

Second Amendment to the Local 805 Pension and Retirement Plan

Synopsis: The following amendment changes the Plan to conform with the benefit suspensions implemented under the Multiemployer Pension Reform Act of 2014 (MPRA).

Whereas, the Trustees of the Local 805 Pension and Retirement Fund deem it to be in the best interests of the participants of the Fund and their beneficiaries to amend the Local 805 Pension and Retirement Plan, as permitted under Article 11 thereof to implement a benefit suspension plan in compliance with MPRA under Internal Revenue Code (“IRC”)§432(e)(9) and ERISA §305(e)(9);

Whereas, the Board of Trustees certifies that the benefit suspension will commence January 1, 2019 after authorization by the Secretary of Treasury and shall cease as of the first day of the first Plan Year following the Plan Year that the Board of Trustees fails to determine both of the following:

- a) All reasonable measures to avoid insolvency continue to be taken during the period of the benefit suspension; and
- b) The Plan is still projected to become insolvent unless benefits are suspended under this suspension plan;

Whereas, the Board of Trustees certifies it will not provide any future benefit improvements during the period of this benefit suspension for active participants and beneficiaries unless and until such as time as equitable benefit improvements are adopted for all participants and beneficiaries in accordance with IRC §432(e)(9)(E); and

Whereas, the Board of Trustees certify that the benefit suspensions in this Plan Amendment will not be modified before the suspension of benefits expires.

Now, Therefore, the Board of Trustees agrees and declares that, effective January 1, 2019, the Plan is amended in the following respects:

Article 1, Section 1.29 shall be inserted in its entirety to read as follows, and current Sections 1.29 through 1.33 will be renumbered appropriately:

1.29 “Suspension Plan” means the changes to this Plan, including reductions in accrued benefits, adopted by the Board of Trustees upon approval of the Secretary of Treasury in accordance with IRC §432(e)(9) and ERISA §305(e)(9), as detailed in Appendix B. The effective date of the Suspension Plan shall be referred to herein as the “Suspension Date”, which is January 1, 2019.

“Affected Participants” include all Participants, Beneficiaries and Alternate Payees under the Pension Fund as of the Suspension Date that are not otherwise classified as “Exempted Participants” or “Limited Suspension Participants.”

“Exempted Participants” include the following:

- (1) any Participant or Beneficiary that has attained age 80 as of the last day of the month that includes the effective date of the Suspension Plan; or

(2) any Participant or Beneficiary receiving a Disability Retirement Pension as of the effective date of the Suspension Plan.

“Limited Suspension Participants” include Participant and Beneficiaries who are between age 75 and age 80 as of the last day of the month that includes the effective date of the Suspension Plan. This group shall have the suspension and reduction of benefits limited in accordance with IRC §432(e)(9)(D)(ii).

A new Article 3, Section 3.17 shall be inserted in its entirety to read as follows:

3.17 Notwithstanding any other provisions contained in this Article 3, effective January 1, 2019, all pension benefit amounts will be subject to the terms of the Suspension Plan, as detailed in Appendix B.

A new Article 4, Section 4.9 shall be inserted in its entirety to read as follows:

4.9 Notwithstanding any other provisions contained in this Article 4, effective January 1, 2019, all optional forms of benefits payable under this Article 4 will be subject to the terms of the Suspension Plan, as detailed in Appendix B.

Article 5, Section 5.6 is amended in its entirety to read as follows:

5.6 Benefit Accrual Table - The rate at which pension benefits accrue for each Plan Year shall be determined pursuant to the following table:

Prior to April 1, 2005	\$100.00 per Year of Credited Service.
April 1, 2005 – August 31, 2006	\$0.00 per Year of Credited Service
September 1, 2006 – March 31, 2008	\$50.00 per Year of Credited Service
April 1, 2008 – March 31, 2010	\$50.00 per Year of Credited Service, or such other amount as provided for in the Rehabilitation Plan under Appendix A
April 1, 2010 – December 31, 2018	\$50.00 per Year of Credited Service (and 1/12 of a Year of Credited Service for each calendar month of Covered Employment performed during a Plan Year) , or such other amount as provided for in the Rehabilitation Plan under Appendix A
January 1, 2019	1% of Employer contributions per Plan Year, up to a maximum of \$50.00 during each Plan Year, pursuant to Appendix B

A new Article 5, Section 5.7 shall be inserted in its entirety to read as follows:

5.7 Notwithstanding any other provisions contained in this Article 5, effective January 1, 2019, all accrued benefits payable under this Article 5 will be subject to the terms of the Suspension Plan, as detailed in Appendix B.

A new Article 8, Section 8.3 shall be inserted in its entirety to read as follows:

8.3 Notwithstanding any other provisions contained in this Article 8, effective January 1, 2019, all accrued benefits payable under this Article 8 upon return to retired status will be subject to the terms of the Suspension Plan, as detailed in Appendix B.

A new Article 15, Section 15.16 shall be inserted in its entirety to read as follows:

15.16 Notwithstanding any other provisions contained in this Article 15, effective January 1, 2019, all accrued benefits payable under this Article 15 will be subject to the terms of the Suspension Plan, as detailed in Appendix B.

A new Article 21, Section 21.4 shall be inserted in its entirety to read as follows:

21.4 Notwithstanding any other provisions contained in this Article 21, for the first ten years following the Suspension Date, withdrawal liability will be calculated for all Employers as if the suspensions under Appendix B do not apply to any Participant's benefit. Further, any reduction in withdrawal liability as a result of a Plan partition under MPRA will similarly not apply for the first ten years after the effective date of such Plan partition (January 1, 2019).

A new Article 22, Section 22.8 shall be inserted in its entirety to read as follows:

22.8 Notwithstanding any other provisions contained in this Article 22, effective January 1, 2019, all accrued benefits payable under this Article 22 will be subject to the terms of the Suspension Plan, as detailed in Appendix B.

A new Appendix B shall be added the Plan as follows:

APPENDIX B

Suspension Plan

Effective for the Plan Year Commencing January 1, 2019

As permitted by the MPRA, and approved by the Secretary of Treasury as of _____, accrued benefits and benefits already in pay status as of the Suspension Date for all Affected Participants are reduced to the maximum amount permissible under IRC §432(e)(9), i.e., to no more than 110% of the monthly benefit guaranteed by the Pension Benefit Guarantee Corporation.

The benefits payable to Limited Suspension Participants will be adjusted reflecting each such Participant's age as of the last day of the month that includes the Suspension Date.

The benefits payable to Exempted Participants are not subject to the reductions set forth in this Appendix B.

Reductions under this Appendix B will apply to any minimum benefit otherwise expressed in this Plan.

As of the Suspension Date, active participants will accrue benefits at a rate equal to 1% of the Employer contributions made on their behalf, up to a maximum accrual of \$50.00 during each Plan Year.

Except as modified herein, the terms of the Plan shall remain in effect.

IN WITNESS WHEREOF, this Second Amendment is hereby executed as of this _____ day of _____, _____.

Union Trustees

Employer Trustees
