

**NOTICE OF CRITICAL STATUS FOR 2009 FOR THE  
LOCAL 138 PENSION TRUST FUND**

This is to inform you that on March 30, 2009 the actuary for the Local 138 Pension Trust Fund (the "Fund") certified to the U.S. Department of the Treasury, and also to the Fund's sponsor, that the Fund is in critical status for its year beginning January 1, 2009. Federal law requires that you receive this notice.

Critical Status: The Fund is considered to be in critical status because it has funding or liquidity problems, or both. More specifically, the Fund's actuary determined that:

- over the next three years, the Fund is projected to have an accumulated funding deficiency for the years beginning January 1, 2011, and January 1, 2012; and
- the sum of the Fund's normal cost and interest on the unfunded benefits for the current Fund Year of 2009 exceeds the present value of all expected contributions for the year; the present value of vested benefits of inactive participants is greater than the present value of vested benefits of active participants; and over the next four Fund years the fund is projected to have an accumulated funding deficiency for the Fund Years beginning January 1, 2011, January 1, 2012, and January 1, 2013.

Rehabilitation Plan and Possibility of Future Reduction in Benefits: This is the second year the Fund has been in critical status. Federal law requires each pension fund in critical status to adopt a rehabilitation plan aimed at restoring its financial health. As a result, the Trustees adopted a rehabilitation plan on November 25, 2008. (You have a right to receive a copy of the rehabilitation plan on request.) As part of this process, the benefit formula was changed effective January 1, 2009, and you were notified of this in December 2008. Further, the law permits a pension fund in critical status to reduce, or even eliminate, benefits called "adjustable benefits" as part of a rehabilitation plan. If the trustees of the Local 138 Pension Trust Fund 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, such reductions in adjustable benefits may only be applied to participants and beneficiaries whose benefit commencement date was on or after April 10, 2008. Whether or not the Fund reduces adjustable benefits in the future, effective as of April 10, 2008, the Fund is not permitted to make any payment in excess of the monthly amount paid under a single life annuity while it is in critical status.

Adjustable Benefits: The Fund offers the following adjustable benefits which may be reduced or eliminated, if not in pay status as of April 10, 2008, as part of the rehabilitation plan: disability benefits, retirement-type subsidies and subsidized early retirement benefits.

Employer Surcharge: The law requires that all contributing employers pay to the Fund a surcharge to help correct the Fund'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 Fund under the applicable collective bargaining agreement. A 5% surcharge was applicable in the initial critical year (2008), starting May 10, 2008. A 10% surcharge is applicable for each succeeding calendar year thereafter in which the Fund is in critical status. As a result, starting January 2009, the contributing employers are currently paying a 10% surcharge which will remain in effect until the next collective bargaining agreement becomes effective.

Where to Get More Information: For more information about this Notice, you may contact:

Board of Trustees  
Local 138 Pension Trust Fund  
2151 Marion Place  
Baldwin, New York 11510  
Telephone: (516) 377-7700