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FUNDING REHABILITATION PLAN, INCLUDING PREFERRED AND DEFAULT SCHEDULES

(Adopted July 26, 2017)

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I. Introduction

Funding History

The Laborers' National Pension Fund (LNPF) has been operating and paying pensions to laborers since 1968. Over that nearly 50-year period, the LNPF has paid more than $3 billion in benefits to pensioners and their surviving spouses. Those pensions provide a monthly income to a retiree for the rest of his life and for the life of his surviving spouse. A LNPF pension is a retirement income that a laborer and his or her spouse cannot outlive, unlike savings account plans. The LNPF has never missed or delayed a month's pension payments, and its labor-management Board of Trustees is highly confident that the LNPF will always pay pensions on time and in full.

The LNPF has a long history of financial strength and sound funding of all pension promises, without unfunded liabilities triggering employer withdrawal liability. Indeed, in the 1990s, the Federal Government claimed that the LNPF was over-funded and forced the Board of Trustees to increase benefits. In doing so, the Government overruled the Board's concerns that the funding would be needed in the event of an economic downturn. In effect, the Government put the LNPF in the position of having to take out a mortgage loan in the event of adverse developments.

The Government reversed course in the Pension Protection Act of 2006 (PPA) and imposed tougher funding standards on multiemployer pension plans, including the LNPF. Instead of worrying about pension funds having too much money, the Government began to require pension funds to increase their assets relative to their current and future benefit liabilities. Shortly after the PPA became effective, investment markets in the U.S. suffered the worst collapse since the Great Depression of the 1930s. That market crash caused the LNPF's invested assets to lose much of their value; a fate suffered by most other investors. Then came the so-called Great Recession that resulted in lost jobs, lost business and lost contribution income for the LNPF.

The LNPF's assets have regained value, but the LNPF's recovery from the economic effects of these historic events is still ongoing. Despite best efforts by the Board and the Fund's professionals, the PPA funding standards caught up with the LNPF and are forcing the LNPF to increase its assets relative to its current and future benefit liabilities.

The PPA requires every pension fund's actuary to annually certify to the Federal Government the pension fund's funding zone status based on the tougher standards. For the 2017 plan (calendar) year, the LNPF's actuary determined that the LNPF's funding status placed it in the "Endangered" (Yellow) Zone because its PPA funding percentage is 76.4%.

The actuary also determined that the LNPF is eligible under the Multiemployer Pension Reform Act of 2014 to voluntarily choose to enter "Early Critical" (Red) Zone status. This choice was available because the LNPF is projected to be in the Red Zone within five years unless action was taken to improve funding.

The Board of Trustees, with professional advice and after careful deliberation, decided to exercise the option to put the LNPF into Early Red Zone status for 2017. Rather than merely hope that the investment markets would outperform expectations, the Board decided to take affirmative action to restore the financial soundness that the LNPF has enjoyed for nearly 50 years. The Red Zone status gives the LNPF access to more legal tools for quickly and fairly returning the LNPF to the Green Zone. The Board is well aware that Green Zone status is important for all LNPF participants and contributing employers.

A notice of the LNPF's Early Red Zone status was distributed to all participants, beneficiaries in pay status, contributing employers, and participating unions in April 2017.

Funding Rehabilitation Plan Development

In general, the law requires the Board of Trustees to adopt a “rehabilitation plan” to restore the LNPF's financial strength over a period of 10 to 12 years. A rehabilitation plan must comply with certain legal requirements. It must include “schedules” of contribution rate increases and benefit changes designed to increase income and reduce benefit costs. The parties to each collective bargaining agreement requiring employer contributions must adopt a schedule authorized under the rehabilitation plan that will apply with regard to employees (participants) covered by the bargaining agreement. The parties may re-open their current collective bargaining agreement to adopt a schedule, or may wait until the current agreement is renegotiated in the normal course to adopt a schedule. The PPA provides for imposition of a “default schedule” after the current agreement expires if the parties are unable to agree on an authorized schedule.

As legally required, the Board of Trustees, assisted by actuaries and other professional advice, developed and adopted on July 26, 2017 a rehabilitation plan that is called the “Funding Rehabilitation Plan” or “FRP”. The FRP's terms and conditions are described in this document.

The Board's aim and expectation is that the FRP will lift the LNPF out of the Red Zone by 2030, if not earlier, with renewed financial strength so that the LNPF can continue to provide a secure retirement income for many decades.

In designing the FRP, the Board has tried to fairly balance the interests of all stakeholders in the LNPF and to equitably share the necessary costs and sacrifices. Among the design considerations are the following:

1. The FRP is designed to be sufficiently rigorous to weather adverse developments during the rehabilitation period (*e.g.* lower than expected investment returns in some years) without necessitating changes. On the other hand, if the FRP proves over a period of years to be more effective than expected, the Board may consider easing its requirements (*e.g.* reducing the number of required contribution rate increases).

2. Consideration has been given first and foremost to the participants and beneficiaries as a whole, consistent with the intent of applicable laws, but with an understanding that all participants do not stand in the same position. For example, it is active participants' work that generates the contribution income needed for the FRP to succeed. The contributions generated by active participants' work are needed to fully fund benefits that they have already earned as well as benefits that they will continue to earn.

   In contrast, inactive participants are not generating income for the LNPF, yet the benefits that they earned are not yet fully funded. The FRP requires the actives to share in the burden of fully funding their pensions, through benefit adjustments, rather than place that burden solely on the active participants.

3. The FRP is intended to encourage participation in the LNPF, both continuing and new. Active laborers can maintain their current benefit levels if their employer(s) and Union agree to the Preferred Schedule of the FRP. As the FRP progresses, active laborers, as well as inactives and pensioners, will benefit from the increased funding for their pensions.

4. Collective bargaining relationships are key to the success of the FRP. Accordingly, the FRP delays any required contribution rate increase until January 1, 2019, at the earliest, so that the bargaining parties have an opportunity to adopt a Schedule early, avoid or minimize contribution surcharges, and defer contribution rate increases.

5. As the FRP progresses, the LNPF's unfunded liability will shrink as will any perceived risks relating to withdrawal liability. Contribution rate increases required by the FRP will not increase any potential withdrawal liability, as provided in the Multiemployer Pension Reform Act of 2014.

   No current contributing employer will be subject to withdrawal liability if it continues to participate in the LNPF. However, if an employer does choose to withdraw from the LNPF, withdrawal liability will be assessed to the maximum extent allowed by law. Moreover, the laborers who worked for the employer will be subjected to the FRP's Default Schedule and lose certain benefits.

6. As for attracting new employers, it is important to note that the LNPF's withdrawal liability rules contain two protections for them. First, new employers do not inherit any of the unfunded benefit liabilities that arose before they became obligated to contribute to the LNPF. The FRP is expected to minimize, if not prevent, new unfunded liabilities. Second, the LNPF has adopted the "free look" withdrawal rule that exempts an employer from withdrawal liability if it withdraws within 5 years of first joining the LNPF.

7. The FRP, consistent with applicable law, prohibits the LNPF from accepting any collective bargaining agreement or other agreement that provides for:

   (a) a reduction in the level of contributions for any participants;

   (b) a suspension of contributions with respect to any period of service; or

   (c) any new direct or indirect exclusion of younger or newly hired employees from participation.

II. <u>Rehabilitation Period</u>

The Rehabilitation Period is the period of years over which the funding improvement measures of the FRP are expected, based on reasonable assumptions, to restore the LNPF's strength and enable it to emerge from Red Zone status under PPA standards. The LNPF's Rehabilitation Period is the period of 10 plan (calendar) years commencing on January 1, 2020. In other words, the LNPF is technically expected to emerge from the Red Zone by the plan year beginning January 1, 2030. However, the Board of Trustees expects that the LNPF will do so before then.

III. Temporary Employer Contribution Surcharge

As explained in the LNPF's April 2017 zone notice to all bargaining parties, Federal law requires the LNPF to assess an automatic "contribution surcharge" on all contributing employers until they agree to a Schedule under the FRP. The amount of this legally imposed surcharge is 5% of all contributions owed by the employer for work performed during July - December 2017, and 10% of all contributions owed by the employer for worked performed in 2018 and later years.

Congress intended the surcharge to create an economic incentive for employers to quickly agree to a rehabilitation plan schedule, and not wait until the expiration of their current collective bargaining agreements. Employers are legally entitled to wait until the expiration and re-negotiation of current contracts to agree to a Schedule, but doing so would subject them to the surcharge in the meantime.

*For LNPF employers, the surcharge can be avoided entirely if an employer and its union bargaining partner agree to a Preferred Schedule by **November 30, 2017** and make their agreement retroactively effective as of July 1, 2017. There is no downside to an employer agreeing to the Schedule early because the contribution rate increases that the Schedules require need not be made before January 1, 2019.* (See part IV, "Schedules", of this document below for information about timing of contribution rate increases.)

If an employer has not agreed to the Preferred Schedule by November 30, 2017, the LNPF will enforce the contribution surcharge with regard to all contributions due for work in July 2017 and subsequent months.

Non-payment of a required surcharge by an employer is treated as a delinquent contribution that is subject to interest charges and the LNPF's contribution collection rules. Moreover, non-payment is a violation of the Internal Revenue Code and subjects the employer to an excise tax equal to the amount of the unpaid surcharge.

If and when it becomes payable, the surcharge is based on the total amount of contributions owed to the LNPF for a month, and is payable at the same time as the employer's regular monthly contributions. The LNPF will not issue a billing to employers for the surcharge.

> *For example*: Assume a contributing employer owes contributions totaling $10,000 for work performed (or compensation paid) in July 2017. The contribution payment and report are due by August 20, 2017 under the Fund's rules. In addition to the $10,000, the employer must include in its August 20th contribution payment a surcharge of $500 for a total payment of $10,500.

The surcharge is a legal obligation of the employer, not of the employees. The employees share in the rehabilitation in other ways. For example, no additional benefits are accrued by any employee based on the surcharge. The benefit accrual rate is based only on the contribution rate and not on the surcharge.

IV. Schedules Offered To The Bargaining Parties & Timing

A. Important General Information For Bargaining Parties

1. The FRP offers the bargaining parties two Schedules: the Preferred Schedule and the Default Schedule. Each Schedule is described below and is attached to this document as a stand-alone Addendum.

Each employer that is obligated by a collective bargaining agreement or participation agreement to contribute to the LNPF for its employees is required to agree to one of the Schedules through bargaining with the Union. The Schedules' terms and conditions cannot be modified by bargaining parties.

The major difference between the Schedules is that the Preferred Schedule maintains the current plan of benefits and requires annual contribution rate increases over a 10-year period, while the Default Schedule significantly reduces benefits and requires a slightly lower annual contribution rate increase over the same 10-year period. The Board of Trustees expects that most, if not all, bargaining parties will agree to the Preferred Schedule.

2. The parties to a collective bargaining agreement may choose to re-open their current agreement to adopt either Schedule. Or, the parties may wait until the expiration and re-negotiation of their current agreement to adopt either Schedule.

3. A Schedule, once adopted by the bargaining parties, becomes a part of the collective bargaining agreement. The Schedule will be effective as follows: (a) if added mid-term to a current agreement, the Schedule will be effective as of the date agreed by the bargaining parties, except they may not agree to a date that is later than the expiration of the agreement; or (b) if included in a new agreement, the Schedule will be effective as of the date on which the agreement is effective.

The contribution rate set under an employer's current collective bargaining agreement (plus the applicable contribution surcharge) shall continue to apply until a Schedule takes effect with respect to the employer that is party to the agreement.

*4. **Note**: The contribution rate increases required by a Schedule do not necessarily start as soon as the Schedule is agreed to by the bargaining parties. As explained below, the contribution rate increases need not start before January 1, 2019, even though a Schedule is adopted before that date. If a Schedule is effective on or after January 1, 2019, the first contribution rate increase required by the Schedule must be effective when the Schedule becomes effective.*[1]

5. ***Note**: Once the bargaining parties agree to a Schedule, it is essential that the parties <u>immediately</u> inform the LNPF's Fund Office and send a copy of the signed*

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[1] Except in the case of a first agreement with a newly organized employer. In that case, the first contribution rate increase must be effective one year from the effective date of the employer's first obligation to contribute to the LNPF.

Schedule to the Fund Office. The Fund Office needs this information as soon as possible: (a) to timely send any legally required notices to affected participants; (b) to terminate the surcharge on the employer's contributions; and (c) to document the employer's correct contribution rate.

6. Current Agreements: If a current collective bargaining agreement expires and the parties are unable to agree on either Schedule within 180 days after the expiration date (without regard to extensions), the LNPF is generally required by law to impose the Default Schedule on the employer / group effective on the first day of the calendar month next following the 180th day or such other date set by the Board of Trustees. Exceptions can be made under limited circumstances. For details, see Addendum E (Guidance On 180-Day Rule) for details, including leeway for retroactive agreements.

7. Already Expired Agreements: In the case of an employer / group whose collective bargaining agreement expired before the adoption of the FRP on July 26, 2017, and has not yet been renewed, the Default Schedule will be imposed if the bargaining parties have not agreed on a Schedule by the 180th day following July 26, 2017 (that is, January 22, 2018).

8. Both Schedules require contribution rate increases over a 10 year period. Few, if any, collective bargaining agreements have terms of 10 years. It is expected that the bargaining parties will include the required contribution increases in successor agreements over the course of the 10 years.

The required contribution rates may change (increase or decrease) for future agreements if the Board of Trustees amends the FRP in the future. The Board does not expect to have to change the FRP to require additional rate increases. Rather, it hopes to be able to reduce the FRP's contribution requirements over time if the FRP improves the funding status more quickly than mandated.

9. If an employer does not renew its collective bargaining agreement and the employer's contribution obligation ceases, the employer will be subject to employer withdrawal liability and there may be other consequences, as described in this document.

B. Local Unions, Training Funds & Other Organizations As Contributing Employers (Non-Bargaining Employers)

1. Some Local Unions, District Councils, Training Funds and other organizations associated with LIUNA contribute to the LNPF as employers on behalf of their employees. These non-bargaining employers contribute typically pursuant to a participation agreement directly with the LNPF. They are subject to the same rules under the FRP as all other contributing employers.

2. All non-bargaining employers are encouraged to adopt the Preferred Schedule as soon as possible after receiving the FRP. They may do so by sending to the LNPF a written document stating that the organization agrees to the Preferred Schedule and the effective date of that agreement.

3. Each non-bargaining employer should note:

   (a) If it does not agree to the Preferred Schedule by November 30, 2017, retroactively effective to July 1, 2017, it will be subject to the Contribution Surcharge for contributions due for work in July 2017 and subsequent months, just as all other employers.

   (b) If it does not agree to the Preferred Schedule within 180 days following July 26, 2017 (January 22, 2018), the LNPF will impose the Default Schedule.

C. The Preferred Schedule

The Preferred Schedule is the Schedule that the Board of Trustees believes will be best suited for most, if not all, employee groups and employers. The Board expects that the vast majority of bargaining parties will agree to the Preferred Schedule. The key elements of this Schedule are:

1. <u>Preferred Schedule Contribution Rate Increases</u>: The employer contribution rate shall be increased by **8.5%** each year for 10 years.

   (a) The first contribution rate increase shall be effective as of the effective date of the Schedule set by the bargaining parties, but need not be earlier than January 1, 2019.

   If a Schedule is effective on or after January 1, 2019, the first contribution rate increase required by the Schedule must be effective when the Schedule becomes effective.

   (b) The first contribution rate increase shall increase by 8.5% the rate in effect immediately before the effective date of the increase.

   In the case of a new employer (no collective bargaining agreement requiring contributions to the LNPF in effect before the Schedule is adopted), the first increase shall not be required until the first anniversary of the effective date of the employer's obligation to contribute to the LNPF.

   (c) The second contribution rate increase shall be effective on the anniversary date of the first increase, and shall increase the rate in effect the day before by 8.5%. In like manner, the third through tenth annual rate increases shall be effective as of the anniversary date of the first increase and shall increase the rate in effect the day before by 8.5%.

   (d) In the event that a fractional cent is the product of the 8.5% calculation, the amount shall be rounded up to the next penny.

(e) Example #1:

Assume the Employer and Union are party to a collective bargaining agreement that does not expire until June 30, 2018. They enter into a memorandum of understanding adopting the Preferred Schedule on October 1, 2017. The memorandum sets the retroactive effective date for the Schedule as July 1, 2017. They renew their collective bargaining agreement for a three year term effective July 1, 2018 - June 30, 2021. The agreement requires contributions to the LNPF. The contribution rate in effect as of December 31, 2018 is $2.00 per hour.

> The employer would avoid the automatic contribution surcharges because it agreed to a Schedule effective July 1, 2017.

> The parties would have to provide in their Schedule that the first required contribution rate increase will be effective as of January 1, 2019. (The parties could have made it effective July 1, 2018, the effective date of their collective bargaining agreement, if they wished.)

> That first contribution rate increase would be from $2.00 per hour (the rate in effect immediately before the effective date of the increase) to $2.17 per hour. [($2.00 x 8.5%) + $2.00 = $2.17].

> The second contribution rate increase would be effective on the anniversary of the first increase, and would be from $2.17 per hour to $2.36 per hour. [($2.17 x 8.5%) + $2.17 = $2.354 rounded to $2.36].

> The third contribution rate increase would be effective on the second anniversary of the first increase, and would be from $2.36 per hour to $2.57 per hour [($2.36 x 8.5%) + $2.36 = $2.561 rounded to $2.57].

> The annual contribution rate increases of 8.5% continue until there have been 10 increases in the employer's contribution rate (unless the LNPF Board amends the FRP to change the number or amount of required increases).

(f) Example #2:

Assume the Employer and Union are party to a collective bargaining agreement with a term of July 1, 2016 through June 30, 2019. The bargaining parties do not agree to the Preferred Schedule until July 1, 2019 as part of a new collective bargaining agreement. The contribution rate in effect for July 1, 2016 through June 30, 2019 is $3.00 per hour.

> The Employer is subject to the automatic contribution surcharges

for the contributions due for hours worked each month from July 2017 through June 2019. It would owe a 5% surcharge on all contributions due for July - December 2017 hours, and would owe a 10% surcharge on all contributions owed for January 2018 - June 2019 hours.

> The first contribution rate increase required by the Schedule would not be effective until July 1, 2019.

> The first contribution rate increase would be from $3.00 per hour to $3.26 per hour. [($3.00 x 8.5%) + $3.00 = $3.255, rounded to $3.26].

> The second contribution rate increase would be effective on the anniversary of the first increase (July 1, 2020), and would be from $3.26 per hour to $3.54 per hour. [($3.26 x 8.5%) + $3.26 = $3.537 rounded to $3.54].

> The third contribution rate increase would be effective on the second anniversary of the first increase (July 1, 2021), and would be from $3.54 per hour to $3.84 per hour [($3.54 x 8.5%) + $3.54 = $3.841 rounded to $3.85].

> The annual contribution rate increases of 8.5% continue until there have been 10 increases in the employer's contribution rate (unless the LNPF Board changes the number or amount of required increases).

2. <u>Preferred Schedule Benefits</u>: The LNPF's current plan of benefits for the group will remain unchanged, except as follows:

(a) As mandated by the PPA, the LNPF will not be able to pay any lump sum benefits or pay any other benefit in excess of the monthly amount that would be payable to the pensioner under a single life annuity. This means that the LNPF must suspend its Social Security level income option and widow/widower lump sum option.

There are a few exceptions: (1) the LNPF will continue to cash-out in a lump sum a participant or beneficiary whose entire benefit entitlement has an actuarial value of $5,000 or less (Rules & Regulations Section 5.11); and (2) the LNPF will continue to pay the Death Benefit For Unmarried Participants Not Yet Retired (Rules & Regulations Section 5.10).

(b) Benefit accruals for periods after adoption of the Preferred Schedule will be based on the contribution rate in effect immediately before the Preferred Schedule goes into effect for the group. In other words, active employees will continue to accrue benefits for covered employment while the Preferred Schedule is in effect, but the contribution rate increases will not increase the benefit accrual rate (except where a group obtains permission from the LNPF to increase the contribution rate to more than required by the Schedule).

(c) The Rules & Regulations of the LNPF, as amended by the FRP, continue to govern benefit rights. The Board of Trustees reserves its authority to amend the Rules & Regulations and the FRP within the bounds of applicable law.

3. A stand-alone version of the Preferred Schedule is attached to this document as Addendum A.

D. The Default Schedule

The Default Schedule may be adopted by agreement of the bargaining parties, instead of the Preferred Schedule. However, the Board of Trustees believes that few bargaining parties will adopt the Default Schedule because of the Schedule's disadvantages. Annual contribution rate increases are required, benefit accrual rates are substantially reduced, and all subsidized forms of benefit are lost, including Disability Pensions not in pay status.

The Default Schedule will be imposed on an employer and its covered employees if the employer and Union do not agree on a Schedule within the 180-day time limit set by law. The law requires the LNPF to impose the Default Schedule under these circumstances. (See Addendum E, "Guidance On 180-Day Rule.)

The key elements of this Schedule are:

1. <u>Default Schedule Contribution Rate Increases</u>: The employer contribution rate shall be increased by **7.00%** each year for 10 years.

(a) If the Schedule is adopted by agreement, the first contribution rate increase shall be effective as of the effective date of the Schedule set by the bargaining parties, but need not be earlier than January 1, 2019.

If a Schedule is effective on or after January 1, 2019, the first contribution rate increase required by the Schedule must be effective when the Schedule becomes effective.

(b) If the Schedule is imposed by the LNPF under the 180-day rule[2], the first contribution rate increase shall be effective as of the date of imposition of the Schedule.

(c) In the case of a new employer (no collective bargaining agreement requiring contributions to the LNPF in effect before the Schedule is adopted), the first increase shall not be required until the first anniversary

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[2] See Addendum E for details about the 180-day rule.

of the effective date of the employer's obligation to contribute to the LNPF.

(d) The first contribution rate increase shall increase by 7.0% the rate in effect immediately before the effective date of the increase.

(e) The second contribution rate increase shall be effective on the anniversary date of the first increase, and shall increase the rate in effect the day before by 7.0%. In like manner, the third through tenth annual rate increases shall be effective as of the anniversary date of the first increase and shall increase the rate in effect the day before by 7.0%.

(f) In the event that a fractional cent is the product of the 7.0% calculation, the amount shall be rounded up to the next penny.

(g) Example #1:

Assume the Employer and Union are party to a collective bargaining agreement that does not expire until June 30, 2018. They enter into a memorandum of understanding adopting the Default Schedule on October 1, 2017. The memorandum sets a retroactive effective date for the Schedule as July 1, 2017. They renew their collective bargaining agreement for a three year term effective July 1, 2018 - June 30, 2021. The agreement requires contributions to the LNPF. The contribution rate in effect as of December 31, 2018 is $2.00 per hour.

> The employer would avoid the automatic contribution surcharges because it agreed to a Schedule effective July 1, 2017.

> The parties would have to provide in their Schedule that the first required contribution rate increase will be effective as of January 1, 2019. (The parties could have made it effective July 1, 2018, the effective date of their collective bargaining agreement, if they wished.)

> That first contribution rate increase would be from $2.00 per hour (the rate in effect immediately before the effective date of the increase) to $2.14 per hour. [($2.00 x 7.0%) + $2.00 = $2.14].

> The second contribution rate increase would be effective on the anniversary of the first increase, and would be from $2.14 per hour to $2.29 per hour. [($2.14 x 7.0%) + $2.14 = $2.289, rounded to $2.29].

> The third contribution rate increase would be effective on the second anniversary of the first increase, and would be from $2.29 per hour to $2.46 per hour. [($2.29 x 7.0%) + $2.29 = $2.4503, rounded to $2.46].

> The annual contribution rate increases of 7.0% continue until there have been 10 increases in the employer's contribution rate (unless the LNPF Board amends the FRP to change the number or amount of required increases).

(h) Example #2:

Assume the Employer and Union are party to a collective bargaining agreement whose term is July 1, 2016 through June 30, 2019. The Employer is obligated to contribute to the LNPF at the rate of $3.00 per hour throughout the term of the agreement. The bargaining parties do not agree to a FRP Schedule during the term of the agreement and do not reach a new agreement (including a Schedule) within 180 days following June 30, 2019, even though the employer remains obligated to contribute to the LNPF according to its National Labor Relations Act duty to bargain.

> The Employer is subject to the automatic contribution surcharges for the contributions due for hours worked each month from July 2017 through June 2019, and thereafter each month that contributions are owed to the LNPF until the Default Schedule is imposed. It would owe a 5% surcharge on all contributions due for July - December 2017 hours, and would owe a 10% surcharge on all contributions owed for January 2018 - June 2019 hours and for the months thereafter until the Default Schedule is imposed.

> The LNPF, as required by law, would impose the Default Schedule on the Employer as of the 180th day following the June 30, 2019 expiration of the collective bargaining agreement (even if the bargaining parties extended the terms of the agreement without adopting a Schedule).

> The first contribution rate increase required by the Schedule would be effective for hours worked on and after the imposition date of the Default Schedule.

> The first contribution rate increase would be from $3.00 per hour to $3.21 per hour. [($3.00 x 7.0%) + $3.00 = $3.21].

> The second contribution rate increase would be effective on the anniversary of the first increase, and would be from $3.21 per hour to $3.44 per hour. [($3.21 x 7.0%) + $3.21 = $3.435 rounded to $3.44].

> The third contribution rate increase would be effective on the second anniversary of the first increase, and would be from $3.44 per hour to $3.69 per hour. [($3.44 x 7.0%) + $3.44 = $3.681, rounded to $3.69].

> The annual contribution rate increases of 7.0% continue until there have been 10 increases in the employer's contribution rate (unless the LNPF Board changes the number or amount of required increases).

2. Default Schedule Benefit Reductions:

(a) The future benefit accrual rate for active participants covered by the Default Schedule will be reduced to $0.175 per month of benefit (times years of pension credit) for each $0.01 of contributions (based on the contribution rate in effect immediately before adoption of the Schedule). In other words, active employees will continue to accrue benefits for covered employment while the Default Schedule is in effect, but at a lower rate. The contribution rate increases required by the Default Schedule will not carry with them an increase in the benefit accrual rate.

The reduction in the accrual rate would apply to covered employment on and after the date on which the Default Schedule goes into effect by imposition or agreement.

A chart summarizing the new accrual rates under the Default Schedule is set forth in Addendum F of the FRP. A more detailed chart showing the accrual rate for each penny of contribution will be provided to the bargaining parties upon request to the Fund Office.

(b) Participants covered by the Default Schedule, and their beneficiaries, will not be eligible for any of the following forms of pension, forms of payment and benefits even if they would otherwise meet the eligibility criteria in the Rules & Regulations:

(1) Disability Pension, unless it is in pay status;

(2) Regular Pension at age 55 with 30 Pension Credits;

(3) 60-month benefit guarantees;

(4) immediate payment option for the Widow / Widowers Pension;

(5) Social Security option;

(6) 100% joint and survivor annuity; and

(7) Death Benefit for Unmarried Participants Not Yet Retired.

(c) Participants covered by the Default Schedule who apply for an Early Retirement Pension will no longer be entitled to a subsidized benefit. The benefit amount of such a participant will be reduced so that it is the actuarial equivalent of the benefit that would be payable to him if he retired on a Regular Pension at Normal Retirement Age (62). The reduction factors, based on actuarial equivalence and using the LNPF's funding assumptions, will be as follows:

Age	% of Normal Retirement Age Pension Payable Early
55	52%
56	57%
57	62%
58	68%
59	75%
60	82%
61	91%
62	100%

For retirements between birthdays, this chart will be interpolated.

(d) For participants covered by the Default Schedule, the only forms of pension available will be the 50% Participant and Spouse Pension (qualified 50% joint and survivor annuity), the 75% Participant and Spouse Pension (75% joint and survivor annuity), and a single life annuity (payable only for the participant's life).

A pension payable as a joint and survivor annuity pension will be reduced according to the following factors to account for the survivor protection:

50% joint and survivor pension:	88% plus 0.4% for each year that spouse's age is higher than the pensioner's age, or minus 0.4% for each year that spouse's age is lower than the pensioner's age, up to 99%
75% joint and survivor pension:	83% plus 0.5% for each year that spouse's age is higher than the pensioner's age, or minus 0.5% for each year that spouse's age is lower than the pensioner's age, up to 99%.

(e) No benefit reduction shall be effective until 30 days after any required notice of such a reduction is issued.

3. The Default Schedule is Addendum C of this document.

V. Implementation Rules

The following rules describe how the FRP will be administered by the LNPF's staff, including how the Schedules will be applied in various circumstances. These implementation rules are an essential part of the FRP.

A. Pensioners

1. The FRP, including a Schedule, will <u>not</u> affect the benefits of a participant described in (a) or (b), below:

   (a) Pensioners or surviving spouses in pay status as of April 30, 2017 (the date of the zone notice).

   (b) A pensioner whose pension application was received by the LNPF on or before April 30, 2017, who met the age and service requirements for pension eligibility on or before April 30, 2017, and whose pension is effective no later than July 1, 2017 (October 1, 2017 in the case of a Disability Pension, to take account of the 5-month waiting period). No pension can be effective until the participant separates from covered employment and post-retirement disqualifying employment.

B. Inactive Participants

1. Generally, a participant who separated from covered employment before a Schedule becomes applicable to the employer / group in which he was last employed, will have any benefits to which he may be entitled determined under the Default Schedule.[3] This rule applies even if the Preferred Schedule is or becomes applicable to an employer / group in which he was employed.[4]

   The FRP is not intended to provide any greater rights or benefits to individuals who are inactive and not vested in any benefits under the LNPF's Rules & Regulations.

2. A participant will be deemed to have separated from covered employment for this purpose if contributions have not been made for him for at least twelve (12) consecutive calendar months. Such a participant is referred to as an "Inactive Participant".

3. A participant who enters qualified military service within the meaning of Section 414(u) of the Internal Revenue Code and USERRA and returns to covered employment within the time limits set these laws, and is

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[3] This means that he will be subject to the benefit reductions described in the Default Schedule, except that his accrual rate will not be reduced retroactively. The lower accrual rate provisions of the Default Schedule apply only prospectively to participants covered by the Default Schedule by agreement of the bargaining parties or by LNPF imposition.

[4] The term "employer / group" is intended to include: (a) a single contributing employer that has only one collective bargaining agreement requiring contributions to the LNPF; and (b) each collective bargaining unit of an employer that is party to more than one collective bargaining agreement requiring contributions to the LNPF.

therefore entitled to vesting and pension credit for his period of military service, shall be not be treated as an Inactive Participant because of his service.

4. A participant who meets the age requirement for an Early Retirement Pension on or before December 31, 2017 and who separates from covered employment before his last employer adopted a Schedule will not be treated as an Inactive Participant.

5. A period during which a participant is totally disabled from performing any employment will not be counted for purposes of determining whether he is an Inactive Participant. The participant shall be required to prove such a disability to the satisfaction of the Board of Trustees.

6. If a participant changes from covered employment to uncovered employment with the same contributing employer, the participant's uncovered employment with the employer will not be treated as a separation from covered employment.

7. A participant will not be considered to be an Inactive Participant if he: (a) leaves employment covered by the LNPF; (b) enters employment covered by another Laborers' defined benefit pension fund that is party to the LIUNA National Reciprocal Agreement; and (c) retires directly from employment covered by the LNPF or such other Laborers' pension fund. The intent of this exception is that a participant whose entire career as a laborer is spent in employment covered by the LNPF and other Laborers' pension funds will not be treated as an Inactive Participant.

8. If a participant separates from covered employment before his employer / group adopts a Schedule to serve as an officer or employee of LIUNA or of a LIUNA affiliate, he will not be treated as an Inactive Participant because of such service.

9. In the case of an Inactive Participant who returns to covered employment, his benefits based on his pre-break covered employment will be determined under the Default Schedule (even if the Preferred Schedule becomes applicable to the employer / group by which he was last employed or he is re-employed in the same employer / group) and any benefits that he earns for his post-break covered employment will be based on the Schedule applicable to the employer / group in which he is re-employed.

10. An Inactive Participant who returns to covered employment under the Preferred Schedule and earns at least 5 years of future service credit under the Preferred Schedule will have his benefits based on his pre-break credit determined under the Preferred Schedule. His benefits based on his post-break pension credits will also be determined under the Preferred Schedule.

C. Participants Retiring Directly From Covered Employment

1. In the case of a participant who retires from covered employment and whose pension application is received by the LNPF after April 30, 2017, but before a Schedule becomes applicable to the employer / group in which he was last employed, his pension will initially be determined in accordance with the Preferred Schedule. If the Default Schedule becomes applicable (by agreement or imposition) to the employer / group in which he was last employed, his pension will be adjusted prospectively to reflect the Default Schedule.

2. In the case of a participant who retires from covered employment after a Schedule becomes applicable to the employer / group in which he was employed, his benefits will be determined in accordance with the Schedule that is applicable to the employer / group in which he was employed.

3. In the case of a participant who retires from covered employment and was employed by more than one contributing employer / group prior to August 1, 2017, his pension benefit attributable to credits earned prior to that date will be determined in accordance with the Preferred Schedule, except to the extent of credits earned for employment by an employer / group that becomes subject to the Default Schedule by agreement or imposition prior to his retirement.

4. In the case of a participant who retires from covered employment and was employed by more than one contributing employer / group on or after August 1, 2017: (a) his pension benefits attributable to credits earned under the Preferred Schedule will be calculated in accordance with the Preferred Schedule; (b) his pension benefits attributable to credits earned under the Default Schedule will be calculated in accordance with the Default Schedule; and (c) his pension benefits attributable to credits earned for employment with an employer / group before the employer / group agrees to a Schedule will be calculated in accordance with the Preferred Schedule, except that his benefits will be recalculated under the Default Schedule if the employer / group subsequently becomes subject to the Default Schedule by imposition or agreement.

5. The same Schedule that becomes effective for the bargaining unit employees of a contributing employer will automatically apply to the employer's special class (non-bargaining unit) employees as of the same effective date. The special class is considered a different group than the bargaining unit employee group, but the same Schedule will apply to both.

6. For purposes of these rules, a participant retires from covered employment if he is not an Inactive Participant, as defined above.

D. Notice Of Benefit Reductions Under Default Schedule

1. No reduction of benefits by application of the Default Schedule will become effective until 30 days following the Fund's issuance of a notice required by ERISA §305(e)(8)(C) / Code §432(e)(8)(C).

2. With regard to participants who are Inactive Participants as of July 26, 2017, the date of the FRP's adoption, a notice of benefit reductions will be sent to them on or about September 1, 2017.

E. Beneficiaries & Alternate Payees Under QDROs

1. The benefits of a beneficiary (*e.g.* surviving spouse) will be determined on the same basis as those of the participant under the FRP.

2. The benefits of any "alternate payee" under a Qualified Domestic Relations Order (QDRO) will be determined on the same basis as those of the participant whose pension is divided by the QDRO. If the benefits of the participant are affected by a Schedule, the benefits of the alternate payee will be likewise affected.

F. Employer Contribution Delinquencies

1. Sound funding of the LNPF and the success of the FRP depend in large measure on the timely payment of all required contributions and submission of the related contribution reports. Employers are encouraged to borrow money from commercial lenders or other financing sources if necessary to make timely contribution payments.

2. To encourage timely payment of all contributions and discourage delinquencies, the LNPF shall charge interest at the rate of 1% per month from date owed to date paid. Automatic contribution surcharges and unpaid accrued interest charges shall also be considered "contributions".

3. The LNPF shall use all legal means to enforce an employer's contribution obligations, including lawsuits under ERISA Sections 502(a)(3) and 515 to collect unpaid contributions plus the mandatory remedies provided by ERISA Section 502(g)(2) (*e.g.* double interest, attorneys fees).

4. In addition, the Internal Revenue Code imposes a federal excise tax on an employer that is delinquent in its contribution obligations to a Red Zone plan. The tax is collectible by the Internal Revenue Service. Specifically, Code Section 4971(g)(2) provides that "*there is hereby imposed a tax on each failure of the employer to make the required contribution within the time required under such plan."* Further, the *"amount of the tax imposed...shall be equal to the amount of the required contribution the employer failed to make in a timely manner.*"

Accordingly, an employer that fails to make timely contributions to the LNPF will be liable to the LNPF for the contributions plus interest and will also be liable to the IRS for a tax in an amount equal to the delinquent contributions. The LNPF may report a delinquent employer to the IRS.

5. The refusal of an employer to agree to a Schedule will, after 180 days following the bargaining agreement's expiration, result in imposition of the Default Schedule, as explained above. If the employer refuses to comply with the Schedule, the Board of Trustees may: (a) use all available legal means to collect the delinquent contributions and other remedies available under ERISA; (b) terminate the employer's participation in the LNPF and treat it as a withdrawal; (c) assess employer withdrawal liability; (d) report the employer to the IRS as liable for the delinquency excise tax; and (e) take any other lawful action.

G. Employer Withdrawals & Past Service Credit

1. Maintaining the contribution base of the LNPF–contributing employers and contribution generating jobs–is essential to the success of the FRP for the benefit of all participants and their families. Withdrawals from participation in the LNPF will materially impede the FRP and endanger the LNPF's funding to the detriment of all participants and contributing employers.

2. Therefore, if an employer or group withdraws completely or partially from the LNPF, the following rules shall apply with regard to the employer / group to protect the LNPF and minimize any adverse impact on the participants and employers that remain in the LNPF:

   (a) The maximum employer withdrawal liability (EWL) permissible under law will be assessed. EWL helps to fund the unfunded vested benefits that accrued during the period of the employer's participation in the LNPF, and prevents the withdrawn employer from dumping its share of the liabilities on the remaining employers.

   (b) Any and all past service credit granted to participants because of their pre-contribution employment with the withdrawn employer will be cancelled.

   (c) The benefits of participants in the group will be determined under the Default Schedule, even if the Preferred Schedule was otherwise applicable to the group.[5] Pensioners who retired from the group after April 30, 2017 will have their benefits adjusted in accordance with the Default Schedule (under the FRP in effect at

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[5] This means that he will be subject to the benefit reductions described in the Default Schedule, except that his accrual rate will not be reduced retroactively.

the time of withdrawal).

H. New Employers & Groups

If an employer or group wishes to join or renew its participation in the LNPF, the employer or group will be subject to the FRP and will be required to adopt a Schedule effective as of the beginning of the bargaining agreement. However, the Board of Trustees may, in its discretion, grant or require a variance from the terms of the FRP if the Board, in its discretion, concludes that the LNPF would benefit from such new or renewed participation or that the variance is necessary or appropriate to protect the LNPF.

I. Special Schedules & Money-Follows-The-Man Reciprocal Agreements

1. The Board of Trustees may, in its discretion, authorize a special schedule for a group that wishes to contribute at a higher rate than required by the Preferred Schedule.

2. The Board of Trustees may, in its discretion, determine how to treat contributions that the LNPF receives pursuant to a reciprocal agreement that are less than the contributions required by a Schedule. For example, the Board may credit such contributions at the accrual rate that corresponds to the contribution rate under the FRP's Preferred Schedule, or the Board may authorize a special schedule.

J. Reciprocal Pensions (Pro-Rata)

To the extent that a participant is entitled to a reciprocal pension from the LNPF, his benefits will be based on the Schedule applicable to the group in which he was employed or, if he is an Inactive Participant, his benefits will be based on the Default Schedule.

VI. FRP's Effect On LNPF's Rules & Participation Agreements

To the extent that the FRP (including the Schedules) is inconsistent with the LNPF's Rules & Regulations, the Rules & Regulations (and the related Summary Plan Description) are hereby deemed amended to be consistent with this FRP effective as of July 26, 2017.

To the extent that the FRP (including the Schedules) is inconsistent with any Participation Agreement, the Participation Agreement is hereby deemed amended to be consistent with the FRP and the Schedule that becomes applicable to the employer / group covered by the Participation Agreement.

VII. Board of Trustees' Authority

The Board of Trustees has full discretionary authority to interpret, apply, supplement and amend this FRP. This authority includes the discretion to decide all questions of fact and law, and to develop and apply new rules for determining benefit rights, so as to fairly implement the intent of the FRP and applicable law. The Board reserves all rights and authority granted to the sponsors and administrators of a Red Zone status plan under the law.

The Board of Trustees may, in its discretion: reject any collective bargaining agreement or other agreement that is inconsistent with this FRP, including any amendments, interpretations and related rules; reject any contributions submitted pursuant to such agreement; and deem the employer / group to have withdrawn from the FRP if the agreement is not corrected within the time set by the Board.

The Board may, in its discretion, expel any employer / group from participation if the employer refuses or fails to timely pay any contributions, contribution surcharge, or interest charges when due. Such an expulsion shall be treated as a withdrawal, triggering withdrawal liability, to the extent consistent with applicable law.

Given the tens of thousands of participants and hundreds of contributing employers in the LNPF, the Board recognizes that situations may develop that were not anticipated in drafting the LNPF, and that rules and solutions may have to be crafted to fairly address those situations, balancing individual interests with the collective interest in sound long-term funding. Such rules and solutions shall not apply beyond the individual case unless the Board decides otherwise.

VIII. Annual Review Of FRP's Progress

In accordance with applicable law, the LNPF's actuary will determine and certify the LNPF's funding zone status for the year. In addition, the actuary will annually assess whether the LNPF is making appropriate progress towards the goals of the FRP.

If the Board of Trustees determines that it is necessary or appropriate in light of the actuary's assessment and the LNPF's actual experience compared to the FRP's reasonable assumptions (*e.g.* investment performance), the Board may amend the FRP and issue updated Schedules to the bargaining parties. In the unexpected event that the Board issues revised Schedules in the future, the same process of adoption by the bargaining parties as with the original Schedules will apply.

The Board of Trustees will adopt standards for assessing the LNPF's progress under the FRP.

IX: Addendum A

LABORERS NATIONAL PENSION FUND
FUNDING REHABILITATION PLAN
(Adopted July 26, 2017)

THE PREFERRED SCHEDULE

This document constitutes the Preferred Schedule under the Funding Rehabilitation Plan (FRP) adopted by the Board of Trustees of the Laborers National Pension Fund (LNPF) on July 26, 2017. This Schedule is part of the Rules & Regulations of the LNPF and supercedes any provision of the Rules & Regulations that is inconsistent with it. Further, this Schedule is a part of the collective bargaining agreement and/or participation agreement between the parties adopting this Schedule and supercedes any inconsistent provision of such agreement.

This Preferred Schedule may be adopted by the collective bargaining parties by simply adding it to their current agreement or including it in their next agreement, either as an addendum or in the agreement's main body.

The elements of this Preferred Schedule are:

1. Contribution Rate Increases: The employer contribution rate shall be increased by **8.5%** each year for 10 years.

   (a) The first contribution rate increase shall be effective as of the effective date of the Schedule set by the bargaining parties, but shall not be earlier than January 1, 2019 unless the bargaining parties agree to an earlier effective date.

   (b) The first contribution rate increase shall increase by 8.5% the rate in effect immediately before the effective date of the increase.

   In the case of a new employer (no collective bargaining agreement requiring contributions to the LNPF in effect before the Schedule is adopted), the first increase shall not be required until the first anniversary of the effective date of the employer's obligation to contribute to the LNPF.

   (c) The second contribution rate increase shall be effective on the anniversary date of the first increase, and shall increase the rate in effect the day before by 8.5%. In like manner, the third through tenth annual rate increases shall be effective as of the anniversary date of the first increase and shall increase the rate in effect the day before by 8.5%.

   (d) In the event that a fractional cent is the product of the 8.5% calculation, the amount shall be rounded up to the next penny.

2. Benefits: The LNPF's current plan of benefits for the group will remain unchanged, except as follows:

(a) As mandated by applicable law, the LNPF will not be able to pay any lump sum benefits or pay any other benefit in excess of the monthly amount that would be payable to the pensioner under a single life annuity. This means that the LNPF must suspend its Social Security level income option and widow/widower lump sum option.

There are exceptions. The LNPF will continue to cash-out in a lump sum a participant or beneficiary whose entire benefit entitlement has an actuarial value of $5,000 or less. Also, the LNPF will continue to pay the $5,000 death benefit to beneficiaries of unmarried, non-retired participants.

(b) Benefit accruals for periods after adoption of the Preferred Schedule will be based on the contribution rate in effect immediately before the Preferred Schedule goes into effect for the group. In other words, active employees will continue to accrue benefits for covered employment while the Preferred Schedule is in effect, but the contribution rate increases will not increase in the benefit accrual rate (except where a group obtains permission from the LNPF to increase the contribution rate to more than required by the Schedule).

A chart summarizing the accrual rates under the Preferred Schedule is set forth in Addendum F to the FRP. A more detailed chart showing the accrual rate for each penny of contribution will be provided to the bargaining parties upon request to the Fund Office.

(c) The Rules & Regulations of the LNPF, as amended by the FRP, continue to govern benefit rights. The Board of Trustees reserves its authority to amend the Rules & Regulations and FRP within the bounds of applicable law.

3. The FRP as a whole is deemed to be a part of this Schedule.

[End]

X: Addendum B

MODEL AGREEMENT ADOPTING PREFERRED SCHEDULE

MEMORANDUM OF UNDERSTANDING
[ADDENDUM TO COLLECTIVE BARGAINING AGREEMENT]

Whereas the undersigned Union and Employer are parties to a collective bargaining agreement that provides for contributions to the Laborers' National Pension Fund; and

Whereas, the Pension Fund's Board of Trustees has adopted a Funding Rehabilitation Plan ("FRP"), dated July 26, 2017, to increase the funding of pension benefits over a period of years as required by federal law; and

Whereas, the FRP is intended to improve the funding of pension benefits currently being earned as well as pension benefits previously earned; and

Whereas, a copy of the FRP has been provided to the Union and the Employer; and

Whereas, the FRP, in accordance with the law, requires that the signatories to every collective bargaining agreement providing for contributions to the Pension Fund adopt one of the Schedules included in the FRP; and

Whereas, the Union and the Employer have agreed to adopt the FRP's Preferred Schedule and wish to document that agreement; and

It is hereby agreed by the undersigned Union and Employer as follows:

1. This Memorandum of Understanding shall be considered as part of the collective bargaining agreement, and shall supercede any inconsistent provision of the collective bargaining agreement.

2. The current contribution rate to the Pension Fund of $_______ per hour worked shall be increased by 8.5% to the rate of $_______ per hour worked effective _______________ [not earlier than January 1, 2019]. On each anniversary of that effective date, for the term of the current collective bargaining agreement and the terms of successor agreements, the contribution rate then in effect shall be increased by 8.5% until a total of ten such rate increases have been made.

3. This Memorandum shall be effective as of __________________, 20___, and it shall remain in effect for the term of the current collective bargaining agreement and for the terms of successor agreements until the contribution obligations described above are satisfied.

To acknowledge their agreement to this Memorandum, the Union and the Employer have caused their authorized representatives to place their signatures below:

FOR THE UNION:

Signature:____

Name:____

Position:__________________________ **Date:**_________________________

FOR THE EMPLOYER:

Signature:____

Name:____

Position:__________________________ **Date:**_________________________

XI: Addendum C

LABORERS NATIONAL PENSION FUND
FUNDING REHABILITATION PLAN
(Adopted July 26, 2017)

THE DEFAULT SCHEDULE

This document constitutes the Default Schedule under the Funding Rehabilitation Plan (FRP) adopted by the Board of Trustees of the Laborers National Pension Fund (LNPF) on July 26, 2017. This Schedule is part of the Rules & Regulations of the LNPF and supercedes any provision of the Rules & Regulations that is inconsistent with it. Further, this Schedule is a part of the collective bargaining agreement and/or participation agreement between the parties adopting this Schedule and supercedes any inconsistent provision of such agreement.

This Default Schedule may be adopted by the collective bargaining parties by simply adding it to their current agreement or including it in their next agreement, either as an addendum or in the agreement's main body.

This Default Schedule may be imposed by the LNPF on an employer or bargaining unit, in accordance with applicable law, if the bargaining parties do not agree to a FRP Schedule within the time limit set by law, as explained in the FRP.

However, no benefit reduction shall be effective until 30 days after any required notice of such a reduction is issued by the LNPF.

The elements of this Default Schedule are:

1. Default Schedule Contribution Rate Increases: The employer contribution rate shall be increased by **7.00%** each year for 10 years.

    (a) If the Schedule is adopted by agreement, the first contribution rate increase shall be effective as of the effective date of the Schedule set by the bargaining parties, but need not be earlier than January 1, 2019.

    If a Schedule is effective on or after January 1, 2019, the first contribution rate increase required by the Schedule must be effective when the Schedule becomes effective.

    (b) If the Schedule is imposed by the LNPF under the 180-day rule, the first contribution rate increase shall be effective as of the date of imposition of the Schedule.

    (c) In the case of a new employer (no collective bargaining agreement requiring contributions to the LNPF in effect before the Schedule is adopted), the first increase shall not be required until the first anniversary of the effective date of the employer's obligation to contribute to the LNPF.

(d) The first contribution rate increase shall increase by 7.0% the rate in effect immediately before the effective date of the increase.

(e) The second contribution rate increase shall be effective on the anniversary date of the first increase, and shall increase the rate in effect the day before by 7.0%. In like manner, the third through tenth annual rate increases shall be effective as of the anniversary date of the first increase and shall increase the rate in effect the day before by 7.0%.

(f) In the event that a fractional cent is the product of the 7.0% calculation, the amount shall be rounded up to the next penny.

2. Default Schedule Benefit Reductions:

(a) The future benefit accrual rate for active participants covered by the Default Schedule will be reduced to $0.175 per month of benefit (times years of pension credit) for each $0.01 of contributions (based on the contribution rate in effect immediately before adoption of the Schedule). In other words, active employees will continue to accrue benefits for covered employment while the Default Schedule is in effect, but at a lower rate. The contribution rate increases required by the Default Schedule will not carry with them an increase in the benefit accrual rate.

The reduction in accrual rate would apply to covered employment on and after the date on which the Default Schedule goes into effect by imposition or agreement.

A chart summarizing the new accrual rates under the Default Schedule is set forth in Addendum F to the FRP. A more detailed chart showing the accrual rate for each penny of contribution will be provided to the bargaining parties upon request to the Fund Office.

(b) Participants covered by the Default Schedule, and their beneficiaries, will not be eligible for any of the following forms of pension or forms of payment even if they would otherwise meet the eligibility criteria in the Rules & Regulations:

(1) Disability Pension, unless it is in pay status;

(2) Regular Pension at age 55 with 30 Pension Credits;

(3) 60-month benefit guarantees;

(4) immediate payment option for the Widow / Widowers Pension;

(5) Social Security option;

(6) 100% joint and survivor annuity; and

(7) Death Benefit for Unmarried Participants Not Yet Retired.

(c) Participants covered by the Default Schedule who apply for an Early Retirement Pension will no longer be entitled to a subsidized benefit. The benefit amount of such a participant will be reduced so that it is the actuarial equivalent of the benefit that would payable to him if he retired on a Regular Pension at Normal Retirement Age (62). The reduction factors, based on actuarial equivalence and using the LNPF's funding assumptions, will be as follows:

<u>Age</u>	<u>% of Normal Retirement Age Pension Payable Early</u>
55	52%
56	57%
57	62%
58	68%
59	75%
60	82%
61	91%
62	100%

For retirements between birthdays, this chart will be interpolated.

(d) For participants covered by the Default Schedule, the only forms of pension available will be the 50% Participant and Spouse Pension (qualified 50% joint and survivor annuity), the 75% Participant and Spouse Pension (75% joint and survivor annuity), and a single life annuity (payable only for the participant's life).

A pension payable as a joint and survivor annuity pension will be reduced according to the following factors to account for the survivor protection:

50% joint and survivor pension:	88% plus 0.4% for each year that spouse's age is higher than the pensioner's age, or minus 0.4% for each year that spouse's age is lower than the pensioner's age, up to 99%
75% joint and survivor pension:	83% plus 0.5% for each year that spouse's age is higher than the pensioner's age, or minus 0.5% for each year that spouse's age is lower than the pensioner's age, up to 99%.

(e) No benefit reduction shall be effective until 30 days after any required notice of such a reduction is issued.

[End]

XII: Addendum D

MODEL AGREEMENT ADOPTING DEFAULT SCHEDULE

MEMORANDUM OF UNDERSTANDING
[ADDENDUM TO COLLECTIVE BARGAINING AGREEMENT]

Whereas the undersigned Union and Employer are parties to a collective bargaining agreement that provides for contributions to the Laborers' National Pension Fund; and

Whereas, the Pension Fund's Board of Trustees has adopted a Funding Rehabilitation Plan ("FRP"), dated July 26, 2017, to increase the funding of pension benefits over a period of years as required by federal law; and

Whereas, the FRP is intended to improve the funding of pension benefits currently being earned as well as pension benefits previously earned; and

Whereas, a copy of the FRP has been provided to the Union and the Employer; and

Whereas, the FRP, in accordance with the law, requires that the signatories to every collective bargaining agreement providing for contributions to the Pension Fund adopt one of the Schedules included in the FRP; and

Whereas, the Union and the Employer have agreed to adopt the FRP's Default Schedule and wish to document that agreement; and

It is hereby agreed by the undersigned Union and Employer as follows:

1. This Memorandum of Understanding shall be considered as part of the collective bargaining agreement, and shall supercede any inconsistent provision of the collective bargaining agreement.

2. The current contribution rate to the Pension Fund of $_______ per hour worked shall be increased by 7.0% to the rate of $_______ per hour worked effective _______________ [not earlier than January 1, 2019]. On each anniversary of that effective date, for the term of the current collective bargaining agreement and the terms of successor agreements, the contribution rate then in effect shall be increased by 7.0% until a total of ten such rate increases have been made.

3. This Memorandum shall be effective as of _________________, 20___, and it shall remain in effect for the term of the current collective bargaining agreement and for the terms of successor agreements until the contribution obligations described above are satisfied.

4. It is understood by the Union and Employer that the Default Schedule provides for certain benefit reductions and other changes in the Pension Fund's benefit program, as described in the FRP.

To acknowledge their agreement to this Memorandum, the Union and the Employer have caused their authorized representatives to place their signatures below:

FOR THE UNION:

Signature:____

Name:____

Position:____________________ **Date:**____________________

FOR THE EMPLOYER:

Signature:____

Name:____

Position:____________________ **Date:**____________________

XIII: Addendum E

GUIDANCE ON 180-DAY RULE REGARDING IMPOSITION OF THE DEFAULT SCHEDULE ON EMPLOYERS THAT DO NOT AGREE TO A SCHEDULE

Introduction

In accordance with the Pension Protection Act of 2006 ("PPA"), the Board of Trustees adopted a Funding Rehabilitation Plan (FRP) on July 26, 2017 As required by the PPA, the FRP provides for a Default Schedule and provides further that the Default Schedule will be imposed on a group under certain circumstances:

> "Current Agreements: If a current collective bargaining agreement expires and the parties are unable to agree on either Schedule within 180 days after the expiration date (without regard to extensions), the LNPF is generally required by law to impose the Default Schedule on the employer / group effective on the first day of the calendar month next following the 180th day or such other date set by the Board of Trustees. Exceptions can be made under limited circumstances. For details, see Addendum E (Guidance On 180-Day Rule)." (FRP, p. 6).
>
> "Already Expired Agreements: In the case of an employer / group whose collective bargaining agreement expired before the adoption of the FRP on July 26, 2017, and has not yet been renewed, the Default Schedule will be imposed if the bargaining parties have not agreed on a Schedule by the 180th day following July 26, 2017 (that is, January 22, 2018)." (FRP, p. 6).

The purpose of this guidance is to provide more detail about when the Default Schedule will be imposed. Note that imposition of the Default Schedule is not a choice made by the LNPF. Congress included in the PPA a requirement that the Default Schedule be imposed on a group after the 180-day period to provide an incentive for employers and unions to engage in timely negotiations over implementation of their pension fund's rehabilitation plan. *See* Section 305(e)(3)(C) of the Employee Retirement Income Security Act (ERISA) and Section 432(e)(3)(C) of the Internal Revenue Code, as amended by the PPA.

When does the 180-day period begin and end?

Situation 1:

> If the collective bargaining agreement ("CBA") requiring contributions to the LNPF was already in effect on July 26, 2017 (when the FRP was adopted), the Default Schedule cannot be imposed until after that agreement's term ends.
>
> After that CBA terminates, the employer and union have a 180-day period within which to agree to adopt the Preferred Schedule or the Default Schedule. If they agree on the Preferred Schedule or the Default Schedule effective within the 180-day period, that Schedule will apply to the group as of the effective date selected by the parties (provided that the effective date is no later than the first day of the calendar month next

following the 180th day).

If the employer and the union are unable to reach agreement on a Schedule within the 180-day period, the LNPF will impose the Default Schedule in compliance with the PPA and the FRP.

Note that the term of the CBA cannot be extended by the employer and the union to avoid the 180-day rule or to prolong the 180-day period. The 180-day period begins at the end of the unextended term, even if the parties decide to extend the CBA's term. An exception to this rule applies in the case of a CBA whose term was extended by agreement of the parties before July 26, 2017; in which case, the end of the term under the pre-July 26, 2017 extension will be treated as the termination date of the CBA.

For example, if the term of a CBA was January 1, 2015 through December 31, 2017, the 180-day period would begin on January 1, 2018, even if the parties agreed (after July 26, 2017) to extend the term of the CBA to January 1, 2019. The Default Schedule would be imposed on July 1, 2018 (first day of the calendar month next following the 180th day) if the parties had not agreed to a Schedule effective before that date.

In the case of a CBA that has an "evergreen clause" automatically extending the term of the CBA if neither party gives notice to re-negotiate or terminate within a certain period before the end of the initial term, the 180-day period begins at the end of the initial term; that is, on the date on which the CBA would have expired if notice to re-negotiate or terminate had been given by either party. If the evergreen clause was triggered before July 26, 2017 and, therefore the CBA rolled over for a new term that expires after July 26, 2017, the 180-day period will begin when the new term expires (even if no notice to re-negotiate is given and the CBA rolls over again).

For example, assume that the initial term of a CBA was January 1, 2015 through December 31, 2017, but the CBA has an "evergreen clause" that automatically extends the term of the CBA for another year (that is, until December 31, 2018) unless the Union or the employer gives a notice to re-negotiate the CBA by November 1, 2018. The 180-day period began on January 1, 2018, even if neither party gave a timely notice to re-negotiate and the CBA rolled over for another year.

Situation 2:

If the CBA requiring contributions to the LNPF terminated before July 26, 2017 and the employer and union had not yet agreed on a new CBA as of July 26, 2017, the 180-day began on July 26, 2017 when the FRP was adopted. This is true even if the CBA expired months before July 26, 2017.

For example, if the CBA expired on March 31, 2017 and the parties had still not reached agreement on a new CBA by July 26, 2017, the 180-day began on July 26, 2017. That means that the Default Schedule would be imposed on the parties effective February 1, 2018 (which is the first day of the calendar month next following January 22, 2018, the 180th day after July 26, 2017), unless the parties agree on a Schedule and it becomes effective before then.

This assumes that the employer has continued to contribute to the LNPF following expiration of the CBA to comply with its legal obligation to maintain terms and conditions of employment during collective bargaining. If the employer has ceased to make contributions, the LNPF may treat the employer as having withdrawn from the Fund.

Situation 3:

If the CBA terminated before July 26, 2017, and after that date the employer and Union entered into a new CBA requiring contributions but did not adopt the Preferred Schedule or Default Schedule as part of that new CBA, the 180-day began on July 26, 2017 when the FRP was adopted.

Agreement by the parties on a new CBA that does not include a Schedule does not stop the 180-day period from running. If the parties do not amend the CBA to include the Preferred Schedule or the Default Schedule before February 1, 2018, the Default Schedule will be imposed as of that date.

Situation 4:

If the employer and the union entered into their first CBA requiring contributions to the Pension Fund after July 26, 2017 but did not adopt the Preferred Schedule or Default Schedule as part of their first CBA, the parties have 180 days from July 26, 2017 within which to adopt the Preferred Schedule or the Default Schedule. If the parties do not amend the CBA (or enter into a separate memorandum of understanding) to include the Preferred Schedule or the Default Schedule before February 1, 2018, the Default Schedule will be imposed as of that date.

If the first CBA is not adopted until after February 1, 2018, the group will be permitted to participate in the LNPF only if the CBA includes an election of either the Preferred Schedule or the Default Schedule.

Note, however, that the FRP authorizes the Board of Trustees to grant a variance for new groups:

> "New Employers & Groups. If an employer or group wishes to join or renew its participation in the LNPF, the employer or group will be subject to the Rehabilitation Plan and will be required to adopt a Schedule. However, the Board of Trustees may, in its discretion, grant or require a variance from the terms thereof if the Board, in its discretion, concludes that the LNPF would benefit from such new or renewed participation or that the variance is necessary or appropriate to protect the LNPF." (FRP, p. 20).

Could the parties adopt the Preferred Schedule after the Default Schedule is Imposed?

Yes. But, the effective date of the Preferred Schedule could make a big difference in the participants' benefit rights.

Generally the Default Schedule's benefit provisions would apply to the benefits earned by the participants before the Default Schedule was imposed and to the benefits earned while the Default Schedule was in effect.[6] The Preferred Schedule's benefit provisions would apply only to benefits earned while the Preferred Schedule was in effect.

However, the FRP allows bargaining parties some flexibility to adopt the Preferred Schedule retroactively and protect the covered employees from the Default Schedule's benefit reductions. Compare Situations 5 and 6 below.

Situation 5:

If collective bargaining parties for a group of employees agree to the Preferred Schedule after the expiration of the 180-day rule period, but make that agreement retroactively effective to the end of the 180-day period, the LNPF would treat the group as if the parties had adopted the Preferred Schedule within the 180-day period, assuming that the employer retroactively complies with the contribution rate increases required by the Preferred Schedule.

For example: The 180-day period for a particular group expired on January 22, 2019 without the bargaining parties adopting a Schedule. The LNPF, as required, imposed the Default Schedule on the employer / group as of February 1, 2019. On May 1, 2019, the bargaining parties agreed to adopt the Preferred Schedule with a retroactive effective date of February 1, 2019. The employer pays the 8.5% contribution rate increase, retroactively (back to February 1st) and prospectively. The LNPF would treat the group as having been covered by the Preferred Schedule as of February 1, 2019, as if the Default Schedule had not been imposed.

Note that the employer must make up any contribution shortage between the Preferred Schedule and the Default Schedule for the retroactive period. In other words, if the employer contributed at the 7% higher rate required by the Default Schedule during the retroactive period, the employer would have to make up the 1.5% difference consistent with the Preferred Schedule's required 8.5% contribution rate increases.

Situation 6:

If collective bargaining parties for a group of employees agree to the Preferred Schedule after the expiration of the 180-day rule period, but do not make that agreement retroactively effective to the end of the 180-day period, the Default Schedule's benefit provisions would apply to the benefits earned by the participants before the Default Schedule was imposed and to the benefits earned while the Default Schedule was in effect. The Preferred Schedule's benefit provisions would apply only to benefits earned after the Preferred Schedule became effective and while it remained in effect.

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[6] The benefit reductions described in the Default Schedule, except for the reduced accrual rates, apply retroactively to credits earned before the Default Schedule was imposed and during the period while the Default Schedule is in effect for the employer / group. The lower accrual rate provisions of the Default Schedule apply to covered service after the Default Schedule is imposed.

> This means, for example, that upon his retirement such a participant would not be eligible for a subsidized early retirement pension for the benefits he earned before and while the Default Schedule was in effect. He would be eligible for a subsidized early retirement pension with regard to the benefits he earned while the Preferred Schedule was in effect. If he chose to retire before age 62, his pension would be calculated partially based on the Default Schedule and partially based on the Preferred Schedule.

What are the consequences of an employer refusing or failing to comply with an imposed Default Schedule?

Once the Default Schedule is imposed and becomes applicable to a group, the employer's contribution rate must be increased by 7% each year for 10 years. If the employer refuses or fails to increase the contribution rate by the required amount in any year, the LNPF will deem the employer to have withdrawn. The consequences of a withdrawal include:

> (1) the employer may be assessed employer withdrawal liability if the LNPF's actuary calculates that such liability is due under ERISA and the LNPF's rules
>
> (2) the employees' "past service credit" for employment with the employer before it became obligated to contribute to the LNPF will be cancelled; and
>
> (3) the employees' pension rights will be based on the Default Schedule and, accordingly, they will not be eligible for subsidized early retirement pensions or disability pensions and their beneficiaries will not be eligible for death benefits.

ERISA provides the LNPF a cause of action to sue the employer (and any or all companies in the same controlled group) in federal court to recover, among other relief:

> (1) any unpaid contributions, including contribution increases required by the Default Schedule up to the withdrawal date;
>
> (2) any unpaid employer withdrawal liability;
>
> (3) interest on the delinquent contributions (at the rate of 1% per month);
>
> (4) an amount equal to the unpaid interest (in other words, double interest); and
>
> (5) reimbursement by the employer of the Pension Fund's attorneys fees and costs of collection.

In addition, the Internal Revenue Code imposes a federal excise tax on an employer that is delinquent in its contribution obligations to a Red Zone plan. The tax is collectible by the Internal Revenue Service. Specifically, Code Section 4971(g)(2) provides that "*there is hereby imposed a tax on each failure of the employer to make the required contribution within the time required under such plan."* Further, the *"amount of the tax imposed...shall be equal to the amount of the required contribution the employer failed to make in a timely manner.*"

What are the consequences of an employer refusing or failing to make any contributions to the Pension Fund?

If an employer has failed to make contributions to the LNPF for more than three (3) months, the LNPF may deem the employer to have ceased to have an obligation to contribute and, accordingly to have withdrawn from the LNPF, as of the date on which the employer ceased to make contributions to the LNPF. An employer withdrawal liability study will be performed and if the employer is determined to have withdrawal liability under the LNPF's rules, a demand letter shall be sent to the employer by the LNPF.

The employer withdrawal liability provisions of the LNPF's Rules & Regulations, shall apply. The Rules & Regulations provide employers with a right to appeal to the Board of Trustees within a certain period. If an employer believes that it has not withdrawn, it has a right of appeal.

Can the Default Schedule be imposed on "Special Class" (non-bargaining unit) participants?

Yes. The FRP provides as follows with regard to "Special Class" groups:

> "The same Schedule that becomes effective for the bargaining unit employees of a contributing employer will automatically apply to the employer's special class (non-bargaining unit) employees as of the same effective date. The special class is considered a different group than the bargaining unit employee group, but the same Schedule will apply to both." (FRP, p. 17).

Accordingly, if the Default Schedule is imposed on a group covered by a CBA, any Special Class participants of the same employer will become subject to the Default Schedule at the same time as the participants covered by the CBA.

Will the employer contribution surcharge cease when the Default Schedule is imposed on an employer?

Yes. The employer will no longer be obligated to pay the employer contribution surcharge for months after the Default Schedule becomes applicable to the employer and its employee-participants. However, as explained above, the employer will be obligated to pay the increased contribution rate required by the Default Schedule once that Schedule is imposed. If the employer refuses or fails to do so, there would be consequences, as explained above.

Is there any way to appeal to the Pension Fund for an extension of the date on which the Default Schedule will be imposed?

Yes. The FRP provides that the Board of Trustees can grant an extension under extraordinary circumstances in which the extension would serve the purposes of the FRP.

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XIV: Addendum F

CHARTS SHOWING BENEFIT ACCRUAL RATES AT VARIOUS CONTRIBUTION RATES UNDER THE PREFERRED SCHEDULE & THE DEFAULT SCHEDULE