

FINAL

THE FUNDED RETIREMENT PLAN OF
THE TOWN OF NEW CANAAN, CONNECTICUT

As amended and restated
effective as of January 1, 2013

**THE FUNDED RETIREMENT PLAN OF
THE TOWN OF NEW CANAAN, CONNECTICUT**

INDEX

	<u>Page</u>
PREAMBLE	1
ARTICLE I Name and Effective Date	1
ARTICLE II Definitions	3
ARTICLE III Employees Entitled to Participate	13
ARTICLE IV Contributions	16
ARTICLE V Normal Retirement Benefits	18
ARTICLE VI Early Retirement Benefits	22
ARTICLE VII Disability Retirement Benefits	25
ARTICLE VIII Postponed Retirement Benefits	28
ARTICLE IX Vested Deferred Benefits	29
ARTICLE X Payment of Benefits	31
ARTICLE XI Death Benefits	35
ARTICLE XII Limitations on Benefits	42
ARTICLE XIII Applications for Benefits and Other Distribution Procedures	55
ARTICLE XIV Rollovers	57
ARTICLE XV Leave of Absence	60
ARTICLE XVI Rights of Participant	62
ARTICLE XVII Plan Administrator	64
ARTICLE XVIII Trust Fund	67
ARTICLE XIX Plan for Exclusive Benefit of Participants	67

ARTICLE XX	Miscellaneous Provisions	68
ARTICLE XXI	Amendment	72
ARTICLE XXII	Termination of Plan	73

**THE FUNDED RETIREMENT PLAN OF
THE TOWN OF NEW CANAAN, CONNECTICUT**

The Town of New Canaan, a governmental entity of the State of Connecticut, has amended and restated its defined benefit pension plan in the manner set forth below.

ARTICLE I

Name and Effective Date

Section 1.1 This Plan is known as “The Funded Retirement Plan of the Town of New Canaan, Connecticut”.

Section 1.2 The Plan was originally effective as of July 1, 1962. This document shall be effective as of January 1, 2013, except that:

(a) The definition of “GATT Factors” in Article II of the Plan relating to the changes in the determination of the Applicable Mortality Table and the Applicable Interest Rate are effective for distributions occurring on or after January 1, 2008.

(b) With respect to the changes in Article XII of the Plan relating to the annual benefit limit, the changes in the definition of earnings in Section 12.1(b), the changes in the adjustments to the maximum permissible amount in Section 12.2(b)(i),(ii) and (iii), the treatment of plans maintained by the Employer or a predecessor employer in Section 12.2(c), and the correction of excess amounts in Section 12.4, are effective for limitation years beginning on or after July 1, 2007.

(c) With respect to the provisions of Article XIV of the Plan relating to direct rollovers: (i) the inclusion of Roth individual retirement accounts as eligible retirement plans in Section 14.1(c) is effective for distributions occurring on or after January 1, 2008; (ii) the ability to rollover after-tax contributions to plans other than defined contribution plans in Section 14.1(c) is effective for distributions made on or after January 1, 2007; (iii) rollovers by non-Spouse beneficiaries in Section 14.2(b) are effective for distributions occurring on or after January 1, 2010; and (iv) the extension of the ninety (90) day notice period to one hundred eighty (180) days in Section 14.2(c) of the Plan is effective for years beginning on or after January 1, 2007.

(d) The provisions of Section 15.1(d) of the Plan relating to the determination of death benefits for individuals in qualified military service is effective for deaths occurring on or after January 1, 2007.

(e) The provisions of Section 15.1(e) of the Plan relating to the treatment of differential wage payments for individuals in qualified military service is effective for remuneration paid on or after January 1, 2009.

Section 1.3 Any reference in the Plan to "written" or "in writing" shall be construed to include a reference to the use of electronic media, to the extent made available by the Plan Administrator and permitted by the Internal Revenue Service.

ARTICLE II

Definitions

When used in this Plan, the following terms have the meanings set forth below unless a different meaning is plainly required by the context:

"Accrued Benefit" means the annual benefit which a Participant would be entitled to receive at Normal Retirement Date under Section 5.2, which is payable in the normal form of benefit set forth in Section 5.4, and which is calculated based on the Participant's Average Annual Compensation and Years of Credited Service as of the date when the determination is being made.

"Accumulated Contributions" means the sum of a Participant's aggregate Participant Contributions, plus Credited Interest for the number of full calendar months from the date on which the Participant Contributions were deposited into the Plan to the date of the Participant's severance from employment.

"Actuarial Equivalent" means a benefit that has the same value as the annual benefit which a Participant would be entitled to receive at Normal Retirement Date under Section 5.2 and which is payable in the normal form of benefit set forth in Section 5.4, when calculated using the 1983 Group Annuity Mortality Table and an interest rate of seven percent (7%). Any factor used to determine an amount of benefit of equivalent value shall not distinguish between classes of Employees on the basis of sex.

"Annuity Starting Date" means the first day of the first period for which an amount is payable as an annuity, or, in the case of a benefit not payable as an annuity, the date on which all events have occurred that entitle the recipient to receive such benefit.

"Application for Benefits" means the form provided by the Plan Administrator which shall be completed by an individual in order to receive benefits hereunder.

"Average Annual Compensation" means the following:

(a) *With respect to a Nonunion Employee or a Public Works Employee*, Average Annual Compensation means his or her highest Compensation during the ten consecutive calendar years ending with the calendar year of the determination.

(b) *With respect to a Police Officer Employee*, Average Annual Compensation means the average of his or her Compensation as of January 1 of the last three calendar years prior to the calendar year of the determination. If a Police Officer Employee has less than three calendar years of employment, the average will be based on his or her Compensation as of the January 1 of each calendar year during his or her employment. However, if a Police Officer Employee has reached age fifty-five (55), Average Annual Compensation will equal his or her Compensation as of January 1 of the calendar year preceding the calendar year of the determination.

(c) *With respect to a Firefighter Employee, Average Annual Compensation* means the highest Compensation as of January 1 of a calendar year during the ten consecutive calendar years preceding the calendar year of the determination.

(d) *With respect to a Library Employee, a BOE Nonunion Employee, a BOE Custodian Employee, a BOE Secretary Employee or a BOE Food Service Employee, Average Annual Compensation* means the average of his or her Compensation as of January 1 of the three consecutive calendar years during the ten consecutive calendar years preceding the calendar year of the determination which produce the highest average. However, if he or she has less than three calendar years of employment, Average Annual Compensation will be based on his or her Compensation as of the January 1 of each calendar year during his or her employment.

(e) *With respect to a BOE Assistant/Aide Employee, Average Annual Compensation* means the average of his or her Compensation for the three consecutive calendar years during the ten consecutive calendar years preceding the calendar year of the determination which produce the highest average. However, if he or she has less than three calendar years of employment, Average Annual Compensation will be based on his or her Compensation for each calendar year during his or her employment.

"Beneficiary" means any individual, trust, estate or other recipient entitled to receive death benefits hereunder, on either a primary or a contingent basis. A Participant can designate his or her Beneficiary by filing a beneficiary designation form with the Plan Administrator. A Participant can change the designation of his or her Beneficiary at any time.

If a Participant fails to designate a Beneficiary, or if no designated Beneficiary survives the Participant, the Participant's Beneficiary shall be: (a) his or her Surviving Spouse; or (b) if the Participant has no Surviving Spouse, his or her children in equal shares; or (c) if the Participant has no surviving children, his or her grandchildren in equal shares; or (d) if the Participant has no surviving grandchildren, his or her parents in equal shares; or (e) if the Participant has no surviving parents, his or her siblings in equal shares; or (f) if the Participant has no surviving siblings, his or her estate.

"Code" means the Internal Revenue Code of 1986, as amended.

"Compensation" means the following:

(a) Compensation means the annual base salary which the Town regularly pays to an Employee. An Employee's annual base salary excludes any overtime pay, bonuses, gratuities, commissions, retainer fees, benefits, severance pay, allowance for expenses, or other special remuneration.

An Employee's annual base salary is determined without regard to any reduction for amounts that the Employer contributes on behalf of the Employee: (i) to the Town's Code Section 125 plan; (ii) to the Town's Code Section 457(b) nonqualified deferred compensation plan; or (iii) to the Plan.

With respect to a BOE Nonunion Employee who is classified as a transportation aide, transportation driver, transportation assistant or special education driver, solely for purposes of determining his or her Average Annual Compensation and not for purposes of determining his or her Participant Contributions, annual base salary for a calendar year will equal the number of hours that the Employee worked during the prior calendar year (determined by dividing the contributions that the Employee made to the Plan during the prior calendar year by his or her hourly rate of pay when the contributions were made), and then multiplying this number by the Employee's hourly rate of pay as of January 1 of the applicable calendar year.

With respect to a BOE Secretary Employee, annual base salary shall include any longevity payments that the Employee receives.

(b) The Compensation of a Participant taken into account under the Plan shall not exceed \$255,000 (as adjusted under Section 401(a)(17) of the Code). Any adjustments in the dollar limitation that are applicable for a calendar year shall apply to determination periods beginning with or within the calendar year.

In the case of a determination period of less than twelve months, the dollar limitation under this subsection (b) shall be the amount determined by multiplying the applicable amount described in the preceding paragraph by a fraction, the numerator of which is the number of months in the determination period and the denominator of which is twelve. In the case of a Participant who commences or ceases participation in the Plan on a date other than the first or last day of the determination period, no adjustment shall be made to the applicable dollar limitation.

“Credited Interest” means interest at a rate equal to the applicable federal midterm rate set forth in Code Section 1274(d) (or such other interest rate as the Plan Administrator shall determine from time to time), compounded annually on each July 1.

“Date of Employment or Reemployment” means the first day upon which an Employee completes an Hour of Service for the performance of duties during the Employee's most recent period of service with the Employer.

“Dependent” or ***“Surviving Dependent”*** means a Participant's surviving child or children under the age of eighteen (18) (or under the age of twenty-four (24) if the Participant's dependent is a full-time student at an institution of post-secondary education). A Participant's children include natural children and adopted children.

“Disabled Participant” means a Participant who is totally and permanently disabled due to a physical or mental condition resulting from an injury or disease which is either: (a) occupational and compensable under the workers' compensation laws; or (b) nonoccupational in cause. However, a Participant will not be deemed to be totally and permanently disabled if his or her disability results from: (a) service in the armed forces of any country for which a government disability pension is payable; (b) chronic alcoholism or addiction to narcotics; (c)

engaging in a felonious criminal act; or (d) an attempt to bring about injury or illness to the Participant or to another person.

With respect to a Police Officer Employee or a Firefighter Employee: Notwithstanding the above, if a Participant who is a Police Officer Employee or a Firefighter Employee was hired by the Town prior to July 1, 1996, the Participant successfully passed a physical examination when he or she was employed by the Town, and the examination did not reveal any evidence of hypertension or heart disease, then any condition or impairment of health which is caused by hypertension or heart disease and which results in the Participant's total or partial disability or death will be presumed to result in the Participant's total and permanent disability.

"Early Retirement Date" means the following:

(a) *With respect to a Nonunion Employee:* Early Retirement Date means the later of the date on which the Participant has reached age fifty-five (55) and has completed at least fifteen (15) Years of Credited Service.

If a Participant is a Nonunion Employee and he or she is permanently laid off, the Participant may purchase up to one Year of Credited Service for purposes of qualifying for early retirement. Any service that the Participant purchases will not be taken into account under the Plan for any purpose other than determining his or her eligibility for early retirement. The amount that the Nonunion Employee must pay to purchase the Year of Credited Service will be equal to the increase in the actuarial present value of the annual retirement benefit payable to the Participant at his or her Early Retirement Date. Such actuarial present value will be determined by reference to an interest rate of seven percent (7%) and the mortality table used by the Plan's actuary in preparing the Plan's last actuarial valuation report (but assuming a 50%/50% blend of male/female mortality).

(b) *With respect to a Public Works Employee, a Library Employee, a BOE Nonunion Employee, a BOE Assistant/Aide Employee, a BOE Custodian Employee, a BOE Secretary Employee or a BOE Food Service Employee:* Early Retirement Date means the later of the date on which the Participant has reached age fifty-five (55) and has completed at least fifteen (15) Years of Credited Service.

(c) *With respect to a Police Officer Employee or a Firefighter Employee:* Early Retirement Date is not applicable.

"Employee" means an individual who is performing services for the Employer as a common law employee and includes a Nonunion Employee, a Police Officer Employee, a Firefighter Employee, a Public Works Employee, a Library Employee, a BOE Nonunion Employee, a BOE Assistant/Aide Employee, a BOE Custodian Employee, a BOE Secretary Employee, or a BOE Food Service Employee.

(a) *Nonunion Employee* – an employee of the Town of New Canaan who is not a member of a collective bargaining unit. A Nonunion Employee also includes an elected officer of the Town of New Canaan.

(b) *Police Officer Employee* – a police officer of the Town of New Canaan who is a member of the Connecticut Council of Police Unions No. 15, AFSCME, AFL/CIO.

(c) *Firefighter Employee* – a firefighter of the Town of New Canaan who is a member of Local 3224, International Association of Fire Fighters.

(d) *Public Works Employee* – an employee of the Department of Public Works of the Town of New Canaan who is member of Local 1303-013 of Connecticut Council #4, American Federation of State, County and Municipal Employees – AFL-CIO.

(e) *Library Employee* – an employee of the Town of New Canaan Public Library.

(f) *BOE Nonunion Employee* – an employee of the Board of Education of the Town of New Canaan who is not a member of a collective bargaining unit, including but not limited to a transportation aide, transportation driver, transportation assistant or special education driver.

(g) *BOE Assistant/Aide Employee* – an employee of the Board of Education of the Town of New Canaan who is an instructional assistant, health office assistant, foreign language aide, supervisory aide, education program specialist or special education assistant and who is a member of the United Public Service Employees’ Union (UPSEU) Local 424, Unit 47.

(h) *BOE Custodian Employee* – an employee of the Board of Education of the Town of New Canaan who is a custodian and who is a member of Local 1303-89 of Council 4, American Federation of State, County and Municipal Employees, AFL-CIO.

(i) *BOE Secretary Employee* – an employee of the Board of Education of the Town of New Canaan who is a secretary and who is a member of Local 1303-281 of Council 4, American Federation of State, County and Municipal Employees, AFL-CIO.

(j) *BOE Food Service Employee* – an employee of the Board of Education of the Town of New Canaan who is a food service employee and who is a member of the United Public Service Employees’ Union (UPSEU) Local 424, Unit 20.

"Employer" means the Town of New Canaan, Connecticut, the Board of Education of the Town of New Canaan, Connecticut, and the Town of New Canaan Public Library.

"GATT Factors" means, when determining the present value of a benefit:

(a) the Applicable Mortality Table as prescribed by the Commissioner of the Internal Revenue Service pursuant to Code Section 417(e)(3)(B), Revenue Ruling 95-6, Revenue Ruling 2001-62 and (effective for distributions occurring on or after January 1, 2008) Revenue Ruling 2007-67 (or any subsequent guidance issued by the Commissioner); and

(b) the Applicable Interest Rate as specified by the Commissioner of the Internal Revenue Service pursuant to Code Section 417(e)(3)(C) and Revenue Ruling 2007-67 (or any

subsequent guidance issued by the Commissioner) for the second full calendar month preceding the first day of the Plan Year in which the determination date occurs; *provided, however*, during the four Plan Year period that begins on January 1, 2008, the Applicable Interest Rate shall be based in part on the annual interest rate on 30-year Treasury bonds for the second full calendar month preceding the first day of the Plan Year in which the determination date occurs, and in part on the applicable interest rate as prescribed in Revenue Ruling 2007-67.

“Hour of Service” means the following:

(a) An Hour of Service means:

(i) each hour for which an individual is compensated, or entitled to be compensated, by the Employer for the performance of duties;

(ii) each hour for which an individual is compensated, or entitled to be compensated, by the Employer for a period during which no duties are performed by such individual (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or approved leave of absence. Hours shall not be credited for payment to an individual from a plan required by workers' compensation, unemployment compensation or disability insurance laws, nor shall hours be credited for reimbursement of an individual for medical or medically related expenses; and

(iii) each hour for which back pay, irrespective of mitigation of damages, has been awarded or agreed to by the Employer, *provided that* if such award or agreement of back pay is for reasons other than the performance of duties, such hours shall be subject to the restrictions of subsection (a)(ii), and hours credited under this subsection (a)(iii) shall be credited for the period or periods to which the award or agreement pertains rather than to the period in which the award, agreement or payment is made.

(b) Hours of Service shall be credited for the computation periods: (i) in which the duties were performed or payments are due; (ii) in which payments would have been due during a covered leave of absence or layoff; or (iii) to which the back pay award or agreement pertains.

(c) The same Hours of Service shall not be credited under more than one of the subsections of subsection (a).

(d) In no event will Hours of Service be allowed or computed in a manner less liberal than the manner described in Section 2530.200b-2 of the Department of Labor regulations.

"Insurer" means a life insurance company licensed to do business in Connecticut.

“Maximum Offset Allowance” means the lesser of: (a) sixty-five hundredths percent (0.65%) of a Participant’s Average Annual Compensation to the extent it does not exceed the Participant’s Covered Compensation, multiplied by the Participant’s Years of Credited Service up to a maximum of thirty (30) years; or (b) one and twenty-five one-hundredths percent

(1.25%) of the Participant's Average Annual Compensation, multiplied by the Participant's Years of Credited Service up to a maximum of thirty (30) years. For purposes of subsection (a), a Participant's Compensation for a calendar year in excess of the Social Security taxable wage base in effect on the first day of the calendar year will be disregarded.

For purposes of determining a Participant's Maximum Offset Allowance, the Participant's Covered Compensation means the average of the Social Security taxable wage bases in effect for each calendar year during the thirty-five (35) year period ending on the last day of the calendar year in which the Participant reaches his or her Social Security retirement age. In determining a Participant's Covered Compensation, the Social Security taxable wage base for the current calendar year and all later calendar years is deemed to equal the Social Security taxable wage base for the current calendar year.

"Normal Retirement Age" means the following:

(a) *With respect to a Nonunion Employee, a Public Works Employee, a Library Employee, a BOE Nonunion Employee, a BOE Assistant/Aide Employee, a BOE Custodian Employee, a BOE Secretary Employee or a BOE Food Service Employee:* Normal Retirement Age means the later of the date on which the Participant has reached age sixty-five (65) or the fifth anniversary of the date on which the Participant commenced his or her participation in the Plan.

(b) *With respect to a Police Officer Employee or a Firefighter Employee:* Normal Retirement Age means the later of the date on which the Participant has reached age fifty (50) and has completed at least twenty (20) Years of Credited Service.

"Normal Retirement Date" means the first day of the month coinciding with or next following a Participant's Normal Retirement Age.

"Participant" means an Employee who is eligible to participate in the Plan under Article III, but unless specifically provided otherwise, shall not include a Retired Participant, a Terminated Participant or a Disabled Participant.

"Participant Contributions" means the contributions deducted from a Participant's Compensation and contributed to the Plan pursuant to Section 4.1(a) (including any "pick-up" contributions made by the Employer on behalf of a Participant, as described in Section 4.1(b)(i)).

"Plan" means The Funded Retirement Plan of the Town of New Canaan, Connecticut as of its original effective date, including any amendments thereto.

"Plan Administrator" means the person or persons designated to administer the Plan in accordance with Article XVII.

"Plan Year" means the twelve month period ending on December 31. For years prior to the effective date of the Plan, the corresponding twelve month period shall be the Plan Year; *provided, however,* for the period prior to January 1, 2007, the Plan Year was the twelve month

period ending on June 30 and the short Plan Year beginning on July 1, 2006 and ending on December 31, 2006.

"**Regulation**" means any rule or regulation promulgated under the Code by the Secretary of the Treasury or his or her delegate.

"**Retired Participant**" means a Participant who separates from service with the Employer on or after Normal Retirement Date or Early Retirement Date.

"**Severance from Service Date**" means the earliest of the date on which an Employee quits, retires under this Plan, dies or is discharged. If an Employee is on a leave of absence which has been approved by the Employer, the Employee's Severance from Service Date shall not occur until the last day of the leave of absence.

"**Severance Period**" means the period from an Employee's Severance from Service Date to the date on which the Employee next performs an Hour of Service.

"**Spouse**" or "**Surviving Spouse**" means the spouse of a Participant who was legally married to the Participant on the Participant's date of death and who was married to the Participant for at least twelve months prior to the Participant's date of death (including a civil union partner or a same-sex spouse recognized under the laws of the State of Connecticut). In addition, a former spouse will be treated as a Participant's Spouse or Surviving Spouse to the extent required under a domestic relations order.

With respect to Police Officer Employees: If a Participant is a Police Officer Employee and dies in the line of duty, the Participant's spouse is not required to have been married to the Participant during the twelve month period prior to the Participant's date of death in order to be treated as the Participant's Spouse or Surviving Spouse.

"**Terminated Participant**" means a Participant whose status as an Employee is terminated for reasons other than death, disability or retirement.

"**Trust Agreement**" means the agreement entered into between the Employer and the Trustee.

"**Trustee**" means the person or persons or entity selected by the Employer to serve as trustee under the Trust Agreement.

"**Trust Fund**" means all the assets held under the Trust Agreement, an insurance contract issued by an Insurer, or both.

"**Years of Credited Service**" mean the following:

(a) Years of Credited Service mean the period beginning on an Employee's date of participation in the Plan and ending on the Employee's Severance from Service Date, measured in whole years and completed months. Notwithstanding the above, however:

(i) A Participant will be credited with a full month of Credited Service if his or her date of participation is the first working day of the month or his or her Severance from Service Date is the last working day of the month.

(ii) A Participant's Years of Credited Service will include any period during which the Participant is on an authorized leave of absence and receives Compensation from the Employer. Except to the extent provided in Article XV, a Participant's Years of Credited Service will not include any period during which a Participant is on an unauthorized leave of absence, or is on an authorized leave of absence but receives no Compensation from the Employer.

(iii) A Participant's Years of Credited Service will include any period of time during which the Participant is performing qualified military service, as required by Section 15.1 and the Uniformed Services Employment and Reemployment Rights Act.

(iv) *With respect to a BOE Assistant/Aide Employee:* A BOE Assistant/Aide Employee will receive Credited Service for the one year period following his or her Date of Employment if he or she was not eligible to participate in the Plan during that one year period. In addition, he or she will receive Credited Service for the months during which school is not in session, *but only if* he or she is actively employed by the Employer at the beginning of the following school year.

(b) Notwithstanding the above, if a Participant has a Severance from Service Date and the Participant is reemployed by the Employer as an eligible Employee five or more years after his or her Severance from Service Date, then the Years of Credited Service that the Participant performed before his or her Severance from Service Date will be disregarded.

With respect to a Police Officer Employee or a Firefighter Employee, The provisions of this subsection (b) are not applicable to a Police Officer Employee or a Firefighter Employee.

When used in this Plan, the singular form of any word shall include the plural and the masculine gender shall include the feminine wherever necessary for the proper interpretation of this Plan.

Any reference in this Plan to an "Article", "Section", "section", "subsection", "paragraph" or "subparagraph" shall be construed as a reference to a provision of this Plan unless indicated otherwise.

ARTICLE III

Employees Entitled to Participate

Section 3.1 (a) An Employee who is regularly employed on a permanent basis by the Employer is eligible to participate in the Plan on the first working day of the month coinciding with or next following his or her Date of Employment; *provided, however:*

(i) *With respect to a Nonunion Employee:* A Nonunion Employee who is first employed or is reemployed by the Employer on or after January 1, 2011 shall not be eligible to participate in the Plan.

(ii) *With respect to a Public Works Employee:* A Public Works Employee who is first employed or is reemployed by the Employer on or after July 1, 2010 shall not be eligible to participate in the Plan.

(iii) *With respect to a Library Employee:* A Library Employee who is first employed or is reemployed by the Employer on or after January 1, 2011 shall not be eligible to participate in the Plan.

(iv) *With respect to a BOE Nonunion Employee:* A BOE Nonunion Employee who is first employed or is reemployed by the Employer on or after January 1, 2011 shall not be eligible to participate in the Plan. In addition, a BOE Nonunion Employee who was classified as a transportation aide, transportation driver, transportation assistant or special education driver and who was not a Participant in the Plan as of June 30, 2006 did not become a Participant in the Plan until the first working day of the month coinciding with or next following the completion of one Year of Credited Service.

(v) *With respect to a BOE Assistant/Aide Employee:* A BOE Assistant/Aide Employee who is first employed or is reemployed by the Employer on or after January 1, 2011 shall not be eligible to participate in the Plan. In addition, a BOE Assistant/Aide Employee who was not a Participant in the Plan as of June 30, 2006 did not become a Participant in the Plan until the first working day of the month coinciding with or next following the completion of one Year of Credited Service.

(b) Notwithstanding the provisions of subsection (a), an Employee is not eligible to participate in the Plan if:

(i) the Employee is a temporary Employee who works less than nine months during the Plan Year;

(ii) the Employee is a part-time hourly-paid Employee who customarily works less than twenty (20) hours per week;

(iii) the Employee is employed for a special job and his or her employment will terminate on the completion of the job;

(iv) the Employee is a teacher who is or has been eligible for membership in the Connecticut State Teachers' Retirement System; or

(v) the individual is classified as an independent contractor even if, at a later date, the individual is reclassified as a common law employee by a federal or state agency or a court of law.

Section 3.2 (a) If a Participant ceases to be in an eligible class of Employees, he or she shall cease to be a Participant immediately on the date on which he or she ceases to be in an eligible class of Employees.

(b) If a Participant ceases to be in an eligible class of Employees and then subsequently becomes a member of an eligible class of Employees, he or she shall again become a Participant as of the date on which he or she again becomes a member of an eligible class of Employees; *provided, however:*

(i) *With respect to a Nonunion Employee:* A Nonunion Employee who is reemployed by the Employer on or after January 1, 2011 shall not be eligible to participate in the Plan.

(ii) *With respect to a Public Works Employee:* A Public Works Employee who is reemployed by the Employer on or after July 1, 2010 shall not be eligible to participate in the Plan.

(iii) *With respect to a Library Employee:* A Library Employee who is reemployed by the Employer on or after January 1, 2011 shall not be eligible to participate in the Plan.

(iv) *With respect to a BOE Nonunion Employee:* A BOE Nonunion Employee who is reemployed by the Employer on or after January 1, 2011 shall not be eligible to participate in the Plan.

(v) *With respect to a BOE Assistant/Aide Employee:* A BOE Assistant/Aide Employee who is reemployed by the Employer on or after January 1, 2011 shall not be eligible to participate in the Plan.

Section 3.3 If an Employee is eligible to participate in the Plan, the Employer shall notify the Employee of his or her eligibility to participate in the Plan as soon as administratively practicable after his or her Date of Employment or Reemployment.

Following receipt of such notice, such Employee shall signify his or her participation in the Plan and his or her agreement to the terms of the Plan (as it may be amended from time to time) by executing an appropriate statement to that effect, including an undertaking to make

contributions to the Plan by authorizing the Employer to deduct such contributions from his or her Compensation pursuant to the provisions of Section 4.1(a).

ARTICLE IV

Contributions

Section 4.1 (a) Each Participant shall contribute to the Plan, by means of payroll deduction, an amount equal to the following:

- (i) *For Nonunion Employees:* 0.25% of Compensation
- (ii) *For Police Officer Employees:* 1.00% of Compensation

Participant Contributions are not required after a Police Officer Employee completes thirty (30) Years of Credited Service.

- (iii) *For Firefighter Employees:* 1.00% of Compensation

Participant Contributions are not required after a Firefighter Employee completes thirty (30) Years of Credited Service.

- (iv) *For Public Works Employees:* 1.50% of Compensation
- (v) *For Library Employees:* 2.00% of Compensation
- (vi) *For Nonunion BOE Employees:* 2.00% of Compensation
- (vii) *For BOE Assistant/Aide Employees:* 2.00% of Compensation
- (viii) *For BOE Custodian Employees:* 2.00% of Compensation
- (ix) *For BOE Secretary Employees:* 2.00% of Compensation
- (x) *For BOE Food Service Employees:* 2.00% of Compensation

(b) With respect to the Participant Contributions described in subsection (a):

(i) A Nonunion Employee, a Police Officer Employee, a Firefighter Employee, a Public Works Employee or a Library Employee can make an election to have the Employer "pick-up" all of the Participant Contributions required to be made to the Plan by such Employee pursuant to subsection (a), as permitted by Section 414(h)(2) of the Code. However, as required by Revenue Ruling 2006-43 and Regulation Section 1.401(k)-1(a)(3)(v), any such election shall be made no later than the date on which the Employee first becomes eligible to participate in the Plan or any other plan or arrangement established by the Employer, and such election shall be irrevocable.

If an Employee makes the irrevocable election described in this subsection (b)(i), the Employer will pay the Participant Contributions otherwise required to be made by the Employee in lieu of having the Participant Contributions paid by the Employee, and the Employee will not have the option of receiving the contributed amounts directly in cash instead of having them paid to the Plan by the Employer. Such Participant Contributions will be treated as Employer contributions for Federal income tax purposes, and will not be included in the current income of the Employee for Federal income tax purposes.

If an Employee does not make the irrevocable election described in this subsection (b)(i), his or her Participant Contributions to the Plan will not be “picked up” by the Employer, and they will be included in the current income of the Employee for Federal income tax purposes.

(ii) With respect to a BOE Nonunion Employee, a BOE Assistant/Aide Employee, a BOE Custodian Employee, a BOE Secretary Employee, or a BOE Food Service Employee, his or her Participant Contributions will not be “picked-up” by the Employer, and they will be included in the current income of the Employee for Federal income tax purposes.

Section 4.2 (a) The Employer shall contribute to the Plan such additional amounts as may be required in order to provide the retirement benefits and other benefits set forth in this Plan.

(b) The Plan Administrator shall recommend to the Employer the amount of the Employer’s contribution. Within a reasonable period of time prior to the beginning of each Plan Year, the Plan Administrator shall notify the Employer in writing of its estimate of the amount necessary to meet the Employer’s obligation for the Plan Year, including any incidental costs of administering the Plan.

Section 4.3 The Employer shall deposit into the Trust Fund the amount of the Participant Contributions described in Section 4.1 and the Employer’s contributions described in Section 4.2.

Section 4.4 Forfeitures under the Plan, if any, will be applied to reduce the Employer's contributions hereunder, and shall not be applied to increase the benefits any Participant would otherwise receive under the Plan.

ARTICLE V

Normal Retirement Benefits

Section 5.1 Every Participant who does not separate from service prior to his or her Normal Retirement Date and who retires on his or her Normal Retirement Date shall receive a normal retirement benefit.

The Accrued Benefit of a Participant who is an Employee upon attainment of Normal Retirement Age shall be one hundred percent (100%) vested.

Section 5.2 Subject to the limits in Article XII, upon attaining Normal Retirement Date, a Participant shall become entitled to an annual retirement benefit, payable in the form of the annuity described in Section 5.4, equal to the following:

(a) *With respect to Nonunion Employees:*

The greater of: (i) two and one-half percent (2.50%) of the Participant's Average Annual Compensation, *multiplied by* his or her Years of Credited Service up to a maximum of thirty (30) Years of Credited Service, *reduced by* the Participant's Maximum Offset Allowance; or (ii) two percent (2.00%) of the Participant's Average Annual Compensation, *multiplied by* the Participant's Years of Credited Service up to a maximum of thirty (30) Years of Credited Service.

(b) *With respect to Police Officer Employees and Firefighter Employees:*

Two and one-half percent (2.50%) of the Participant's Average Annual Compensation, *multiplied by* the Participant's Years of Credited Service up to a maximum of thirty (30) Years of Credited Service.

(c) *With respect to Public Works Employees:*

Two and one-fourth percent (2.25%) of the Participant's Average Annual Compensation, *multiplied by* the Participant's Years of Credited Service up to a maximum of thirty (30) Years of Credited Service.

(d) *With respect to Library Employees, BOE Nonunion Employees, BOE Assistant/Aide Employees, BOE Custodian Employees, BOE Secretary Employees and BOE Food Service Employees:*

Two and one-half percent (2.50%) of the Participant's Average Annual Compensation, *multiplied by* the Participant's Years of Credited Service up to a maximum of thirty (30) Years of Credited Service, *reduced by* the Participant's Maximum Offset Allowance.

Section 5.3 To the extent set forth in this Section 5.3, if a Participant has any unused accrued sick days or vacation days at the time of his or her severance from employment, the Participant may elect to sell such sick days or vacation days back to the Employer and to receive an increase in his or her normal retirement benefit.

(a) *With respect to Nonunion Employees:*

A Participant who is a Nonunion Employee can elect to sell back to the Employer any unused sick days that he or she accrued to the extent they exceed one hundred ten (110) days, in multiples of ten sick days up to a maximum of seventy (70) sick days. In addition, such a Participant can elect to sell back to the Employer any unused vacation days that he or she accrued, in multiples of ten vacation days. The maximum number of sick days and vacation days that such a Participant can sell back to the Employer is ninety (90). For every ten sick days or ten vacation days the Participant sells back to the Employer, the product of two and one-half percent (2.5%) or two percent (2.0%) multiplied by the Participant's Years of Credited Service (the "Benefit Percentage") will be increased by one-half of one percent (0.5%). In addition, if the Participant sells back to the Employer at the time of his or her severance from employment the maximum number of ninety (90) sick days and vacation days, the Participant's Benefit Percentage will be increased by an additional one-half of one percent (0.5%). Therefore, if such a Participant sells back to the Employer the maximum number of ninety (90) sick days and vacation days, his or her Benefit Percentage will be increased by the maximum amount of five percent (5%).

(b) *With respect to Police Officer Employees:*

A Participant who is a Police Officer Employee can elect to sell back to the Employer any unused sick days that he or she accrued to the extent they exceed one hundred ten (110) days, in multiples of ten sick days up to a maximum of eighty (80) sick days. In addition, such a Participant can elect to sell back to the Employer any unused vacation days that he or she accrued, in multiples of ten vacation days. The maximum number of sick days and vacation days that such a Participant can sell back to the Town is ninety (90). For every ten sick days or ten vacation days the Participant sells back to the Town, the product of two and one-half percent (2.5%) multiplied by the Participant's Years of Credited Service (the "Benefit Percentage") will be increased by one-half of one percent (0.5%). In addition, if the Participant sells back to the Employer at the time of his or her severance from employment the maximum number of ninety (90) sick days and vacation days, the Participant's Benefit Percentage will be increased by an additional one-half of one percent (0.5%) Therefore, if such a Participant sells back to the Employer the maximum number of ninety (90) sick days and vacation days, his or her Benefit Percentage will be increased by the maximum amount of five percent (5%).

(c) *With respect to Firefighter Employees:*

A Participant who is a Firefighter Employee can elect to sell back to the Employer any unused sick days that he or she accrued to the extent they exceed one hundred ten (110) days, up to a maximum of eighty (80) sick days. In addition, such a Participant can elect to sell back to the Employer any unused vacation days that he or she accrued, up to a maximum of forty-four (44) vacation days. For every two sick days the Participant sells back to the Employer, the product of two and one-half percent (2.5%) multiplied by the Participant's Years of Credited Service (the "Benefit Percentage") will be increased by seventy-five thousandths percent (0.075%). For every vacation day the Participant sells back to the Employer, the Participant's Benefit Percentage will be increased by seventy-five thousandths percent (0.075%). In addition, if the Participant sells back to the Employer at the time of his or her severance from employment the maximum number of eighty (80) sick days and forty-four (44) vacation days, the Employer will increase the Participant's Benefit Percentage by an additional one and two-tenths percent (1.2%). Therefore, if such a Participant sells back to the Employer the maximum number of eighty (80) sick days and forty-four (44) vacation days, his or her Benefit Percentage will be increased by the maximum amount of seven and one-half percent (7.5%).

(d) *With respect to Public Works Employees:*

A Participant who is a Public Works Employee can elect to sell back to the Employer any unused sick days that he or she accrued to the extent they exceed one hundred ten (110) days, up to a maximum of fifty (50) sick days. In addition, such a Participant can elect to sell back to the Employer any unused vacation days that he or she accrued, up to a maximum of fifty (50) vacation days. For every ten sick days the Participant sells back to the Employer, the product of two and one-fourth percent (2.25%) multiplied by the Participant's Years of Credited Service (the "Benefit Percentage") will be increased by twenty-five hundredths percent (0.25%). For every ten vacation days the Participant sells back to the Employer, the Participant's Benefit Percentage will be increased by one-half of one percent (0.5%). In addition, if the Participant sells back to the Employer the maximum number of fifty (50) sick days and fifty (50) vacation days, the Employer will increase the Participant's Benefit Percentage by an additional one-half of one percent (0.5%). Therefore, if such a Participant sells back to the Employer the maximum number of fifty (50) sick days and fifty (50) vacation days, his or her Benefit Percentage will be increased by the maximum amount of four and one-fourth percent (4.25%).

(e) *With respect to Library Employees, BOE Nonunion Employees, BOE Assistant/Aide Employees, BOE Custodian Employees, BOE Secretary Employees and BOE Food Service Employees:*

A Participant who is a Library Employee, BOE Nonunion Employee, BOE Assistant/Aide Employee, BOE Custodian Employee, BOE Secretary Employee or BOE Food Service Employee is not able to sell back to the Employer any unused sick days or vacation days in order to receive an increase in his or her normal retirement benefit.

Section 5.4 A Participant's normal retirement benefit shall be paid in equal monthly installments in the form of an annuity for the life of the Participant in the amount determined

under Section 5.2, shall commence as soon as practicable following the Participant's Normal Retirement Date, and shall continue until the Participant's death. Following the Participant's death, a death benefit may be payable to the Participant's Surviving Spouse, Surviving Dependent or Dependents, or Beneficiary pursuant to the provisions of Article XI.

ARTICLE VI

Early Retirement Benefits

Section 6.1 A Participant who has reached his or her Early Retirement Date may elect to retire prior to his or her Normal Retirement Date and receive an early retirement benefit. A Participant who wishes to receive an early retirement benefit must file an Application for Benefits with the Plan Administrator in accordance with the provisions of Article XIII.

Section 6.2 A Participant who elects to receive an early retirement benefit in accordance with Section 6.1 may elect to receive either:

(a) A retirement benefit which commences on his or her Normal Retirement Date and which is equal to the Participant's vested Accrued Benefit; or

(b) A retirement benefit which commences on the first day of any month subsequent to his or her Early Retirement Date, subsequent to the Plan Administrator's receipt of an Application for Benefits, and prior to his or her Normal Retirement Date, and which is equal to the following:

(i) *With respect to Nonunion Employees, Library Employees, BOE Nonunion Employees and BOE Assistant/Aide Employees:*

The Participant's vested Accrued Benefit, reduced in accordance with the following schedule:

<u>Number of full years between the Annuity Commencement Date and Normal Retirement Date</u>	<u>Percentage payable</u>
1	94.1%
2	88.0%
3	82.0%
4	76.0%
5	70.0%
6	64.0%
7	58.0%
8	52.0%
9	46.0%
10	41.3%

The reduction percentage for full years and completed months between the Annuity Commencement Date of the Participant's early retirement benefit and the Participant's Normal Retirement Date will be interpolated based on the applicable percentages.

(ii) *With respect to Public Works Employees:*

The Participant's vested Accrued Benefit, reduced in accordance with the following schedule:

<u>Number of full years between the Annuity Commencement Date and Normal Retirement Date</u>	<u>Percentage payable</u>
1	94.1%
2	88.0%
3	82.0%
4	76.0%
5	70.0%
6	64.0%
7	58.0%
8	52.0%
9	46.0%
10	41.3%

The reduction percentage for full years and completed months between the Annuity Commencement Date of the Participant's early retirement benefit and the Participant's Normal Retirement Date will be interpolated based on the applicable percentages.

Notwithstanding the above, if the Participant has reached age sixty (60) and has completed at least twenty-five (25) Years of Credited Service as of his or her Annuity Commencement Date, the Participant's early retirement benefit will not be reduced to reflect commencement before his or her Normal Retirement Date.

(iii) *With respect to BOE Custodian Employees, BOE Secretary Employees and BOE Food Service Employees:*

The Participant's vested Accrued Benefit, reduced in accordance with the following schedule:

<i><u>Number of full years between the Annuity Commencement Date and Normal Retirement Date</u></i>	<i><u>Percentage payable</u></i>
1	90.1%
2	81.6%
3	74.1%
4	67.5%
5	61.8%
6	56.7%
7	52.2%
8	48.1%
9	44.5%
10	41.3%

The reduction percentage for full years and completed months between the Annuity Commencement Date of the Participant's early retirement benefit and his or her Normal Retirement Date will be interpolated based on the applicable percentages.

(iv) *With respect to Police Officer Employees and Firefighter Employees:*

The early retirement provisions of this Article VI do not apply to a Police Officer Employee or a Firefighter Employee.

Section 6.3 A Participant's early retirement benefit shall be paid in equal monthly installments in the form of an annuity for the life of the Participant in the amount determined under Section 6.2, shall commence as soon as practicable following the Plan Administrator's receipt of the Application for Benefits required by Section 6.1, and shall continue until the Participant's death. Following the Participant's death, a death benefit may be payable to the Participant's Surviving Spouse, Surviving Dependent or Dependents, or Beneficiary pursuant to the provisions of Article XI.

ARTICLE VII

Disability Retirement Benefits

Section 7.1 If a Participant becomes a Disabled Participant while he or she is employed by the Employer, he or she will be eligible to receive a disability retirement benefit to the extent permitted by this Article VII.

(a) *With respect to Nonunion Employees, Library Employees, BOE Nonunion Employees, BOE Assistant/Aide Employees, BOE Custodian Employees, BOE Secretary Employees and BOE Food Service Employees:*

If such a Participant becomes a Disabled Participant before he or she has completed five (5) Years of Credited Service, the sum of the Participant's disability retirement benefit and his or her Social Security benefit (if any) will equal fifty percent (50%) of the Participant's Average Annual Compensation as determined immediately prior to the date on which the Participant became a Disabled Participant, *reduced by* any workers compensation benefits that the Participant is entitled to receive.

If such a Participant becomes a Disabled Participant on or after he or she has completed five (5) Years of Credited Service, the sum of the Participant's disability retirement benefit and his or her Social Security benefit (if any) will equal fifty percent (50%) of the Participant's Average Annual Compensation as determined immediately prior to the date on which the Participant became a Disabled Participant. However, in no event can the sum of the Participant's disability retirement benefit, Social Security benefit (if any) and any workers compensation benefits that the Participant is entitled to receive exceed the Participant's Compensation immediately prior to the date on which he or she became a Disabled Participant.

For purposes of determining the amount of a Participant's disability retirement benefit, the Participant's Social Security benefit shall mean fifty percent (50%) of the Social Security primary insurance amount or Social Security disability retirement benefit that the Participant is receiving or is entitled to receive at the time the Participant begins to receive his or her disability retirement benefit under the Plan.

(b) *With respect to Police Officer Employees:*

If such a Participant becomes a Disabled Participant before he or she has completed five (5) Years of Credited Service, the Participant's disability retirement benefit will equal fifty percent (50%) of the Participant's Average Annual Compensation determined immediately prior to the date on which the Participant became a Disabled Participant (or, if greater, the Participant's normal retirement benefit determined as of the date on which the Participant became a Disabled Participant), *reduced by* any workers compensation benefits that the Participant is entitled to receive.

If such a Participant becomes a Disabled Participant on or after he or she has completed five (5) Years of Credited Service, the Participant's disability retirement benefit will equal fifty percent (50%) of the Participant's Average Annual Compensation determined immediately prior to the date on which the Participant became a Disabled Participant (or, if greater, the Participant's normal retirement benefit determined as of the date on which the Participant became a Disabled Participant). However, in no event can the sum of the Participant's disability retirement benefit and any workers compensation benefits that he or she is entitled to receive exceed the Participant's Compensation immediately prior to the date on which he or she became a Disabled Participant.

(c) *With respect to Firefighter Employees:*

If such a Participant becomes a Disabled Participant before he or she has completed five (5) Years of Credited Service, the Participant's disability retirement benefit will equal fifty percent (50%) of the Participant's Average Annual Compensation determined immediately prior to the date on which he or she became a Disabled Participant, *reduced by* any workers compensation benefits that the Participant is entitled to receive.

If such a Participant becomes a Disabled Participant on or after he or she has completed five (5) Years of Credited Service, the Participant's disability retirement benefit will equal fifty percent (50%) of the Participant's Average Annual Compensation determined immediately prior to the date on which the Participant became a Disabled Participant. However, in no event can the sum of the Participant's disability retirement benefit and any workers compensation benefits that he or she is entitled to receive exceed the Participant's Compensation immediately prior to the date on which he or she became a Disabled Participant.

(d) *With respect to Public Works Employees:*

If such a Participant becomes a Disabled Participant before he or she has completed five (5) Years of Credited Service, the sum of the Participant's disability retirement benefit and his or her Social Security benefit (if any) will equal forty percent (40%) of the Participant's Average Annual Compensation as determined immediately prior to the date on which he or she became a Disabled Participant, *reduced by* any workers compensation benefits that the Participant is entitled to receive.

If such a Participant becomes a Disabled Participant on or after he or she has completed five (5) Years of Credited Service, the sum of the Participant's disability retirement benefit and his or her Social Security benefit (if any) will equal forty percent (40%) of the Participant's Average Annual Compensation determined immediately prior to the date on which the Participant became a Disabled Participant. However, in no event can the sum of the Participant's disability retirement benefit, Social Security benefit (if any) and any workers compensation benefits that the Participant is entitled to receive exceed the Participant's Compensation immediately prior to the date on which he or she became a Disabled Participant.

For purposes of determining the amount of a Participant's disability retirement benefit, the Participant's Social Security benefit shall mean fifty percent (50%) of the Social Security

primary insurance amount or Social Security disability retirement benefit that the Participant is receiving or is entitled to receive at the time the Participant begins to receive his or her disability retirement benefit under the Plan.

Section 7.2 A Participant's disability retirement benefit will begin as of the first day of any month following the date on which the Participant is determined to be a Disabled Participant. The Participant's disability retirement benefit will continue until the earliest of the Participant's Normal Retirement Date, the date on which the Participant ceases to be a Disabled Participant, or the date of the Participant's death.

Section 7.3 (a) If a Participant continues to receive disability retirement benefits until his or her Normal Retirement Date, the Participant's disability retirement benefits will stop on the Participant's Normal Retirement Date, and the Participant thereafter will be entitled to receive a normal retirement benefit equal to his or her Accrued Benefit determined as of the date on which the Participant became a Disabled Participant. However, in no event will the Participant's normal retirement benefit be less than the amount of the disability retirement benefit that the Participant was receiving when he or she reached his or her Normal Retirement Date.

(b) If a Participant ceases to be a Disabled Participant prior to his or her Normal Retirement Date, the Participant's disability retirement benefit will stop. Thereafter, the Participant will be entitled to receive a retirement benefit under the Plan, based on his or her Accrued Benefit determined as of the date he or she became a Disabled Participant.

At reasonable times prior to a Participant's Normal Retirement Date, the Employer shall have the right to verify the continued status of the Participant as a Disabled Participant and to verify the Participant's entitlement to the benefits described in this Article VII. Should the Participant refuse to submit proof that the Participant continues to be a Disabled Participant, the Participant shall automatically be deemed to no longer be a Disabled Participant.

(c) If a Participant dies while he or she is receiving a disability retirement benefit, the Participant's Surviving Spouse, Surviving Dependent or Dependents, or Beneficiary may be entitled to receive a death benefit pursuant to the provisions of Article XI.

ARTICLE VIII

Postponed Retirement Benefits

Section 8.1 If a Participant continues in the service of the Employer after attaining Normal Retirement Date, payment of retirement benefits shall not commence until on or after the first day the month coinciding with or next following the date on which the Participant incurs a severance from employment and submits an Application for Benefits with the Plan Administrator in accordance with the provisions of Article XIII.

Notwithstanding the above, however:

(a) *With respect to Police Officer Employees:*

If a Police Officer Employee wishes to delay his or her retirement beyond the date on which he or she reaches age fifty-two (52) and completes twenty (20) Years of Credited Service, the Police Commission may nevertheless retire the Participant if he or she cannot perform his or her normal duties as a police officer due to his or her physical or mental condition.

(b) *With respect to Firefighter Employees:*

If a Firefighter Employee wishes to delay his or her retirement beyond his or her Normal Retirement Date, the Fire Commission must approve the Participant's delayed retirement. Moreover, in no event can the Participant delay his or her retirement beyond his or her sixty-fifth (65th) birthday.

Section 8.2 The amount of a Participant's postponed retirement benefit shall equal the retirement benefit determined under Section 5.2 as of the date he or she incurs a severance from employment, based on his or her Average Annual Compensation and total Years of Credited Service as of such date (recognizing Compensation and Years of Credited Service earned subsequent to his or her Normal Retirement Date).

Section 8.3 A Participant's postponed retirement benefit shall be paid in equal monthly installments in the form of an annuity for the life of the Participant in the amount determined under Section 8.2, shall commence on the first day of any month subsequent to his or her severance from employment and subsequent to the Plan Administrator's receipt of an Application for Benefits, and shall continue until the Participant's death. Following the Participant's death, a death benefit may be payable to the Participant's Surviving Spouse, Surviving Dependent or Dependents, or Beneficiary pursuant to the provisions of Article XI.

Section 8.4 Payment of benefits hereunder shall commence no later than the April 1 next following the later of the calendar year in which the individual attains age seventy and one-half (70-1/2) or the calendar year in which the individual retires from the Employer.

ARTICLE IX

Vested Deferred Benefits

Section 9.1 If a Participant incurs a severance from employment before he or she reaches his or her Normal Retirement Date or Early Retirement Date, the Terminated Participant will be entitled to receive the following benefits:

(a) *With respect to Nonunion Employees, Public Works Employees, Library Employees, BOE Nonunion Employees, BOE Assistant/Aide Employees, BOE Custodian Employees, BOE Secretary Employees and BOE Food Service Employees:*

(i) If such a Terminated Participant incurs a severance from employment before he or she completes five (5) Years of Credited Service and before he or she is eligible to receive a normal retirement benefit or an early retirement benefit, the Terminated Participant can elect to receive a lump sum distribution equal to the amount of his or her Accumulated Contributions, and the Terminated Participant will not be entitled to receive any other benefits from the Plan. A Terminated Participant can make this election at any time after his or her severance from employment. However, if the Terminated Participant incurs a severance from employment before he or she has completed one Year of Credited Service, the Terminated Participant will receive a lump sum distribution equal to only the amount of his or her aggregate Participant Contributions without any Credited Interest, and the Terminated Participant will not be entitled to receive any other benefits from the Plan.

(ii) If such a Terminated Participant incurs a severance from employment on or after he or she completes five (5) Years of Credited Service but before he or she is eligible to receive a normal retirement benefit or an early retirement benefit, the Terminated Participant can elect to receive either of the following benefits:

(A) A lump sum distribution equal to the amount of his or her Accumulated Contributions, and the Terminated Participant will not be entitled to receive any other benefits from the Plan.

(B) A vested deferred benefit commencing on the date the Terminated Participant would have reached his or her Normal Retirement Date if he or she had remained employed by the Employer. The amount of the vested deferred benefit will be equal to the Terminated Participant's Accrued Benefit, based on his or her Years of Credited Service and Average Annual Compensation in effect as of the date on which the Terminated Participant incurred a severance from employment.

Notwithstanding the above, if such a Terminated Participant has completed fifteen (15) or more Years of Credited Service, he or she can elect to receive his or her vested deferred benefit at any time after he or she has reached

age fifty-five (55) and prior to his or her Normal Retirement Date. If a Terminated Participant makes such an election, his or her vested deferred benefit will equal his or her Accrued Benefit, reduced for early commencement by the applicable factor set forth in Section 6.2(b).

Such a Terminated Participant can make the election described in this subsection (a)(ii) at any time after his or her severance from employment and before his or her Annuity Starting Date.

(b) *With respect to Police Officer Employees and Firefighter Employees:*

If such a Terminated Participant incurs a severance from employment before he or she is eligible to receive a normal retirement benefit, the Terminated Participant can elect to receive either of the following benefits:

(i) A lump sum distribution equal to the amount of his or her Accumulated Contributions, and the Terminated Participant will not be entitled to receive any other benefits from the Plan.

(ii) A vested deferred benefit commencing on the date the Terminated Participant reaches age sixty-five (65) (or the date of the Terminated Participant's severance from employment, if later). The amount of the vested deferred benefit will be equal to the Terminated Participant's Accrued Benefit, based on his or her Years of Credited Service and Average Annual Compensation in effect as of the date on which the Terminated Participant incurred a severance from employment.

Such a Terminated Participant can make the election described in this subsection (b) at any time after his or her severance from employment and before his or her Annuity Starting Date.

Section 9.2 If a Terminated Participant incurs a severance from employment before he or she is eligible to receive a normal retirement benefit or an early retirement benefit and the Terminated Participant wishes to receive a benefit described in this Article IX, the Participant must file an Application for Benefits in accordance with Article XIII.

Section 9.3 A Terminated Participant's vested deferred benefit described in Section 9.1(a)(ii)(B) or in Section 9.1(b)(ii) shall be paid in equal monthly installments in the form of an annuity for the life of the Terminated Participant, shall commence on the date set forth in Section 9.1(a)(ii)(B) or Section 9.1(b)(ii), and shall continue until the Participant's death. Following the Terminated Participant's death, a death benefit may be payable to the Terminated Participant's Surviving Spouse, Surviving Dependent or Dependents, or Beneficiary pursuant to the provisions of Article XI.

ARTICLE X

Payment of Benefits

Section 10.1 (a) For purposes of this Section 10.1, the following terms shall have the meanings set forth below:

(i) “*Designated beneficiary*” means the individual who is the Participant’s designated beneficiary pursuant to Section 11.6(a)(i).

(ii) “*Distribution calendar year*” means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date.

(iii) “*Life expectancy*” means life expectancy as computed by use of the Single Life Table in Regulation Section 1.401(a)(9)-9.

(iv) “*Required beginning date*” means the date specified in Section 8.4 of the Plan.

(b) Distributions under the Plan shall be subject to the rules set forth in this Section 10.1. All distributions required under this Section 10.1 will be determined and made in accordance with Regulations under Section 401(a)(9) of the Code. The rules set forth herein shall be applied as of the time when distributions are required under Section 8.4 to commence and shall not govern distributions made prior to such time; *provided, however*, that distributions commencing prior to such time which will not satisfy the requirements of this Section 10.1 as of such time and thereafter shall be treated as failing to satisfy such requirements when they commence.

(c) The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.

Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with subsection (d) and subsection (e). If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and Regulations. Any part of the Participant’s interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and Regulations that apply to individual accounts.

(d) If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

(i) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;

(ii) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in subsection (e);

(iii) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;

(iv) payments will either be nonincreasing or increase only as follows:

(A) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;

(B) to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in subsection (e) dies or is no longer the Participant's Beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p) of the Code;

(C) to provide cash refunds of employee contributions upon the Participant's death; or

(D) to pay increased benefits that result from a Plan amendment.

The amount that must be distributed on or before the Participant's required beginning date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Section 11.6) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received (e.g., bi-monthly, monthly, semi-annually, or annually). All of the Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's required beginning date.

Any additional benefits accruing to the Participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(e) (i) If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a non-Spouse beneficiary,

annuity payments to be made on or after the Participant's required beginning date to the designated beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6 of the Regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a non-Spouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(ii) Unless the Participant's Spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Participant reaches age seventy (70), the applicable distribution period for the Participant is the distribution period for age seventy (70) under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Regulations plus the excess of seventy (70) over the age of the Participant as of the Participant's birthday in the year that contains the annuity starting date. If the Participant's Spouse is the Participant's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this subsection (e)(ii), or the joint life and last survivor expectancy of the Participant and the Participant's Spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Regulations, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the calendar year that contains the annuity starting date.

Section 10.2 (a) If a Participant commences to receive a retirement benefit from the Plan and is reemployed by the Employer, the Participant's retirement benefit will stop, unless the Participant is reemployed only on a part-time basis after his or her Normal Retirement Date. A Participant will be considered to be rehired on a part-time basis if he or she is scheduled to work less than twenty (20) hours per week.

(b) If a Participant is reemployed after his or her retirement benefits begin, the Participant's retirement benefit when he or she retires again will be based on the Compensation that the Participant earned, and the Years of Credited Service that he or she performed, both before and after his or her Date of Reemployment. However, this amount will be reduced by the Actuarial Equivalent value of the retirement benefits that the Participant received before his or her Date of Reemployment.

(c) Notwithstanding the above, if a Participant receives a lump sum distribution of his or her Participant Contributions (plus Credited Interest to the date of the Participant's severance from employment, if applicable) at the time he or she incurs a severance from employment and the Participant is subsequently reemployed, then the Years of Credited Service that the Participant performed before his or her severance from employment will not be taken

into account following his or her Date of Reemployment. However, if such a Participant is reemployed before the fifth anniversary of the date of his or her severance from employment, the Participant can elect to repay to the Plan the amount of his or her lump sum distribution (plus Credited Interest from the date of such distribution to the date of repayment). If the Participant makes this payment before the first anniversary following his or her Date of Reemployment, the Participant will receive credit under the Plan for the Years of Credited Service that he or she performed before his or her severance from employment.

Section 10.3 If the monthly payment of a Participant's normal retirement benefit, early retirement benefit, disability retirement benefit, postponed retirement benefit or vested deferred benefit, or a survivor annuity, is less than one hundred dollars (\$100) per month, the Plan Administrator may make the payment in bimonthly, quarterly or semi-annual payments. Alternatively, the Plan Administrator may pay the Participant (or his or her Surviving Spouse or Surviving Dependent or Dependents) the Actuarial Equivalent present value of the benefit in a single lump sum distribution, and the Participant (or his or her Surviving Spouse or Surviving Dependent or Dependents) will not be entitled to receive any additional benefits under the Plan.

ARTICLE XI

Death Benefits

Section 11.1 If a Participant is an active Employee and the Participant dies after he or she has completed five or more Years of Credited Service (or if the Participant's death is service connected), then the Participant's Surviving Spouse (or, if the Participant has no Surviving Spouse, the Participant's Surviving Dependent or Dependents) will be entitled to receive the following death benefit:

(a) *With respect to Nonunion Employees, Public Works Employees, Library Employees, BOE Nonunion Employees, BOE Assistant/Aide Employees, BOE Custodian Employees, BOE Secretary Employees and BOE Food Service Employees:*

The amount of the death benefit will equal fifty percent (50%) of the Participant's Average Annual Compensation, determined as of his or her date of death. The death benefit will be paid in equal monthly installments, and will commence as of the first day of the month following the Participant's date of death.

(b) *With respect to Police Officer Employees and Firefighter Employees:*

The amount of the death benefit will equal sixty percent (60%) of the Participant's Average Annual Compensation, determined as of his or her date of death. The death benefit will be paid in equal monthly installments, and will commence as of the first day of the month following the Participant's date of death.

Section 11.2 If a Participant has incurred a severance from employment, the Participant is receiving or is entitled to receive a vested deferred benefit, and the Participant dies after he or she has completed five or more Years of Credited Service, then the Participant's Surviving Spouse (or, if the Participant has no Surviving Spouse, the Participant's Surviving Dependent or Dependents) will be entitled to receive the following death benefit:

(a) *With respect to Nonunion Employees, Public Works Employees, Library Employees, BOE Nonunion Employees, BOE Assistant/Aide Employees, BOE Custodian Employees, BOE Secretary Employees and BOE Food Service Employees:*

If the Participant is not eligible to receive a normal retirement benefit or an early retirement benefit, the amount of the death benefit will equal fifty percent (50%) of the Participant's Average Annual Compensation, determined as of the date of his or her severance from employment. However, the annual death benefit cannot exceed the Participant's Accrued Benefit under the Plan. The death benefit will be paid in equal monthly installments, and will commence on the Participant's Normal Retirement Date.

(b) *With respect to Police Officer Employees and Firefighter Employees:*

If the Participant is not eligible to receive a normal retirement benefit, the amount of the death benefit will equal sixty percent (60%) of the Participant's Average Annual Compensation, determined as of the date of his or her severance from employment. However, the amount of the death benefit cannot exceed the Participant's Accrued Benefit under the Plan. The death benefit will be paid in equal monthly installments, and will commence on the Participant's Normal Retirement Date.

Section 11.3 If a Participant has incurred a severance from employment, the Participant is receiving or is entitled to receive a retirement benefit, and the Participant dies, then the Participant's Surviving Spouse (or, if the Participant has no Surviving Spouse, the Participant's Surviving Dependent or Dependents) will be entitled to receive the following death benefit:

(a) *With respect to Nonunion Employees, Public Works Employees, Library Employees, BOE Nonunion Employees, BOE Assistant/Aide Employees, BOE Custodian Employees, BOE Secretary Employees and BOE Food Service Employees:*

If the Participant is receiving or is entitled to receive a normal retirement benefit, an early retirement benefit, a disability retirement benefit or a postponed retirement benefit, the amount of the death benefit will equal fifty percent (50%) of the Participant's Average Annual Compensation, determined as of the date of his or her severance from employment. If the Participant was receiving a disability retirement benefit at the time of his or her death, the death benefit will not be less than fifty percent (50%) of the Participant's disability retirement benefit. However, the annual death benefit cannot exceed the Participant's Accrued Benefit. The death benefit will be paid in equal monthly installments, and will commence on the first day of the month following the Participant's death.

(b) *With respect to Police Officer Employees and Firefighter Employees:*

If the Participant is receiving or is entitled to receive a normal retirement benefit, a disability retirement benefit or a postponed retirement benefit, the amount of the death benefit will equal seventy-five percent (75%) of the Participant's Average Annual Compensation, determined as of the date of his or her severance from employment. If the Participant was receiving a disability retirement benefit at the time of his or her death, the death benefit will not be less than fifty percent (50%) of the Participant's disability retirement benefit. However, the annual death benefit cannot exceed the Participant's Accrued Benefit. The death benefit will be paid in equal monthly installments, and will commence on the first day of the month following the Participant's death.

Section 11.4 If a Participant's Surviving Spouse or Surviving Dependent or Dependents are entitled to receive a death benefit pursuant to Section 11.1, Section 11.2 or Section 11.3, then the death benefit will continue for the following period:

(a) *With respect to Nonunion Employees, Public Works Employees, Library Employees, BOE Nonunion Employees, BOE Assistant/Aide Employees, BOE Custodian Employees, BOE Secretary Employees and BOE Food Service Employees:*

If the death benefit is payable to the Participant's Surviving Spouse, it will continue until the first day of the month preceding the Spouse's date of death or remarriage. If the Participant's Surviving Spouse ceases to be eligible to receive the death benefit and one or more of the Surviving Dependents of the Participant and his or her Surviving Spouse has not reached age eighteen (18) (age twenty-four (24) if the Participant's Dependent is a full-time student at an institution of post-secondary education), then the death benefit will be payable to the Surviving Dependent or Dependents of the Participant and his or her Surviving Spouse.

If the death benefit is payable to the Participant's Surviving Dependent or Dependents, it will continue until the earlier of the Dependent's date of death or the date on which the Dependent reaches age eighteen (18) (age twenty-four (24) if the Dependent is a full-time student at an institution of post-secondary education). If the death benefit is payable to more than one of the Participant's Dependents and one of the Dependents ceases to be eligible to receive the death benefit, then that Dependent's share of the death benefit will be reapportioned to the Participant's other Dependents.

(b) *With respect to Police Officer Employees and Firefighter Employees:*

If the death benefit is payable to the Participant's Surviving Spouse, it will continue until the first day of the month preceding the Spouse's date of death or remarriage. However, if the Participant dies in the line of duty, the death benefit payable to his or her Surviving Spouse will not stop upon the remarriage of the Surviving Spouse. If the Participant's Surviving Spouse ceases to be eligible to receive the death benefit and one or more of the Surviving Dependents of the Participant and his or her Surviving Spouse has not reached age eighteen (18) (age twenty-four (24) if the Participant's Dependent is a full-time student at an institution of post-secondary education), then the death benefit will be payable to the Surviving Dependent or Dependents of the Participant and his or her Surviving Spouse.

If the death benefit is payable to the Participant's Surviving Dependent or Dependents, it will continue until the earlier of the Dependent's date of death or the date on which the Dependent reaches age eighteen (18) (age twenty-four (24) if the Dependent is a full-time student at an institution of post-secondary education). If the death benefit is payable to more than one of the Participant's Dependents and one of the Dependents ceases to be eligible to receive the death benefit, then that Dependent's share of the death benefit will be reapportioned to the Participant's other Dependents.

Section 11.5 (a) If a Participant dies before commencing to receive his or her retirement benefits, disability retirement benefits or vested deferred benefits and the Participant does not have a Surviving Spouse or Surviving Dependent or Dependents, then the Participant's

Beneficiary will receive a lump sum distribution equal to the amount of his or her Accumulated Contributions.

(b) If a Participant dies after commencing to receive his or her retirement benefits, disability retirement benefits or vested deferred benefits and the Participant does not have a Surviving Spouse or Surviving Dependent or Dependents, then the Participant's Beneficiary may receive a lump sum distribution equal to the excess (if any) of:

(i) the amount of the Participant's Accumulated Contributions to the Plan;
over

(ii) the Actuarial Equivalent present value of the retirement benefits, disability retirement benefits or vested deferred benefits which the Participant received prior to his or her death.

(c) If a Participant has a Surviving Spouse or Surviving Dependent or Dependents at the time of the Participant's death and the Participant's Surviving Spouse or Surviving Dependent or Dependents receive a survivor annuity under the Plan pursuant to this Article XI, then the Participant's Beneficiary may receive a lump sum distribution at the time the survivor annuity payable to the Participant's Surviving Spouse or Surviving Dependent or Dependents stops. The lump sum distribution will equal the excess (if any) of:

(i) the amount of the Participant's Accumulated Contributions to the Plan;
over

(ii) the Actuarial Equivalent present value of the retirement benefits, disability retirement benefits or vested deferred benefits which the Participant received prior to his or her death (if any) and the Actuarial Equivalent present value of the survivor annuity paid to the Participant's Surviving Spouse or Surviving Dependent or Dependents.

Section 11.6 (a) For purposes of this Section 11.6, the following terms shall have the meanings set forth below:

(i) "*Designated beneficiary*" means the individual who is designated as the Participant's Beneficiary and who satisfies the requirements for being a designated beneficiary under Code Section 401(a)(9) and Regulation Section 1.401(a)(9)-4. The Participant's designated beneficiary will be determined based on the beneficiaries designated as of the Participant's date of death who remain beneficiaries as of September 30 of the calendar year following the calendar year of the Participant's death; *provided, however*, if the Participant's Spouse is the Participant's sole designated beneficiary as of September 30 of the calendar year following the calendar year of the Participant's death and the Surviving Spouse dies after the Participant and before the date on which distributions would have begun to the Surviving Spouse under this Section 11.6, then this Section 11.6 will apply as if the Surviving Spouse were the Participant; *and provided further*, if an individual is designated as the Participant's beneficiary as of the Participant's date of death and the individual dies prior to September 30 of the calendar

year following the calendar year of the Participant's death without disclaiming, then the individual will continue to be treated as a beneficiary of the Participant as of September 30 of the calendar year following the calendar year of the Participant's death for purposes of determining the Participant's designated beneficiary.

Only an individual may be a designated beneficiary. If a person other than an individual is designated as the Participant's Beneficiary, the Participant will be treated as having no designated beneficiary; *provided, however*, that the individual beneficiaries of a trust will be treated as the Participant's beneficiaries if the trust meets the following requirements:

(A) the trust is a valid trust under state law (or would be a valid trust but for the fact that there is no corpus);

(B) the trust is irrevocable or will, by its terms, become irrevocable upon the death of the Participant;

(C) the beneficiaries of the trust who are beneficiaries with respect to the trust's interest in the death benefit payable under the Plan are identifiable from the trust instrument; and

(D) the documentation required by Regulation Section 1.401(a)(9)-4, Q-6 is provided to the Plan Administrator.

If more than one individual is designated as a Participant's Beneficiaries, the individual with the shortest life expectancy will be considered the Participant's designated beneficiary.

(ii) "*Distribution calendar year*" means a calendar year for which a minimum distribution is required. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under subsection (b). The required minimum distribution will be made on or before December 31 of the distribution calendar year.

(iii) "*Life expectancy*" means life expectancy as computed by use of the Single Life Table in Regulation Section 1.401(a)(9)-9.

(iv) "*Required beginning date*" means the date specified in Section 8.4 of the Plan.

(b) If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(i) If the Participant's Surviving Spouse is the Participant's sole designated beneficiary, then distributions to the Surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died (or

by December 31 of the calendar year in which the Participant would have attained age seventy and one-half (70-1/2), if later).

(ii) If the Participant's Surviving Spouse is not the Participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(iii) If there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iv) If the Participant's Surviving Spouse is the Participant's sole designated beneficiary and the Surviving Spouse dies after the Participant but before distributions to the Surviving Spouse begin, this subsection (b), other than subsection (b)(i), will apply as if the Surviving Spouse were the Participant.

(c) (i) If the Participant dies before the date on which distribution of his or her interest begins and there is a designated beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in subsection (b), over the life of the designated beneficiary or over a period certain not exceeding:

(A) unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or

(B) if the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(ii) If the Participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iii) If the Participant dies before the date distribution of his or her interest begins, the Participant's Surviving Spouse is the Participant's sole designated beneficiary, and the Surviving Spouse dies before distributions to the Surviving Spouse begin, this subsection (c) will apply as if the Surviving Spouse were the Participant, except that the time by which distributions must begin will be determined without regard to subsection (b)(i).

(d) For purposes of subsection (b) and subsection (c), unless subsection (b)(iv) applies, distributions are considered to begin on the Participant's required beginning date. If subsection (b)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the Surviving Spouse under subsection (b)(i). If annuity payments irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's Surviving Spouse before the date distributions are required to begin to the Surviving Spouse under subsection (b)(i)), the date distributions are considered to begin is the date distributions actually commence.

ARTICLE XII

Limitations on Benefits

Section 12.1 The following definitions shall apply for purposes of this Article XII:

(a) "*Annual additions*" mean the following:

(i) Annual additions mean, for each limitation year, the sum of:

(A) the elective deferral contributions and contributions by the Employer allocated to a Participant under any qualified defined contribution retirement plan;

(B) any forfeitures allocated to a Participant under such a plan;

(C) any contribution to such a plan by the Participant; and

(D) any contribution by the Employer allocated to an individual medical account, as defined in Section 415(1)(2) of the Code, established for a Participant under any pension or annuity plan.

(ii) Annual additions shall not include investment earnings allocable to a Participant or any amounts received by the Plan in a direct transfer from another qualified retirement trust. The maximum annual additions credited to any Participant for any limitation year shall not exceed an amount equal to the lesser of one hundred percent (100%) of his or her earnings or \$51,000 (adjusted after 2013 in accordance with regulations for increases in the cost of living).

(b) "*Earnings*" include and exclude the following amounts:

(i) Earnings include wages, salaries, fees for professional services, and other amounts received (whether or not paid in cash) during a limitation year for personal services actually rendered in the course of employment with the Employer to the extent that such amounts are includible in gross income for federal income tax purposes. Earnings includes commissions paid to salespersons, compensation based on profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan (as described in Section 1.62-2(c) of the Regulations).

(ii) Earnings include amounts that would be described in subsection (b)(i) but for any of the following:

(A) they are contributed at the election of the Participant to a cafeteria plan described in Code Section 125, to a qualified transportation fringe benefit

plan described in Code Section 132(f)(4), to a cash or deferred arrangement described in Code Section 401(k), to an annuity contract described in Code Section 403(b), to a simplified employee pension described in Code Section 408(k)(6), or to a simple retirement account described in Code Section 408(p);

(B) they are deferred under an eligible deferred compensation plan within the meaning of Code Section 457(b); or

(C) they are employee contributions treated as employer contributions under Code Section 414(h)(2) (government pick-ups).

(iii) Earnings exclude:

(A) any contributions that are made by the Employer to a plan of deferred compensation to the extent such contributions are not includible in the gross income of the Participant (other than contributions made at the election of the Participant under an arrangement described in subsection (b)(ii)), or any distributions from a plan of deferred compensation;

(B) amounts realized from the exercise of a nonqualified stock option or by reason of property subject to Code Section 83 becoming freely transferable or no longer subject to a substantial risk of forfeiture;

(C) amounts realized from the sale, exchange or other disposition of stock acquired under a statutory stock option (as defined in Regulation Section 1.421(b)-1(b)); and

(D) other amounts that receive special tax benefits, including premiums for group term life insurance (but only to the extent that the premiums are not includible in the gross income of the Participant and are not salary reduction amounts described in Code Section 125).

Amounts contributed at the election of a Participant under an arrangement described in Code Section 125 shall include any amounts that are not available to a Participant in cash in lieu of group health insurance coverage because the Participant is unable to certify that he or she has other health coverage, but only if the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

Amounts that a Participant receives following severance from employment are not considered to be Earnings, unless the amounts are received by the later of two and one-half months (2-1/2 months) following the Participant's severance from employment or the end of the limitation year that includes the date of the Participant's severance from employment, and such amounts: (i) would have been payable to the Participant if employment had not terminated and are either regular compensation for services during the Participant's regular working hours, compensation for services outside of the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar compensation; or (ii) represent

payments for accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued.

Furthermore, anything herein to the contrary notwithstanding, earnings for a limitation year include amounts earned during the limitation year but not paid during the limitation year solely because of the timing of pay periods and pay dates if: (i) the amounts are paid during the first few weeks of the next limitation year; (ii) the amounts are included on a uniform and consistent basis with respect to all similarly situated Participants; and (iii) no amounts are included in more than one limitation year.

(c) "*Excess amount*" means the amount allocated or credited to a Participant in excess of the limits imposed by Section 12.2 or Section 12.3.

(d) "*Limitation year*" means the Plan Year. Where the Employer maintains more than one qualified plan, those plans may provide for different limitation years. If the limitation year is amended to a different twelve (12) consecutive month period, the new limitation year shall begin on a date within the limitation year in which the amendment is adopted.

If the Plan is terminated as of a date other than the last day of the limitation year, the Plan shall be treated as if the Plan was amended to change the limitation year and create a short limitation year ending on the date the Plan is terminated.

(e) "*Minimum accrued benefit*" means the sum of the annual retirement benefits accrued by a Participant under all qualified defined benefit plans of the Employer that were in effect on May 6, 1986, as of the end of the last limitation year of such plans beginning before 1987, computed without regard to any changes in the provisions of such plans after May 5, 1986. The preceding sentence shall apply only if the plans described therein individually and collectively satisfied the requirements of Section 415 of the Code for all limitation years beginning before 1987.

(f) "*Projected annual retirement benefit*" means the annual benefit to which a Participant would be entitled under any qualified defined benefit retirement plan maintained by the Employer, based on the assumptions that employment continues until normal retirement age, that earnings continue until normal retirement age at the same rate as in effect in the limitation year under consideration, and that all other relevant factors used to determine benefits under the plan as of the current limitation year remain constant for all such future limitation years.

(g) "*Social Security retirement age*" means a Participant's retirement age under Section 216(l) of the Social Security Act determined without regard to the age increase factor under such section as if the early retirement age under paragraph (2) thereof were sixty-two (62).

Section 12.2 (a) Subject to the exceptions set forth below, in no event shall the retirement benefit of a Participant payable under this Plan and all other defined benefit plans maintained (or previously maintained) by the Employer for any limitation year exceed the "415 Dollar Limitation". The 415 Dollar Limitation equals \$205,000 (as adjusted after 2013 in accordance with regulations for increases in the cost of living).

As of January 1 of each calendar year, the dollar limitation as determined by the Commissioner of Internal Revenue for that calendar year will become effective as the 415 Dollar Limitation of the Plan for that calendar year. The 415 Dollar Limitation for a calendar year applies to limitation years ending with or within that calendar year.

If the benefit the Participant would otherwise accrue under this Plan would produce a retirement benefit in excess of the 415 Dollar Limitation, the Participant's rate of benefit accrual under this Plan will be reduced so that his or her annual benefit from all such plans will equal the 415 Dollar Limitation.

This subsection (a) shall apply regardless of whether any Participant is or has ever been a Participant of another qualified plan maintained by the Employer.

(b) The limitation set forth in subsection (a) shall be adjusted, where necessary, as follows:

(i) Where the annual benefit is payable to a Participant in a form other than a straight life annuity, the limitation shall be applied after adjusting such annual benefit to the equivalent of a straight life annuity beginning at the same annuity starting date. The annual benefit does not include any benefits attributable to employee contributions that are not "picked up" by the Employer or any rollover contributions, or the assets transferred from a qualified plan that was not maintained by the Employer. No actuarial adjustment to the benefit is required for: (A) the value of a qualified joint and survivor annuity; (B) the value of benefits that are not directly related to retirement benefits (such as a qualified disability benefit, pre-retirement death benefits, and post-retirement medical benefits); and (C) the value of post-retirement cost-of-living increases made in accordance with Section 415(d) of the Code and Regulation Section 1.415-3(c)(2)(iii) of the Internal Revenue Service.

For limitation years beginning prior to July 1, 2007, the actuarial equivalent straight life annuity shall be the greater of the annuity determined: (A) by using the actuarial assumptions set forth in the definition of Actuarial Equivalent; or (B) by substituting the Applicable Mortality Table in the GATT Factors for the mortality table in the definition of Actuarial Equivalent and by substituting five percent (5%) for the Plan's interest rate assumption in the definition of Actuarial Equivalent; *provided, however,* that if the form of benefit is subject to Code Section 417(e)(3): (I) for the Plan Years beginning prior to 2004, five percent (5%) shall be replaced by the Applicable Interest Rate, (II) for the Plan Years beginning in 2004 and 2005, five percent (5%) shall be replaced by five and one-half percent (5.5%), and (III) for Plan Years beginning in 2006 or thereafter, five percent (5%) shall be replaced by the greatest of (1) five and one-half percent (5.5%), (2) the rate that provides a benefit of not more than one hundred five percent (105%) of the benefit that would be provided if the Applicable Interest Rate were the interest rate assumption, and (3) the rate specified in the definition of Actuarial Equivalent.

For limitation years beginning on or after July 1, 2007, the actuarial equivalent straight life annuity shall be the annuity beginning at the same annuity starting date and determined by substituting the Applicable Mortality Table in the GATT Factors for the mortality table in the definition of Actuarial Equivalent and by substituting five percent (5%) for the Plan's interest rate assumption in the definition of Actuarial Equivalent; *provided, however*, that if the form of benefit is subject to Code Section 417(e)(3), five percent (5%) shall be replaced by the greatest of: (I) five and one-half percent (5.5%); (II) the rate that provides a benefit of not more than one hundred five percent (105%) of the benefit that would be provided if the Applicable Interest Rate were the interest rate assumption; and (III) the rate specified in the definition of Actuarial Equivalent.

(ii) If the annual benefit begins before age sixty-two (62), the 415 Dollar Limitation shall be reduced as follows:

(A) For limitation years beginning prior to July 1, 2007, the 415 Dollar Limitation shall be reduced to an annual benefit commencing when the annual benefit actually begins that is the actuarial equivalent of an annual benefit commencing at age sixty-two (62) equal to the 415 Dollar Limitation. Actuarial equivalent shall equal the lesser of the amount determined by using the actuarial assumptions set forth in the definition of Actuarial Equivalent or the amount determined: (I) by substituting the Applicable Mortality Table for the mortality table in the definition of Actuarial Equivalent, if such table would otherwise be used under the Plan; and (II) except as otherwise provided in subsection (b)(iv), by applying an interest rate assumption of five percent (5%).

(B) For limitation years beginning on or after July 1, 2007, if the Plan does not have an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement, the 415 Dollar Limitation shall be reduced to an annual benefit commencing when the annual benefit actually begins that is the actuarial equivalent of an annual benefit commencing at age sixty-two (62) equal to the 415 Dollar Limitation. Except as otherwise provided in subsection (b)(iv), actuarial equivalent shall be determined by using the Applicable Mortality Table (expressing the Participant's age based on completed calendar months as of the Annuity Starting Date) and by applying an interest rate assumption of five percent (5%).

For limitation years beginning on or after July 1, 2007, if the Plan has an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement, the 415 Dollar Limitation shall be reduced to an annual benefit commencing when the annual benefit actually begins that is the actuarial equivalent of an annual benefit commencing at age sixty-two (62) equal to the lesser of: (I) the annual benefit determined in accordance with the immediately preceding paragraph; or (II) the 415 Dollar Limitation multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the Plan at the Participant's annuity starting date to the annual amount of the immediately commencing straight life annuity under the Plan at age

sixty-two (62) (both determined without applying the limitations of Section 415).

(C) Any decrease in the 415 Dollar Limitation determined in accordance with this subsection (b)(ii) shall not reflect the mortality decrement to the extent that benefits will not be forfeited upon the death of the Participant. If any benefits are forfeited upon death, the full mortality decrement is taken into account.

(D) Notwithstanding the above, the provisions of this subsection (b)(ii) shall not apply to any Participant who has at least fifteen years of service as a full-time police officer or firefighter.

(E) Notwithstanding the above, the provisions of this subsection (b)(ii) shall not apply to benefits received as a result of the recipient becoming disabled by reason of personal injury or sickness, or benefits received by the beneficiary, survivor or estate of a Participant as the result of the death of the Participant.

(iii) If the annual benefit begins after age sixty-five (65), the 415 Dollar Limitation shall be increased as follows:

(A) For limitation years beginning prior to July 1, 2007, the 415 Dollar Limitation shall be increased to an annual benefit commencing when the annual benefit actually begins that is the actuarial equivalent of an annual benefit commencing at age sixty-five (65) equal to the Dollar Limitation. Actuarial equivalent shall equal the lesser of the amount determined by using the actuarial assumptions set forth in the definition of Actuarial Equivalent or the amount determined: (I) by substituting the Applicable Mortality Table in the GATT Factors for the mortality table in the definition of Actuarial Equivalent, if such table would otherwise be used under the Plan; and (II) except as otherwise provided in subsection (b)(iv), by applying an interest rate assumption of five percent (5%).

(B) For limitation years beginning on or after July 1, 2007, if the Plan does not have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the 415 Dollar Limitation shall be increased to an annual benefit commencing when the annual benefit actually begins that is the actuarial equivalent of an annual benefit commencing at age sixty-five (65) equal to the 415 Dollar Limitation. Except as otherwise provided in subsection (b)(iv), actuarial equivalent shall be determined by using the Applicable Mortality Table (expressing the Participant's age based on completed calendar months as of the Annuity Starting Date) and by applying an interest rate assumption of five percent (5%).

For limitation years beginning on or after July 1, 2007, if the Plan has an immediately commencing straight life annuity payable at both age sixty-five (65)

and the age of benefit commencement, the 415 Dollar Limitation shall be increased to an annual benefit commencing when the annual benefit actually begins that is the actuarial equivalent of an annual benefit commencing at age sixty-five (65) equal to the lesser of: (I) the annual benefit determined in accordance with the immediately preceding paragraph; or (II) the 415 Dollar Limitation multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date to the annual amount of the immediately commencing straight life annuity under the Plan at age sixty-five (65) (both determined without applying the limitations of Section 415).

(C) For purposes of this subsection (b)(iii), mortality between age sixty-five (65) and the age at which benefits commence shall be ignored.

(iv) For purposes of adjusting the 415 Dollar Limitation under subsection (b)(ii) or subsection (b)(iii) above for a form of benefit payment subject to the restrictions on cash-outs under Code Section 417(e)(3), the Applicable Interest Rate in the GATT Factors shall be substituted for five percent (5%).

(v) The limitations shall not apply if the aggregate annual benefit of a Participant payable under this Plan and all other defined benefit plans maintained by the Employer does not exceed \$10,000 for the limitation year or for any prior limitation year and such Participant at no time participated in a defined contribution plan, a welfare benefit plan as defined in Code Section 419(e) or an individual medical account as defined in Code Section 415(l)(2) maintained by the Employer. For purposes of this subsection (b)(v), the benefits payable with respect to the Participant under a plan for a limitation year reflect all amounts payable under the plan for the limitation year, and are not adjusted for form of benefit or commencement date.

(vi) Where the annual benefit is payable to a Participant who has been a Participant of the Plan for less than ten (10) years, the 415 Dollar Limitation shall be multiplied by a fraction, the numerator of which is the Participant's number of years of participation as a Participant of the Plan, and the denominator of which is ten (10). If two or more defined benefit plans are aggregated for a particular limitation year and the annual benefit is payable to a Participant who has been a Participant of the Plan for less than ten (10) years, the 415 Dollar Limitation shall be multiplied by a fraction, the numerator of which is the Participant's number of years of participation as a Participant of this Plan and all other defined benefit plans maintained by the Employer, and the denominator of which is ten (10).

Notwithstanding the above, the provisions of this subsection (b)(vi) shall not apply to benefits received as a result of the recipient becoming disabled by reason of personal injury or sickness, or benefits received by the beneficiary, survivors or estate of a Participant as the result of the death of the Participant.

(vii) Where the annual benefit is payable to a Participant who has less than ten (10) years of service with the Employer, the \$10,000 amount in subsection (b)(v) shall be multiplied by a fraction, the numerator of which is the Participant's number of years of service with the Employer and the denominator of which is ten (10). If two or more defined benefit plans are aggregated for a particular limitation year and the annual benefit is payable to a Participant who has less than ten (10) years of service with the Employer, the \$10,000 amount shall be multiplied by a fraction, the numerator of which is the Participant's number of years of service with the Employer and the denominator of which is ten (10).

Notwithstanding the above, the provisions of this subsection (b)(vii) shall not apply to benefits received as a result of the recipient becoming disabled by reason of personal injury or sickness, or benefits received by the beneficiary, survivors or estate of a Participant as the result of the death of the Participant.

(viii) In no event shall subsection (b)(vi) or subsection (b)(vii) reduce the 415 Dollar Limitation or the \$10,000 amount in subsection (b)(v) to an amount less than one-tenth (1/10th) of such amounts (determined without regard to subsection (b)(vi) and subsection (b)(vii)).

(ix) To the extent provided in regulations or in other guidelines promulgated by the Secretary of the Treasury, subsection (b)(vi), subsection (b)(vii) and subsection (b)(viii) shall be applied separately with respect to each change in the benefit structure of the Plan.

(c) For purposes of applying the limitations of Code Section 415, all defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the Employer (or a "predecessor employer") under which the Participant accrues a benefit are treated as one defined benefit plan. The "Employer" means the Employer that adopts this Plan and all members of a controlled group or an affiliated service group that includes the Employer (within the meaning of Code Section 414(b), (c), (m) or (o)), *except that* the determination shall be made by applying Code Section 415(g) and (h) and shall take into account tax-exempt organizations under Regulation Section 1.414(c)-5, as modified by Regulation Section 1.415(a)-1(f)(1). For purposes of this subsection (c):

(i) A former employer is a "predecessor employer" with respect to a Participant in a plan maintained by the Employer if the Employer maintains a plan under which the Participant had accrued a benefit while performing services for the former employer, but only if that benefit is provided under the plan maintained by the Employer. For this purpose, the formerly affiliated plan rules in Regulation Section 1.415(f)-1(b)(2) apply as if the Employer and the predecessor employer constituted a single employer under the rules described in Regulation Section 1.415(a)-1(f)(1) and (2) immediately prior to the cessation of affiliation (and as if they constituted two, unrelated employers under the rules described in Regulation Section 1.415(a)-1(f)(1) and (2) immediately after the cessation of affiliation) and cessation of affiliation was the event that gave rise

to the predecessor employer relationship, such as a transfer of benefits or plan sponsorship.

(ii) With respect to the Employer that employs a Participant, a former entity that precedes the Employer is a "predecessor employer" with respect to the Participant if, under the facts and circumstances, the Employer constitutes a continuation of all or a portion of the trade or business of the former entity.

(iii) For purposes of aggregating plans for Code Section 415, a "formerly affiliated plan" of the Employer is taken into account for purposes of applying the Code Section 415 limitations to the Employer, but the formerly affiliated plan is treated as if it had terminated immediately prior to the "cessation of affiliation." For purposes of this subsection (c)(iii), a "formerly affiliated plan" of the Employer is a plan that, immediately prior to the cessation of affiliation, was actually maintained by one or more of the entities that constitute the Employer (as determined under the employer affiliation rules described in Regulation Section 1.415(a)-1(f)(1) and (2)), and immediately after the cessation of affiliation, is not actually maintained by any of the entities that constitute the Employer (as determined under the employer affiliation rules described in Regulation Section 1.415(a)-1(f)(1) and (2)). For purposes of this subsection (c)(iii), a "cessation of affiliation" means the event that causes an entity to no longer be aggregated with one or more other entities as a single employer under the employer affiliation rules described in Regulation Section 1.415(a)-1(f)(1) and (2), or that causes a plan to not actually be maintained by any of the entities that constitute the Employer under the employer affiliation rules of Regulation Section 1.415(a)-1(f)(1) and (2).

(iv) Two or more defined benefit plans that are not required to be aggregated pursuant to Code Section 415(f) and the Regulations thereunder as of the first day of a limitation year do not fail to satisfy the requirements of Code Section 415 with respect to a Participant for the limitation year merely because they are aggregated later in that limitation year, *provided that* the Participant is not credited with any accruals after the date on which the plans are required to be aggregated.

(d) If a Participant makes a contribution to the Plan in order to purchase "permissive service credit", then the limitations on benefits in this Section 12.2 are satisfied only if the Plan satisfies Section 12.2 by treating the accrued benefit derived from all of the Participant's contributions to purchase "permissive service credit" as an annual benefit for purposes of Section 12.2.

For this purpose:

(i) "*Permissive service credit*" means credit for a period of service: (A) that is recognized by the Plan for purposes of calculating benefits; (B) that the Participant would not otherwise be credited under the Plan; and (C) that the Participant receives solely by making a voluntary additional contribution to the Plan in an amount (determined by the Plan) that does not exceed the amount necessary to fund the benefit attributable to such service credit. Service credit is not "permissive service credit" if

more than five years of “nonqualified service” are taken into account, or if “nonqualified service” is taken into account for a Participant with less than five years of Plan participation. However, “permissive service credit” may include service credit for periods for which there is no performance of service (subject to the limits on nonqualified service), and may also include service otherwise credited under the Plan in order to provide an increased benefit.

(ii) “*Nonqualified service*” is a period of service *other than*: (A) as an employee of a Federal, state or local government; (B) as an employee of a Code Section 170(b)(1)(A)(ii) elementary or secondary educational institution which provides elementary or secondary education through grade 12, or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed; (C) as an employee of an association of governmental employees; or (D) military service (other than qualified military service under Code Section 414(u)). In the case of service described in subsection (d)(ii)(A), subsection (d)(ii)(B) or subsection (d)(ii)(C), such service is “nonqualified service” if it enables a Participant to receive a retirement benefit for the same service under more than one plan.

(e) Notwithstanding anything else herein to the contrary, the limitations, adjustments and other requirements of Section 12.2 shall at all times comply with the provisions of Code Section 415 and the regulations thereunder, the terms of which are specifically incorporated herein by reference.

Section 12.3 The provisions of this Section 12.3 shall not apply with respect to any Participant who is credited with an hour of service on or after the first day of the first limitation year beginning after December 31, 1999.

(a) In the event a Participant is or has been covered at any time under a qualified defined contribution retirement plan maintained by the Employer, whether or not terminated, the sum of the defined contribution fraction as described in subsection (b) below and the defined benefit fraction as described in subsection (c) below shall not exceed 1.0. For purposes of the preceding sentence, a qualified defined contribution retirement plan shall include a funded welfare benefit plan (as defined in Section 419(e) of the Code) and an individual medical account (as defined in Section 415(1)(2) of the Code).

(b) (i) Except as otherwise provided in subsection (b)(ii) and subject to subsection (b)(iii), the defined contribution fraction is a fraction:

(A) the numerator of which is the sum of the annual additions for the current and all prior limitation years, determined with respect to each such year under the rules governing the crediting of annual additions for such year and computed as of the end of such year: (I) credited to the Participant under any qualified defined contribution retirement plan of the Employer, whether or not terminated; (II) attributable to nondeductible employee contributions to any defined benefit retirement plan of the Employer, whether or not terminated; (III)

attributable to any welfare benefit plan of the Employer; and (IV) attributable to any individual medical account maintained by the Employer; and

(B) the denominator of which is the sum of one hundred twenty-five percent (125%) of the defined contribution dollar limitation in effect for each limitation year as of the end of such year, and including limitation years when the individual was not a Participant as a result of ineligibility to participate or because the Employer did not maintain a defined contribution plan.

(ii) In the case of an individual who was a participant as of the end of the first day of the first limitation year beginning after 1986 in any qualified defined contribution plan of the Employer that was in effect on May 6, 1986, if the sum of the fraction described in this subsection (b) and the fraction described in subsection (c) would otherwise exceed 1.0, the numerator of the fraction described in this subsection (b) shall be adjusted by permanently subtracting therefrom an amount equal to the product of: (A) the excess of the sum of such fractions over 1.0; and (B) the denominator of the fraction described in this subsection (b). For purposes of the adjustment described in the preceding sentence, the applicable fractions shall be computed as of the end of the last limitation year beginning before 1987, but using the limitation under Code Section 415 applicable to the first limitation year beginning after 1986, and without regard to any change made after May 5, 1986 in the provisions of the plans taken into account under this subsection (b)(ii).

(iii) At the election of the Employer, with respect to any limitation year ending after 1982, the denominator of the defined contribution fraction of each Participant for all limitation years ending before 1983 shall be an amount equal to the product of: (A) the denominator of the defined contribution fraction for the limitation year ending in 1982 (computed under Section 415(e)(3)(B) of the Code as in effect for such year); and (B) a fraction, the numerator of which is \$51,875, and the denominator of which is \$41,500.

(iv) For purposes of subsection (b), the annual additions for any limitation year beginning before 1987 shall not be recomputed to treat all employee contributions as annual additions.

(c) (i) Subject to subsection (c)(ii), the defined benefit fraction is a fraction:

(A) the numerator of which is the sum of the Participant's projected annual retirement benefits under each qualified defined benefit retirement plan of the Employer, whether or not terminated, determined as of the end of the limitation year; and

(B) the denominator of which is one hundred twenty-five percent (125%) of \$90,000 (or, in the case of benefits commencing before or after the Social Security retirement age, the actuarial equivalent of such amount), as adjusted in accordance with regulations for increases in the cost of living using the last calendar quarter of 1986 as the base period.

(ii) If a Participant was a participant as of the first day of the first limitation year beginning after 1986 in any qualified defined benefit retirement plan of the Employer that was in effect on May 6, 1986, the denominator of the defined benefit fraction shall not be less than one hundred twenty-five percent (125%) of such Participant's minimum accrued benefit.

(iii) If the Employer maintains a qualified defined benefit retirement plan providing for any post-retirement ancillary benefits (other than a qualified joint and survivor annuity with the Participant's Spouse), the denominator referred to in subsection (c)(i) shall be adjusted in accordance with regulations.

Section 12.4 (a) For limitation years beginning on or after July 1, 2007, notwithstanding any provision of the Plan to the contrary, if an excess amount is determined for any Participant for any limitation year, the Plan may correct such excess amount only in accordance with the Employee Plans Compliance Resolution System ("EPCRS") as set forth in Revenue Procedure 2013-12 (or any superseding guidance), including, but not limited to, the preamble of the Code Section 415 final Regulations.

(b) For limitation years beginning prior to July 1, 2007, if an excess amount is determined for any Participant for any limitation year, and if such excess amount is due to the allocation of forfeitures, a reasonable error in estimating a Participant's annual earnings, or such other limited facts and circumstances as the Commissioner of Internal Revenue finds justifiable, such excess amount shall be treated as follows:

(i) Any non-deductible voluntary contributions made to this Plan or any other qualified retirement plan maintained by the Employer shall be returned to the Participant, to the extent that such return would reduce the excess amount.

(ii) Any remaining excess amount shall be attributed to, and treated in accordance with the provisions of, the qualified retirement plan or plans maintained by the Employer in which the Participant participates, in the following order:

- (A) any other qualified defined benefit retirement plan;
- (B) this Plan;
- (C) any qualified 401(k) plan;
- (D) any qualified profit sharing plan;
- (E) any qualified stock bonus plan;
- (F) any qualified target benefit pension plan; and
- (G) any qualified money purchase pension plan.

(iii) To the extent that an excess amount with respect to a Participant is not eliminated by the actions required by subsection (b)(i) and subsection (b)(ii), the Plan Administrator shall reduce such Participant's benefit under Article V.

ARTICLE XIII

Applications for Benefits and Other Distribution Procedures

Section 13.1 Benefits under the Plan shall be paid in the manner and at the time selected by the individual in an Application for Benefits filed by the individual with the Plan Administrator prior to the date on which benefits are scheduled to commence.

Section 13.2 The Application for Benefits required for the payment of disability retirement benefits under Article VII must be filed with the Plan Administrator by the Participant (or his or her representative). The determination of total and permanent disability must be based on medical evidence (or a workers' compensation award) satisfactory to the Plan Administrator (or any committee serving as the Plan Administrator) which demonstrates that the Participant cannot engage in his or her occupation with the Employer, and that his or her condition is permanent.

Section 13.3 The Application for Benefits required for the payment of death benefits under Article XI must be filed by the Surviving Spouse, Surviving Dependent or Dependents, or Beneficiary of a deceased Participant or the legal representative of the individual's estate, and must be accompanied by a death certificate.

Section 13.4 The designation of a Beneficiary made in a beneficiary designation form may be revised by filing a new beneficiary designation form prior to the Participant's death.

Section 13.5 The Plan Administrator shall promptly process each Application for Benefits received by it and shall notify the applicant in writing of the action taken regarding an Application for Benefits within a reasonable period of time following its receipt.

Section 13.6 An individual for whom benefits are being held by the Trustee shall keep the Plan Administrator notified of a current mailing address. The Plan Administrator and the Employer shall be discharged from any liability resulting from a failure to pay benefits as they become due if reasonable effort has been made to contact the individual at the last address on record.

Section 13.7 Any denial of a claim for benefits under the Plan shall be stated in writing by the Plan Administrator and delivered or mailed to the Participant, Surviving Spouse, Surviving Dependent or Dependents, or other Beneficiary whose claim for benefits has been denied, and shall set forth specific reasons for such denial written in a manner calculated to be understood by such Participant, Surviving Spouse, Surviving Dependent or Dependents, or other Beneficiary. Within sixty (60) days after receiving the notification of such denial, any such Participant, Surviving Spouse, Surviving Dependent or Dependents, or other Beneficiary may notify the Plan Administrator in writing of his or her desire for a review of such decision. Upon such notification, the Plan Administrator shall schedule a review proceeding at which the Participant, Surviving Spouse, Surviving Dependent or Dependents, or other Beneficiary shall restate his or her arguments for such claim to a representative of the Plan Administrator. The

Plan Administrator's decision following such hearing shall be made within a reasonable period of time following the Plan Administrator's receipt of the Participant's request for a review, and shall be communicated in writing to the Participant, Surviving Spouse, Surviving Dependent or Dependents, or other Beneficiary.

ARTICLE XIV

Rollovers

Section 14.1 For purposes of this Article XIV, the following terms shall have the meanings set forth below:

(a) "*Direct rollover*" means a payment to one or more eligible retirement plans specified by the distributee.

(b) "*Distributee*" means an employee or former employee, the Surviving Spouse of an employee or former employee, and the Spouse or former Spouse of an employee or former employee who is the alternate payee under a qualified domestic relations order as defined in Section 414(p) of the Code.

(c) "*Eligible retirement plan*" means: (i) an individual retirement account and an individual retirement annuity described in Section 408 of the Code or (effective for distributions occurring on or after January 1, 2008) a Roth individual retirement account described in Section 408A of the Code; (ii) a qualified plan described in Section 401(a) of the Code; (iii) an annuity plan described in Section 403(a) of the Code and an annuity contract described in Section 403(b) of the Code; and (iv) an eligible plan described in Section 457(b) of the Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and that agrees to separately account for any eligible rollover distributions transferred into such plan. Notwithstanding the above, if any portion of an eligible rollover distribution is not includible in gross income, such portion of the distribution may be transferred only to the following eligible retirement plans: (i) an individual retirement account and an individual retirement annuity described in Section 408 of the Code or (effective for distributions occurring on or after January 1, 2008) a Roth individual retirement account described in Section 408A of the Code; and (ii) a qualified plan described in Section 401(a) of the Code or an annuity contract described in Section 403(b) of the Code that receives such portion of the distribution in a direct rollover pursuant to subsection (a), that agrees to separately account for the amounts so transferred (including separately accounting for the portion of the distribution which is includible in gross income and the portion of the distribution which is not includible in gross income), and (for the period prior to January 1, 2007) that is a defined contribution plan.

(d) "*Eligible rollover distribution*" means the distribution under a qualified plan of all or a portion of the balance to the credit of a distributee, *other than*: (i) one or more distributions to be made during a taxable year of the distributee which in the aggregate are reasonably expected to be less than \$200; (ii) a distribution that is one of a series of substantially equal periodic payments made not less frequently than annually for the life or life expectancy of the distributee or the joint lives or joint life expectancy of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; (iii) the portion of any distribution that is required to be made under Section 401(a)(9) of the Code; and (iv) any distribution that is made due to the hardship of the distributee.

Section 14.2 (a) Notwithstanding any other provision of the Plan, a distributee may elect, in accordance with procedures established by the Plan Administrator, that all or a portion of an eligible rollover distribution to be made to the distributee shall instead be distributed in a direct rollover. If a portion but not all of an eligible rollover distribution is to be distributed in a direct rollover, such portion may not be less than \$500. In the case of an eligible rollover distribution not exceeding \$500, any direct rollover must consist of the entire amount of the eligible rollover distribution.

(b) Effective for distributions occurring on or after January 1, 2010, if the designated beneficiary of a Participant is not the Surviving Spouse of the Participant and is eligible to receive a distribution from the Plan due to the death of the Participant, and if the distribution satisfies all of the requirements for constituting an eligible rollover distribution set forth in Section 14.1(d) other than the requirement that the distribution be made to a distributee, then the distribution shall be treated as an eligible rollover distribution and the beneficiary may elect that all or a portion of the distribution to be made to the beneficiary will instead be distributed in a direct rollover to an individual retirement account or an individual retirement annuity that is maintained for the benefit of the beneficiary and that is described in Code Section 402(c)(8)(B)(i) or Code Section 402(c)(8)(B)(ii). The individual retirement account or individual retirement annuity shall be treated as an inherited IRA pursuant to Code Section 402(c)(11).

(c) (i) Not less than thirty (30) days and not more than one hundred eighty (180) days (ninety (90) days for Plan Years beginning prior to January 1, 2007) before the Annuity Starting Date of a distributee or non-Spouse beneficiary who is entitled to receive an eligible rollover distribution, the Plan Administrator shall, in accordance with Section 402(f) of the Code, provide the distributee or non-Spouse beneficiary with a written explanation of the rules governing rollovers (including the right to make a direct rollover under subsection (a) or subsection (b)), and the mandatory federal income tax withholding on any eligible rollover distribution for which no election is made under subsection (a) or subsection (b). No later than the date on which the information required by this subsection (c)(i) is provided to a distributee or non-Spouse beneficiary, the Administrator shall notify the distributee or non-Spouse beneficiary that he or she is entitled to consider, for a period of at least thirty (30) days following receipt of such information, whether or not to make an election under subsection (a) or subsection (b).

(ii) Notwithstanding subsection (c)(i), a direct rollover or distribution may be made less than thirty (30) days after the distributee or non-Spouse beneficiary receives the information required by subsection (c)(i), if the distributee or non-Spouse beneficiary affirmatively elects to receive a distribution or to make a direct rollover under subsection (a) or subsection (b).

Section 14.3 Any portion of an eligible rollover distribution that is not distributed in a direct rollover under Section 14.2(a) or Section 14.2(b) is ordinarily subject to mandatory federal income tax withholding.

Section 14.4 In the event of a mandatory cash-out distribution under the Plan that is greater than \$1,000, if the distributee does not elect to have such distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover or to receive the distribution directly in accordance with Section 14.2(a) or Section 14.2(b), then the Plan Administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the Plan Administrator. The Plan Administrator shall notify the distributee (either separately or as part of the notice described in Section 14.2(c)) that the distribution may be transferred in a direct rollover to an individual retirement plan designated by the Plan Administrator. The notice: (a) shall identify the trustee or custodian of the individual retirement plan; (b) shall state that the distribution will be placed in an investment fund that is designed to preserve principal and provide a reasonable rate of return and liquidity; (c) shall indicate how the fees and expenses required to maintain the individual retirement plan will be allocated; and (d) shall state the name, address, and telephone number of a person that the distributee can contact for further information about the automatic rollover provisions, the individual retirement plan provider, and the fees and expenses attendant to the individual retirement plan.

ARTICLE XV

Leave of Absence

Section 15.1 This Section 15.1 shall apply only to a Participant who is absent from his or her position of employment with the Employer by reason of a period of military service and who, upon reemployment with the Employer, is entitled to the benefits of the Uniformed Services Employment and Reemployment Rights Act of 1994 with respect to such service ("qualified military service"). Upon such reemployment with the Employer, the Participant shall be treated as having been on a leave of absence and the following requirements shall apply:

(a) The individual shall not be deemed to have incurred a Severance Period by reason of such qualified military service, and the period of such service shall constitute employment with the Employer for purposes of determining the individual's Years of Credited Service, *provided that* the individual contributes to the Plan an amount equal to the Participant Contributions that he or she would have made under Section 4.1 if he or she had remained an Employee during the period of the qualified military service. Such amount shall be paid to the Plan during the period of time which begins on the date of his or her reemployment and which does not exceed the lesser of five years or three times the period of his or her qualified military service.

(b) For purposes of subsection (a) and Article XII, an individual shall be treated as having received compensation from the Employer during the period of qualified military service equal to the compensation that would have been paid to the individual by the Employer during such period determined at the rate of pay he or she would have received but for such period of service, or if such rate of pay is not reasonably ascertainable, the individual's average rate of compensation during the twelve month period preceding the qualified military service (or the entire period of employment preceding the military service, if less than twelve months).

(c) Benefit accruals required under subsection (a) shall be added promptly to the Participant's Accrued Benefit. Such benefit accruals shall not be subject to any otherwise applicable limitation under Article XII with respect to the year in which such benefit accruals were added to the Participant's Accrued Benefit. In accordance with Regulations, benefit accruals added to the Participant's Accrued Benefit under subsection (a) shall be subject to such limitations with respect to the year to which the accruals relate.

(d) For the period on or after January 1, 2007, if a Participant dies while performing qualified military service, the survivors of the Participant are entitled to any additional death benefits that would have been payable under the Plan if the Participant had resumed employment and then terminated employment on account of death. As a result, such a Participant's death benefits under the Plan shall be determined by treating the Participant as if he or she were an active employee at the time of his or her death.

(e) Effective as of January 1, 2009, if the Employer provides differential military pay to a Participant who is performing qualified military service, the Participant shall be treated as an

employee of the Employer and the differential military pay shall be treated as compensation paid by the Employer for all purposes of the Plan. Differential military pay means any amounts that the Employer pays to a Participant who is performing qualified military service to the extent such amounts do not exceed the excess of the compensation that the Participant would have received if he or she had remained employed by the Employer during the period of his or her qualified military service, over the amount of the Participant's military pay.

Section 15.2 A Participant employed by the Employer who is not performing services for the Employer or is on a reduced work schedule for a reason designated by the Employer as qualifying under the Family and Medical Leave Act of 1993 shall be treated as on an approved leave of absence for the period of such absence or reduced work schedule. During the period of such leave of absence, the Employee shall continue to be considered a Participant employed as an Employee for purposes of determining the individual's Years of Credited Service, *provided that* the individual contributes to the Plan an amount equal to the Participant Contributions that he or she would have made under Section 4.1 if he or she had remained an Employee during the approved leave of absence. If an individual ceases to make the contributions required by this Section 15.2, the individual shall cease to be a Participant in the Plan.

Section 15.3 A Participant employed by the Employer who is not performing services for the Employer or is on a reduced work schedule for a reason approved by the Employer, and who is receiving his or her regular Compensation from the Employer, shall continue to be considered a Participant employed as an Employee for purposes of determining the individual's Years of Credited Service, and his or her Participant Contributions to the Plan shall continue to be deducted from his or her Compensation during the period of the paid leave of absence.

Section 15.4 A Participant who is not performing services for the Employer for a reason that does not constitute qualified military service, or that does not qualify under the Family and Medical Leave Act of 1993, or that is not a paid leave of absence approved by the Employer, shall cease to be a Participant in the Plan.

Section 15.5 A leave of absence for military service under Section 15.1 or a family or medical leave of absence under Section 15.2 may not be canceled by the Employer.

ARTICLE XVI

Rights of Participant

Section 16.1 The establishment of the Plan shall not be construed as conferring any rights upon any Employee or any person for a continuation of employment, and shall not be construed as limiting in any way the right of the Employer to discharge any Employee or to treat him or her without regard to the effect which such treatment might have upon him or her as a Participant of the Plan.

Section 16.2 The Plan is established for the purpose of providing for the support of the Participants upon their retirement and for the support of their families. No benefit payable under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge by the Participant, and any action by way of anticipating, alienating, selling, transferring, assigning, pledging, encumbering or charging the same shall be void and of no effect. In no event shall any benefit under the Plan be liable in any manner for, or be subject to, the debts, contracts, liabilities, engagements or torts of the person entitled to such benefit, except as specifically provided in the Plan.

If any Participant or Beneficiary under the Plan becomes bankrupt or attempts to alienate, sell, transfer, assign, pledge, encumber or charge any benefit except as specifically provided in the Plan, then such benefit shall, in the discretion of the Plan Administrator, cease and terminate. In that event, the Plan Administrator shall hold or apply the benefit to or for the benefit of such Participant or Beneficiary, in such manner and in such proportions as the Plan Administrator shall determine in its sole discretion.

Section 16.3 (a) Notwithstanding the provisions of Section 16.2, the Plan Administrator shall abide by the terms of any domestic relations order. A domestic relations order means any judgment, decree or order (including approval of a property settlement agreement) that creates or recognizes the existence of an alternate payee's right to receive all or a portion of the benefits payable to a Participant hereunder pursuant to a state's domestic relations law relating to the provision of child support, alimony payments or marital property rights to a Spouse, former Spouse, child or other dependent of the Participant.

(b) Payments made under this Section 16.3 shall completely discharge the Plan of its obligations with respect to the Participant and each alternate payee to the extent of any such payments.

Section 16.4 If any person entitled to receive any benefits from the Plan is, in the judgment of the Plan Administrator, legally, physically or mentally incapable of personally receiving and acknowledging receipt of any distribution, the Plan Administrator may make distribution to such other person, persons or institutions as, in the judgment of the Plan Administrator, are then maintaining or have custody of such distributee.

Section 16.5 If a Participant commits any act of fraud or dishonesty toward the Employer while he or she is employed by the Employer, the Plan Administrator may, in its discretion, forfeit the Participant's benefits under the Plan, other than the Participant Contributions that he or she made to the Plan (plus Credited Interest to the date of his or her termination of employment). However, the Participant may appeal the decision of the Plan Administrator to the Board of Finance of the Town of New Canaan. Any decision by the Board of Finance of the Town of New Canaan will be conclusive.

ARTICLE XVII

Plan Administrator

Section 17.1 The Plan Administrator shall have the following powers and responsibilities:

(a) The Plan Administrator shall supervise and control the operation of the Plan and shall have all powers necessary to accomplish such purpose, including the power to make rules and regulations pertaining to the administration of the Plan.

(b) To the extent permitted by Section 21.1, the Plan Administrator may adopt an amendment to the Plan that is required to preserve the status of the Plan as a tax-qualified plan under Section 401(a) and Section 501 of the Code, *provided that* such amendment does not deprive any Participant, Surviving Spouse, Surviving Dependent or Dependents, or Beneficiary retroactively of rights already accrued under the Plan.

(c) The Plan Administrator shall have the discretionary authority to interpret the provisions of this Plan, to determine all questions relating to eligibility for benefits hereunder, to decide all disputes which may arise relative to the rights of a Participant, Surviving Spouse, Surviving Dependent or Dependents, or Beneficiary under the terms of the Plan, to give instructions to the Trustee (other than investment instructions) as may be necessary, and, in general, to direct the administration of the Plan.

(d) The Plan Administrator shall determine the identity of the proper payee of any benefit under the Plan and the amount of such benefit that is properly payable. Any such determination that the Plan Administrator makes shall be conclusive, and payment in accordance with such determination shall constitute a complete discharge of all obligations on account of such benefit.

(e) The Plan Administrator shall determine the manner in which the funds of the Plan shall be disbursed in accordance with the terms of the Plan, including the form of voucher or warrant to be used in making disbursements and the qualifications of the persons authorized to make disbursements of such funds.

(f) The Plan Administrator shall maintain accounts showing the fiscal transactions of the Plan. In connection therewith, the Plan Administrator shall require the Trustee to submit any necessary reports, and shall keep in convenient form such data, as may be necessary for the determination of the assets and liabilities of the Plan.

(g) Any interpretation, determination, decision, instruction or direction adopted by the Plan Administrator in good faith shall be binding upon the Employer and on all Participants, Surviving Spouses, Surviving Dependents and Beneficiaries (unless the Plan Administrator has acted in an arbitrary and capricious manner). The Plan Administrator, in exercising its

discretion, shall do so in a uniform and nondiscriminatory manner, treating all individuals in similar circumstances alike.

Section 17.2 The Town Council of the Town of New Canaan, acting upon the recommendation of the Board of Finance, shall have the power to designate a person or persons to serve as the Plan Administrator. If no Plan Administrator has been designated, the Town Council of the Town of New Canaan shall serve as the Plan Administrator.

By action of a Special Town Meeting held on March 13, 1962, the Town Council of the Town of New Canaan, acting upon the recommendation of the Board of Finance, named the Administrative Agents of the Town of New Canaan as the Plan Administrator. The Administrative Agents include the First Selectman of the Town of New Canaan, a member of the Board of Finance of the Town of New Canaan, the Chief Financial Officer of the Town of New Canaan, a member of the Police Department of the Town of New Canaan, and a member of the Fire Department of the Town of New Canaan.

Section 17.3 If more than one person is serving as the Plan Administrator, such persons may by a written agreement allocate among themselves their responsibilities under this Plan. Except as otherwise provided by law, if responsibilities have been allocated among the persons serving as the Plan Administrator, only the person to whom a specific responsibility has been allocated shall be liable for acts or omissions occurring in the performance of such responsibility.

If more than one person is serving as the Plan Administrator, any act which the Plan authorizes or requires the Plan Administrator to do may be done by a majority of such persons. The action of such majority expressed from time to time by a vote at a meeting, or in writing without a meeting, shall constitute the action of the Plan Administrator.

Section 17.4 The Plan Administrator may delegate to others all or part of its duties that do not involve management of Plan assets. The Plan Administrator shall not be liable for any act or omission of the persons to whom such duties have been delegated, *provided that* the Plan Administrator acted prudently and in the interests of the Participants and their Spouses, Surviving Spouses, Surviving Dependents, and Beneficiaries in selecting and retaining such persons.

Section 17.5 The Plan Administrator may provide each Participant with a summary plan description at such time and in such form as it deems advisable.

Section 17.6 The Plan Administrator may furnish individual statements of vested benefits to Terminated Participants and individual statements of vested and accrued benefits to Participants, Surviving Spouses, Surviving Dependents, or Beneficiaries at such time and in such form as it deems advisable.

Section 17.7 The Plan Administrator shall have the power to designate the Plan's agent for service of legal process.

Section 17.8 The reasonable expenses of administering the Plan, including but not limited to legal, accounting, administrative, custodial, actuarial and investment advisory fees, shall be paid from the Trust Fund, unless the Employer elects to pay such expenses.

Section 17.9 The Plan Administrator shall be entitled to rely upon all certificates and reports made by any duly appointed trustee or accountant, and upon all opinions given by any duly appointed legal counsel. Any person or group of persons serving as the Plan Administrator shall be fully protected against any action taken in good faith in reliance upon any such certificates, reports or opinions. All actions so taken shall be conclusive upon all persons having any interest under the Plan. No person serving as the Plan Administrator shall be personally liable by virtue of any instrument executed by him or her (or on his or her behalf) as a person serving as the Plan Administrator, or for any mistake of judgment made by such person or any other person serving as the Plan Administrator, or for any neglect, omission or wrongdoing of any other person serving as the Plan Administrator or anyone employed by the Employer, or for any loss, *unless* such liability or loss results from his or her own negligence or willful misconduct. Each person serving as the Plan Administrator shall be indemnified by the Employer against expenses reasonably incurred by him or her in connection with any action to which he or she may be a party by reason of his or her serving as the Plan Administrator, *except* in relation to matters as to which he or she shall be adjudged in such action to be liable for negligence or willful misconduct in the performance of his or her duty in serving as the Plan Administrator. The foregoing right of indemnification shall be in addition to any other rights to which any such member may be entitled as a matter of law.

ARTICLE XVIII

Trust Fund

Section 18.1 All assets of the Plan shall be held in the Trust Fund by the Trustee, except to the extent such assets are held by an Insurer under an insurance contract.

Section 18.2 The Trustee shall have such powers as to investment, reinvestment, control and disbursement of the Trust Fund as are provided in the Plan and the Trust Agreement.

Section 18.3 No Participant, Surviving Spouse, Surviving Dependent or Dependents, or Beneficiary under the Plan, nor any other person, shall have any interest in or right to any part of the earnings of the Trust Fund, or any rights in, to or under the Trust Fund or any part of its assets, except to the extent expressly provided in the Plan.

Section 18.4 The Trust Fund shall bear: (a) all brokerage costs and transfer taxes, or other taxes of any kind whatsoever, which may be levied or assessed under existing or future laws upon, or in respect of, the Trust Fund; (b) all expenses incurred in connection with the acquisition, holding or disposition of real property, any interest therein, or any mortgage thereon; (c) all interest which may be payable for money borrowed by the Trustee for the purposes of the Trust Fund; and (d) all other administrative expenses of the Trust Fund and the Plan which are not paid by the Employer.

ARTICLE XIX

Plan for Exclusive Benefit of Participants

Section 19.1 Prior to the satisfaction of all of the liabilities under the Plan with respect to Participants and their Surviving Spouses, Surviving Dependents, or Beneficiaries, no part of the corpus or income of the Trust Fund shall be used for, or diverted to, any purposes other than for the exclusive benefit of the Participants and their Surviving Spouses, Surviving Dependents, or Beneficiaries.

Section 19.2 The Employer shall not directly or indirectly receive any refund of any contribution made by it, nor shall the Employer directly or indirectly receive a distribution from the Trust Fund, at any time prior to the satisfaction of all of the liabilities under the Plan with respect to Participants and their Surviving Spouses, Surviving Dependents, or Beneficiaries, unless such contribution was made by reason of a mistake of fact and the refund is made within one year from the date the contribution was made.

ARTICLE XX

Miscellaneous Provisions

Section 20.1 The Plan is intended to meet the requirements for qualification under Section 401(a) and Section 501 of the Code which are applicable to governmental plans as defined in Section 414(d) of the Code. Any provision of this Plan or the Trust Agreement susceptible to more than one interpretation shall be interpreted in a manner that is consistent with this Plan and the Trust Agreement being an employees' plan and trust within the meaning of Section 401(a) and Section 501 of the Code and a governmental plan within the meaning of Section 414(d) of the Code.

Section 20.2 The Employer, the Plan Administrator and the Trustee shall be discharged from liability in acting upon any representation by an individual of any fact affecting such individual's status under this Plan or upon any notice, request, consent, letter, telegram or other document believed by them, or any of them, to be genuine and to have been signed or sent by the proper person.

Section 20.3 This Plan shall be construed according to the laws of the State of Connecticut, except as such laws are superseded by Federal law.

Section 20.4 The provisions of this Section 20.4 (relating to the transfer of Excess Pension Assets to retiree Medical Benefits Accounts pursuant to Code Section 420) were applicable with respect to the period prior to July 1, 2009.

(a) For purposes of this Section 20.4, the following terms shall have the following meanings:

(i) “*Applicable Employer Costs*” means the Employer’s Qualified Current Retiree Health Liabilities for the taxable year divided by the number of retirees (plus their covered spouses and dependents) to whom health benefits or coverage are provided who, immediately before a Qualified Transfer, are entitled to receive both the health benefits or coverage and also pension benefits under the Plan. For purposes of calculating Applicable Employer Costs, Key Employees are not taken into account. In a taxable year in which there is no Qualified Transfer, the calculation of Applicable Employer Costs is made as if there had been a transfer at the end of the taxable year. The Employer may calculate the Applicable Employer Cost separately for those individuals who, at any time during the taxable year, are eligible for benefits under Title XVIII of the Social Security Act and those not so eligible. If a taxable year is in two (2) or more overlapping Cost Maintenance Periods, then the highest Applicable Employer Cost for the taxable year is taken into account. Finally, in calculating Qualified Current Retiree Health Liabilities for purposes of determining Applicable Employer Cost, no reduction shall be made for amounts previously contributed by the Employer to the Medical Benefits Account or any welfare benefit fund to pay the Qualified Current Retiree Health Liabilities.

(ii) “*Cost Maintenance Period*” means the five (5) taxable year period beginning with the taxable year in which the Qualified Transfer occurs. A separate Cost Maintenance Period applies to each Qualified Transfer.

(iii) “*Employer Medical Plan*” means the plan that sets forth the benefits provided by the Employer to Participants who are retirees (their spouses and dependents, if provided therein) for sickness, accident, hospitalization or medical expenses, which shall be incorporated herein by reference, that shall be funded in whole or in part by the Medical Benefits Account.

(iv) “*Excess Pension Assets*” means the excess (if any) of: (A) the lesser of the fair market value of Plan assets or the value of Plan assets as determined for purposes of Code Section 430(g)(3) after reduction under Code Section 430(f); *over* (B) one hundred twenty-five percent (125%) of the sum of the funding target and the target normal cost determined under Code Section 430.

(v) “*Key Employee*” means any Employee who, at any time during the Plan Year or any preceding Plan Year during which contributions were made on behalf of such Employee, is or was a Key Employee as defined in Code Section 416(i).

(vi) “*Medical Benefits Account*” means the separate account established under this Section 20.4 that provides for the payment of benefits for sickness, accident, hospitalization and medical expenses of Medical Benefits Account Beneficiaries and that is intended to satisfy the requirements of Code Section 401(h).

(vii) “*Medical Benefits Account Beneficiaries*” means the retired Participants, their spouses and dependents who are entitled to benefits pursuant to the terms of the Employer Medical Plan.

(viii) “*Qualified Current Retiree Health Liabilities*” means the aggregate amounts (including administrative expenses) related to health benefits provided to retirees who are entitled to receive both health and pension benefits under the Plan (including their spouses and dependents, if applicable) during the taxable year, that would have been deductible for purposes of the Employer’s federal income taxes for that taxable year if the benefits were provided directly by the Employer and the Employer used the cash receipts and disbursements method of accounting, and further assuming that the Employer is a taxpayer.

(ix) “*Qualified Transfer*” means a transfer of Excess Pension Assets of the Plan into the Medical Benefits Account that does not contravene any other provisions of law and with respect to which the requirements of this Section 20.4 are satisfied.

(b) The Plan Administrator shall cause the Trustee to establish a Medical Benefits Account for the purpose of providing for the payment of benefits to the Medical Benefits Account Beneficiaries as set forth in the Employer Medical Plan, which is incorporated herein by reference.

(i) The medical benefits that will be available and the provisions for determining the amount that will be paid from the Medical Benefits Account are set forth in the Employer Medical Plan as it may be amended by the Employer from time to time, or terminated.

(ii) Subject to the limitations of this subsection (b)(ii), the Medical Benefits Account Beneficiaries shall be specified in the Employer Medical Plan. No benefits may be paid under the Employer Medical Plan from the Medical Benefits Account to any active Employees (or their spouses or dependents) of the Employer. Benefits may be paid under the Employer Medical Plan from the Medical Benefits Account only to Participants and former Participants (and their spouses and dependents, if applicable) of the Plan who have separated from service with the Employer because of a normal retirement, early retirement or disability retirement.

(iii) Benefits paid from the Medical Benefits Account, when added to any life insurance protection provided by the Plan, if any, shall be subordinate to retirement benefits, such that the aggregate actual contributions for medical benefits, when added to the actual contributions for life insurance protection provided by the Plan, do not exceed twenty-five percent (25%) of the total actual contributions to the Plan (other than contributions to fund past service credits) after the date that the Medical Benefits Account is established. The restrictions of this subsection (b)(iii) shall not apply to amounts added to the Medical Benefits Account pursuant to a Qualified Transfer of Excess Pension Assets.

(iv) The Trustee shall separately account for contributions to the Medical Benefits Account on behalf of each Key Employee. All benefits paid from the Medical Benefits Account to each such Key Employee (and such Key Employee's spouse or dependents) shall be paid solely from the separate account established for such Key Employee. The Trustee shall credit each such separate account with a pro rata share of the gains and losses of the Medical Benefits Account, taking into account all contributions to and distributions from such separate account.

(v) The Employer shall, at the time the Employer makes a contribution to the Plan, designate the portion of such contribution, if any, allocable to funding the Medical Benefits Account. Such contributions shall be reasonable and ascertainable.

(vi) No amount of corpus or income may be paid from the Medical Benefits Account for any nonmedical purpose unless all liabilities to Medical Benefits Account Beneficiaries are satisfied. However, payment of necessary or appropriate administrative expenses applicable to the Plan or the Medical Benefits Account may be paid therefrom. In the case of Excess Pension Assets that were contributed to the Medical Benefits Account pursuant to a Qualified Transfer, upon satisfaction of all Medical Benefits Account liabilities, the remaining assets (and any income attributable thereto) shall be transferred back and added to the pension assets of the Plan.

(vii) Upon satisfaction of all Medical Benefits Account liabilities, any remaining assets credited to the Medical Benefits Account shall be paid to the Employer. However, no amounts attributable to a Qualified Transfer of Excess Pension Assets shall revert to the Employer. Such amounts (and any income attributable thereto) shall be transferred back and added to the pension assets of the Plan.

(viii) Any forfeiture of amounts credited to the Medical Benefits Account shall be applied as soon as possible to reduce future contributions to the Medical Benefits Account.

(ix) The assets allocated to the Medical Benefits Account shall be invested as part of the general Trust Fund.

(c) No amounts may be transferred to the Medical Benefits Account from the pension assets of the Plan unless they qualify as Excess Pension Assets.

(d) Only one transfer of Excess Pension Assets may be made during any taxable year of the Employer.

(e) The amount of the Qualified Transfer of Excess Pension Assets in any taxable year shall not exceed the amount reasonably estimated to be paid for Qualified Current Retiree Health Liabilities.

(f) No transfer of Excess Pension Assets shall be made to the Medical Benefits Account after December 31, 2013.

(g) Excess Pension Assets contributed to the Medical Benefits Account pursuant to a qualified transfer and the income attributable thereto shall be used only to pay Qualified Current Retiree Health Liabilities.

(h) All benefits paid from the Medical Benefits Account shall be treated as paid first out of amounts attributable to Excess Pension Assets transferred to the Medical Benefits Account pursuant to a Qualified Transfer, and any income allocable thereto.

(i) Notwithstanding any provision of the Plan to the contrary, in the event a Qualified Transfer of Excess Pension Assets is made to the Medical Benefits Account, the Accrued Benefit on behalf of any Participant shall be one hundred percent (100%) vested. The Accrued Benefit on behalf of any Participant who separated from service during the one (1) year period ending on the date of any Qualified Transfer shall be one hundred percent (100%) vested as if the Plan terminated immediately before such Participant's separation from service.

(j) No transfer of Excess Pension Assets shall be made to the Medical Benefits Account unless the Employer Medical Plan provides that the Applicable Employer Costs during the Cost Maintenance Period shall be no less than the higher of the Applicable Employer Costs for each of the two (2) taxable years immediately before the taxable year of the transfer.

(k) No Excess Pension Assets that have been transferred to the Medical Benefits Account pursuant to a Qualified Transfer shall be allocated to the separate subaccounts of Key Employees established under subsection (b)(iv).

ARTICLE XXI

Amendment

Section 21.1 The Town Council of the Town of New Canaan, acting upon the recommendation of the Board of Finance, shall have the right to amend this Plan at any time and from time to time. Notwithstanding the above, however, the Plan Administrator may adopt an amendment to the Plan that is required to preserve the status of the Plan as a tax-qualified plan under Section 401(a) and Section 501 of the Code, *provided that* such amendment does not deprive any Participant, Surviving Spouse, Surviving Dependent or Dependents, or Beneficiary retroactively of rights already accrued under the Plan.

Section 21.2 Except to the extent required to qualify this Plan and the trust under Section 401(a) and Section 501 of the Code, no amendment shall be made which would adversely affect the rights of Participants, Surviving Spouses, Surviving Dependents, or Beneficiaries who have become fully vested at the date of such amendment.

ARTICLE XXII

Termination of Plan

Section 22.1 The Town Council of the Town of New Canaan, acting upon the recommendation of the Board of Finance, may terminate the Plan in its entirety at any time.

Section 22.2 If the Plan is terminated, unapplied payments and other assets of the Plan will be disposed of through the purchase of annuities or otherwise for the exclusive benefit of Participants, Surviving Spouses, Surviving Dependents, or Beneficiaries, in the order of priority set forth in this Section 22.2. The amount of each Participant's retirement benefit will be determined from the Participant's Accrued Benefit on the date of termination of the Plan. The necessary assets determined by the Employer on the basis of an actuarial valuation will be fully allocated for all Participants in Class 1 and Class 2 described below before any assets are allocated to the next class. If the assets are insufficient to provide the full retirement benefit for each person in a class starting with Class 3 described below, a pro rata allocation will be made for that class and no retirement benefits will be provided for succeeding classes. If any balance remains after these priorities have been satisfied, such balance shall become the property of the Employer.

The order of priority is as follows:

- (a) *Class 1* – to provide retirement benefits for each Participant based on his or her Accumulated Contributions, with benefits to start immediately for Retired Participants and Participants eligible to receive retirement benefits, and at Normal Retirement Date for all other Participants;
- (b) *Class 2* – to provide the balance of the retirement benefits, starting immediately, to each Retired Participant;
- (c) *Class 3* – to provide the balance of the retirement benefits, starting immediately, for Participants with postponed retirement benefits and Participants receiving disability retirement benefits;
- (d) *Class 4* – to provide the balance of the retirement benefits, starting at Normal Retirement Date, for Participants and Terminated Participants who have met the age and service requirements of the Plan for election of an early retirement benefit;
- (e) *Class 5* – to provide the balance of the retirement benefits, starting at Normal Retirement Date, for Participants and Terminated Participants not included in Class 4 who have reached the vesting date; and
- (f) *Class 6* – to provide the balance of the retirement benefits, starting at Normal Retirement Date, for all other Participants.

Section 22.3 Upon the termination or partial termination of the Plan, or the complete discontinuance of contributions to the Plan, the rights of each Participant (or, in the event of a partial termination, the rights of each Participant affected by such partial termination), including a Retired Participant, Disabled Participant or Terminated Participant, and the rights of each Surviving Spouse, Surviving Dependent or Dependents, and Beneficiary, to benefits accrued to the date of such termination or partial termination shall become nonforfeitable, to the extent funded as of such date.

Dated the 11 day of December, 2013.

Witness:

TOWN OF NEW CANAAN,
CONNECTICUT

Pamela Flynn

By A. E. Malloy III
Name: ROBERT E. MALOZZI III
Title: FIRST SELECTMAN

**AMENDMENT NO. 1 TO
THE FUNDED RETIREMENT PLAN OF
THE TOWN OF NEW CANAAN, CONNECTICUT**

The Funded Retirement Plan of the Town of New Canaan, Connecticut, as amended and restated effective as of January 1, 2013, is hereby amended as follows, effective as of the dates set forth herein:

(1) Effective as of January 1, 2013, Article II of the Plan is amended by deleting the definition of "Average Annual Compensation" and substituting the following in lieu thereof:

"Average Annual Compensation" means the following:

- (a) *With respect to a Nonunion Employee or a Public Works Employee, Average Annual Compensation* means his or her highest Compensation during the ten consecutive calendar years ending with the calendar year of the determination.
- (b) *With respect to a Police Officer Employee, Average Annual Compensation* means the average of his or her Compensation as of January 1 of the last three calendar years ending with the calendar year of the determination. If a Police Officer Employee has less than three calendar years of employment, the average will be based on his or her Compensation as of January 1 of each calendar year during his or her employment. However, if a Police Officer Employee has reached age fifty-five (55), Average Annual Compensation will equal his or her Compensation for the calendar year of the determination.
- (c) *With respect to a Firefighter Employee, Average Annual Compensation* means the highest Compensation for a calendar year during the ten consecutive calendar years ending with the calendar year of the determination.
- (d) *With respect to a Library Employee, a BOE Nonunion Employee, a BOE Custodian Employee, a BOE Secretary Employee or a BOE Food Service Employee, Average Annual Compensation* means the average of his or her Compensation as of January 1 of the three consecutive calendar years during the ten consecutive calendar years ending with the calendar year of the determination which produce the highest average. However, if he or she has less than three calendar years of employment, Average Annual Compensation will be based on his or her Compensation as of the January 1 of each calendar year during his or her employment.
- (e) *With respect to a BOE Assistant/Aide Employee, Average Annual Compensation* means the average of his or her Compensation as of January 1 of the three consecutive calendar years during the ten consecutive calendar years ending with the calendar year of the determination which produce the highest average. However, if he or she has less than three calendar years of employment, Average Annual Compensation will be based on his or her Compensation for each calendar year during his or her employment.

(2) Effective as of June 26, 2013, Article II of the Plan is amended by deleting the definition of "Spouse" or "Surviving Spouse" and substituting the following in lieu thereof:

"Spouse" or *"Surviving Spouse"* means the spouse of a Participant who was legally married to the Participant on the Participant's date of death and who was married to the Participant for at least twelve months prior to the Participant's date of death. In addition, a former spouse will be treated as a Participant's Spouse or Surviving Spouse to the extent required under a domestic relations order.

Notwithstanding anything else herein to the contrary, effective as of June 26, 2013, the terms "marriage", "spouse", "husband", "wife", and "husband and wife" (including all variations thereof), when applicable under the Plan, shall apply equally to both a Participant who is validly married to an individual of the opposite sex and to a Participant who is validly married to an individual of the same sex. A Participant is "validly married" for purposes of the Plan if he or she is validly married pursuant to the laws of any state or similar jurisdiction, regardless of the Participant's state of domicile. A Participant is not validly married, nor do the terms "marriage" "spouse," "husband," "wife," or "husband and wife" apply to a Participant, to the extent he or she has entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under state law that is not otherwise treated as a marriage under the laws of such state.

With respect to Police Officer Employees: If a Participant is a Police Officer Employee and dies in the line of duty, the Participant's spouse is not required to have been married to the Participant during the twelve month period prior to the Participant's date of death in order to be treated as the Participant's Spouse or Surviving Spouse.

(3) Effective as of July 1, 2014, Article IV of the Plan is amended by deleting Section 4.1(a)(iii) of the Plan and substituting the following in lieu thereof:

(iii) *For Firefighter Employees:*

(A) For the period prior to July 1, 2014: 1.00% of Compensation

(B) For the period on and after July 1, 2014:

For Participants hired prior to

July 1, 2014:

2.00% of Compensation

For Participants hired on or after
July 1, 2014: 8.00% of Compensation.

(C) Participant Contributions are not required after a Firefighter
Employee completes thirty (30) Years of Credited Service.

(4) All section numbers and cross references thereto are appropriately amended to
effectuate the intention of the foregoing amendments.

Dated the 5 day of August, 2014

Witness:

TOWN OF NEW CANAAN,
CONNECTICUT

Pamela Flynn
PAMELA FLYNN

By A. E. Malysz III
Name: RE. MALYZSKI III
Title: First Selectman

**AMENDMENT NO. 2 TO
THE FUNDED RETIREMENT PLAN OF
THE TOWN OF NEW CANAAN, CONNECTICUT**

The Funded Retirement Plan of the Town of New Canaan, Connecticut, as amended and restated effective as of January 1, 2013, is hereby amended as follows, effective as of the dates set forth herein:

(1) Article II of the Plan is amended by deleting the definition of "Average Annual Compensation" and substituting the following in lieu thereof:

"Average Annual Compensation" means the following:

(a) *With respect to a Nonunion Employee and a Town Union Employee, Average Annual Compensation* means his or her highest Compensation during the ten consecutive calendar years ending with the calendar year of the determination.

(b) *With respect to a Public Works Employee, Average Annual Compensation* means his or her highest Compensation during the ten consecutive calendar years ending with the calendar year of the determination; *provided, however*, that, effective as of June 27, 2014, for purposes of determining Average Annual Compensation, Compensation in excess of the Social Security taxable wage base in effect on the first day of the Plan Year shall not be taken into account.

(c) *With respect to a Police Officer Employee, Average Annual Compensation* means the average of his or her Compensation as of January 1 of the last three calendar years ending with the calendar year of the determination. If a Police Officer Employee has less than three calendar years of employment, the average will be based on his or her Compensation as of January 1 of each calendar year during his or her employment. However, if a Police Officer Employee has reached age fifty-five (55), Average Annual Compensation will equal his or her Compensation for the calendar year of the determination.

(d) *With respect to a Firefighter Employee, Average Annual Compensation* means the highest Compensation for a calendar year during the ten consecutive calendar years ending with the calendar year of the determination.

(e) *With respect to a Library Employee, a BOE Nonunion Employee, a BOE Custodian Employee, a BOE Secretary Employee or a BOE Food Service Employee, Average Annual Compensation* means the average of his or her Compensation as of January 1 of the three consecutive calendar years during the ten consecutive calendar years ending with the calendar year of the determination which produce the highest average. However, if he or she has less than

three calendar years of employment, Average Annual Compensation will be based on his or her Compensation as of the January 1 of each calendar year during his or her employment.

(f) *With respect to a BOE Assistant/Aide Employee, Average Annual Compensation* means the average of his or her Compensation as of January 1 of the three consecutive calendar years during the ten consecutive calendar years ending with the calendar year of the determination which produce the highest average. However, if he or she has less than three calendar years of employment, Average Annual Compensation will be based on his or her Compensation for each calendar year during his or her employment.

(2) Article II of the Plan is amended by deleting subsection (a) of the definition of "Early Retirement Date" and substituting the following in lieu thereof:

(a) *With respect to a Nonunion Employee and a Town Union Employee: Early Retirement Date* means the later of the date on which the Participant has reached age fifty-five (55) and has completed at least fifteen (15) Years of Credited Service.

If a Participant is a Nonunion Employee or a Town Union Employee and he or she is permanently laid off, the Participant may purchase up to one Year of Credited Service for purposes of qualifying for early retirement. Any service that the Participant purchases will not be taken into account under the Plan for any purpose other than determining his or her eligibility for early retirement. The amount that the Nonunion Employee or Town Union Employee must pay to purchase the Year of Credited Service will be equal to the increase in the actuarial present value of the annual retirement benefit payable to the Participant at his or her Early Retirement Date. Such actuarial present value will be determined by reference to an interest rate of seven percent (7%) and the mortality table used by the Plan's actuary in preparing the Plan's last actuarial valuation report (but assuming a 50%/50% blend of male/female mortality).

(3) Article II of the Plan is amended by deleting the definition of "Employee" and substituting the following in lieu thereof:

"Employee" means an individual who is performing services for the Employer as a common law employee and includes a Nonunion Employee, a Town Union Employee, a Police Officer Employee, a Firefighter Employee, a Public Works Employee, a Library Employee, a BOE Nonunion Employee, a BOE Assistant/Aide Employee, a BOE Custodian Employee, a BOE Secretary Employee, or a BOE Food Service Employee.

(a) *Nonunion Employee* – an employee of the Town of New Canaan who is not a member of a collective bargaining unit. A Nonunion Employee also includes an elected officer of the Town of New Canaan.

(b) *Town Union Employee* – for the period on and after December 20, 2014, an employee of the Town of New Canaan who is a member of Local 1303-465 of Council #4, American Federation of State, County and Municipal Employees – AFL-CIO.

(c) *Police Officer Employee* – a police officer of the Town of New Canaan who is a member of the Connecticut Council of Police Unions No. 15, AFSCME, AFL/CIO.

(d) *Firefighter Employee* – a firefighter of the Town of New Canaan who is a member of Local 3224, International Association of Fire Fighters.

(e) *Public Works Employee* – an employee of the Department of Public Works of the Town of New Canaan who is member of Local 1303-013 of Connecticut Council #4, American Federation of State, County and Municipal Employees – AFL-CIO.

(f) *Library Employee* – an employee of the Town of New Canaan Public Library.

(g) *BOE Nonunion Employee* – an employee of the Board of Education of the Town of New Canaan who is not a member of a collective bargaining unit, including but not limited to a transportation aide, transportation driver, transportation assistant or special education driver.

(h) *BOE Assistant/Aide Employee* – an employee of the Board of Education of the Town of New Canaan who is an instructional assistant, health office assistant, foreign language aide, supervisory aide, education program specialist or special education assistant and who is a member of the United Public Service Employees' Union (UPSEU) Local 424, Unit 47.

(i) *BOE Custodian Employee* – an employee of the Board of Education of the Town of New Canaan who is a custodian and who is a member of Local 1303-89 of Council 4, American Federation of State, County and Municipal Employees, AFL-CIO.

(j) *BOE Secretary Employee* – an employee of the Board of Education of the Town of New Canaan who is a secretary and who is a member of Local 1303-281 of Council 4, American Federation of State, County and Municipal Employees, AFL-CIO.

(k) *BOE Food Service Employee* – an employee of the Board of Education of the Town of New Canaan who is a food service employee and who is a member of the United Public Service Employees' Union (UPSEU) Local 424, Unit 20.

(4) Article II of the Plan is amended by deleting the definition of "Normal Retirement Age" and substituting the following in lieu thereof:

"Normal Retirement Age" means the following:

(a) *With respect to a Nonunion Employee, a Town Union Employee, a Public Works Employee, a Library Employee, a BOE Nonunion Employee, a BOE Assistant/Aide Employee, a*

BOE Custodian Employee, a BOE Secretary Employee or a BOE Food Service Employee: Normal Retirement Age means the later of the date on which the Participant has reached age sixty-five (65) or the fifth anniversary of the date on which the Participant commenced his or her participation in the Plan.

(b) *With respect to a Police Officer Employee:* Normal Retirement Age means the earlier of: (i) the later of the date on which the Participant has reached age fifty (50) and has completed at least twenty (20) Years of Credited Service; or (ii) the date on which the Participant has completed at least twenty-five (25) Years of Credited Service.

For the period prior to May 1, 2015, Normal Retirement Age meant the later of the date on which the Participant had reached age fifty (50) and had completed at least twenty (20) Years of Credited Service.

(c) *With respect to a Firefighter Employee:* Normal Retirement Age means the later of the date on which the Participant has reached age fifty (50) and has completed at least twenty (20) Years of Credited Service.

(5) Article III of the Plan is amended by deleting Section 3.1(a)(i) and substituting the following in lieu thereof:

(i) *With respect to a Nonunion Employee or a Town Union Employee:* A Nonunion Employee or a Town Union Employee who is first employed or is reemployed by the Employer on or after January 1, 2011 shall not be eligible to participate in the Plan.

(6) Article III of the Plan is amended by deleting Section 3.2(b)(i) and substituting the following in lieu thereof:

(i) *With respect to a Nonunion Employee or a Town Union Employee:* A Nonunion Employee or a Town Union Employee who is reemployed by the Employer on or after January 1, 2011 shall not be eligible to participate in the Plan.

(7) Article IV of the Plan is amended by deleting Section 4.1(a) and substituting the following in lieu thereof:

(i) *For Nonunion Employees:* 0.25% of Compensation

(ii) *For Town Union Employees:*

(A) For the period prior to January 1, 2015: 0.25% of Compensation

- (B) For the period on and after January 1, 2015 and prior to January 1, 2016: 1.00% of Compensation
 - (C) For the period on and after January 1, 2016 and prior to January 1, 2017: 1.75% of Compensation.
 - (D) For the period on and after January 1, 2017 and prior to June 30, 2017: 2.50% of Compensation
 - (E) For the period on and after June 30, 2017: 3.00% of Compensation
- (iii) *For Police Officer Employees:*
- (A) For the period prior to May 1, 2015: 1.00% of Compensation
 - (B) For the period on and after May 1, 2015:
 - For Participants hired on or prior to June 30, 2014: 2.00% of Compensation
 - For Participants hired after June 30, 2014: 8.00% of Compensation.
 - (C) Participant Contributions are not required after a Police Officer Employee completes thirty (30) Years of Credited Service.
- (iv) *For Firefighter Employees:*
- (A) For the period prior to July 1, 2014: 1.00% of Compensation
 - (B) For the period on and after July 1, 2014:
 - For Participants hired prior to July 1, 2014: 2.00% of Compensation
 - For Participants hired on or after July 1, 2014: 8.00% of Compensation.

- (C) Participant Contributions are not required after a Firefighter Employee completes thirty (30) Years of Credited Service.
- (v) *For Public Works Employees:*
 - (A) For the period prior to January 1, 2015: 1.50% of Compensation
 - (B) For the period on and after January 1, 2015 and prior to January 1, 2016: 2.25% of Compensation
 - (C) For the period on and after January 1, 2016: 3.00% of Compensation.
 - (D) For the period on and after July 1, 2014, Participant Contributions are not required after a Public Works Employee completes thirty (30) Years of Credited Service.
- (vi) *For Library Employees:* 2.00% of Compensation
- (vii) *For Nonunion BOE Employees:* 2.00% of Compensation
- (viii) *For BOE Assistant/Aide Employees:* 2.00% of Compensation
- (ix) *For BOE Custodian Employees:* 2.00% of Compensation
- (x) *For BOE Secretary Employees:* 2.00% of Compensation
- (xi) *For BOE Food Service Employees:* 2.00% of Compensation

(8) Article IV of the Plan is amended by deleting Section 4.1(b)(i) and substituting the following in lieu thereof:

(i) A Nonunion Employee, a Town Union Employee, a Police Officer Employee, a Firefighter Employee, a Public Works Employee or a Library Employee can make an election to have the Employer "pick-up" all of the Participant Contributions required to be made to the Plan by such Employee pursuant to subsection (a), as permitted by Section 414(h)(2) of the Code. However, as required by Revenue Ruling 2006-43 and Regulation Section 1.401(k)-1(a)(3)(v), any such election shall be made no later than the date on which the Employee first becomes eligible to participate in the Plan or any other plan or arrangement established by the Employer, and such election shall be irrevocable.

If an Employee makes the irrevocable election described in this subsection (b)(i), the Employer will pay the Participant Contributions otherwise required to be made by the Employee in lieu of having the Participant Contributions paid by the Employee, and the Employee will not have the option of receiving the contributed amounts directly in cash instead of having them paid to the Plan by the Employer. Such Participant Contributions will be treated as Employer contributions for Federal income tax purposes, and will not be included in the current income of the Employee for Federal income tax purposes.

If an Employee does not make the irrevocable election described in this subsection (b)(i), his or her Participant Contributions to the Plan will not be "picked up" by the Employer, and they will be included in the current income of the Employee for Federal income tax purposes.

(9) Article V of the Plan is amended by deleting the heading of Section 5.2(a) and substituting the following in lieu thereof:

(a) *With respect to Nonunion Employees and Town Union Employees:*

(10) Article V of the Plan is amended by deleting Section 5.3(a) and substituting the following in lieu thereof:

(a) *With respect to Nonunion Employees and Town Union Employees:*

A Participant who is a Nonunion Employee or a Town Union Employee can elect to sell back to the Employer any unused sick days that he or she accrued to the extent they exceed one hundred ten (110) days, in multiples of ten sick days up to a maximum of seventy (70) sick days. In addition, such a Participant can elect to sell back to the Employer any unused vacation days that he or she accrued, in multiples of ten vacation days. The maximum number of sick days and vacation days that such a Participant can sell back to the Employer is ninety (90). For every ten sick days or ten vacation days the Participant sells back to the Employer, the product of two and one-half percent (2.5%) or two percent (2.0%) multiplied by the Participant's Years of Credited Service (the "Benefit Percentage") will be increased by one-half of one percent (0.5%). In addition, if the Participant sells back to the Employer at the time of his or her severance from employment the maximum number of ninety (90) sick days and vacation days, the Participant's Benefit Percentage will be increased by an additional one-half of one percent (0.5%). Therefore, if such a Participant sells back to the Employer the maximum number of ninety (90) sick days and vacation days, his or her Benefit Percentage will be increased by the maximum amount of five percent (5%).

(11) Article VI of the Plan is amended by deleting the heading of Section 6.2(b)(i) and substituting the following in lieu thereof:

(i) *With respect to Nonunion Employees, Town Union Employees, Library Employees, BOE Nonunion Employees and BOE Assistant/Aide Employees:*

(12) Article VI of the Plan is amended by deleting Section 6.2(b)(ii) and substituting the following in lieu thereof:

(ii) *With respect to Public Works Employees:*

(A) For the period on and after June 27, 2014, the Participant's vested Accrued Benefit, reduced in accordance with the following schedule:

<i><u>Number of full years between the Annuity Commencement Date and Age 60</u></i>	<i><u>Percentage payable</u></i>
1	94.1%
2	88.0%
3	82.0%
4	76.0%
5	70.0%

The reduction percentage for full years and completed months between the Annuity Commencement Date of the Participant's early retirement benefit and age sixty (60) will be interpolated based on the applicable percentages.

If the Participant has reached age sixty (60) as of his or her Annuity Commencement Date, the Participant's vested Accrued Benefit will not be reduced to reflect commencement after age sixty (60).

(B) For the period prior to June 27, 2014, the Participant's vested Accrued Benefit, reduced in accordance with the following schedule:

<i><u>Number of full years between the Annuity Commencement Date and Normal Retirement Date</u></i>	<i><u>Percentage payable</u></i>
1	94.1%
2	88.0%
3	82.0%
4	76.0%
5	70.0%
6	64.0%
7	58.0%
8	52.0%
9	46.0%
10	41.3%

The reduction percentage for full years and completed months between the Annuity Commencement Date of the Participant's early retirement benefit and the Participant's Normal Retirement Date will be interpolated based on the applicable percentages.

Notwithstanding the above, if the Participant has reached age sixty (60) and has completed at least twenty-five (25) Years of Credited Service as of his or her Annuity Commencement Date, the Participant's vested Accrued Benefit will not be reduced to reflect commencement before his or her Normal Retirement Date.

(13) Article VII of the Plan is amended by deleting the heading of Section 7.1(a) and substituting the following in lieu thereof:

(a) *With respect to Nonunion Employees, Town Union Employees, Library Employees, BOE Nonunion Employees, BOE Assistant/Aide Employees, BOE Custodian Employees, BOE Secretary Employees and BOE Food Service Employees:*

(14) Article IX of the Plan is amended by deleting the heading of Section 9.1(a) and substituting the following in lieu thereof:

(a) *With respect to Nonunion Employees, Town Union Employees, Public Works Employees, Library Employees, BOE Nonunion Employees, BOE Assistant/Aide Employees, BOE Custodian Employees, BOE Secretary Employees and BOE Food Service Employees:*

(15) Article XI of the Plan is amended by deleting the heading of Section 11.1(a) and substituting the following in lieu thereof:

(a) *With respect to Nonunion Employees, Town Union Employees, Public Works Employees, Library Employees, BOE Nonunion Employees, BOE Assistant/Aide Employees, BOE Custodian Employees, BOE Secretary Employees and BOE Food Service Employees:*

(16) Article XI of the Plan is amended by deleting the heading of Section 11.2(a) and substituting the following in lieu thereof:

(a) *With respect to Nonunion Employees, Town Union Employees, Public Works Employees, Library Employees, BOE Nonunion Employees, BOE Assistant/Aide Employees, BOE Custodian Employees, BOE Secretary Employees and BOE Food Service Employees:*

(17) Article XI of the Plan is amended by deleting the heading of Section 11.3(a) and substituting the following in lieu thereof:

(a) *With respect to Nonunion Employees, Town Union Employees, Public Works Employees, Library Employees, BOE Nonunion Employees, BOE Assistant/Aide Employees, BOE Custodian Employees, BOE Secretary Employees and BOE Food Service Employees:*

(18) Article XI of the Plan is amended by deleting the heading of Section 11.4(a) and substituting the following in lieu thereof:

(a) *With respect to Nonunion Employees, Town Union Employees, Public Works Employees, Library Employees, BOE Nonunion Employees, BOE Assistant/Aide Employees, BOE Custodian Employees, BOE Secretary Employees and BOE Food Service Employees:*

(19) All section numbers and cross references thereto are appropriately amended to effectuate the intention of the foregoing amendments.

Dated the 19th day of May, 2015

Witness:

TOWN OF NEW CANAAN,
CONNECTICUT

Cheryl P. Jones

By A. E. Malloy III
Name: Robert E. Malloy III
Title: First Selectman

**AMENDMENT NO. 3 TO
THE FUNDED RETIREMENT PLAN OF
THE TOWN OF NEW CANAAN, CONNECTICUT**

The Funded Retirement Plan of the Town of New Canaan, Connecticut, as amended and restated effective as of January 1, 2013, is hereby amended as follows, effective as of the dates set forth herein:

(1) Effective as of January 1, 2016, Article II of the Plan is amended by deleting subsection (a) of the definition of “Compensation” and substituting the following in lieu thereof:

(a) Compensation means the annual base salary which the Town regularly pays to an Employee. An Employee’s annual base salary excludes any overtime pay, bonuses, gratuities, commissions, retainer fees, benefits, severance pay, allowance for expenses, or other special remuneration.

An Employee’s annual base salary is determined without regard to any reduction for amounts that the Employer contributes on behalf of the Employee: (i) to the Town’s Code Section 125 plan; (ii) to the Town’s Code Section 457(b) nonqualified deferred compensation plan; or (iii) to the Plan.

With respect to a BOE Nonunion Employee who is classified as a transportation aide, transportation driver, transportation assistant or special education driver, solely for purposes of determining his or her Average Annual Compensation and not for purposes of determining his or her Participant Contributions, annual base salary for a calendar year will equal the number of hours that the Employee worked during the prior calendar year (determined by dividing the contributions that the Employee made to the Plan during the prior calendar year by his or her hourly rate of pay when the contributions were made), and then multiplying this number by the Employee’s hourly rate of pay as of January 1 of the applicable calendar year.

With respect to a BOE Secretary Employee, annual base salary shall not include any longevity payments that the Employee receives on or after January 1, 2016. However, annual base salary included longevity payments that the Employee received prior to January 1, 2016.

(2) Effective as of July 1, 2014, Article II of the Plan is amended by deleting subsection (j) of the definition of “Employee” (as amended by Amendment No. 2 to the Plan) and substituting the following in lieu thereof:

(j) *BOE Secretary Employee* – an employee of the Board of Education of the Town of New Canaan who is a secretary and who is a member of the United Public Service Employees’ Union (UPSEU) Local 424, Unit 44.

(3) Effective as of January 1, 2016, Article IV of the Plan is amended by deleting Section 4.1(a) (as amended by Amendment No. 2 to the Plan) and substituting the following in lieu thereof:

- (i) *For Nonunion Employees:*
 - (A) For the period prior to January 1, 2015: 0.25% of Compensation
 - (B) For the period on and after January 1, 2015: 0.50% of Compensation
- (ii) *For Town Union Employees:*
 - (A) For the period prior to January 1, 2015: 0.25% of Compensation
 - (B) For the period on and after January 1, 2015 and prior to January 1, 2016: 1.00% of Compensation
 - (C) For the period on and after January 1, 2016 and prior to January 1, 2017: 1.75% of Compensation.
 - (D) For the period on and after January 1, 2017 and prior to June 30, 2017: 2.50% of Compensation
 - (E) For the period on and after June 30, 2017: 3.00% of Compensation
- (iii) *For Police Officer Employees:*
 - (A) For the period prior to May 1, 2015: 1.00% of Compensation
 - (B) For the period on and after May 1, 2015:
 - For Participants hired on or prior to June 30, 2014: 2.00% of Compensation
 - For Participants hired after June 30, 2014: 8.00% of Compensation.

- (C) Participant Contributions are not required after a Police Officer Employee completes thirty (30) Years of Credited Service.
- (iv) *For Firefighter Employees:*
 - (A) For the period prior to July 1, 2014: 1.00% of Compensation
 - (B) For the period on and after July 1, 2014:
 - For Participants hired prior to
July 1, 2014: 2.00% of Compensation
 - For Participants hired on or after
July 1, 2014: 8.00% of Compensation.
 - (C) Participant Contributions are not required after a Firefighter Employee completes thirty (30) Years of Credited Service.
- (v) *For Public Works Employees:*
 - (A) For the period prior to January 1, 2015: 1.50% of Compensation
 - (B) For the period on and after January 1, 2015 and prior to January 1, 2016: 2.25% of Compensation
 - (C) For the period on and after January 1, 2016: 3.00% of Compensation.
 - (D) For the period on and after July 1, 2014, Participant Contributions are not required after a Public Works Employee completes thirty (30) Years of Credited Service.
- (vi) *For Library Employees:* 2.00% of Compensation
- (vii) *For Nonunion BOE Employees:*
 - (A) For the period prior to February 1, 2016: 2.00% of Compensation
 - (B) For the period on and after February 1, 2016 and prior to February 1, 2017: 3.00% of Compensation
 - (C) For the period on and after February 1, 2017: 4.00% of Compensation

(D) For the period on and after February 1, 2016, Participant Contributions are not required after a Nonunion BOE Employee completes thirty (30) Years of Credited Service.

(viii) *For BOE Assistant/Aide Employees:*

(A) For the period prior to January 1, 2016:
2.00% of Compensation

(B) For the period on and after January 1, 2016 and prior to January 1, 2017: 3.00% of Compensation

(C) For the period on and after January 1, 2017:
4.00% of Compensation

(D) For the period on and after January 1, 2016, Participant Contributions are not required after a BOE Assistant/Aide Employee completes thirty (30) Years of Credited Service.

(ix) *For BOE Custodian Employees:*

(A) For the period prior to January 1, 2016:
2.00% of Compensation

(B) For the period on and after January 1, 2016:

(I) For Participants hired prior to January 1, 2016:

(a) For the period on and after January 1, 2016 and prior to January 1, 2017:
3.00% of Compensation

(b) For the period on and after January 1, 2017:
4.00% of Compensation

(II) For Participants hired on or after January 1, 2016: 8.00% of Compensation.

(C) For the period on and after January 1, 2016, Participant Contributions are not required after a BOE Custodian Employee completes thirty (30) Years of Credited Service.

(x) *For BOE Secretary Employees:*

(A) For the period prior to January 1, 2016:
2.00% of Compensation

- (B) For the period on and after January 1, 2016:
 - (I) For Participants hired prior to January 1, 2016:
 - (a) For the period on and after January 1, 2016 and prior to January 1, 2017: 3.00% of Compensation
 - (b) For the period on and after January 1, 2017: 4.00% of Compensation
 - (II) For Participants hired on or after January 1, 2016: 8.00% of Compensation.
- (C) For the period on and after January 1, 2016, Participant Contributions are not required after a BOE Secretary Employee completes thirty (30) Years of Credited Service.

(xi) *For BOE Food Service Employees:*

- (A) For the period prior to January 1, 2016: 2.00% of Compensation
- (B) For the period on and after January 1, 2016:
 - (I) For Participants hired prior to January 1, 2016:
 - (a) For the period on and after January 1, 2016 and prior to January 1, 2017: 3.00% of Compensation
 - (b) For the period on and after January 1, 2017: 4.00% of Compensation
 - (II) For Participants hired on or after January 1, 2016: 8.00% of Compensation.
- (C) For the period on and after January 1, 2016, Participant Contributions are not required after a BOE Food Service Employee completes thirty (30) Years of Credited Service.

(4) Effective as of January 1, 2016, Article V of the Plan is amended by deleting Section 5.2(d) and substituting the following in lieu thereof:

(d) *With respect to Library Employees:*

Two and one-half percent (2.50%) of the Participant's Average Annual Compensation, *multiplied by the Participant's Years of Credited Service up to a maximum of thirty (30) Years of Credited Service, reduced by the Participant's Maximum Offset Allowance.*

(e) *With respect to BOE Nonunion Employees:*

For the period prior to February 1, 2016, two and one-half percent (2.50%) of the Participant's Average Annual Compensation, *multiplied by the Participant's Years of Credited Service up to a maximum of thirty (30) Years of Credited Service, reduced by the Participant's Maximum Offset Allowance.*

For the period on and after February 1, 2016, two percent (2.00%) of the Participant's Average Annual Compensation, *multiplied by the Participant's Years of Credited Service up to a maximum of thirty (30) Years of Credited Service.*

(f) *With respect to BOE Assistant/Aide Employees, BOE Custodian Employees, BOE Secretary Employees and BOE Food Service Employees:*

For the period prior to January 1, 2016, two and one-half percent (2.50%) of the Participant's Average Annual Compensation, *multiplied by the Participant's Years of Credited Service up to a maximum of thirty (30) Years of Credited Service, reduced by the Participant's Maximum Offset Allowance.*

For the period on and after January 1, 2016, two percent (2.00%) of the Participant's Average Annual Compensation, *multiplied by the Participant's Years of Credited Service up to a maximum of thirty (30) Years of Credited Service.*

(5) All section numbers and cross references thereto are appropriately amended to effectuate the intention of the foregoing amendments.

Dated the 8th day of March, 2016

Witness:

TOWN OF NEW CANAAN,
CONNECTICUT

George H. Blaud, Jr.

By R. S. Melby III
Name: Robert Melby III
Title: FAA Selectman

**AMENDMENT NO. 4 TO
THE FUNDED RETIREMENT PLAN OF
THE TOWN OF NEW CANAAN, CONNECTICUT**

The Funded Retirement Plan of the Town of New Canaan, Connecticut, as amended and restated effective as of January 1, 2013, is hereby amended as follows, effective as of the date set forth herein:

(1) Effective as of January 1, 2015, Article V of the Plan is amended by deleting Section 5.3(d) and substituting the following in lieu thereof:

(d) *With respect to Public Works Employees:*

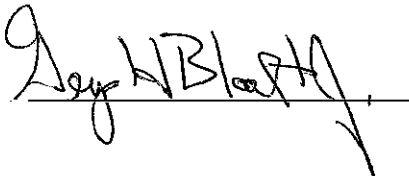
A Participant who is a Public Works Employee can elect to sell back to the Employer any unused sick days that he or she accrued to the extent they exceed one hundred ten (110) days, up to a maximum of twenty-five (25) sick days. In addition, such a Participant can elect to sell back to the Employer any unused vacation days that he or she accrued, up to a maximum of fifty (50) vacation days. For every ten sick days the Participant sells back to the Employer, the product of two and one-fourth percent (2.25%) multiplied by the Participant's Years of Credited Service (the "Benefit Percentage") will be increased by one-half of one percent (0.5%). For every ten vacation days the Participant sells back to the Employer, the Participant's Benefit Percentage will be increased by one-half of one percent (0.5%). In addition, if the Participant sells back to the Employer the maximum number of twenty-five (25) sick days and fifty (50) vacation days, the Employer will increase the Participant's Benefit Percentage by an additional one-half of one percent (0.5%). Therefore, if such a Participant sells back to the Employer the maximum number of twenty-five (25) sick days and fifty (50) vacation days, his or her Benefit Percentage will be increased by the maximum amount of four and one-fourth percent (4.25%).


(2) All section numbers and cross references thereto are appropriately amended to effectuate the intention of the foregoing amendment.

Dated the 12 day of July, 2016

Witness:

TOWN OF NEW CANAAN,
CONNECTICUT



By 

Name:
Title: