200027063

Internal Revenue Service | **Department of the Treasury**

Washington, DC 20224

Significant Index No. 0412.06-00   Third Party Contact: Participants

Person to Contact:

Telephone Number:

Refer Reply lo:
T:EP:RA:T:A1

Date: APR 1 4 2000

In re:

This letter constitutes notice that with respect to the above-named defined benefit pension plan we have granted a conditional waiver of the minimum funding standard for the plan year ending December 31, 1999.

This conditional waiver for the plan year ended December 31, 1999, has been granted in accordance with section 412(d) of the Internal Revenue code and section 303 of the Employee Retirement Income Security Act of 1974 (ERISA). The waived amount is the contribution which would otherwise be required (after the payment of amounts required under section 412(b)(2)(C) of the Code for a previous waiver) to reduce the balance in the funding standard account to zero as of the end of the plan year for which this conditional waiver has been granted.

The sponsor has an October l-September 30 fiscal year. For the fiscal years ended September 30, 1998 and 1999 the sponsor had negative working capital and net worth. For its fiscal years ended September 30, 1997 and 1998 the sponsor had net operating losses but it had a de minimis profit for the fiscal year ended September 30, 1999. However, the sponsor's cash flow was not sufficient both to meet routine operating expenses such as payroll and to contribute the minimum funding requirement. The sponsor expects much of its business to be return customers with additional bookings. with these return bookings the sponsor has expected cash flow and profitability. The sponsor anticipates that its working capital position will continue to improve as these bookings recur. However, there is still some uncertainty as to the likelihood of these expectations.

As of January 1, 1999, the value of the assets of the plan was e ual to 94% of the plan's current liability. However, as of the date 04 this letter, the sponsor needs to contribute additional funds to the plan in order to satisfy the requirements of section 412(b)(Z)(c) of the code (i.e., the annual amortization payment for a prior waiver of the minimum funding standard) for the 1999 plan year.

335

200027063

Because of the recovery prospects of the sponsor are uncertain, the waiver is granted subject to the following conditions:

1) The contributions required to satisfy the minimum funding standard (taking into account all waivers) for the plan years ended December 31, 2000 and 2001, are to be timely made as defined in section 412(c)(10) of the code.

2) The quarterly contributions described in section 412(m) of the Code are to be made on or before the due dates beginning with the payment due July 15, 2000; and

3) Not later than September 15, 2000, the sponsor is to contribute to the plan the amount necessary to satisfy the requirements of section 412(b)(2)(C) for the previous waiver.

If any of these conditions is not satisfied, the waiver is retroactively null and void. You agreed to these conditions in your letter dated April 13, 2000.

Your attention is called to section 412(f) of the code and section 304(b) of ERISA which describe the consequences that would result in the event the plan is amended to increase benefits, change the rate in the accrual of benefits or to change the rate of vesting, while any portion of the waived funding deficiency remains unamortized. Please note that any amendment to other retirement plans maintained by the company, the Employee Stock ownership Plan (ESOP) or the Savings Plan, to increase the liabilities of those plans would be considered an amendment for purposes of section 412(f) of the code and section 304(b) of ERISA.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) of the code provides that it may not be used or cited by others as precedent.

When filing Form 5500 for the plan year ended December 31, 1999, the date of this letter should be entered on Schedule B (Actuarial Information). A copy of this letter should also be sent to the enrolled actuary for the plan. We have sent a copy of this letter to the Acting Area Manager for Employee Plans for the Key District in

Sincerely,

James E. Holland, Jr.

James E. Holland, Jr., Manager
Employee Plans Actuarial Group 1
Tax Exempt and Government Entities Division

336