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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

AUG 23 2007

T:EP:RA:UK

Number: **200746017**
Release Date: 11/16/2007

Re:

Dear

This letter constitutes notice that conditional approval has been granted for your request for a 10-year extension for amortizing the unfunded liabilities for the above Plan which are described in section 412(b)(2)(B) of the Internal Revenue Code ("Code") and section 302(b)(2)(B) of the Employee Retirement Income Security Act of 1974 ("ERISA"). Specifically, this approval would apply to the amortization base created as of May 1, 2004, by combining the amortization charge bases in the funding standard account as of that date in accordance with Proposed Regulation 1.412(b)-1(d); the extension would be effective with the plan year beginning May 1, .

This approval is subject to the following conditions:

(1) For all plan years beginning May 1, , and later, the Schedule B (Form 5500) is completed and filed (or refiled, as applicable) reflecting only those employer contributions attributable to hours worked within the applicable plan year. Copies of the Schedule Bs prepared in accordance with this condition are provided to Carol Zimmerman of this office, for the plan years beginning May 1, , May 1, , and May 1, , at the address below.

(2) A notional credit balance is maintained that is at least as large as the "pseudo credit balance," for each year the agreement is in effect beginning with May 1, . For this purpose, the "pseudo-credit balance" means a hypothetical credit balance developed by determining the reduction in the net amortization charge for the extended base each year that is solely due to the difference between the valuation interest rate and the interest rate under section 6621(b) of the Code, and amortizing each amount over a period of no more than 15 years using the valuation interest rate. The resulting amortization amounts are accumulated with interest at the valuation interest rate to derive the "pseudo credit balance" at each valuation date. A "notional credit balance" is maintained, equal to the credit balance that would have existed in the funding standard

account absent any reorganization charges under section 418 of the Code or any adjustments to the funding standard account under section 412(b)(7)(B) when the Plan leaves reorganization. In this situation, the Plan is considered to meet the credit balance requirement as long as the "notional credit balance" (rather than the actual credit balance in the funding standard account) is at least as large as the "pseudo credit balance."

(3) The Plan's funded ratio, calculated by dividing the Plan's market value of assets by its actuarial accrued liability (computed using the unit credit method and the Plan assumptions as of May 1, , and counting only those employer contributions attributable to hours worked prior to the applicable valuation date) is:

(a) no less than 46% for each valuation date from May 1, , through May 1, , inclusive; and
(b) for each valuation date subsequent to May 1, , no less than 1% greater than the required funded ratio as of the previous valuation date. (For example, because the required funded ratio as of May 1, , is 46%, the funded ratio must be at least 47% as of May 1, and 48% as of May 1, , regardless of whether the actual funding ratio in any prior year is higher than the required rate for that year);

(4) Notwithstanding section 418D of the Code, the Plan may not be amended in accordance with that section to reduce or eliminate accrued benefits attributable to employer contributions which under section 4022A(b) of the Employee Retirement Income Security Act of 1974, are not eligible for the Pension Benefit Guaranty Corporation's guarantee.

(5) For each plan year that the extension remains in effect, starting with the plan year beginning May 1, , a copy of the actuarial valuation report and the Schedule B (Form 5500) for each plan year are provided to the office of Employee Plans by January 15 of the calendar year following the end of the plan year. The valuation report includes the development of the "pseudo credit balance" and "notional credit balance" required at the end of the applicable plan year. This information is to be sent to (or other individual designated by the Service), by or to the following address:

Your authorized representative accepted these conditions by letter dated August 20, 2007. If any one of these conditions is not satisfied, the approval to extend the amortization periods for amortizing the unfunded liabilities would be retroactively null and void. However, the Service will consider modifications of these conditions, especially in the event that unforeseen circumstances beyond the control of the Fund may cause the actual experience of the Plan to fail the funded ratio condition. An example of such an unforeseen circumstance would be market fluctuations which affect the value of the Plan's assets. Of course, any request for a modification is considered another ruling request and would be subject to an additional user fee.

The extensions of the amortization periods of the unfunded liabilities of the Plan have been granted in accordance with section 412(e) of the Code and section 304(a) of ERISA. Section 412(e) of the Code and section 304(a) of ERISA authorize the Secretary to extend the period of time required to amortize any unfunded liability (described in section 412(b)(2)(B) of the Code and section 302(b)(2)B) of ERISA) of a plan for a period of time (not in excess of 10 years) if the Secretary determines that such extension would carry out the purposes of ERISA and would provide adequate protection for participants under the plan and their beneficiaries and if the Secretary determines that the failure to permit such extension would (1) result in (A) a substantial risk to the voluntary continuation of the plan, or (B) a substantial curtailment of pension benefit levels or employee compensation, and (2) be adverse to the interests of plan participants in the aggregate.

Section 101 of Reorganization Plan No. 4 of 1978, 1979-1 C.B. 480, transferred the authority for issuing rulings under section 304(a) of ERISA from the Secretary of Labor to the Secretary of the Treasury. Accordingly, the amortization periods for the unfunded liabilities of the Plan are extended as described above under section 412(e) of the Code and section 304(a) of ERISA.

The Plan is a multiemployer defined benefit plan. The interest rate applicable for the remaining amortization period of the amortization base for which the extension would be granted is the rate determined under section 6621(b) for each plan year during which the extension is in effect.

Based on information provided by the authorized representative, the market value of Plan assets was approximately equal to 46% of the present value of accrued benefits under the Plan as of May 1, . The Plan experienced substantial investment losses in the years ending April 30, , and April 30, coupled with a significant decline in active plan membership. As a result, employer contributions have been insufficient to cover the normal cost and net amortization charges in the Plan's funding standard account, and the Plan's credit balance was exhausted by April 30, Schedules B filed for the and plan years showed deficiencies in the funding standard account which would have been even larger had the actuary not reported contributions that were based on hours worked in later years.

The following steps have been taken in response to Plan's funding issues:

- Several amendments effective between November 1, , and May 1, changed the Plan to (1) reduce the benefit accrual rate from $100 per pension credit to $50 per pension credit, (2) increase the age requirement for unreduced early retirement benefits, (3) increase the reductions for early retirement, (4) tighten the eligibility for the lump sum death benefit, (5) increase the number of hours needed to earn pension credits under the Plan and decrease the maximum number of pension credits that could be earned in a plan year, and (6) tighten the eligibility requirements for full disability benefits. No other plan was established or enhanced to replace these benefit accruals.

- Employer contributions were significantly increased, from $3.65 per hour of covered employment as of August 1, , to $10.50 per hour of covered employment effective August 1, representing a 188% increase in a 10-year period. In addition, contributions were diverted from the medical plan to fund the pension Plan at the end of .

Despite the above changes, the Plan's representative anticipates that deficiencies in the funding standard account will persist and continue to grow if no relief is granted. According to information submitted with the request, if the extension is not granted, the potential increases in employer contributions necessary to avoid funding deficiencies could cause a substantial risk of plan termination and/or further reduction in participants' pension benefits and other elements of compensation. This in turn could encourage employees to seek alternative employment, which would further diminish the Plan's contribution base and threaten the voluntary continuation of the Plan.

Accordingly, an extension would not be adverse to the participants in the aggregate. Moreover, the Fund's authorized representative has submitted a projection of pension funding under a scenario which incorporates a 10-year amortization extension and 15 years to amortize the decreases that occur each year in the minimum contribution requirements resulting solely from differences between the valuation rate and the 6621(b) rate. This projection reflects negotiated increases in employer contribution, up to $10.50 per hour effective August 1, . This scenario meets the conditions mentioned above. However, because the prospects for recovery are uncertain and because the Plan is under-funded, we are granting these extensions subject to the conditions listed above.

Your attention is called to section 412(f) of the Code and section 304(b) of ERISA which describe the consequences that would result in the event the Plan is amended to increase benefits, change the rate in the accrual of benefits or to change the rate of vesting, while the amortization extension remains in place. Please note that any amendment that increases liabilities for a profit sharing plan or any other retirement plans (whether qualified or unqualified) maintained by the Trustees for the Plan and covering participants of the Plan to which this ruling applies, would be considered an amendment for purposes of section 412(f) of the Code and section 304(b) of ERISA. Similarly, the establishment of a new profit sharing plan or any other retirement plan (whether qualified or unqualified) maintained by the Trustees for the Plan and covering participants of the Plan to which this ruling applies, would be considered an amendment for purposes of section 412(f) of the Code and section 304(b) of ERISA.

We have sent a copy of this letter to the Manager, , to the Manager, and to your authorized representatives pursuant to a power of attorney on file in this office.

If you require further assistance in this matter, please contact

Sincerely yours,

James E. Holland, Jr.
Manager, Employee Plans Technical