same age. The factor is increased by .4 percentage points for each full year the Spouse is older than the Participant, subject to a maximum factor of 99%, or decreased by .4 percentage points for each full year the Spouse is younger than the Participant.
- (2) For a Participant who is eligible for a Disability Pension, the 100% Husband-and-Wife Pension will be 77% of the amount determined from Section 3.07, if the Participant and Spouse are the same age. The factor is increased by .4 percentage points for each full year the Spouse is older than the Participant, subject to a maximum factor of 99%, or decreased by .4 percentage points for each full year the Spouse is younger than the Participant.

The factor determined in the paragraph above will be increased by 2.5 percentage points if the Participant is age 45. The factor is reduced by .25 percentage points for each year the Participant is older than age 45; or increased by .75 percentage points for each year he is younger than age 45. This increase when added to the adjustment factor above cannot exceed 99%.

**Section 7.08. Additional Conditions**

A Husband-and-Wife Pension is not effective under any of the following circumstances:

- a. A Husband-and-Wife Pension is not effective unless the surviving Spouse was married to the Participant throughout the year preceding the Participant's death.
- b. A Husband-and-Wife Pension is not effective unless the Pensioner and Spouse were married to each other on the Annuity Starting Date of the Participant's pension, and for at least a one-year period any time before the Pensioner's death.
- c. Subject to the requirements for documentation described in Section 7.03, the Participant must file, before his Annuity Starting Date, a written representation, on which the Board or other Plan Representative is entitled to rely, concerning that Participant's marital status which, if false, gives the Board the discretionary right to adjust the dollar amount of the pension payments made to the alleged surviving Spouse so as to recoup any excess benefits which may have been erroneously paid.

- d. An effective election to waive the Husband-and-Wife Pension or a revocation of that election must be:
  - (1) made (or revoked) prior to the Annuity Starting Date;
  - (2) made on forms furnished by the Fund Office; and
  - (3) filed with the Fund Office.
- e. A Husband-and-Wife Pension, once payable, may not be revoked or the Pensioner's benefits increased, because of the subsequent divorce of the Spouse from the Pensioner or the Spouse predeceasing the Pensioner, except as provided in Section 7.01.d.
- f. The rights of a former Spouse or other alternate payee to any share of a Participant's pension, as set forth under a qualified domestic relations order, will take precedence over any claims of the Participant's Spouse at the time of retirement or death, to the extent provided by a domestic relations order or by any law of the United States.
- g. Notwithstanding any other provisions of the Plan, a waiver of the Husband-and-Wife Pension is not effective if given more than 90 days before the Annuity Starting Date.

**Section 7.09. Spousal Consent Not Necessary**

- a. Notwithstanding any other provision of the Plan, spousal consent in accordance with Section 7.03 is not required if the Participant establishes to the satisfaction of the Trustees that:
  - (1) there is no Spouse,
  - (2) the Spouse cannot be located,
  - (3) the Participant and Spouse are legally separated, or
  - (4) the Participant has been abandoned by the Spouse as confirmed by court order.
- b. If the Spouse is legally incompetent, consent under Section 7.03 may be given by his or her legal guardian, including the Participant if authorized to act as the Spouse's legal guardian.

## **ARTICLE 8. DEATH BENEFITS**

### **Section 8.01. Pensioner's Three-Year Guarantee of Benefits**

If a Pensioner (other than one receiving a Husband-and-Wife Pension) dies prior to having received 36 monthly payments, monthly payments in the amount as may be from time to time in effect at the time each payment comes due will be continued until a total of 36 monthly payments have been made to the Pensioner and his surviving Spouse, if any, or until the death of the Spouse, whichever occurs first, and will then cease. If there is no surviving Spouse, the pension will cease upon the death of the Pensioner. If the Pensioner had elected the Level Income Option (Article 9), benefits under this Section will be payable only in the amount, if any, by which payments under that option total less than 36 times the monthly amount to which the Pensioner would have been entitled, if he had not elected the Level Income Option. The benefit, if payable, will be paid in monthly installments equal to the amount to which the Pensioner would have been entitled in the absence of that election.

### **Section 8.02. Pensioner's Lump-Sum Death Benefit**

If a Pensioner dies on or after August 1, 1995, a Lump-Sum Death Benefit will be paid to his surviving Spouse in an amount equal to \$100.00 for each full Benefit Unit, plus a proportionate part of \$100.00 for any fraction of a Benefit Unit, the Pensioner had earned under the Plan at the time of retirement.

If there is no surviving Spouse at the time of the Pensioner's death, the Lump-Sum Death Benefit will be paid to one or more of the Pensioner's relatives in the following order: child(ren), parent(s), or sibling(s).

If the Pensioner is not survived by any of the preceding relatives, the Fund will reimburse the individual responsible for the Pensioner's funeral expenses to the extent that the expenses do not exceed the amount of the Lump-Sum Death Benefit. Any portion of the Lump-Sum Death Benefit remaining will be payable to the estate of the Pensioner.

If a Lump-Sum Death Benefit is not payable under any of the above circumstances, it will be payable to the estate of the Pensioner.

### **Section 8.03. Survivor Benefit Limitations**

Notwithstanding any other provisions of the Plan, the survivor benefits described in this Article will comply with the limits of Internal Revenue Code Section 401(a)(9) and the incidental benefit rule prescribed under it, including proposed IRS Reg. §1.401(a)(9)-1.

## **ARTICLE 9. LEVEL INCOME OPTION**

### **Section 9.01. Purpose**

A Participant entitled to a Service, Early Retirement, Pro Rata Early Retirement, Deferred Vested Service, or Deferred Vested Early Retirement Pension with at least 10 years of Northern California Credited Service, may elect the Level Income Option in lieu of the pension otherwise payable to him. Under the Level Income Option, he will receive a higher monthly amount for each month before the month in which he attains age 62 and a lower monthly amount for the remainder of his life. The purpose of this Option is to provide a Pensioner on a Service, Early Retirement, Pro Rata Early Retirement, Deferred Vested Service, or Deferred Vested Early Retirement Pension with a more or less level income for life, taking into account his likely receipt of Social Security benefits after he attains age 62.

The Level Income Option is not available to a Pensioner in receipt of a Husband-and-Wife Pension.

### **Section 9.02. Amount Payable Under the Level Income Option**

The higher monthly amount payable under this Option before attainment of age 62 will be determined by adding the following monthly amount to the monthly benefit otherwise payable (before rounding) according to the age of the Pensioner when benefit payments begin.

<u>Attained Age at Commencement of Optional Benefits</u>	<u>Amount</u>
55	\$60.00
56	\$64.10
57	\$68.70
58	\$73.70
59	\$79.20
60	\$85.40
61	\$92.30

If the first month for which the Level Income Option is payable does not coincide with the Participant's birthday, the benefit amount will be determined from the above table on a pro rata basis, taking into account the number of completed months since his last birthday.

After the Pensioner has reached age 62, the monthly benefit amount determined above will be reduced by \$100.

The Level Income Option will not be less than the Actuarial Equivalent of a straight life annuity where Actuarial Equivalence is determined using the “applicable mortality table” and “applicable interest rate” described in Section 1.01.a.

**Section 9.03. Payment**

Payment of the Level Income Option will be subject to the following conditions:

- a. The Participant must have elected the Level Income Option in writing, on a form prescribed by the Board before the first month in which a pension is paid to him.
- b. The Option may not be revoked once benefit payments have begun.
- c. If the adjustment described above would reduce the monthly amount payable after age 62 to less than \$20 a month, it will not be applied and, in that event, the benefit amount payable before age 62 will be adjusted on the basis of lifetime actuarial equivalence so that the benefit payable to the Pensioner on and after attainment of age 62 will be \$20 a month.

## **ARTICLE 10.**

### **APPLICATIONS, BENEFIT PAYMENTS AND RETIREMENT**

#### **Section 10.01. Applications**

- a. A pension must be applied for in writing on a form and in the manner prescribed by the Board and filed with the Board in advance of its Annuity Starting Date. Except as provided in Section 10.05, a pension will be payable on the first of the month after the month in which the application is filed, if the Participant is otherwise eligible.

An application for a Disability Pension is considered timely if the Social Security Disability Benefit entitlement notice is filed with the Board no later than 12 months after the date of the notice. The payment of the Disability Pension will begin with the seventh month of disability.

- b. If a Pensioner submits evidence of entitlement to additional Benefit Units, his increased pension, if any, will become effective:
- (1) retroactively to the effective date of his pension, if his application for additional Benefit Units was filed within one year after the first pension payment was made to him, or
  - (2) the first of the month following the date the application for additional Benefit Units was made, if it was filed more than one year after the first pension payment was made to him.
- c. If a Participant previously denied a pension submits evidence of entitlement to additional Credited Service and/or Benefit Units which subsequently qualifies him for a pension, his pension will become effective:
- (1) retroactively to the date determined under Subsection a. above, if the evidence of additional Credited Service and/or Benefit Units was submitted within one year after he was advised of the denial of a pension, or
  - (2) on the first of the month following the submission of the evidence of additional Credited Service and/or Benefit Units, if it was filed more than one year after he was advised of the denial of a pension.
- d. An application for a Surviving Spouse Pension (Pre-retirement) must be made in writing on a form and in the manner prescribed by the Board.

#### **Section 10.02. Information Required**

Each Participant, Pensioner or any other claimant to benefits must furnish to the Board any information or proof requested by it and reasonably required to administer the Pension Plan. Failure on the part of any Participant, Pensioner or claimant to comply with this request promptly, completely and in good faith will

be sufficient grounds for denying, suspending or discontinuing benefits to that person. If a Participant or Pensioner or other claimant makes a false statement material to his claim for benefits, the Board can recoup, offset or recover the amount of any payments made in reliance on that false statement in excess of the amount to which the Participant or Pensioner or other claimant was rightfully entitled under the provisions of this Plan.

### **Section 10.03. Action of Board of Trustees**

The Board of Trustees is, subject to the requirements of the law, the sole judge of the standard of proof required in any case and the application and interpretation of this Plan, and any decision of the Board of Trustees is final and binding on all parties, subject only to judicial review as may be in harmony with federal labor law.

### **Section 10.04. Right of Appeal and Determination of Disputes**

- a. No Participant, Pensioner, Beneficiary or other person has any right or claim to benefits under the Pension Plan, or any right or claim to payments from the Fund, other than as specified in the Plan. Any dispute as to eligibility, type, amount or duration of benefits or any right or claim to payments from the Fund will be resolved by the Board under the Pension Plan provisions, and its decision of the dispute, right or claim will be final and binding upon all parties, subject only to judicial review as may be in harmony with federal labor law. No action may be brought for benefits provided by the Plan, or to enforce any right under the Plan until after a claim has been submitted to and determined by the Board, and the only action that may be brought is one to review the decision of the Board, or to clarify the rights of the claimant under that decision, in a manner consistent with federal labor law.
- b. Any person whose application for benefits under the Plan has been denied in whole or in part, or whose claim to benefits or against the Fund is otherwise denied, must be notified in writing of that denial, within 90 days after receipt of the application or claim. An extension of time not exceeding 90 days may be required by special circumstances. If so, notice of the extension, indicating what special circumstances exist and the date by which a final decision is expected to be made, must be furnished the claimant prior to the expiration of the initial 90-day period. The notice must set forth in a manner calculated to be understood by the claimant (1) the specific reason or reasons for the denial; (2) specific reference to pertinent Plan provisions on which the denial is based; (3) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why that material or information is necessary; and (4) appropriate information as to the steps to be taken if the claimant wishes to submit his or her claim for review.
- c. Any person may petition the Board for a review of the denial of a claim. A petition for review must be in writing, state in clear and concise terms the reason or reasons for disputing the denial, be accompanied by any pertinent documentary material not already furnished to the Fund, and be filed by the Petitioner or his duly authorized representative with the Secretary of the Board within 60 days after the petitioner received notice of the denial. The petitioner or his duly authorized representative is permitted to review pertinent documents and submit issues and comments in writing.

- d. Upon good cause shown, the Board may permit the petition to be amended or supplemented and may grant a hearing on the petition before a hearing panel consisting of at least one Employer Trustee and one Employee Trustee to receive and hear any evidence or argument which cannot be presented satisfactorily by correspondence. The failure to file a petition for review within the 60-day period, or the failure to appear and participate in any hearing, will constitute a waiver of the claimant's right to review of the denial. The Board may, however, relieve a claimant of any waiver for good cause if application for relief is made within one year after the date shown on the notice of denial.
- e. A decision by the Board will be made promptly and not less than 60 days after the Board's receipt of the petition for review, unless special circumstances require an extension of time for processing, in which case notice of the extension will be furnished to the claimant prior to the expiration of the 60-day period. A decision will be made available as soon as possible, but not later than 120 days after receipt of the petition for review. The petitioner must be advised of the Board's decision in writing. The decision must include specific reasons for the decision, written in a manner calculated to be understood by the petitioner, and specific references to the pertinent Plan provisions on which the decision is based.
- f. If the decision on review is not furnished to the petitioner within the time specified in Subsection e., petitioner's claim will be deemed denied upon review. Petitioner is then free to bring an action upon his claim in accordance with Subsection a., but the claim will be limited to benefits due to him under the terms of the Plan, to enforce his rights under the terms of the Plan or to clarify his rights to future benefits under the terms of the Plan, and cannot include any claim or right to damages, either compensatory or punitive.
- g. The denial of an application or claim as to which the right to review has been waived or the decision of the Board with respect to a petition for review will be final and binding upon all parties, including the applicant, claimant or petitioner and any person claiming under the applicant, claimant or petitioner, subject only to judicial review as provided in Subsection a. The provisions of this Section will apply to and include any and every claim to benefits from the Fund, and any claim or right asserted under the Plan or against the Fund, regardless of the basis asserted for the claim, and regardless of when the act or omission upon which the claim is based occurred, and regardless of whether or not the claimant is a "participant" or "beneficiary" of the Plan within the meaning of those terms as defined in ERISA.

#### **Section 10.05. Benefit Payments Generally**

A Participant who is eligible to receive a pension benefit under this Plan and makes application in accordance with the rules of this Pension Plan is entitled upon retirement to receive the monthly pension benefits provided for the remainder of his life, subject to the provisions of this Plan. Benefit payments will begin on the first day of the month following the month in which the Participant has fulfilled all the conditions of entitlement to benefits. This first day is the Annuity Starting Date as that term is defined in Section 1.02.

Unless the Participant elects otherwise, the payment of benefits will begin no later than the 60th day after the later of the close of the Plan Year, in which:

- a. the Participant attains Normal Retirement Age, or
- b. the Participant terminates his Covered Employment and retires, as that term is defined in Section 10.11.

A Participant may, however, elect in writing filed with the Board to receive benefits payable for a later month, provided that this election does not postpone the commencement of benefits to a date later than the Required Beginning Date.

Pension payments to the Pensioner will not be made in a form other than equal monthly installments for the Pensioner's lifetime, except as provided in Section 10.09, or to effect (1) retroactive adjustments including recoupment of overpayments or (2) increases in the monthly pension amount applicable to all Pensioners in a specified class.

Pension payments will end with the payment for the month in which the death of the Pensioner occurs except as provided in accordance with the Husband-and-Wife Pension or, if applicable, upon the completion of the guaranteed payments provided for in Section 8.01.

If a Participant or Beneficiary cannot be found after a period of 4 years from the date on which a benefit is payable to him, that benefit will be forfeited and will go to and be retained by the Fund, unless the Plan has been terminated prior to the date on which the benefit would become forfeitable in accordance with this provision. However, if a Participant or Beneficiary subsequently makes a claim for the forfeited benefit, the benefit will again be payable to the Participant or Beneficiary.

In the event there are conflicting claims to a benefit payable under the terms of the Plan, the Board may interplead the claimants by appropriate proceedings in a court of competent jurisdiction. In this event, the provisions of Section 10.04 do not apply, and the claimants must submit their respective claims to the court in which the interpleader proceedings are pending. Upon deposit with the court of the accrued benefits, the Board will be entitled to be dismissed from the interpleader proceedings and entitled to payment of its costs in connection with the proceedings, including reasonable attorney's fees. Thereafter, a final decision of the court in the proceedings will bind all claimants to the benefit and constitute a full discharge of the Board and the Fund from any liability for benefits.

#### **Section 10.06. Mandatory Commencement of Benefits**

- a. Notwithstanding any provision of the Plan to the contrary, effective April 1, 1990, the Fund will begin benefit payments to all Participants by their Required Beginning Dates, whether or not they apply for benefits.
- b. If a Participant fails to file a completed application for benefits on a timely basis, and his whereabouts are known to the Fund, the Fund will establish the Participant's Required Beginning Date as the

Annuity Starting Date and begin benefit payments as follows:

- (1) If the Actuarial Value of the Participant's benefit (determined in accordance with Section 10.09 on small benefit cashouts) is no more than \$3,500, in a single-sum payment.
- (2) In any other case, in the form of a Husband-and-Wife Pension calculated on the assumptions that the Participant is and has been married for at least one year by the date payments start and that the husband is 3 years older than the wife.
- (3) The benefit payment form specified here will be irrevocable once it begins, with the sole exception that it may be changed to a single-life annuity if the Participant proves that he did not have a qualified Spouse (including an alternate payee under a QDRO) on the Required Beginning Date; also, the amount of future benefits will be adjusted based on the actual age difference between the Participant and Spouse if proven to be different from the foregoing assumptions.
- (4) Federal, state and local income tax, and any other applicable taxes, will be withheld from the benefit payments as required by law or determined by the Board to be appropriate for the protection of the Board and the Participant.

#### **Section 10.07. Benefits Accrued After Retirement**

a. Before Normal Retirement Age

As of September 1, 1990, additional benefits earned by a Participant in Covered Employment before Normal Retirement Age will be determined as of the Participant's new Annuity Starting Date, unaffected by previously suspended pension benefits which may be resumed in accordance with Section 10.13.

b. After Normal Retirement Age

As of September 1, 1990, any additional benefits earned by a Participant in Covered Employment after Normal Retirement Age will be determined at the end of each Plan Credit Year and will be payable as of February 1 following the end of the Plan Credit Year in which it accrued, provided payments are not suspended pursuant to Section 10.12. or postponed due to the Participant's continued employment.

Additional benefits that are not suspended or postponed will be paid in the payment form in effect for the Participant as of the Annuity Starting Date most recently preceding the date the additional benefits became payable, if the Annuity Starting Date had been established after Normal Retirement Age; otherwise the additional benefits will be determined as of the Participant's new Annuity Starting Date.

**Section 10.08. Actuarial Adjustment for Delayed Retirement**

- a. As of April 1, 1989, if a Participant's initial Annuity Starting Date is after the Participant's Normal Retirement Age, the monthly benefit will be the accrued benefit at Normal Retirement Age, actuarially increased for each complete calendar month between Normal Retirement Age and the Annuity Starting Date for which benefits were not suspended, and then converted as of the Annuity Starting Date to the benefit payment form elected in the pension application of the Participant, or to the automatic form of Husband-and-Wife Pension if the Participant is married.
- b. If a Participant becomes entitled to additional benefits after Normal Retirement Age, whether through additional service or because of a benefit increase, the actuarial increase in those benefits will start from the date he would first have been paid rather than Normal Retirement Age.
- c. The actuarial increase will be 1.00% per month for each month after Normal Retirement Age (or a later date as may be determined in b. above) until age 70 and 1.50% per month thereafter until the Participant's Required Beginning Date.
- d. Notwithstanding the above, instead of an actuarially increased benefit, a Participant may choose to receive at his Annuity Starting Date:
  - (1) a monthly benefit equal to his accrued benefit at Normal Retirement Age, adjusted to include any additional benefits to which he becomes entitled after his Normal Retirement Age and before his Annuity Starting Date as described in b, above, plus
  - (2) a one-time cash payment equal to the total of the amounts payable for the months between his Normal Retirement Age and his Annuity Starting Date for which benefits are not suspended.

**Section 10.09. Lump-Sum Payment in Lieu of Monthly Benefit**

If, at the time a monthly benefit becomes payable to a Participant or surviving Spouse, the Actuarial Equivalence of the monthly benefit is \$3,500 or less, the Board will pay to the Participant or surviving Spouse in a lump sum the amount of the Actuarial Equivalence, in lieu of the monthly benefit otherwise payable.

For purposes of this Section, Actuarial Equivalence will be determined in accordance with Section 1.01, except that the following procedure will apply to benefits payable to a Participant if it results in a larger lump-sum amount:

- a. For a Participant who is eligible for a Regular, Early, Service or Deferred Vested Pension, the lump sum amount will be \$118.00 for each \$1.00 of pension if the Participant is age 60. The factor is increased by \$.18 for each month the Participant is younger than age 60; or decreased by \$.23 for each month the Participant is older than age 60.

- b. For a Participant who is eligible for a Disability Pension, the lump sum amount will be \$99.00 for each \$1.00 of pension if the Participant is age 45. The factor is increased by \$.04 for each month the Participant is younger than age 45; or decreased by \$.12 for each month the Participant is older than age 45.

In no event will the amount determined under this Section be less than the value that would be determined using the legally required assumptions regarding life expectancy and interest rate as reflected in the Retirement Protection Act of 1994, Pub. L. 103-465 and Treas. Reg. 1.417(d)-1T.

#### **Section 10.10. Rounding of Benefit Amount**

If the amount of any monthly benefit payable under the Plan is not a multiple of \$.50, the amount will be rounded up to the next multiple of \$.50.

#### **Section 10.11. Retirement**

##### a. Before Normal Retirement Age

To be deemed retired before he has attained Normal Retirement Age, a Pensioner must withdraw completely and refrain from engaging in employment prohibited by the Plan. Prohibited employment includes (1) any employment covered by the Collective Bargaining Agreement with the Union or an affiliated local union; or (2) any employment for the Northern California Cement Masons Joint Apprenticeship and Training Committee, the District Council or one of its affiliated local unions; or (3) any employment or self-employment for wages or profit in the Building and Construction Industry in the geographical jurisdiction of this Plan or a Related Plan with which the Fund has a reciprocal agreement.

##### b. After Normal Retirement Age and Prior to the Required Beginning Date

To be deemed retired after he has attained Normal Retirement Age and prior to his Required Beginning Date, a Pensioner must refrain from engaging in employment prohibited by the Plan. Prohibited employment includes employment or self-employment for wages or profit of 40 hours or more during a calendar month:

- (1) in an industry in which Employees were employed and accrued benefits under the Plan as a result of that employment at the time that the payment of benefits to the Pensioner commenced or would have commenced if the Pensioner had not remained in or returned to employment; and
- (2) in a trade or craft in which the Pensioner was employed at any time under the Plan; and
- (3) in the state of California.

**c. After the Required Beginning Date**

A Pensioner will be deemed retired upon reaching his Required Beginning Date, regardless of the type of employment performed.

**Section 10.12. Suspension of Pension Payments**

**a. Before Normal Retirement Age**

If a Pensioner is employed in work of the type described in Section 10.11.a., his pension payments will be suspended and permanently withheld for a period equal to the number of months during which he was employed or self-employed.

Pension payments will also be suspended and permanently withheld for an additional 3 months, except with respect to a person receiving a Disability Pension.

**b. After Normal Retirement Age and Prior to the Required Beginning Date**

If a Pensioner is employed or self-employed in work of the type described in Subsection 10.11.b., his pension payments will be suspended and permanently withheld for each calendar month in which he was employed or self-employed. After he ceases that employment, his pension will resume with the first month following the cessation of employment or self-employment of the type described in Subsection 10.11.b.

**c. After the Required Beginning Date**

Pension payments cannot be suspended for employment after the Required Beginning Date.

**d. Notices**

- (1) Before commencement of pension benefits, a Pensioner must sign a retirement declaration, in a form prescribed by the Board of Trustees, acknowledging notice of the Plan rules governing suspension of benefits, as set forth in the declaration, and agreeing to abide by the requirements of those rules. The Pensioner will be notified by mail at his last address on record with the Fund of any material change in the suspension rules on or before the effective date of the change or within 15 days.
- (2) A Pensioner must notify the Plan in writing within 15 days after starting any work of a type that is or may be prohibited under the provisions of Section 10.11 and without regard to the number of hours of work.

The Board may at any time or from time to time as a condition to receiving future benefit payments require that a Pensioner submit evidence verifying that he is unemployed or that any

employment does not constitute work of the type prohibited under the provisions of Section 10.11. The Board will advise all Pensioners in writing at least once every 12 months of its employment verification requirements and the nature and effect of the presumptions provided in paragraph d.(3).

- (3) Whenever the Board becomes aware that a Pensioner is working or has worked in prohibited employment in any month after Normal Retirement Age, and has failed to give timely notice to the Plan of that employment, the Board may, unless it is unreasonable under the circumstances to do so, act on the basis of a rebuttable presumption that the Pensioner worked for at least 40 hours in a month and any subsequent month before the Pensioner gives notice in writing to the Board that he has ceased prohibited employment. The Pensioner may overcome this presumption by establishing that his work was not, in fact, an appropriate basis under the Plan for suspension of his benefits.

In addition, whenever the Board becomes aware that a Pensioner is working or has worked in prohibited employment for any number of hours for an employer at a construction site and he has failed to give timely notice to the Plan of that employment, the Board may, unless it is unreasonable under the circumstances to do so, act on the basis of a rebuttable presumption that the Pensioner engaged in that employment for the same employer in work at that site for as long as that same employer performed that work at that construction site. The Pensioner may overcome the presumption by establishing that his work was not, in fact, an appropriate basis under the Plan for suspension of his benefits.

- (4) A Pensioner whose pension has been suspended must notify the Plan in writing when prohibited employment has ended. The Board will have the right to withhold benefit payments until that notice is filed with the Plan.
- (5) A Participant may request, in writing, a determination by the Board whether specific contemplated employment is prohibited by Section 10.11.b. The Board will make its determination and notify the Participant, in writing, of that determination in accordance with the claims review procedure provided in Section 10.04.
- (6) The Plan will inform a Pensioner of any suspension of his benefits pursuant to Section 10.11.b. by notice given by personal delivery or first class mail during the first calendar month in which his benefits are withheld. This notice will include (a) a description of the specific reasons for the suspension, (b) a general description of the Plan provisions relating to the suspension of benefits, (c) a copy of the provisions and a copy of the claims review procedure provided in Section 10.04, (d) a statement that applicable Department of Labor regulations may be found in Section 2530.203-3 of Title 29 of the Code of Federal Regulations, (e) a statement that a request for the review of the suspension will be considered in accordance with the claims review procedure provided in Section 10.04, (f) a description of the procedure for filing a benefit resumption notice, (g) the forms that must be filed for that purpose and, (h) a specific identification of the periods of employment for which suspendible amounts will be offset, the suspendible amounts subject to offset and the manner in which the offset will be made.

- (7) A Participant who continues employment beyond Normal Retirement Age in the type of work prohibited by Section 10.11.b., will be notified in writing during the first calendar month after his attainment of Normal Retirement Age that his pension benefits will not commence until he has retired and filed an application for benefits. The Participant will also be furnished with the Plan rules governing suspension of benefits. He will also be informed that since he has delayed his Annuity Starting Date beyond Normal Retirement Age, he will forfeit benefits to which he may have been entitled had he not continued working.

e. Review

A suspension of benefits pursuant to this Section will be subject to review by the Board in accordance with the claims review procedure provided in Section 10.04.

f. Resumption of Benefit Payments

- (1) Entitlement to benefits will be resumed for months after the last month for which benefits were suspended, provided the Pensioner has complied with the notification requirements of paragraph d.(4) above. Subject to the provisions of paragraph (2) of this Subsection, overpayments attributable to payments of benefits made for any month or months for which the Pensioner engaged in prohibited employment will be deducted from benefits otherwise payable subsequent to the period of suspension.
- (2) In the case of a Pensioner who has attained Normal Retirement Age, benefit payments will resume no later than the third month after the last calendar month for which the Pensioner's benefit was suspended. The deduction or offset for prior benefit overpayments will be 100% of the initial payment or the full suspendible amount subject to offset, whichever is less. Thereafter, the deduction or offset will not exceed in any one month 25% of that month's total benefit payment which would have been due but for the offset.
- (3) If a Pensioner dies before recoupment of the overpayment, deductions will be made from any benefits payable to his surviving Spouse or Beneficiary, subject to the 25% limitation.

g. Continued Employment After Normal Retirement Age

Section 10.12.b., which provides for suspension of benefits after Normal Retirement Age, will not apply to a Participant who remains in Covered Employment and does not retire until after Normal Retirement Age, unless he subsequently returns to prohibited employment after he retires.

### **Section 10.13. Benefit Payments Following Suspension**

- a. The monthly amount and type of pension resumed after suspension will be in the same form and amount received prior to suspension.
- b. Suspension of pension payments before Normal Retirement Age, in accordance with Subsection 10.12.a., because of employment of the type for which a pension would not be suspended after Normal Retirement Age, will not reduce the value of the Pensioner's pension below the actuarial equivalent of the pension payable at his Normal Retirement Age. To the extent necessary to avoid a reduction, the monthly amount of the pension will be adjusted so as not to deprive the Pensioner of the value of the pension payable to him at his Normal Retirement Age.
- c. A Husband-and-Wife Pension in effect immediately prior to suspension of benefits and any optional form of payment selected, will remain in effect if the Pensioner's death occurs while his benefits are in suspension. If a Pensioner returns to Covered Employment, he will not be entitled to a new election as to the Husband-and-Wife Option, or any other optional form of benefit provided under the Plan.

### **Section 10.14. Non-forfeatability**

- a. The Employee Retirement Income Security Act requires that certain of the benefits under this Plan be non-forfeitable.
- b. A Participant acquires a non-forfeitable right to a Regular Pension at Normal Retirement Age. Periods of service and breaks in service are defined for that purpose under this Plan on the basis of all compensated hours of work.

A Participant's right to his Regular Pension is non-forfeitable upon his attainment of Normal Retirement Age.

- c. ERISA also provides certain limitations on any plan amendment that may change the Plan's vesting schedule. In accordance with those legal limitations, no amendment of this Plan may take away a Participant's non-forfeitable right to a Regular Pension at Normal Retirement Age, if he has already earned it at the time of the amendment. Also, an amendment may not change the schedule on the basis of which a Participant acquires this right, unless each Participant who has a least 3 Years of Service at the time the amendment is adopted or effective (whichever is later) is given the option of achieving a non-forfeitable right on the basis of the pre-amendment schedule.

That option may be exercised within 60 days after the latest of the following dates:

- (1) when the amendment was adopted,
- (2) when the amendment became effective, or
- (3) when the Participant was given written notice of the amendment.

While the Plan provides Deferred Vested, Early Retirement, Service, Disability and Pro Rata Pensions on the basis of requirements that may be met by some Participants who have not completed 10 Years of Service, these eligibility rules represent provisions of the Plan above and beyond those which are required by law to be non-forfeitable.

The provisions of this Section are subject to the provisions of Sections 3.12, 10.01, 10.02, 10.05, 10.10, 10.12 and 10.13.

**Section 10.15. Incompetence or Incapacity or Minority of Payee**

In the event that it is determined to the satisfaction of the Board that a Pensioner or Beneficiary is unable to care for his affairs because of mental or physical incapacity, or that a Beneficiary is a minor, and that no guardian, committee or representative of the payee has been legally appointed, the Board may in its sole discretion, during the lifetime or minority of the payee, as the case may be, pay any amount otherwise payable to the payee, to the person or persons, or institution or facility, who or which in its opinion has been or will be caring for or supporting the payee (except that no payment will be made to a governmental institution or facility if the payee is not legally required to pay for his or her care and maintenance), until claim is made for any amounts not expended, by a legally appointed guardian, committee or other representative of the payee or by the payee after the payee has reached majority. Any payment in accordance with this Section will discharge the obligation of the Fund to the extent of that payment.

**Section 10.16. Benefits Unpaid on a Pensioner's or Beneficiary's Death**

The Fund may pay any benefits due and payable but not actually paid prior to the death of a Pensioner or Beneficiary to any person or institution determined by the Fund to be equitably entitled to payment. The remainder of the amount will be paid to one or more of the surviving relatives of the Pensioner or Beneficiary in the following order: lawful Spouse, child or children, parent(s), sibling(s), or to the estate of the Pensioner or Beneficiary. Any payment in accordance with this provision will discharge the obligation of the Fund to the extent of that payment.

**Section 10.17. Non-Assignment of Benefits**

Except to the extent otherwise provided by a qualified domestic relations order, or equivalent, authorized by ERISA, the Internal Revenue Code or the Retirement Equity Act, each Participant, Pensioner or Beneficiary under the Plan is restrained from selling, transferring, anticipating, assigning, alienating, hypothecating or otherwise disposing of his pension, prospective pension or any other right or interest under the Plan. The Board of Trustees will not recognize, or be required to recognize, any sale, transfer, anticipation, assignment, alienation, hypothecation or other disposition. Any pension, prospective pension, right or interest is not subject in any manner to voluntary transfer or transfer by operation of law or otherwise, and is exempt from the claims of creditors or other claimants and from all orders, decrees, garnishments, executions or other legal or equitable process or proceeding to the fullest extent permissible by the laws of the United States or any regulations.

The Board will adopt and prescribe reasonable rules and regulations for the implementation of the Qualified Domestic Relations Order provisions of ERISA, the Internal Revenue Code and the Retirement Equity Act. In no event will any order provide for or result in the payment of benefits which have an actuarial value in excess of the actuarial value of the benefits to which the Participant would be entitled in the absence of a domestic relations order.

**Section 10.18. Offset and Recoupment**

In the event that it is determined that due to either a mistake of fact or law, or to comply with Section 10.17, or to any other circumstances, a Pensioner has been paid more than he is entitled to under the terms of the Plan or under the law, the Board will offset, recoup and recover the amount of the overpayment from payments due or thereafter becoming due to the Pensioner or his Beneficiary or surviving Spouse in installments and to the extent as the Board will determine.

**Section 10.19. Deductions from Benefit Payments**

- a. To the extent authorized by the Participant or required by the Internal Revenue Service or state taxing authority, federal and state income taxes will be withheld from a Participant's benefit payments.
- b. The Board of Trustees may establish a procedure whereby any Retired Employee, and any surviving Spouse while entitled to receive a pension, will have a portion of the pension due him deducted from his benefit payments and paid to Cement Masons Health and Welfare Trust Fund for Northern California to defray all or part of the cost of benefits to be provided to him by that Fund.

## **ARTICLE 11. MAXIMUM BENEFITS**

### **Section 11.01. General Rule**

- a. Notwithstanding any other provision of this Plan, the annual Accrued Benefit relating to employment with a Contributing Employer payable with respect to any Participant cannot exceed:
  - (1) \$90,000 or, if lower,
  - (2) 100% of the Participant's average Compensation in the period of 3 consecutive calendar years in which his Compensation was the highest. For this purpose, Compensation will be considered zero in the absence of reliable information confirming a Participant's Compensation. Information concerning a Participant's Compensation provided by a Contributing Employer to the Administrator will be deemed reliable. In addition, the Administrator may rely on information concerning Compensation furnished by a Participant or Beneficiary if, in the Administrator's judgment, the information is reliable.
- b. This limit will not apply to any benefit payable in a year that does not exceed \$1,000 a year for each year in which the Participant earns a Year of Credited Service, up to a maximum of \$10,000. If the Participant does not earn a year of Credited Service, but earns a fraction, not exceeding 1.0 of a Year of Credited Service, the \$1,000 amount for the year is reduced by multiplication by that fraction. This Subsection will not apply if the Participant has also been covered by an individual account plan to which the Employer contributed on his behalf, and the plan was maintained as a result of collective bargaining involving the same employee representative as this Plan.
- c.
  - (1) The \$90,000 limit in Subsection a.(1) is increased annually in accordance with IRS rulings and regulations under Code §415(d).
  - (2) For the purpose of Subsection a.(2), Compensation is the amount defined in Internal Revenue Code Section 3401(a) for purposes of federal income tax withholding at the source determined without regard to limitations relating to the nature or location of employment, plus all other payments for which the employer is required to furnish the employee a written statement under Code §6041(d), 6051(a)(3), or 6052.
  - (3) For purposes of Subsection a.(2), a Participant's average Compensation is deemed to be increased in each calendar year following his termination of service with the Employer for increases in the cost of living, based on the procedures used to adjust benefit amounts under Section 215(i)(2)(A) of the Social Security Act.
  - (4) Benefit payments that are limited by this Article will be increased annually to the level permitted by the limitations of this Article as adjusted for later years in accordance with this Subsection,

but in no event to a level higher than the benefits attributable to Benefit Units earned and Contributions made on behalf of the Participant.

- d. For the purpose of administering the Plan, initially the maximum benefit limitation under this Article will be tested on the basis that the Participant's benefit is attributable to service with a single Contributing Employer. If on the above basis the Participant's benefit would be limited because of the maximum benefits under this Article, then the provisions of this Article will be applied separately for employment with different Contributing Employers. For this purpose, the benefit under this Plan considered as payable with respect to a Participant and an Employer will equal the excess of the benefit over the benefit computed as if the Participant had no covered service with the Employer.

#### **Section 11.02. Adjustment of Dollar Limit for Early or Late Retirement**

- a. If a Participant's benefit payments begin before the Participant's Social Security retirement age, but on or after age 62, the dollar limit under Section 11.01.a. is reduced as follows:
  - (1) If the Participant's Social Security retirement age is 65, the dollar limit is reduced by 5/9 of 1% for each month benefits begin before the month in which the Participant reaches 65.
  - (2) If the Participant's Social Security retirement age is later than 65, the dollar limit is reduced by 5/9 of 1% for each of the first 36 months and 5/12 of 1% for each additional month (up to 24) by which benefits begin before the month of the Participant's Social Security retirement age.
- b. If a Participant's benefit payments begin prior to age 62, the dollar limit is reduced to the Actuarial Equivalent of the benefit payable at age 62.
- c. If a Participant's benefit payments begin after Social Security retirement age, the limit is increased to the Actuarial Equivalent of the dollar limit otherwise payable at the Social Security retirement age.
- d. For purposes of this Section, Social Security retirement age is:
  - (1) Age 65, for a Participant born before January 1, 1938;
  - (2) Age 66, for a Participant born after December 31, 1937 and before January 1, 1955; and
  - (3) Age 67, for a Participant born after December 31, 1954.
- e. In the case of a Participant employed by a tax-exempt Employer:
  - (1) If the Participant's benefit payments begin before age 65, but on or after age 62, the dollar limit is not reduced.
  - (2) If the Participant's benefit payments begin before age 62, but on or after age 55, the dollar limit is reduced to the Actuarial Equivalent of the benefit payable at age 62, but not below \$75,000.

- (3) If the Participant's benefit payments begin before age 55, the dollar limit is reduced to the Actuarial Equivalent of the benefit payable at age 55.
  - (4) If the Participant's benefit payments begin after age 65, the dollar limit is increased to the Actuarial Equivalent of the benefit payable at age 65.
- f. For purposes of this Section, the Actuarial Equivalent is based on a 5% interest assumption and the "applicable mortality table" described in Section 1.01.a.(1).

### **Section 11.03. Adjustment for Optional Payment Form**

If the Participant's Accrued Annuity benefit is paid in any form other than a single-life annuity or a Husband-and-Wife Pension, 75% Husband-and-Wife Pension or 100% Husband-and-Wife Pension, the limitation in Section 11.01.a.(1) (as otherwise modified under this Article) is applied to the Accrued Annuity benefit before it is converted to the alternative payment form, so that the amount payable under the payment form selected will be the Actuarial Equivalent of the Accrued Annuity benefit (which is defined as a single-life annuity) as limited by Section 11.01.a.(1). Actuarial Equivalence is determined for this purpose based on a 5% interest assumption and the "applicable mortality table" as defined in Section 1.01.a.(1).

### **Section 11.04. Plan Aggregation**

- a. In applying the limits of this Article, the benefits of and contributions to all other retirement plans sponsored by the Employer or any Affiliate will be taken into consideration, except for multi-employer plans.
- b. Except as noted in Subsection a., all defined benefit plans sponsored by the Employer or any Affiliate are treated as a single plan. Benefits payable under any other plan with respect to a Participant will be reduced to the extent possible before any reduction will be made in his benefits payable under this Plan, if necessary to observe these limits.
- c. Except as noted in Subsection a., if a Participant is covered under one or more defined contribution plans sponsored by the Employer or any Affiliate, his combined benefits and annual additions under all defined benefit and defined contribution plans cannot exceed the applicable combined plan limits under Code §415(e), including any rules and regulations. If necessary to observe these limits, benefits under any other defined benefit plans will be reduced before benefits under this Plan, but benefits under this Plan will be reduced to the extent necessary if benefits under the other plans cannot be reduced.

### **Section 11.05. Phase-In Over Years of Service**

- a. The limit in Section 11.01.a.(2) will be phased in, with respect to each Participant, at the rate of 10% for each Plan Credit Year in which the Participant earns a year of Credited Service with the Employer or Affiliate, up to 100%. If the Participant does not earn a Year of Credited Service, but earns a

fraction, not exceeding 1.0 of a Year of Credited Service, the 10% rate for the year is reduced by multiplication by that fraction.

- b. In applying this rule to benefits under other plans with which benefits under this Plan are aggregated under Section 11.04.a., the phase-in for those other plans' benefits will be based on years of service for vesting as defined in those other plans.

#### **Section 11.06. Phase-In Over Years of Participation**

If a Participant has fewer than 10 years of participation in this Plan, the \$90,000 limitation in Section 11.01.a.(1) will be multiplied by a fraction, the numerator of which is the Participant's total years of participation in this Plan and the denominator of which is 10. The limitation obtained cannot be less than 10% of the \$90,000 limitation.

#### **Section 11.07. Limitation Year**

The annual limits of this Article will be applied on a calendar year basis.

#### **Section 11.08. Protection of Prior Benefits**

- a. For any year before 1983, the limitations prescribed by Section 415 of the Code in effect before enactment of the Tax Equity and Fiscal Responsibility Act of 1982 will apply, and no benefit earned under this Plan will be reduced on account of the provisions of this Article if it would have satisfied those limitations under the prior law.
- b. For any year before 1992, the limitations prescribed by Section 415 of the Code in effect before enactment of the Tax Reform Act of 1986 will apply, and no benefit earned under this Plan as of the close of the last Limitation Year beginning before January 1, 1987 will be reduced on account of the provisions of this Article if it would have satisfied those limitations under the prior law.

#### **Section 11.09. Interpretation or Definition of Other Terms**

The term "Affiliate," and all terms used in this Article not otherwise expressly defined in the Plan, will be defined, interpreted and applied as prescribed in Code §415 and the regulations and rulings issued consistent with that section.

## **ARTICLE 12. MISCELLANEOUS**

### **Section 12.01. Gender**

Wherever any words are used in this Pension Plan in the masculine gender, they should be construed as though they were also used in the feminine gender in all situations where they would so apply. Wherever any words are used in this Pension Plan in the singular form, they should be construed as though they were also in the plural form in all situations where they would so apply, and vice versa.

### **Section 12.02. Mailings**

Except as otherwise specifically provided in this Plan, any notice or other communication to be given under the provisions of the Plan may be given by mailing the notice or communication by first class mail to the person to be notified at his last address on the records of the Plan and will be effective for all purposes on the third day after mailing.

### **Section 12.03. Addition of New Groups of Employees**

The Board will review the relevant actuarial data with respect to any group of employees added to the coverage of this Pension Fund. If the Board concludes that modification of previously adopted funding assumptions or changes in amounts of pension benefits would result from the inclusion of the group, the appropriate provisions of the Pension Plan will be modified with respect to the group involved so that the Fund will not be adversely affected by the inclusion of the group.

### **Section 12.04. Termination**

#### a. Right to Terminate

The Board has the right to discontinue or terminate this Plan in whole or in part. The rights of all affected Participants and former Participants who have not incurred a Permanent Break in Service to benefits accrued to the date of the termination, partial termination, or discontinuance to the extent funded are non-forfeitable.

#### b. Priorities of Allocation

In the event of termination, the assets remaining in the Plan, after providing for any administrative expenses, will be allocated among the Pensioners, Beneficiaries, Participants, and former Participants who have not incurred a Permanent Break in Service, in the following order:

- (1) First, in the case of benefits payable as a pension:
  - (a) in the case of the pension of a Participant or Beneficiary which was in pay status as of the beginning of the 3-year period ending on the termination of the Plan, to each pension, based on the provisions of the Plan (as in effect during the 5-year period ending on that date) under which the pension would be the least.

The lowest pension in pay status during the 3-year period will be considered the pension in pay status for that period.
  - (b) in the case of a pension of a Participant or Beneficiary which would have been in pay status as of the beginning of the 3-year period if the Participant had retired prior to the beginning of the 3-year period and if his pension had commenced (in the standard form) as of the beginning of that period, to each pension based on the provisions of the Plan (as in effect during the 5-year period ending on that date) under which the pension would be the least.
- (2) Second, to all other benefits (if any) of individuals under the Plan guaranteed under Title IV of ERISA.
- (3) Third, to all other vested benefits under this Plan.
- (4) Fourth, to all other benefits under this Plan.

c. Allocation Procedure

For purposes of Subsection b.:

- (1) The amount allocated under any paragraph of Subsection b. with respect to any benefit will be properly adjusted for any allocation of assets with respect to that benefit under a prior paragraph of that Subsection.
- (2) If the assets available for allocation under any paragraph of Subsection b. (other than paragraphs (3) and (4)) are insufficient to satisfy in full the benefits of all individuals which are described in that paragraph, the assets will be allocated pro rata among those individuals on the basis of the present value (as of the termination date) of their respective benefits described in that paragraph.
- (3) This paragraph applies if the assets available for allocation under paragraph (4) of Subsection b. are not sufficient to satisfy in full the benefits of individuals described in that paragraph.
  - (a) If this paragraph applies, except as provided in subparagraph (b) below, the assets will be allocated to the benefits of individuals described in paragraph (3) of Subsection b. on the basis of the benefits of individuals which would have been described in paragraph (3) under the Plan as in effect at the beginning of the 5-year period ending on the date of Plan termination.

- (b) If the assets available for allocation under subparagraph (a) above, are sufficient to satisfy in full the benefits described in that subparagraph (without regard to this subparagraph), then for purposes of subparagraph (a), benefits of individuals described in that subparagraph will be determined on the basis of the Plan as amended by the most recent Plan amendment effective during the 5-year period under which the assets available for allocation are sufficient to satisfy in full the benefits of individuals described in subparagraph (a) and any assets remaining to be allocated under subparagraph (a) on the basis of the Plan as amended by the next succeeding Plan amendment effective during that period.

### **Section 12.05. Mergers**

In the case of any merger or consolidation of the Plan with or transfer of, in whole or in part, the assets and liabilities of the Pension Fund to any other Pension Fund after September 2, 1974, each Participant will (if the Plan then terminated) receive a benefit immediately after the merger, consolidation or transfer which is at least equal to the benefit he would be entitled to receive immediately before a merger, consolidation or transfer.

### **Section 12.06. Special Provision for Eligible Rollover Distributions**

This Section applies to distributions made from the Fund on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at any time and in the manner prescribed by the Plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover (all terms as defined below).

#### **a. Eligible Rollover Distribution**

An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

- (1) any distribution that is one of a series of substantially equal periodic payments (not less frequent than annually) made for the life (or life expectancy) of the distributee, or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of 10 years or more;
- (2) any distribution to the extent the distribution is required under Section 401(a)(9) of the Internal Revenue Code;
- (3) one-time retiree benefit increases payable as extra monthly annuity benefits; or
- (4) the portion of any distribution that is not includible in gross income.

b. Eligible Retirement Plan

An eligible retirement plan is:

- (1) an individual retirement account described in Section 408(a) of the Code;
- (2) an individual retirement annuity described in Section 408(b) of the Code;
- (3) a qualified trust described in Section 401(a) of the Code that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving Spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

c. Distributee

A distributee includes an Employee or former Employee. In addition the Employee's or former Employee's surviving Spouse and Employee's or former Employee's former Spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the Spouse or former Spouse.

d. Direct Rollover

A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributees.

**Section 12.07. Non-Reversion**

The Contributions and all funds of the Plan are to be administered, maintained and invested for the sole and exclusive benefit of the Participants and their Beneficiaries. Other than the payment of any reasonable and lawful expenses of the Plan and any lawful refund of money to an Employer made by mistake in fact or law and within the time limits prescribed by law, there will be no reversion of any of the assets of this Plan to any Contributing Employer.

## **ARTICLE 13. AMENDMENT**

### **Section 13.01. Amendment**

This Plan may be amended at any time by the Board consistent with the provisions of the Trust Agreement. However, no amendment may decrease the accrued benefit of any Participant except:

- a. As necessary to establish or maintain the qualifications of the Plan or the Trust Fund under the Internal Revenue Code and to maintain compliance of the Plan with the requirements of ERISA, or,
- b. If the amendment meets the requirements of Section 302(c)(8) of ERISA and Section 412(c)(8) of the Internal Revenue Code, and the Secretary of Labor has been notified of the amendment and has either approved of it, or within 90 days after the date on which the notice was filed, he failed to disapprove.

**APPENDIX A**  
**To the Pension Plan for the**  
**Cement Masons Pension Trust Fund for Northern California**

**Non-Recurring Retiree Benefit Supplement**

- a. All Pensioners whose Annuity Starting Dates are effective on or before January 1, 1994, and whose pensions are in pay status (not deceased or suspended) as of January 31, 1994, will be issued on January 31, 1994, a non-recurring benefit supplement equal to one month's benefit as of January 1, 1994.
- b. All Pensioners and Beneficiaries whose Annuity Starting Dates are effective on or before September 1, 1994, and whose pensions are in pay status (not deceased or suspended) as of November 1, 1994, will be issued on November 1, 1994, a non-recurring benefit supplement equal to one month's benefit as of September 1, 1994.
- c. All Pensioners and Beneficiaries whose Annuity Starting Dates are effective on or before September 1, 1995, and whose pensions are in pay status (not deceased or suspended) as of December 1, 1995, will be issued on December 1, 1995, a non-recurring benefit supplement equal to one month's benefit as of September 1, 1995.
- d. All Pensioners and Beneficiaries whose Annuity Starting Dates are effective on or before November 1, 1996, and whose pensions are in pay status (not deceased or suspended) as of November 30, 1996, will be issued on December 15, 1996, a nonrecurring benefit supplement equal to one month's benefit as of November 1, 1996.
- e. All Pensioners and Beneficiaries whose Annuity Starting Dates are effective prior to January 1, 1997, and whose pensions are in pay status (not deceased or suspended) as of October 31, 1997, will be issued on November 15, 1997, a nonrecurring benefit supplement equal to one month's benefit as of October 1, 1997.
- f. All Pensioners and Beneficiaries whose Annuity Starting Dates are effective on or before September 1, 1998, and whose pensions are in pay status (not deceased or suspended) as of September 30, 1998, will be issued on October 15, 1998, a nonrecurring benefit supplement equal to one month's benefit as of September 1, 1998.
- g. All Pensioners and Beneficiaries whose Annuity Starting Dates are effective on or before November 1, 1999, and whose pensions are in pay status (not deceased or suspended) as of November 30, 1999, will be issued on December 1, 1999, a nonrecurring benefit supplement equal to one month's benefit as of November 1, 1999.

- h. All Pensioners and Beneficiaries whose Annuity Starting Dates are effective on or before November 1, 2000, and whose pensions are in pay status (not deceased or suspended) as of November 30, 2000, will be issued on December 1, 2000, a nonrecurring benefit supplement equal to one month's benefit as of November 1, 2000.

**CEMENT MASONS PENSION TRUST FUND FOR NORTHERN CALIFORNIA  
220 CAMPUS LANE  
SUISUN, CA 94585-1499  
TELEPHONE: (707) 864-3300 OR TOLL-FREE (888) 245-5005**

**IMPORTANT ANNOUNCEMENT REGARDING YOUR PENSION PLAN**

**TO: ALL PLAN PARTICIPANTS**

The Board of Trustees of the Cement Masons Pension Trust Fund for Northern California is pleased to announce that an “extra” benefit check will be issued on November 1, 2001 to each Pensioner and Beneficiary whose pension is effective on or before October 1, 2001 and whose pension is in pay status (not deceased or suspended) as of October 31, 2001. The amount of the check will be equal to one month’s benefit as of October 1, 2001.

We are pleased that the Fund’s current financial position makes it possible to make this improvement to your Pension Plan. As the financial position of the Fund is affected by fluctuations in the economy, we cannot promise future improvements. However, please be assured that the Trustees remain committed to providing the best benefits possible under the Plan, while maintaining a solid financial foundation.

If you have any questions regarding this improvement, please do not hesitate to contact the Fund Office at (707) 864-3300 or toll-free at (888) 245-5005 or you may E-mail us at [customerservice@norcalcementmasons.org](mailto:customerservice@norcalcementmasons.org). This notice is part of and should be kept with your Summary Plan Description booklet.

Sincerely,

BOARD OF TRUSTEES

**OCTOBER 2001  
INSERT 1 TO 9/1/01 BOOKLET**

This notice is only intended to be a brief summary of selected Plan provisions. As such, it cannot address all aspects governing the payment of benefits under the Plan. In order to more fully understand your entitlement to benefits, rights and obligations, you should refer to your Plan booklet and the Plan document.

**-PLEASE PLACE THIS INSERT IN YOUR PENSION PLAN BOOKLET-**

**CEMENT MASONS PENSION TRUST FUND FOR NORTHERN CALIFORNIA**  
**220 CAMPUS LANE**  
**FAIRFIELD, CALIFORNIA 94534-1499**  
**TELEPHONE: (707) 864-3300 OR TOLL-FREE (888) 245-5005**

**TO: ALL PLAN PARTICIPANTS**

The Board of Trustees of the Cement Masons Pension Trust Fund for Northern California is pleased to announce the following changes in the rules governing the monthly supplemental benefit.

**ELIGIBILITY RULES**

In the past, the Plan provided a monthly supplemental benefit to pensioners who are receiving a Regular, Early, Disability, Service, Pro-Rata or Partial Pension, provided they have worked at least 500 hours in Covered Employment in the twelve-month period immediately preceding the effective date of their pensions. The Board of Trustees is pleased to announce that *retroactive to January 1, 1987*, a pensioner is no longer required to have satisfied the 500 hours of work in Covered Employment in order to receive a monthly supplemental benefit. This means that pensioners with pensions effective on or after January 1, 1987 who have not received a monthly supplemental benefit because they did not satisfy the 500-hour requirement will now receive monthly supplemental benefits retroactive to the effective dates of their pensions.

**BENEFIT AMOUNT**

The amount of the monthly supplemental pension benefit will be calculated in three steps and will depend on whether the Participant has incurred a Separation from Covered Employment.

**Step 1:** Select the base monthly supplemental amount that applies to the date of the Participant's Separation from Covered Employment, according to the following schedule:

<b>Separation from Covered Employment</b>	<b>Base Monthly Supplemental Amount*</b>
Prior to September 1, 1987	\$0
September 1, 1987 through August 31, 1988	\$80
September 1, 1988 through August 31, 1997	\$140
September 1, 1997 or later	\$240

\*The Base Monthly Supplemental Amount is subject to the reduction for the Husband-and-Wife Pension described in Article 7.

**Step 2:** Determine Years of Credited Service fraction (not to exceed one):

$$\frac{\text{Participant's Years of Credited Service}}{\text{Total Years of Credited Service if Participant had worked under the Plan until the age he was first eligible for a Regular, Early or Service Pension}}$$

**Step 3:** Amount in Step 1 *multiplied by* the fraction in Step 2. The result is the Participant's monthly supplemental benefit to be added to his monthly pension amount.

**Example:** Assume a pensioner retired on a Service Pension at age 55, effective January 1, 2001. He had earned 25 Benefit Units. He last worked in Covered in Employment in December 1998 at age 53. (Though he had earned 25 Benefit Units, he was not eligible for a Service Pension because he had not yet attained age 55.) He incurred a Separation from Covered Employment January 31, 2000.

**Step 1:** Base Monthly Supplemental Benefit Amount: \$240

**Step 2:** Years of Credited Service fraction (not to exceed 1.000):

25 Years of Credited Service

= .9259 (25 divided by 27)

27 Total Years of Credited Service if he had worked until age 55 (age he became eligible for Service Pension)

**Step 3:** \$240 *multiplied by* .9259 = **\$222.22** Monthly Supplemental Benefit Amount

We are in the process of calculating monthly supplemental benefits for Cement Masons whose retirement date was on or after January 1, 1987 and who did not receive a supplemental benefit because they did not satisfy the 500-hour requirement. We anticipate distributing payments to Cement Masons affected by this change in early December 2002.

**NOTE:** Pensioners or Beneficiaries who previously satisfied the 500-hour requirement and are receiving similar monthly supplemental benefits will not receive additional supplemental benefits provided by this Plan change.

\* \* \* \* \*

If you have any questions regarding this Plan change or any other benefits provided by the Plan, please do not hesitate to contact the Fund Office.

Sincerely,

BOARD OF TRUSTEES

**NOVEMBER 2002  
INSERT 2 TO 9/1/01 BOOKLET**

This notice is only intended to be a brief summary of selected Plan provisions. As such, it cannot address all aspects governing the payment of benefits under the Plan. In order to more fully understand your entitlement to benefits, rights and obligations, you should refer to your Plan booklet and the Plan document.

**-PLEASE PLACE THIS INSERT IN YOUR PENSION PLAN BOOKLET-**

**CEMENT MASONS PENSION TRUST FUND FOR NORTHERN CALIFORNIA  
220 CAMPUS LANE  
FAIRFIELD, CALIFORNIA 94534-1499  
TELEPHONE: (707) 864-3300 OR TOLL-FREE (888) 245-5005**

**IMPORTANT ANNOUNCEMENT REGARDING YOUR PENSION PLAN**

**TO: ALL PENSIONERS AND BENEFICIARIES**

From time to time, the Pension Fund is in a position to provide an “extra” benefit payment to all Pensioners and Beneficiaries. Since there is no guarantee that an “extra” benefit check can be issued, the decision to approve a distribution is made only after a careful review of the Fund’s actuarial experience and financial performance during the previous year. The Board’s first obligation is to maintain the Fund’s ability to meet its commitment to all Pensioners, both current and those Cement Masons working toward retirement.

Based on a review of the Fund’s prior Plan Year’s actuarial experience, financial performance and expectations for the current year, we regret to inform you that we cannot approve the distribution of an “extra” benefit check this year. When the next Actuarial Report is issued, we will again review the Fund’s actuarial experience and financial performance to determine whether an “extra” benefit payment can be granted at that time.

Though difficult, we are taking this action in an effort to offer the best plan possible to all Plan Participants while, at the same time, maintaining the Fund’s ability to provide retirement benefits well into the future.

Sincerely,

BOARD OF TRUSTEES

**NOVEMBER 2002  
INSERT 3 TO 9/1/01 BOOKLET**

This notice is only intended to be a brief summary of selected Plan provisions. As such, it cannot address all aspects governing the payment of benefits under the Plan. In order to more fully understand your entitlement to benefits, rights and obligations, you should refer to your Plan booklet and the Plan document.

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**CEMENT MASONS PENSION TRUST FUND FOR NORTHERN CALIFORNIA  
220 CAMPUS LANE  
FAIRFIELD, CALIFORNIA 94534-1499  
TELEPHONE (707) 864-3300 OR TOLL-FREE (888) 245-5005**

**IMPORTANT NOTICE REGARDING  
NEW CLAIMS AND APPEALS PROCEDURES**

**TO: ALL PLAN PARTICIPANTS**

*Effective January 1, 2002*, the Department of Labor established new claims and appeals procedures that apply to the Cement Masons Pension Plan. These new claims and procedures are described below:

***Filing A Claim***

Your application for benefits must be made in writing on a form provided by the Board of Trustees and must be filed with the Fund Office before you are entitled to receive any benefits.

Your claim will be considered filed when the Fund Office receives your application, regardless of whether all the information necessary to make a benefit determination accompanies your application. If all necessary information does not accompany your application, the Fund Office will notify you, in writing, of:

1. The standards on which entitlement to benefits is based;
2. The unresolved issues that prevent a decision on your claim; and
3. The additional information needed to resolve those issues.

Once your claim has been filed, the Fund Office will make the initial determination of benefits within the time periods described below.

***Determining Initial Claim – Part 1 of 2  
For All Pensions, Including Disability Based on Social Security Administration  
(See Part 2 of 2 for Disability Pensions Based on Medical Evidence)***

The initial determination of benefits will be made within a reasonable period of time, but not longer than 90 calendar days after the Fund Office receives your application for benefits and all required information.

If the Fund Office determines that special circumstances require an extension of time for processing your claim, the Fund Office will notify you, in writing, prior to the expiration of the 90 days of the circumstances requiring the extension of time and the date by which the Plan expects to make a determination. The extension cannot be more than 90 calendar days from the end of the initial 90-day period.

***Determining Initial Claim Part 2 of 2***  
***For Disability Benefits Based on Medical Evidence***  
***(Under Section 3.08 of the Plan)***

In the absence of a Social Security Disability Benefit, the Pension Plan provides a Disability Pension based on medical evidence (see Section 3.08 of the Plan). The Board of Trustees makes a determination of disability based on medical evidence as proof of the disability.

The initial determination of benefits will be made within a reasonable period of time, but not longer than 45 calendar days after the Fund Office receives your application for benefits and all required information. If all required information is not received with your application, the 45-day period for making the initial determination is suspended during the time you obtain the additional information.

The initial 45-day period may be extended for up to 30 calendar days, for a total of 75 calendar days, if an extension of time is necessary due to matters beyond the control of the Plan. The Fund Office will notify you, in writing, prior to the expiration of the initial 45-day period of the circumstances requiring the extension of time and the date by which you can expect a determination.

If a second extension of time is needed to make a determination due to circumstances beyond the control of the Plan, you will be notified of an extension of up to 30 calendar days, or a maximum of 105 calendar days after the initial receipt of your application. Before the end of the first 30-day extension, the Fund Office will notify you, in writing, of the circumstances requiring a second extension and the new date by which you can expect a determination.

**If your application for benefits is not acted on within these time periods, you may proceed to the appeal procedures as if the claim had been denied. (See *Right to Appeal* on the following page.)**

***Notice of Claim Denial***

If the Plan denies your application for benefits, in whole or in part, you will be notified in writing of the determination and be given the opportunity for a full and fair review of the benefit decision. The written notice of denial will include:

1. The specific reason(s) for the denial;
2. The specific reference to pertinent Plan provision(s) on which the denial is based;
3. A description of any additional material or information necessary to complete your claim and an explanation of why that material or information is necessary;
4. A description of the Plan's review procedures and the time limits that apply to those procedures, including a statement of your rights to bring civil action under §502(a) of ERISA following an adverse determination on review; and
5. Any internal rule, guideline, protocol or other similar criterion that was relied upon in making the adverse determination regarding your claim for disability benefits under Section 3.08 of the Plan. The Fund Office will provide you with a statement, indicating the rule, guideline, protocol or other similar criterion that was relied upon in making the determination and will provide you with a copy of that document, free of charge, if you request it.

## ***Right to Appeal***

If you apply for benefits and your claim is denied, or if you believe that you did not receive the full amount of benefits to which you may be entitled, you have the right to petition the Board of Trustees to reconsider its decision. Your petition for reconsideration:

1. Must be in writing; and
2. Must state in clear and concise terms the reason(s) for your disagreement with the decision of the Board of Trustees; and
3. May include documents, records, and other information related to the claim for benefits; and
4. Must be filed by you or your authorized representative with the Fund Office within 60 days after you receive the notice of denial. In the case of a claim for disability benefits based on medical evidence under Section 3.08 or of the Plan, your petition for reconsideration must be filed with the Fund Office within 180 days after you receive the notice of denial. Failure to file an appeal within these time limits will constitute a waiver of your rights to a review of the denial of your claim. A late application may be considered if the Board of Trustees finds that the delay in filing was for reasonable causes.

Upon request, you will be provided, free of charge, reasonable access to and copies of all documents, records, and other information relevant to your claim for benefits; including, in the case of a claim for disability benefits under Section 3.08 of the Plan, any statement of policy or guidance with respect to the Plan concerning the denial of disability benefits, without regard to whether this advice or statement was relied upon in making the benefit determination.

## ***Review of Appeal***

A properly filed appeal will be reviewed by the Board of Trustees (or by a committee authorized to act on behalf of the Board of Trustees) at its next regularly scheduled quarterly meeting. However, if the appeal is received within 30 days prior to that meeting, the appeal may be reviewed at the second quarterly meeting following receipt of your appeal. If special circumstances require an extension of time, the Board of Trustees will make its decision at the third scheduled quarterly meeting following the receipt of your appeal. The Fund Office will notify you, in writing, before the beginning of the extension of the special circumstances and the date that the Board of Trustees will make its decision.

The Board of Trustees will review all submitted comments, documents, records and other information related to your claim, regardless of whether the information was submitted or considered in the initial benefit determination. The Board of Trustees will not give deference to the initial adverse benefit determination. In the event that the required information is not received with your appeal, the time period for reviewing your appeal will be suspended during the time you are obtaining the required information.

In deciding an appeal that is based in whole or in part on a medical judgment, the Board of Trustees will consult with a health care professional with appropriate training and experience in the field of medicine involved in the medical judgment. This health care professional will not be the same individual who was consulted in connection with the initial adverse benefit determination, nor will a subordinate of that individual.

**You will receive written notification of the benefit determination on an appeal no later than 5 calendar days after the benefit determination is made.**

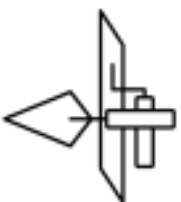
In the case of an adverse benefit determination on appeal, the written denial will include the reason(s) for the determination, including references to specific Plan provisions on which the determination is based. The written denial will also include a statement that you are entitled to receive, upon request and free of charge, reasonable access to and copies of all documents, records and other information relevant to your claim for benefits. The written notification of an adverse benefit determination in regard to disability benefits will also include the specific rule, guideline, protocol or other similar criterion relied upon in making the adverse determination.

The denial of a claim to which the right to review has been waived (that is, you have failed to file a written request within the required time limit), or the decision of the Board or the Board's designated Appeals Committee with respect to a petition for review, is final and binding upon all parties, subject only to any civil action you may bring under ERISA. Following issuance of the written decision of the Board of Trustees on an appeal, there is no further right of appeal to the Board of Trustees or right to arbitration.

You may, however, re-establish your entitlement to benefits at a later date based on any additional information and evidence not previously available to you at the time of the decision of the Board of Trustees.

**APRIL 2003  
INSERT #4 TO 9/1/01 BOOKLET**

**- PLEASE PLACE THIS INSERT IN YOUR PENSION PLAN BOOKLET -**



**CEMENT MASONS PENSION TRUST FUND  
FOR NORTHERN CALIFORNIA**

220 Campus Lane • Suisun, California 94585-1499

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