

**CEMENT MASONS
COLLECTIVE BARGAINING AGREEMENT
FOR
BUILDINGS**

Between

**Operative Plasterers and Cement Masons
Local 692 – Area 101(S)**

And

**Michiana Builders Association
and
Contractors**

Effective

June 1, 2009 through May 31, 2012

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This agreement, made and entered into at the City of South Bend, Indiana, this first day of June, 2009, by and between the Michiana Builders Association and other Contractors who are signatory hereto, hereinafter referred to as the “Contractors” and the Operative Plasterers and Cement Masons International Association Local #692 – Area #101, hereinafter referred to as the “Local”, agree that:

WITNESSETH that Preamble and Declaration of Principles, contained in Article I hereof have been adopted and made part of this Agreement and Have been affirmed as the principles under which the contracting parties agree to operate, based upon the understanding that both parties have a common interest in furthering the construction industry by establishing a working system for harmonious relations necessary to improve and further the relationship between the Employer, Union, and the public which we serve.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

ARTICLE I
PREAMBLE AND DECLARATION OF PRINCIPLES

Section 1. This Agreement entered into between the above named parties is for the purpose of preventing strikes and lockouts, and facilitating a peaceful and adjustment of all grievances and disputes that may arise between the Employer and the Employee in the building industry in the jurisdiction of the party of the second part, Local #692 – Area #101, which includes the whole of St. Joseph, Marshall, Fulton, Elkhart, LaGrange, Kosciusko counties and Southern one third of Pulaski county all within the State of Indiana.

Section 2. **Equal Employment Opportunity Rights:** It is mutually agreed by the “Employer and the Union that they will comply with (1) the Equal Employment Opportunity Act of 1972 which amends Title VIII of the Civil Rights act of 1964, (2) Presidential Executive Order #11246 and #11247, and (3) Indiana Fair Employment Act.

Section 3. **Recognition:** The EMPLOYER recognizes the UNION as the exclusive majority representative of all employees covered by this Agreement in the bargaining unit set forth in this agreement pursuant to Section 9(a) of the Labor – Management Relations Act. This majority status has been established by the union’s unequivocal demand for recognition as majority representative, the Employers unequivocal granting recognition of the Unions majority 9(a) status based on the Union having shown or having offered to show an evidentiary basis of the Unions majority support. Section 9(a) status may have also resulted based on a National Relations Board certification that the Union is a majority representative of the bargaining unity covered by this agreement.

Section 4. **Equal Representation:** The Union realizing its duty under the Labor – Management Relations Act of 1947, as amended and to the extent that it is the

representative, recognizes that it must represent all Employees in the bargaining unit equally, without discrimination.

Section 5. Union Security:

- (a) All Employees covered by this Agreement shall be obligated to become members of the Union after the 7th, but not later than the
- (b) 10th day of employment, the date of executive of this Agreement or the effective date of this clause, whichever occurs later, as a condition of continued employment. All Employees who are members of the Union shall maintain their membership in the Union as a condition of continued employment. Any Employee who fails to maintain their membership therein in accordance with the forgoing shall forfeit his right of employment, and the Employer shall immediately discharge such Employee upon receipt of written notice from the Union, provided, however that the foregoing shall be interpreted, construed and applied in accordance with the applicable provision or provisions of the National Labor Relations Acts, and all State and Federal Laws as amended.
- (c) The Employer agrees to respect the Jurisdictional rules of the Union and shall not direct or require their Employees, or persons other than the Employees in the bargaining unit here involved, to perform such work, which is recognized as the work of the Employees in said unit.

ARTICLE II
JURISDICTION

Section 1. In the event of a jurisdictional dispute between the Union and any other Union affiliated with the Building & Construction Trades Department, AFL-CIO, the parties hereto agree to comply with the procedural rules and regulation of the National Joint Board for the Settlement of Jurisdictional Disputes.

For the purpose of complying therewith the following are the jurisdictional claims of the Cement Mason agreements of record as contained in the "Green Book" of the National Joint Board for the Settlement of Jurisdictional Disputes, and or any jurisdictional agreement attested by the Impartial Umpire and signed by the O.P. & C.M.I.A., and any other International Union signatory to the National Joint Plan.

- (a) All Concrete construction, including foremanship of same, such as buildings, bridges, silos, elevators, smoke stacks, curbs and gutters, sidewalks, streets, and roads, paving alleys and roofs, of mass or reinforced concrete slabs and all flat surfaces of cement, rock asphalt, laying and spreading and finishing of all types of bituminous concrete, including all types of asphalt floors and pavements, the operation and

control of all types of vacuum mats used in the drying of cement floors in preparing same for finish, the operation of power driven floats and troweling machines, laser screed (either self-propelled, drive able, or walk behind) and vibrating screed, and operation of machines for cutting joints in floors, slabs, and walks. The laying and finishing of mastic flooring and all other types of resilient floor covering if laid free hand, and all types of under layment including patching of all holes in preparing for laying mastic and other types of floor coverings on all concrete construction. The finishing, sandblasting for design effect, or washing of all concrete construction, using any color pigment when mixed with other process including operation of machine for scouring floors, or any other purposes they may be used for in connection with Cement Masons' trade. Members of the bargaining unit shall perform all work pertaining to the caulking and sealing of all expansion joints, saw-cut6s or hand tooled joints of all concrete construction, regardless of the material, process, or tools used to perform the work. All work pertaining to the curing of all concrete and cement grouts, whether by chemical compounds, epoxies, or otherwise, shall be part of the jurisdiction of the Cement Masons. Also, members of the bargaining unit shall perform all work pertaining to the stamping, stenciling, staining, acid etching, coloring dusting, dusting washing (for the finishing process only), and release agents applied to concrete under 28 days old, finishing, washing, curing, and release agents for all concrete coatings and toppings and all work pertaining to polishing all types of concrete under 28 days old, and all work for which it has been given jurisdiction as determined by the last.

The rodding of all concrete and finishing of all top materials, sills, coping, steps, stairs, and risers and running all cement and plastic material six (6") inch base or less, preparatory work on concrete construction, such as cutting of nails, wires, wall ties, etc., where patching, finishing and/or waterproofing if done by trowel is necessary, patching, brushing, chipping, and bushhammering, rubbing or grinding if done by machine or carborundum stone, and the settle of all strips, screeds, stakes, grades, curb forms, and any bulkhead that is a single board in height and that has no keyway attached or which is not notched and fitted, curb forms regardless of boards or regardless of height, shall be set, braced or staked by the Cement Mason. All glass, metal base plates and other materials, set in cement. The laying and finishing of gypsum roofs and floors. The screening, finishing, rubbing, grouting, pointing and patching of all prefabricated and prestressed concrete construction on the job or transported to the job from shops, such as sidewalks, steps, floor or roof slabs, beams, joists, walls, and columns. All cement-mix-drypacking including tilt-up concrete construction. The curing of finished concrete if done by chemical compound and if done within twenty-four (24) hours after

finishing. The spreading, screeding, darbying, floating or trowel finishing of all types of magnesium, oxychloride, cement composition floors, including all types of oxychloride, granolithic or terrazzo composition floors, hand grinding or machine grinding. The preparation of all floor surfaces, bonding, preparation and installation of ground or base courses, steps, and cove base. The waterproofing of all concrete by thero seal. Ironite and plasterweld and similar materials, irrespective of tools, methods or colors utilized. Setting of all expansion material when set to a grade in floors, walks, and driveways. Gunitite when one and one-half (1 ½”) inches or less, and all drypacking and grouting.

(b) The last paragraph (a) does not include any work done in and by the usual method of plastering or shop craft.

(c) Pervious concrete all tamping, floating and leveling of all formed or hard edges, all rodding, screeding or use of roller screeds to bring to an elevation. All spraying of all surfaces for hydration control and all material used in that application. All control joints either hand cut or mechanical.

ARTICLE III **WAGES AND WELFARE**

Section 1. Standard wages: The wages for Cement Masons shall be the amount set forth in Appendix A, Wages and Welfare of this Agreement as specified for Cement Masons and Cement Mason Foreman.

Local #692 – Area #101 reserves the right to divert any of the aforementioned monies to fringe benefits upon sixty (6) days notice to the Contractors.

Section 2. Health and Welfare Fund: The employer agrees to contribute the amount set forth under Article III – Section a: Wages and Welfare for each hour worked into the Indiana State Council of Plasters and Cement Masons Health & Welfare Fund.

- (a) If a National Health Care System becomes mandated to employers and participants of the Union Health & Welfare Fund in some way causing the plan to become obsolete or unlawful, the parties of this Agreement will negotiate how the contributions referenced in Article III will be redistributed within the Agreement or elsewhere.

Section 3. Pension Fund: The employer agrees to contribute the amount set forth under Article III – Section 1: Wages for each hour worked into the Indiana State Council of Plasters and Cement Masons Pension Fund.

- (a) Said Funds shall be administered as provided in Section #302 of the Taft Hartley Act, as amended, to wit; an equal number of trustees shall be appointed by the joint action of both parties hereto.
- (b) The said fund shall be maintained only for the purpose of purchasing any and all of the following benefits for and on behalf of said employees.
 - (1) Group Term Life Insurance
 - (2) Disability Benefits
 - (3) Hospital Surgical and medical Care
 - (4) Pension

ALL MONIES, Health & Welfare, Pension, Apprentice, Industry, Employee Assistance Program (B.C.R.C.), Vacation, International Dues and Working Dues Deduct shall be combined into one check made payable to the Indiana State Council of Plasterers and Cement Masons Health & Welfare Fund. The reports and check must be mailed to Morris Associates, P.O. Box 50440, Indianapolis, Indiana 46250 NOT LATER than the tenth (10th) of each month. If not received by the fifteenth (15th) day of the month, it shall be mandatory that Local #692 – Area #101 reserves the right to remove all employee members of this agreement from the employment of the delinquent employer, and the Union may demand payment immediately. Each week thereafter, the monies shall be paid by “Cashiers Check until such time the Union feels the affected Contractor is making effort to comply with the Contract. Each fringe benefit and contribution will be itemized on regular forms furnished to the Contractors. It shall be a violation of this Agreement not to treat all signatories equally under this clause.

Wage and Fringe Benefit Bond: In order to ensure the payment of the wages and/or fringe benefits what are legally due under this agreement, the local union requires and Employer to a surety deposit bond in the amount not to exceed Fifty Thousand Dollars (\$50,000.00). Said bond will be with a signed Agreement. “It is expressly understood that the sole purpose of such bond is for the benefit of the Employees working under this agreement and for the purpose of insuring that they receive the wages and fringe benefits herein.”

The Employers assign all right, title and interest in the Surety Bond to the Union and Fringe Benefit Trust Funds, which shall have a priority interest to such Funds, and supersede the claims of all Employers’ creditors. Those Employers who have regularly employed bargaining unit Employees under this or a predecessor or successor contract during twenty-four (24) consecutive months and who have made all payments herein required in a timely manner during that period are hereby exempt from furnishing a Surety Bond until such time as they become delinquent.

Section 4. Foremanship and Scale: The first Cement Mason hired by a Contractor shall receive Journeyman’s scale. When there are two (2) or more Cement

Masons on a job, one will be designated Foreman and shall receive one dollar (\$1.00) per hour above scale. When there are eight (8) men, including the Foreman, the designated Forman will receive one dollar and fifty cents (\$1.50) above the Journeyman's scale. The contractor has the right to change foreman at any time.

Section 5. Special Materials: Any Cement Masons working on mastics, composition, plastic, acidproof, colored hardening or nonskid material that is applied prior to final finishing shall receive fifty (\$0.50) cents per hour above Journeyman scale.

- (a) Tools. Any Cement Mason using a dry grinder will receive twenty-five (\$0.25) cents additional per hour.

Section 6. Scaffolds: All swinging or hanging scaffold work except those suspended by bean and double cable shall pay thirty-five (\$0.35) cents per hour above3 scale up to 50 feet in height. Fifty (\$0.50) cents per hour above scale over 50 feet.

Section 7. Administrative Fund: (Industry Fund) An Administrative or Industry Fund in the amount set forth in Article III – Section 1. for each hour worked by the Employees in the bargaining unit shall be paid by the Contractors each month.

Section 8. Increase/Decrease Benefits: Local 692 – Area 101 (S) and the Association signatory to this Agreement may, by a written amendment signed by all such parties, increase the hourly contribution rate to any of the Trust Funds by decreasing rate for any of the other Trust Funds by the same amount. Any such changes shall not increase the total per hour amounts paid by employers. The Union shall promptly give notice to all contributing employers of any such changes.

Section 9. Vacation: The Employer agrees to deduct the amount set forth under Article III – Section 1. Standard Wages.

Section 10. Liquidated Damages, Audit and Collection: A liquidated damages charge of fifteen percent (15%) is imposed for all delinquent payments of accounts required to be paid hereunder. A payment is considered delinquent if not received at the designated depository by the 20th day of the month following the end of the month when the work was performed. The parties agree that the Trustees of the Fund numerated herein have authority to alter the date upon which payments are considered delinquent and the liquidated damages percentage to be assessed. Payment of said liquidated damages shall accompany the payment of the delinquent account. The parties acknowledge that the amount of administrative cost imposed by late payments is difficult to determine and that the fifteen (15%) percent liquidated late charge assessment is reasonable under the circumstances.

In the event any Employer fails to pay fringe benefits as set forth in this Agreement, and/or fails to have sufficient funds in the bank to pay checks issued to the Employee's, the Union has the right to immediately withhold and withdraw the services of its members from such Employer.

When an Employer becomes delinquent in the payment of fringe benefits, said Employer shall then be required to pay each individual Trust Fund on a weekly basis. These payments shall be mailed by certified mail to the respective fund offices.

The Employer agrees to submit, upon request, all requested records to the trustees of the various funds or their designated agents or representatives for the purpose of conducting audits to determine the Employer's compliance with the terms of this Agreement and the various Trust Agreements.

If found to be delinquent, the Employer is obligated to pay all audit costs, attorney fees, court costs and any and all other related costs incurred by the Funds in the audit and delinquency process.

The parties acknowledge that the Trustees of the various funds applicable herein have full authority and discretion in the manner in which they audit contractors and collect delinquencies.

ARTICLE IV **INTERNATIONAL DUES AND WORKING DUES CHECK-OFF**

Effective June 1, 2012 and revisited on an annual basis only, it is agreed that the amount of International dues and working dues check-off per hour that is to be deducted from the employee's earned income shall be an amount duly established by the Union in accordance with their by-laws and constitution. Said deduction shall be made from the employee's wages.

ARTICLE V **HOURS OF WORK, OVERTIME, AND PAYMENT**

Section 1. Eight (8) hours shall constitute a day's work from 7:00 am to 4:30 pm with thirty (30) minutes for lunch, beginning four (4) hours after the starting time, starting time may be advanced thirty (30) minutes or one (1) hour, if advanced starting has been established as the regular starting time by this craft. Any Cement Mason ordered to work during lunch period shall be paid the rate of double time.

Section 2 (a). Shift Work: When so elected by the Contractor, multiple shifts may be worked. When two (2) or three (3) shifts are worked:

The first shift (day shift) shall be worked between the hours of 8:00 am and 4:30 pm. Workmen on the day shift shall receive eight (8) hours pay at the regular hourly, rate for eight (8) hours worked.

The second shift (swing shift) shall be worked between the hours of 4:30 pm and 12:30 am. Workmen on the "swing shift" shall be guaranteed eight (8) hours pay at the

regular hourly rate for seven and one-half (7 ½) hours work after commencement of the work unless work is prevented by an act of God.

The third shift (graveyard shift) shall be worked between the hours of 12:30 am and 8:00 am. Workmen on the “graveyard shift” shall be guaranteed eight (8) hours pay at the regular hourly rate for seven (7) hours work after the commencement of the work unless work is prevented by an Act of God.

A lunch period of thirty minutes shall be allowed on each shift. All overtime work required after the completion of a regular shift shall be paid at one and one-half times the hourly rate.

There shall be no pyramiding of overtime rates and double the straight-time rate shall be the maximum compensation for any hours worked.

There shall be no requirement for a day shift when either the second or third shift is worked.

Section 2 (b). In places of business where the Contractor is unable to work during regular working hours and must work at the convenience of the owner, this work shall be done at the regular hourly rate plus 12% premium. Hours worked after midnight shall be done at the regular hourly rate plus 15% premium.

Section 3. Call In Pay: Whenever a Cement Mason is hired or ordered to a job and not put to work, the Employer shall pay him two (2) hours pay unless prevented by strike or an Act of God, provided he remains on the job if requested. Any Employee starting to work shall receive not less than four (4) hours pay, and any Employee working after noon shall receive eight (8) hours pay. Men called to work after established noon hour shall receive no less than four (4) hours pay unless prevented by strike or an Act of god. Employees to receive a foresaid wages must remain on the job if required, and perform any Cement Masons work as directed by the Superintendent or Cement Masons Foreman.

Section 4. Manning Job: The Contractor or his representative and his Cement Mason Foreman maintains the right to determine the amount of concrete to be poured, however, no Contractor is to pour more concrete than can be finished by the Cement Masons available at the time of pouring.

Section 5. Any Cement Mason called to a job after pouring has started shall receive pay from the time the pour was started, providing that he has not worked previously that day.

Section 6. No Journeyman shall be told to leave the job and return later unless his is paid continuous time. When overtime extends beyond two (2) hours after established quitting time, there shall be a thirty (30) minute lunch period.

Section 7. **Holidays:** All work done on Saturday, Sunday, New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, day after Thanksgiving Day, and Christmas Day, or any day celebrated as such, shall be paid for at the rate of double time, and under no consideration shall any work be performed on Labor Day. If it is necessary to work on any of the above mentioned days, it shall be by mutual consent of both parties to this Agreement. If a holiday falls on Sunday it will be celebrated on Monday.

- (a) Saturday will be used as a make-up date only for Employees who have worked for the Employer two days in the current pay period. Saturday work is the sole option of the Employee. No discrimination or pressure of any kind will be used to persuade the Employee to work on Saturday if it not the Employees desire.

Section 8. **Overtime:** All work over eight (8) hours and any work performed before designated starting time, and after quitting time shall be paid at the rate of time and one-half (1 ½). All overtime shall be equally divided amount he Journeymen on the job.

- (a) The Superintendent and Cement Masons will coordinate the finishing operation so that all employees have a thirty-minute opportunity to eat between the 3rd and no later than the 5th hour of the workday or overtime will be paid as stipulated in Article V – Section 1. The lunch period will be staggered by the employees as the concrete allows.

Section 9. **Pay Day:** When a Journeyman is to be laid off or discharged he must be notified and paid in full at least fifteen (15) minutes before quitting time. Journeymen working after the regular quitting time on the day of lay-off or discharge shall be paid the following day, either at a place mutually agreed upon, or mailed to Employee's residence.

Section 10. Employer shall pay all Employees their wages each week on the Employer's established payday and such payment shall be made during working hours on the job where the Employees are working unless prevented by strike or Act of God. Each Employee when paid shall receive a statement showing the number of straight and

overtime hours, the straight time hourly rate and all deductions and payments required by law or this contract. The option of Direct Deposit may be offered to the employee by the contractor as long as it is mutually agreed upon by both parties.

Section 11. Failure to comply with Section 9 and 10 of this Article, Contractor will be subject to pay an additional two (2) hours pay for Employees waiting on their check.

Section 12. Lost Time: No time is to be lost in moving from one job to another and no lost time moving at lunch period.

Section 13. Travel Pay: Employees of this Agreement will be paid travel pay if ordered to work outside the following counties of LaPorte, Starke, Pulaski, St. Joseph, Marshal, Fulton, LaGrange, Kosciusko in Indiana and Cass County Michigan. This pay will amount to the highest rate per mile driven to and from the jobsite as duly prescribed by the Internal Revenue Service. The starting and ending point for calculating miles driven will be from the Union Hall located at 1345 Northside Boulevard, South Bend, Indiana. Furthermore, this travel pay will not be taxed as income.

Section 14. When a Cement Mason is ordered to work outside the jurisdiction covered by this Agreement, the Employer shall pay the highest prevailing wage, plus contribution to the Health and Welfare Fund. If no Health & Welfare Fund is operating outside the jurisdiction governed by this Agreement, where the Employee is working, and further should the area outside this jurisdiction have a higher rate, then in that instance, the welfare contribution shall be deducted from the hourly wage rate set forth in Section 1 of Article III hereof.

Section 15. Coffee Break: There shall be a 10 minute coffee break each work day during the first four (4) hour work period. The exact time shall be mutually agreed upon between the job Steward and the job Superintendent, but shall be taken in the immediate work area.

Section 16. Four / Ten Work Week: The employer may request a 4 day 10 hour work week, under the following guidelines. The employee must have the opportunity to work 40 hour, if he does not, he shall work at regular over time rates. When the employee has the opportunity to work a full 40 hours in 4 day then he shall be paid 10 hours straight time hours per day. Friday shall be used as the make up day at straight time rates. If shift work is required the rules of shift work time and pay will apply. Saturdays and Sundays overtime rates still apply. The work week shall be Monday thru Thursday also normal work hours rule will apply.

ARTICLE VI **WORKING CONDITIONS**

Section 1. Foremanship: When a contracting firm consists of two (2) or more Cement Masons, only one (1) Cement Mason of the firm shall be allowed to work with the tools. A contractor who is an experienced Cement Mason may act as Foreman if he remains on the job and acts in the capacity of Foreman.

Section 2. Any and all Contractors having one or more jobs going at the same time will have a Cement Mason Foreman on each job when Cement Mason or Masons are working on said job. No Cement Mason shall act as Foreman on more than one job at

the same time. Second Foreman shall have no increase in pay until he has one or more men working with him.

Section 3. The Foreman shall be an Employee within the bargaining unit as defined by the National Labor Relations Act, as amended.

Section 4. The Superintendent or Contractor may inform the Foreman as to what work is required. The Foreman shall take order from the Contractor and/or Superintendent only, said Foreman with five (5) or more men shall not be required to use the tools.

Section 5. No Cement Mason or Cement Mason Foreman shall be required to transport troweling machines or other kind of company equipment.

Section 6. No Contractor shall use any chloride or other chemical additive, which makes the concrete set faster unless he notifies his Foreman in advance.

Section 7. All work shall be done in a good workmanlike manner and the Employer shall allow a reasonable amount of time to have the same so done.

Section 8. No outside floor, sidewalk, or driveway pour shall start in weather conditions of rain snow, sleet or hail, except by mutual agreement.

Section 9. Any concrete that is poured to an established grade such as footings or walls shall be screeded or floated off by the Cement Mason.

Section 10. Any ground or dock concrete pour that is sixteen (16') feet or over in width shall have one (1) or more hard screeds set in it before pouring is started.

Section 11. All Contractors shall furnish all stones, brushes, bushhammers, rods, derbies, long handled floats and brooms.

Section 12. The Cement Mason must have the proper tools for finishing concrete, and setting of screeds and bulkheads.

Section 13. Cement Masons must follow the troweling machine after its last troweling by the hand tool.

Section 14. No Cement Mason shall take orders from any labor Foreman.

Section 15. No Cement Mason shall be required to do labor work.

Section 16. When Cement Masons are not available, Plasterers shall be the first to work.

Section 17. Unemployment insurance must be carried by all Contractors.

Section 18. Employees covered by this Agreement shall work for only recognized and qualified Contractors or Employers who supply all material and labor, and who shall carry reliable compensation and liability insurance on their Employees and further shall conform to all municipal and state regulations pertaining to health and safety regulations.

Section 19. Employees shall not work for any individual or Contractor who does not abide by the provisions of this Agreement.

Section 20: OPCMIA “Code of Conduct” (Addendum 1) will be enforced at all jobsites and shops. Cement Masons will conform to any current set local, state, or national ordinances or laws.

ARTICLE VII **STEWARDSHIP**

Section 1. The Union shall have the right to appoint a Steward from among the Employees of every job or shop. Steward shall be given sufficient time to see that this Agreement is enforced. In no event shall a Steward be discriminated against by the Employer for faithful performance of his duties as Steward. The Steward shall be given an opportunity to work at all times that any other Employee or Employees in the bargaining unit are working whether during or outside regular hours, in order to perform his duties of this Agreement. Steward must be qualified to the work.

Section 2. Any duly authorized representative of the Local Union carrying proper credentials shall be allowed to visit jobs during working hours to interview the Contractor, Steward or men at work, but shall in no way hinder the progress of the job.

Section 3. The Business Agent shall be allowed to post a copy of the Local #692 – Area #101 Working Agreements at the job site trailer or other conspicuous place.

ARTICLE VIII **SAFETY**

Section 1. All Contractors are to conform to current IOSHA safety standards.

Section 2. Any Employee being injured on the job and requiring medical attention shall be paid for the time lost of the day injured on presentation of disability order from the doctor.

Section 3. The Employer and the Union will negotiate the following programs through the St. Joseph County Building Trades Association:

- (a) An Employee Drug and Alcohol free workplace program as per B.C.R.C.
- (b) Each Union Member will successfully complete the most current CPR training program and CPR retraining program as required under the terms of the program.
- (c) Each Union Member will successfully complete the most current 10-hour OSHA Training and to successfully complete retraining as required under the terms of the program.

ARTICLE IX **APPRENTICESHIP**

Section 1. Apprenticeship and Training Program: The Apprenticeship and Training Program is an organized, written plan embodying the terms and conditions of employment and training, and supervision of one or more apprentices, designated as Apprenticeship Standards for Cement Masons Local #692 – Area #101 South Bend.

There will be a State Joint Apprenticeship Committee consisting of the “Board of Trustees” of the Agreement and Declaration of Trust. There shall be an Area Joint Apprenticeship, and Training Committee, with equal representation from the Employers and the Union, and this Committee shall administer the apprenticeship and training programs for its Area. The “Duties of the Area Joint Apprenticeship Committee” is written in the Apprenticeship Standards.

The Area Joint Apprenticeship Committee shall have full power to act on matters pertaining to the transferring of apprentice(s) from one job to another in order to provide diversity of training and work opportunities.

One (1) apprentice shall be allowed each employer for the first journeyman cement mason working the job and one (1) additional apprentice to each three (3) additional journeyman cement masons working on the job. The ration may be waived by the local joint apprenticeship committee for a temporary period of time if the need arises. The State Board of Trustees Coordinator shall be notified as to the wavered rational and the period of time it is to be in effect.

All apprentices must attend all schooling and/or off-the-job training required by the relevant Area Joint Apprenticeship & Training Committee.

On any job where there are two (2) or more journeymen working, Local Area #101 South Bend reserves the right to place one (1) apprentice on such job.

The Apprenticeship Standards may be registered with the Bureau of Apprenticeship and Training, Employment Training Administration, U.S. Department of Labor.

Section 2. Apprenticeship Wages

1 st Period	0 to 800 Hrs	60% of Journeyman Rate	+ 100% Benefits
2 nd Period	801 to 1600 Hrs	70% of Journeyman Rate	+ 100% Benefits
3 rd Period	1601 to 2400 Hrs	75% of Journeyman Rate	+ 100% Benefits
4 th Period	2401 to 3200 Hrs	80% of Journeyman Rate	+ 100% Benefits
5 th Period	3201 to 4000 Hrs	85% of Journeyman Rate	+ 100% Benefits
6 th Period	4001 to 4800 Hrs	90% of Journeyman Rate	+ 100% Benefits
7 th Period	4801 to 5600 Hrs	95% of Journeyman Rate	+ 100% Benefits

When classes are in session during the school, the apprentice(s) must satisfactorily complete related technical training prior to receiving period wage increases. Classes will be held from September through May each school year for a minimum of 144 hours per year; for 3 years, totaling a minimum of 432 hours over the term of apprenticeship.

Section 3. Apprenticeship & Training Trust Fund: The parties' signatory hereto to participate and be a party to the "AGREEMENT AND DECLARATION OF TRUST – OP & CMIA LOCAL UNION #692 CEMENT MASON APPRENTICE TRAINING AND JOURNEYMAN RETRAINING EDUCATION FUND". Each signatory party will receive a copy of the AGREEMENT AND DECLARATION OF TRUST. The AGREEMENT AND DECLARATION OF TRUST and the Fund are created, established and maintained, for the purpose of providing such benefits as now are, or hereafter may be, authorized and permitted by law for Participants and in accordance with its provision written within and in the Apprenticeship Program, Journeyman Upgrading Training Program and in the Funds other rules and regulations authorized and/or created within the AGREEMENT AND DECLARATION OF TRUST. It is understood, however, that the Journeyman Upgrading Training Program will be created and maintained at the discretion of the Trustees of the Fund, as opposed to the Apprenticeship Training Program whose existence is mandated by this Trust Agreement.

All Employers subject to the terms of this agreement shall contribute the amount of monies specified as the Apprenticeship Fund under Article III entitled Wages & Benefits shall be made in a manner prescribed by the BOARD OF TRUSTEES of the AGREEMENT AND DECLARATION OF TRUST but shall be reported upon the same reporting form as is used in reporting contributions to other fringe benefits and Employers may be privileged to make contributions to separate funds in the a single payment by bank check.

Should the APPRENTICESHIP PROGRAM, for any reason, be abandoned at the State level, the contributions called for herein shall be disbursed in the manner set forth in the most current Trust Document.

ARTICLE X

Section 1. Management of Project: The Employer retains full and exclusive authority for the management of his operations. Among the items to be observed as guidelines for the operation of work conduct on the job, the following shall apply:

- (a) The selection of craft Foreman shall be the responsibility of the employer.
- (b) Workmen shall be at the place of work at starting time and shall remain at their place of work until quitting time.
- (c) There shall be no limitation production by workmen nor restriction on the full use of tools or equipment. There shall be no restriction other than they will be required by safety regulations on the number of men assigned to any crew or to any service.
- (d) A Steward shall be qualified workman performing the work of his craft and shall exercise no supervisory function. There shall be no non-working Stewards.
- (e) Each Employee is expected to give a full day's work for a full day's pay. Any violation of the work starting and stopping time shall be grounds for termination.
- (f) There will be a five (5) minute "pick-up" time at the end of each day and no Employee shall be allowed to leave the job site prior to the established quitting time.
- (g) Hiring and Notice. The Employer agrees to notify the Union of opportunities for employment, and give the Union the opportunity to refer qualified applicants for employment. The Employer shall have the sole and exclusive responsibility for hiring. Whenever possible the Employer shall advise the Union of all available job openings and job requirements at least 24 hours prior to the Employer filling such job requirements that cannot be filled by present or previous Union Members.
- (h) The employer shall have the right, if he elects to do so, bring in Cement Masons from outside the territorial jurisdiction of Area 101S in a number not to exceed fifty percent of the employees to be employed by the employer with respect to a crew assigned to a given project; if the crew has an odd number, the odd person will be supplied by Area 101S Cement Masons.

ARTICLE XI
PRE-JOB CONFERENCE

Section 1. **Pre-Job Conference:** If the Union or the Employer elects a pre-job conference prior to commencement of work, it shall be held. At the pre-job conference, the Employer shall advise the Union of its requirements as to the workmen required in the respective classification, the probable starting date, duration of the job and working schedules.

ARTICLE XII
GRIEVANCE AND ARBITRATION

Section 1. If any differences, disputes, or complaints arise over the interpretation or application of the contents of this Agreement, there shall by an earnest effort by both parties to settle the same with the following steps:

- (1) The Steward representing the Local Union and the representative of the Employer, shall make the immediate effort in an amicable manner to settle the issue.
- (2) If the issue cannot be resolved by the Steward and the Employer's representative, it shall be referred to and considered by a representative of the Employer and the business representative of Local Union within 48 hours.
- (3) If the issue cannot be resolved by the business representative and the Employer within two (2) calendar days, the grieved party shall have the right to submit the issue to arbitration. The party requesting the arbitration shall request the Federal Mediation and Conciliation Service submit a panel of five (5) individuals, any one of whom could act as arbitrator. The party requesting arbitration shall immediately strike two names from such list and the parties shall immediately alternately strike two (2) names from the list until one name is left, and that individual shall be the arbitrator.
- (4) The arbitrator thus selected shall hold a hearing upon the issue making such investigation as he shall deem necessary to a proper decision and render his decision in writing, which will be final, and conclusively binding upon the parties to this Agreement. Namely, the Union, the Employer, and the Employees.
- (5) The expense of the arbitrator shall be borne by the losing party.
- (6) The Local Union and the Contractors agree that there shall be no strikes or lock-outs during the life of this Agreement and that all disputes

arising under this Agreement shall be settled through the grievance procedures set forth above with the following exceptions:

- (a) Where a party refuses to process a dispute under the terms of this Article.
- (b) Where a party refuses to abide by an award or decision of the arbitrator.
- (c) Where an Employer fails to make, when due, any payments required under this Agreement, including wage and fringe benefit payments.
- (d) Where the dispute involves any issue arising from out of Article 1, Section 7, of this Agreement, Article II of this Agreement, or Article XI of this Agreement.

As to each of the above exceptions, the no-strike clause will not be applicable and the Union shall be free to peaceably picket and/or strike.

Section 2. **Sub-Contractor:** The territorial and occupations jurisdiction of the Union as stated in this Agreement shall be recognized to the end that the Employer agrees that it shall not use for the performance of such work, any person, company, or concern that does not observe the same wages, fringe benefits, hours and conditions of employment, including work jurisdiction, as enjoyed by the Employees covered by this Agreement.

ARTICLE XIII **SAVING CLAUSE**

Section 1. Any provision contained herein that is contrary to or held to be in violation of the Labor Management Relations Act of 1947, or any Federal Law now in force or hereafter enacted, or hereafter becoming effective shall be void and of no force or effect, and this contract shall be construed as if said void provision were not a part thereof, it being intended, however, that the other provisions of this contract shall not be affected thereby. It is further agreed that should compliance with any Federal Law, or any amendment thereof, or any other regulation issued hereunder, nor or hereafter in force and effect, prohibit the carrying out of any of the provisions of this Agreement then to the extent of such deviation or prohibition, this agreement shall be deemed to have been automatically amended, effective on the effective date of such law, order or regulation.

ARTICLE XIV

Section 1. This Agreement shall become effective June 1, 2009, and shall continue in full force and effect to including May 31, 2012, and from year to year thereafter unless either party signifies, by written notice, a desire to terminate or modify this Agreement sixty (60) days prior to May 31, 2012, or May 31, of any subsequent year thereafter.

Section 2. The Michiana Builder Association, Inc., signs this Agreement as agent for and with the consent of each of the member Contractors thereof. Each Contractor member of the Association shall live up to and perform the terms of this Agreement, but no Contractor shall be required to make any performance for any other Contractor.

Section 3. In approving this Agreement as to form and substance, the International Association, its officers and agents, shall not in any manner hereby become a party to the Agreement, nor shall there by any duty, liability obligation imposed upon the International Association, its officers or agents, respecting the terms and conditions of the Agreement in any manner whatsoever. The approval by the General Executive Board as to form and substance is only for the purpose of indicating that the International Association certifies that the said Agreement is not in violation of the International Constitution and By-Laws and is approved as to form and substance for that purpose only and no other.

Section 4. This Agreement is being signed in several counterparts, each of which shall be considered as an original.

Section 5. This represents the entire agreement of the parties, it being understood that they're in no other Agreement or understanding, either oral or written. The Employer understands that the Union is a fraternal society and as such, and in keeping wit the provisions of the National Labor Relations Act, as amended, has the right to prescribe its own rules and regulations with respect to the acquisition or retention of membership in the Union or with respect to any other matters for its own use. However, such rules or regulations, whether contained in a by-law, constitution, or otherwise, shall have no effect, directly or indirectly, upon this Collective Bargaining Agreement, any employment relationship or the relationship between parties.

ADDENDUM 1 **CODE OF CONDUCT**

“Promoting Pride in Craftsmanship and Customer Satisfaction”

Introduction

The purpose of the Operative Plasterers’ and Cement Masons’ Code of Conduct is to stimulate our members pride in craftsmanship and customer satisfaction.

Fostering membership pride in our plasterers, cement masons, and shop hands is key to our survival. To achieve this goal our Local Union Officers must implement this Code of Conduct immediately, uphold it strictly, and apply it consistently. The result will be to increase our members self worth, bolster quality craftsmanship, improve working conditions, leverage higher wages and benefits, and create increasing work opportunities for our members. It will also benefit our contractors by increasing their productivity, ensuring timely job completions, keeping projects within (or under) budget, and providing them with reliable, quality craftsmanship.

To be successful, the Code of Conduct must have the full support of the Local Union at all levels. Officers must wholeheartedly dedicate themselves to this task by “setting the standard” and acting as role models for the membership.

Any member found in violation of the Code will be subject to the disciplinary procedures of the International and Local’s Constitution which includes, but is not limited to, charges being filed and the possibility of a fine, suspension, and/or expulsion. While charges may be brought at any time a three strike policy shall be in effect. This means that any member who has three written complaints filed by Employers shall face disciplinary charges and after a hearing may be fined, suspended or expelled.

Responsibilities under the Code

Both the union and contractor have responsibilities under the Code. For the Code to be mutually beneficial, both parties must take their respective duties seriously, and communicate with the other party constructively and on a consistent basis.

Local Union Responsibilities

The Business Manager and Business Agents are responsible for communicating the OPCMIA Code of Conduct to all members, and ensuring they are fully compliant.

To achieve the goals of the Code, the Business Manager and Business Agents shall ensure that:

- Members shall apply their knowledge, skills, and experience diligently on the job.
- Members shall make every effort to upgrade their skills on a regular basis.

- Members, especially those with extensive experience in the trade, shall convey their knowledge and skills of cement masonry and plastering to their colleagues to strengthen the overall value of the OPCMIA's workmanship as well as encourage teamwork.
- Members meet their responsibility to their fellow workmates and contractors by arriving on time fit for work.
- Members strictly adhere to break times and lunch periods allowed in their contract(s) and agreement(s).
- Members bring the necessary tools as established on the tool list, and ensure they are in proper working order prior to arriving on the job.
- Members abide by the zero tolerance policy for substance abuse.
- Members perform consistently productive work, keep idle time to a minimum, and make every effort to eliminate unnecessary disruptions on the job.
- Members respect the property of the customer, and are fully aware that graffiti and other forms of destruction are not tolerated.
- Members respect their union, their contractors, and their clients by not wearing clothing or buttons with offensive words or symbols.

The Business Manager and Business Agents, in cooperation with Employers on the jobsite, will approach members who demonstrate bad work habits, advise them of their responsibilities as union members, and provide guidance and direction.

In addition, the Business Manager and Business Agents shall ensure that:

- Slowdowns and other methods utilized to extend jobs or give rise to overtime are not tolerated.
- Outside activities that case the OPCMIA or its local unions in a negative light are not tolerated.
- Inappropriate behavior, harassment, or discrimination exercised towards another member or person, or group of members or persons are not tolerated.
- Members are meeting their contractual obligations to utilize the proper safety equipment and methods.
- Members are not leaving the jobsite during their work periods without the prior approval of their superior(s).
- No member is soliciting funds on any project or job without prior approval.
- Cell phones are not used on the project site, except during official lunch and break periods.
- Merchandise is not sold on the job site without the prior approval of the Business Manager.

Contractor's Responsibilities

Our signatory contractors have a responsibility to manage their jobs as well as our members who work on their jobs. This task will be made easier by adhering to their responsibilities under the Code, including:

- Addressing ineffective superintendents, general foremen, and foremen.
- Ensuring proper job layout to minimize downtime.
- Ensuring the proper storage of contractor as well as employee tools.
- Ensuring the appropriate number of employees are on the jobsite to perform the work efficiently, economically, and safely.
- Providing the necessary leadership and training skills for jobsite leaders to eliminate problems.
- Ensuring that the proper types and quantities of tools and materials are available on the site to facilitate speedy progress.
- Ensuring that jobsite leaders take responsibility for mistakes created by management and rectify them expeditiously.
- Eliminating unsafe working conditions and ensuring that the proper safety training, equipment, and methods are used.
- It shall be the employer's responsibility whenever a member has violated the Code of Conduct to report such violations immediately by providing the responsible Local Union with a letter detailing the alleged violation(s) and the circumstances surrounding.

Dispute Resolution Mechanism

Both the OPCMIA Local Unions and the signatory contractors have obligations respecting the resolution of disputes. In the early stages of a dispute, our Local Unions must actively facilitate dialogue between its members and the contractors. Similarly, contractors should promptly address any and all problems and issues of concern as they arise. If these initial remedial actions of the Local Union and contractor fail to resolve the matter, the parties will pursue their respective remedies under the collective agreement(s).

ADDENDUM 2
BCRC

Section 1. (A) Various Employer Associations and the Union members are of Building and Construction Resource Center, Inc. (hereinafter “BCRC”), a non-profit corporation that was formed to provide services in the construction industry, including, but not limited to, education and referral services concerning alcohol, drug, and other substance abuse, which purposes are more fully defined in the Articles of Incorporation and By-Laws of said BCRC and Fund Trust Agreement and Declaration of Trust.

(B) Each employer under this Agreement shall pay to BCRC the amount specified in the wage and fringe benefit section of the Agreement .08 cents per hour for each hour worked by its employees covered by this Agreement. Each Employer is obligated to make such contributions, regardless of whether or not such Employer is a member of BCRC.

(C) Payments required to be made to BCRC shall be deemed to be governed by the provisions of this Agreement pertaining to the collection of the Health and Welfare and Pension payments required to be made by the Employers and thus, may be enforced in the same manner.

(D) The Board of directors of BCRC will have full audit authority of the Employer’s books and records as they pertain to this contribution.

(E) The Employees covered by this Agreement will abide by the provisions of the BCRC substance abuse program when required by the Owner.

SIGNATURE PAGE

IN WITNESS WHEREOF THE PARTIES SET THEIR HANDS AND SEAL THIS

_____ DAY OF _____, 20_____.

**FOR THE MICHIANA
BUILDERS ASSOCIATION**

**FOR THE
UNION**

APPENDIX A

ARTICLE III

WAGES AND WELFARE

**OPERATIVE PLASTERERS & CEMENT MASONS LOCAL #692
AREA #101 SOUTH BEND INDIANA CEMENT MASONS**

Section 1. Standard wages: The minimum hourly rate of wages shall be as follows effective June 1, 2009 through May 31, 2010:

	<u>06-01-09</u>
Journeyman Rate	\$ 24.79
Foreman Rate (2-7 Men)	\$ 25.79
Foreman Rate (8 or more Men)	\$ 26.29
Health & Welfare	\$ 6.00
Pension Fund	\$ 4.25
Apprenticeship Fund	\$ 0.40
Industry Fund (MACIAF)	\$ 0.15
B.C.R.C.	\$ 0.08
Total Package	\$ 35.67
Vacation Fund (Deduct)	\$ 2.00
Work Dues (Deduct)	\$ 1.61
International Dues (Deduct)	\$ 0.36

Rates Effective June 1, 2010 - To Be Negotiated

Rates Effective June 1, 2011 - To Be Negotiated

The contribution rates set forth under Article III, Section 1, Appendix A, for each hour worked covered by this Agreement for Area 101S for Health & Welfare, Pension, Vacation Apprenticeship, Dues Check-Off, BCRC, and Industry Funds shall be combined into one check made payable to the Indiana State Council of Plasterers & Cement Masons H&W and Pension Fund (ISC P&CM H&W Fund) and mailed to P.O. Box 50440, Indianapolis, Indiana 46250.

The Union reserves the right to divert any future increase from wages to benefits upon thirty (30) days written notice to the contractor.