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VIA ELECTRONIC DELIVERY
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Technical Director, FASB
File Reference No. 1860-100
FASB
401 Merritt 7
Post Office Box 5116
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Re: File Reference 1860-100
Exposure Draft on Compensation—Retirement Benefits—
Multiemployer Plans (Subtopic 715-80)
Disclosure about an Employer's Participation in a Multiemployer Plan

Dear Sir or Madam:

The undersigned represents the Construction Industry Laborers Pension Fund ("CIL Pension Fund"), a construction industry Taft-Hartley multiemployer pension plan administered in Kansas City, Missouri. The CIL Pension Fund provides pension benefits to laborers in Missouri and Kansas, with 7,600 vested participants, 3,300 retirees, and 1,400 contributing employers. On behalf of the CIL Pension Fund, the following comments are being submitted on the "Disclosure about an Employer's Participation in a Multiemployer Plan". The CIL Pension Fund wishes to express a few of its concerns, namely that the proposed disclosure requirements will serve only to provide, at great cost to both plans and contribution employers, inaccurate, untimely information of little use to the users of the employers' financial statements.

First, the CIL Pension Fund wishes to reiterate the potential inaccuracies the proposed disclosures may contain due to the current reporting requirements for multiemployer plans as compared to those of the employers. For calendar year plans whose fiscal year ends in December, year-end financial reports are due no earlier than the following July. Contributing employers who must provide disclosures in April based in part upon the financial records of the plans will be required to use plan figures which are 16 months old. The market difficulties of 2008 and 2009 illustrate the potential for inaccuracies in relying on financial information over a year old. An employer's year-end

2008 disclosures under the current rule would have been based upon plan figures calculated nine months prior to the market downturn. Such dated and unsound information would be grossly misleading to users of these financial statements.

Second, the provision of the withdrawal liability estimate under the Exposure Draft places the disclosures on a timeframe conflicting with current Federal law and Department of Labor regulations. Under ERISA § 101(l)(2), after a written request is made by an employer for a withdrawal liability estimate, a multiemployer plan has at least 180 days to comply with the request. Further, ERISA § 101(l)(3) limits states that an employer shall only be entitled to one withdrawal liability estimate in any 12-month period. Given the above limitations, it is conceivable that where a plan receives an extension to file its Form 5500, the figures for a withdrawal liability estimate for a contributing employer will not be available 180 days prior to the date said employer must submit its financial statements. Therefore, in order to comply with the disclosure requirements of the ED, the multiemployer plan would be required to use plan figures from the prior year. In other words, by the time a user of the contributing employers financial statement may review the withdrawal liability estimate, the figures used may be 28 months old (and possibly older for non-calendar year plans). In addition, as ERISA requires only that the plan provide a contributing employer with one withdrawal liability estimate per year, the potential inaccuracy of the estimate due to the timing of the disclosure creates a problem for contributing employers who may consider withdrawing from the plan later in the year, thereby actually contemplating withdrawal liability, and thus needing an accurate estimate.

Third, the costs to both employers and multiemployer plans, including the CIL Pension Fund, will be unreasonably oppressive. The cost to employers to commission actuarial calculations for potential withdrawal liability will be great—some contributing employers in the CIL Pension Fund are also contributing employers in no fewer than 10 other multiemployer pension funds—at a time when said employers and their employees have the slimmest margin for waste. At a time when pension plan investments are still in recovery from the recession, new construction projects are sparse and unemployment is at an all time high, the provision of dated financial information at a high cost is detrimental to the financial well-being of all parties associated with the construction industry. Further, plans themselves will be required to pay increased costs in the form of additional administrative staff, legal fees, and associated costs for setting up the capability to assist employers in providing these disclosures.

Fourth, the nature of withdrawal liability within the construction industry multiemployer pension plans is such that modification of the proposed disclosures, or an industry-wide exemption, should be considered in order to provide useful information to

the users of employer financial statements. In the construction industry, withdrawal liability is only assessed where a contributing employer replaces its union workforce with non-union labor; simply going out of business is not enough to trigger a withdrawal liability assessment. Given the great costs associated with withdrawal liability, and the relative ease with which it can be avoided, it has been our experience that it is not often assessed. Furthermore, several considerations serve to mitigate the damages in those rare cases where withdrawal liability has been assessed, so the provision of this information will provide a worst-case scenario to financial statement users. That being the case, inclusion of the calculation on an employer's financial statements, which will fail to accurately reflect the probability for a withdrawal liability assessment, will lead a financial user to believe an employer's financial position is riskier than it actually is.

Fifth, the additional disclosures requiring company-specific and other plan information (e.g., percentage of company employees covered by the plan, description of funding improvement plans, etc.) will create an increased burden on the plans that provide this information, which for the CIL Pension Fund alone will require over 1,400 separate contributing employer-specific reports. The administrator for the plan will be required to hire additional staff, and then have the staff trained to prepare these disclosures. Further, it will likely be necessary for the administrators to purchase additional insurance in the event of mistakes in providing the disclosures—another cost that will presumably be passed on to the plans to the detriment of participants and beneficiaries.

Given the above concerns, we ask that the FASB tailor these disclosures to reflect the nuances of construction industry multiemployer pension plans, or to provide an outright exemption until a more accurate and effective means of disclosure can be identified. We firmly believe these disclosures will work only to confuse and unnecessarily concern users of employer financial statements, while providing little additional relevant financial information.

Thank you for providing us the opportunity to comment on this exposure draft.

Very truly yours,

ARNOLD, NEWBOLD,
WINTER & JACKSON, P.C.

Ryan T. Dryer

RTD:ct