

August 1, 2016

## **Notice of Applications for Approval of a Proposed Reduction of Benefits, and for Partition, Under the Bricklayers and Allied Craftworkers Local 5 New York Retirement Fund Pension Plan**

On August 1, 2016, the Board of Trustees of the Bricklayers and Allied Craftworkers Local 5 New York Retirement Fund Pension Plan (the “Board of Trustees”) submitted a complete application to the U.S. Treasury Department to reduce benefits under the Bricklayers and Allied Craftworkers Local 5 New York Retirement Fund Pension Plan, EIN 14-6016608, and Plan Number 001 (“Plan”). The reduction is to be effective as of April 1, 2017. If the application is approved and other requirements are satisfied, then the Board of Trustees will be permitted to reduce, by plan amendment, benefits otherwise payable to participants or beneficiaries. This type of benefit reduction is authorized by the Multiemployer Pension Reform Act of 2014, which refers to it as a “suspension” of benefits. It is a reduction of any current or future payments from the Plan to any participant or beneficiary, including retirees and beneficiaries who are receiving benefits at the time of the reduction.

To see whether and how the proposed reduction applies to you, go to “**How the proposed reduction in benefits would affect you**” on page 9 of this notice.

This notice is also to inform you that, on June 24, 2016, the Board of Trustees filed a complete application with the Pension Benefit Guaranty Corporation (“PBGC”) requesting approval for a partition of the Plan.

You may obtain a copy of one or both applications by contacting the Fund office in writing at 1 Scobie Drive, Newburgh, NY 12550 or by calling telephone number (845) 565-8344.

Federal law requires the Board of Trustees to send this notice to contributing employers, unions representing participants, and every plan participant and beneficiary, even if his or her benefit is not being reduced by the suspension or affected by the partition.

### **Application to Reduce Benefits**

#### **Plan’s Eligibility to Reduce Benefits**

Federal law permits the Board of Trustees to apply for a proposed reduction of benefits because the Plan’s actuary certified that the Plan is in “critical and declining” status for the plan year beginning January 1, 2016. This means that the Plan is experiencing financial problems, such that it is in “critical” status, and it is projected to be insolvent (that is, not have enough assets to pay benefits) during the plan year starting on January 1, 2022.

The Board of Trustees determined that it has taken “all reasonable measures” to avoid insolvency of the Plan. Unfortunately, those measures have been insufficient to meet that goal. The proposed

reduction of benefits is necessary to avoid insolvency. If the Plan were to become insolvent, benefits will be reduced below the proposed reduction being requested. In that event, the PBGC will provide enough assistance to provide a level of benefits that is set by federal law (“PBGC-guaranteed level”).

For more information about the amount of benefits guaranteed by PBGC, visit: <http://pbgc.gov/prac/multiemployer/multiemployer-benefit-guarantees.html>.

As stated above, the Trustees have also filed an application with the PBGC requesting approval of a partition (described below). Under a partition, a portion of the Plan’s benefits would be assumed and paid by the PBGC. The Trustees believe that having the PBGC assume and pay a portion of the Plan’s benefits, when coupled with the reduction of benefits, will ensure that the Plan will not become insolvent.

### **Description of the Proposed Benefit Reduction and Factors Considered By the Board of Trustees in Designing the Reduction**

Federal law requires that any reduction of benefits be distributed fairly among the various categories or groups of participants and beneficiaries under the Plan. The Board of Trustees proposes the following reduction of benefits:

#### Past Benefits (Prior to the Effective Date)

Step 1: Benefit accruals on and after January 1, 2012 be restored before applying the maximum MPRA suspensions. This will provide the most equitable proposal.

Step 2: Then reduce all participants' benefits by the maximum amount subject to the limitations described below for all benefits earned as of 12/31/2015. The proposed benefit suspension will treat all current and future participants under the Plan equally and will take into account the limitations on benefit suspensions under the rules of Sections 432(e)(9)(D)(i), (ii) and (iii). As such, this distributes the proposed benefit suspension equally across the Plan’s population, and there is no category or group that is treated differently within the Plan’s participant and beneficiary population. For this reason, none of the factors listed in IRC §432(e)(9)(D)(vi)(I) through (XI) were relevant in designing the proposed suspension.

#### Future Benefits

Step 3: Restore future accruals to \$39.33 (110% of PBGC guaranteed benefit) per year of Future Service Credit limited to one credit per year.

The proposed suspension will remain in effect indefinitely, and is projected to prevent the Plan’s insolvency. An estimate of how the proposed reduction applies to you is also enclosed.

#### Limits

Federal law imposes three limits on how a reduction of benefits can be designed.

1. A participant's or beneficiary's monthly benefit may not be reduced below 110% of the PBGC-guaranteed level.
2. No reduction can apply to benefits based on disability.
3. An individual's age affects the amount of the reduction that may apply to the monthly benefit. No reduction applies to the benefits of an individual who has reached age 80 as of the effective date of the reduction. For an individual who is between ages 75 and 80 as of the effective date of the reduction, the maximum amount of the reduction that can apply to his or her benefit is reduced. The closer the individual is to age 80 as of the effective date of the reduction, the smaller the reduction to the individual's benefit can be. If the age-based limits on the amount of a reduction apply for a participant, then the same limits will continue for any beneficiary of the participant after the participant's death, regardless of the beneficiary's age.

**If you are a participant or beneficiary, the last part of this notice provides a dollar estimate of how the proposed reduction applies to you.**

### **Availability of the Application and How You Can Comment On It**

The application for approval of the proposed reduction of benefits will be made publicly available within 30 days after the application has been received by the Treasury Department. The application includes more information about the proposed reduction, including details about: 1) the Plan's certification that it is in critical and declining status; 2) how the proposed reduction would satisfy the requirement that it be large enough so that the Plan is projected to avoid insolvency, while not being larger than needed to avoid insolvency; and 3) the sensitivity of the projection to the assumptions used.

The application also includes a description of the measures the Board of Trustees has already taken to try to avoid insolvency of the Plan, as well as why the Board of Trustees believes that the proposed reduction is distributed fairly. Comments will be accepted regarding the application from employees, deferred vested participants (participants who are no longer earning benefits under the Plan but are not yet receiving benefits from the Plan), retirees, beneficiaries, contributing employers, unions representing participants, and other interested parties

See [www.treasury.gov/mpra](http://www.treasury.gov/mpra) for a copy of the Plan's application, for instructions on how to send a comment on the application, and for how to contact the Treasury Department for further information and assistance. The Treasury website will also provide updated information on the application, such as whether the application has been modified or withdrawn. If the application is withdrawn (or rejected), and the Board of Trustees submits a new application, you may receive a notice for that new application that supersedes this notice.

You may also contact the Treasury Department for further information and assistance at the following address:

Department of the Treasury  
Attn: MPRA, Room 1001

1500 Pennsylvania Ave., NW  
Washington, D.C. 20220

### **Retiree Representative**

The Board of Trustees of a multiemployer plan applying for approval to reduce benefits may select a retiree representative to advocate for the interest of retirees, beneficiaries, and deferred vested participants in connection with the approval process. If the plan has 10,000 or more participants, the board of trustees is required by Federal law to select a retiree representative.

The Board of Trustees has not chosen to select a retiree representative.

### **Rights and Remedies of Plan Participants and Beneficiaries**

#### **Vote on Proposed Benefit Reduction**

If the application for the proposed reduction of benefits is approved by the Treasury Department, then participants and beneficiaries will be given the opportunity to vote to approve or reject the proposed reduction.

#### **Final Authorization to Reduce Benefits**

If a majority of all plan participants and beneficiaries do not reject the proposed reduction of benefits, then the Treasury Department is required to issue a final authorization to permit the reduction of benefits to take effect.

#### **Claims Process for Incorrect Calculations**

If you think the reduction to your benefit was calculated incorrectly, then you have the right to submit a claim to the Plan to have the calculation corrected. Your Plan's summary plan description includes the Plan's claims procedures, including information on your right to have a court review the Plan's final decision on your claim.

Also, see **Access to Plan Documents** section below.

## **Application for Partition**

### ***What is partition?***

A multiemployer plan that is in critical and declining status may apply to PBGC for an order that separates partitions) and transfers a portion of certain participants' and beneficiaries' benefits to a newly-created successor plan. The total amount transferred from the original plan to the successor plan is the minimum amount needed to keep the original plan solvent. While the Board of Trustees will administer the successor plan, PBGC will provide financial assistance to the successor plan to pay the transferred benefits.

PBGC guarantees benefits up to a legal limit. However, if the PBGC-guaranteed amount payable by the successor plan is less than the benefit payable under the original plan after taking into account benefit reductions or any plan amendments after the effective date of the partition, Federal law requires the original plan to pay the difference. The partition itself does not change the amount payable to any participant or beneficiary.

### ***What are the rules for partition?***

Federal law permits, but does not require, PBGC to approve an application for partition. PBGC generally will make a decision on the application for partition within 270 days. A plan is eligible for partition if certain requirements are met, including:

1. The pension plan is in critical and declining status. A plan is in critical and declining status if it is in critical status (which generally means the plan's funded percentage is less than 65%) and is projected to run out of money within 15 years (or 20 years if there are at least twice as many inactive as active participants, or if the plan's funded percentage is less than 80%).
2. PBGC determines, after consulting with the PBGC Participant and Plan Sponsor Advocate, that the Board of Trustees has taken (or is taking) all reasonable measures to avoid insolvency, including reducing benefits to the maximum allowed under the law.
3. PBGC determines that: (1) providing financial assistance in a partition will be significantly less than providing financial assistance in the event the plan becomes insolvent; and (2) partition is necessary for the plan to remain solvent.
4. PBGC certifies to Congress that its ability to meet existing financial assistance obligations to other multiemployer plans (including plans that are insolvent or projected to become insolvent within 10 years) will not be impaired by the partition.
5. The cost of the partition is paid exclusively from PBGC's multiemployer insurance fund.

### ***Why are partition and benefit reductions needed?***

The Plan is in critical and declining status, is approximately 30% funded, and is projected to become insolvent during the plan year starting on January 1, 2022. The Board of Trustees has taken reasonable measures to avoid insolvency, but has determined that these measures are insufficient and that the proposed partition and reduction of benefits combined are necessary for the Plan to avoid insolvency.

In consideration of the Plan's projected date of insolvency, the Trustees' proposed effective date of the Plan's partition is April 1, 2017. The Trustees intend to partition (that is, transfer) 15% of the guaranteed benefit liabilities of retirees in pay status as well as all of the guaranteed benefit liabilities of deferred vested terminated employees not yet in pay status to the successor plan. This represents approximately 11% of the Plan's current benefit liabilities and 17% of the Plan's post-suspension liabilities (approximately \$7.6 million of benefit liabilities on a Plan Assumption

basis). The Trustees have determined that this is the minimum amount of liabilities that must be partitioned for the Plan to remain solvent. The Plan's remaining liabilities would include an ongoing benefit payment obligation by the Plan to participants in the successor plan.

The Plan's large ratio of retirees and terminated vesteds to participants currently employed (approximately 4 to 1), coupled with the fact that the benefits liabilities with respect to a retiree or terminated vested are usually larger than the benefit liabilities with respect to a currently employed active participant, mandates that that the benefit liabilities of the retirees and terminated vesteds, as opposed to the currently employed participants, be partitioned in order for the Plan to remain solvent. If instead, the Plan is allowed to become insolvent, the benefits of all participants and beneficiaries whose benefits exceed the PBGC-guaranteed amount would be reduced to the PBGC-guaranteed amount.

***What is PBGC's multiemployer plan guarantee?***

Federal law sets the maximum that the PBGC may guarantee. For multiemployer plan benefits, PBGC guarantees a monthly benefit payment equal to 100 percent of the first \$11 of the Plan's monthly benefit accrual rate, plus 75 percent of the next \$33 of the accrual rate, times each year of credited service. PBGC's maximum guarantee, therefore, is \$35.75 per month times a participant's years of credited service.

PBGC guarantees vested pension benefits payable at normal retirement age, early retirement benefits, and certain survivor benefits, if the participant met the eligibility requirements for a benefit before plan termination or insolvency. A benefit or benefit increase that has been in effect for less than 60 months is not eligible for PBGC's guarantee. PBGC also does not guarantee benefits above the normal retirement benefit, disability benefits not in pay status, or non-pension benefits, such as health insurance, life insurance, death benefits, vacation pay, or severance pay.

***How will I know when PBGC has made a decision on the application for partition?***

If PBGC approves the Board of Trustees' application for partition, PBGC will issue a notice to affected participants and beneficiaries whose benefits will be transferred to the successor plan no later than 14 days after it issues the order of partition. You may also visit [www.pbgc.gov/MPRA](http://www.pbgc.gov/MPRA) for a list of applications for partition received by PBGC and the status of those applications.

***Plan Contact Information***

For more information about this Notice, you may contact:

Board of Trustees of the Bricklayers and Allied Craftworkers Local 5 New York Retirement  
Fund Pension Plan  
1 Scobie Drive, Newburgh, NY 12550  
Email: [mclifford@bac5ny.com](mailto:mclifford@bac5ny.com)  
Phone: (845) 565-8344

***PBGC Contact Information***

Multiemployer Program Division, PBGC, 1200 K Street, NW, Washington, DC 20005-4026  
[Email: Multiemployerprogram@pbgc.gov](mailto:Multiemployerprogram@pbgc.gov)

Phone: (202) 326-4000 “0”, or 202-326-4000 x6804, or 1-800-400-7242

***PBGC Participant and Plan Sponsor Advocate Contact Information***

Constance Donovan, PBGC, 1200 K Street, NW, Washington, DC 20005-4026

[Email: Advocate@pbgc.gov](mailto:Advocate@pbgc.gov)

Phone: (202) 326-4448

**Access to Plan Documents; Your Rights to Receive Information about Your Plan and Its Benefits**

You, your contributing employer, the union representing you, and the retiree representative (if any) also have the right to request the documents listed below from the Plan. You may want to review these documents to help you understand your rights and the proposed reduction to your benefits. You have a right to receive:

- The Plan document (including any amendments adopted to reflect an authorized reduction of benefits), trust agreement, and other documents governing the Plan (such as collective bargaining agreements),
- The most recent summary plan description (SPD or plan brochure) and any summary of material modifications,
- The Plan’s Form 5500 annual reports, including audited financial statements, filed with the U.S. Department of Labor during the last six years,
- The annual funding notices furnished by the Plan during the last six years,
- Actuarial reports, including reports prepared in anticipation of the benefit reduction, furnished to the Plan within the last six years,
- The Plan’s current rehabilitation plan, including contribution schedules and annual plan-sponsor determinations that all reasonable measures to avoid insolvency continue to be taken and that the Plan is not projected to avoid insolvency unless benefits are reduced, and
- Any quarterly, semi-annual or annual financial reports prepared for the Plan by an investment manager, fiduciary or other advisor and furnished to the Plan within the last six years.

If your benefits are transferred to the successor plan, you will be furnished a successor plan SPD within 120 days of the partition; and the plan document, trust agreement, and other documents governing the successor plan will be available for review following the partition.

The plan administrator must respond to your request for these documents within 30 days, and may charge you the cost per page to the Plan for the least expensive means of reproducing documents, but cannot charge more than 25 cents per page. The Plan's Form 5500 Annual Return/Report of Employee Benefit Plan is also available free of charge at [www.dol.gov/ebsa/5500main.html](http://www.dol.gov/ebsa/5500main.html). Some of the documents also may be available for examination, without charge, at the plan administrator's office, your worksite or union hall.



## ***Individual Estimate of Effect of Proposed Reduction in Benefits***

[INSERT DATE]

NAME

### **How the Proposed Reduction in Benefits Would Affect You**

It is estimated that if the proposed reductions are not implemented, then the Plan is projected to be insolvent and unable to pay benefits when due in 2022. If the Plan becomes insolvent, your benefit would be reduced to the monthly PBGC-guaranteed level. Your estimated monthly PBGC-guaranteed level is \$214.50.

You are a participant in pay status. Your monthly benefit is proposed to be reduced from \$414.00 to \$235.95. Please note these benefit amounts include the restoration of benefits earned from January 1, 2012 through December 31, 2015.

### **Information Used in Calculating the Estimated Benefit Reduction**

This is an estimate of your benefit under the proposed reduction. It is not a final benefit calculation. This estimate of the proposed reduction is based on an assumed effective date of January 1, 2017 (this date may be subject to change). If the proposed reduction is effective at a later date, then the amount of the reduction to your benefit might change.

This estimate is also based on the following information:

#### **Years of Service**

Plan records show that you have 6.000 years of Contribution Service under the Plan.

#### **Age as of the Effective Date of the Proposed Reduction**

Plan records show that you will be 70.167 years old as of the end of the month of the effective date of the proposed reduction.

#### **Disability Benefits**

Plan records show that the portion of your benefit that is based on disability is \$0.00.

### **PLAN OFFICE CONTACT INFORMATION**

If you believe the information used to calculate your estimate is incorrect, please contact the Plan office at 1 Scobie Drive, Newburgh, NY 12550 T: (845) 565-8344, E: [mclifford@bac5ny.com](mailto:mclifford@bac5ny.com)

## ***Individual Estimate of Effect of Proposed Reduction in Benefits***

[INSERT DATE]

NAME

### **How the Proposed Reduction in Benefits Would Affect You**

It is estimated that if the proposed reductions are not implemented, then the Plan is projected to be insolvent and unable to pay benefits when due in 2022. If the Plan becomes insolvent, your benefit would be reduced to the monthly PBGC-guaranteed level. Your estimated monthly PBGC-guaranteed level is \$715.00.

Your accrued monthly benefit of \$2,000.00 will not change under the proposed reduction. Please note these benefit amounts include the restoration of benefits earned from January 1, 2012 through December 31, 2015.

### **Information Used in Calculating the Estimated Benefit Reduction**

This is an estimate of your benefit under the proposed reduction. It is not a final benefit calculation. This estimate of the proposed reduction is based on an assumed effective date of January 1, 2017 (this date may be subject to change). If the proposed reduction is effective at a later date, then the amount of the reduction to your benefit might change.

This estimate is also based on the following information:

#### **Years of Service**

Plan records show that you have 20.000 years of Contribution Service under the Plan.

#### **Age as of the Effective Date of the Proposed Reduction**

Plan records show that you will be 62.250 years old as of the end of the month of the effective date of the proposed reduction.

#### **Disability Benefits**

Plan records show that the portion of your benefit that is based on disability is \$2,000.00.

### **PLAN OFFICE CONTACT INFORMATION**

If you believe the information used to calculate your estimate is incorrect, please contact the Plan office at 1 Scobie Drive, Newburgh, NY 12550 T: (845) 565-8344, E: mclifford@bac5ny.com

## ***Individual Estimate of Effect of Proposed Reduction in Benefits***

[INSERT DATE]

NAME

### **How the Proposed Reduction in Benefits Would Affect You**

It is estimated that if the proposed reductions are not implemented, then the Plan is projected to be insolvent and unable to pay benefits when due in 2022. If the Plan becomes insolvent, your benefit would be reduced to the monthly PBGC-guaranteed level. Your estimated monthly PBGC-guaranteed level is \$715.00.

You are a participant in pay status. Your monthly benefit is proposed to be reduced from \$2,000.00 to \$1,000.00. Please note these benefit amounts include the restoration of benefits earned from January 1, 2012 through December 31, 2015.

### **Information Used in Calculating the Estimated Benefit Reduction**

This is an estimate of your benefit under the proposed reduction. It is not a final benefit calculation. This estimate of the proposed reduction is based on an assumed effective date of January 1, 2017 (this date may be subject to change). If the proposed reduction is effective at a later date, then the amount of the reduction to your benefit might change.

This estimate is also based on the following information:

#### **Years of Service**

Plan records show that you have 20.000 years of Contribution Service under the Plan.

#### **Age as of the Effective Date of the Proposed Reduction**

Plan records show that you will be 70.167 years old as of the end of the month of the effective date of the proposed reduction.

#### **Disability Benefits**

Plan records show that the portion of your benefit that is based on disability is \$1,000.00.

### **PLAN OFFICE CONTACT INFORMATION**

If you believe the information used to calculate your estimate is incorrect, please contact the Plan office at 1 Scobie Drive, Newburgh, NY 12550 T: (845) 565-8344, E: mclifford@bac5ny.com

## ***Individual Estimate of Effect of Proposed Reduction in Benefits***

[INSERT DATE]

NAME

### **How the Proposed Reduction in Benefits Would Affect You**

It is estimated that if the proposed reductions are not implemented, then the Plan is projected to be insolvent and unable to pay benefits when due in 2022. If the Plan becomes insolvent, your benefit would be reduced to the monthly PBGC-guaranteed level. Your estimated monthly PBGC-guaranteed level is \$92.00.

Your accrued monthly benefit of \$92.00 will not change under the proposed reduction. Please note these benefit amounts include the restoration of benefits earned from January 1, 2012 through December 31, 2015.

### **Information Used in Calculating the Estimated Benefit Reduction**

This is an estimate of your benefit under the proposed reduction. It is not a final benefit calculation. This estimate of the proposed reduction is based on an assumed effective date of January 1, 2017 (this date may be subject to change). If the proposed reduction is effective at a later date, then the amount of the reduction to your benefit might change.

This estimate is also based on the following information:

#### **Years of Service**

Plan records show that you have 10.000 years of Contribution Service under the Plan.

#### **Age as of the Effective Date of the Proposed Reduction**

Plan records show that you will be 82.250 years old as of the end of the month of the effective date of the proposed reduction.

#### **Disability Benefits**

Plan records show that the portion of your benefit that is based on disability is \$0.00.

### **PLAN OFFICE CONTACT INFORMATION**

If you believe the information used to calculate your estimate is incorrect, please contact the Plan office at 1 Scobie Drive, Newburgh, NY 12550 T: (845) 565-8344, E: mclifford@bac5ny.com