Notice of Critical Status for Sheet Metal Workers' Local No. 40 Pension Plan

April 20, 2020

Participants, Beneficiaries, Contributing Employers, and Sheet Metal Workers' Local No. 40:

Since the 2008 plan year, the Pension Protection Act (the "Act") has required us to test the Pension Plan or "Plan" annually to classify its funding status. Standardized measurements have been established for classifying multiemployer plans based on their funding issues. Also, on December 16, 2014, former President Obama signed the Consolidated and Further Continuing Appropriations Act of 2015 (Public Law 113-235), and this law included the Multiemployer Pension Reform Act of 2014 or "MEPRA." MEPRA established an additional funding status classification for multiemployer plans called "critical and declining status." So, based on the Act as modified by MEPRA, multiemployer plans in "endangered status" (funded percentage is less than 80 percent), "critical status" (funded percentage is less than 65 percent), or "critical and declining status" (in critical status *and* is projected to become insolvent, i.e., run out of money, within: (1) 15 years, or (2) 20 years if a special rule applies) must notify all plan participants, beneficiaries, unions, and contributing employers of the plan's funding status, as well as have a plan to restore the plan's financial health. Last year, we notified you that the Pension Plan was in critical status, but not critical and declining status, for 2019.

This is to inform you that on March 27, 2020, the plan actuary sent its Actuarial Certification of Plan Status to the U.S. Department of the Treasury. The zone certification certifies that the Plan is in critical status, but <u>not</u> critical and declining status, for the plan year beginning January 1, 2020. Federal law requires that you receive this notice.

<u>The Plan is in Critical Status</u>

The Plan is considered to be in critical status because it has funding or liquidity problems, or both. More specifically, the Plan's actuary determined that the Plan has a projected accumulated funding deficiency as of December 31, 2019, and the following "critical status" requirements have been met: (1) the Plan is projected to have an accumulated funding deficiency within the next four years, and (2) the Plan's funded percentage is less than 65% and it is projected to have an accumulated funding deficiency within the next five years.

<u>Rehabilitation Plan</u>

Federal law requires pension plans in critical status to adopt a rehabilitation plan aimed at restoring the financial health of the plan. The Plan has been in critical status since January 1, 2019. The Trustees initially adopted the Plan's Rehabilitation Plan on October 28, 2009. Over the years, the Trustees have reviewed the Rehabilitation Plan annually, and they have updated and adopted restated Rehabilitation Plans as conditions warrant. The most recent updated Rehabilitation Plan was adopted by the Trustees on December 17, 2019. The law permits pension plans to reduce, or even eliminate, benefits called "adjustable benefits" as part of a rehabilitation plan. If you were a participant or beneficiary in the Plan on November 23, 2009, you were notified that the Plan reduced or eliminated adjustable benefits. If the Trustees determine that further benefit reductions are necessary, you will receive a separate notice in the future identifying and explaining the effect of those reductions. Any reduction of adjustable benefits will not reduce the level of a participant's basic benefit payable at normal retirement. In addition, the reductions may only apply to Plan participants and beneficiaries whose benefit commencement date is on or after November 23, 2009.

<u>Adjustable Benefits</u>

The Pension Plan offers the following adjustable benefits which may be reduced or eliminated as part of any rehabilitation plan the Pension Plan may adopt:

- □ Disability benefits (if not yet in pay status);
- □ Early retirement subsidies;

- □ Lump sum death benefits;
- □ Benefit payment options other than a qualified joint-and-survivor annuity (QJSA);
- □ Other similar benefits, rights, or features under the plan, including possibly the Reserve Fund (sometimes called Local Pension COLA)

If the Trustees of the Plan determine that benefit reductions are necessary, in additional to those already adopted and described in the November 23, 2009 notice to you, you will receive a separate notice in the future identifying and explaining the effect of those additional reductions.

Employer Surcharge

The law requires that all contributing employers pay to the Plan a surcharge to help correct the Plan's financial situation. The amount of the surcharge is equal to a percentage of the amount an employer is otherwise required to contribute to the Plan under the applicable collective bargaining agreement. With some exceptions, a 5% surcharge is applicable in the initial critical year and a 10% surcharge is applicable for each succeeding plan year thereafter in which the plan is in critical status.

The amount of the surcharge in effect beginning May 30, 2009 was 5% of the amount employers were otherwise required to contribute to the Plan under the applicable collective bargaining agreement. Beginning January 1, 2010, the contribution surcharge increased to 10% of the negotiated contribution rate. These contribution surcharges end on the effective date of a collective bargaining agreement amendment that includes terms consistent with the Rehabilitation Plan. As noted earlier, a Rehabilitation Plan was adopted by the Board of Trustees of the Pension Fund on October 28, 2009. A collective bargaining agreement amendment containing terms consistent with the Plan's initial Rehabilitation Plan was adopted effective November 1, 2009 and the surcharge ended then for all employers bound by that amendment. After that, three collective bargaining agreement amendments and extensions, one effective July 1, 2010 through June 30, 2014, one effective July 1, 2014 through June 30, 2019, and another effective July 1, 2019 through June 30, 2023, continued those terms consistent with the initial and all updated and restated Rehabilitation Plans. The surcharge remains in effect for contributing employers who are not bound by all of these collective bargaining agreement amendments.

Please be aware that we will be re-testing the Plan's funding every year. Depending on what happens with the Plan's investments, the timing of participants' retirements, the amount of covered work and other financial factors, we may need to further revise the most recently restated Rehabilitation Plan (adopted in 2019).

What's Next

We understand that legally required notices like this one can create concern about the Plan's future. While the critical zone label is required to be used by law, the fact is that we are working with our actuaries and consultants to address these issues and take the actions necessary to improve the Plan's financial condition. However, since the Pension Plan is influenced by economic and financial variables beyond our control (such as market volatility and changes in participation and/or the number of contributing employers), unexpected developments can affect the Plan's status and any future corrective actions needed.

Where to Get More Information

For more information about this Notice or a copy of the most recently restated Rehabilitation Plan, you may contact Zenith American Solutions, P.O. Box 5817, Wallingford, Connecticut 06492.

As required by law, this notice is being provided to the Pension Benefit Guaranty Corporation (PBGC) at multiemployerprogram@pbgc.gov and to the Department of Labor at criticalstatusnotice@dol.gov.