INDUSTRY AND LOCAL 338
PENSION AND WELFARE FUNDS
1 Executive Boulevard
Yonkers, New York 10701
Tel (914) 375 0591 Fax (914) 375 0592

June 11, 2010

Re: Pension Benefit Changes

Dear Participants, Contributing Employers and Local Unions:

Enclosed with this letter is a notice concerning an amendment to the Industry and Local 338 Pension Plan (the "Plan") as well as a copy of the text of the amendment. As explained in detail in the notice, the amendment reduces participants' future benefit accruals, and increases the applicable reduction factor for the Early Retirement Pension, effective July 1, 2010. **We have implemented these changes in order to protect the long-term health of the Industry and Local 338 Pension Fund (the "Fund") and participants' accrued benefits.** As you know, dramatic downturns in the investment markets have affected many retirement plans, including this one, and have required benefit and cost modifications.

We are doing everything in our power to ensure the Fund remains healthy and strong, and our efforts have been successful. **The Fund has been certified by its actuary to be in the "green zone."** As you may know, the green zone compares favorably to the two other zone classifications established by the Pension Protection Act of 2006: yellow zone for endangered plans and red zone for critical plans. Our goal is to keep the Fund in the green zone and to keep it healthy for years to come. **That is why the Trustees are taking protective steps now to keep the Pension Plan safe and ensure that the Fund can pay its promised benefits in the future.**

This amendment will have no impact on retirees, and no impact on any of the benefits that participants have already earned through June 30, 2010. It will only affect future benefit accruals earned on or after July 1, 2010. Moreover, as demonstrated by the examples in the attached notice, even *after* the amendment, participants will continue to accrue benefits at a high rate, $37.00 for each $1.00 in contributions made on their behalf. Participants will continue to be eligible for a generous early retirement benefit, which allows them to retire and receive benefits from the Fund even before reaching age 65.

Participants will not bear the entire brunt of the difficulties the Fund faces, however. At the bargaining table, unions and employers have been asked to agree to a contribution increase of 10% per hour for each year covered by all new collective bargaining agreements.

Compared to our Fund, many pension funds around the state and throughout the country are in worse condition, and have made deeper cuts. Even then, many of these other funds are teetering on the brink of collapse. Although we know the benefit changes will be disappointing — we recognize that no one wants future benefits reduced — and they were difficult for us to make, **they will help ensure the Fund's future health and participants' future retirement benefits.**

We hope you will contact the Fund with any questions you have about these changes. In addition, we will be scheduling upcoming meetings for you to obtain more information about these changes, better understand why the changes were adopted, and ask questions. Separate notices will be provided about the dates and locations of these meetings.

As always, the Trustees continue to monitor the financial soundness of the Fund in careful consideration of the long-term financial security of participants' retirement benefits.

Very truly yours,

Board of Trustees

Enclosures

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IMPORTANT NOTICE AND SUMMARY OF MATERIAL MODIFICATION TO THE INDUSTRY AND LOCAL 338 PENSION PLAN

To: Participants and Alternate Payees of the Industry and Local 338 Pension Fund

CC: Local 445, I.B.T.
Local 693, I.B.T.
Local 687, I.B.T.
All Contributing Employers

From: Board of Trustees
Industry and Local 338 Pension Fund

Date: June 11, 2010

This is an important notice concerning your future pension benefits under the Industry and Local 338 Pension Plan (the "Plan") that is issued in accordance with Section 204(h) of Employee Retirement Income Security Act of 1974, as amended ("ERISA") and Section 4980F of the Internal Revenue Code ("Code"). This notice also serves as a Summary of Material Modification ("SMM") with respect to a Plan amendment (the "Amendment") that shall become effective July 1, 2010. Please read this notice carefully as it concerns your benefits under the Plan. You should keep this notice with your copy of the Summary Plan Description (the "SPD").

The Amendment modifies Section 3.03 (Regular Pension — Amount) and Section 3.05 (Early Retirement Pension — Amount) of the Plan. Although the Amendment does <u>not</u> affect any of the benefits that you have accrued up through June 30, 2010, it does affect the benefits you accrue on or after July 1, 2010. As explained below, the changes to the Plan will: (1) reduce the rate of future accruals of your pension benefits attributable to work performed on or after July 1, 2010 <u>from $49 for each $1.00 of the applicable hourly Employer contribution</u> made on your behalf <u>to $37.00 for each $1.00 of the applicable hourly Employer</u>

contribution made on your behalf, and (2) with respect to the Early Retirement Pension, increase the early retirement reduction for benefits accrued on or after July 1, 2010 from 2% for each year that you are younger than Normal Retirement Age (age 65) to 6% for each year that you are younger than Normal Retirement Age (age 65).

Following are descriptions of the two changes made by the Amendment and examples of how the changes will affect you.

1. Reduction in the Rate of Future Accruals

Your current pension accrual is equal to $49.00 for each $1.00 of the applicable hourly Employer Contribution made on your behalf, with proportionate accruals for hourly Employer contributions less than $1.00, multiplied by the total number of Pension Credits you earned during the Plan Year (July 1 to June 30). As a result of the Amendment, all of your pension accruals between July 1, 1997[1] and June 30, 2010 will be calculated as just described using the $49.00 accrual rate for each $1.00 of Employer Contribution. However, for work on or after July 1, 2010, your pension accrual will be equal to $37.00 (rather than $49.00) for each $1.00 of the applicable hourly Employer Contribution made on your behalf, with proportionate accruals for hourly Employer contributions less than $1.00, multiplied by the total number of Pension Credits you earn during the Plan Year.
In short, participants in Covered Employment as of June 30, 2010 earned $49.00 for each $1.00 of the applicable hourly employer contribution made on their behalf during the plan year for work performed before July 1, 2010. Starting July 1, 2010, participants will earn $37.00 for each $1.00 in contributions made on their behalf during the plan year.

Example: Sue will retire on a Regular Pension at age 65 on June 30, 2014, with a total of 17 Pension Credits, consisting of 13 Pension Credits earned between July 1, 1997 and June 30, 2010, and 4 Pension Credits earned between July 1, 2010 and June 30, 2014. The accrued benefit for each year that Sue worked, both before and after the Amendment, is set forth in the table below. As you can see, the Amendment has **no** effect on the benefit that Sue earned prior to the Plan Year beginning July 1, 2010; however, for service earned on or after July 1, 2010, and assuming a $3.00 hourly contribution rate, Sue earns a yearly accrual of $111.00

[1] If you earned pension credits for work before July 1, 1997, your benefit for the pre-July 1, 1997 period is calculated in accordance with the Plan rules in effect before July 1, 1997.

(\$3.00 x **\$37.00** = \$111.00) rather than \$147.00 (\$3.00 x **\$49.00** = \$147.00) if the Amendment had not been adopted.

Plan Ended June 30	**Employer Contribution Rate**	**Yearly Accrual Rate *Before* Amendment**	**Yearly Accrual Rate *After* Amendment**
1998	\$3.00[2]	\$3.00 x \$49.00 = \$147.00	\$3.00 x \$49.00 = \$147.00
1999	\$3.00	\$3.00 x \$49.00 = \$147.00	\$3.00 x \$49.00 = \$147.00
2000	\$3.00	\$3.00 x \$49.00 = \$147.00	\$3.00 x \$49.00 = \$147.00
2001	\$3.00	\$3.00 x \$49.00 = \$147.00	\$3.00 x \$49.00 = \$147.00
2002	\$3.00	\$3.00 x \$49.00 = \$147.00	\$3.00 x \$49.00 = \$147.00
2003	\$3.00	\$3.00 x \$49.00 = \$147.00	\$3.00 x \$49.00 = \$147.00
2004	\$3.00	\$3.00 x \$49.00 = \$147.00	\$3.00 x \$49.00 = \$147.00
2005	\$3.00	\$3.00 x \$49.00 = \$147.00	\$3.00 x \$49.00 = \$147.00
2006	\$3.00	\$3.00 x \$49.00 = \$147.00	\$3.00 x \$49.00 = \$147.00
2007	\$3.00	\$3.00 x \$49.00 = \$147.00	\$3.00 x \$49.00 = \$147.00
2008	\$3.00	\$3.00 x \$49.00 = \$147.00	\$3.00 x \$49.00 = \$147.00
2009	\$3.00	\$3.00 x \$49.00 = \$147.00	\$3.00 x \$49.00 = \$147.00
2010	\$3.00	\$3.00 x \$49.00 = \$147.00	\$3.00 x \$49.00 = \$147.00
2011	\$3.00	\$3.00 x \$49.00 = \$147.00 ** (hypothetical accrual amount if amendment had	\$3.00 x \$37.00 = \$111.00 ** (actual accrual amount as a result of amendment)

[2] Although the example assumes that the same contribution rate — \$3.00 per hour — was in effect during this entire period, contribution rates are likely to have changed numerous times throughout this period.

Plan Ended June 30	Employer Contribution Rate	Yearly Accrual Rate *Before* Amendment	Yearly Accrual Rate *After* Amendment
		not been adopted)	
2012	$3.00	$3.00 x $49.00 = $147.00 ** (hypothetical accrual amount if amendment had not been adopted)	$3.00 x $37.00 = $111.00 ** (actual accrual amount as a result of amendment)
2013	$3.00	$3.00 x $49.00 = $147.00 ** (hypothetical accrual amount if amendment had not been adopted)	$3.00 x $37.00 = $111.00 ** (actual accrual amount as a result of amendment)
2014	$3.00	$3.00 x $49.00 = $147.00 ** (hypothetical accrual amount if amendment had not been adopted)	$3.00 x $37.00 = $111.00 ** (actual accrual amount as a result of amendment)
Total		**$2,499.00** (hypothetical total benefit if amendment had not been adopted)	**$2,355.00** (actual total benefit as a result of amendment)

2. <u>Increase in the Early Retirement Reduction Factors</u>

This change applies only to participants who elect the Early Retirement Pension, which is payable at any time after you reach age 55 and have 15 Pension Credits.

Currently, the monthly amount of the Early Retirement Pension is the amount of the Regular Pension to which you would otherwise be entitled, reduced by 2.0% for each year that you are younger than age 65.

As a result of the Amendment, the monthly amount of the Early Retirement Pension will be the sum of the amount of the Regular Pension to which you would otherwise be entitled, **reduced by 2.0%** for each year that you are younger than age 65 with respect to the benefit that you accrued through June 30, 2010 *plus* the amount of the Regular Pension to which you would otherwise be entitled, **reduced by 6.0%** for each year that you are younger than age 65 with respect to the benefit that you accrued on or after July 1, 2010.

Example:

Mike is retiring at age 57, with a total of 17 Pension Credits, consisting of 13 Pension Credits earned between July 1, 1997 and June 30, 2010, and 4 Pension Credits earned between July 1, 2010 and June 30, 2014. Assume that, based on his Employer's contribution rates, Mike would be entitled to $2,400 per month if he satisfied the requirements for a Regular Pension, with $1,800 of that benefit accrued between June 1, 1997 and June 30, 2010, and $600 of that benefit accrued between July 1, 2010 and June 30, 2014. Finally, assume that Mike is a full 8 years younger than age 65.

Previously, Mike's benefit would be reduced by 16% or $384 (16% of $2,400 is $384) — 2% for each full year that pension payments are made before age 65 which, in this example, is 8 years. Thus, Mike's benefit prior to the Amendment would be $2,016 ($2,400 minus $384).

As a result of the Amendment, Mike's benefit will be calculated as follows:

- Apply 2% reduction to his accrued benefit through June 30, 2010 — 16% (2% times 8 years) of $1,800 is $288
- Apply 6% reduction to his accrued benefit between July 1, 2010 and June 30, 2014 — 48% (6% times 8 years) of $600 is $288
- Add the total reduction — $288 + $288 =$576 and subtract that amount from the Regular Pension amount — $2,400 - $576 = $1,824.

Thus, Mike's benefit following the Amendment will be $1,824. (The amounts in this example might be subject to further reduction if Mike elects a Husband and Wife Pension.)

AMENDMENT NO. 12

INDUSTRY AND LOCAL 338 PENSION PLAN

Pursuant to Article 8, Section 8.01, of the Industry and Local 338 Pension Plan, 2002 Restatement (the "Plan"), the Trustees hereby amend the Plan as follows, effective July 1, 2010. New provisions are underlined. Any provision in the Plan referencing or incorporating any of the following provisions shall be deemed to reference or incorporate these provisions as amended.

1. Article 3, Section 3.03 is deleted and replaced by the following:

Section 3.03 Regular Pension - Amount

The monthly amount of the Regular Pension for a Participant shall be equal to the sum of the Participant's annual pension accruals that provides the highest monthly amount, up to a maximum of 25 Pension Credits (up to a maximum of 35 Pension Credits for Participants who are actively employed in Covered Employment on or after July 1, 1997).

A Participant's annual pension accruals attributable to work performed prior to July 1, 1997 shall be determined under the terms of the Plan in effect prior to July 1, 1997.

The annual pension accruals attributable to work performed on and after July 1, 1997 <u>but before July 1, 2010</u> by Participants who are employed in Covered Employment on or after July 1, 1999 shall be equal to $49.00 for each $1.00 of the applicable hourly Employer contribution made on behalf of that Participant during the Plan Credit Year, with proportionate accruals for hourly Employer contributions less than $1.00, multiplied by the total number of Pension Credits earned by the Participant during that Plan Year.

<u>The annual pension accruals attributable to work performed on and after July 1, 2010 shall be equal to $37.00 for each $1.00 of the applicable hourly Employer contribution made on behalf of that Participant during the Plan Credit Year, with proportionate accruals for hourly Employer contributions less than $1.00, multiplied by the total number of Pension Credits earned by the Participant during that Plan Year.</u>

The annual pension accruals attributable to work performed on and after July 1, 1997 by Participants who are not employed in Covered Employment on or after July 1, 1999 shall be equal to $47.70 for the first $1.31 of the applicable hourly Employer contribution made on behalf of that Participant in the Plan Credit Year, plus $30.00 for each additional $1.00 of applicable hourly Employer contribution made on behalf of that Participant in the Plan Credit Year, with proportionate accruals for hourly Employer contributions less than $1.31 and $1.00 respectively, multiplied by the total number of Pension Credits earned by the Participant during that Plan Year.

The applicable hourly Employer contribution shall mean the average hourly Employer contribution made based on the number of months contributed for during that Plan Credit Year.

For Participants who retire after July 1, 1997 and have pension accruals for work performed before and after July 1, 1997, the amount of Regular Pension shall be the sum of the accrued benefit determined under the Plan in effect before July 1, 1997 and this Plan.

Notwithstanding anything herein to the contrary, effective June 30, 1997, the accrued benefit attributable to work performed prior to July 1, 1997 shall be increased by 20.75% for each active Employee and by 15% for each inactive vested Participant and Spouse eligible to receive a deferred benefit commencing on or after July 1, 1997. In addition, the monthly pension for all Pensioners and Beneficiaries in pay status on July 1, 1997 and Participants who retired between July 1, 1997 and September 30, 1997 shall be increased by 32.25%.

2. Article 3, Section 3.05 is deleted and replaced by the following:

Section 3.05 Early Retirement Pension - Amount

<u>For all benefits accrued before July 1, 2010</u>, the monthly amount of the Early Retirement Pension shall be the amount of the Regular Pension to which the Participant would otherwise be entitled, reduced by 2.0% for each year the Participant's age at retirement is less than his Normal Retirement Age.

<u>For all benefits accrued on or after July 1, 2010, the monthly amount of the Early Retirement Pension shall be the amount of the Regular Pension to which the Participant would otherwise be entitled, reduced by 6.0% for each year the Participant's age at retirement is less than his Normal Retirement Age.</u>