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Title: **Contractors Association of Eastern Pennsylvania and Operative Plasterers and Cement Masons International Association of the United States and Canada (OPCM), AFL-CIO, Local 592 (2004)**

K#: **8816**

Employer Name: **Contractors Association of Eastern Pennsylvania**

Location: **PA Philadelphia**

Union: **Operative Plasterers and Cement Masons International Association of the United States and Canada (OPCM), AFL-CIO**

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K 8816  
1,000 workers

40 pgs.

# Collective Bargaining Agreement

between

**The Contractors Association  
of Eastern Pennsylvania**

and

**Local Union No. 592  
of the Operative Plasterers  
and Cement Masons  
International Association  
of the  
United States and Canada  
AFL-CIO**

(215) 468-0235

Effective: May 1, 2000 - April 30, 2004



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## TABLE OF CONTENTS

Page

<b>ARTICLE I - JURISDICTION</b> .....	1
Section 1:01. Territory and Work Covered .....	1
Section 1:02. Employers Covered .....	2
<b>ARTICLE II - UNION SECURITY</b> .....	3
Section 2:01. Membership in Union Required .....	3
Section 2:02. Discharge .....	3
Section 2:03. ....	4
<b>ARTICLE III - HOURS AND DAYS OF WORK; EXTRA SHIFTS; HOLIDAYS</b> .....	5
Section 3:01. Regular Working Hours and Days .	5
Section 3:02. Extra Shifts .....	5
Section 3:03. Hours of Work for Extra Shifts .....	5
Section 3:04. Single Special Shift Work .....	6
Section 3:05. Time and Place for Reporting toWork .....	6
Section 3:06. Holidays .....	6
<b>ARTICLE IV - WAGE RATES, OVERTIME, TRANSPORTATION AND BOARD</b> .....	7
Section 4:01. Straight Time Rates .....	7
Section 4:02. "Overtime" .....	8
Section 4:03. Overtime Rates of Pay .....	9
Section 4:04. Guaranteed Eight (8) Hour Day ....	9
Section 4:05. Time and Place for Payment of Wages .....	9
Section 4:06. Toxic/Hazardous Waste Removal .	11
<b>ARTICLE V - WELFARE BENEFITS; PENSIONS</b> .....	11
Section 5:01. The Health and Welfare Fund .....	11

## TABLE OF CONTENTS

	<b>Page</b>
Section 5:02. Employer's Payments to the Welfare Fund .....	12
Section 5:03. Employer's Reports to the Welfare Fund .....	12
Section 5:04. Allocation of Payments .....	13
Section 5:05. The Pension Fund .....	13
Section 5:06. Employer's Payments to the Pension Fund .....	14
Section 5:07. Employer's Reports to the Pension Fund .....	15
Section 5:08. Joint Apprenticeship Training Fund .....	15
Section 5:09. Employer's Payments to the Apprentice Fund .....	15
Section 5:10. Employer's Reports to the Apprentice Fund .....	16
Section 5:11. Posting of Surety Bond .....	16
Section 5:12. Delinquent Collection Procedures	17
<b>ARTICLE VI - WORKING CONDITIONS ..</b>	<b>18</b>
Section 6:01. Tools to be Furnished .....	18
Section 6:02. Tool House .....	18
Section 6:03. Salamanders .....	19
Section 6:04. Sanitary Facilities .....	19
Section 6:05. Union's Business Agent .....	19
Section 6:06. Foul Weather Gear .....	19
Section 6:07. Swing Rate .....	19
<b>ARTICLE VII - FOREMEN .....</b>	<b>20</b>
Section 7:01. Foremen .....	20
Section 7:02. General Foremen .....	20
<b>ARTICLE VIII - STEWARD .....</b>	<b>20</b>
Section 8:01. Duties of the Steward .....	20
Section 8:02. Grievance Procedure .....	20

## TABLE OF CONTENTS

	<b>Page</b>
<b>ARTICLE IX - NON-DISCRIMINATION..</b>	<b>21</b>
Section 9:01. Non-Discrimination .....	21
<b>ARTICLE X - ADJUSTMENT OF DISPUTES .....</b>	<b>21</b>
Section 10:01. Disputes Subject to this Article ...	21
Section 10:02. Powers and Procedures of Joint Grievance Committee .....	22
Section 10:03. Arbitration .....	22
Section 10:04. Strikes and Lockouts .....	24
<b>ARTICLE XI - DURATION OF AGREEMENT .....</b>	<b>24</b>
Section 11:01. Term .....	24
Section 11:02. Notice of Modification and Negotiations .....	25
Section 11:03. Most Favored Nation Clause .....	25
Section 11:04. Subcontracting of Job Site Work .	26
<b>ARTICLE XII - WORKING DUES CHECK- OFF .....</b>	<b>26</b>
Section 12:01. Amount .....	26
Section 12:02. Payment of Withheld Dues .....	26
Section 12:03. Discharge of Nonpayment by Employee .....	27
<b>ARTICLE XIII - POLITICAL ACTION COMMITTEE .....</b>	<b>27</b>
Section 13:01. Check-off of Contributions .....	27
Section 13:02. Payment of Contributions .....	27
<b>ARTICLE XIV - DRUG TESTING POLICY .....</b>	<b>28</b>
Section 14:01. Drug Testing Policy .....	28
<b>JOBS RECOVERY PROGRAM .....</b>	<b>35</b>

THIS AGREEMENT made and entered into this twenty-sixth day of April, 2000 effective as of May 1, 2000 by and between THE CONTRACTORS ASSOCIATION OF EASTERN PENNSYLVANIA (hereinafter referred to as the "ASSOCIATION"), acting for and on behalf of itself and pursuant to authority duly granted to it, for and on behalf of each of its present and future members, each of whom is hereinafter referred to as the "Employer," and LOCAL UNION NO. 592 of Philadelphia, PA. (hereinafter referred to as the "UNION"), an affiliate of the Operative Plasterers and Cement Masons International Association of the United States and Canada (hereinafter referred to as "INTERNATIONAL"), acting for and on behalf of itself, of its present and future members and of other employees of the Employer as hereinafter set forth.

**WITNESSETH:**

This agreement shall be binding upon both parties hereto and upon their respective members, as well as upon the respective successors and assigns of said parties and of their respective members, and the provisions hereof shall govern the conditions under which the employees, as hereinafter defined, shall work, and under which the Employer shall hire and employ such employees.

**ARTICLE I  
JURISDICTION**

**Section 1:01. Territory and Work Covered.** This Agreement shall be binding in the existing territorial jurisdiction of the Union within the Counties of Philadelphia, Montgomery, Bucks, Chester and

Delaware in Pennsylvania, which territorial jurisdiction shall not be reduced, during the term of the within Agreement, but shall be extended to the outside boundary lines of said Counties if the territorial jurisdiction of the union is so extended by the International, and shall cover and be applicable to such work within the International's work jurisdiction as may be performed in connection with "Heavy Construction and Railroad Contracting" work and "Highway Construction" work within the Union's territorial jurisdiction, but not "Building Construction" work, it being agreed and understood that "Building Construction" work is separate and distinct from the other types of work mentioned in this Section 1:01 in respect of the terms and conditions of employment and the nature of the work, as well as in respect of the class and skill of the workmen required. As used hereinafter, the term "employee" means any person performing work to which this Agreement is made applicable by the preceding provisions of this Section 1:01.

**Section 1:02. Employers Covered.** This Agreement shall apply to the Employers listed in Schedule "A" attached hereto and hereby made part of this Agreement, and to such other Employers as during the life of this Agreement become members of the Association. The Association represents that each of the Employers listed in Schedule "A" is a member of the Association and that the Association executes this Agreement on behalf of each such Employer pursuant to authority duly granted by each such Employer. The Association will, in writing, immediately inform the Union of the name and



address of any new member admitted to the Association. This Agreement shall apply to every Employer listed in Schedule "A" or hereafter becoming a member of the Association, irrespective of whether the membership in the Association of such Employer is at any time terminated for any reason.

## **ARTICLE II - UNION SECURITY**

**Section 2:01. Membership in Union Required.** Employer shall have the right to secure and choose any person as a new employee from any source, subject to Section 2:03 of the Article. Every employee shall, not later than the eighth day after he was hired by any Employer, or the eighth day after the execution of this Agreement, whichever is later, if he is not then already a member of the Union, become a member of the Union, and such employee, as well as each employee who is already a member of the Union when he is hired or when this Agreement is executed, or who has voluntarily become a member of the Union prior to said 8th day, shall remain a member of the Union in good standing notwithstanding his being laid off or *dismissed by, or his quitting the employ of, an Employer* and his entering or leaving the employ of another Employer, and the Union shall make membership therein continuously available to such employee on the same terms and conditions as are generally applicable to other applicants for membership in, and other members of the Union.

**Section 2:02. Discharge.** An employee who fails or refuses to become a member of the Union not

later than the eighth day after the date of his hiring by any Employer, or who loses his good standing in the Union because of failure to pay to the Union the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership in the Union, shall, upon written notice to that effect from the Union to his then current Employer, be discharged by such employer.

**Section 2:03.** Employers shall only employ Cement Masons who are fully qualified or those who are qualified in the subclassification of "Heavy and Highway.

(a) All present Local Union members fully qualified and those in a sub-classification of "Heavy and Highway."

(b) All graduates of the Apprenticeship Program.

(c) All Cement Masons who have been members of a Local Union of the Operative Plasterers and Cement Masons International Association of the United States and Canada for a period of at least three years. Any employee hired by the Employer who does not fall in the foregoing categories shall be permitted to make application to take a competency examination within a period of seven days. Should an employee not pass a competency examination for the sub-classification "Heavy and Highway" either he or the Employer may appeal the case to a Joint Grievance Committee and the employee shall continue to work pending the decision on the appeal. If the Joint Grievance Committee agrees that the employee is not competent, the Employer will be directed to remove from Cement Masons' work the Employee in

question. In the event there are available no qualified-employees, the Employer may keep on Cement Mason's work any available individual to perform the work with understanding that on the eighth day such employees may take application for Apprentice training, added training, retraining, or sub-classification of Cement Masonry in keeping with his current skill. In the event such employee does not take the test or fails the test for such sub-classification, the Employer may keep such individual on Cement Mason's work until a qualified Cement Mason is available.

### **ARTICLE III - HOURS AND DAYS OF WORK; EXTRA SHIFTS; HOLIDAYS**

**Section 3:01. Regular Working Hours and Days.** Eight (8) consecutive hours, interrupted by a lunch period of one-half hour, shall constitute a day's work. Said eight hours shall fall within the period between 7:00 AM and 5:30 PM. Staggered starting time will be permitted only when agreed upon by the Employer and the Business Agent. The lunch period on the day shift shall begin at Noon. The work week shall consist of forty (40) hours, on Monday through Friday.

**Section 3:02. Extra Shifts.** Where the Employer desires to institute an extra shift or shifts, he shall give at least twenty-four (24) hours notice to the Union office, specifying the location of the job, except in the case of emergency, of his intention to institute such extra shifts or shifts.

**Section 3:03. Hours of Work for Extra Shifts.** Seven and one-half (7 1/2) consecutive hours,

beginning at 4:30 PM, and interrupted by a lunch period of one-half hours, shall constitute a full shift's work on the first extra shift.

Seven (7) consecutive hours, beginning at midnight, and interrupted by a lunch period of one-half hour shall constitute a full shift's work on the second extra shift.

Every employee working on an extra shift shall be paid a minimum of eight (8) hours' pay for each night worked.

**Section 3:04. Single Special Shift Work.** If a special single shift is employed on a project, pay shall be at the straight time rate plus twenty-five cents (\$0.25) per hour for each hour worked. All time in excess of eight (8) hours shall be at the overtime rate of pay as specified in Article IV, Section 4:03. Special shift work started on Friday shall continue at the single special shift rate of pay for time worked on that shift.

**Section 3:05. Time and Place for Reporting to Work.** Every employee shall be on the job with his tools, ready to start work at the regular starting time. At the lunch period, the employee shall not be required to leave the tool house until one-half hour has elapsed from the time of quitting for lunch.

**Section 3:06. Holidays.** The following holidays shall be observed: New Year's Day, Memorial Day, July Fourth, Thanksgiving Day and Christmas Day. Whenever used in this Agreement, the work "holiday" means one of these holidays or the day celebrated as such.

**ARTICLE IV - WAGE RATES,  
OVERTIME, TRANSPORTATION AND  
BOARD**

**Section 4:01. Straight Time Rates.** The minimum wage rates shall be as follows:

(a) Effective May 1, 2000 the base wage rate shall be as follows:

- |                       |                  |
|-----------------------|------------------|
| (i) Journeyman        | \$22.40 per hour |
| (ii) Foreman          | \$23.00 per hour |
| (iii) General Foreman | \$23.60 per hour |

(b) Effective May 1, 2001 there shall be an increase of \$1.45 per hour which may be apportioned by the Union between or among wages, The Cement Masons Local Union No. 592 Health and Welfare Fund, Pension Fund, and Apprentice Fund.

(c) Effective May 1, 2002 there shall be an increase of \$1.45 per hour which may be apportioned by the Union between or among wages, the Cement Masons Local Union No. 592 Health and Welfare Fund, Pension Fund, and Apprentice Fund.

(d) Effective May 1, 2003 there shall be an increase of \$1.45 per hour which may be apportioned by the Union between or among wages, the Cement Masons Local Union No. 592 Health and Welfare Fund, Pension Fund, and

Apprentice Fund.

(e) The wage rates of apprentices shall be equal to the following percentages of the minimum wage rate of the journeymen cement mason:

- 1st six months 50%
- 2nd six months 60%
- 3rd six months 70%
- 4th six months 80%
- 5th six months 90%
- 6th six months 95%

No pension contribution will be paid on behalf of apprentices entering the program after May 1, 1988.

**Section 4:02. "Overtime."**

Overtime as used in this Agreement means:

(a) Day Shift - All time (1) in the excess of eight (8) hours in any one day; (2) before the regular starting and after the regular quitting time; (3) during the regular lunch period.

(b) On any extra shift - All time (1) in excess of seven and one-half (7 1/2) hours on the first extra shift and in excess of seven (7) hours on the second shift (2) before 4:30 PM or after midnight, on the first extra shift; (3) before midnight or after 7 AM on the second extra shift; (4) during the regular lunch period.

(c) All time on a Saturday, Sunday or a Holiday.

**Section 4:03. Overtime Rates of Pay.** All overtime, except time on Sunday or a holiday, shall be paid for at one and one-half (1 1/2) times the rates of pay set forth in Section 4:01; the overtime rate of pay for Sunday or a holiday shall be twice the rates set forth in Section 4:01.

**Section 4:04. Guaranteed Eight (8) Hour Day.** If a Cement Mason starts work, he/she shall be guaranteed a minimum of eight (8) hours pay. This guarantee is eliminated in the event that work is discontinued due to breakdown of equipment, weather conditions, Acts of God, fire, accidents and other reasons beyond the control of the Employer, provided, however, that when a Cement Mason starts working in foul weather for a contractor, the 8 hours' pay guarantee shall be in force and effect. It is mutually agreed that a Cement Mason may be moved from job to job by the same Employer during the work day at no cost to the Cement Mason.

**Section 4:05. Time and Place for Payment of Wages, etc.**

(a) Regular weekly payments: Employees shall be paid on the job site or at the Employer's office not later than Friday, at 4:30 PM. No more than three (3) days pay shall be held back after the close of the payroll week. All regular working hours spent by an employee waiting for wages on the day when the pay was due shall be paid for at the straight time rate of pay. If not paid during regular working hours, the employee shall receive an additional two (2) hours pay. Waiting time shall not include hours outside regular working days.

(b) Payment on layoff, discharge or quit: When an employee quits of his own accord, he need not be paid until the next regular pay day. If the employee is laid off by reason of the Employer delaying the further progress of the work, the employee shall be paid, at his election, either on the next regular pay day or in accordance with the next paragraph. Notice of layoff shall be given to the Cement Mason on a job at least sixty minutes before quitting time.

If the Employer discharges or lays off any employee, such employee shall be paid at once, or by a time check payable at the office of the Employer, provided, however, that if the job is outside the territorial jurisdiction of the Union, such employee shall be paid not only his transportation expense, but also for the time consumed by him in traveling from the job site to the Employer's office and from the Employer's office to the Union's office. An employee who is laid off and is sent to the Employer's office for his/her check shall be paid an additional two (2) hours at straight time, or if the Employer mails the check by the close of the next business day to the employee, the employee will be paid one (1) hour at straight time rate. If the Employer fails to mail the check to the employee after the close of the next business day, the employee will be paid two (2) hours at straight time.

Also, the Employer will provide a pay stub with all necessary deductions, plus the name and address of the Employer printed on the pay stub.

(c) In the event an Employer's payroll check bounces, the Employer will be assessed a twenty-five (\$25.00) fee for such bounced check.



**Section 4:06 Toxic/Hazardous Waste Removal.**

All Toxic/Hazardous projects will be subject to any and all safety regulations and insurance provisions that may be required by the appropriate governmental agencies.

On hazardous waste removal work, on a state or federally designated hazardous waste site, where the Cement Mason is in direct contact with hazardous material and when personal protective equipment is required for respiratory, skin and eye protection, the Cement Mason shall receive the hourly wage plus an additional twenty percent (20%) of that wage.

**ARTICLE V - WELFARE BENEFITS;  
PENSION**

**Section 5:01. The Health and Welfare Fund.**

The Employer and the Union hereby agree to be bound by the provisions, as amended, and as they may from time to time be amended, of the first three sections of Article XIII of the collective bargaining agreement executed on February 5, 1962, to become effective May 1, 1961, by and between the General Building Contractors Association, Inc. and the Union (and by the analogous provisions of any successor collective bargaining agreement between the General Building Contractors Association, Inc. and the Union), governing the "Cement Masons Union Local 592 Welfare Fund", as well as by the provisions of any "Agreement and Declaration of Trust," dated June 6, 1962, as amended, and as it may from time to time be

amended, executed by the Union and by said General Building Contractors Association, Inc. dealing with the Welfare Fund. For the purpose of more clearly setting forth the intent and agreement of the Union and of the Employer as to some of the obligations resulting from the preceding sentence of this Section 5:01, it is further provided as follows:

**Section 5:02. Employer's Payments to the Welfare Fund.** Commencing on the first day of May, 2000, the Employer shall, on or before the tenth day following the end of each weekly payroll period pay to First Union Bank, or to any other then "Depository" or "Trustee" under the "Agreement and Declaration of Trust" mentioned in Section 5:01 (any of which is hereinafter referred to as the "Depository" or "Trustee") the sum of \$9.07 for each hour's wage or compensation (whether regular time or overtime, including compensation required by Section 4:04, and 4:05 hereof) payable during such weekly payroll period to any employee. Each such hour is hereinafter referred to as an "hour worked." In the event that Union should determine to apportion all of any of the increases provided in Section 4:01 to the Health and Welfare Fund, the sum of \$9.07 as provided herein shall be automatically amended as of the effective date of said apportionment.

**Section 5:03. Employer's Reports to the Welfare Fund.** The Employer shall be ten (10) days after the end of each weekly payroll period transmit to said Depository a report containing (1) the name and Social Security number of every employee who has been in the employ of the Employer during such weekly payroll period; (2) the number of "hours worked" of each employee during said

weekly payroll period; and (3) such other payroll information as the Board of Trustees of the Welfare Fund may reasonably require for the proper administration of said Fund. The Employer shall also, upon the request of any agent or designee of said Board of Trustees, permit such agent during regular business hours to inspect and make copies of any and all records of the Employer pertaining to compensation paid to employees, hours worked by employees, monies withheld from employees for taxes paid on account of employees, and all other records relevant to and of assistance in determining whether the Employer's obligations hereunder to make payments to the Depository have been faithfully performed.

**Section 5:04. Allocation of Payments.** Pursuant to the provisions of Section 5:01 hereof, the Depository shall allocate and pay over to the Welfare Fund the amounts received by it under the provisions of Section 5:02 hereof, in accordance with the provisions of Section 2 of Article XIII of the collective bargaining agreement executed on February 5, 1962, as amended, by the Union and by the General Building Contractors Association, Inc.

**Section 5:05. The Pension and Annuity Fund.** The Employer and the Union hereby agree to be bound by the provisions, as they may from time to time be amended, of Article XIV of the collective bargaining agreement executed on February 5, 1962, by the Union and the General Building Contractors Association, Inc. (and by the analogous provisions of any successor collective bargaining agreement between the Union, and the General Building Contractors Association, Inc.) governing the "Cement Masons Union Local 592 Pension

Fund" mentioned in said Article XIV (hereinafter referred to as the "Pension Fund"), as well as by the provisions of the Agreement and Declaration of Trust between the Union and said General Building Contractors Association, Inc., dated May 7, 1962, establishing and dealing with said Pension Fund, and by any amendments that may be made thereto from time to time. For the purpose of more clearly setting forth the intent and agreement of the Union and of the Employer as to some of the obligations resulting from the preceding sentence of this Section 5:05, it is further provided as follows:

**Section 5:06. Employer's Payments to the Pension and Annuity Fund.** Commencing on the first day of May, 2000, the Employer shall, on or before the tenth (10th) day following the end of each weekly payroll period, pay to the Fidelity Bank, or to such other corporate fiduciary as shall be from time to time mutually agreed upon by said General Building Contractors Association, Inc. and the Union (any of which is hereinafter referred to as the "Depository" or the "Trustee"), the sum of \$4.42 (the Annuity portion of the Contribution is \$2.00 and is included in the sum of \$4.42) for each hour's wages or compensation (whether regular time or overtime, including compensation required by Sections 4:04, and 4:05 and hereof) are payable during such weekly payroll period to any employee. In the event that the Union should determine to apportion all or any part of the increase provided in Section 4:01 to the Pension Fund, the sum of \$4.42 as provided herein shall be automatically amended as of the effective date of said apportionment. No Pension payments are to be made on behalf of Apprentices indentured after April 30, 1988.

**Section 5:07. Employer's Reports to the Pension Fund.** The Employer shall make to the Board administering said Pension Fund, at the time set forth in Section 5:03 hereof, the same reports as required in said Section, and permit said Board upon request of its agent or designee, to inspect and make copies of the same records as mentioned in said Section.

**Section 5:08. The Joint Apprenticeship Training Fund.** The Employer and the Union hereby agree to be bound by the provisions of the Agreement and Declaration of Trust between the General Building Contractors Association, Concrete Contractors Association and Contractors Association of Eastern Pennsylvania establishing and dealing with said Joint Apprenticeship Training Fund, and any amendments that may be made thereof from time to time.

**Section 5:09. Employer's Payments to the Apprentice Fund.** Commencing on the first day of May, 2000, the Employer shall, on or before the tenth day following the end of each weekly payroll period pay to the depository designated by the Joint Apprentice Committee the sum of \$0.35 for each hour's wages or compensation (whether regular time or overtime, including compensation required by Sections 4:04, and 4:05 hereof) payable during such weekly payroll period to any employee. In the event' that the Union should determine to apportion all or any part of the increase provided in Section 4:01 to the Apprentice Fund, the sum of \$0.35 as provided herein shall be automatically amended as of the effective date of said apportionment.

**Section 5:10. Employer's Reports to the Apprentice Fund.** The Employer shall make to the Joint Committee administering said Apprentice Fund, at the time set forth in Section 5:03 hereof, the same reports as required in said Section, and permit said Joint Committee upon request of its agent or designee, to inspect and make copies of the same records as mentioned in said Section.

**Section 5:11. Posting of Surety Bond.** Employer shall post a \$30,000 bond to insure payment of fringe benefits. A bond will not be required from any Employer who belongs to any association whose members have been paying into fringe funds or any Employer, although not a member of an association, who has had a satisfactory record of paying into the Welfare, Pension, and Apprentice Funds.

Prior to entering into any subcontract, for work covered by this Agreement, the Employer will verify with the Fund that the proposed subcontractor has posted the fringe benefit bond required under this Agreement. In cases where the (Fund) informs the Employer in writing within 72 hours that the proposed subcontractor does not have a fringe benefit bond, the Employer will not enter into a subcontract until the subcontractor has posted a bond.

The Employer agrees that, upon written notice from the Fund that its subcontractor is delinquent in the payment of fringe benefits on his particular project, the Union, the subcontractor, and the Employer shall meet to resolve said delinquency. In the event that satisfactory arrangements to collect the delinquency are not made, then upon mutual

consent of the Employer and the subcontractor, a jointly payable check in the amount of said delinquency shall be issued to the Funds. This will not preclude the Union from exercising their rights provided in Article V.

Estimated payments in advance for all monthly payments (except wages) which exceed the value of the bond required under this Agreement will be made by contractors who have not established a current record of timely payments with the funds.

**Section 5:12. Delinquent Collection Procedures.** The following procedures will be applicable in the event of delinquent payments:

(1) Payments not received by the 10th day following the Payroll Week which the Report covers shall be considered, delinquent.

(2) Payments made after the Due Date will be subject to liquidated damages of ten percent (10%) of the gross amount due each fund.

(3) If not received by 10 days after the Due Date, the gross amounts due each fund will be subject to the above 10% liquidated damages and the employer will also be subject to the following action:

(a) The Union will have the right to withhold employees covered by this agreement from the employer until all sums due are paid and the employees will be paid their wages for the time lost.

(b) The Trustees shall notify the bonding company 20 days after the Due Date of the

delinquency and institute suit on the Bond.

(c) The Trustees shall institute legal action 30 days after the Due Date against the Employer, in which case the Employer shall be liable to pay (in addition to the principal sums and the 10% liquidated damages due the funds) six percent (6%) interest, costs of suit and attorneys' fees.

If the Trustee of the respective Funds, in their sole discretion, determine that an Employer has a satisfactory record of timely payments, the Trustees may notify such Employer in writing that his payments into the respective Funds will be required by the 15th day following the end of each calendar month.

## **ARTICLE VI - WORKING CONDITIONS**

**Section 6:01. Tools to be Furnished.** An Employee shall himself furnish all standard hand tools pertinent to the trade. The Employer shall furnish any special tools that may be required.

**Section 6:02. Tool House.** The Employer shall provide a safe place, under lock and key, for the tools of the employees. The tool house shall be located within reasonable proximity to the place where the employees are working on the job and in no case shall the tool house be so situated as to require an employee more than five (5) minutes to travel from the tool house or the checking-in place to the place where he is working, or to spend more than five (5) minutes in returning from the place where he is working to the tool house or other checking-out place.



The Employer shall reimburse, either directly or through insurance, any employee up to a maximum of \$100.00 for tools and/or \$50.00 for clothes which are destroyed by fire or other acts of God, or while the project is not operating which are lost, stolen, destroyed or damaged; provided, however, that this provision shall only apply if such destruction or damage occurs while such tools and/or clothes are in to tool shed or tool room; and provided further that the employee shall promptly furnish the Employer with a properly sworn statement of loss.

**Section 6:03. Salamanders.** When salamanders are used, they must be piped to an opening.

**Section 6:04. Sanitary Facilities.** The Employer shall provide sanitary facilities on the job wherever it is practical to do so.

**Section 6:05. Union's Business Agent.** The Union's Business Agent shall be allowed to visit on the job at any time, provided that he does not interfere with the employees doing their work. The Employer shall furnish to the Union's Business Agent, upon the latter's request, the names and the number of hours worked by each employee.

**Section 6:06. Foul Weather Gear.** When working in foul weather, foul weather gear will be furnished by the Employer.

**Section 6:07. Swing Rate.** The rate for swing scaffold work shall be five percent (5%) additional for each hour worked above the journeyman rate.

**ARTICLE VII - FOREMAN**

**Section 7:01. Foreman.** All Cement Mason foreman shall be qualified Cement Masons. When four (4) or more Cement Masons are employed on a project, one shall be designated as of foreman shall be \$0.60 per hour in excess of the stipulated rate of journeyman Cement Mason.

**Section 7:02. General Foreman.** A Cement Mason general foreman shall be employed when he is needed in the opinion of the Employer. The straight time wage rate for a Cement Mason general foreman shall be \$1.20 per hour in excess of the stipulated rate for journeyman Cement Mason.

**ARTICLE VIII - STEWARD**

**Section 8:01. Duties of the Steward.** On each job or project, the Union shall have the right to appoint a Cement Mason as the Union steward on the job. The steward shall examine all working cards at such times as he deems necessary. He shall be permitted a reasonable time to perform his duties. It shall be the duty of a steward to record and report to the proper agent of the Employer all injuries and accidents. He shall remain with any victim of an injury until professional care is available.

Whenever overtime work is scheduled, it shall be equally apportioned among those Cement Masons who are on the job. When the steward is not scheduled for overtime work, a substitute steward may be appointed.

**Section 8:02. Grievance Procedure Role.** A steward may endeavor to adjust grievances, if possible, but shall not take upon himself the obligation to stop work or strike a job because of a grievance. He shall notify the Business Agent of the existence of a grievance and be guided by his advice and instruction.

## **ARTICLE IX - NON-DISCRIMINATION**

**Section 9:01. Non-Discrimination.** No employee, or applicant for employment shall be discriminated against by reason of race, religion, color, sex, or national origin and the parties hereto agree to comply with any and all State and Federal Laws, and rules and regulations promulgated pursuant thereto, guaranteeing civil rights and liberties to all persons.

## **ARTICLE X ADJUSTMENT OF DISPUTES**

**Section 10:01. Disputes Subject to this Article.** Any and all disputes relating to any of the provisions of this Agreement, which the representative of the Union and of the Employer have not been able to adjust satisfactorily, shall be submitted, at the written request of either the Employer or the Union, to the Joint Grievance Committee provided for in Section 10:02 hereof. The Association will not raise a grievance on its own initiative, however, any grievance raised by an employer may be processed by the Association.

**Section 10:02. Powers and Procedures of Joint Grievance Committee.**

(a) A Joint Grievance Committee consisting of six (6) members, three (3) of whom shall be appointed by the Association and three (3) of whom shall be appointed by the Union, shall be created as soon as may be possible after the execution of this Agreement, and its decision, by a vote of the majority of all of its members, as to any matter mentioned in Section 1 hereof which may be referred to it by the Employer, the Association or the Union, shall be final and binding upon said parties and upon the employees involved. The Joint Grievance Committee shall have the right and the power by such vote to enjoin violation of this Agreement and to make such award as it may deem proper in any matter brought before it as aforesaid.

(b) The Joint Grievance Committee shall meet within forty-eight (48) hours after receipt by the General Manager of the Association, if the Union be the aggrieved, or within forty-eight (48) hours after the receipt by the President of the Union, if the Association or an Employer be the aggrieved, of a written request for a meeting of the Joint Grievance Committee for the purpose of aforesaid.

**Section 10:03. Arbitration.**

(a) In the event the Joint Grievance Committee is unable, within forty-eight (48) hours after it meets to consider any matter aforesaid, to reach a decision thereon by a vote of the majority of all of its members, either the Union or the Association may submit such matter for arbitration to a single arbitrator to be designated in accordance with the

then prevailing rules of the American Arbitration Association, except that if the parties to the proceeding fail to agree upon any of the persons named in the first list of arbitrators submitted by the American Arbitration Association to the parties aforesaid, or if those named in said list decline or are unable to act, or if for any other reason the arbitrator cannot be designated from such first list, the American Arbitration Association shall send to the parties aforesaid a second list of proposed arbitrators chosen from such Association's panels and shall thereafter proceed in accordance with its rules aforesaid. In any such arbitration, the Association and the Union shall be deemed the parties to the arbitration proceeding.

If the Employer is not a member of the Association, then such Employer and the Union shall be deemed parties to the arbitration proceeding.

(b) The arbitrator thus appointed shall hold hearings as promptly as may be possible and shall *render his award in writing and such award shall be final and binding upon the Union, the Employer and the Association, upon their respective principals or members.* The Arbitrator's fee and expenses and the fees of the American Arbitration Association shall be shared equally by the Association and the Union.

If the Employer is not a member of the Association, the Arbitrator's fee and expenses and the fees of the American Arbitration Association

shall be shared equally by such Employer and the Union.

**Section 10:04. Strikes and Lockouts Prohibited.**

(a) During the pendency of any dispute as aforesaid before the Joint Grievance Committee and, in the event the matter shall be submitted to arbitration, during the pendency of such arbitration proceeding, and until a decision or award is filed, there shall be no cessation of work, slowdown or any other type or description of work stoppage, and there shall also be no lockout of any employed.

(b) Anything to the contrary hereinbefore contained notwithstanding, the Union may elect, only with respect to claims or disputes arising out of alleged failure by an Employer to comply with any of the provisions of Section 5:02 or 5:06 or of Article IV of this Agreement, not to follow the procedure for settlement of disputes set forth above in this Article, in which event subsection (a) of this 10:04 shall be inoperative and shall be of no effect.

(c) This Article X shall not apply to strikes called by the Executive Board of the International.

**ARTICLE XI - DURATION OF AGREEMENT**

**Section 11:01. Term.** This Agreement shall be binding upon both parties from May 1, 2000 to and including April 30, 2004.

*On any public job in the counties of Montgomery, Bucks, Chester and Delaware, it is agreed that on*

any jobs bid with the wages rates in specifications, such wage rates shall continue in effect for one (1) year after the termination date of the wage rates listed. *Where no wage rates are specified, the wage rates listed for the various classifications in this Agreement in effect at the time of bid shall continue in effect for one (1) year after the termination date of the wages rated listed.*

**Section 11:02. Notice of Modification and Negotiations.** Should either party to this Agreement desire to modify or terminate this Agreement as of midnight, April 30, 2004 notice in writing of such intention shall be given to the other party ninety (90) days prior to April 30, 2004; otherwise, this Agreement shall remain in full force for an additional year, and so on from year to year until either party shall give to the other written notice ninety (90) days prior to the expiration date of any such additional yearly term. In the event either of the parties to this Agreement gives written notice to the other of a desire to modify or terminate this Agreement as aforesaid, the parties shall meet within thirty (30) days after such notice is given for the purpose of negotiating concerning such modification, or the terms of a new Agreement, as the case may be.

**Section 11:03. Most Favored Nation Clause.** It is understood that if the Union enters into any Agreement with any Contractor engaged in Heavy & Highway construction within the area designated herein upon more favorable terms to such other contractor than are embodied in this Agreement, this Agreement shall be amended so as to afford the party of this contract the same terms.

**Section 11:04. Subcontracting of Job Site Work.** The employer agrees that he will not subcontract to any work, which is covered by this Agreement, that is to be done at the site of any job to which this Agreement is applicable, except to a contractor bound by the terms of this Agreement.

## **ARTICLE XII - WORKING DUES CHECKOFF**

**Section 12:01. Amount.** Effective May 1, 2000, each Employer shall deduct from the wages of all employees who are covered by this Agreement and who have signed and delivered to the Employer proper written legal authorizations of such deductions in an amount certified by Cement Mason's Local 592. Any change in the amount of the dues deduction shall be sent to the Contractors Association of Eastern Pennsylvania immediately following such change.

**Section 12:02. Payments of Withheld Dues.** Each such Employer shall within ten (10) days after the end of each weekly payroll period, transmit to the Depository, as provided in Article V, Section 5:02 hereof, amounts deducted during such weekly payroll period pursuant to Section 12:01 of this Article XII, together with the Employer's report of said deductions, which reports shall be on the same form as is used by the Employer for reporting payments due by the Employer as contributions made pursuant to Article V thereof. The Employer's payment of said deductions shall be subject to the provisions of Section 5:12 of this Agreement.



**Section 12:03. Discharge for Nonpayment By Employees.** Any employee who loses his good standing in his Local Union by reason of his failure to tender to the Union periodic membership dues and/or initiation fees uniformly required, or who is in arrears in the payment of working dues under this Article XII, shall upon written notice to that effect from the Union to the Employer, be discharged.

### **ARTICLE XIII - POLITICAL ACTION COMMITTEE**

**Section 13.1. Checkoff Contributions.** Each employer shall deduct from the wages of all employees who are covered by this Agreement and who have signed and delivered to the Employer proper legal authorizations for such deductions, a contribution to the Cement Masons Local Union No. 592 Political Action Committee in the amount of six cents (\$0.06) for each hour's wages or compensation (whether regular time or overtime), including compensation required by Section 4:04, and 4:05 hereof, payable during such weekly payroll period.

**Section 13.2. Payment of Contributions.** Each such Employer shall, within ten (10) days after the end of each Payroll Week, transmit to the Depository as defined in this Agreement amounts deducted during such Payroll Week pursuant to this Article, together with the Employer's report of deductions, which report shall be on the same form as is used by the Employer for reporting payments due by the Employer as contributions made to Health and

Welfare Funds. The payment of such contributions shall be subject to the provisions of Section 5:12 of this Agreement.

## **ARTICLE XIV - DRUG TESTING POLICY**

### **Section 14:01.**

1. Employees or applicants for employment (hereinafter "employees") who possess "illegal drugs" on the job site, except for medication prescribed by the employee's physician or over-the-counter medication, and employees functionally impaired from performing their duties due to "illegal drugs" may be barred from the job site subject to the terms below. As used herein, the term "illegal drugs" means any chemical substance whose (1) manufacture, use, possession or sale is prohibited by law; and (2) any legally dispensable controlled substance (medications available only as prescribed by a licensed physician) obtained fraudulently or used by any individual other than the person for whom prescribed.

2. An employee on the job site may be required to submit to a chemical test which demonstrates on-site impairment if a reasonable, objective basis will exist to believe that the employee is impaired on the job site. A reasonable, objective basis will exist under the following circumstances:

(a) A first hand observation is made of the employee's job performance, and documented in writing prior to any tests and

(b) The employee's conduct or actions indicating alleged impairment shall be observed and documented in writing by two supervisors on the job site; and

(c) A determination is made that the employee's conduct is symptomatic of drug impairment by a physician or health care professional qualified to make such a determination following a consultation with the employee.

Persons refusing to submit, under the aforementioned circumstances, to a test which complies with the minimum procedural guidelines set forth below may be barred from the job site subject to the terms below.

3. An employee determined to be impaired from drugs on the job site, as a result of properly implemented medical tests described in this Agreement, will, in first occurrence, be offered the opportunity to enter a rehabilitation or counseling program from a list of local programs provided by the Union from which the employee may choose. If the employee enters such a program, his status as an employee will not be affected and he will be allowed continued access to the site under the conditions established by the program.

4. For purposes of this Agreement, being "impaired from illegal drugs" means the chemical tests results demonstrate on-site functional impairment in accordance with the consensus of the scientific community and at a metabolic levels accepted by the scientific community show or infer functional impairment.

5. The affected employee shall be advised of positive results by the Employer's medical personnel and have the opportunity for explanation and discussion prior to the reporting of results to the

*Employer, if feasible. The affected employee shall have the right to have his/her sample independently retested by a laboratory of his/her choice at his/her expense. If the independent retest indicates that the specimen does not contain the levels of substance in violation of the standards set forth herein, the employee shall be put back to work immediately with reimbursement of the tests, costs and full back pay and benefits.*

6. Employees taking prescription medication which according to their physician has physical or medical side effects which could cause impairment on the job site should report the medication to the Employer's authorized medical personnel for the site. This information shall remain strictly confidential between the employee and the medical personnel. The medical personnel shall in turn disclose any possible limitations on the employee's abilities to the Employer, who after conferring with the Union shall make reasonable accommodations for those limitations. The medical personnel shall adhere to the American Occupational Medical Association's Code of Ethical Conduct for Physicians Providing Occupational Medical Services (adopted by the Board of Directors of AOMA on July 23, 1976) and to the AOMA Drug Screening in the Work Place Ethical Guidelines (adopted by the Board of Directors of AOMA on July 25, 1986) .

7. Any information regarding the test results will be held in strictest confidence by the Employer. Neither the Employer nor any of its medical personnel, supervisors or other personnel shall disclose any information regarding the fact of testing or the results of testing of any employee to the Owner or to any other employer or employee.

8. The rules and requirements contained in this Agreement shall apply to management and supervisory personnel to the same extent as other employees.

9. No employee shall be required to sign any waiver limiting liability of employer, owner/client, testing lab or any person involved in the chain of custody of the specimen nor any consent abrogating any provision of this Agreement.

10. The Union is not responsible for ascertaining or monitoring the drug-free status of any employee or applicant for employment.

11. The Employer shall provide training to all management, security and supervisory personnel who have responsibility for the oversight of employee activities or work performance, in the recognition of impairment from drugs and work place materials or substances that may cause physical harm or illness. Such training will include the *observation, documentation and reporting skills* necessary for compliance with this Policy, and procedures and methods for work place substance evaluations and analysis.

12. All employees, upon hire, shall receive instruction in, and a copy of the policies and rules applicable to their employment and work assignments prior to access to the project.

13. The Employer shall establish and implement a program that assures that all managers, supervisors and employees are instructed in any changes in the existing procedures and methods.

14. Subject to the restrictions on medical tests contained in the Agreement, bodily fluids such as blood and urine samples shall be handled in the following manner:

(a) Collection shall be by a physician or health care professional. Specimen containers shall be labelled with a number and the donor's signature and shall be closed with a tamper-proof seal initialled by the donor and collecting agent. The labelling shall be done in the employee's presence and in the presence of a Union representative if the employee chooses.

(b) The specimen number and identifying information on the donor shall be entered on a log and signed by the collecting technician in the presence of the employee and that of a Union representative if the employee chooses and the employee shall initial the proper line on the log entry.

(c) The volume of such sample shall be such that sufficient amounts will remain for both confirmation tests and independent testing.

(d) Samples shall be stored in a scientifically acceptable manner.

(e) All handlers and couriers of the sample must complete entries and identify themselves on a proper chain of custody form.

(f) Confirmation tests by an alternative scientific method must be performed. After testing and confirmation testing, the facility must retain a sufficient portion of the sample for independent

retesting and store that portion in a scientifically acceptable, preserved manner for thirty (30) days unless the employee or the Union requests an extension of time.

(g) Results shall be communicated in writing to the Employer's medical personnel within seventy-two (72) hours. The laboratory may only report drug concentrations if the appropriate test indicates that the specimen contains levels of substance(s) in violation of the standards established by this Agreement. Information on test results and the fact of testing shall be communicated only to those who must know the information in order to ensure safety and enforce the Agreement's rules. Copies of all documents including but not limited to test results, computer printouts, graphs, interpretations, and chain of custody forms -- shall be delivered to the donor.

(h) On the day that the sample is taken, the Employer may send the employee home for the remainder of the day, but shall arrange transportation at its expense and not allow the employee to drive home.

IN WITNESS WHEREOF, the parties hereto, intending to legally bind themselves, do hereby set their hands and seals the day and year first above mentioned.

THE CONTRACTORS ASSOCIATION  
OF EASTERN PENNSYLVANIA

\_\_\_\_\_  
JOSEPH M. MARTOSELLA

\_\_\_\_\_  
JOHN R. SMITH, JR.

\_\_\_\_\_  
JAMES R. DAVIS

CEMENT MASONS UNION LOCAL 592  
OF PHILADELPHIA, PENNSYLVANIA

(Affiliate of the Operative Plasterers  
and Cement Masons International  
Association of the United States and Canada,  
AFL-CIO)

\_\_\_\_\_  
MICHAEL FERA ✓

\_\_\_\_\_  
FRANK FERA

\_\_\_\_\_  
JAMES GIGLIO

DATE: APRIL 26, 2000



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## **JOBS RECOVERY PROGRAM**

This letter is for the purpose of establishing conditions agreed to between the Contractors Association of Eastern Pennsylvania and the Cement Finishers Union. These conditions will be used in a cooperative effort to re-coup work which is currently being lost to Non-Union and/or District 50 Contractors.

In the four counties of Bucks, Chester, Delaware and Montgomery, the following will apply:

1. Overtime will be paid only after the first 40 hours of work have been completed, but with Straight Time being limited to a maximum of 10 hours in any one day. Time and one-half will be paid after 10 hours a day and after 40 hours a week have been worked. In the event of inclement weather for one day, then Friday can be used as a "Make-up Day". For two days of inclement weather during the week, Friday and Saturday can be used as "Make-up Days," provided that a minimum of 3 days work shall be available for a Cement Mason for this Provision No. 1 to apply.

2. "Starting Time" will be scheduled at the discretion of the Employer without incurring Overtime. All Trades will have the same general Starting Time on any particular project. Any exception to this will be approved by agreement between the Employer and the Representative of the particular Trade involved.

3. Wage Rate differentials for shift work will be eliminated.

4. On Public Work projects where only the current Wage Rates and Fringe Benefit Contributions are contained in the Bid Proposals, those wages and fringes will be frozen for up to 12 months. However, if future Wage Rates and Fringe Benefit Contributions are included in the Bid Proposals, then the future rates will apply on the effective dates.

All the above conditions will apply for the length of the Agreement based upon reaching a final satisfactory Contract with the Association, but will not apply to any project being done under a Boston Harbor type project agreement. This agreement shall apply for the term 5/1/00 thru 4/30/04.

**CEMENT MASONS UNION LOCAL 592**

MIKE FERA  
FRANK FERA  
JAMES GIGLIO  
April 26, 2000

**CONTRACTORS ASSOCIATION OF  
EASTERN PENNSYLVANIA**

JOSEPH M. MARTOSELLA  
JOHN R. SMITH, JR.  
JAMES R. DAVIS  
April 26, 2000

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MEMORANDUM OF AGREEMENT  
Between  
CEMENT MASONS LOCAL 592  
AND  
Contractors ASSOCIATION OF EASTERN PA.

It is Agreed as follows:

- 1. TOTAL ECONOMIC SETTLEMENT  
EFFECTIVE 5/1/04 \$2.10  
EFFECTIVE 5/1/05 \$2.10

- 2. 6.A.M. Starting time at the discretion of the employer.

- 3. ~~Remove Article XVI~~ See attached changes for change to Article XIV

4. ALL OTHER TERMS & CONDITIONS of Agreement Remain unchanged

DATED 4/29/04

Agreed & Accepted for  
Contractors Assoc. of E. PA  
James M. Mullen

Agreed & Accepted for  
CEMENT MASONS LOCAL #5  
Mike Lina  
Frank Fera

Article XIV – add new Section 14:02 as follows:

“Employees may be subject to random testing. Additionally, if the Employer is a contractor, or subcontractor at any tier, on a project where the owner or owner’s representative requires compliance with a contractually designated substance abuse policy or program, this Article XIV shall be amended solely to the extent necessary to permit compliance by the employer; provided however such compliance shall not be in contravention of any applicable statute or regulation enacted, promulgated or issued by any duly qualified governmental agency.”

*EMPLOYEES WHO HAVE BEEN RE-HABILITATED WILL BE SUBJECT TO RE-EMPLOYMENT IF AVAILABLE.*

*JM M+*

*JM M+*

*BY CERTIFIED TESTING AGENCY.  
M+*