



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

November 16, 2018

Mr. Michael Smith
Mr. Arthur Katz
Board of Trustees for the Local 805 Pension Fund
60 Broad Street, 37th Floor
New York, NY 10004

Re: Local 805 Pension Fund (Fund)
Application for Reduction of Benefits

Dear Mr. Smith and Mr. Katz:

On October 5, 2018, you were notified that the Secretary of the Treasury (Treasury), in consultation with the Secretary of Labor (DOL) and the Pension Benefit Guaranty Corporation (PBGC), had reviewed your application (Application) for a reduction in benefits, which was submitted on February 23, 2018, and determined that the Application satisfied the requirements of subparagraphs (C), (D), (E), and (F) of section 432(e)(9) of the Internal Revenue Code (Code), which were added to the Code by Multiemployer Pension Reform Act of 2014 (MPRA). The notification explained that, as required under MPRA, before any benefit reduction could go into effect, Treasury would administer a vote of eligible participants and beneficiaries to approve or reject the proposed benefit reduction.

The voting period began on October 18, 2018, and ended on November 9, 2018. The Fund identified 1,985 participants and beneficiaries as eligible to vote. Of the voters identified by the Fund who received a ballot,¹ 535 (or 27.7% of all eligible voters) voted to reject the benefit reduction, 296 voted to approve the benefit reduction, and 1,098 did not return a ballot. Because a majority of voters identified as eligible by the Fund did not vote to reject the benefit reduction, the benefit reduction is permitted to go into effect. Treasury, in consultation with DOL and PBGC, has issued a final authorization to reduce benefits under the Fund as described in the Application, effective January 1, 2019, subject to the conditions described below.

Under MPRA, the Fund's ability to reduce benefits is conditioned on the Fund's compliance with subparagraphs (C) and (E) of section 432(e)(9). Under subparagraph (C), after the benefit reduction goes into effect, the plan sponsor of the Fund must make an annual determination that, despite all reasonable measures to avoid insolvency, the Fund is projected to become insolvent unless a benefit reduction continues. The Fund must maintain a written record of these annual determinations, and this record must include a description of the factors considered to determine whether all reasonable measures have been taken to avoid insolvency. The written record must be

¹ There were 56 eligible voters whose ballot packet materials were returned to the vote administrator as undeliverable and who could not be located using reasonable means.

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made available to participants and beneficiaries. If the Fund fails to satisfy the annual plan sponsor determination requirement for a plan year (including maintaining the written record), then the reduction of benefits will expire as of the first day of the following plan year.²

Subparagraph (E) of section 432(e)(9) establishes rules that apply to any benefit improvements that are made under the Fund during the period that the benefit reduction remains in effect.

A copy of this letter will be posted on the Treasury Department website. Please contact Treasury staff if you have any questions or need any additional information.

Sincerely,



Danielle Norris
Director

cc: Craig Voelker
Vincent Regalbuto

² 26 C.F.R. § 1.432(e)(9)-1(c)(5).