

I.U.O.E., LOCAL 12  
OPERATING ENGINEERS TRUST FUNDS  
PRINCIPAL EMPLOYEE PROGRAM  
PARTICIPATION AGREEMENT

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, at Pasadena, California, by and between the OPERATING ENGINEERS PENSION TRUST, OPERATING ENGINEERS HEALTH AND WELFARE FUND, OPERATING ENGINEERS VACATION-HOLIDAY SAVINGS TRUST and OPERATING ENGINEERS TRAINING TRUST (hereinafter "Trusts"), and

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

(hereinafter "Employer").

RECITALS

A. Each of the Trust is an express trust created pursuant to written declarations of trust (hereinafter "Trust Agreements") between the International Union of Operating Engineers, Local Union No. 12 (hereinafter "Local 12"), and certain employer associations in the construction industry in southern California and southern Nevada. The Trusts were organized in compliance with § 302 (c) of the Labor Management Relations Act of 1947, as amended [29 U.S.C. § 186 (c)].

B. The Employer is a corporation or a limited liability company party to and bound by a collective bargaining agreement (hereinafter "Collective Bargaining Agreement") with Local 12.

C. The Collective Bargaining Agreement obligates the Employer to pay fringe benefit contributions to the Trusts for all hours worked by (or paid to) employees who perform any work covered by the Collective Bargaining Agreement. The Employer is obligated to pay fringe benefit contributions to the Trusts on the basis of forty (40) hours per week for each such employee who is compensated by salary or in any manner other than hourly wages.

D. The Trustees of the Trust have approved the terms of a plan known as the Principal Employee Program which, under certain terms and conditions, permits an employer to report employees and pay contributions to the Trust on a modified basis.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

1. Obligation to Report. As set forth in this Agreement, the Trusts agree to modify and amend the Employer's obligations under the Collective Bargaining Agreement to pay contributions to the Trusts; provided, however, that if the Employers fails to abide by the terms and conditions of this Agreement, then on and after the date of the breach by the Employer, at the sole option of the Trusts, this Agreement shall become null and void and the Trusts shall be fully entitled to proceed on claims against the Employer pursuant to the terms of the Collective Bargaining Agreement to the same effect as if this Agreement had never been mad. Notwithstanding any provision of this Agreement, each Principal Employee reported by the Employer under this Agreement shall remain at all times an employee covered by the Collective Bargaining Agreement, and the Employer shall comply with the Collective Bargaining Agreement and Trust Agreements in all respects except as expressly provided in this Agreement.

2. Flat Rate Contributions. During the term and subject to the conditions of this Agreement, the Employer shall contribute to the Trusts on behalf of each Principal Employee at the monthly flat rate established from time-to-time by the Trust for Principal Employees. The current applicable flat rate contribution due to each Trust is set forth on the monthly report form attached as Exhibit "A" and incorporated herein by this reference. Any change in the flat rate contribution shall be shown on the monthly report form furnished by the Trust to the Employer for the month in which the change rate first applies.

3. Conditions. Reporting of Principal Employees by the Employer under this Agreement shall at all times meet each condition as follows:

(a) Each Principal Employee shall be either: (1) if the Employer is a corporation, an employee and shareholder of the Employer who owns ten percent (10%) or more of the issued and outstanding capital stock of the Employer and who performs some work covered by the Collective Bargaining Agreement; or (2) if the Employer is a limited liability company, an employee and member of the Employer who owns ten percent (10%) or more of the capital and profits of the Employer and who performs some work covered by the Collective Bargaining Agreement.

(b) No more than two (2) Principal Employees of the Employer shall be reported under this Agreement during any month.

(c) The Employer shall make timely payment of the flat rate contributions required by this Agreement.

(d) Each Principal Employee shall acknowledge and approve the terms and conditions of the Agreement in writing.

4. Health & Welfare Eligibility. Upon performance of the terms and conditions of this Agreement by the Employer, the Principal Employee shall become eligible for benefits under the rules governing Health Care Benefits for Active Employees (“Active Health Plan”) of the Operating Engineers Health and Welfare Fund, subject to the following conditions:

(a) Eligibility shall commence pursuant to Article II, Section 2 (a), of such rules on the first day of the second calendar month following the month for which a flat rate contribution was paid.

(b) If the Employer fails to submit a Principal Employee monthly report form or fails to pay the first flat rate contribution in a timely manner, the eligibility of each Principal Employee, and each dependent of the Principal Employee, under the Active Health Plan shall be suspended beginning on the first day of the month immediately following the month in which said report and flat rate contributions were due. Thereafter, a Principal Employee, and each dependent of the Principal Employee, shall not become eligible under the Active Health Plan until Principal Employee monthly report forms have been submitted and the flat rate contributions on behalf of the Principal Employee have been paid in a timely manner for three consecutive months.

(c) During the period of any suspension of eligibility under Section 4(b) above, the Employer shall be obligated to report all employees (including all Principal Employees) for all hours worked (or paid), and to pay contributions on their behalf pursuant to the terms and conditions of the Collective Bargaining Agreement instead of at the flat rate; provided, however, that if the Employer submits Principal Employee monthly report forms and pays the flat rate contributions in a timely manner for three

consecutive months shall be governed by the flat rate contributions established pursuant to this Agreement.

(d) Any current Reserve Hours Bank applicable to the Principal Employee shall be frozen and unavailable during those months the Employer reports the Principal Employee under this Agreement.

5. Pension Participation. Upon performance of the terms and conditions of this Agreement by the Employer, each Principal Employee shall be a participant under the Pension Plan of the Operating Engineers Pension Trust based upon the amount of flat rate contributions actually paid to the Operating Engineers Pension Trust by the Employer on behalf of the Principal Employee. As set forth in the rules of the Pension Plan, which shall be controlling in all respects, Pension Credits are accrued under the Pension Plan based on the amount of contributions paid in the Operating Engineers Pension Trust by the Employer on behalf of the Principal Employee.

6. Term and Termination. The term of this Agreement shall become effective on the date of commencement of flat rate contributions to the Trust by the Employer and shall continue thereafter for the duration of the Collective Bargaining Agreement between the Employer and Local 12, including any renewals extensions, modifications or amendments thereto, subject to the right of either party to terminate this Agreement. The Employer or the Trust may terminate this Agreement effective at the end of any month by giving written notice to the other party at least thirty (30) day in advance of the effective date of termination.

7. Trust Agreement. As set forth in the Collective Bargaining Agreement, the Employer agrees to abide by all of the terms and provisions of the Trust Agreements.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year  
above written.

EMPLOYER:

TRUSTS:

By \_\_\_\_\_

By \_\_\_\_\_

CONSENT

I (We), the undersigned Principal Employee(s) of the Employer, hereby  
acknowledge that I (we) have read the foregoing Principal Employee Agreement and  
approve its terms and conditions.

PRINCIPAL EMPLOYEE:

PRINCIPAL EMPLOYEE:

By \_\_\_\_\_

By \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Soc. Sec No.: \_\_\_\_\_

So. Sec No.: \_\_\_\_\_

ACKNOWLEDGED AND APPROVED:

I.U.O.E., Local Union No. 12

By \_\_\_\_\_