

RETIREMENT PLAN
for the EMPLOYEES of the
TOWN OF MADISON,
CONNECTICUT

TABLE OF CONTENTS

PREAMBLE 1

ARTICLE I - DEFINITIONS..... 1

1.01 Accrued Benefit..... 1

1.02 Actuarial Equivalent..... 2

1.03 Annual Compensation; Compensation..... 2

1.04 Average Compensation..... 2

1.05 Beneficiary..... 2

1.06 Credited Service; Service..... 3

1.07 Effective Date of the Plan..... 3

1.08 Employee..... 3

1.09 Employer..... 3

1.10 Pension Fund..... 3

1.11 Hours of Service..... 4

1.12 Participant..... 4

1.13 Participation Date..... 4

1.14 Periods of Absence..... 4

1.15 Plan..... 4

1.16 Plan Year..... 4

1.17 Retirement Board..... 5

1.18 Selectmen..... 5

1.19 Spouse..... 5

1.20 Town..... 5

1.21 Town Dispatchers..... 5

1.22 Trust or Trust Fund..... 5

1.23 Trustee..... 6

1.24 Unaffiliated Participant..... 6

ARTICLE II – PARTICIPATION IN THE PLAN..... 6

2.01 Condition of Participation..... 6

2.02 Participation Under The Plan..... 6

ARTICLE III – RETIREMENT DATES..... 2

3.01 Normal Retirement Date..... 2

3.02 Special Retirement Date..... 2

3.03 Disability Retirement Date..... 2

3.04 Deferred Retirement Date..... 2

3.05 Early Retirement Date..... 2

ARTICLE IV – EMPLOYER CONTRIBUTIONS..... 2

4.01 Amount of Employer Contributions..... 2

4.02 Employee Contribution..... 3

4.03 Forfeitures..... 3

4.04 Irrevocability of Contributions..... 3

ARTICLE V – AMOUNT OF BENEFIT 2

5.01 Normal Retirement Benefit..... 2

5.02 Deferred Retirement Benefit..... 2

5.03 Early Retirement Benefit..... 2

5.04 Special Retirement Benefit..... 2

5.05 Annuity Purchase..... 2

5.06	Military Buy-Back Option.....	2
5.07	Maximum Benefit Limitation.....	3
5.08	Qualified Military Service Provisions.....	4
ARTICLE VI – OPTIONAL FORMS OF BENEFITS.....		5
6.01	Standard Retirement Benefits.....	5
6.02	Optional Retirement Benefit.....	5
6.03	Method of Election.....	4
6.04	Designation of Beneficiaries and Co-Annuitants.....	2
6.05	Required Minimum Distributions.....	2
ARTICLE VII – DEATH BENEFITS.....		7
7.01	Death Prior to Normal Retirement.....	7
7.02	Death Subsequent to Retirement.....	2
7.03	Spouse’s Retirement Benefit.....	2
7.04	Employee Contributions.....	2
ARTICLE VIII – TERMINATION OF EMPLOYMENT.....		2
8.01	Vesting.....	2
8.02	Re-Employment After Termination.....	2
ARTICLE IX – ADMINISTRATION OF THE PLAN.....		2
9.01	Plan Administrator.....	2
9.02	General Powers and Duties.....	2
9.03	Employment of Agents and Counsel.....	2
9.04	Annual Plan Review and Submission of Actuarial Data.....	2
ARTICLE X – PENSION FUND.....		2
10.01	Pension Fund.....	2
10.02	Designation of Trustee or Insurer.....	2
10.03	Designation of Pension Funds.....	2
10.04	Rights in Pension Fund.....	2
10.05	Limitation of Liability.....	2
ARTICLE XI - TRUST AND TRUSTEE.....		2
11.01	Establishment of Trust.....	2
11.02	General Powers of the Trustee.....	2
11.03	Specific Powers of the Trustee.....	2
11.04	Expenses and Compensation of Trustee.....	2
11.05	Accounting.....	3
11.06	Procedures for Succession of Trustee.....	3
11.07	Superseding Trust or Custodial Agreement.....	3
ARTICLE XII – AMENDMENT AND TERMINATION.....		4
12.01	Amendment.....	4
12.02	Termination.....	4
12.03	Provisions to Prevent Discrimination.....	2
12.04	Funds Remaining After Distribution of All Benefits.....	2
ARTICLE XIII – MISCELLANEOUS.....		2
13.01	Minors and Incompetents.....	2
13.02	Non-Assignability of Benefits.....	2
13.03	Non-Liability of Town.....	2
13.04	Tenure of Employment.....	2
13.05	Separability of Provisions.....	3
13.06	Unclaimed Benefits.....	3

13.07 Applicable Law..... 3

PREAMBLE

The Retirement Plan for the Employees of the Town of Madison, Connecticut (“Plan”) adopted on July 20, 1965, is hereby amended and restated in its entirety effective July 1, 2017. The Plan, as amended and restated, is intended to qualify as a defined benefit pension plan under Internal Revenue Code (“Code”) Section 401(a). It is also intended to be maintained in the form of a Governmental Plan, thereby eliminating the requirements to adhere to the Employee Retirement Income Security Act of 1974 and certain provisions of the Code.

Except as otherwise specifically provided in the Plan, this amended and restated Plan shall be effective as of July 1, 2017, and the rights of any person who did not have an Hour of Service under the Plan on or after July 1, 2017, shall generally be determined in accordance with the terms of the Plan as in effect on the date for which he was last credited with an Hour of Service.

There shall be created under this agreement an amended and restated Plan to be known as the Retirement Plan for the Employees of the Town of Madison, Connecticut. The Town shall continue this Plan for all eligible Employees, as set forth in the Plan document. The Plan is maintained for the exclusive benefit of eligible Employees and their Beneficiaries.

This amended and restated Plan is intended to comply with the Governmental Plan applicable requirements of the Internal Revenue Code of 1986, as amended by subsequent legislation, including the Pension Protection Act of 2006, the Heroes Earnings Assistance and Tax Relief Act of 2008 (HEART), the Worker, Retiree and Employer Recovery Act of 2008 (WRERA), and to comply with all applicable rulings and Regulations thereunder.

ARTICLE I - DEFINITIONS

The following terms have the meanings specified below unless the context otherwise requires:

1.01 Accrued Benefit

Accrued Benefit shall mean a Participant’s retirement benefit based on the following formula and paid out in a single life annuity:

An annual retirement benefit guaranteed for life, equal to one and three quarters percent (1 ³/₄%) of the Participant’s Average Compensation for each Year of Credited Service, prorated for any fractions of a year. However, a Participant’s Accrued Benefit will not exceed 70% of Average Compensation.

Notwithstanding the above, a Town Dispatcher’s, Accrued Benefit means his annual retirement benefit guaranteed for life and paid out in a single life annuity, composed of two parts: (a) for Credited Service earned prior to July 1, 2008, a benefit equal to two and fifteen hundredths percent (2.15%) of the Participant’s Average Compensation for each such Year of Credited Service, prorated for any fractions of a year, plus (b) for Credited Service earned on or after July 1, 2008, a benefit equal to two and one quarter percent (2.25%) of the Participant’s Average Compensation for each Year of Credited Service, prorated for any fractions of a year. However, a Town Dispatcher’s Accrued Benefit will not exceed 70% of Average Compensation.

1.02 Actuarial Equivalent

Actuarial Equivalent means equivalence in value at a given point in time between different forms of benefits or benefits payable commencing on dates other than the Normal Retirement Date. Actuarial Equivalent shall be determined without regard to a Participant's gender, on the basis of the following assumptions:

Mortality: The mortality table published in IRS Notice 2016-50, which is the applicable mortality table as defined in Code Section 417(e)(3)(A)(ii)(1) that applies to Plan Years beginning in 2017, without regard to any future updates.

Interest: 6%

Effective December 31, 2002 for purposes of adjusting any benefit or limitation under Section 415(b)(2)(B), (C) or (D) of the Internal Revenue Code as set forth in Section 5.07 of the Plan, the Mortality Assumption to be used will be the 1994 Group Annuity Reserving (94 GAR) table, projected to 2002, based on a fixed blend of 50% of the unloaded male mortality rates and a fixed blend of 50% of the unloaded female mortality rates or successor provisions for determining the "applicable mortality table" as defined in Section 417(e)(3)(A)(ii)(I) of the Code.

1.03 Annual Compensation; Compensation

Compensation shall mean the Participant's Plan Year base salary, paid by the Town for his services. Compensation does not include any pay that is in addition to base pay, such as overtime pay, sick pay, accrued vacation pay, and other similar payments.

Annual Compensation for any Plan Year (12-month determination period) shall not exceed the Code Section 401(a)(17) Annual Compensation Limit. If a determination period consists of fewer than 12 months, the Code Section 401(a)(17) Annual Compensation Limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12. If Compensation for any prior determination period is taken into account in determining a Participant's Plan benefits for the current Plan Year, the Compensation for such prior determination period is subject to the applicable Code Section 401(a)(17) Annual Compensation Limit as in effect for that prior period.

1.04 Average Compensation

Average Compensation shall mean the average Annual Compensation of a Participant over those five highest consecutive Plan Years prior to his actual retirement or termination of employment.

1.05 Beneficiary

Beneficiary shall mean any person, person's estate or trust designated to receive benefits of a Participant as a result of his death as provided under Article VII of the Plan.

1.06 Credited Service; Service

Service shall mean the total period of employment as an Employee shown on the payroll records of the Town commencing with the first date of initial participation under this Plan and continuing to the date of said participant's death, retirement, or termination of such employment. Credited Service is determined by counting calendar months of service. A month of service is any month in which the Employee is employed for at least fifteen days (15) of the month. Twelve calendar months of service shall equal one Year of Credited Service. Credited Service shall not include any other employment with the Town of Madison. An Employee who has served on active duty with the Armed Forces of the United States prior to or during his service with the Town may elect a military buy-in option as described in Section 5.08 of the Plan.

Should any Participant qualify for a retirement benefit under any other retirement plan covering Town of Madison Employees, or Employees of any subdivision of the Town, or Employees of any entity or organizations for which the Town pays the cost, either directly or indirectly, such Participant's Credited Service under this Plan shall be limited to his employment as an eligible Employee under this Plan and no other retirement plan covering Town of Madison Employees.

Effective December 12, 1994, notwithstanding any provision in the Plan to the contrary, the Plan will provide contributions, benefits and service credit with respect to qualified military service as required under Code Section 414(u).

1.07 Effective Date of the Plan

Effective Date shall mean the effective date of this restatement, which is July 1, 2017 (except for those Sections of the Plan that have alternative effective dates). The Plan's original Effective Date was August 2, 1965.

1.08 Employee

Employee shall mean any full-time person regularly employed by the Town; it shall exclude any person currently earning credits toward a benefit under the Town of Madison Police Department Retirement Plan, and any employee eligible to participate in the State of Connecticut Teacher's Retirement Plan, and employees covered by any other retirement plan funded directly or indirectly by the Town. Notwithstanding the preceding sentence, a person who is otherwise qualified to be a Participant in the Plan shall not be excluded from participation in the Plan because he or she is a participant in the Town of Madison Volunteer Fire Companies' Defined Benefit Pension Plan. A full-time Employee shall be such person whose normal work period is for 30 or more hours per week and for at least 9 months during the year.

1.09 Employer

Employer shall mean the Town of Madison, Connecticut.

1.10 Pension Fund

Pension Fund shall mean all assets under this Plan.

1.11 Hours of Service

Hour of Service shall mean each hour for which an Employee is paid or entitled to payment for the performance of duties for the Town of Madison for the applicable computation period, including each hour for which an Employee is paid or entitled to be paid on account of a period of time during which no duties are performed, due to vacation, holiday, illness, incapacity, including disability, jury duty, and other Periods of Absence as contemplated in paragraph 1.14 of this Article.

1.12 Participant

Participant shall mean any Employee who qualifies to participate in the Plan and continues to qualify under Article II.

1.13 Participation Date

Participation Date shall be the Employee's date of employment as shown on the payroll records of the Town.

1.14 Periods of Absence

Periods of Absence to the extent provided for as defined in this Section shall not constitute an interruption in the Credited Service of such Participant. Periods of Absence within the meaning of this Section are:

- (a) Leave not to exceed one year due to illness, disability, education reasons, approved by the Retirement Board in writing;
- (b) Voluntary or involuntary active service (but not periods of re-enlistment) in the armed forces of the United States while any law requiring military service is in effect;
- (c) Other absence similar in nature not to exceed one year, specifically approved by the Retirement Board in writing;
- (d) Suspension from active employment provided the Participant is thereafter reinstated within one year from the date of suspension.

If any Employee fails to return to work on the date fixed by the Retirement Board, with respect to any leave (or within ninety (90) days following military service or such required period as may be directed by law for the protection of his employment rights following military service), his Credited Service shall be determined to have ended on the date preceding such absence.

1.15 Plan

Plan shall mean the amended and restated Retirement Plan for the Employees of the Town of Madison, Connecticut and as it may be further amended from time to time hereafter.

1.16 Plan Year

Plan Year shall mean the fiscal year of the Plan commencing on July 1st of a calendar year and ending June 30th of the succeeding calendar year.

1.17 Retirement Board

Retirement Board shall mean the Employee Retirement Board appointed under Section 8.1 of the Town Charter. The Retirement Board shall perform certain administrative functions, as provided under Article IX.

The Retirement Board shall consist of five members, including a member of the Board of Selectmen designated by the Board of Selectmen (the “Designee Member”), but excluding any other person who is a Participant or Beneficiary. The Designee Member shall serve as Chairman of the Retirement Board. The Designee Member shall serve for the duration of his or her term of office as a Selectman. The four other members of the Retirement Board shall be appointed by the Board of Selectmen, and shall serve four-year terms. Commencing upon their respective dates of appointment and terminating at the end of four years. Vacancies on the Retirement Board shall be filled for the unexpired term by the Board of Selectmen.

Members of the Retirement Board shall serve without compensation for acting as such.

The Retirement Board shall act by a majority vote of its members including the vote of the Designee Member.

The Retirement Board will meet at least twice a year.

1.18 Selectmen

Selectmen shall mean the Board of Selectmen of the Town of Madison or a majority of such Board.

1.19 Spouse

A Participant's Spouse shall mean the person to whom the Participant is married as a result of a marriage recognized under the laws of any domestic or foreign jurisdiction having the legal authority to sanction marriages. The term "Spouse" includes a former Spouse who is treated as his Spouse under the terms of a qualified domestic relations order, as defined in Code Section 414(p).

1.20 Town

Town shall mean the Town of Madison, Connecticut. “Town” or “Employer” may be used interchangeably to mean Town of Madison.

1.21 Town Dispatchers

Town Dispatchers shall mean the Emergency Communications and Records Employees covered by the United Public Service Employees Union and hired prior to July 1, 2015.

1.22 Trust or Trust Fund

Trust, Trust Fund and Pension Fund mean the assets of the Plan.

1.23 Trustee

Effective July 1, 2017, Trustee shall mean the Town.

1.24 Unaffiliated Participant

An Unaffiliated Participant shall mean a Participant employed in a supervisory, white collar, non-union capacity.

ARTICLE II – PARTICIPATION IN THE PLAN

2.01 Condition of Participation

The following Employees, as the term is defined by Section 1.08, shall be eligible for Participation:

- (a) Building and Grounds Employees covered by the United Public Service Employees Union and hired prior to July 1, 2013
- (b) Emergency Communications and Records Employees (Town Dispatchers) covered by the United Public Service Employees Union and hired prior to July 1, 2015
- (c) Laborers, Truck Drivers, Equipment Operators and Landfill Operators covered by the Teamsters Local Union #443 and hired prior to July 1, 2013
- (d) Supervisors and other Employees not covered by a collective bargaining agreement and hired prior to July 1, 2013
- (e) The following categories of Department of Education Employees:
 1. Secretarial
 2. Student supervising
 3. Instructional, Technology & Library Paraprofessionals
 4. Nursing and School Health Services
 5. Cafeteria workers covered by the National Association of Government Employees Collective Bargaining Agreement between the Madison Board of Education and the cafeteria employees unit and hired prior to July 1, 2017
 6. Supervisors and other Employees not covered by a collective bargaining
 7. School Security
 8. Non-certified related services staff (i.e. OT, PT, BCBA, etc.)
 9. Nurse Manager
 10. Administrative Assistants
 11. Directors
 12. Benefits Specialist
 13. Non-union Technology

2.02 Participation Under The Plan

An Employee who was a Participant of the Plan on July 1, 2017 will continue to participate in the Plan. Those Participants who have already retired prior to the Effective Date of this amendment and restatement, will continue to receive their Accrued Benefits.

ARTICLE III – RETIREMENT DATES

3.01 Normal Retirement Date

The Normal Retirement Date of any Participant in the Plan shall be the first day of the month coinciding with or next following his attaining the age of sixty-five (65), after having completed five (5) Years of Credited Service, or at such later age when he has completed five (5) Years of Credited Service.

3.02 Special Retirement Date

A Participant will be eligible for retirement without loss of retirement benefits on a Special Retirement Date which shall be the first day of the calendar month coincident with or next following his attainment of age sixty (60) or older and completing thirty (30) or more Years of Credited Service. This shall not affect the Normal Retirement Date defined in Section 3.01.

An Unaffiliated Participant who terminates employment with the Town after completing thirty (30) or more Years of Credited Service but before age sixty (60) will be eligible to receive an unreduced benefit at the age of sixty (60). This shall not affect the Normal Retirement Date defined in Section 3.01.

3.03 Disability Retirement Date

There shall be no retirement resulting from disability. Participants who accrued benefits under the Plan and who terminate employment due to a disability may be eligible to receive a benefit pursuant to Section 8.01.

3.04 Deferred Retirement Date

A Participant able to satisfactorily perform his duties may remain in active employment after his Normal Retirement Date. The first day of the calendar month coincident with or next following such actual retirement shall be his Deferred Retirement Date.

3.05 Early Retirement Date

Any Participant who has completed five (5) Years of Credited Service, and has attained the age of 55, may retire and commence to receive his benefits on or after his Early Retirement Date, prior to his Normal Retirement Date, which shall be the first day of any month coincident with or subsequent to such Early Retirement Date.

ARTICLE IV – EMPLOYER CONTRIBUTIONS

4.01 Amount of Employer Contributions

The Town shall contribute annually such amounts as may be determined by its actuarial advisor as sufficient to provide the retirement benefits provided under the Plan. Payments by the Town shall be subject to annual budgetary and appropriation requirements of the Connecticut General Statutes and/or any Charter adopted by the Town, and except as provided in any Collective Bargaining Agreement with the Town,

the Town shall incur no liability to make such payments and shall not be under any liability to any person for the failure to make such payment or payments.

4.02 Employee Contribution

Prior to July 1, 2017, the provisions of this Section shall be in accordance with the terms of the Plan prior to July 1, 2017.

A Town Dispatcher who is a Participant is required to make pre-tax deferral contributions (Employee contributions) of 2% of his Compensation each payroll period to the Plan. These Employee contributions will be credited with interest on an annual basis using 120% of the Federal Midterm Rate as of the first day of each Plan Year prorated for a partial Plan Year based on a 365-day year.

Effective December 30, 2008, the Town of Madison affirmed its intention to establish and maintain a pick-up arrangement under Section 414(h)(2) of the Code as follows:

- a. The Town shall pick- up Employee contributions to the Plan and such contributions shall be treated as Employer contributions in determining their tax treatment under the Internal Revenue Code. Such contributions shall not be included in the gross income of the Employees for purposes of any tax withholding.
- b. Although designated as Employee Contributions, such contributions are to be made by the Town and the affected Employees shall not be entitled to choose between receiving the contributed amounts directly instead of having them paid by the Town to the Plan.

4.03 Forfeitures

Forfeitures, if any, arising from Participant Terminations as determined by the Plan actuary or from unclaimed benefits as described in Section 13.06 of the Plan shall be used to reduce contributions of the Employer and shall not be applied to increase any benefits under the Plan.

4.04 Irrevocability of Contributions

All contributions to the Trust shall be irrevocable by the Employer and no asset held by the Trustee, nor any Policy, may be used for, or diverted to, purposes other than for the exclusive benefit of the Participants or their Beneficiaries and for defraying reasonable expenses of administration of the Plan.

Notwithstanding the foregoing to the contrary, upon the Employer's request, a contribution, which was conditioned upon qualification of the Plan, or any amendment thereof, shall be returned to the Employer within one year after the denial of the qualification. In addition, upon the Employer's request, a contribution made by reason of a mistake of fact, shall be returned to the Employer provided such return is made within one year of the date on which the contribution was made.

ARTICLE V – AMOUNT OF BENEFIT

5.01 Normal Retirement Benefit

A Participant who retires on his Normal Retirement Date shall receive a Normal Retirement Benefit, which shall be equal to his Accrued Benefit.

5.02 Deferred Retirement Benefit

A Participant who retires on a Deferred Retirement Date shall receive a Deferred Retirement Benefit equal to his Accrued Benefit.

5.03 Early Retirement Benefit

A Participant who retires on his Early Retirement Date shall receive an Early Retirement Benefit which shall be equal to his Accrued Benefit, actuarially reduced for commencement prior to his Normal Retirement Date.

5.04 Special Retirement Benefit

A Participant who retires on his Special Retirement Date shall receive a Special Retirement Benefit, which shall be equal to his Accrued Benefit, without adjustment for commencement prior to his Normal Retirement Date.

5.05 Annuity Purchase

Benefits may be paid out of the Plan itself or, at the discretion of the Board of Selectmen, benefits may be provided through the purchase of annuities.

5.06 Military Buy-Back Option

An Employee who has served on active duty with the Armed Forces of the United States, prior to or during his service with the Town of Madison, may elect to purchase up to a maximum of five (5) additional Years of Credited Service. The entire cost of purchasing such additional Credited Service, as determined by the Plan's actuary, shall be borne by the Employee. The cost of purchasing such additional Credited Service shall be equal to the Present Value of the Accrued Benefit resulting from the additional Credited Service, calculated using the actuarial method and assumptions that were used in the most recent published actuarial funding valuation. Each such Employee shall pay the buy-back amount thus determined to the Trust in one of the following modes:

- (a) A single lump sum
- (b) Equal annual payments amortized with interest over not more than five (5) years
- (c) Equal payments per pay period amortized with interest over not more than five (5) years The Credited Service purchased shall not be for the purpose of advancing the Participant's retirement date.

The Credited Service purchased shall not be for the purpose of advancing the Participant's retirement date.

5.07 Maximum Benefit Limitation

- (a) The statutory maximum amount of yearly retirement income payable during any Limitation Year shall be determined in accordance with the provisions of Section 415 of the Code and any regulations issued pursuant thereto as it applies to governmental plans.
- (b) For purposes of this Section 5.07, the term "Limitation Year" shall mean a calendar year.
- (c) A Participant's "415 compensation" with respect to a "Limitation Year" means the wages within the meaning of Code Section 3401(a) (for purposes of income tax withholding at the source), determined without regard to any rules that limit compensation included in wages based on the nature or location of the employment or services performed, and all other payments made to him in the course of employment with an Employer or an "affiliated employer" for which his employer is required to furnish the Participant a written statement under Sections 6041(d), 6051(a)(3) and 6052 of the Code (commonly referred to as W 2 earnings).

"415 compensation" includes (1) any elective deferral, as defined in Code Section 402(g)(3) and (2) any amount contributed or deferred by the Employer at the Participant's election which is not includable in the Participant's gross income by reason of Code Sections 125, 132(f)(4) or 457. For purposes of this paragraph, amounts under a group health plan that a Participant cannot receive in cash in lieu of coverage under the group health plan because the Participant cannot certify that he has other health coverage will nevertheless be deemed to be excluded from the Participant's taxable income pursuant to Code Section 125 provided that the Participant's Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

If a Participant has a severance of employment as defined in Regulation Section 1.415(a)-1(f)(5) with the Employer and all "affiliated employers", "415 compensation" does not include amounts received by the Participant following such severance except amounts paid before the later of the close of the "Limitation Year" in which the Participant's employment terminates or within 2½ months of such severance if such amounts (1) would have been paid to the Participant in the course of his employment and are regular compensation for services during the Participant's regular working hours, compensation for services outside the Participant's regular working hours (such as overtime or shift differential pay), commissions, bonuses, or other similar compensation or (2) are payments for accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use such leave if his employment had continued and such amounts would have been includable in "415 compensation" if his employment had continued. For purposes of this subsection, a Participant will not be considered to have a severance from employment if his new employer continues to maintain the plan with respect to such Participant.

Notwithstanding the foregoing, amounts paid by the Employer or an "affiliated employer" to a Participant who is not performing services for the Employer or "affiliated employer" due to qualified military service (within the meaning of Code Section 414(u)(1)) shall be included as "415 compensation" to the extent such amounts do not exceed the amounts the Participant would have received if he had continued in employment with the Employer or "affiliated employer".

In no event, however, shall the compensation of a Participant taken into account under the Plan for any "Limitation Year" exceed the Code Section 401(a)(17) limit in effect for such "Limitation Year" (\$270,000 for the "Limitation Year" beginning in 2017, subject to adjustment annually as provided in Code Section 401(a)(17)(B) and Code Section 415(d); provided, however, that the dollar increase in effect on January 1 of any calendar year, if any, is effective for "Limitation Years" beginning in such calendar year. Effective for "Limitation Years" beginning on and after July 1, 2007, the limit described in this paragraph shall be applied annually to "415 compensation" earned in such "Limitation Year" and "415 compensation" for a "Limitation Year" shall not increase as a result of an increase in the Code Section 401(a)(17) limit applicable to a future "Limitation Year".

To be included in a Participant's "415 compensation" for a particular "Limitation Year", an amount must have been received by the Participant (or would have been received, but for the Participant's election under Code Sections 125, 132(f)(4), 401(k), 402(h)(1)(B), 403(b), 408(p)(2)(A)(i), or 457) within such "Limitation Year".

A "predecessor employer" means (a) any former employer with respect to which an Employer or "affiliated employer" maintains a plan that provides benefits that the Participant accrued while performing services for such other employer or (b) a former entity that antedates an Employer or an "affiliated employer" if under the facts and circumstances the Employer or "affiliated employer" constitutes a continuation of all or a part of the trade or business of the former entity.

5.08 Qualified Military Service Provisions

- (a) Effective January 1, 2009, notwithstanding any other provision of the Plan to the contrary, if a Participant is absent from employment as an Employee to perform service in the uniformed services (as defined in Chapter 43 of Title 38 of the United States Code), his Compensation will *not* include any differential pay, as defined hereunder, he receives or is entitled to receive from his Employer. For purposes of this paragraph, "differential pay" means any payment made to the Participant by the Employer with respect to a period during which the Participant is performing service in the uniformed services while on active duty for a period of more than 30 days that represents all or a portion of the wages the Participant would have received if he had continued employment with the Employer as an Employee.
- (b) Effective July 1, 2009, notwithstanding any other provision of the Plan to the contrary, if a Participant is absent from employment as an Employee to perform service in the uniformed services (as defined in Chapter 43 of Title 38 of the United States Code), his "415 compensation" will include any differential pay, as defined hereunder, he receives or is entitled to receive from his Employer. For purposes of this paragraph, "differential pay" means any payment made to the Participant by the Employer with respect to a period during which the Participant is performing service

in the uniformed services while on active duty for a period of more than 30 days that represents all or a portion of the wages the Participant would have received if he had continued employment with the Employer as an Employee.

- (c) If a Participant who is absent from employment as an Employee because of military service dies after December 31, 2006, while performing qualified military service (as defined in Code Section 414(u)), the Participant shall be treated as having returned to employment as an Employee on the day immediately preceding his death for purposes of determining the Participant's vested interest in his Accrued Benefit and his Beneficiary's eligibility for a survivor benefit under the Plan. Notwithstanding the foregoing, such a Participant shall not be entitled to additional accruals with respect to his period of military leave.

ARTICLE VI – OPTIONAL FORMS OF BENEFITS

6.01 Standard Retirement Benefits

The retirement benefits provided for in Article V herein shall be a monthly life annuity commencing as of the first day of the month coincident with or next following the “Retirement Dates” specified in Article III and such retirement benefits shall terminate with the monthly payment coinciding with or preceding the date of death of the Participant. This monthly life annuity is sometimes herein referred to as the “Standard Retirement Benefit.”

6.02 Optional Retirement Benefit

In lieu of the Standard Retirement Benefit described in Section 6.01, a Participant may, with the approval of the Plan Administrator, elect a form of benefit under Option A or Option B as described herein:

Option A – Joint and Survivor Option

A Participant may elect to receive a reduced retirement benefit payable monthly during his lifetime, after his retirement pursuant to the Plan, with payments to continue after his death to a Co-Annuitant designated by the Participant and terminating with the first day of the month coinciding with or preceding the date of death of the Co-Annuitant. The reduced retirement benefit for the Participant and the Co-Annuitant shall be the actuarial equivalent of the Participant's Standard Retirement Benefit. The joint and survivor option may be joint and equal benefits, or joint and 50% of the standard benefit, actuarially reduced to reflect the additional life.

Option B – 120 Months Certain

A Participant may elect to receive a retirement benefit which shall be payable monthly during his lifetime after his retirement pursuant to the Plan and continuing to the first day of the month in which the Participant's death occurs, provided, however, that not less than 120 monthly payments shall be made to the Participant and/or his surviving Beneficiary. The retirement benefit for the Participant shall be the actuarial equivalent of the Participant Standard Retirement Benefit as described in Section 6.01.

6.03 Method of Election

Election to have benefits payable under any options described herein shall be made in writing on a form prescribed by the Plan Administrator. Such elections shall be at least thirty (30) days prior to the Participant's Normal Retirement Date.

6.04 Designation of Beneficiaries and Co-Annuitants

- (a) Each Participant electing to retire under the Option B shall designate in writing a Beneficiary(ies) to receive the retirement benefit payable under Option B, in the event of the Participant's death after his retirement, but before he has received one hundred twenty (120) months of benefits payments. Such Beneficiary(ies) designated may be changed by the Participant upon filing such change with the Retirement Board in a form approved for such payment. In the event of the death of the Participant and his Beneficiary(ies) before one hundred and twenty (120) monthly payments have been made, the commuted value of the balance of such payments shall be paid in a lump sum to the Executor, or Administrator of the estate of the survivor of the Participant and his Beneficiary(ies).
- (b) Each Participant, in electing to retire under Option A hereunder, shall designate a Co-Annuitant. The designation of a Co-Annuitant may be changed by the Participant at any time that the election of the option would be revocable pursuant to this Section 6.04. The death of a Co-Annuitant before the actual retirement of a Participant who has elected Option A shall automatically effect a revocation of such election and such Participant's retirement benefit shall be payable as if such election had not been made. The Standard Retirement Benefit shall be in effect, if the Participant makes no further election.

No Participant shall, prior to his retirement, make an irrevocable election, the effect of which would be to have all or part of his non-forfeitable interest at retirement, paid only to his designated Beneficiary after his death which would otherwise have become available to the Participant during his lifetime, provided, however, that this limitation shall not prevent the election of any annuity or an annuity for life with survivorship periods certain or refund options. In the event of a distribution under this Plan for any reason other than death, any option providing for annuity payments shall provide for installment payments for a period not in excess of the life expectancy of the Participant and his Beneficiary(ies). Each periodic payment to a Beneficiary shall be no greater than the periodic payments to a Participant during his lifetime.

6.05 Required Minimum Distributions.

The provisions of this Article apply for purposes of determining required minimum distributions.

- (a) **General Rules.** The requirements of this Article will take precedence over any inconsistent provisions of the Plan and any prior amendments thereto. All distributions required under this Article will be determined and made in accordance with the regulations under Code Section 401(a)(9). Notwithstanding the foregoing and notwithstanding any provision in the Plan to the contrary, if a Participant made a distribution election prior to January 1, 1984 pursuant to Section 242(b) of the Tax

Equity and Fiscal Responsibility Act (TEFRA), the Participant's benefit will be distributed at the time and in the manner set forth in the election, as long as: (1) the election has not been revoked; and (2) the election provides a method for the distribution of benefits which satisfies the provisions of Code Section 401(a)(9) that were in effect prior to the enactment of TEFRA. This governmental Plan will comply with the required minimum distribution rules of Code Section 401(a)(9) by using a reasonable and good faith interpretation of the statute.

(b) Time And Manner Of Distributions.

- (1) **Required Beginning Date.** 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.
- (2) **Death Of Participant Before Distributions Begin.** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or will begin to be distributed, no later than as follows:
 - (i) **Surviving Spouse Is Sole Designated Beneficiary.** If the Participant's surviving Spouse is the sole designated beneficiary, then subject to paragraph (b)(2)(v) below, 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 70½, if later.
 - (ii) **Spouse Is Not Sole Designated Beneficiary.** If the Participant's surviving Spouse is not the sole designated beneficiary, then subject to paragraph (b)(2)(v) below, 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) **No Designated Beneficiary.** If there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, then 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) **Surviving Spouse Is Sole Designated Beneficiary And Dies Before Distributions Occur.** If the Participant's surviving Spouse is the sole designated beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this paragraph (b)(2) (other than paragraph (b)(2)(i) above) will apply as if the surviving Spouse were the Participant.
 - (v) **5-Year Distribution Rule.** If the Participant dies before distributions begin and there is a designated beneficiary, distribution to the designated beneficiary is not required to begin by the date specified in paragraph (b)(2)(i) or (ii) above if the Participant's entire interest is distributed to the designated beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death. In addition, a designated beneficiary who is receiving payments under this 5-year rule may make a new election to receive payments under the life expectancy rule until December 31, 2003,

provided that all amounts that would have been required to be distributed under the life expectancy rule for all Distribution calendar years before 2004 are distributed by the earlier of December 31, 2003 or the end of the 5-year period.

For purposes of this paragraph (b)(2) and paragraph (e) below, distributions are considered to begin on the Participant's Required Beginning Date (or, if paragraph (b)(2)(iv) above applies, the date distributions are required to begin to the surviving Spouse under paragraph (b)(2)(i) above). 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 paragraph (b)(2)(i) above), the date distributions are considered to begin is the date they actually begin.

- (3) **Form Of Distribution.** 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 paragraphs (c)-(e) below. 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 Code Section 401(a)(9) and the regulations.

(c) Determination Of Amount Distributed Each Year.

- (1) **General Annuity Requirements.** If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity shall 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 paragraphs (d) or (e) below; (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; and (iv) payments will either be non-increasing 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 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 paragraph (d) below dies or is no longer the Participant's Beneficiary under a qualified domestic relations order within the meaning of Code Section 414(p), (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.
- (2) **Amount Required To Be Distributed By The Required Beginning Date.** 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 paragraph (b)(2)(i) or (ii) above) 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.

- (3) **Additional Accruals After First Distribution Calendar Year.** 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 the additional benefits accrue.
- (d) **Requirement For Annuity Distributions That Commence During Participant's Lifetime.**
- (1) **Joint Life Annuities Where Beneficiary Is Not Participant's Spouse.** 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 in Regulation Section 1.401(a)(9)-6T, Q&A-2. 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.
 - (2) **Period Certain Annuities.** Unless the Participant's Spouse is the sole designated beneficiary and the form of distribution is a period certain and not a 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 Regulation Section 1.401(a)(9)-9 for the calendar year that contains the Annuity Starting Date. If the Annuity Starting Date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Regulation Section 1.401(a)(9)-9 plus the excess of 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 sole Designated Beneficiary and the form of distribution is a period certain and not a life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this paragraph (d)(2), 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 in Regulation Section 1.401(a)(9)-9, 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.
- (e) **Requirements For Minimum Distributions If Participant Dies Before Distributions Begin.**
- (1) **Participant Survived By Designated Beneficiary.** If a Participant dies before

the date that distribution of the Participant's interest begins and there is a designated beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in paragraphs (b)(2)(i) or (ii) above, over the life of the designated beneficiary or over a period certain not exceeding: (i) 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 his or her birthday in the calendar year immediately following the calendar year of the Participant's death; or (ii) 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 his or her birthday in the calendar year containing the Annuity Starting Date.

- (2) **No Designated Beneficiary.** 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.
- (3) **Death Of Surviving Spouse Before Distributions To Spouse Begin.** If a Participant dies before the date distribution of the Participant's 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 paragraph (e) 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 paragraph (b)(2)(i) above.

(f) **Definitions**

For purposes of this Article 6.05 the following terms have the following meanings. Except as otherwise specifically provided herein, any term defined in Article 1 of the Plan has the meaning given such term in such Article.

- (1) A Participant's "*annuity starting date*" means the first day of the first period for which an amount is paid as an annuity, or, in the case of a benefit not payable as an annuity, the first day all events occurred which entitle the Participant to the benefit.
- (2) A Participant's "*designated beneficiary*" means the individual who is designated as the Participant's Beneficiary under the Plan and is the designated beneficiary under Code Section 401(a)(9) and Section 1.401(a)(9)-4 of the Treasury regulations.
- (3) A "*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. 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 Section 6.05(b).
- (4) A Participant's or Beneficiary's "*life expectancy*" means his life expectancy as

computed by use of the Single Life Table in Section 1.401(a)(9)-9, Q&A 1 of the Treasury regulations.

- (5) A Participant's "Required Beginning Date" means for Plan Years beginning on or after January 1, 1997, April 1st of the calendar year following the calendar year in which a Participant reaches Age 70½.

ARTICLE VII – DEATH BENEFITS

7.01 Death Prior to Normal Retirement

In the event of the death of a Participant prior to normal retirement under this Plan, there shall be no death benefit, unless the Participant had previously elected a Pre-Retirement Spouse Benefit as described below:

- (a) Pre-Retirement Spouse Benefit. If a Participant or a terminated Participant with five (5) or more Years of Credited Service elects this benefit, dies before his retirement income commences, and is survived by a Spouse to whom the Participant or terminated Participant has been married for a least one (1) year prior to the date of death of the Participant or terminated Participant, the Accrued Benefit shall be paid to the surviving Spouse for the life of such Spouse.

In the event the death occurs prior to the Participant's Early or Normal Retirement Date, such benefit shall be equal to the benefit the Spouse would have received under Article V had the Participant terminated employment on the date of death; survived to the earliest date on which the Participant would have been able to retire under Article III; retired on such date with the 50% Joint and Survivor benefit option; and died the day thereafter. The benefit that would have been payable had the Participant not died shall be reduced by 10%. Such benefit will be payable on the first day of the month coincident with or following the earliest date on which the Participant would have been able to retire under Article III.

In the event the death occurs after the Participant's Early or Normal Retirement Date, such benefit shall be equal to the benefit the Spouse would have received under Article V had the Participant retired on the date of death with the 50% Joint and Survivor benefit option and died the day thereafter. The benefit that would have been payable had the Participant not died shall be reduced by 10%. Such benefit will be payable on the first day of the month following the date of death.

- (b) Election of Pre-Retirement Spouse Benefit. A Participant shall elect this benefit by completing an election form naming his or her Spouse as beneficiary. Such election form shall be available from the Plan Administrator.
- (c) Revocation of Election. This election is irrevocable. If a Participant elects this benefit, subsequently becomes single, does not remarry and dies prior to retirement, no benefit will be paid. However, if a Participant remarries and remains married for a least one (1) year, he may again elect this Pre-Retirement Spouse Benefit.
- (d) Payment as Lump Sum. If the Actuarial Equivalent of the benefit payable to a Participant's Spouse under this Section 7.01 does not exceed \$5,000, the entire

Actuarial Equivalent of such benefit shall be paid in a lump sum payment. Such payment shall be made as soon as practicable after the Participant's death.

7.02 Death Subsequent to Retirement

In the event that a Participant has retired under this Plan at either his Normal or Deferred Retirement Date, Special Retirement Date, or Early Retirement Date, and thereafter is receiving retirement benefits hereunder at the time of his death, his Co-Annuitant or Beneficiary(ies) will be entitled to the benefit that the Participant has elected as an optional form of benefit under Article VI.

7.03 Spouse's Retirement Benefit

If a Participant dies subsequent to Normal Retirement Date, but prior to his Deferred Retirement Date, at a time when the Participant has left a surviving Spouse to whom the Participant or terminated Participant has been married for a least one (1) year prior to the date of death of the Participant or terminated Participant, then such surviving Spouse shall receive a benefit which is the actuarial equivalent of the Participant's Standard Benefit, based on the age of the surviving Spouse, but under no circumstances will the benefit be greater than the Standard Benefit which would have been payable to the Participant.

7.04 Employee Contributions

Notwithstanding the foregoing, if a Participant has made Employee Contributions pursuant to Section 4.02 of the Plan, then the total annuity payments made to the Participant and his Spouse or Beneficiary(ies) will be no less than the accumulated value of his Employee Contributions with interest through his Retirement Date. If the total annuity payments are less than this accumulated value, then the balance will be paid as a lump sum to his Beneficiary(ies) or Estate. If the Participant elected a Joint and Survivor Annuity, then this comparison will not be determined until the later of the Participant's death or the Co-Annuitant's death

ARTICLE VIII – TERMINATION OF EMPLOYMENT

8.01 Vesting

Subject to the provisions of Article XII, upon the termination of a Participant's employment other than by death or retirement on one of the retirement dates as provided for in Article III, he shall be entitled to a monthly annuity commencing at his Normal Retirement Date, if then living, of his Accrued Benefit based on his Credited Service and his Average Compensation, as of the first day of the calendar month in which the termination of employment occurs, determined as follows:

<u>Years of Credited Service</u>	<u>Percentage</u>
Less than 5 Years	0%
5 or More Years	100%

At the request of the Participant, the Plan Administrator shall advise the Participant of the amount of the anticipated retirement benefit. In the event of the death of a terminated

Participant prior to his Normal Retirement Date, no benefit shall be paid by reason of this provision of the Plan.

Notwithstanding any other provision of the Plan to the contrary, a Participant's vested interest in his Accrued Benefit under the Plan on and after the effective date of this amendment and restatement shall be not less than his vested interest in his Accrued Benefit on the day immediately preceding the effective date.

8.02 Re-Employment After Termination

If an Unaffiliated Participant (excluding Unaffiliated Participants who are Department of Education Employees) terminates employment with the Town for any reason other than Retirement and he is later re-employed, he shall again become a Participant provided he is still eligible to participate in the Plan and shall receive credit for all Credited Service with the Town (even prior to his termination of employment) for purposes of determining Accrued Benefits and vesting. A Participant shall not receive credit for any period during which time he has terminated his employment, however, Periods of Absence shall be considered Credited Service.

Any Participant who is currently receiving retirement benefit payments and returns to full time employment with the Town shall have his benefit payments suspended while reemployed until such time he is again classified as a retired Participant. His benefit payments will resume on the first day of the month after his subsequent Retirement Date.

Service rendered while reemployed after the Participant made a formal election to retire shall not serve to increase said Participant's benefits or vested interest.

ARTICLE IX – ADMINISTRATION OF THE PLAN

9.01 Plan Administrator

The general administration of the Plan and the responsibility for carrying out the provisions of the Plan, shall be vested in the Town as Plan Administrator. The Town, through its Board of Selectmen, may authorize certain individuals, committees, departments, or boards to handle specific administrative functions on its behalf, including but not limited to the Finance Department and the Human Resources Department.

9.02 General Powers and Duties

The Plan Administrator will interpret this Plan and the interpretations and actions of the Plan Administrator made in good faith shall be final and conclusive. The Plan Administrator may correct any technical defect or reconcile any inconsistency as shall be necessary to carry out the intention of the Plan.

The Plan Administrator shall provide policies and procedures not inconsistent with the terms and provisions hereof for the administration of the Plan and from time to time may amend or supplement such policies and procedures.

The Retirement Board shall provide advisory services with respect to Trust Fund investments; oversee investments; review and manage the Trust Fund; and conduct hearings on disputes concerning benefit claims. The Board of Selectman shall have the authority to appoint, reappoint and replace an investment advisor for the Trust Fund

based on the recommendation from the Pension Board.

The Board of Selectmen shall have the authority to appoint, reappoint and replace a bank or financial services company to act as custodian of the Trust Funds. The responsibilities of the custodian shall include holding the Trust Fund's investment account(s) in the name of the Plan, executing the investment policies and decisions of the Retirement Board (i. e., effectuating changes, as directed by the Retirement Board, in the stocks, bonds, mutual funds and other securities, property and cash that comprise the assets of the Plan), and transferring funds to the Town or a Participant (as directed by the Town's Finance Director or the Town's Human Resources Director) to satisfy the Plan's payment obligations.

The Town's Finance Director and Assistant Finance Director are authorized to maintain bank accounts and draw checks to implement the purposes of Plan, including but not limited to the payment of benefits, investment of funds, and payment of administrative fees. The Finance Director or Assistant Finance Director is authorized to sign checks on behalf of the Town with respect to the Plan.

9.03 Employment of Agents and Counsel

The Board of Selectmen may retain employees, agents, actuarial advisors and counsel who may, but need not be, counsel for the Town. All expenses incurred in connection with the administration of the Plan, including but not limited to the compensation of a Trustee or insurance company and/or its counsel and/or its actuarial advisor shall be paid from the Pension Fund.

9.04 Annual Plan Review and Submission of Actuarial Data

A formal presentation on the status of the Plan will be given by the Director of Finance to the Boards of Selectmen and Finance each year during the budget review process. The data will be as of the preceding July 1 and include the number of Plan Participants, financial status as well as funds requested for the next year. At least once every year a formal and detailed actuarial evaluation will be made in accordance with Sec. 7-450a of the Connecticut State Statutes.

ARTICLE X – PENSION FUND

10.01 Pension Fund

All contributions under the Plan shall be made to the Pension Fund which may be comprised of a trust fund as described in Article XI or a group annuity, deposit administration contract, or other forms of insurance contracts or investment vehicles, or any combination thereof. The Pension Fund may not be combined and/or mingled with any other pension funds of the Town or any other pension fund which the Town contributes to either directly or indirectly, for purposes of investment and administration, provided that separate books and records are kept for each such fund.

10.02 Designation of Trustee or Insurer

The Board of Selectmen with the approval of the Board of Finance shall have the right to designate a bank or trust company having the power to act as Trustee in the State of

Connecticut or designate an insurance company to invest the Pension Fund. The Board of Selectmen with the approval of the Board of Finance shall have the right to enter into an appropriate trust agreement with such bank or a group annuity, deposit administration contract or insurance company investment vehicle contract, with such insurance company so designated.

10.03 Designation of Pension Funds

The Trustee or Insurer shall hold contributions made hereunder by the Town upon being forwarded to the Trustees by the Town Treasurer in accordance with the terms of the written agreement between the Town and the Trustees or Insurer. The Trustee shall have all rights, privileges, duties and immunities conferred upon it by the Trust Agreement or insurance, group annuity or investment contract.

10.04 Rights in Pension Fund

No part of the corpus or income of the Pension Fund shall be used for, or directed, or diverted to, any purpose, subject to the payment of expenses, other than for the exclusive benefit of the Participants and their Beneficiaries prior to the satisfaction of all liabilities for benefits under the Plan and provided further that no person shall have any interest in or right to any part of the earnings or principal of the Pension Fund, or any rights in, to or under the trust agreement or insurance, group annuity or other similar contract except as to the extent expressly provided therein and under the Plan.

10.05 Limitation of Liability

Neither the Town nor the Retirement Board nor a Trustee nor an Insurer shall be liable in any manner if the Pension Fund should be insufficient to provide the payment of any retirement benefits. Benefits under the Plan are to be payable only from the Pension Fund and only to the extent that such Pension Fund shall suffice thereof.

ARTICLE XI - TRUST AND TRUSTEE

11.01 Establishment of Trust

- (a) The Trustee shall receive and hold in Trust, any contributions, in cash or other property acceptable to it, received from the Employer, any Participant in the Plan or any trust qualified under Section 401 of the Internal Revenue Code of 1986, as amended received pursuant to the terms of the Plan, which contributions, together with the income and gains there from, shall constitute the Trust Fund.
- (b) After the fulfillment of all obligations to Participants and Beneficiaries any portion of the Trust Fund remaining as a result of actuarial error may be returned to the Town.

11.02 General Powers of the Trustee

The Trustee shall have the sole power and obligation to invest the Trust Fund. In doing so, it will act with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. It shall diversify the investments of the Trust Fund so as to minimize the risk of large losses,

unless under the circumstances it is clearly prudent not to do so.

11.03 Specific Powers of the Trustee

To the extent that they are not inconsistent with the provisions of Section 11.02, the Trustee shall have the following specific powers:

- (a) To invest and reinvest the Trust Fund in any property, real, personal or mixed, including without limitation, common and preferred stocks, bonds, warrants, options, notes, debentures, land (whether improved or unimproved), leaseholds, certificates of deposit, oil and mineral or gas properties, partnerships, joint ventures, mortgages (including without limitation, any collective or part interest therein), mutual funds, savings bank accounts, and interests in investment companies or investment trusts, whether or not the same be expressly authorized by law for the investment of trust funds; to accept transfers of assets subject to encumbrances, loans and other equitable charges; to organize a corporation under the laws of any state for the purpose of acquiring and holding title to any property which the Trustee is authorized to acquire and to exercise with respect thereto any or all of the powers set forth herein.
- (b) To renew or extend, or to participate in the renewal or extension of, any mortgage, upon such terms as may be deemed advisable, and to agree to a reduction in the rate of interest on any mortgage, upon such terms as may be deemed advisable, or to any other modification or change in the terms of any mortgage or of any guarantee pertaining thereto, in any manner and to any extent that may be deemed advisable for the protection of the Trust Fund or the preservation of the value of the investment; to waive any default, in such manner and to such extent as may be deemed advisable to exercise and enforce any and all rights of foreclosure; to take a deed in lieu of foreclosure with or without paying a consideration therefore and in connection therewith to release the obligation on the bond secured by such mortgage; and to exercise and enforce in any action, suit or proceeding at law or in equity any rights or remedies in respect to any mortgage or guarantee.
- (c) To engage in transactions between the Plan and a common or collective trust fund or pooled investment fund of an insurance company qualified to do business in a state; provided that a transaction described in the Paragraph is a sale or purchase of an interest in the fund, and that the bank, trust company or insurance company received not more than reasonable compensation.
- (d) To purchase and pay premiums from the Trust Fund on (1) policies insuring the Trust Fund against fiduciary breaches (which policies will give the insurance company recourse against the fiduciary) and (2) policies which insure the fiduciaries of the Plan against the aforesaid recourse provision.
- (e) To do all such acts and exercise all such rights, and privileges, although not specifically mentioned herein, as the Trustee may deem necessary to carry out the purposes of the Agreement.

11.04 Expenses and Compensation of Trustee

- (a) All expenses of the Trustee shall be paid from the Trust Fund.

- (b) The Employer may elect to pay all or part of the administrative expenses of the Plan including fees and retainers of the Plan's accountant, counsel or other specialists.
- (c) Any expenses directly relating to the acquisition or sale of the investments of the Trust Fund, such as taxes, brokerage commissions, registration fees, etc. shall always be charged to and paid from the Trust Fund.

11.05 Accounting

The Trustee shall keep accurate and detailed accounts of all receipts, disbursements and other transactions hereunder. All accounts, books and records shall be open to inspection and audit at all reasonable times by the Employer. Within 120 days following the close of each Plan Year of the Trust and within 30 days after the effective date of the removal or resignation of the Trustee, the Trustee shall prepare a written account setting forth all receipts, disbursements and other transactions effected by it during such Plan Year or during the period from the close of the last Plan Year to the date of such removal or resignation.

11.06 Procedures for Succession of Trustee

- (a) Any Trustee may resign at any time by mailing to the Board of Selectmen by Certified Mail, Return Receipt Requested, notice of resignation, to take effect not less than 90 days after the date of mailing, unless the Board of Selectmen shall accept as adequate a shorter notice. Any Trustee appointed hereunder may be removed by the Board of Selectmen by mailing to it by Certified Mail, Return Receipt Requested, a notice of removal, to take effect not less than 90 days after the date of mailing, unless the Trustee shall accept as adequate a shorter notice. No such removal shall become effective until all sums due the Trustee hereunder for its compensation and expenses shall have been paid, nor until the appointment and qualification of a successor Trustee.
- (b) In case of the death, resignation or removal of a Trustee, the remaining Trustee or Trustees, if any, shall have full authority to act. The Board of Selectmen may at any time appoint additional or successor Trustees. Any Trustee appointed subsequent to the execution of this Agreement shall qualify by executing and delivering to the Board of Selectmen an instrument accepting its appointment in such form as may be satisfactory to the Board of Selectmen, and thereupon such Trustee shall become vested with all rights, powers, discretion, duties and obligations of a Trustee hereunder with the same effect as if originally named as Trustee, except that no such Trustee shall be liable, as such for claims asserted against a predecessor Trustee.
- (c) In case of the death, resignation or removal of a Trustee, the Trustee resigning or being removed (or the personal representative of a deceased Trustee) shall, upon completion of the accounting specified in Section 11.05, payment of Trustee's expenses and compensation, if any, and qualification of a successor Trustee, assign transfer and pay over to the remaining Trustee all assets then being held under this Agreement.

11.07 Superseding Trust or Custodial Agreement

If any Trust assets are invested in a separate trust or custodial account maintained by a

Trustee or custodian, the provisions of the separate trust or custodial agreement will supersede all provisions of this Article with respect to such assets. If such separate trust or custodial account should for any reason fail, be found invalid or terminate prior to the termination of this Plan and the distribution of all the assets hereof, this Article XI will be deemed to have again become effective immediately prior to such failure, invalidity or termination.

ARTICLE XII – AMENDMENT AND TERMINATION

12.01 Amendment

The Town, by Town Meeting action, shall have the right to amend the Plan at any time provided that no amendments shall: (a) cause or permit any portion of the Pension Fund to become the property of the Town until liabilities to Participants and their Beneficiaries are satisfied, or (b) deprive any Participant, his Spouse or dependent children retroactively of rights already accrued under the Plan.

12.02 Termination

While the Plan is intended to be permanent, the Town, by Town Meeting action, shall have the right to terminate the Plan or discontinue contributions and accruals, at any time, subject to the following:

- (a) If the Plan is terminated in its entirety, or if the Town contributions are discontinued (not merely a suspension thereof), the Pension Fund shall be used subject to the payment of expenses, for the benefit of Participants and their Beneficiaries and for no other purpose until all liabilities to Participants and their Beneficiaries for benefits under the Plan to the date of termination of discontinuance of contributions have been satisfied.
- (b) Notwithstanding any other provision of the Plan, in the event of the termination or a partial termination of the Plan, including the complete discontinuation of contributions to the Plan, the rights of all Employees who are affected by such termination to benefits accrued to the date of such termination, to the extent funded as of such date, shall be nonforfeitable.
- (c) The determination of whether a partial termination of the Plan has occurred under Code Section 411(d)(3) depends on the facts and circumstances and will be made applying the principals set forth in Revenue Ruling 2007-43 (or subsequent applicable guidance).
- (d) If the Pension Fund is insufficient to satisfy all liabilities in full, then the assets of the Pension Fund shall be applied in the following order:

FIRST: To provide retirement benefit payments to retired Participants, their Beneficiaries, and other Participants who have attained Normal Retirement Date;

SECOND: To provide retirement benefits for Participants who have terminated employment and have a vested benefit payable at age 55 and active Participants who have reached Early Retirement;

THIRD: To provide retirement benefit payments to all remaining Participants;

Each of the foregoing categories shall be determined as of the date of termination of the Plan, and the three categories are hereinafter referred to as Classes.

- (e) If, upon the application of the assets of the Pension Fund in the order of priority to provide payment in part of liabilities to Participants and their Beneficiaries in one of the three (3) Classes, there are assets available for that Class insufficient to satisfy such liabilities in full, the assets available for that Class shall be applied on the basis of the proportions which the available assets bear to the present values of the accrued retirement benefits of all Participants and their Beneficiaries in that Class.

12.03 Provisions to Prevent Discrimination

- (a) In the event that the Plan is terminated, or the full current cost thereof has not been met at any time prior to ten (10) years following the effective date of the Plan or of any increase, if applicable, which any of the twenty-five (25) highest paid Employees, as hereinafter determined, may receive, shall not exceed the larger of the following amounts;

FIRST: \$20,000; or

SECOND: Twenty (20%) percent of the first \$50,000 of the Employee's average annual compensation for the first five (5) years preceding the date of termination multiplied by the number of years since the effective date of the Plan.

- (a) These conditions shall not restrict the current payment of full retired Participants while the Plan is in full affect and its full current costs have been met. In the event that any funds are realized by operation of the restrictions set forth herein, they shall be used to reduce subsequent Town contributions of the Plan, but if the Town has ceased its contributions, they shall be used for the benefit of Participants other than the twenty-five (25) highest paid Employees on a basis which shall not result in substantial discrimination in favor of the more highly compensated Employees.
- (b) For the purpose of this section, the twenty-five (25) highest paid Employees shall mean the twenty-five (25) highest paid Employees as of the effective date of the Plan, including any such highly paid Employees who are not Participants at the time but who may later become Participants, but excluding any Employee whose annual retirement benefit provided by the Town Contributions will not exceed \$1,500.

12.04 Funds Remaining After Distribution of All Benefits

After the fulfillment of all obligations to Participants, their widows and dependent children provided in this Article XII, any portion of the Pension Fund remaining as a result of actuarial error may be returned to the Town.

ARTICLE XIII – MISCELLANEOUS

13.01 Minors and Incompetents

If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor, or is, in the judgment of the Plan Administrator, legally, physically or mentally incapable of

personally receiving and receipting for any distribution, the Plan Administrator may instruct the Trustee to make distributions to his legally appointed guardian, or to such other person, persons or institutions as, in the judgment to such other person, persons or institutions as, in the judgment of the Plan Administrator, are then maintaining or have custody of the payee. Any such payment made to a substitute payee shall be a complete discharge of any liability for the payment under the Plan.

13.02 Non-Assignability of Benefits

- (a) No benefit under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge and any such action shall be void for all purposes of the Plan. No benefit shall in any manner be subject to the debts, contracts, liabilities, engagements or torts of any person, nor shall it be subject to attachments or other legal process for or against any person, except to such extent as may be required by law.
- (b) If any payee or representative of a payee under the Plan becomes bankrupt or attempts to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge any benefit, except as specifically provided in the Plan, the Plan Administrator shall hold or apply the benefit or any part thereof to or for such person, his Spouse, his children or other dependents, or any of them in such manner and in such proportions as the Plan Administrator shall determine in its sole discretion.
- (c) This Section will not apply to a Qualified Domestic Relations Order (QDRO) as defined in Section 414(p) of the Code, and those other domestic relations orders permitted to be so treated by the Plan Administrator under the provisions of the Retirement Equity Act of 1984. The Plan Administrator will establish a written procedure to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. Further, to the extent provided under a QDRO, a former Spouse of a Participant will be treated as the Spouse or surviving Spouse for all purposes under the Plan. Where, however, because of a QDRO, more than one individual is to be treated as a surviving Spouse, the total amount to be paid in the form of a survivor annuity or the survivor portion of a joint and survivor annuity may not exceed the amount that would be paid if there were only one surviving Spouse. All rights and benefits, including elections, provided to a Participant under this Plan will be subject to the rights afforded to any alternate payee as such term is defined in Section 414(p) of the Code. The term "Qualified Domestic Relations Order" or "QDRO" is amended to include the following, provided that the other requirements for a QDRO are satisfied: (1) an order that is issued with respect to another domestic relations order or QDRO, including an order that revises or amends a prior order; (2) an order issued after the Participant's annuity starting date or death; and (3) an order that names as the alternate payee a person deemed financially dependent upon the Participant.

13.03 Non-Liability of Town

All benefits under the Plan shall be paid or provided for solely from the Pension Fund and the Town assumes no liabilities or responsibilities thereof.

13.04 Tenure of Employment

Neither the action of the Town in the establishment of the Plan nor any action taken by it or by the Board of Selectmen hereunder shall be construed as giving any Employee the right to be retained in the employ of the Town or any other right whatsoever except to the extent of the benefits provided by the Plan to be paid or made available from the Pension Fund.

13.05 Separability of Provisions

If any provisions of this Plan shall be held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining parts of the Plan, but the Plan shall be construed and endorsed as if said illegal or invalid provisions had never been inserted herein.

13.06 Unclaimed Benefits

Whenever reasonable efforts fail to locate any Participant or Beneficiary entitled to benefits under the Plan within six (6) years from the time notice is first received, and he is not to be found at the address in the records of the Town, or the Trustee, the Plan Administrator may direct that his benefits be forfeited.

13.07 Applicable Law

The validity of the provisions of the Plan shall be determined under said provisions and shall be construed according to the laws of the State of Connecticut.

Town of Madison

Witness

By _____
Signature

Date

Name (Print)

Title

Witness

By _____
Signature

Date

Name (Print)

Title