



**Pension Benefit Guaranty Corporation**  
1200 K Street, N.W., Washington, D.C. 20005-4026

**ORDER PARTITIONING THE**  
**PLASTERERS & CEMENT MASONS LOCAL NO. 94 PENSION PLAN**

Pursuant to section 4233 of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), the Plasterers & Cement Masons Local No. 94 Pension Plan (the “Plan”) applied for an order partitioning the Plan. The Pension Benefit Guaranty Corporation (“PBGC”), pursuant to its authority under section 4233 of ERISA, has ensured that notice of the application has been provided to the Affected Participants (as defined below) of the Plan and made findings under section 4233 of ERISA.

Upon review of the Plan’s application dated March 30, 2018, and the entire record, PBGC hereby FINDS:

1. The Plan is in critical and declining status, as certified by the Plan’s actuary. ERISA § 4233(b)(1).
2. After consultation with the Participant and Plan Sponsor Advocate, that the Plan sponsor has taken all reasonable measures to avoid insolvency. ERISA § 4233(b)(2).
3. A partition of the Plan is necessary for the Plan to remain solvent. ERISA § 4233(b)(3)(B).
4. The Plan’s representatives have demonstrated that, with a partition, the Plan will remain solvent, based on reasonable assumptions, including:
  - a. Contribution Rate: Employers will maintain contributions of \$9.30 per hour;
  - b. Contribution Base Units (“CBU”): Following completion of a 3-year project during the plan year ending April 30, 2019, the number of active participants is expected to drop back to pre-project levels and remain steady at 21,000 hours;
  - c. Investment return: Expected return on assets, net of investment expenses, is 5.91% from plan years ending in 2019 – 2023 and 6.90% for the plan year ending April 30, 2024 and onward;

- d. Administrative Expenses: For the plan year ending in April 30, 2019, the administrative expenses are expected to be \$62,424, and are assumed to increase 2% per year for the remainder of the projection. Administrative expenses are allocated between the Original Plan (as defined below) and the Successor Plan (as defined below) based on projected headcounts.
5. The partition will reduce PBGC's expected long-term loss with respect to the Plan by at least \$.07 million as of May 1, 2019. ERISA § 4233(b)(3)(A).
6. The partition will not impair PBGC's ability to meet existing financial assistance obligations to other plans (including any liabilities associated with multiemployer plans that are insolvent or that are projected to become insolvent within 10 years), in that it would cause PBGC's projected insolvency date to be an estimated one day earlier. ERISA § 4233(b)(4).
7. Financial assistance to the Successor Plan will be paid exclusively from the multiemployer insurance fund. ERISA § 4233(b)(5).

Based on its findings, PBGC hereby concludes that the requirements for partition under section 4233 of ERISA are satisfied.

WHEREFORE, it is hereby ORDERED that the Plan shall be partitioned on the terms and conditions below:

1. This order (the "Order") is effective as of May 1, 2019, at 12:01 a.m. (Eastern Time) (the "Effective Date").
2. Pursuant to section 4233 of ERISA, the minimum amount of the liabilities necessary for the Plan to remain solvent will be transferred from the Plan (the "Original Plan") to a newly created plan (the "Successor Plan"), on May 1, 2019.
3. PBGC will provide financial assistance to the Plan with respect to the PBGC guaranteed benefits attributable to the Successor Plan, as memorialized in the Financial Assistance Agreement.
4. The Plan's Board of Trustees (the "Board") will serve as plan sponsor and administrator for the Original Plan and the Successor Plan.
5. For each participant of the Plan whose benefit was transferred to the Successor Plan created by this Order (as provided in Appendix A attached hereto and incorporated herein), including future alternate payees, surviving spouses and beneficiaries thereof (the "Affected

Participants”), the Original Plan shall pay a monthly benefit to such participant or beneficiary for each month in which such benefit is in pay status following the Effective Date in an amount equal to (i) the monthly benefit that would be paid to such participant for such month under the terms of the Plan (taking into account benefit accruals, benefit suspensions and any plan amendments following the Effective Date) if the partition had not occurred, less (ii) the monthly benefit for such participant accrued through April 30, 2019, that is guaranteed under section 4022A of ERISA. The Board may, but is not required to, pay monthly benefits payable under the Original Plan and Successor Plan, respectively, in a single monthly payment pursuant to a written cost-sharing or expense allocation agreement between the plans.

6. If PBGC reduces Financial Assistance to the Successor Plan as a consequence of PBGC’s Multiemployer Program’s insolvency, the Original Plan will be responsible for the benefits due under this Order to participants in the Successor Plan.

7. In any case in which the Original Plan provides a benefit improvement (as defined in ERISA § 305(e)(9)(E)(vi)) that takes effect after the Effective Date, the Original Plan shall pay to PBGC, for each year during the 10-year period following the Effective Date, an annual amount equal to the lesser of (i) the total value of the increase in benefit payments for such year that is attributable to the benefit improvement, and (ii) the total benefit payments from the Successor Plan for such year. Such payment shall be made at the time of, and in addition to, any premiums owed by the Original Plan.

8. The Original Plan shall pay the premiums imposed by PBGC with respect to participants whose benefits were transferred to the Successor Plan for each year during the 10 full plan years after the Effective Date.

9. The unfunded vested benefits (“UVBs”) to be allocated to an employer who contributed to the Original Plan before the Effective Date and who withdraws from the Original Plan during the 10 full plan years after the Effective Date is the sum of the UVBs allocable to that employer under the Original Plan (including the value of benefits suspended, for the 10-year period after the Effective Date) and those allocable to that employer under the Successor Plan. The UVBs of the Successor Plan allocable to such an employer is equal to the value of the benefits of the Successor Plan as of either: (i) the Effective Date, or (ii) the end of the plan year which is coincident with or immediately following the Effective Date, multiplied by a fraction: the numerator of which is sum of all contributions required to be made by the withdrawing

employer to the pre-partitioned Plan for the last five plan years ending immediately before the plan year in which the partition is effective (i.e., April 30, 2019) and the denominator of which is the total of all employers' contributions to the pre-partitioned Plan for the last five years ending immediately before the plan year in which the partition is effective (i.e., before April 30, 2019) increased by any employer contributions owed with respect to earlier periods which were collected in those plan years, and decreased by any amount contributed by an employer that withdrew from the plan during those plan years. The Successor Plan's liability is to be valued in accordance with section 4213 of ERISA (except as specifically otherwise provided in this paragraph), but in no event may it result in a liability less than that valued using assumptions consistent with the partition application as of the Effective Date (with respect to the demonstration that the Plan will remain solvent). The withdrawal liability of an employer who withdraws from the Original Plan after the end of the 10<sup>th</sup> full plan year after the Effective Date will be computed only with respect to the Original Plan. In either case, withdrawal liability is payable to the Original Plan and not to the Successor Plan.

10. For all withdrawals after the Effective Date, an employer's annual withdrawal liability payment and schedule of withdrawal liability payments under section 4219 will be computed in accordance with section 4219, subject to a minimum requirement for deemed CBUs and contribution rate, based on the employer's contribution rate and CBUs in effect on the Effective Date, and adjusted based on the assumptions underlying the partition application. More specifically, the amount of an employer's annual payment will be the greater of: (i) the amount resulting from the calculation under ERISA section 4219(c)(1)(C)(i), and (ii) the expected contributions consistent with the assumptions in the partition application and PBGC's approval. The Trustees shall amend the Plan before the Effective Date to effectuate these changes to the withdrawal liability payment amount and the determination of allocable UVBs, as set forth in paragraphs 9 and 10 of this Order (the "Withdrawal Liability Rule").

11. Including, without limitation, the obligation to adopt the Withdrawal Liability Rule in paragraphs 9 and 10, notwithstanding anything to the contrary in this Order, this Order shall not become effective unless and until the Board amends or causes to be amended, in both cases effective on the Effective Date, the Original Plan, any and all other documents respecting the Original Plan, and any and all agreements to which the Board is a party respecting the Original Plan, such that each of the foregoing (collectively, the "Original Plan Documents"), as

so amended, will on the Effective Date be in full compliance with and conform in all respects with all provisions of this Order bearing on the Original Plan. On the Effective Date, to the fullest extent permitted by law, each Original Plan Document will automatically be deemed without any further act by any person or entity to incorporate the provisions of this Order and to further provide that in the event of any inconsistency with any such provision, such provision shall control.

12. The Board shall amend the Original Plan and Successor Plan, each to become effective on the Effective Date, to reflect the benefits payable to participants as provided in this Order.

13. The Board, as plan sponsor of the Original Plan and the Successor Plan, shall maintain a written record of each plan's compliance with the terms of this Order, section 4233 of ERISA, and 29 CFR § 4233.14(b)(2).

14. The Board is subject to the following reporting requirements for the Original Plan and the Successor Plan, respectively:

For the Original Plan, the Board must provide to PBGC:

- a. (i) the annual zone status certification; (ii) the annual actuarial valuation report; (iii) annual long-term projections of the solvency of the Original Plan; (iv) advance notice of any proposed merger or transfer; (v) notice of the adoption of a plan amendment; and (vi) notice of any employer withdrawals.
- b. For the Successor Plan the Board must provide to PBGC actuarial valuation reports for any valuation performed.

PBGC will continue to have jurisdiction over the Original Plan and the Successor Plan to carry out the purposes, terms, and conditions of this Order. PBGC may, upon providing notice to the Plan Sponsor, make changes to this Order in response to changed circumstances consistent with section 4233 of ERISA. From time to time on and after the Effective Date, the Board shall use its best efforts to promptly do or cause to be done such further acts as PBGC may deem necessary or desirable to carry out more effectively the provisions and purposes of this Order or to evidence compliance herewith, whether as in effect on the Effective Date or as modified in response to changed circumstances.

Issued at Washington, DC, on this 20 day of December, 2018.



Karen L. Morris  
Chief of Negotiations and Restructuring  
Pension Benefit Guaranty Corporation

## **Appendix A**



