

# MEMORANDUM OF UNDERSTANDING

Revised 6/28/10 v.13

WHEREAS, the Western Ohio National Electrical Contractors Association (NECA) is the sponsoring Management Association of the International Brotherhood of Electrical Workers Local Union No. 82 Joint Pension Plan ("the Plan"), and

WHEREAS, the IBEW Local 82 (Union) is the sponsoring Labor Organization of the above referenced Plan, and

WHEREAS, the IBEW Local 82 Joint Pension Plan has been certified as "Critical" by the Actuary as of July 1, 2009 as determined under the Rules and Regulations of the Pension Protection Act of 2006, and

WHEREAS, the IBEW Local 82 Joint Pension Plan Trustees initially elected under WRERA to freeze the Plan's status at the prior year's status (neither endangered nor critical status), and

WHEREAS, on April 23, 2010 the Trustees voted to rescind the election effective July 1, 2009.

WHEREAS, as a result of being certified as "Critical" the Trustees of the Plan adopted a Rehabilitation Plan (with Preferred and Default Schedules) and have certified the Rehabilitation Plan to the bargaining parties to agree upon funding as required by one of the Schedules. This 2010 Rehabilitation Plan:

1. specifies the rehabilitation period and expected emergence date,
2. includes revisions and two Schedules (Preferred and Default) of the benefit and contribution changes that have been provided to the bargaining parties, one of which must be implemented as part of future collective bargaining agreements between local union and contributing employers entered into or renewed after May 7, 2010 and
3. provides annual standards for meeting the requirements of the Rehabilitation Plan and describes how the Rehabilitation Plan will be updated from time to time, and
4. describes how the Default Schedule will be automatically implemented if there is no agreement between the bargaining parties in a timely manner.

WHEREAS, the bargaining parties are interested in adopting a Rehabilitation Plan in accordance with the recommendations of the Actuary and in accordance with the requirements of the applicable law.

WHEREAS, labor recognizes management's desire to balance the ability to maintain competitiveness while providing the necessary funding for a Rehabilitation Plan.

WHEREAS, management recognizes labor's desire to adopt the Preferred Schedule and retain certain benefits (as set forth in attachment "A" to this Memorandum of Understanding) for its members. The Plan's Actuary has determined that the Preferred Schedule will require a funding commitment of an additional \$1.15 per hour each of the next five years.

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In consideration of the joint efforts of all parties to adopt the Preferred Rehabilitation Schedule and improve the funded position of the Pension Plan, the bargaining parties agree to amend the current Collectively Bargaining Agreement as follows:

1. **EFFECTIVE DATE:** Section 1.01. This agreement shall take effect June 1, 2010 and shall remain in effect until December 1, 2013 unless otherwise specifically provided for herein. It shall continue in effect from year to year thereafter, from the first Monday in December through the Sunday before the first Monday in December the following year, unless changed or terminated in the in manner(s) as provided for in the CBA.
2. **CURRENT YEAR:** Effective November 29, 2010 both Wage and Benefit increases as instructed by CIR (“\$.55 per hour, effective June 1, 2010, and an additional \$.30 per hour effective December 1, 2010”) shall be allocated as additional funding to the Defined Benefit Plan, [Article VI Section 6.03(a)].

(a) During the period from June 01, 2010 to and including November 28, 2010 the bargaining parties agree to allocate the \$.55 cents per hour to the Health and Welfare Plan’s HRA if approved per CBA, Article VI Section 6.04.

3. **ADDITIONAL DEFINED BENEFIT PLAN CONTRIBUTIONS** – The bargaining parties wish to make Additional Contributions to the Plan in order to satisfy the Pension Protection Act recommendations of the Plan Trustees as follows:

(a) Effective November 29, 2010, the Employers shall contribute the additional \$0.85 per hour for each hour actually worked by each journeyman wireman as referenced in Paragraph 2 above, beyond the \$3.50 current contribution by Employers and the Employers will contribute pro rata amounts for the other classifications of employees in the amounts as specified in Article III Section 3.05(a).

(b) Effective November 29, 2010, the Employees shall contribute \$1.15 per hour for each hour actually worked by a journeyman wireman and for the other classifications of employees in Section 3.05(a), they will contribute on a pro rata basis based upon the differentials in compensation set out in Section 3.05(a) by one or any combination of the following methods:

- 1) Redirect a portion of the minimum hourly wages specified in Article III Section 3.05 (a) or;
- 2) Redirect funding from the current Health and Welfare contribution specified in Article VI section 6.02 or;
- 3) Redirect funding from the current Defined Contribution Plan contribution specified in Article VI section 6.03 (b).

Any redirection of funds per Paragraphs 3(b)(2) and/or (3) above must occur in accordance with the procedures set out in Paragraph 6.04.

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- (c) All contributions identified in Paragraphs 3 (a) and 3(b) will be paid based upon hours actually worked. For the duration of time that this Memorandum of Understanding remains in effect the “hours worked” contribution rate will only apply to contributions paid into the Defined Benefit Plan.
  - (d) Article III Section 3.05 (a) and Article VI Sections 6.02, 6.03(a) and 6.03(b) will be modified to reflect these current changes for so long as they remain in effect in accordance with this Memorandum of Understanding and will be modified accordingly if future changes occur during the term of the collective bargaining agreement.
  - (e) In return and for so long as these reductions in wages/fringes occur per Paragraph (b) above, the Employers will contribute equal amounts to the Plan, in addition to the Employer contributions referenced in Paragraph 3(a) above;
4. COLLECTIVE BARGAINING AGREEMENT YEARS 2 AND 3 - In addition to the Additional Contributions referenced in Paragraph 3 above, the bargaining parties will provide for additional funding , if necessary, in accordance with the following:
- (a) After the end of the Plan years ending June 30, 2011 and 2012, the evaluations required by the Pension Protection Act will occur and the Plan Trustees will make recommendations to the bargaining parties as to the level of funding required to comply with the law. The bargaining parties will accept the recommendations of the Trustees and make the necessary changes to the Plan and the collective bargaining agreement effective December 5, 2011 and December 3, 2012 respectively.
  - (b) Any recommendation requiring additional funding into the Plan beyond the amounts identified in Paragraph 3 above will result in the bargaining parties doing the following:
    - (i) The Employers shall contribute 65% of the additional funding as an increase in the benefit contributions per Section 6.03(a) of the collective bargaining agreement but in no event will the additional funding by the Employers exceed \$0.85 per hour actually worked per year;
    - (ii) The Employees shall contribute 35% of the additional funding by either reallocating existing fringe benefit contributions or reducing wages per the procedures set out in this Memorandum of Understanding.
    - (iii) See attachment "B"

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### 5. FUTURE FUNDING FOR PLAN YEARS 4 and 5

- a) The \$1.15 per year for the 4<sup>th</sup> and 5<sup>th</sup> Plan Years is a commitment by the sponsoring parties to help improve the funded position of the Plan. The infusion of new money into the Pension Plan will come from any or all of the following:
- (i) Additional Negotiated Employer contributions;
  - (ii) Diversion from other fringe benefit contributions of the parties;
  - (iii) Member participants' wages

In the event that new money does not result from source (i) or (ii) above in accordance with Section VI, Article 6.04, it, shall, upon approval by the member participants result from (iii) above

6. RE-ALLOCATION OF ADDITIONAL CONTRIBUTIONS – If during the term of the collective bargaining agreement the Plan's actuary determines that all or some of the Additional Contributions identified in Paragraphs 3 and 4 of this Memorandum of Understanding are no longer required in order to meet the Plan's obligations under the law, and the Trustees of the Plan accept the determination of the actuary and recommend to the bargaining parties that some or all of the Additional Contributions should cease to be contributed to the Plan, those Additional Contributions shall be reallocated to the employers and the employees in amounts proportional to their respective Additional Contributions earlier made as follows:

- (a) Employer Contributions – those Additional Contributions made by the employers and identified in Paragraphs 2, 3(a) and 4(b)(i) ("the \$0.85") shall be reallocated to the Health and Welfare Plan [collective bargaining agreement Section 6.02], the Defined Contribution Plan [collective bargaining agreement Section 6.03(b)] both such reallocations to be in accordance with the procedures in Section 6.04 of the collective bargaining agreement, or to wages at the discretion of the Union;
- (b) Employee Contributions – those Additional Contributions made by the employees and identified in Paragraphs 3(b) and 4(b)(ii) ("the \$1.15") shall be reallocated to wages and/or benefits as unilaterally directed by the Union.

The collective bargaining agreement will be amended accordingly.

It is understood by the parties that this Memorandum of Understanding outlines a minimum obligation over the next five years and does not limit any action by the parties to further improve the funded position of the Plan. Furthermore, it specifically does not limit any action of the Trustees of the Fund to fulfill their fiduciary obligations in requiring that the Plan operate in accordance with the Rules and Regulations of the Pension Protection Act of 2006.

# MEMORANDUM OF UNDERSTANDING

IN WITNESS WHEREOF, the parties have signed and executed this Memorandum of Understanding this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

NECA – Dayton Chapter

IBEW Local 82

By: \_\_\_\_\_

By: \_\_\_\_\_

**BARGAINING MEMBERS**

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\_\_\_\_\_  
Danal W. Neal

\_\_\_\_\_  
Nicholas G. Comstock

\_\_\_\_\_  
Jeff Collins

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Jim Taylor

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Mike Evans

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Mike James