

**CERTIFICATE FOR RESOLUTION  
APPROVING AND ADOPTING THE AMENDMENT AND RESTATEMENT OF THE  
COASTAL WATER AUTHORITY PENSION PLAN**

THE STATE OF TEXAS  
COUNTY OF HARRIS

§  
§

I, the undersigned officer of the Board of Directors (the "Board") of the Coastal Water Authority (the "Authority"), hereby certify as follows:

1. The Board convened in regular session, open to the public, on January 8, 2014, at the regular meeting place thereof, inside the boundaries of the Authority, and the roll was called of the members of the Board, to-wit:

D. Wayne Klotz P.E.	President
Tony L. Council, P.E.	1 <sup>st</sup> Vice-President
Alan D. Conner	2 <sup>nd</sup> Vice-President
Zebulun Nash	Secretary-Treasurer
Giti Zarinkelk, P.E.	Director
John Odis Cobb, P.E.	Director
Douglas E. Walker	Director

And all of said persons were present, except Director(s) NOT APPLICABLE, thus constituting a quorum. Whereupon among other business, the following was transacted at the Meeting: a written

**A RESOLUTION BY THE BOARD OF DIRECTORS OF THE COASTAL  
WATER AUTHORITY, APPROVING AND ADOPTING THE AMENDMENT AND  
RESTATEMENT OF THE COASTAL WATER AUTHORITY PENSION PLAN**

was duly introduced for the consideration of the Board. It was then duly moved and seconded that such Resolution be adopted; and, after due discussion, such motion, carrying with it the adoption of such Resolution, prevailed and carried unanimously.

2. A true, full, and correct copy of the aforesaid Resolution adopted at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; such Resolution has been duly recorded in the Board's minutes of such Meeting; the above and foregoing paragraph is a true, full, and correct excerpt from the Board's minutes of such Meeting pertaining to the adoption of such Resolution; the persons named in the above and foregoing paragraph are the duly chosen, qualified, and acting officers and members of the Board as indicated therein; each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of such Meeting, and that such Resolution would be introduced and considered for adoption at such Meeting and each of such officers and members consented, in advance, to the holding of such Meeting for such purpose; and such Meeting was open to the public, and public notice of the time, place, and

purpose of such Meeting was given, all as required by Chapter 551, Texas Government Code, as amended, and Section 49.063, Texas Water Code, as amended.

SIGNED AND SEALED this 8<sup>th</sup> day of January, 2014.

(AUTHORITY SEAL)



  
\_\_\_\_\_  
Secretary, Board of Directors

**RESOLUTION APPROVING AND ADOPTING THE  
AMENDMENT AND RESTATEMENT OF THE COASTAL WATER AUTHORITY  
PENSION PLAN**

**WHEREAS**, Coastal Water Authority (the "*Authority*") has heretofore adopted the Coastal Water Authority Pension Plan (the "*Plan*") for the benefit of its eligible employees;

**WHEREAS**, an amendment and restatement of the Plan (the "*Amendment and Restatement*") effective January 1, 2014, has been proposed for the purpose of bringing the Plan into compliance with applicable legal requirements; and

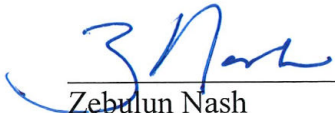
**WHEREAS**, the Board, having had the opportunity to review the Amendment and Restatement and to discuss the changes made in such Amendment and Restatement with legal counsel and with the appropriate officers of the Authority, desires to adopt and approve the Amendment and Restatement;


**NOW THEREFORE**, it is resolved that:

**RESOLVED**, that the Amendment and Restatement, a copy of which is directed to be marked for identification and filed with the records of the Company, shall be and is hereby approved and adopted; and

**RESOLVED**, that the proper officers of the Authority are hereby authorized and directed (i) to do all things as may be necessary or appropriate to make the Amendment and Restatement effective, (ii) to execute (a) the Amendment and Restatement substantially in the form hereinabove adopted and approved, together with any changes which such persons, with the advice of legal counsel, deem necessary or appropriate, and (b) any amendments as may be required by the Internal Revenue Service in order to obtain a favorable determination letter that the Amendment and Restatement does not adversely affect the qualified and exempt status of the Plan and its related trust under sections 401(a) and 501(a) of the Internal Revenue Code of 1986, as amended, and (iii) to otherwise carry out the intents and purposes of these resolutions.

PASSED AND APPROVED this 8th day of January 2014.

  
\_\_\_\_\_  
Zebulun Nash  
Secretary-Treasurer  
Board of Directors

  
\_\_\_\_\_  
D. Wayne Klotz, P.E.  
President  
Board of Directors

**COASTAL WATER AUTHORITY**  
**PENSION PLAN**

As Amended and Restated  
Effective January 1, 2014

**COASTAL WATER AUTHORITY  
PENSION PLAN**

This Agreement And Declaration Of Trust is by and between Coastal Water Authority, a political subdivision of the State of Texas, hereinafter referred to as the "Company," and those individuals serving as of the Effective Date as the Company's Executive Director, Chief Financial Officer and Secretary Treasurer, hereinafter referred to jointly as "Trustee."

**WITNESSETH:**

**WHEREAS**, the Company has heretofore adopted the Coastal Water Authority Pension Plan, hereinafter referred to as the "Plan," for the benefit of its employees; and

**WHEREAS**, the Company desires to restate the Plan and to amend the Plan in several respects, intending thereby to provide an uninterrupted and continuing program of benefits;

**NOW THEREFORE**, the Plan is hereby restated in its entirety as follows with no interruption in time, effective as of January 1, 2014, except as otherwise indicated herein:

## TABLE OF CONTENTS

	<u>PAGE</u>
I. DEFINITIONS AND CONSTRUCTION .....	1
1.1 Definitions.....	1
(1) Account(s).....	1
(2) Benefit Commencement Date .....	1
(3) Code .....	1
(4) Company .....	1
(5) Compensation .....	1
(6) Direct Rollover.....	2
(7) Directors.....	2
(8) Distributee.....	2
(9) Effective Date .....	2
(10) Eligible Employee.....	2
(11) Eligible Retirement Plan .....	3
(12) Eligible Rollover Distribution.....	3
(13) Employee .....	3
(14) Employee Accounts .....	4
(15) Employer.....	4
(16) Employer Account .....	4
(17) Employer Contributions.....	4
(18) Field Representative.....	4
(19) Leased Employee .....	4
(20) Normal Retirement Date .....	4
(21) Participant .....	4
(22) Plan .....	4
(23) Pension Committee .....	4
(24) Plan Year.....	4
(25) Required Contributions.....	4
(26) Spouse .....	4
(26) Taxable Wage Base.....	5
(27) Trust .....	5
(28) Trust Fund .....	5
(29) Trustee.....	5
(30) Valuation Dates.....	5
(31) Vested Interest .....	5
(32) Vesting Service .....	5
(33) Voluntary Contributions .....	5
1.2 Number and Gender.....	5
1.3 Headings .....	5
1.4 Construction.....	5
II. PARTICIPATION .....	5

2.1	Initial Participation.....	5
2.2	Participation Upon Reemployment.....	6
III.	REQUIRED CONTRIBUTIONS .....	6
3.1	Amount of Required Contributions .....	6
3.2	Suspension of Required Contributions .....	6
3.3	Allocation of Required Contributions.....	6
IV.	VOLUNTARY CONTRIBUTIONS .....	6
4.1	Amount of Voluntary Contributions.....	6
4.2	Withdrawal of Voluntary Contributions .....	6
4.3	Allocation of Voluntary Contributions .....	7
V.	EMPLOYER CONTRIBUTIONS.....	7
5.1	Amount of Employer Contributions .....	7
5.2	Allocation of Employer Contributions.....	7
VI.	STATUS OF PLAN AND GENERAL CONTRIBUTION PROVISIONS.....	7
6.1	Status of Plan .....	7
6.2	Contributions Not Contingent on Profits .....	7
6.3	Return of Contributions .....	7
6.4	Suspended Amounts.....	7
6.5	Contribution Allocation Timing .....	7
VII.	LIMITATIONS.....	8
7.1	Definitions.....	8
7.2	Limitations on Annual Additions.....	9
7.3	Limitations Aggregation Rules .....	9
VIII.	INVESTMENT OF ACCOUNTS .....	9
8.1	Investment of Accounts .....	9
8.2	Allocation of Net Income or Loss and Changes in Value Among Accounts .....	9
8.3	Allocation Subaccounts .....	9
8.4	Duration of Allocations.....	10
IX.	BENEFITS AND DETERMINATION OF VESTED INTEREST.....	10
9.1	No Benefits Unless Herein Set Forth.....	10
9.2	Benefits .....	10
9.3	Vested Interest – Employee Account.....	10
9.4	Vested Interest – Employer Account .....	10
9.5	Vested Interest at Normal Retirement Date, Disability and Death.....	10
9.6	Crediting of Vesting Service.....	10
9.7	Break in Service.....	11
9.8	Forfeitures of Nonvested Account Balance .....	11

9.9	Application of Forfeitures.....	11
X.	TIME OF PAYMENT OF BENEFITS.....	11
10.1	General Benefit Commencement Date .....	11
10.2	Benefit Commencement Date Statutory Requirements .....	11
10.3	Distribution Event Requirement .....	12
10.4	Qualified Domestic Relations Orders .....	12
XI.	MINIMUM DISTRIBUTION REQUIREMENTS.....	12
11.1	Effect of Article .....	12
11.2	Benefit Commencement at Required Beginning Date.....	12
11.3	Minimum Distribution Amount – Participant’s Lifetime .....	13
11.4	Minimum Distribution Amount – Participant Death After Benefit Commencement .....	14
11.5	Minimum Distribution Amount – Participant Death Prior to Benefit Commencement .....	14
11.6	Definitions.....	15
11.7	Waiver of 2009 Required Minimum Distribution .....	16
XII.	FORM OF PAYMENT OF BENEFITS .....	16
12.1	Alternative Forms of Death Benefit.....	16
12.2	Beneficiary Designation.....	17
12.3	Effect of Lack of Beneficiary Designation .....	17
12.4	Effect of Divorce.....	17
12.5	Unclaimed Benefits.....	17
12.6	Direct Rollover Election .....	17
12.7	Mandatory Rollovers .....	18
12.8	Benefits from Account Balances .....	18
12.9	Commercial Annuities .....	18
XIII.	CLAIMS REVIEW .....	18
XIV.	IN-SERVICE WITHDRAWALS .....	19
XV.	LOANS .....	19
15.1	No Loans.....	19
XVI.	ADMINISTRATION OF THE PLAN .....	19
16.1	Generally.....	19
16.2	Directors’ Powers and Duties .....	19
16.3	Pension Committee .....	20
XVII.	TRUSTEE AND ADMINISTRATION OF TRUST FUND.....	20
17.1	Trustee.....	20
17.2	Acceptance of Fund .....	20



17.3	Taxes .....	20
17.4	General Powers of the Trustee.....	20
17.5	Investment Powers of the Trustee.....	21
17.6	Custodian .....	21
17.7	Bond.....	22
17.8	Accounting.....	22
17.9	Judicial Protection.....	22
17.10	Payment of Expenses .....	22
17.11	Trust Fund Property .....	22
17.12	Distributions from Participant's Accounts.....	22
17.13	Payments Solely from Trust Fund .....	22
17.14	No Benefits to the Employer.....	22
XVIII. AMENDMENTS .....		23
18.1	Right to Amend.....	23
18.2	Limitation on Amendments .....	23
XIX. DISCONTINUANCE OF CONTRIBUTIONS, TERMINATION, PARTIAL TERMINATION, AND MERGER OR CONSOLIDATION .....		23
19.1	Right to Discontinue Contributions, Terminate, or Partially Terminate .....	23
19.2	Procedure in the Event of Discontinuance of Contributions, Termination, or Partial Termination .....	23
19.3	Merger, Consolidation, or Transfer .....	24
XX. MISCELLANEOUS PROVISIONS.....		24
20.1	Not Contract of Employment.....	24
20.2	Uniformed Services Employment and Reemployment Rights Act Requirements .....	24
20.3	Payments to Minors and Incompetents .....	24
20.4	Participant's and Beneficiary's Addresses.....	25
20.5	Incorrect Information, Fraud-, Concealment, or Error .....	25
20.6	Correction of Errors .....	25
20.7	Benefit Disputes.....	25
20.8	Severability .....	25
20.9	Jurisdiction.....	26

## I. DEFINITIONS AND CONSTRUCTION

**1.1 Definitions.** Where the following words and phrases appear in the Plan, they shall have the respective meanings set forth below unless their context clearly indicates to the contrary.

- (1) **Account(s):** A Participant's Employee Account and Employer Account, including the amounts credited thereto.
- (2) **Benefit Commencement Date:** With respect to each Participant or beneficiary, the first day of the first period for which such Participant's or beneficiary's benefit is payable to him from the Trust Fund.
- (3) **Code:** The Internal Revenue Code of 1986, as amended.
- (4) **Company:** Coastal Water Authority, a political subdivision of the State of Texas.
- (5) **Compensation:** The total of all cash remuneration received by a Participant while a Participant for services actually rendered or labor performed for the Employer to the extent such amounts are includable in gross income, subject to the following adjustments and limitations:
  - (A) The following shall be excluded:
    - (i) The value of an Employer-provided vehicle;
    - (ii) Reimbursements and other expense allowances (including automobile allowances, bus allowances, and parking allowances);
    - (iii) Cash and noncash fringe benefits;
    - (iv) Moving expenses;
    - (v) Employer contributions to or payments from this or any other deferred compensation program, whether such program is qualified under section 401(a) of the Code or nonqualified;
  - (B) The following shall be included:
    - (i) Regular vacation pay, regular sick pay, and regular holiday pay;
    - (ii) Elective contributions made on a Participant's behalf by the Employer that are not includable in income under section 125 [(which shall be deemed to include amounts which are "deemed section 125" compensation pursuant to Revenue Ruling 2002-27)]; section 402(e)(3), section 402(h), or section 403(b) of the Code; and any amounts that are not includable in the gross income of a Participant under a salary reduction agreement by reason of the application of section 132(f) of the Code;

(iii) Compensation deferred under an eligible deferred compensation plan within the meaning of section 457(b) of the Code; and

(iv) Employee contributions described in section 414(h) of the Code that are picked up by the employing unit and are treated as employer contributions.

(C) The Compensation of any Participant taken into account for purposes of the Plan shall be limited to \$200,000 for any Plan Year, with such limitation to be:

(i) Adjusted automatically to reflect any amendments to section 401(a)(17) of the Code and any cost-of-living increases authorized by section 401(a)(17) of the Code; and

(ii) Prorated for a Plan Year of less than twelve months and to the extent otherwise required by applicable law.

(6) **Direct Rollover:** A payment by the Plan to an Eligible Retirement Plan designated by a Distributee.

(7) **Directors:** The Board of Directors of the Company.

(8) **Distributee:** Each (A) Participant entitled to an Eligible Rollover Distribution, (B) Participant's surviving Spouse with respect to the interest of such surviving Spouse in an Eligible Rollover Distribution, and (C) former Spouse of a Participant who is an alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, with regard to the interest of such former Spouse in an Eligible Rollover Distribution. Further, any individual who is a designated beneficiary with the meaning of the section 401(a)(9)(E) of the Code of a Participant and who is not the surviving Spouse of the Participant shall be a Distributee with respect to an Eligible Rollover Distribution payable to such Distributee.

(9) **Effective Date:** January 1, 2009, as to this restatement of the Plan, except (A) as otherwise indicated in specific provisions of the Plan, (B) that provisions of the Plan required to have an earlier effective date by applicable statute and/or regulation shall be effective as of the required effective date in such statute and/or regulation and shall apply, as of such required effective date, to any plan merged into this Plan, and (C) that provisions hereof affecting the duties of the Trustee shall be effective as of the date of execution of this restatement of the Plan by the Trustee.

(10) **Eligible Employee:** Each Employee other than (A) a Leased Employee and (B) an individual who is employed on either a part-time or temporary basis. Notwithstanding any provision of the Plan to the contrary, no individual who is designated, compensated, or otherwise classified or treated by the Employer as an independent contractor or other non-common law employee shall be eligible to become a Participant in the Plan. It is expressly intended that individuals not treated as common law employees by the Employer are to be excluded from Plan participation even if a court or administrative agency determines that such individuals are common law employees.

- (11) **Eligible Retirement Plan**: Any of: (A) an individual retirement account described in section 408(a) of the Code, (B) an individual retirement annuity described in section 408(b) of the Code, (C) an annuity plan described in section 403(a) of the Code, (D) a qualified plan described in section 401(a) of the Code that under its provisions does, and under applicable law may, accept a Distributee's Eligible Rollover Distribution, (E) an annuity contract described in section 403(b) of the Code, and (F) an eligible plan under section 457(b) of the Code that is maintained by a state, political subdivision of a state, or agency or instrumentality of a state or political subdivision of a state and that agrees to separately account for the amounts transferred into such plan from this Plan. The definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving Spouse or to a Spouse or former Spouse who is an alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code. Further, an individual retirement plan which has been established for the purpose of receiving a distribution with respect to a deceased Participant shall be an Eligible Retirement Plan with respect to a Distributee who is a designated beneficiary as described in section 409(a)(9)(E) of the Code of the deceased Participant and who is not a surviving Spouse of the Participant.
- (12) **Eligible Rollover Distribution**: With respect to a Distributee, any distribution of all or any portion of the Accounts of a Participant other than (A) a distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary or for a specified period of ten years or more, (B) a distribution to the extent such distribution is required under section 401(a)(9) of the Code, (C) the portion of a distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), (D) a loan treated as a distribution under section 72(p) of the Code and not excepted by section 72(p)(2), (E) a loan in default that is a deemed distribution, and (F) any other distribution so designated by the Internal Revenue Service in revenue rulings, notices, and other guidance of general applicability. Notwithstanding the foregoing or any other provision of the Plan, (A) any amount that is distributed from the Plan on account of hardship to a Participant who has not attained age 59½ shall not be an Eligible Rollover Distribution and the Distributee may not elect to have any portion of such a distribution paid directly to an Eligible Retirement Plan and (B) a portion of the distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax employee contributions that are not includable in income, provided, however, that such portion may only be transferred either to a qualified trust or to an annuity contract described in section 403(b) of the Code and such trust or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable or to an individual retirement account described in section 408(a) of the Code or an individual retirement annuity described in section 408(b) of the Code (other than an endowment contract).
- (13) **Employee**: Each (A) individual employed by the Employer and (B) Leased Employee.

- (14) **Employee Accounts**: An individual account for each Participant which is credited with his Required Contributions made pursuant to Article III and voluntary contributions, if any, made pursuant to Article IV and which is credited with (or debited for) such Account's allocation of net income (or net loss) and changes in value of the Trust Fund.
- (15) **Employer**: Coastal Water Authority, a political subdivision of the State of Texas.
- (16) **Employer Account**: An individual account for each Participant, which is credited with the Employer Contributions made on such Participant's behalf or allocated to such Participant's Account(s), and which is credited with (or debited for) such Account's allocation of net income (or net loss) and changes in value of the Trust Fund.
- (17) **Employer Contributions**: Contributions made to the Plan by the Employer pursuant to Article V.
- (18) **Field Representative**: A nonvoting observer member of the Pension Committee.
- (19) **Leased Employee**: Each person who is not an employee of the Employer but who performs services for the Employer pursuant to an agreement (oral or written) between the Employer and any leasing organization, provided that (A) such person has performed such services for the Employer or for related persons (within the meaning of section 144(a)(3) of the Code) on a substantially full-time basis for a period of at least one year and (B) such services are performed under primary direction or control by the Employer.
- (20) **Normal Retirement Date**: The date a Participant attains the age of sixty-five.
- (21) **Participant**: Each individual who has met the eligibility requirements for participation in the Plan pursuant to Article II. For purposes of Article VIII, the beneficiary of a deceased Participant shall have the rights of a Participant.
- (22) **Plan**: The Coastal Water Authority Pension Plan, as amended from time to time.
- (23) **Pension Committee**: The committee appointed by the Directors to assist in the administration of the Plan and oversee the day-to-day administration of the Plan under the supervision of the Directors.
- (24) **Plan Year**: The twelve-consecutive month period commencing October of each year.
- (25) **Required Contributions**: Contributions made to the Plan by a Participant as required pursuant to Article III.
- (26) **Spouse**: The person to whom the Participant or former Participant is married under applicable local law. In addition, to the extent provided in a qualified domestic relations order, a surviving former spouse of a Participant or former Participant will be treated as the Spouse of the Participant or former Participant, and to the same extent any current spouse of the Participant or former Participant will not be treated as a Spouse of the Participant or former Participant. Effective September 16, 2013, in accordance with

Revenue Ruling 2013-17, for purposes of determining whether a person is a current or former spouse under applicable local law based upon the local law recognition of the person's current or former marriage in another jurisdiction, the determination shall be made by disregarding any local law restrictions that are based on the gender of the person and/or the Participant or former Participant.

- (27) **Taxable Wage Base**: That portion of a Participants' total annual Compensation which is subject to taxation for purposes of the Federal Insurance Contributions Act.
- (28) **Trust**: The trust established herein to hold and invest contributions made under the Plan, and income thereon, and from which the Plan benefits are distributed.
- (29) **Trust Fund**: The funds and properties held pursuant to the provisions hereof for the use and benefit of the Participants, together with all income, profits, and increments thereto.
- (30) **Trustee**: The trustee or trustees qualified and acting hereunder at any time.
- (31) **Valuation Dates**: The last day of each calendar quarter of each Plan Year and any other interim Valuation Date designated by the Committee on a nondiscriminatory basis.
- (32) **Vested Interest**: The percentage of a Participant's Accounts that, pursuant to the Plan, is nonforfeitable.
- (33) **Vesting Service**: The measure of service used in determining a Participant's Vested Interest, in accordance with Sections 9.6 and 9.7.
- (34) **Voluntary Contributions**: Contributions made to the Plan by a Participant pursuant to Article IV.

**1.2 Number and Gender**. Wherever appropriate herein, words used in the singular shall be considered to include the plural, and words used in the plural shall be considered to include the singular. The masculine gender, where appearing in the Plan, shall be deemed to include the feminine gender.

**1.3 Headings**. The headings of Articles and Sections herein are included solely for convenience, and if there is any conflict between such headings and the text of the Plan, the text shall control.

**1.4 Construction**. It is intended that the Plan be qualified within the meaning of section 401(a) of the Code and that the Trust be tax exempt under section 501(a) of the Code, and all provisions herein shall be construed in accordance with such intent.

## **II. PARTICIPATION**

**2.1 Initial Participation**. An Eligible Employee shall become a Participant of the Plan as of the first day immediately following the expiration of his ninety day probation period provided that he is employed on such date. An Employee who becomes an Eligible Employee as a result of a change in his employment status shall become a Participant of the Plan as of the

later of the date of such change in his employment status or the first day immediately following the expiration of ninety days following his initial employment with the Employer. Participation in the Plan is a condition to employment as an Eligible Employee and is automatic.

**2.2 Participation Upon Reemployment.** A Participant who terminates employment with the Employer shall be treated as a new employee for purposes of this Article II if he is reemployed by the Employer.

### **III. REQUIRED CONTRIBUTIONS**

**3.1 Amount of Required Contributions.** A Participant must, as a condition to his employment by the Employer, contribute to the Plan on an after-tax basis as his Required Contributions, 4% of his Compensation. The Employer shall withhold such contributions from his Compensation as of each payroll period. An Eligible Employee who has become a Participant of the Plan may contribute to the Plan as additional Required Contributions an amount equal to 4% of the Compensation which he received from the Employer during the 90-day period immediately preceding the date he became a Participant of the Plan. Such additional Required Contributions may be made by additional payroll deductions during the 30-day period after becoming a Participant or by separate payments made at any time during the 30-day period after becoming a Participant. The Plan Participantship of a Participant who makes such additional Required Contributions shall be retroactively effective to the date of his employment by the Employer.

**3.2 Suspension of Required Contributions.** A Participant's Required Contributions shall be suspended automatically during any period of unpaid leave of absence from employment with the Employer that has been authorized by the Employer.

**3.3 Allocation of Required Contributions.** Required Contributions made to the Plan by a Participant shall be allocated to his Employee Account.

### **IV. VOLUNTARY CONTRIBUTIONS**

**4.1 Amount of Voluntary Contributions.** A Participant may contribute to the Plan on an after-tax basis any amount which, when added to his prior contributions to the Plan, does not exceed 10% of his Compensation received during all of his years of Plan participation. A Participant may authorize the Employer to withhold such contributions from his Compensation as of each payroll period or may make such contributions by payment to the Trustee at such time and in such amount (subject to the foregoing limit) as he desires. A Participant who is making Voluntary Contribution to the Plan by payroll deduction may suspend such contributions or increase or decrease such contributions (within the foregoing limit) at any time upon reasonable written notice to the Pension Committee.

**4.2 Withdrawal of Voluntary Contributions.** Upon reasonable written notice to the Pension Committee, a Participant may, as of the last day of any calendar quarter, **withdraw from his Employee Account an amount equal to all, but not less than all, of the portion of such account** which is attributable to his Voluntary Contributions not previously withdrawn. A Participant who makes such a withdrawal may not again make a withdrawal pursuant to this Section 4.2

until the expiration of twenty-four months but may, if he desires, continue to make Voluntary Contributions to the Plan. Any withdrawal hereunder which constitutes an Eligible Rollover Distribution shall be subject to the Direct Rollover election described in Section 12.6.

**4.3 Allocation of Voluntary Contributions.** Voluntary Contributions made to the Plan by a Participant shall be allocated to his Employee Account.

## **V. EMPLOYER CONTRIBUTIONS**

**5.1 Amount of Employer Contributions.** For each Plan Year, the Employer shall contribute to the Trust on behalf of each Participant an amount that equals:

(a) 18% of such Participant's Compensation for such Plan Year which is not in excess of the Taxable Wage Base for such Plan Year minus an amount equal to the contributions made by the Employer under the Federal Insurance Contributions Act with respect to such Participant for such Plan Year; plus

(b) 18% of each such Participant's Compensation for such Plan Year which is in excess of the Taxable Wage Base.

**5.2 Allocation of Employer Contributions.** Employer Contributions made by the Employer on a Participant's behalf shall be allocated to such Participant's Employee Account.

## **VI. STATUS OF PLAN AND GENERAL CONTRIBUTION PROVISIONS**

**6.1 Status of Plan.** The Plan is intended to qualify as a profit sharing plan for purposes of sections 401(a), 402, and 417 of the Code.

**6.2 Contributions Not Contingent on Profits.** Plan contributions made pursuant to Article V shall be made without regard to current or accumulated profits of the Employer.

**6.3 Return of Contributions.** If Employer contributions are made under a mistake of fact, such contributions shall, upon the written demand of the Employer, be returned to the Employer by the Trustee within one year after the payment thereof, reduced by any net losses of the Trust Fund attributable thereto but not increased by any net earnings of the Trust Fund attributable thereto, which net earnings shall be treated as a forfeiture in accordance with Section 9.9.

**6.4 Suspended Amounts.** All contributions, forfeitures, and the net income (or net loss) of the Trust Fund shall be held in suspense until allocated or applied as provided herein.

**6.5 Contribution Allocation Timing.** All contributions to the Plan shall be considered allocated to Participants' Accounts no later than the last day of the Plan Year for which they were made.



## VII. LIMITATIONS

7.1 **Definitions.** For purposes of this Section, the following terms and phrases shall have these respective meanings:

(a) **Annual Additions:** For any Limitation Year, the total of a Participant's allocations of (1) the Employer Contributions, Before-Tax Contributions, and forfeitures, if any, allocated to such Participant's Accounts for such year, (2) Participant's contributions, if any, (excluding any Rollover Contributions) for such year, and (3) amounts referred to in sections 415(i)(1) and 419A(d)(2) of the Code.

(b) **415 Compensation:** The total of all amounts paid by the Employer to or for the benefit of a Participant for services rendered or labor performed for the Employer that are required to be reported on the Participant's federal income tax withholding statement or statements (Form W-2 or its subsequent equivalent), but including the following:

(1) Elective deferrals (as defined in section 402(g)(3) of the Code) from Compensation to be paid by the Employer to the Participant;

(2) Any amount that is contributed or deferred by the Employer at the election of the Participant and that is not includable in the gross income of the Participant by reason of section 125 or 457 of the Code; and

(3) Any amounts that are not includable in the gross income of a Participant under a salary reduction agreement by reason of the application of section 132(f) of the Code.

The 415 Compensation of any Participant taken into account for purposes of the Plan for any Limitation Year shall be limited to \$200,000, with such limitation to be:

(1) Adjusted automatically to reflect any amendments to section 401(a)(17) of the Code and any cost-of-living increases authorized by section 401(a)(17) of the Code; and

(2) Prorated for a Limitation Year of less than twelve months and to the extent otherwise required by applicable law.

The 415 Compensation of any Participant taken into account for purposes of the Plan for any Limitation Year shall not include compensation paid after the Participant's severance from employment except as permitted pursuant to Treasury Regulation section 1.415(c) 2(e)(3).

(c) **Limitation Year:** The Plan Year.

(d) **Maximum Annual Additions:** The lesser of (i) \$40,000 (with such amount to be adjusted automatically to reflect any cost-of-living adjustment authorized by section 415(d) of the Code) or (ii) 100% of such Participant's 415 Compensation

during such Limitation Year, except that the limitation in this Clause (ii) shall not apply to any contribution for medical benefits (within the meaning of section 419A(f)(2) of the Code) after separation from service with the Employer that is otherwise treated as an Annual Addition or to any amount otherwise treated as an Annual Addition under section 415(1)(1) of the Code.

**7.2 Limitations on Annual Additions.** Contrary Plan provisions notwithstanding, in no event shall the Annual Additions credited to a Participant's Accounts for any Limitation Year exceed the Maximum Annual Additions for such Participant for such year.

**7.3 Limitations Aggregation Rules.** For purposes of determining whether the Annual Additions under this Plan exceed the limitations herein provided, all defined contribution plans of the Employer are to be treated as one defined contribution plan. If the Annual Additions credited to a Participant's Accounts for any Limitation Year under this Plan plus the additions credited on his behalf under other defined contribution plans required to be aggregated pursuant to this Section would exceed the Maximum Annual Additions for such Participant for such Limitation Year, the Annual Additions under this Plan and the additions under such other plans shall be reduced on a pro rata basis and allocated, reallocated, or returned in accordance with applicable plan provisions regarding Annual Additions in excess of Maximum Annual Additions.

## **VIII. INVESTMENT OF ACCOUNTS**

**8.1 Investment of Accounts.** The funds of the Plan shall be invested in accordance with the provisions of Article XVII and within the investment parameters and guidelines issued by the Directors.

**8.2 Allocation of Net Income or Loss and Changes in Value Among Accounts.** As of each Valuation Date, the fair market value of the Trust Fund assets and the net income (or net loss) of the Trust Fund shall be determined. The net income (or net loss) of the Trust Fund since the next preceding Valuation Date shall be ascertained, including any net increase or net decrease in the value of the assets of the Trust Fund since the next preceding Valuation Date. As soon as practicable after each Valuation Date, a written statement of such determination shall be delivered to the Directors.

**8.3 Allocation Subaccounts.** For purposes of allocations of net income (or net loss) of the Trust Fund, each Participant's Accounts (or subaccounts) shall be divided into subaccounts as follows:

(a) A Participant's Employee Account shall be divided into a Required Contribution subaccount, a Required Contribution earnings subaccount, a Voluntary Contribution subaccount, and a Voluntary Contribution earnings subaccount; and

(b) A Participant's Employer Account shall be divided into an Employer Contribution subaccount and an Employer Contribution earnings subaccount.

As of each Valuation Date, the net income (or net loss) of the Trust Fund shall be allocated among the corresponding subaccounts of the Participants who had such corresponding

subaccounts on the next preceding Valuation Date, and each such corresponding subaccount shall be credited with (or debited for) that portion of such net income (or net loss) that the value of each such corresponding subaccount on such next preceding Valuation Date was of the value of all such corresponding subaccounts on such date; provided, however, that the value of such subaccounts as of the next preceding Valuation Date shall be reduced by the amount of any withdrawals or distributions made therefrom since the next preceding Valuation Date.

**8.4 Duration of Allocations.** So long as there is any balance in any Account (including an Account payable to a designated beneficiary of a Participant or an alternate payee under a qualified domestic relations order, as defined in section 4140(8) of the Code), such Account shall continue to receive allocations pursuant to this Article.

## **IX. BENEFITS AND DETERMINATION OF VESTED INTEREST**

**9.1 No Benefits Unless Herein Set Forth.** Except as set forth in this Article, a Participant shall acquire no right to any benefit from the Plan or the Trust Fund.

**9.2 Benefits.** Upon termination of employment, a Participant shall be entitled to a termination benefit, payable at the time and in the form provided in Articles X, XI, and XII, equal in value to the sum of his Vested Interest in the amount in his Accounts as of the Valuation Date next preceding his Benefit Commencement Date and his Vested Interest in any amounts allocated to his Accounts after such Valuation Date.

**9.3 Vested Interest – Employee Account.** A Participant shall have a 100% Vested Interest in his Employee Account at all times.

**9.4 Vested Interest – Employer Account.** A Participant's Vested Interest in his Employer Account shall be determined by such Participant's years of Vesting Service in accordance with the following schedule:

<u>Years of Vesting Service</u>	<u>Vested Interest</u>
Less than 1 year	0%
1 year	20%
2 years	40%
3 years	60%
4 years	80%
5 years or more	100%

**9.5 Vested Interest at Normal Retirement Date, Disability and Death.** Sections 9.4 above notwithstanding, a Participant shall have a 100% Vested Interest in his Employer Account (a) upon the attainment of his Normal Retirement Date while employed by the Employer, (b) upon the termination of his employment with the Employer at a time when he is totally and permanently disabled or (c) upon the death of such Participant while an Employee.

**9.6 Crediting of Vesting Service.** For the period preceding the Effective Date, an individual shall be credited with Vesting Service in an amount equal to all service credited to

him for vesting purposes under the Plan as it existed on the day prior to the Effective Date. For the Plan Year beginning on and after the Effective Date, subject to the provisions of Section 9.7, the completion of 1,000 or more Hours of Service during any Plan Year shall constitute one year of Vesting Service For purposes of the preceding sentence a Participant shall be credited with an hour of service for each hour for which he is directly or indirectly paid, or entitled to payment, by the Employer for the performance of duties or for which he receives regular holiday pay, regular sick pay or regular vacation pay.

**9.7 Break in Service.** If a Participant who terminates employment with the Employer for any reason is reemployed by the Employer, he shall be treated as a new Employee, his service with the Employer prior to such reemployment shall be disregarded for purposes of determining his Vested Interest in his Employer Account with respect to Employer Contributions made to such Account after such reemployment and his service with the Employer after such reemployment shall not be applied to increase the Vested Interest that he had in his Employer Account prior to such reemployment.

**9.8 Forfeitures of Nonvested Account Balance.** The forfeitable amount credited to a Participant's Employer Account as of the Valuation Date next preceding his Benefit Commencement Date shall become a forfeiture as of the date he terminates his employment with the Employer. Such forfeiture shall not be subject to reinstatement for any reason if such Participant is reemployed by the Employer.

**9.9 Application of Forfeitures.** Amounts that are forfeited during a Plan Year shall be applied to reduce Employer Contributions and/or to pay expenses incident to the administration of the Plan and Trust. For all Valuation Dates prior to such application, forfeited amounts held in the suspense account shall not receive allocations of net income (or net loss) pursuant to Section 8.2.

## **X. TIME OF PAYMENT OF BENEFITS**

**10.1 General Benefit Commencement Date.** Subject to the provisions of the remaining Paragraphs of this Section and as elected by a Participant, such Participant's Benefit Commencement Date shall be as soon as administratively feasible after any Valuation Date included in the 12-month period following the date the Participant or his beneficiary becomes entitled to a benefit pursuant to Section 9.2. In the event such Participant does not affirmatively elect a Benefit Commencement Date in such 12-month period, his Benefit Commencement Date shall be as soon as administratively feasible following the last Valuation Date included in such 12- month period. The Pension Committee and Trustees will meet and authorize Plan distributions to Plan Participants in the month following each Valuation Date or when deemed necessary by the Pension Committee.

**10.2 Benefit Commencement Date Statutory Requirements.** A Participant's Benefit Commencement Date shall in no event be later than the sixtieth day following the close of the Plan Year during which such Participant attains, or would have attained, his Normal Retirement Date or, if later, terminates his employment with the Employer; shall be in compliance with the provisions of section 401(a)(9) of the Code and applicable Treasury regulations thereunder; and shall in no event be later than:

(a) April 1 of the calendar year following the later of (1) the calendar year in which such Participant attains the age of seventy and one-half or (2) the calendar year in which such Participant terminates his employment with the Employer (provided, however, that clause (2) of this sentence shall not apply in the case of a Participant who is a "five-percent owner" (as defined in section 416 of the Code) with respect to the Plan Year ending in the calendar year in which such Participant attains the age of seventy and one-half); and

(b) In the case of a benefit payable upon a Participant's death (1) if payable to other than the Participant's Spouse, December 31 of the calendar year that contains the fifth anniversary of the Participant's date of death or (2) if payable to the Participant's Spouse, the later of (i) December 31 of the calendar year that contains the fifth anniversary of the Participant's date of death or (ii) December 31 of the calendar year in which such Participant would have attained the age of seventy and one-half unless such surviving Spouse dies before the payment is made, in which case the Benefit Commencement Date may not be deferred beyond December 31 of the calendar year following the calendar year in which such surviving Spouse dies.

The provisions of this Section 10.2 notwithstanding, a Participant may not elect to defer the receipt of his benefit hereunder to the extent that such deferral creates a death benefit that is more than incidental within the meaning of section 401(a)(9)(G) of the Code and applicable Treasury regulations thereunder.

**10.3 Distribution Event Requirement.** Subject to the provisions of Section 10.2, a Participant's Benefit Commencement Date shall not occur while the Participant is employed by the Employer.

**10.4 Qualified Domestic Relations Orders** Notwithstanding anything in the Plan to the contrary, benefits may be payable to an alternate payee pursuant to a "qualified domestic relations order," as defined under section 414(p) of the Code, prior to the Participant's termination of employment or reaching a specified age.

## **XI. MINIMUM DISTRIBUTION REQUIREMENTS**

**11.1 Effect of Article.** The provisions of this Article XI will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 Distribution Calendar Year. The requirements of this Article XI will take precedence over any inconsistent provisions of the Plan. All distributions required under this Article XI will be determined and made in accordance with the Treasury regulations under section 401(a)(9) of the Code.

**11.2 Benefit Commencement at 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. 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:

(a) 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, if later.

(b) 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.

(c) 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.

(d) 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 Section (disregarding item (a) above), will apply as if the surviving Spouse were the Participant.

For purposes of this Section 11.2 and Section 11.4 below, unless item (d) of Section 11.2 above applies, distributions are considered to begin on the Participant's Required Beginning Date. If item (d) of Section 11.2 above applies, distributions are considered to begin on the date distributions are required to begin to the surviving Spouse under item (a) of Section 11.2. If distributions under an annuity purchased from an insurance company 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 item (a) of Section 11.2, the date distributions are considered to begin is the date distributions actually commence. 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 Sections 11.3 and 11.4 of this Article XVII, whichever is applicable. 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 the Treasury regulations.

**11.3 Minimum Distribution Amount – Participant's Lifetime.** During the Participant's lifetime, the minimum amount that will be distributed for each Distribution Calendar Year is the lesser of:

(a) The quotient obtained by dividing the Participant's Account Balance by the distribution period in the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's age as of the Participant's birthday in the Distribution Calendar Year; or

(b) If the Participant's sole Designated Beneficiary for the Distribution Calendar Year is the Participant's Spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the Distribution Calendar Year.

Required minimum distributions will be determined under this Section 11.3 beginning with the first Distribution Calendar Year and up to and including the Distribution Calendar Year that includes the Participant's date of death.

**11.4 Minimum Distribution Amount – Participant Death After Benefit Commencement.** If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining Life Expectancy of the Participant or the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as follows:

(a) The Participant's remaining Life Expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(b) If the Participant's surviving Spouse is the Participant's sole Designated Beneficiary, the remaining Life Expectancy of the surviving Spouse is calculated for each Distribution Calendar Year after the year of the Participant's death using the surviving Spouse's age as of the Spouse's birthday in that year. For Distribution Calendar Years after the year of the surviving Spouse's death, the remaining Life Expectancy of the surviving Spouse is calculated using the age of the surviving Spouse as of the Spouse's birthday in the calendar year of the Spouse's death, reduced by one for each subsequent calendar year.

(c) If the Participant's surviving Spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining Life Expectancy is calculated using the age of the Designated Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

If the Participant dies on or after the date distributions begin and there is no Designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the Participant's remaining Life Expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

**11.5 Minimum Distribution Amount – Participant Death Prior to Benefit Commencement.** If the Participant dies before the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the

Participant's Account Balance by the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as provided in item (a), (b), or (c) of Section 11.4, whichever is applicable. 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. If the Participant dies before the date distributions begin, the Participant's surviving Spouse is the Participant's sole Designated Beneficiary, and the surviving Spouse dies before distributions are required to begin to the surviving Spouse under item (a) of Section 11.2, this Section 11.5 will apply as if the surviving Spouse were the Participant.

**11.6 Definitions.** For purposes of this Article XI, the following terms and phrases shall have these respective meanings:

(a) **Designated Beneficiary:** The individual who is designated as a Participant's beneficiary under Section 12.2 of the Plan and is a Designated Beneficiary under section 401(a)(9) of the Code and section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.

(b) **Distribution Calendar Year:** 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 Sections 10.2(b) and 11.2. The required minimum distribution for the Participant's first Distribution Calendar Year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.

(c) **Life Expectancy:** Life Expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.

(d) **Participant's Account Balance:** The balance in a Participant's Accounts as of the last Valuation Date in the calendar year immediately preceding the Distribution Calendar Year (valuation calendar year), increased by the amount of any contributions made and allocated or forfeitures allocated to the Participant's Accounts as of dates in the valuation calendar year after the Valuation Date and decreased by distributions made in the valuation calendar year after the Valuation Date. A Participant's Account Balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the Distribution Calendar Year if distributed or transferred in the valuation calendar year.

(e) **Required Beginning Date:** With respect to a Participant or beneficiary, the date described in Section 10.2 of the Plan.



**11.7 Waiver of 2009 Required Minimum Distribution.** A Participant or Beneficiary who would have been required to receive Required Minimum Distributions for 2009 but for the enactment of section 401(a)(9)(H) of the Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions (1) that are equal to the 2009 RMDs or (2) as one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's designated Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will not receive those distributions for 2009 unless the Beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the distributions described in the preceding sentence.

## **XII. FORM OF PAYMENT OF BENEFITS**

The benefit of any Participant who terminates employment with the Employer other than by reason of death shall be paid in one of the following alternative forms to be selected by the Participant or, in the absence of such selection, by the Directors, provided, however, that the period and method of payment of any such form shall be in compliance with the provisions of section 401(a)(9) of the Code and applicable Treasury regulations thereunder:

(a) A lump sum.

(b) A commercial annuity, providing periodic installment payments for any term certain not to exceed ten years to such Participant or, in the event of such Participant's death before the end of such term certain, to his beneficiary as provided in Section 12.2 or 12.3, as applicable. Upon the death of a beneficiary who is receiving installment payments under this Paragraph, the remaining balance in the Participant's Accounts shall be paid as soon as administratively feasible, in one lump sum cash payment, to the beneficiary's executor or administrator or to his heirs at law if there is no administration of such beneficiary's estate.

If a Participant, who terminated his employment under circumstances such that he was entitled to a benefit, dies prior to the time that any funds from his Accounts have been paid, or irrevocably committed to be paid, to provide a benefit pursuant to this Section, the amount of the benefit to which he was entitled shall be paid just as if such Participant had died while employed by the Employer except that his Vested Interest shall be determined pursuant to Section 9.4.

**12.1 Alternative Forms of Death Benefit.** The death benefit for a deceased Participant shall be paid to his beneficiary determined in accordance with the provisions of Section 12.2 or 12.3, as applicable, in one of the following alternative forms to be selected by the Participant (or the Participant's designated beneficiary if authorized by the Participant) or, in the absence of such selection, by the Directors, provided, however, that the period and method of payment of any such form shall be in compliance with the provisions of section 401(a)(9) of the Code and applicable Treasury regulations thereunder:

(a) A lump sum.

(b) Periodic installment payments for any term certain, provided, however, the term certain shall not exceed the life expectancy of the beneficiary. Upon the death of a beneficiary who is receiving installment payments under this Paragraph, the remaining balance in the Participant's Accounts shall be paid as soon as administratively feasible, in one lump sum cash payment, to the beneficiary's executor or administrator or to his heirs at law if there is no administration of such beneficiary's estate.

**12.2 Beneficiary Designation.** Each Participant shall have the right to designate the beneficiary or beneficiaries to receive payment of his benefit in the event of his death. Each such designation shall be made by executing the beneficiary designation form prescribed by the Committee and filing such form with the Committee. Any such designation may be changed at any time by such Participant by execution and filing of a new designation in accordance with this Section.

**12.3 Effect of Lack of Beneficiary Designation.** If a deceased Participant does not have a valid beneficiary designation on file with the Committee at the time of his death, the designated beneficiary or beneficiaries to receive such Participant's death benefit shall be as follows:

(a) If a Participant leaves a surviving Spouse, his designated beneficiary shall be such surviving Spouse; and

(b) If a Participant leaves no surviving Spouse, his designated beneficiary shall be (1) such Participant's executor or administrator or (2) his heirs at law if there is no administration of such Participant's estate.

**12.4 Effect of Divorce.** To the extent not prohibited by state or federal law, if a Participant is divorced from his Spouse and at the time of his death is not remarried to the person from whom he was divorced, any designation of such divorced Spouse as his beneficiary under the Plan filed prior to the divorce shall be null and void unless the contrary is expressly stated in writing filed with the Committee by the Participant. The interest of such divorced Spouse failing hereunder shall vest in the persons specified in Section 12.2 or 12.3, as applicable, as if such divorced Spouse did not survive the Participant.

**12.5 Unclaimed Benefits.** In the case of a benefit payable on behalf of a Participant, if the Committee is unable to locate the Participant or beneficiary to whom such benefit is payable, upon the Committee's determination thereof, such benefit shall be forfeited. The timing of such forfeiture shall comply with the time of payment rules described in Articles X and XI.

**12.6 Direct Rollover Election.** Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section, a Distributee may elect, at the time and in the manner prescribed by the Committee, to have all or any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover. The preceding sentence notwithstanding, a Distributee may elect a Direct Rollover pursuant to this Section only if such Distributee's Eligible Rollover Distributions during the Plan Year are reasonably expected to total \$200 or more. Furthermore, if less than 100% of the Participant's Eligible Rollover Distribution is to be a Direct Rollover,

the amount of the Direct Rollover must be \$500 or more. Prior to any Direct Rollover pursuant to this Section, the Committee may require the Distributee to furnish the Committee with a statement from the plan, account, or annuity to which the benefit is to be transferred verifying that such plan, account, or annuity is, or is intended to be, an Eligible Retirement Plan.

**12.7 Mandatory Rollovers.** In the event of a distribution to a Participant that is greater than \$1,000, if the Participant does not elect to have such distribution paid directly to an Eligible Retirement Plan specified by the Participant in a direct rollover in accordance with Section 12.6 or elect to receive the distribution directly in accordance with the first two sentences of Section 7.1(a), then the Pension Committee will pay the distribution in a direct rollover to an individual retirement plan designated by the Pension Committee.

**12.8 Benefits from Account Balances.** With respect to any benefit payable in any form pursuant to the Plan, such benefit shall be provided from the Account balance(s) to which the particular Participant or beneficiary is entitled.

**12.9 Commercial Annuities.** At the direction of the Committee, the Trustee may pay any form of benefit provided hereunder other than a lump sum payment or a Direct Rollover pursuant to Section 12.6 by the purchase of a commercial annuity contract and the distribution of such contract to the Participant or beneficiary. Thereupon, the Plan shall have no further liability with respect to the amount used to purchase the annuity contract and such Participant or beneficiary shall look solely to the company issuing such contract for such annuity payments. All certificates for commercial annuity benefits shall be nontransferable, except for surrender to the issuing company, and no benefit thereunder may be sold, assigned, discounted, or pledged (other than as collateral for a loan from the company issuing same).

### **XIII. CLAIMS REVIEW**

In any case in which a claim for Plan benefits of a Participant or beneficiary is denied or modified, the Directors shall furnish written notice to the claimant within a reasonable time which notice shall:

- (a) State the specific reason or reasons for the denial or modification;
- (b) Provide specific reference to pertinent Plan provisions on which the denial or modification is based;
- (c) Provide a description of any additional material or information necessary for the Participant, his beneficiary, or representative to perfect the claim and an explanation of why such material or information is necessary; and
- (d) Explain the Plan's claim review procedure as contained herein. In the event a claim for Plan benefits is denied or modified, if the Participant, his beneficiary, or a representative of such Participant or beneficiary desires to have such denial or modification reviewed, he must, within sixty days following receipt of the notice of such denial or modification, submit a written request for review by the Directors of their initial decision. In connection with such request, the Participant, his beneficiary, or the

representative of such Participant or beneficiary may review any pertinent documents upon which such denial or modification was based and may submit issues and comments in writing. Within a reasonable time following such request for review the Directors shall, after providing a full and fair review, render its final decision in writing to the Participant, his beneficiary or the representative of such Participant or beneficiary stating specific reasons for such decision and making specific references to pertinent Plan provisions upon which the decision is based.

#### **XIV. IN-SERVICE WITHDRAWALS**

Except as permitted pursuant to Section 4.2, Participants shall not be permitted to make withdrawals from the Plan prior to termination of employment.

#### **XV. LOANS**

**15.1 No Loans.** Participants shall not be permitted to borrow from the Trust Fund.

#### **XVI. ADMINISTRATION OF THE PLAN**

**16.1 Generally.** The general powers to administer the Plan shall be vested in the Directors. The Directors oversee the administration of the Plan. The Directors shall not receive compensation with respect to their services in administering the Plan. To the extent required by applicable law, the Directors shall authorize bond or security for the performance of their duties hereunder.

**16.2 Directors' Powers and Duties.** The Directors shall supervise the administration and enforcement of the Plan according to the terms and provisions hereof and shall have all powers necessary to accomplish these purposes, including, but not by way of limitation, the right, power, authority, and duty:

(a) To make rules, regulations, and bylaws for the administration of the Plan that are not inconsistent with the terms and provisions hereof, and to enforce the terms of the Plan and the rules and regulations promulgated thereunder by the Directors;

(b) To construe in their discretion all terms, provisions, conditions, and limitations of the Plan. In all cases, the construction necessary for the Plan to qualify under the applicable provisions of the Code shall control;

(c) To correct any defect or to supply any omission or to reconcile any inconsistency that may appear in the Plan in such manner and to such extent as they shall deem in their discretion expedient to effectuate the purposes of the Plan;

(d) To determine in their discretion all questions relating to Plan eligibility;  
and

(e) To make a determination in their discretion as to the right of any person to a benefit under the Plan.

**16.3 Pension Committee.** The Directors shall appoint a Pension Committee to oversee the administration of the Plan under the supervision of the Directors. The Pension Committee shall consist of three or more individuals. The Pension Committee may, in its discretion, appoint a Field Representative.

## **XVII. TRUSTEE AND ADMINISTRATION OF TRUST FUND**

**17.1 Trustee.** The Trustee shall be at any time those individuals who at such time are the Employer's Executive Director, Chief Financial Officer and Secretary-Treasurer.

**17.2 Acceptance of Fund.** The Trustee agrees to manage, administer and hold the Trust Fund in accordance with the terms and provisions of this Plan.

**17.3 Taxes.** If, pursuant to the provisions of any law now or hereafter enacted, any tax shall be imposed with respect to the assets or income of the Trust Fund, such tax shall be paid from the Trust Fund, provided that such payment is not otherwise prohibited by law and that the validity thereof is not contested.

**17.4 General Powers of the Trustee.** Subject to any limitations stated elsewhere herein, in addition to the authority, rights, privileges, powers, and duties elsewhere herein vested in the Trustee and those now or hereafter conferred by law, the Trustee shall also have the following authority, rights, privileges, powers, and duties:

- (a) To hold, manage, control, collect, and use the Trust Fund in accordance with the terms of this instrument;
- (b) To sell (for cash or on credit, or both), exchange, or otherwise dispose of, the whole or any part of the Trust Fund, at public or private sale;
- (c) To deposit or invest all or a part of the Trust Fund in savings accounts, certificates of deposit, or other deposits that bear a reasonable rate of interest in a bank or similar financial institution, if such bank or other institution is supervised by any agency of a state or the federal government.
- (d) To employ and compensate such attorneys, counsel, brokers, banks, investment advisors, or other agents, employees, or independent contractors and to delegate to them such of the duties, rights, and powers of the Trustee as may be deemed advisable in handling and administering the Plan;
- (e) To institute, join in, maintain, defend, compromise, submit to arbitration, or settle any litigation, claim, obligation, or controversy with respect to any matter affecting the Trust Fund, regardless of the manner in which such matter may have arisen, all in the name of the Trustee and without the joinder of any Participant; and
- (f) To hold uninvested for a reasonable period of time any moneys received by it until the same shall be invested or disbursed pursuant to the provisions of the Plan.

The Trustee is also authorized to exercise all the rights, powers, options, and privileges now or hereafter granted to, provided for, or vested in trustees under the Texas Trust Code, except as such may conflict with the terms of this instrument or applicable law. As far as possible, no subsequent legislation or regulation shall be in limitation of the rights, powers, or privileges granted the Trustee hereunder or set forth in the Texas Trust Code as it exists at the time of the execution hereof. Generally, the Trustee shall have, hold, manage, control, use, invest and reinvest, disburse, and dispose of the Trust Fund under all circumstances to the same extent as if the Trustee were the owner thereof in fee simple, subject only to such limitations as are contained herein and such applicable laws as cannot be waived. This instrument shall always be construed in favor of the validity of any act or omission by or of the Trustee.

**17.5 Investment Powers of the Trustee.** The assets of the Trust Fund shall be invested in the following authorized investments:

- (a) obligations of the United States or its agencies and instrumentalities;
- (b) direct obligations of the State of Texas or its agencies and instrumentalities which are secured by the full faith and credit of the State of Texas;
- (c) other obligations the principal of and interest on which are unconditionally guaranteed or insured by the full faith and credit of the State of Texas or the United States or their agencies and instrumentalities;
- (d) obligations of the State of Texas, its agencies, counties, cities, and other political subdivisions which are rates as to investment quality by a nationally recognized investment rating firm and having received a rating of not less than "A" or its equivalent;
- (e) certificates of deposit issued by state and national banks domiciled in the State of Texas that are (i) guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or (ii) secured by pledging obligations that are described by (a) above which are intended to include all direct federal agencies or instrumentalities issuing mortgage backed securities that have a market value of not less than the principal amount of the certificates which are held by a third party; and (i) fully collateralized repurchase agreements with an issuer that comply with the investment laws and are rated at least "A/A" long term or "A1/P1" short term by a nationally recognized investment rating firm, due on demand, or have a defined termination date of less than one year, secured by obligations described in (a) above which are free and clear of any third party liens, of a value equal to or greater than the amount of the repurchase agreement pledged with a third party selected or approved by the Trustees and placed through a primary government securities dealer, as defined by the Federal Reserve.

**17.6 Custodian.** The Trustee may enter into an arrangement with a custodian pursuant to which some or all of the assets of the Trust are deposited with such custodian and some or all of the Trustee's powers and responsibilities are delegated to such custodian. To the extent appropriate as a result of any such arrangement, reference in this Article to the Trustee shall be deemed to be reference to such custodian.

17.7 **Bond.** No bond or other security shall be required of the Trustee unless otherwise required by law or by the Employer.

17.8 **Accounting.** The Directors shall appoint an independent auditor for the Plan. As soon as practicable after the end of each Plan Year, such auditor shall render a written accounting of the administration of the Trust Fund showing all receipts and disbursements during the year and the then value of the assets of the Trust Fund. This audit report shall be transmitted to the Directors.

17.9 **Judicial Protection.** Either the Directors or the Trustee may seek judicial protection by any action or proceeding deemed necessary to settle the accounts of the Trustee or may obtain a judicial determination or a declaratory judgment as to a question of construction of the Plan.

17.10 **Payment of Expenses.** All expenses incident to the administration of the Plan and Trust, including but not limited to, legal, accounting, expenses of the Directors and Trustees, and the cost of furnishing any bond or security required of the Directors or the Trustees shall be paid by the Employer.

17.11 **Trust Fund Property.** All income, profits, recoveries, contributions, forfeitures, and any and all moneys, securities, and properties of any kind at any time received or held hereunder shall be held for investment purposes as a commingled Trust Fund. The maintenance of a Participant's Account shall not mean that such Participant shall have a greater or lesser interest than that due him by operation of the Plan and shall not be considered as segregating any funds or property from any other funds or property contained in the commingled fund. No Participant shall have any title to any specific asset in the Trust Fund.

17.12 **Distributions from Participant's Accounts.** Distributions from a Participant's Accounts shall be made only if, when, and in the amount and manner directed in writing by the Trustee or the Pension Committee. Any distribution made to a Participant or for his benefit shall be debited to such Participant's Account or Accounts. All distributions hereunder shall be made in cash except as otherwise specifically provided herein.

17.13 **Payments Solely from Trust Fund.** All benefits payable under the Plan shall be paid or provided for solely from the Trust Fund, and neither the Employer nor the Trustee assumes any liability or responsibility for the adequacy thereof. The Trustee may require execution and delivery of such instruments as are deemed necessary to assure proper payment of any benefits.

17.14 **No Benefits to the Employer.** No part of the corpus or income of the Trust Fund shall be used for any purpose other than the exclusive purpose of providing benefits for the Participants and their beneficiaries and of defraying reasonable expenses of administering the Plan. Anything to the contrary herein notwithstanding, the Plan shall not be construed to vest any rights in the Employer other than those specifically given hereunder.

## **XVIII. AMENDMENTS**

**18.1 Right to Amend.** Subject to Section 18.2 and any other limitations contained in the Act or the Code, the Directors may from time to time amend, in whole or in part, any or all of the provisions of the Plan. Specifically, but not by way of limitation, the Directors may make any amendment necessary to acquire and maintain a qualified status for the Plan under the Code, whether or not retroactive.

**18.2 Limitation on Amendments.** No amendment of the Plan shall be made that would vest in the Employer, directly or indirectly, any interest in or control of the Trust Fund. No amendment shall be made that would vary the Plan's exclusive purpose of providing benefits to Participants and their beneficiaries and of defraying reasonable expenses of administering the Plan or that would permit the diversion of any part of the Trust Fund from that exclusive purpose.

## **XIX. DISCONTINUANCE OF CONTRIBUTIONS, TERMINATION, PARTIAL TERMINATION, AND MERGER OR CONSOLIDATION**

**19.1 Right to Discontinue Contributions, Terminate, or Partially Terminate.** The Employer has established the Plan with the bona fide intention and expectation that from year to year it will be able to, and will deem it advisable to, make its contributions as herein provided. However, the Directors realize that circumstances not now foreseen or circumstances beyond its control may make it either impossible or inadvisable for the Employer to continue to make its contributions to the Plan. Therefore, the Directors shall have the right and the power to discontinue contributions to the Plan, terminate the Plan, or partially terminate the Plan at any time hereafter. Each member of the Committee and the Trustee shall be notified of such discontinuance, termination, or partial termination.

**19.2 Procedure in the Event of Discontinuance of Contributions, Termination, or Partial Termination.** If the Plan is amended so as to permanently discontinue Employer Contributions or if Employer Contributions are in fact permanently discontinued, the Vested Interest of each affected Participant shall be 100%, effective as of the date of discontinuance. In case of such discontinuance, the Committee shall remain in existence and all other provisions of the Plan that are necessary, in the opinion of the Committee, for equitable operation of the Plan shall remain in force.

(a) If the Plan is terminated or partially terminated, the Vested Interest of each affected Participant shall be 100%, effective as of the termination date or partial termination date, as applicable.

(b) Upon discontinuance of contributions, termination, or partial termination, any previously unallocated contributions and forfeitures shall be allocated among the Accounts of the Participants on such date of discontinuance, termination, or partial termination. The net income (or net loss) of the Trust Fund shall continue to be allocated to the Accounts of the Participants until the balances of the Accounts are distributed. In the event of termination, the date of the final distribution shall be treated as a Valuation Date.



(c) In the case of a termination or partial termination of the Plan and in the absence of a Plan amendment to the contrary, the Trustee shall pay the balance of the Accounts of a Participant for whom the Plan is so terminated or who is affected by such partial termination to such Participant, subject to the time of payment, form of payment, and consent provisions of Articles X, XI, and XII.

**19.3 Merger, Consolidation, or Transfer.** This Plan and Trust Fund may not merge or consolidate with, or transfer its assets or liabilities to, any other plan unless immediately thereafter each Participant would, in the event such other plan terminated, be entitled to a benefit which is equal to or greater than the benefit to that he would have been entitled if the Plan were terminated immediately before the merger, consolidation, or transfer.

## **XX. MISCELLANEOUS PROVISIONS**

**20.1 Not Contract of Employment.** The adoption and maintenance of the Plan shall not be deemed to be either a contract between the Employer and any person or consideration for the employment of any person. Nothing herein contained shall be deemed to give any person the right to be retained in the employ of the Employer or to restrict the right of the Employer to discharge any person at any time, nor shall the Plan be deemed to give the Employer the right to require any person to remain in the employ of the Employer or to restrict any person's right to terminate his employment at any time.

**20.2 Uniformed Services Employment and Reemployment Rights Act Requirements.** Notwithstanding any provision of the Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the Code. In the case of a Participant who dies while performing qualified military service (as defined in section 414(u) of the Code), the survivors shall be entitled to any additional benefits provided under the Plan (other than contributions relating to the period of qualified military service) had the Participant resumed and then terminated employment on account of death. Further, any differential wage payments paid by the Company during any period when the Participant, while on active duty, is performing services in the uniformed services shall be treated as Compensation for purposes of the Plan. Notwithstanding the foregoing, a Participant shall be treated as having been severed from employment with the Company during any period when the Participant is performing service in the uniformed services described in section 3401(h)(2)(A) of the Code. In the event that such a Participant elects to receive a distribution from the Plan, such Participant shall not make either Required Contributions or Voluntary Contributions to the Plan during the six month period beginning on the date of such distribution.

**20.3 Payments to Minors and Incompetents.** If a Participant or beneficiary entitled to receive a benefit under the Plan is a minor or is determined by the Committee in its discretion to be incompetent or is adjudged by a court of competent jurisdiction to be legally incapable of giving valid receipt and discharge for a benefit provided under the Plan, the Committee may pay such benefit to the duly appointed guardian or conservator of such Participant or beneficiary for the account of such Participant or beneficiary. If no guardian or conservator has been appointed for such Participant or beneficiary, the Committee may pay such benefit to any third party who is determined by the Committee, in its sole discretion, to be authorized to receive such benefit for

the account of such Participant or beneficiary. Such payment shall operate as a full discharge of all liabilities and obligations of the Committee, the Trustee, the Employer, and any fiduciary of the Plan with respect to such benefit.

**20.4 Participant's and Beneficiary's Addresses.** It shall be the affirmative duty of each Participant to inform the Committee of, and to keep on file with the Committee, his current mailing address and the current mailing address of his designated beneficiary. If a Participant fails to keep the Committee informed of his current mailing address and the current mailing address of his designated beneficiary, neither the Committee, the Trustee, the Employer, nor any fiduciary under the Plan shall be responsible for any late or lost payment of a benefit or for failure of any notice to be provided timely under the terms of the Plan.

**20.5 Incorrect Information, Fraud-, Concealment, or Error.** Any contrary provisions of the Plan notwithstanding, if, because of a human or systems error or because of incorrect information provided by or correct information failed to be provided by fraud, misrepresentation, or concealment of any relevant fact (as determined by the Committee) by any person, the Plan enrolls any individual, pays benefits under the Plan, incurs a liability, or makes any overpayment or erroneous payment, the Plan shall be entitled to recover from such person the benefit paid or the liability incurred, together with all expenses incidental to or necessary for such recovery.

**20.6 Correction of Errors.** If an error has occurred in crediting or debiting any Account or Accounts as a result of data, recordkeeping, or other administrative error, the Committee shall correct the error by adjusting the affected Account or Accounts to the extent reasonably practicable and by taking such other actions (including but not limited to requesting a repayment by a Participant of all or part of a distribution made to him or making a special corrective distribution to a Participant). Any such correction shall be conclusive and binding on all Participants.

**20.7 Benefit Disputes.** If the Committee determines that there is a dispute concerning the payment of benefits to a Participant's beneficiary or beneficiaries or concerning the qualification of a domestic relations order under section 414(p) of the Code, the Committee may delay any payment that would otherwise be made under the Plan until the Committee, in its discretion, determines that the dispute has been resolved. In the case of any bona fide dispute between parties concerning the right to a Plan benefit, the Committee may, in its discretion, file an interpleader action in federal court, naming the parties to the dispute and, if applicable, may pay the disputed amount into the court to be distributed in accordance with the court's decision or take such other action as may be permitted under the civil enforcement provisions of the Act as it determines, in its discretion, constitutes an appropriate way to resolve or otherwise settle the dispute.

**20.8 Severability.** If any provision of this Plan shall be held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining provisions hereof. In such case, each provision shall be fully severable and the Plan shall be construed and enforced as if said illegal or invalid provision had never been included herein.

**20.9 Jurisdiction.** The situs of the Plan and the Trust hereby created is Texas. All provisions of the Plan shall be construed in accordance with the laws of Texas except to the extent preempted by federal law.

**AMENDMENT TO THE  
COASTAL WATER AUTHORITY PENSION PLAN**

**THIS AMENDMENT** by the Coastal Water Authority (the "*Sponsor*").

**W I T N E S S E T H:**

**WHEREAS**, the Sponsor maintains the Coastal Water Authority Pension Plan (the "*Plan*");

**WHEREAS**, under the provisions of the Plan, the Sponsor retained the right to amend the Plan; and

**WHEREAS**, the Sponsor has determined to amend Plan to permit participants to take in-service distributions on or after attaining the age of 59-1/2;

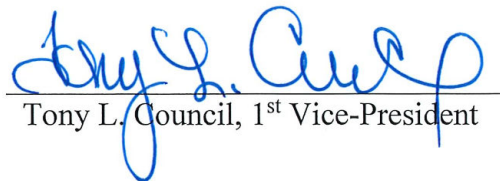
**NOW, THEREFORE**, effective as of June 10, 2020, Article XIV of the Plan is completely amended and restated to provide as follows:

**XIV. IN-SERVICE WITHDRAWALS**

A Participant who has attained age fifty-nine and one-half (59-1/2) may withdraw from his Accounts an amount not exceeding such Participant's Vested Interest in such Accounts. Any in-service withdrawal pursuant to this Article XIV will (i) be distributed in the form of a lump sum; and (ii) come from the Participant's Employer Account and Employee Account, including investment earnings within such Accounts, on a pro-rata basis based on the value of the Participant's Vested Interest in such Accounts.

**IN WITNESS WHEREOF**, the Sponsor has caused this Amendment to be executed on the 10<sup>th</sup> day of June, 2020.

**COASTAL WATER AUTHORITY**

  
Tony L. Council, 1<sup>st</sup> Vice-President