

## **NOTICE OF CRITICAL STATUS**

### **FOR**

### **I.B.E.W. LOCAL NO. 223 PENSION PLAN**

EIN: 04-2780301

Plan No. 005

To: Participants, Beneficiaries, Participating Unions and Contributing Employers:

The Pension Protection Act (the “Act”), signed into law in 2006, is intended to improve the financial condition of pension plans. The Act implemented several safeguards as well as notification requirements to share more information about a Plan’s “financial health” with participants and other interested parties directly related to the Plan.

Since the 2008 plan year, the Act requires us to test the Pension Plan annually to classify its funding status. Standardized measurements were established for classifying multiemployer plans based on their funding issues. Also, on December 16, 2014, 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 “MPRA.” MPRA established a new funding status classification for multiemployer plans called “critical and declining status.” So, based on the Act as modified by MPRA for plan years beginning in 2015 and beyond, multiemployer plans in “endangered status” (generally funded percentage is less than 80 percent), “critical status” (generally 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 the plan year beginning January 1, 2020).

#### **Plan’s Status – Red Zone**

On March 31, 2021, the Plan’s actuary certified to the U.S. Department of the Treasury and the Board of Trustees that the I.B.E.W. Local No. 223 Pension Plan (“Plan”) is in critical status (the “red zone”) for the Plan Year beginning January 1, 2021. Federal law requires that you be notified of the funding status of the Plan and its classification of critical status (“red zone”). The Plan is considered to be in critical status because it has funding problems. More specifically, the Plan’s actuary has determined that (1) the Plan has an accumulated funding deficiency, (2) the Plan’s funded percentage is less than 65% and (3) the plan was in critical status last year and the plan is projected to have an accumulated funding deficiency within the next ten years. As of January 1, 2021, the Plan is not in declining status.

#### **Rehabilitation Plan and Possibility of Reduction in Benefits**

Federal law requires the Board of Trustees of pension plans in critical status to adopt a Rehabilitation Plan aimed at restoring the financial health of the plan. The plan was initially certified in critical status on January 27, 2009. The law permits pension plans to reduce, or even eliminate, benefits called “adjustable benefits” as part of a Rehabilitation Plan. On April 28, 2009, you were notified that the plan reduced or

eliminated certain adjustable benefits. On February 26, 2009, you were notified that as of February 26, 2009, the plan is not permitted to pay lump sum benefits (or any other payment in excess of the monthly amount paid under a single life annuity) while it is in critical status. If the Trustees of the Plan determine that further benefit reductions are necessary, you will receive a separate notice in the future identifying and explaining the effect of those reductions or adjustments.

The Rehabilitation Plan was updated on October 24, 2014 to reflect the shortfall of contributions in 2013 and 2014 and the volatility of the investment performance in 2014. The projected emergence date was extended to December 31, 2033.

The Rehabilitation Plan was updated on December 14, 2016 to reflect the results of the most recent actuarial valuation, investment performance through October 31, 2016 and the uncertainty of future employment levels. The projected emergence date was extended to December 31, 2047.

The Rehabilitation Plan was reviewed and updated on December 22, 2017 to reflect the results of the most recent actuarial valuation and the negotiated increases in wage rates and contribution rates through August 31, 2020. The Plan was determined to be making progress toward emerging from Critical Status at the end of the 2047 Plan Year.

The Rehabilitation Plan was reviewed and updated on December 6, 2018 to reflect the results of the most recent actuarial valuation and investment performance through October 31, 2018. The projected emergence date was revised to December 31, 2040.

The Rehabilitation Plan was reviewed and updated on December 10, 2019 to reflect the results of the most recent actuarial valuation. The projected emergence date was not changed.

The Rehabilitation Plan was reviewed and updated on December 8, 2020 to reflect the results of the most recent actuarial valuation. The projected emergence date was not changed.

### **Adjustable Benefits**

The Plan offers the following adjustable benefits that may be reduced or eliminated as part of the Rehabilitation Plan:

Disability benefits (if not yet in pay status),

Early retirement benefits,

Death benefits, other than the Qualified Pre-Retirement Survivor Annuity (QPSA),

Optional forms of payments.

If the Trustees of the Plan determine that benefit reductions are necessary in addition to those already adopted and described in the April 28, 2009 notice to you, you will receive a separate notice in the future identifying and explaining the effect of those additional reductions.

## **Employer Surcharge**

Employer surcharges can be payable to the Plan to help correct the Plan's financial situation if a Rehabilitation Plan is not implemented within 30 days of a Notice of Critical Status being sent. 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. A 5% surcharge is applicable in the initial critical year and a 10% surcharge is applicable for each succeeding Plan Year while the Plan is in critical status, until the Employer agrees to a collective bargaining agreement that implements the Rehabilitation Plan. A Rehabilitation Plan was adopted by the Board of Trustees of the Pension Fund in 2009. A collective bargaining agreement amendment containing terms consistent with the Rehabilitation Plan was then adopted and the surcharge was avoided for all employers bound by that amendment.

Due to the economic downturn of the last few years, which included adverse investment and employment experience, since the adoption of the original Rehabilitation Plan, the Plan modifications and contribution rate increases provided in the original Rehabilitation Plan do not appear to be sufficient to meet the requirements of emerging from Critical status by the end of the statutory rehabilitation period. As noted earlier, the Rehabilitation Plan was revised to extend the Rehabilitation Period as prescribed by Section 432(e)(3) of the Internal Revenue Code and Section 305 of ERISA. Updates to the Rehabilitation Plan were adopted on August 9, 2012, October 24, 2014, December 14, 2006, December 22, 2017, December 6, 2018, December 10, 2019 and December 8, 2020. We will be re-testing the Plan's funding situation 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 revise the Rehabilitation Plan.

## **What's Next**

You will receive notices like this each year, letting you know of the Plan's progress in stabilizing its financial status. Since the funding of the Plan is influenced by economic and financial variables beyond the control of the Trustees (such as investment market volatility and changes in employment levels and/or the number of contributing employers), unexpected developments can affect the Plan's status and cause modification of the Rehabilitation Plan and the required corrective actions needed. Any changes to the Rehabilitation Plan and any recommended changes in benefits, contributions, or other Plan provisions will be communicated to all affected individuals and parties before any changes are made.

## **Where to Get More Information**

For more information about this Notice, you may contact:

Mr. David Leonardo  
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We understand that legally required notices like this one can create concern about the Plan's future. We are working closely with our professional advisors to monitor the Plan's condition and develop strategies to improve the Fund's funding status and provide you with sound pensions.

Sincerely,

Board of Trustees

cc: Department of Labor  
Pension Benefit Guaranty Corporation

April, 2021  
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