

# OPERATING ENGINEERS TRUST FUNDS

I.U.O.E. LOCAL 12 HEALTH & WELFARE / PENSION / VACATION / DCP

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## OPERATING ENGINEERS PENSION PLAN NOTICE OF ENDANGERED STATUS

OCTOBER, 2018

**TO: PARTICIPANTS, BENEFICIARIES, ALTERNATE PAYEES, CONTRIBUTING EMPLOYERS AND LOCAL UNION(S)**

**FROM: BOARD OF TRUSTEES OF THE OPERATING ENGINEERS PENSION PLAN**

2018 OCT 23 AM 10:21

This is to inform you that on September 28, 2018, the actuary for the Operating Engineers Pension Plan (the "Plan") certified to the U.S. Department of the Treasury, and to the Board of Trustees that the Plan is in endangered status (the "Yellow Zone") for the Plan Year beginning July 1, 2018. Federal law requires that you receive this notice.

### **Background**

The Pension Protection Act ("PPA"), signed into law in 2006, is intended to improve the financial condition of pension plans. PPA implemented several safeguards as well as notification requirements to share more information about a plan's "financial health" with participants and others directly interested in the plan.

Beginning with the 2008-2009 Plan Year, using funding criteria set forth in the Internal Revenue Code, the PPA required multiemployer defined benefit pension plans to be certified by their actuaries as being in one of three funded status zones:

- Neither Endangered nor Critical ("Green Zone")
- Endangered ("Yellow Zone")
- Critical ("Red Zone")

While trustees of Green Zone plans must continue to exercise diligence to protect the funded position of their plans, the law does not require them to take any specific actions or adopt particular programs to maintain or improve plan funding. On the other hand, trustees of plans that are not in the Green Zone must take specific actions spelled out in the law. These required actions, designed to restore the plans to Green Zone status over a projected period, include the adoption of a "Funding Improvement Plan" for plans in endangered status, or the adoption of a "Rehabilitation Plan" for plans in critical status.

The Multiemployer Pension Reform Act ("MPRA"), signed into law in December 2014, extended the applicability of PPA and made certain technical corrections to the earlier legislation. MPRA also added a new category of funded status, called "Critical and Declining." MPRA first applied to this plan for the Plan Year beginning on July 1, 2015.

### **Plan's Status for the 2018-2019 Plan Year – Yellow Zone**

For the Plan Year beginning July 1, 2018, the Plan is in endangered status (the “Yellow Zone”). This is because (1) the Plan previously passed a statutory test for “special emergence” from critical status, AND (2) the funded percentage is less than 80%.

### **Funding Improvement Plan**

In October, 2010, you received a notice advising that the Plan was in critical status for the 2010-2011 Plan Year. The Trustees, therefore, adopted a Rehabilitation Plan to address the financial health of the Plan. Subsequently you were sent a notice detailing the Plan changes under the Rehabilitation Plan.

Because the Plan previously emerged from *critical status* to *endangered status*, on May 10, 2016, the Trustees adopted a Funding Improvement Plan (“FIP”) intended to continue the restoration of the financial health of the Plan. The funding improvement plan made no changes to the benefits provided by the Plan (as it existed under the Rehabilitation Plan) and made no changes to the contribution rates required of contributing employers under the Rehabilitation Plan.

PPA and MPRA, taken together, still require annual review and certification of the Plan’s funded status. You will continue, on an annual basis, to receive notices like this until the Plan is no longer in critical or endangered status. Due to the provisions of the law, annual changes to the Plan’s funded zone status are not unlikely.

On September 20, 2017, following such annual review, the Trustees adopted an Updated Funding Improvement Plan. The Updated FIP makes no changes to benefits or required contribution rates.

We understand that legally required notices like this one can create concern about the Plan’s future. We continue to confer with legal counsel and with our actuaries and consultants to address these issues. Please be assured that improving the Plan’s funded status is our top priority, and we are committed to taking any actions necessary to ensure your pension benefits will be there when you retire.

For more information about this notice or the Trust, contact the Administration Office at the address or phone listed at the top of page 1 of this notice.

cc: United States Department of Labor  
Pension Benefit Guaranty Corporation