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TO: Leanna Ambersley

Cc: Jerome Sagnella
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FROM: Jack Strother

DATE: November 13, 2020

SUBJECT: Update of CERF Plan Document

For reasons detailed in this memorandum, we recommend the preparation of an updated and restated CERF plan document with a general effective date of January 1, 2021 but to include earlier and later effective dates for specific provisions as needed.

Fee Basis

Because this is an extensive and non-routine project, we propose to treat it for fee purposes as an Extraordinary Project under the BSW/CERF Legal Services Agreement, Appendix B section 1(d). As such it will not be covered by the current monthly \$6,000 retainer but will be billed at a blended rate of \$300 per hour for attorney time and \$100 per hour for paralegal time. We estimate the total cost of the project at \$8,000-\$10,000.

Existing Plan Document

The IRS-approved CERF Plan Document was last restated effective January 1, 2016 in connection with its most recent submission to the IRS for a determination as to its tax-qualified status. That submission resulted in a favorable determination dated June 28, 2017.

Since then, the IRS disability benefits tax ruling process generated two executed stand-alone amendments to the plan document and a third that was approved by the Board of Trustees.

-- One executed amendment restored a sentence (providing a one-half of pay minimum benefit for service disability) that was crucial to the ruling and had been observed in practice for the units in question but had inadvertently been omitted from the Local 3144 and Trade Unions collective bargaining agreements.

- A second executed amendment conformed certain "in-service" definitional references to each other and to the equivalent Workers' Compensation statutory language.

-- A third amendment, approved at the August 19, 2020 Trustees' meeting but as yet unprepared, will include two newer collective bargaining units (Nurses and Attorneys) in the IRS-approved plan document.

Reasons for Restatement of Plan Document

- It is important to keep the full plan document up to date as the only reference resource collecting the underlying provisions of collective bargaining agreements, statutes, ordinances and IRS-required features.
- Since the last restatement of the IRS-approved plan document, there have been several regulatory changes and Acts of Congress affecting tax-qualified retirement plans. These will need to be reviewed for their impact on CERF and its plan document.

- Although the IRS has discontinued the tax qualification determination letter program, the IRS is now publishing guidance for the self-maintenance of plan documents in the form of an annual Required Amendments List. We expect the 2020 version of the list within a few weeks, whereupon we will be able to evaluate the relevance and timing of the required amendments as they may affect CERF.
- In the course of evaluating what will be necessary to include the Nurses and Attorneys, we concluded that a stand-alone amendment would be impracticable. There are numerous references throughout the full plan document to the varied benefits of specific union locals. A separate document expressing these clauses for the Nurses and Attorneys alone would be unintelligible without the reader making a close and time-consuming line-by-line comparison with the full plan document.
- For similar reasons, the IRS has long required a full restatement of tax-qualified plans after the adoption of multiple stand-alone (or “snap-on”) amendments.
- We recently reviewed the plan provisions in connection with production of CERF’s Annual Report and found a number of discrepancies among the Plan document, the collective bargaining agreements and the administrative matrix for the plan. After consultation with the actuaries, the Annual report resolved the differences, and the plan document should be conformed accordingly.

For all of these reasons, and after five years of developments since the last restatement, we think it necessary to prepare a full update and restatement of the IRS-approved CERF plan document.