



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

201437022

JUN 18 2014

Re:

Trustees =

Union =

Dear :

This letter constitutes notice that your request for waivers of the minimum funding standard for the Plan for the plan years ending September 30, 2006, 2007, and 2008, have been granted subject to the condition that for the period starting with the date of the ruling letter granting the funding waivers and continuing for each plan year through the plan year beginning on October 1, 2022, each contributing employer to the Plan must make contributions to the Plan sufficient to avoid imposition of the tax under section 4971(g)(2) of the Internal Revenue Code ("Code"). Your authorized representative agreed to this condition in a letter dated June 6, 2014. If this condition is not met, the waivers of the minimum funding standard granted for the Plan for the plan years ending September 30, 2006, 2007, and 2008, are retroactively null and void.

The conditional waivers granted for the Plan for the plan years ending September 30, 2006, 2007, and 2008, have been granted in accordance with section 412(d) of the Code and section 303 of Employee Retirement Income Security Act of 1974 ("ERISA"), both as in effect prior to the Pension Protection Act of 2006 ("PPA '06"). The amount for which this waiver has been granted is equal to the contributions that would otherwise be required to reduce the balance in the funding standard account of the Plan to zero as of September 30, 2006, 2007, and 2008 (determined without regard to section 412(b)(3)(C) of the Code).

The Plan is a multiemployer plan covering employees subject to collective bargaining between the Union and its associated business agents, and contracting employers. The Plan was adopted on January 1, 1962. Since the Plan was certified to be in critical status, the Trustees approved a rehabilitation plan on August 26, 2009.

During the plan year ending September 30, 2006, there were 25 employers contributing to the Plan. As of September 2009, there were only 12 employers contributing to the Plan. The Trustees have continued to reduce benefits as a result of the continuing decline in the hours worked in the jurisdiction. At the current time, the remaining contributing employers have met the terms of the rehabilitation plan that was adopted.

Based on the limited financial information provided by the contributing employers, it is clear that at least 10% of the contributing employers to the Plan would experience substantial financial hardship if the minimum funding requirements are not waived for the plan years ending September 30, 2006, 2007, and 2008. This hardship would be exacerbated by the imposition of the excise tax under section 4971(a) of the Code, which would apply for all three plan years in question.

As discussed above, there has been a drop off in the number of contributing employers to the Plan, and the number of hours worked by participants in the Plan has also fallen. This is a result of the steady decline in the amount of union labor used by contractors in the Union's area. The economy in the Union's area is depressed as a result of the general economic downturn in the US. It is unlikely that there will be much improvement in the economic situation of the remaining contributing employers until there is a general mid- to long-term recovery in the economy.

The Trustees and the remaining contributing employers have taken several steps to mitigate the funding issues in the Plan, including adopting a rehabilitation plan as required by PPA '06. The Plan will continue to experience funding deficiencies even if the waiver is granted; however, no excise taxes will apply under section 4971(a) of the Code as long as the Plan is in critical status and the terms of the rehabilitation plan are met by the remaining contributing employers.

Your attention is called to section 412(c)(7) of the Code and section 304(b) of ERISA, both in effect under PPA '06, 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 any portion of the waived funding deficiencies remain unamortized. Please note that any amendment to a profit sharing plan or any other retirement plans (covering employees covered by the Plan) maintained by the contributing employers to increase the liabilities of those plans would be considered an amendment for purposes of section 412(c)(7) of the Code and section 304(b) of ERISA. Similarly, the establishment of a new profit sharing plan or any other retirement plan by the contributing employers (covering employees covered

by the Plan) would be considered an amendment for purposes of section 412(c)(7) of the Code and section 304(b) of ERISA.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

We have sent a copy of this letter to the Manager, EP Classification in Baltimore, Maryland, to the Manager, EP Compliance Unit in Chicago, Illinois, and to your authorized representative pursuant to a power of attorney on file in this office. We suggest that you furnish a copy of this letter to the enrolled actuary who is responsible for the completion of the Schedules MB.

If you require further assistance in this matter, please contact (ID# ) at ( ) - .

Sincerely yours,

William B. Hulteng, Manager  
Employee Plans Technical

Cc: