

OPERATING ENGINEERS TRUST FUNDS

I.U.O.E. LOCAL 12 HEALTH & WELFARE / PENSION / VACATION / DCP

100 CORSON STREET, SUITE 100 • PASADENA, CALIFORNIA 91103 • (626) 356-1000

P.O. BOX 7063, PASADENA, CALIFORNIA 91109

WEBSITE: www.oefi.org



To: Signatory Employers

Re: Contributions to Health and Welfare Fund under new Families First Coronavirus Response Act

Date: April 13, 2020

On April 1, 2020, the “Families First Coronavirus Response Act” (FFCRA) became effective. Pursuant to the FFCRA, some signatory employers will be required to make contributions to the Health and Welfare Fund in connection with the paid sick leave and expanded FMLA leave provided to certain employees relating to the Covid-19 pandemic. The law is new and the Department of Labor is issuing guidance on their web page at www.dol.gov/newsroom/releases/whd/whd20200401.

The law requires certain employers to pay Health and Welfare Fund contributions for up to 80 hours in connection with the paid sick leave provided, and requires certain employers to continue to pay contributions to the Health and Welfare Fund during the expanded FMLA leave so as to maintain the same level of coverage and benefits without requiring the employees to use “banked hours.” The employers will be entitled to offset these payments from their payroll taxes, and will be required to keep documents to prove the contributions and the payroll tax offset.

The Trust Funds are aware that the contributions to the Health and Welfare Fund will be made by those employers pursuant to the FFCRA, and that contributions will not be paid related to those same hours to the other Trust Funds that normally receive contributions under the collective bargaining agreements. When such an employer is audited by the Trusts, the Trust auditor will require documents from the employer that confirm that these Health and Welfare contributions were made under the FFCRA. Provided the contributions were made pursuant to the FFCRA, the Trust Funds will not make a claim for contributions by the other Trust Funds related to the paid sick leave and expanded FMLA leave.

The Trust Funds cannot provide legal advice to employers about whether they are required to make these payments or how to claim the offsets from the payroll taxes. Those decisions can only be made by the employers in conjunction with their own legal advisors.

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