



**NOTICE OF PUBLIC MEETING
OF THE
PLEASANT GROVE CITY COUNCIL**

Notice is hereby given that the Pleasant Grove City Council will hold a **Work Session meeting at 4:30 p.m. on July 6, 2021** in the Community Room 108 S 100 E, prior to the regular **City Council meeting at 6:00 p.m.** This is a public meeting and anyone interested is invited to attend, however, Work Sessions are not designed to hear public comment or take official action.

AGENDA

4:30 P.M. WORK SESSION

1. Recognition of Strawberry Days Committee – Mayor Fugal presenter
2. Discussion on e-scooter in Pleasant Grove – Director Cardenas presenter
3. Staff Business

6:00 P.M. REGULAR CITY COUNCIL

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **OPENING REMARKS**
4. **APPROVAL OF MEETING AGENDA**
5. **OPEN SESSION**
6. **CONSENT ITEMS:** (Consent items are only those which have been discussed beforehand, are non-controversial and do not require further discussion)
 - a. City Council Minutes:
No minutes at this time.
 - b. To consider for approval Final Payment Request to Cody Ekker Construction for the PRV Project.
 - c. To consider for approval Change Order No. 4 and Final Payment Request to Cody Ekker Construction for the Filters and Diversions Project.
 - d. To consider for approval Payment Request No. 5 to Silver Spur Construction for the Mill Ditch Project.

PLEASE NOTE: THE ORDER OF THE FOLLOWING ITEMS MAY BE SUBJECT TO CHANGE.

7. **BOARD, COMMISSION, COMMITTEE APPOINTMENTS:**
8. **PRESENTATIONS:**

9. PUBLIC HEARING ITEMS:

- A. Public hearing to consider for adoption an Ordinance amending City Code Section 10-6-2: Definitions; Boarding and Rooming House, to modify the definition of 'Boarding and Rooming House and provide an effective date. **Please note: This item will be continued to the July 20, 2021 City Council Meeting.**

10. ACTION ITEMS READY FOR VOTE:

- A. To consider for adoption a Resolution (2021-029) approving and adopting the Amended and Restated Pleasant Grove City 401K Plan and providing an effective date. *Presenter: HR Director Ludwig*
- B. To consider for adoption a Resolution (2021-030) authorizing the Mayor to sign five Quit Claim Deeds in favor of the Utah Department of Transportation (UDOT) for remnant parcels along North County Boulevard that were not transferred previously, property located in Pleasant Grove, Utah County, Utah; and providing an effective date. *Presenter: Director Beaumont*
- C. To consider for adoption a Resolution (2021-031) authorizing the Mayor to sign the Contractor's Agreement with Insituform Technologies, LLC. for the 900 East Culinary Water Line Lining Project (FY 2022) and providing an effective date. *Presenter: Director Beaumont*

11. ITEMS FOR DISCUSSION:

- A. Continued Items from the Work Session if needed.

12. REVIEW AND DISCUSSION ON THE JULY 20, 2021 CITY COUNCIL MEETING AGENDA.

13. MAYOR AND COUNCIL BUSINESS.

14. SIGNING OF PLATS.

15. REVIEW CALENDAR.

16. ADJOURN.

CERTIFICATE OF POSTING:

I certify that the above notice and agenda were posted in three public places within Pleasant Grove City limits and on the State (<http://pmn.utah.gov>) and City (www.plgrove.org) websites.

Posted by: /s/ Kathy T. Kresser, City Recorder

Date: July 2, 2021

Time: 4:00 p.m.

Place: City Hall, Library and Community Room 108 S 100 E.

*Note: If you are planning to attend this public meeting and due to a disability, need assistance in understanding or participating in the meeting, please notify the City Recorder, 801-785-5045, forty-eight hours in advance of the meeting and we will try to provide whatever assistance may be required.

PARTIAL PAYMENT ESTIMATE

Final

Name of Contractor: <i>Cody Ekker Construction</i>		
Name of Owner: <i>Pleasant Grove City</i>		
Date of Completion:	Amount of Contract:	Dates of Estimate:
Original: 15-Sep-20	Original: \$421,948.00	From: 31-Oct-20
Revised: 15-Nov-20	Revised: \$439,198.00	To: 30-Jun-21
Description of Job: <i>PRV Project</i>		
Amount	This Period	Total To Date
Amount Earned	\$0.00	\$439,198.00
Retainage Being Held	\$0.00	\$21,959.90
Retainage Being Released	\$21,959.90	\$0.00
Previous Payments		\$417,238.10
Amount Due	\$21,959.90	\$0.00

Contractor's Construction Progress is COMPLETE

I hereby certify that I have carefully inspected the work and as a result of my inspection and to the best of my knowledge and belief, the quantities shown in this estimate are correct and have not been shown on previous estimates and the work has been performed in accordance with the Contract Documents.

Recommended by Horrocks Engineers

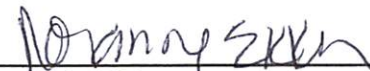
Date: 6/30/2021



Jason Judd, P.E.
Project Engineer

Accepted by: **Cody Ekker Construction**

Date: 6/20/2021



Cody Ekker
Project Manager

Approved By: **Pleasant Grove City**

Date: _____

Guy L. Fugal
Mayor

Budget Code _____ Staff Initial _____

PROJECT: PRV Project

PAY PERIOD: 4 Jun-21

ITEM NO.	NATURE OF WORK	CONTRACT ITEMS				QUANTITY		EARNINGS	
		Qty	Units	Unit Price	Bid Amt.	This Month	To Date	This Month	To Date
1	Mobilization	1	LS	\$40,000.00	\$40,000.00	0.00	1.00		\$40,000.00
2	Remove Existing PRV Vault	7	EA	\$8,000.00	\$56,000.00	0.00	7.00		\$56,000.00
3	Install PRV Vault - 900 West	1	LS	\$85,262.00	\$85,262.00	0.00	1.00		\$85,262.00
4	Install PRV Vault - 900 East Grove Creek	1	LS	\$78,362.00	\$78,362.00	0.00	1.00		\$78,362.00
5	Install PRV Vault - 1500 East	1	LS	\$83,962.00	\$83,962.00	0.00	1.00		\$83,962.00
6	Install PRV Vault - 800 East Grove Creek	1	LS	\$78,362.00	\$78,362.00	0.00	1.00		\$78,362.00
Subtotal					\$421,948.00			\$0.00	\$421,948.00

CO#1	Springline loop, Saddles, Pothole, Addition pipe and fittings.	1	LS	\$17,250.00	\$17,250.00	0.00	1.00		\$17,250.00
Subtotal					\$17,250.00			\$0.00	\$17,250.00

Total \$439,198.00

TOTAL	\$0.00	\$439,198.00
AMOUNT RETAINED	\$0.00	\$21,959.90
RETAINAGE RELEASED	\$21,959.90	\$21,959.90
PREVIOUS RETAINAGE		\$21,959.90
PREVIOUS PAYMENTS		\$417,238.10
AMOUNT DUE	\$21,959.90	\$21,959.90

DOCUMENT 00990

CONTRACT CHANGE ORDER

Project: Filters and Diversions Project
Location: Cody Ekker
Change Order No.: 4

Date: January 5, 2021

To: Cody Ekker Construction

You are hereby requested to comply with the following changes from the contract plans and specifications:

Item No.	Description of Changes, Quantities, Units, Unit Prices, Change in Completion Schedule, etc.	Decrease In Contract Price	Increase In Contract Price
1	Supply and Install Junction Boxes		\$8,000.00
2	Electrician and Markup		\$4,290.00
3	Extra Conduit		\$560.00
4	Core Drills and Markup		\$687.50
	Change in contact price due to this Change Order:		
	Total Decrease	\$0.00	
	Total Increase		\$13,537.50
	Net increase (decrease)		\$13,537.50

The sum of \$13,537.50 is hereby added to, the total contract price and the total adjusted contract price to date thereby is \$850,914.03.

The time provided for completion in the contract is **Unchanged**

This document shall become an amendment to the contract & all provisions of the contract will apply hereto.

Accepted by:


Contractor

6/30/2021
Date

Recommended by:


Resident Engineer

7/1/2021
Date

Approved by:

Owner

Date

PARTIAL PAYMENT ESTIMATE
Final

Name of Contractor: ***Cody Ekker Construction***

Name of Owner: ***Pleasant Grove City***

Date of Completion:	Amount of Contract:	Dates of Estimate:
Original: 15-May-20	Original: \$774,250.00	From: 14-Dec-20
Revised: 30-Aug-20	Revised: \$852,214.03	To: 30-Jun-21

Description of Job: ***Filters and Diversions Project***

Amount	This Period	Total To Date
Amount Earned	\$28,950.00	\$843,764.03
Retainage Being Held	\$1,447.50	\$42,188.20
Retainage Being Released	\$9,595.64	\$42,188.20
Previous Payments		\$806,665.89
Amount Due	\$37,098.14	\$37,098.14

Contractor's Construction Progress is COMPLETE

I hereby certify that I have carefully inspected the work and as a result of my inspection and to the best of my knowledge and belief, the quantities shown in this estimate are correct and have not been shown on previous estimates and the work has been performed in accordance with the Contract Documents.

Recommended by Horrocks Engineers

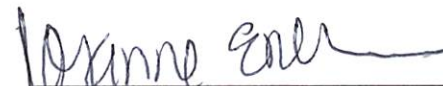
Date: 6/30/2021



Jason Judd P.E.
Project Engineer

Accepted by: **Cody Ekker Construction**

Date: 6/30/2021



Cody Ekker
Project Manager

Approved By: **Pleasant Grove City**

Date: _____

Guy L. Fugal
Mayor

Budget Code _____ Staff Initial _____

PROJECT: Filters and Diversions Project

PAY PERIOD: 8

Jun-21

ITEM NO.	NATURE OF WORK	CONTRACT ITEMS				QUANTITY		EARNINGS	
		Qty	Units	Unit Price	Bid Amt.	This Month	To Date	This Month	To Date
	Grove Creek Splitter Box								
1	Mobilization	1	LS	\$10,000.00	\$10,000.00	0.00	1.00		\$10,000.00
2	16 Inch HDPE DR-21 Pipe	200	LF	\$75.00	\$15,000.00	0.00	200.00		\$15,000.00
3	Remove and Dispose Existing Box	1	EA	\$1,000.00	\$1,000.00	0.00	1.00		\$1,000.00
4	Relocate Box W/ Air Vent, Valve, and Flex Coupling	1	EA	\$4,000.00	\$4,000.00	0.00	1.00		\$4,000.00
5	16 Inch HDPE MJ Adapter	2	EA	\$1,250.00	\$2,500.00	0.00	2.00		\$2,500.00
6	16 Inch DIP MJ Long Sleeve	1	EA	\$1,250.00	\$1,250.00	0.00	1.00		\$1,250.00
7	RCP to HDPE Coupling	1	EA	\$3,000.00	\$3,000.00	0.00	1.00		\$3,000.00
8	Extend and Reconnect Air Vent Piping	1	LS	\$1,000.00	\$1,000.00	0.00	1.00		\$1,000.00
9	Relocate 16 Inch HDPE	100	EA	\$70.00	\$7,000.00	0.00	100.00		\$7,000.00
	Grove Creek Diversion Structure								
10	Mobilization	1	LS	\$15,000.00	\$15,000.00	0.00	1.00		\$15,000.00
11	Clearing and Grubbing	1	LS	\$3,000.00	\$3,000.00	0.00	1.00		\$3,000.00
12	Diversion Box Removals/Modifications	1	LS	\$9,000.00	\$9,000.00	0.00	1.00		\$9,000.00
13	Diversion Box Improvements	1	LS	\$11,700.00	\$11,700.00	0.00	1.00		\$11,700.00
14	3/4 Inch Steel Plate	1	LS	\$3,000.00	\$3,000.00	0.00	1.00		\$3,000.00
15	1/2 Inch Steel Plate	1	LS	\$3,500.00	\$3,500.00	0.00	1.00		\$3,500.00
16	4' x 5' Wedge Wire (Coanda) Screen	2	EA	\$6,500.00	\$13,000.00	0.00	2.00		\$13,000.00
17	3/4" Stainless Steel Fasten Down Rod w/ Accessories	1	EA	\$1,500.00	\$1,500.00	0.00	1.00		\$1,500.00
	Battle Creek Diversion Struction								
18	Mobilization	1	LS	\$20,000.00	\$20,000.00	0.00	1.00		\$20,000.00
19	1' Flatwork Reinforced Concrete	390	SF	\$45.00	\$17,550.00	0.00	390.00		\$17,550.00
20	Remove/Disposal of Existing Structure	1	EA	\$3,000.00	\$3,000.00	0.00	1.00		\$3,000.00
21	New intake box	1	LS	\$6,000.00	\$6,000.00	0.00	1.00		\$6,000.00
22	4' x 6' Wedge Wire (Coanda) Screen	1	EA	\$6,500.00	\$6,500.00	0.00	1.00		\$6,500.00
23	6' Cutoff Walls	39	LF	\$900.00	\$35,100.00	0.00	39.00		\$35,100.00
24	Furnish and Install 3/4 Inch Steel Plate	1	LS	\$3,000.00	\$3,000.00	0.00	1.00		\$3,000.00
25	Furnish and install 1/2 Inch Steel Plate	1	LS	\$3,500.00	\$3,500.00	0.00	1.00		\$3,500.00
26	Flushing Box with Gates	1	LS	\$12,000.00	\$12,000.00	0.00	1.00		\$12,000.00
27	Excavation (Plan Quantity 36 CY)	1	LS	\$5,000.00	\$5,000.00	0.00	1.00		\$5,000.00
28	Fill (Plan Quantity 70 CY)	1	LS	\$6,000.00	\$6,000.00	0.00	1.00		\$6,000.00
29	Reposition Concrete Blocks	1	LS	\$8,000.00	\$8,000.00	0.00	1.00		\$8,000.00
	Battle Creek Meters								
30	Mobilization	1	LS	\$25,000.00	\$25,000.00	0.00	1.00		\$25,000.00
31	Remove Parshal Flume	1	LS	\$2,000.00	\$2,000.00	0.00	1.00		\$2,000.00
32	60" Doghouse Manhole	3	EA	\$12,000.00	\$36,000.00	0.00	3.00		\$36,000.00
33	Hach FloDar	2	EA	\$15,000.00	\$30,000.00	0.00	2.00		\$30,000.00
34	Hach FL1500	1	EA	\$15,000.00	\$15,000.00	0.00	1.00		\$15,000.00
35	Krohne Flow Meter with Display	1	EA	\$37,500.00	\$37,500.00	0.15	1.00	\$5,625.00	\$37,500.00
36	4" SCH 40 PVC Meter Conduit	210	LF	\$25.00	\$5,250.00	0.00	210.00		\$5,250.00
37	2" SCH 40 PVC Meter Conduit	390	LF	\$20.00	\$7,800.00	0.00	390.00		\$7,800.00
38	2" SCH 40 PVC Power Conduit	700	LF	\$20.00	\$14,000.00	0.00	700.00		\$14,000.00
39	Junction Box	1	EA	\$2,000.00	\$2,000.00	0.00	1.00		\$2,000.00
40	Actuator and Level Sensor	1	LS	\$9,950.00	\$9,950.00	0.25	1.00	\$2,487.50	\$9,950.00
41	60" x 120" Welded Screen	1	LS	\$12,000.00	\$12,000.00	0.00	1.00		\$12,000.00
	Filters Vaults								
42	Mobilization	1	LS	\$32,000.00	\$32,000.00	0.00	1.00		\$32,000.00
43	Retention Pond Excavation	670	CY	\$15.00	\$10,050.00	0.00	400.00		\$6,000.00
44	4" C-900 PVC Pipe and Fittings	850	LF	\$40.00	\$34,000.00	0.00	740.00		\$29,600.00
45	Flusher Drain Box	2	EA	\$17,000.00	\$34,000.00	0.00	2.00		\$34,000.00
46	Connection to Existing Storm Drain Box	2	EA	\$500.00	\$1,000.00	0.00	2.00		\$1,000.00
47	Install Amiad Filter with Bermad Flow Control Valve	6	EA	\$3,000.00	\$18,000.00	0.00	6.00		\$18,000.00
48	Install Amiad Filter Controller	3	EA	\$3,000.00	\$9,000.00	0.00	3.00		\$9,000.00
49	Vault Piping, Joints, and Valves	1	LS	\$110,000.00	\$110,000.00	0.00	1.00		\$110,000.00
50	Pressure Transducer	12	EA	\$3,000.00	\$36,000.00	2.00	12.00	\$6,000.00	\$36,000.00
51	Phase Converter	3	EA	\$800.00	\$2,400.00	0.00	3.00		\$2,400.00
52	Electrical Conduit	3	LS	\$3,500.00	\$10,500.00	0.00	3.00		\$10,500.00
53	Core Vault and Link Seal	3	EA	\$900.00	\$2,700.00	0.00	3.00		\$2,700.00
	Filter Modifications								
54	Mobilization	1	LS	\$5,000.00	\$5,000.00	0.00	1.00		\$5,000.00
55	Remove and Replace 12" Mag Meter and Readout	2	EA	\$12,000.00	\$24,000.00	0.00	2.00		\$24,000.00
56	Install new Pressure Gauge Section	5	EA	\$3,000.00	\$15,000.00	0.00	5.00		\$15,000.00
57	Electrical Conduit	1	LS	\$4,000.00	\$4,000.00	0.00	1.00		\$4,000.00
Subtotal					\$774,250.00			\$14,112.50	\$765,800.00

CO#1	Change order 1	1	LS	\$25,429.56	\$25,429.56	0.00	1.00		\$25,429.56
CO#2	FlowFill, Concrete, Sod, Pump, Bypass, Materials, Excavation	1	LS	\$37,696.97	\$37,696.97	0.00	1.00		\$37,696.97
CO#3	Air/Vac	1	LS	\$1,300.00	\$1,300.00	1.00	1.00	\$1,300.00	\$1,300.00
CO#4	Extra work for actuators	1	LS	\$13,537.50	\$13,537.50	1.00	1.00	\$13,537.50	\$13,537.50
				\$0.00					
Subtotal					\$77,964.03			\$14,837.50	\$77,964.03

Total

\$852,214.03

TOTAL	\$28,950.00	\$843,764.03
AMOUNT RETAINED	\$1,447.50	\$42,188.20
RETAINAGE RELEASED	\$9,595.64	\$42,188.20
PREVIOUS RETAINAGE		\$40,740.70
PREVIOUS PAYMENTS		\$806,665.89
AMOUNT DUE	\$37,098.14	\$37,098.14

**PARTIAL PAYMENT ESTIMATE
NO. 5**

Name of Contractor: Silver Spur Construction		
Name of Owner: Pleasant Grove City		
Date of Completion:	Amount of Contract:	Dates of Estimate:
Original: 15-Apr-21	Original: \$1,063,294.50	From: 1-May-21
Revised: -	Revised: \$1,091,219.50	To: 30-Jun-21
Description of Job: Mill Ditch Project		
Amount	This Period	Total To Date
Amount Earned	\$39,684.50	\$1,078,239.50
Retainage Being Held	\$1,984.23	\$53,911.98
Retainage Being Released	\$0.00	\$0.00
Previous Payments		\$986,627.24
Amount Due	\$37,700.28	\$37,700.29

Contractor's Construction Progress is Almost Complete

I hereby certify that I have carefully inspected the work and as a result of my inspection and to the best of my knowledge and belief, the quantities shown in this estimate are correct and have not been shown on previous estimates and the work has been performed in accordance with the Contract Documents.

Recommended by Horrocks Engineers

Date: 7/1/2021



Jason Judd, P.E.
Project Engineer

Accepted by: **Silver Spur Construction**

Date: 07/01/2021



Brandon Stoddard
Project Manager

Approved By: **Pleasant Grove City**

Date: _____

Guy L. Fugal
Mayor

Budget Code _____ Staff Initial _____

PROJECT: Mill Ditch Project

PAY PERIOD: 5/6/30//2021

ITEM NO.	NATURE OF WORK	CONTRACT ITEMS				QUANTITY		EARNINGS	
		Qty	Units	Unit Price	Bid Amt.	This Month	To Date	This Month	To Date
1	Mobilization	1	LS	\$70,800.00	\$70,800.00	0.00	1.00		\$70,800.00
2	Demolition, Clear and Grub	1	LS	\$39,050.00	\$39,050.00	0.00	1.00		\$39,050.00
3	34" DR 21 HDPE Pipe	3030	LF	\$106.00	\$321,180.00	0.00	3030.00		\$321,180.00
4	2" HDPE Conduit	6060	LF	\$6.30	\$38,178.00	0.00	6060.00		\$38,178.00
5	2" Fiber Pull Box	8	EA	\$500.00	\$4,000.00	0.00	8.00		\$4,000.00
6	4" Air Vent	4	EA	\$18,565.00	\$74,260.00	0.00	4.00		\$74,260.00
7	Intake Structure	1	LS	\$37,540.00	\$37,540.00	0.00	1.00		\$37,540.00
8	Diversion Structure One	1	LS	\$42,500.00	\$42,500.00	0.00	1.00		\$42,500.00
9	Diversion Structure Two	1	LS	\$84,995.00	\$84,995.00	0.10	1.00	\$8,499.50	\$84,995.00
10	Diversion Structure Three	1	LS	\$70,280.00	\$70,280.00	0.00	1.00		\$70,280.00
11	Pass Through Structure	1	LS	\$31,815.00	\$31,815.00	0.00	1.00		\$31,815.00
12	60" Manhole	1	EA	\$3,925.00	\$3,925.00	0.00	1.00		\$3,925.00
13	18" Corrugated HDPE Pipe	43	LF	\$62.00	\$2,666.00	0.00	43.00		\$2,666.00
14	18" End Section	1	EA	\$1,550.00	\$1,550.00	0.00	1.00		\$1,550.00
15	34" Tee and Blind Flange	1	EA	\$15,860.00	\$15,860.00	0.00	1.00		\$15,860.00
16	Re-Seeding and Stabilization	5225	SY	\$1.50	\$7,837.50	0.00	5225.00		\$7,837.50
17	Import Granular Backfill	360	CY	\$16.00	\$5,760.00	0.00	0.00		\$0.00
18	Sewer Rock	55	CY	\$32.00	\$1,760.00	0.00	0.00		\$0.00
19	16" DR9 HDPE Pipe	2860.00	LF	\$60.00	\$171,600.00	0.00	2860.00		\$171,600.00
20	3" HDPE Conduit	2860.00	LF	\$6.30	\$18,018.00	0.00	2860.00		\$18,018.00
21	3" Fiber Pull Box	8.00	EA	\$500.00	\$4,000.00	0.00	8.00		\$4,000.00
22	Disinfection and Testing	1.00	LS	\$7,000.00	\$7,000.00	0.00	1.00		\$7,000.00
23	Check Valve in Weir Structure	1.00	LS	\$8,720.00	\$8,720.00	1.00	1.00	\$8,720.00	\$8,720.00
Subtotal					\$1,063,294.50			\$17,219.50	\$1,055,774.50
CO#1	Manhole Change order	1	LS	\$22,465.00	\$22,465.00	1.00	1.00	\$22,465.00	\$22,465.00
CO#2	Fabric in Waterway	1	LS	\$5,460.00	\$5,460.00	0.00	0.00		\$0.00
Subtotal					\$27,925.00			\$22,465.00	\$22,465.00

Total**\$1,091,219.50**

TOTAL	\$39,684.50	\$1,078,239.50
AMOUNT RETAINED	\$1,984.23	\$53,911.98
RETAINAGE RELEASED		
PREVIOUS RETAINAGE		\$51,927.76
PREVIOUS PAYMENTS		\$986,627.24
AMOUNT DUE	\$37,700.28	\$37,700.29

DOCUMENT 00990

CONTRACT CHANGE ORDER

Project: Pleasant Grove 2020 Sewer Improvements Project
Location: Mark Newman
Change Order No.: 1

Date: July 1, 2021

To: Newman Construction

You are hereby requested to comply with the following changes from the contract plans and specifications:

Item No.	Description of Changes, Quantities, Units, Unit Prices, Change in Completion Schedule, etc.	Decrease In Contract Price	Increase In Contract Price
1	Soft spot removal		\$600.00
2			
	Change in contact price due to this Change Order:		
	Total Decrease	\$0.00	
	Total Increase		\$600.00
	Net increase (decrease)		\$600.00

The sum of \$600.00 is hereby added to, the total contract price and the total adjusted contract price to date thereby is \$338,950.00.

The time provided for completion in the contract is **increased** by 0 **working** days. This Document shall become an amendment to the contract & all provisions of the contract will apply hereto.

Accepted by:


Contractor

7/1/2021

Date

Recommended by:


Resident Engineer

7/1/2021

Date

Approved by:

Owner

Date

**PARTIAL PAYMENT ESTIMATE
NO. #3**

Name of Contractor: <i>Newman Construction</i>		
Name of Owner: <i>Pleasant Grove City</i>		
Date of Completion:	Amount of Contract:	Dates of Estimate:
Original: 21-Jun-20	Original: \$338,350.00	From: 1-May-21
Revised:	Revised: \$338,950.00	To: 30-Jun-21
Description of Job: <i>Pleasant Grove 2020 Sewer Improvements Project</i>		
Amount	This Period	Total To Date
Amount Earned	\$182,925.00	\$348,525.00
Retainage Being Held	\$9,146.25	\$17,426.25
Retainage Being Released	\$0.00	\$0.00
Previous Payments		\$157,320.00
Amount Due	\$173,778.75	\$173,778.75

Contractor's Construction Progress is almost complete

I hereby certify that I have carefully inspected the work and as a result of my inspection and to the best of my knowledge and belief, the quantities shown in this estimate are correct and have not been shown on previous estimates and the work has been performed in accordance with the Contract Documents.

Recommended by Horrocks Engineers

Date: 7/1/2021



Jason Judd, P.E.
Project Engineer

Accepted by: **Newman Construction**

Date: 7/1/2021



AJ Rucker
Project Manager

Approved By: **Pleasant Grove City**

Date: _____

Guy L. Fugal
Mayor

Budget Code _____ Staff Initial _____

PROJECT: Pleasant Grove 2020 Sewer Improvements Project

PAY PERIOD: 3 Jun-21

ITEM NO.	NATURE OF WORK	CONTRACT ITEMS				QUANTITY		EARNINGS	
		Qty	Units	Unit Price	Bid Amt.	This Month	To Date	This Month	To Date
1	Mobilization	1	LS	\$54,500.00	\$54,500.00	0.60	1.00	\$32,700.00	\$54,500.00
2	Traffic Control	1	LS	\$16,000.00	\$16,000.00	0.50	1.00	\$8,000.00	\$16,000.00
3	8 Inch SDR 35 PVC Sewer Pipe	660	LF	\$68.00	\$44,880.00	660.00	660.00	\$44,880.00	\$44,880.00
4	16 Inch Jack and Bore, Steel Casing	140	LF	\$970.00	\$135,800.00	0.00	140.00		\$135,800.00
5	48 Inch Manhole	4	EA	\$5,700.00	\$22,800.00	4.00	4.00	\$22,800.00	\$22,800.00
6	4" Gate Valve and Sleeve	1	EA	\$2,350.00	\$2,350.00	1.00	1.00	\$2,350.00	\$2,350.00
7	Remove Existing Sewer Lift Station	1	EA	\$6,500.00	\$6,500.00	1.00	1.00	\$6,500.00	\$6,500.00
8	Plug and Abandon Existing Force Main	2	EA	\$3,250.00	\$6,500.00	1.00	1.00	\$3,250.00	\$3,250.00
9	3 Inch Asphalt	3,400	SF	\$4.50	\$15,300.00	6250.00	6250.00	\$28,125.00	\$28,125.00
10	Untreated Base Course	70	CY	\$50.00	\$3,500.00	70.00	70.00	\$3,500.00	\$3,500.00
11	Import Backfill	1,100	Ton	\$27.00	\$29,700.00	1100.00	1100.00	\$29,700.00	\$29,700.00
12	2 Inch Stabilization Rock	20	Ton	\$26.00	\$520.00	20.00	20.00	\$520.00	\$520.00

Subtotal**\$338,350.00****\$182,325.00****\$347,925.00**

	Bore Pipe Materials - Stockpile Payment	1	LS	\$15,574.00	\$15,574.00	0.00	1.00		\$15,574.00
	Bore Pipe Materials - Stockpile Deduction	1	LS	(\$15,574.00)	(\$15,574.00)	0.00	1.00		(\$15,574.00)

CO#1	Soft Spot Remove and Replace	1	LS	\$600.00	\$600.00	1.00	1.00	\$600.00	\$600.00
CO#2		1	LS		\$0.00	0.00	0.00		\$0.00
CO#3		1	LS		\$0.00	0.00	0.00		\$0.00

Total**\$338,950.00**

TOTAL	\$182,925.00	\$348,525.00
AMOUNT RETAINED	\$9,146.25	\$17,426.25
RETAINAGE RELEASED		
PREVIOUS RETAINAGE		\$8,280.00
PREVIOUS PAYMENTS		\$157,320.00
AMOUNT DUE	\$173,778.75	\$173,778.75

RESOLUTION NO. 2021-029

**A RESOLUTION OF THE PLEASANT GROVE CITY COUNCIL
APPROVING AND ADOPTING THE AMENDED AND RESTATED
PLEASANT GROVE CITY 401K PLAN AND PROVIDING FOR AN
EFFECTIVE DATE.**

WHEREAS, Pleasant Grove City, as an employer has established a voluntary 401(k) investment plan for its employees; and

WHEREAS, the Plan has been updated, amended, and restated as required by law from time to time; and

WHEREAS, as part of the process it is required that the Plan be adopted and approved by the legislative body; and

WHEREAS, The City Council finds it to be in the best interests of the employees of the city to approve the updated Plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Pleasant Grove, Utah as follows:

SECTION 1:

The form of amended and rested 401(k) profit sharing Plan effective January 1, 2021, presented to this meeting is hereby approved and adopted and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the Plan, including any separate amendments being concurrently adopted.

Further, the undersigned certifies that the attached hereto as Exhibits A and B respectively, are true copies of the Pleasant Grove City 401(k) Plan and the Plan's Summary, where are hereby APPROVED and ADOPTED.

SECTION 2:

The provisions of this Resolution shall take effect immediately.

PASSED AND ADOPTED BY THE CITY COUNCIL OF PLEASANT GROVE, UTAH, this 6th day of July, 2021.

Mayor Guy L. Fugal

ATTEST:

Kathy T. Kresser, MMC
City Recorder

Motion: Council Member _____

Second: Council Member _____

<u>ROLL CALL</u>	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>
Mayor Guy L. Fugal	_____	_____	_____
Dianna Andersen	_____	_____	_____
Brent Bullock	_____	_____	_____
Eric Jensen	_____	_____	_____
Cyd LeMone	_____	_____	_____
Todd Williams	_____	_____	_____

PLEASANT GROVE CITY 401(K) PLAN

PARTICIPANT LOAN PROGRAM

Pleasant Grove City 401(k) Plan permits loans to be made to Participants and their beneficiaries. However, before any loan is made, the Plan requires that a written loan program be established which sets forth the rules and guidelines for making Participant loans. This document shall serve as the required written loan program. In addition, the Administrator may use this document to serve as, or supplement, any required notice of the loan program to Participants and their beneficiaries. All references to Participants in this loan program shall only include Participants and their Beneficiaries or any alternate payee with respect to the Plan. Furthermore, it shall only include those individuals to the extent they are "parties in interest" as defined by ERISA Section 3(14).

The Administrator is authorized to administer the Participant loan program. A Participant must apply to the Administrator for a loan in the manner set forth by the Administrator.

1. LOAN APPLICATION. Any Participant may apply for a loan from the Plan. A Participant must apply for each loan in writing with an application form approved by the Administrator, which specifies the amount of the loan desired, the requested duration for the loan and the source of security for the loan.

All loan applications will be considered by the Administrator within a reasonable time after the Participant applies for the loan. The Participant will be required to provide any supporting information deemed necessary by the Administrator.

2. LOAN LIMITATIONS. The Administrator will not approve any loan to a Participant in an amount which exceeds 50% of his or her nonforfeitable account balance. The maximum aggregate dollar amount of loans outstanding to any Participant may not exceed \$50,000, reduced by the excess of the Participant's highest outstanding Participant loan balance during the 12-month period ending on the date of the loan over the Participant's current outstanding Participant loan balance on the date of the loan. With regard to any loan made pursuant to this program, the following rule(s) and limitation(s) shall apply, in addition to such other requirements set forth in the Plan:

- No loan in an amount less than \$1,000 will be granted to any Participant.
- A Participant can only have two (2) loan(s) currently outstanding from the Plan.
- All loans made pursuant to this program will be considered a directed investment from the account(s) of the Participant maintained under the Plan. As such, all payments of principal and interest made by the Participant will be credited only to the account(s) of such Participant. The Plan also will charge that portion of the Participant's account balances with expenses directly related to the origination, maintenance and collection of the note.
- Loans may be made from any of the Participant's accounts in the Plan.

3. EVIDENCE AND TERMS OF LOAN. The Administrator will document every loan in the form of a promissory note signed by the Participant for the face amount of the loan, together with a commercially reasonable rate of interest.

Any loan granted or renewed under this program will bear an interest rate equal to 1 percentage points above the prime rate. The interest rate will be fixed for the duration of the loan.

The loan must provide at least quarterly payments under a level amortization schedule. Generally, the Administrator will require that the Participant repay the loan by agreeing to payroll deduction or payment by check only for prepayments.

The Administrator will fix the term for repayment of any loan, however, in no instance may the term of repayment be greater than five years, unless the loan qualifies as a home loan. A "home loan" is a loan used to acquire a dwelling unit which, within a reasonable time, the Participant will use as a principal residence.

Any distribution (other than an in-service distribution) from the Plan will first be applied to offset any outstanding loan balance unless the loan is directly rolled over (if otherwise permitted) to another employer's plan.

Unless the Participant is a "party in interest" on the day after his or her termination of employment with the Employer, a loan becomes due and payable when the Participant terminates employment with the Employer.

A loan, if not otherwise due and payable, is due and payable on termination of the Plan, notwithstanding any contrary provision in the promissory note. Nothing in this loan policy restricts the Employer's right to terminate the Plan at any time.

Participants should note the law treats the amount of any loan (other than a "home loan") not repaid five years after the date of the loan as a taxable distribution on the last day of the five year period or, if sooner, at the time the loan is in default. If a Participant extends a non-home loan having a five year or less repayment term beyond five years, the balance of the loan at the time of the extension is a taxable distribution to the Participant.

4. SECURITY FOR LOAN. The Plan will require that adequate security be provided by the Participant before a loan is granted. For this purpose, the Plan will consider a Participant's interest under the Plan to be adequate security. However, in no event will more than 50% of a Participant's vested interest in the Plan (determined immediately after origination of the loan) be used as security for the loan. Generally, it will be the policy of the Plan not to make loans which require security other than the Participant's vested interest in the Plan. However, if additional security is necessary to adequately secure the loan, then the Administrator will require that such security be provided before the loan will be granted.

5. FORM OF PLEDGE. The pledge and assignment of a Participant's account balances will be in the form prescribed by the Administrator.

6. MILITARY SERVICE. If a Participant separates from service (or takes a leave of absence) from the Employer because of service in the military and does not receive a distribution of his or her account balances, the Plan shall suspend, upon the request of the Participant, loan repayments until the Participant's completion of military service. The Employer will provide the Participant with a written explanation of the effect of the Participant's military service upon his or her Plan loan. While the Participant is on active duty in the United States military, the interest rate on the loan shall not exceed six percent (6%), compounded annually.

7. LEAVE OF ABSENCE/SUSPENSION OF PAYMENT. The Administrator may, upon request by the Participant, suspend loan repayments for a period not exceeding one year which occurs during an approved leave of absence, either without pay from the Employer or at a rate of pay (after applicable employment tax withholdings) that is less than the amount of the installment payments required under the terms of the loan. The Administrator will provide the Participant with a written explanation of the effect of the leave of absence upon his or her Plan loan.

8. PAYMENTS AFTER LEAVE OF ABSENCE. When payments resume following a payment suspension in connection with a leave of absence authorized in 6 or 7 above, the Participant shall select one of the following methods to repay the loan, plus accumulated interest:

- The Participant shall increase the amount of the required installments to an amount sufficient to amortize the remaining balance of the loan, plus accrued interest, over the remaining term of the loan.
- The Participant shall pay a balloon payment of the remaining unpaid principal and interest, at the conclusion of the term of the loan as determined in the promissory note.
- The Participant may extend the maturity of the loan and reamortize the payments over the remaining term of the loan. In no event shall the amount of the adjusted installment payment be less than the amount of the installment payment provided under the promissory note. In the case of a leave of absence described in item 7 above, the revised term of the loan shall not exceed the maximum term permitted under item 3 above. In the case of a leave of absence described in item 6 above, the revised term of the loan shall not exceed the maximum term permitted under item 3 above, augmented by the time the Participant was actually in United States military service.

9. DEFAULT. The Administrator will treat a loan in default if:

- any scheduled payment remains unpaid beyond the last day of the calendar quarter following the calendar quarter in which the Participant missed the scheduled payment; or
- the Participant makes or furnishes any false representation or statement to the Plan.

The Participant will have the opportunity to repay the loan, resume current status of the loan by paying any missed payment plus interest or, if distribution is available under the Plan, request distribution of the note. If the loan remains in default, the Administrator will offset the Participant's vested account balances by the outstanding balance of the loan to the extent permitted by law. The Administrator will treat the note as repaid to the extent of any permissible offset. Pending final disposition of the note, the Participant remains obligated for any unpaid principal and accrued interest.

Adopted this _____ day of _____, 20____. This loan program may be amended from time to time.

Signature of Administrator

PLEASANT GROVE CITY CORPORATION - TRUST

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TRUSTEE/CUSTODIAN

PLEASANT GROVE CITY CORPORATION - TRUST

TRUST AGREEMENT

The Employer hereby establishes or restates the Trust, pursuant to the following terms and conditions. The Trustee accepts the Trust hereby created and agrees to perform the obligations this Trust imposes on the Trustee.

ARTICLE I DEFINITIONS

1.01 Plan. This Trust is associated with the following plan ("the Plan" or "this Plan"): Pleasant Grove City 401(k) Plan. All of the definitions of the Plan are incorporated into this Trust by reference. All "Section" references in this Trust are to provisions of the Trust and not to Provisions of the Plan, unless otherwise clearly indicated. The Trustee may rely upon the terms of the Plan, including identification of the Named Fiduciary and Plan Administrator, as well as any documents relating to the Plan provided by the Employer, Named Fiduciary, or Plan Administrator, until such time as the Trustee receives a replacement document or a revocation of the prior document.

1.02 Trustee. Trustee means the person or persons who as Trustee, Insurer, or Custodian execute the Trust, or any successor in office who in writing accepts the position. Such signature shall indicate the capacity in which the person is agreeing to serve, either as Discretionary Trustee, Directed Trustee, Insurer, or Custodian. The Trustee is identified in Article 4. References to Trustee do not include a Special Trustee (as described in Section 2.06, unless the context requires otherwise. If the Plan is funded totally by insurance contracts, the Insurer shall be the Trustee and shall have all powers of a Custodian hereunder. If the sponsor is a bank, savings and loan, trust company, credit union or similar institution, a person or entity other than the sponsor (or its affiliates or subsidiaries) may not serve as Trustee without the written consent of the pre-approved plan sponsor.

1.03 Custodian. The Employer may appoint a custodian of the Plan assets. A Custodian has the same powers, rights and duties as a Directed Trustee hereunder. Any reference in the Plan to a Trustee also is a reference to a Custodian unless the context of the Plan indicates otherwise. A limitation of the Trustee's liability by Plan provision also acts as a limitation of the Custodian's liability. The Custodian will be protected from any liability with respect to actions taken pursuant to the direction of the Trustee, Plan Administrator, the Employer, an Investment Manager, a named Fiduciary or other third party with authority to provide direction to the Custodian. It is not intended under this agreement that a Custodian have any duties or obligations that would cause it to become a fiduciary as that term is defined pursuant to ERISA. The resignation or removal of the Custodian shall be made in accordance with the terms of this document. Notwithstanding the foregoing, if a Custodian is a bank which, under its governing state law, does not possess trust powers, then Sections 2.01(A), (C) as it relates to common trust funds or collective investment funds, (D), (E), (G), and (J), and Section 3.08 do not apply and the Custodian only has the power and the authority to exercise the remaining powers under Section 2.01 and to perform the duties under Section 2.05.

1.04 Trust Fund. The Trust Fund means and includes all property of every kind acquired by the Plan and held by the Trust, other than incidental benefit insurance contracts. The Trust Fund is intended to be a qualified trust under Code § 501(a); all contributions so received, together with the income therefrom and any other increment thereon, shall be held, invested, reinvested and administered by the Trustee pursuant to the terms of this agreement. All right, title and interest in and to the assets of the Trust Fund shall be at all times, vested exclusively in the Trustee. Only assets actually received by Trustee will become part of the Trust Fund. Plan Sponsor acknowledges and agrees that it is responsible for effectuating the transfer of any assets held by a prior trustee or custodian to Trustee. All assets so received, together with the income there from and any other increment thereon, shall be held by Trustee pursuant to the terms of this agreement without distinction between principal and income and without liability for the payment of interest thereon. The Trustee shall have only such duties with respect to the Plan as are set forth in this agreement.

1.05 Effective Date. The Trust is effective on the Effective Date of the Plan. To the extent the Plan has operated under a prior trust agreement (including one incorporated into the Plan document), this document amends and restates the Trust effective as of the later of the date it is executed or when the Trustee receives assets.

1.06 Employer. The Employer means the Employer named in the Plan. By an appendix to this Trust, the Employer may provide that any and all powers of the Employer hereunder may be exercised by the Named Fiduciary specified in the Plan.

ARTICLE II TRUSTEE POWERS AND DUTIES

2.01 Discretionary Trustee Powers. A Discretionary Trustee has full discretion and authority with regard to the investment of the Trust Fund, except as to a Plan asset: (i) properly under the control or the direction of an Investment Manager, ancillary trustee or other Plan fiduciary; (ii) subject to proper Employer or Named Fiduciary direction of investment; or (iii) subject to proper Participant or Beneficiary direction of investment. The exercise of any investment discretion hereunder shall be consistent with the funding policy determined by the Employer. Any such policy shall be consistent with the objectives of this Plan and with the requirements of Title I of the Act. The Discretionary Trustee is authorized and empowered, but not by way of limitation, with the following powers:

(A) General Powers. To invest and reinvest the Trust Fund and to keep the Trust Fund invested without distinction between principal and income and in such securities or property, real or personal, wherever situated, as the Trustee shall deem advisable, including, but not limited to: any time deposits, or savings accounts, common or preferred stocks, open end or closed end mutual funds (including proprietary funds), put and call options traded on a national exchange, United States retirement plan bonds, corporate bonds, debentures, convertible debentures, commercial paper, U.S. Treasury bills, U.S. Treasury notes and other direct or indirect obligations of the United States Government or its agencies, improved or unimproved real estate situated in the United States, limited partnerships, insurance contracts of any type, mortgages, notes or other property of any kind, real or personal, to buy or sell options on common stock on a nationally recognized exchange with or without holding the underlying common stock, to open and to maintain margin accounts, to engage in short sales, to buy and sell commodities, commodity options and contracts for the future delivery of commodities, and to make any other investments the Trustee deems appropriate. In making such investments, the Trustee shall not be restricted to securities or other property of the character expressly authorized by the applicable law for trust investments; however, the Trustee shall give due regard to any limitations imposed by the Code or the Act, so that at all times this Plan may qualify as a qualified Plan and Trust. The Trustee shall discharge its duties with respect to the Plan solely in the interest of the Participants and Beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person 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.

(B) Liquidity. To retain in cash so much of the Trust Fund as it may deem advisable to satisfy liquidity needs of the Plan and to deposit any cash held in the Trust Fund in a bank or other institutional account at reasonable interest or without interest if the Trustee determines that such deposits are reasonable or necessary to facilitate a Plan transaction or for other purposes, but consistent with the Trustee's duties under Section 2.03.

(C) Trustee's Common/Collective Funds. To invest, if the Trustee is a bank or similar financial institution supervised by the United States or by any State, in any type of deposit of the Trustee (or of a bank related to the Trustee within the meaning of Code §414(b)) at a reasonable rate of interest or in a common trust fund, as described in Code §584, or in a collective investment fund (including a group trust described in Section 3.08), the provisions of which govern the investment of such assets and which the Plan incorporates by this reference, which the Trustee (or its affiliate, as defined in Code §1504) maintains exclusively for the collective investment of money contributed by the bank (or the affiliate) in its capacity as Trustee and which conforms to the rules of the Comptroller of the Currency, as applicable.

(D) Real/Personal Property. To manage, sell, contract to sell, grant options to purchase, convey, exchange, transfer, abandon, improve, repair, insure, lease for any term even though commencing in the future or extending beyond the term of the Trust, and otherwise deal with all property, real or personal, in such manner, for such considerations and on such terms and conditions as the Trustee decides.

(E) Borrowing. To borrow or raise money for the purposes of the Plan in such amount, and upon such terms and conditions, as the Trustee shall deem advisable; and for any sum so borrowed, to issue a promissory note as Trustee, and to secure the repayment thereof by pledging all, or any part, of the Trust Fund. No person lending money to the Trust shall be bound to see to the application of the money lent or to inquire into the validity, expediency, or propriety of any borrowing.

(F) Claims. To compromise, contest, arbitrate or abandon claims and demands affecting the investment of Trust assets, in the Trustee's discretion. However, nothing in this paragraph requires a Participant or Beneficiary to arbitrate any claim under the Plan.

(G) Voting, Tender, Exercise. To have with respect to the Trust all of the rights of an individual owner, including the power to exercise any and all voting rights associated with Trust assets, including any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights or other options, and to make any payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities, or other property.

(H) Mineral rights. To lease for oil, gas and other mineral purposes and to create mineral severances by grant or reservation; to pool or unitize interests in oil, gas and other minerals; and to enter into operating agreements and to execute division and transfer orders.

(I) Annuities or other Contracts. To apply for and procure from the Insurer as an investment of the Trust Fund any annuity or other Contracts (on the life of any Participant, or in the case of a profit sharing plan (including a 401(k) Plan), on the life of any person in whom a Participant has an insurable interest, or on the joint lives of a Participant and any person in whom the Participant has an insurable interest) as the Plan Administrator shall deem proper; to exercise, at any time or from time to time, whatever rights and privileges may be granted under such annuity, or other Contracts; to collect, receive, and settle for the proceeds of all such annuity, or other Contracts as and when entitled to do so under the provisions thereof.

(J) Title. To hold any securities or other property in the name of the Trustee or its nominee, with depositories or agent depositories or in another form as it may deem best, with or without disclosing the trust relationship. However, any securities held in a nominee or street name must be held on behalf of the Plan by: (a) a bank or trust company that is subject to supervision by the United States, any State, or a nominee of such bank or trust company; (b) a broker or dealer registered under the Securities Exchange Act of 1934 or a nominee of such broker or dealer; or (c) a clearing agency as defined in Securities Exchange Act of 1934, Section 3(a)(23), or its nominee.

(K) Hold Pending Dispute Resolution. To retain any funds or property subject to any dispute without liability for the payment of interest, and to decline to make payment or delivery of the funds or property until a court of competent jurisdiction makes final adjudication.

(L) Litigation. To settle, compromise, or submit to arbitration (provided such arbitration does not apply to Participants or Beneficiaries) any claims, debts, or damages due or owing to or from the Plan, to commence or defend suits or legal or administrative proceedings, and to represent the Plan in all suits and legal and administrative proceedings.

The Trustee shall have no obligation to undertake, defend or continue to maintain any action or proceeding arising in connection with the Trust, unless and until the Employer requests the Trustee to do so and agrees in writing to indemnify the Trustee against the Trustee's costs, expenses and liabilities (including, without limitation, attorneys' fees and expenses) relating thereto, to be primarily liable for such payment and to make periodic payments in respect of such fees and expenses during the course of such proceedings. If the Employer thereafter does not pay such costs, expenses and liabilities in a reasonably timely manner, the Trustee shall discontinue participation in such action or proceeding, and charge the assets of the Trust Fund to the extent sufficient for any unpaid fees and expenses.

(M) Investment Policy. To adopt and to amend from time to time, an investment policy consistent with the Plan's funding policy.

(N) Bank. The Trustee may employ a bank or trust company pursuant to the terms of its usual and customary bank agency agreement, under which the duties of such bank or trust company shall be of a custodial, clerical and record keeping nature.

(O) Pooling Assets. To pool all or any of the Trust Fund, from time to time, with assets belonging to any other qualified employee pension benefit trust created by the Employer or any related or affiliated Employer, and to commingle such assets and make joint or common investments and carry joint accounts on behalf of this Plan and Trust and such other trust or trusts, allocating undivided shares or interests in such investments or accounts or any pooled assets of the two or more trusts in accordance with their respective interests.

(P) Catch All. To perform any and all other acts which in the Trustee's judgment are necessary or appropriate for the proper and advantageous management, investment and distribution of the Trust.

2.02 Directed Trustee. Except as otherwise provided herein, a Directed Trustee has all of the same powers as a Discretionary Trustee in Section 2.01 except that the Directed Trustee only may exercise such powers pursuant to a proper written direction. A "proper written direction" means the written direction of a Plan fiduciary or of a Participant or Beneficiary with authority over the Trust asset which is the subject of the direction. Written direction may be given electronically. The Employer and the Directed Trustee may, in writing, limit the powers of the Directed Trustee to any combination of powers listed within Section 2.01. The party which has the authority to manage and control the investment of the Plan assets shall discharge its duties with respect to the Plan solely in the interest of the Participants and Beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person 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. The Employer, in adopting this Trust, acknowledges and agrees:

(A) No Discretion. The Directed Trustee does not have any discretion as to the investment or the reinvestment of the Trust Fund and the Directed Trustee is acting solely as a directed fiduciary as to the assets comprising the Trust Fund, to the extent that the Directed Trustee has the authority to act upon such assets as granted by the Employer.

(B) No Review or Recommendations. The Directed Trustee does not have any duty to review or to make recommendations regarding investments made pursuant to a proper written direction.

(C) No Action Without Direction. The Directed Trustee must retain any investment obtained upon a proper written direction until receipt of another proper written direction to dispose of such investment.

(D) No Liability for Following Orders. The Directed Trustee is not liable in any manner or for any reason for making, retaining or disposing of any investment pursuant to any proper written direction.

(E) Indemnity. The Employer will indemnify, defend and hold the Directed Trustee harmless from any damages, costs or expenses, including reasonable attorneys' fees, which the Directed Trustee may incur as a result of any claim asserted against the Directed Trustee or the Trust arising out of the Directed Trustee's compliance with any proper written direction.

2.03 Agents. The Trustee may employ and pay from the Trust Fund reasonable compensation to agents, attorneys, accountants and other persons to advise the Trustee as in its opinion may be necessary. The Trustee reasonably may delegate to any agent, attorney, accountant or other person selected by it any non-Trustee power or duty vested in it by the Plan, to the extent that such delegation of power or duty is allowed under ERISA, and the Trustee may act reasonably or refrain from acting on the advice or opinion of any agent, attorney, accountant or other person so selected.

2.04 Orphaned Plan. If the Trustee determines that the Employer has abandoned the Plan, the Trustee (if qualified to so act) may appoint itself as a Qualified Termination Administrator ("QTA"), as defined in Department of Labor guidance, for purposes of terminating

the Plan and distributing all Plan Accounts. As a QTA, the Trustee may undertake all authorized acts to wind up the Plan, including causing the Trust to pay from Trust assets to the QTA and to other service providers a reasonable fee for services rendered. A Directed Trustee may serve as a QTA without regard to the receipt of proper written direction.

2.05 Duties. The Trustee agrees to perform the responsibilities expressly imposed on it hereunder. The Employer and the Trustee intend that nothing shall be construed to require the Trustee to perform any responsibility or function that it has no express authority to perform under this agreement. The Trustee agrees to the following duties:

(A) ERISA. If ERISA applies to the Plan and to the extent that ERISA so requires, to act: (a) solely in the interest of Participants and Beneficiaries for the exclusive purposes of providing benefits under the Plan and defraying the reasonable expenses of Plan administration; (b) with the care, skill, prudence and diligence under the circumstances then prevailing as would a prudent person acting in a like capacity and familiar with such matters; (c) by diversifying Trust investments so as to minimize the risk of large losses unless not prudent under the circumstances to do so; and (d) in accordance with the Plan to the extent that the Plan is consistent with ERISA.

(B) Investment Policy. To coordinate its investment policy with Plan financial needs as communicated to it by the Plan Administrator.

(C) Trust Accounting. To furnish to the Employer and to the Plan Administrator an annual statement of account showing the condition of the Trust Fund and all investments, receipts, disbursements and other transactions effected by the Trustee during the Plan Year covered by the statement, including the net income, or loss, of the Trust Fund, the gains, or losses, realized by the Trust Fund upon sales or other disposition of the assets, and the increase, or decrease, in the value of the Trust Fund, stating the assets of the Trust held at the end of the Plan Year. Such statements are conclusive on all persons, including the Employer and the Plan Administrator, except as to any act or transaction concerning which the Employer or the Plan Administrator files with the Trustee written exceptions or objections within 45 days after the receipt of the statements or for which ERISA authorizes a longer period within which to object. The Trustee also may agree with the Employer or Plan Administrator to provide the information described in this paragraph more frequently than annually. Nothing contained in this Section shall deprive the Trustee of any right to have its accounts judicially settled if the Trustee so desires. To the extent permitted by law, but subject to any express provision of applicable law as may be in effect from time to time to the contrary, no person other than the Plan Administrator or Employer may require an accounting or bring any action against the Trustee with respect to the assets of the Trust or its actions as Trustee.

(D) Trust Valuation. To the extent directed by the terms of the Plan, the Plan Administrator, or the Named Fiduciary, to report the value the Trust Fund and as applicable, the value of the Trust assets within each Participant or Beneficiary Account, provided, however, the Trustee reserves the right to notify the Plan Administrator or Named Fiduciary of any non-marketable securities or other property held under the Trust without a readily-determinable value, and such securities or other property shall be valued as determined by the Plan Administrator or Named Fiduciary or other fiduciary (but not the Trustee) at least annually. However, if the Trustee is a Directed Trustee (as defined in this document) the Named Fiduciary will value the assets and will provide the valuation to the Trustee, unless the Trustee and the Named Fiduciary agree that the Trustee will conduct the valuation. The Trustee may reasonably rely on any valuation the Named Fiduciary conducts and provides.

(E) Distributions. To credit and distribute the Trust Fund as the Plan Administrator directs. The Trustee is not obliged to inquire as to whether any payee or distributee is entitled to any payment or whether the distribution is proper or within the terms of the Plan, or as to the manner of making any payment or distribution. The Trustee is accountable only to the Plan Administrator for any payment or distribution made by it in good faith on the direction of the Plan Administrator. The Trustee must promptly notify the Plan Administrator of any unclaimed Plan payment or distribution and then dispose of the distribution in accordance with the Plan Administrator's direction, including any processes or limitations enumerated in the Plan document. The Trustee shall be released and discharged from all further accountability or liability respecting such assets of the Trust, shall be fully protected in making payments out of the assets of the Trust in accordance with such written directions, and shall have no responsibility to see to the application of such payments or to ascertain whether such directions comply with the provisions of the Plan.

(F) Fees/Expenses. To pay from the Trust Fund all reasonable Plan fees and expenses, and if applicable to allocate the fees and expenses to Plan Accounts, both as the Plan Administrator directs. Any fee or expense that the Employer pays, directly or indirectly, is not an Employer contribution to the Plan, provided the fee or the expense relates to the ordinary and necessary administration of the Trust Fund.

(G) Loans. To make loans to a Participant or to a Beneficiary in accordance with the Plan Administrator's direction and the terms of the Plan.

(H) Records/Statements. To keep the Trustee's Plan records open to the inspection of the Plan Administrator and the Employer at all reasonable times and to permit the review or audit of such records from time to time by any person or persons as the Employer or Plan Administrator may specify in writing. The Trustee must furnish the Plan Administrator with whatever information relating to the Trust Fund the Plan Administrator considers necessary to perform its duties as Plan Administrator.

(I) Tax Returns. To file all information and tax returns required of the Trustee.

(J) Incapacity. To follow the direction of the Plan Administrator with regard to distributions to any Participant or Beneficiary whom the Plan Administrator has determined to be incapacitated (such as physical or mental incapacity, or age as defined by the Plan). The Trustee also will provide any reasonable information and take any reasonable action that the Plan Administrator requests relating to a determination of incapacity or otherwise pertaining to the administration of the Account of any incapacitated person. The Trustee has no duty or liability with regard to such distributions except to follow the instructions of the Plan Administrator.

(K) Bond. To provide a bond for the faithful performance of its duties as Trustee under the Trust to the extent required by ERISA.

(L) Contributions. To receive, take and hold any contributions paid to the Trustee by the Employer in cash or, in the case of a profit sharing plan, such other property as may be acceptable to the Trustee. All contributions so received together with the income therefrom and any other increment thereon shall be held managed and administered by the Trustee pursuant to the terms of this Trust without distinction between principal and income and without liability for the payment of interest thereon.

Notwithstanding the foregoing, the Trustee agrees to perform the responsibilities expressly imposed on it. The Employer and the Trustee intend that nothing shall be construed to require the Trustee to perform any responsibility or function that it has no express authority to perform under this agreement.

2.06 Duty to Collect Employer Contributions.

(A) Duty. A discretionary Trustee has the duty to collect Employer contributions, including, but not limited to, elective deferrals, except to the extent such duty is limited by the Employer or as provided in paragraph (B). A Directed Trustee does not have the duty to collect employer contributions and the Employer represents and warrants that it either has responsibility as a "named fiduciary" (as defined in ERISA §402(a)(2)) or has properly delegated the responsibility to a Plan fiduciary, other than the Directed Trustee, for determining the correctness, amount and timing of contributions and for the collection of contributions. This duty is effective no sooner than the later of the date the Employer signs this Agreement or the date the Trustee or Special Trustee executes either this Agreement or otherwise accepts its responsibilities under the Agreement.

(B) Special Trustee. If a Special Trustee has been appointed, the Special Trustee will have the duty to collect Employer Contributions, working with the highest-ranking officer of the Employer in the case of resignation or removal until another Trustee is appointed. This is the sole duty of the Special Trustee, acting in that capacity. No other Trustee has any duty to ensure that the contributions received comply with the provisions of the Plan or is obliged to collect any contributions from the Employer. No Trustee, other than the Special Trustee, is obliged to ensure that funds deposited are deposited according to the provisions of the Plan. The Special Trustee will either execute the Trust Agreement or a form accepting its position and agreeing to its obligations hereunder. The Special Trustee may perform any and all acts which in the Special Trustee's judgment are necessary or appropriate for the proper and advantageous discharge of its responsibilities.

(C) Standards. In determining how to discharge any duty to collect contributions, a Trustee, Special Trustee or other Named Fiduciary of the Plan should weigh the value of the Plan assets involved, the likelihood of a successful recovery, and the expenses expected to be incurred. Among other factors, a Trustee, Special Trustee or other Named Fiduciary of the Plan may take into account the Employer's solvency in deciding whether to expend Plan assets to pursue a claim.

ARTICLE III ADMINISTRATIVE PROVISIONS

3.01 Co-fiduciary Liability. Each fiduciary under the Trust is responsible solely for his/her or its own acts or omissions. A fiduciary does not have any liability for another fiduciary's breach of fiduciary responsibility with respect to the Trust unless the fiduciary: (a) participates knowingly in or undertakes to conceal the breach; (b) has actual knowledge of the breach and fails to take reasonable remedial action to remedy the breach; or (c) through failure to perform his/her or its own specific fiduciary responsibilities that give rise to fiduciary status, the fiduciary has enabled the other fiduciary to commit a breach of the latter's fiduciary responsibility.

3.02 Limitation of Liability.

(A) Apportionment of duties. The Named Fiduciary, the Trustee(s) and any properly appointed Investment Manager may execute a written agreement as a part of this Plan delineating the duties, responsibilities and liabilities of the Investment Manager or Trustee(s) with respect to any part of the Trust Fund under the control of the Investment Manager or the Trustee(s).

(B) Investment Manager. The Trustee is not liable for the acts or omissions of any Investment Manager the Named Fiduciary may appoint, nor is the Trustee under any obligation to invest or otherwise to manage any asset of the Trust Fund which is subject to the management of a properly appointed Investment Manager. If investment of the Plan assets is to be directed in whole or in part by an Investment Manager, the Trustee shall be under no duty or obligation to review any investment to be acquired, held or disposed of pursuant to such directions nor to make any recommendations with respect to the disposition or retention of any such investment. The Trustee shall have no liability or responsibility for acting or not acting pursuant to the direction of or failing to act in the absence of any direction from, the Investment Manager.

(C) Other Fiduciaries. The Trustee is not liable for the acts or omissions of any ancillary trustee or independent fiduciary properly appointed under Section 3.06. However, if a Discretionary Trustee, pursuant to the delegation described in Section 3.06, appoints an

ancillary trustee, the Discretionary Trustee is responsible for the periodic review of the ancillary trustee's actions and the ancillary trustee must exercise its delegated authority in accordance with the terms of the Plan and in a manner consistent with ERISA.

(D) Indemnity. To the extent permitted by the Code and ERISA, the Employer agrees to indemnify and hold harmless the Trustee against any and all claims, losses, damages, expenses and liabilities the Trustee may incur in the exercise and performance of the Trustee's powers and duties hereunder, unless the same are judicially determined to be due to gross negligence or willful misconduct, including, but not limited to, attorney's fees in expenses covered. This provision applies whether or not the Trustee has resigned or has been removed.

(E) Receipt of Assets. The Trustee shall have no duty or responsibility to inquire as to the propriety of the amount, value or type of assets transferred to the Trust, nor to conduct any due diligence with respect to such assets; provided, however, that such assets are otherwise eligible to be held by the Trustee under the terms of the Plan.

(F) Insurer. The Trustee (other than an Insurer acting as Trustee) shall not be responsible for the validity of the provisions under an insurance contract issued to the Plan or for the failure or refusal by the Insurer to provide benefits under such contract. The Trustee is also not responsible for any action or failure to act by the Insurer or any other person which results in the delay of a payment under the contract or which renders the contract invalid or unenforceable in whole or in part.

(G) Direction. If the Trustee shall be directed by a Participant (pursuant to Plan authorized procedures), the Employer, or an Investment Manager or other agent appointed by the Employer with respect to the investment of any or all Plan assets, the Trustee shall have no liability with respect to the investment of such assets, but shall be responsible only to execute such investment instructions as so directed. In addition, if the investment of Plan assets is to be directed by Participants, the Plan Administrator, Employer or other designated Named Fiduciary shall be solely responsible for the Plan satisfying the various criteria set forth in Department of Labor Regulation §2550.404c-1 for qualification as an "ERISA Section 404(c) Plan."

(1) Reliance. The Trustee shall be entitled to rely fully on the written (or other form acceptable to the Administrator and the Trustee, including but not limited to, voice recorded) instructions of a Participant (pursuant to the Plan procedures), the Employer, or any fiduciary or nonfiduciary agent of the Employer, in the discharge of such duties, and shall not be liable for any loss or other liability resulting from such direction (or lack of direction) of the investment of any part of the Plan assets.

(2) Delegation. The Trustee may delegate the duty of executing such instructions to any nonfiduciary agent, which may be an affiliate of the Trustee or any Plan representative.

(3) Refusal. The Trustee may refuse to comply with any direction from the Participant in the event the Trustee, in its sole and absolute discretion, deems such direction improper by virtue of applicable law. The Trustee shall not be responsible or liable for any loss or expense that may result from the Trustee's refusal or failure to comply with any direction from the Participant.

(4) Costs. Any costs and expenses related to compliance with the Participant's directions shall be borne by the Participant's Directed Account, unless paid by the Employer.

(5) Collectibles. Notwithstanding anything herein above to the contrary, the Trustee shall not invest any portion of a Participant's Directed Account in "collectibles" within the meaning of Code §408(m).

3.03 Multiple Trustees. An Employer may appoint one or more Trustees to perform duties in Section 2.01 for specified assets in the Plan if the Trustees accept such appointment. Multiple Trustees may consist of financial institutions or individuals in any combination at the election of the Employer. If multiple parties act as Trustee over specified assets in the Plan, the power or duties of the Trustee shall be interpreted as applying to each such Trustee only with respect to the assets of the Trust Fund for which such Trustee is the Trustee. Each Trustee shall have no responsibility for, or liability with respect to, any of the Trust Fund other than the assets for which it serves as Trustee.

(A) Majority Decisions. If more than two persons act as Trustee, a decision of the majority of such persons controls with respect to any decision regarding the administration or the investment of the Trust Fund or of any portion of the Trust Fund with respect to which such persons jointly act as Trustee. Except as provided in paragraph (B), the Trustees jointly will manage and control the assets of the Trust Fund (or those Trust assets as to which they act as Trustee).

(B) Multiple Institutional Trustees. If there is more than one Trustee which is a financial institution, each Trustee shall be the Trustee only with respect to those assets specifically deposited by the Employer in the Trust Fund for which such Trustee is the Trustee. References in the Trust to the responsibilities, power or duties of the Trustee shall be interpreted as applying to each such Trustee only with respect to the assets of the Trust Fund for which such Trustee is the Trustee. Each Trustee shall have no responsibility for, or liability with respect to, any of the Trust Fund other than the assets for which it serves as Trustee.

(C) Allocation. Multiple Trustees may allocate among themselves specific responsibilities or obligations or may authorize one or more of them, either individually or in concert, to exercise any or all of the powers granted to the Trustee, or to perform any or all of the duties assigned to the Trustee under this Trust.

(D) Signature. The signature of only one Trustee is necessary to effect any transaction on behalf of the Trust (or as to those Trust assets as to which the signatory acts as Trustee).

3.04 Trustee Fees and Expenses. A Trustee will receive reasonable compensation and reimbursement for reasonable Trust expenses (including counsel fees) actually incurred as Trustee, as set forth in the Trustee's fee schedule (if the Trustee has such a schedule), or as may be agreed upon from time to time by the Employer and the Trustee. No person who is receiving full pay from the Employer may receive compensation (except for reimbursement of Plan expenses) for services as Trustee. As the Plan Administrator or Employer directs, such fees and expenses will be paid by the Employer, or the Trustee will charge the Trust for the fees or expenses. If, within a reasonable time after a Plan related fee or expense is incurred (or if within the time specified in any agreement between the Plan and the Trustee regarding payment of a fee or expense) the Plan Administrator does not communicate the Employer's decision regarding payment or if the Employer does not pay the fee or expense, the Trustee may charge the Trust for such reasonable fees and expenses as are not settlor expenses. All taxes of any kind whatsoever that may be levied or assessed under existing or future laws upon, or in respect of, the Trust Fund or the income thereof, shall be paid from the Trust Fund.

3.05 Third Party Reliance. A person dealing with the Trustee is not obligated to see to the proper application of any money paid or property delivered to the Trustee, or to inquire whether the Trustee has acted pursuant to any of the terms of the Plan. Each person dealing with the Trustee may act upon any notice, request or representation in writing by the Trustee, or by the Trustee's duly authorized agent, and is not liable to any person in so acting. The certificate of the Trustee that it is acting in accordance with the Plan is conclusive in favor of any person relying on the certificate.

3.06 Appointment of Ancillary Trustee or Independent Fiduciary.

(A) Appointment. The Employer or Named Fiduciary, in writing, may appoint any qualified person in any state to act as ancillary trustee with respect to a designated portion of the Trust Fund, subject to any consent required under the Plan. An ancillary trustee must acknowledge in writing its acceptance of the terms and conditions of its appointment as ancillary trustee and its fiduciary status under ERISA.

(B) Powers. The ancillary trustee has the rights, powers, duties and discretion as the Employer may delegate, subject to any limitations or directions specified in the agreement appointing the ancillary trustee and to the terms of the Plan or of ERISA. The Employer may delegate its responsibilities under this Section 3.06 to a Discretionary Trustee (subject to the acceptance by such Discretionary Trustee of that delegation), but the Employer may not delegate its responsibilities to a Directed Trustee. The investment powers delegated to the ancillary trustee may include any investment powers available under Section 2.01. The delegated investment powers may include the right to invest any portion of the assets of the Trust Fund in a common trust fund, as described in Code §584, or in any collective investment fund, the provisions of which govern the investment of such assets and which the Plan incorporates by this reference, but only if the ancillary trustee is a bank or similar financial institution supervised by the United States or by a state and the ancillary trustee (or its affiliate, as defined in Code §1504) maintains the common trust fund or collective investment fund exclusively for the collective investment of money contributed by the ancillary trustee (or its affiliate) in a trustee capacity and which conforms to the rules of the Comptroller of the Currency, as applicable. The Employer also may appoint as an ancillary trustee, the trustee of any group trust fund designated for investment pursuant to the provisions of Section 3.08.

(C) Resignation/Removal. The ancillary trustee may resign its position and the Employer may remove an ancillary trustee as provided in Section 3.07 regarding resignation and removal of the Trustee. In the event of such resignation or removal, the Employer may appoint another ancillary trustee or may return the assets to the control and management of the Trustee.

(D) Independent Fiduciary. If the DOL requires engagement of an independent fiduciary to have control or management of all or a portion of the Trust Fund, the Employer will appoint such independent fiduciary, as directed by the DOL. The independent fiduciary will have the duties, responsibilities and powers prescribed by the DOL and will exercise those duties, responsibilities and powers in accordance with the terms, restrictions and conditions established by the DOL and, to the extent not inconsistent with ERISA, the terms of the Plan. The independent fiduciary must accept its appointment in writing and must acknowledge its status as a fiduciary of the Plan.

3.07 Resignation and Removal. The following provisions relate to Trustee resignation and removal and to appointment of a successor. They apply to a Special Trustee as well as a Trustee.

(A) Resignation. The Trustee may resign its position by giving written notice to the Named Fiduciary and to the Plan Administrator. The Trustee's notice must specify the effective date of the Trustee's resignation, which date must be at least 30 days following the date of the Trustee's notice, unless the Named Fiduciary consents in writing to shorter notice.

(B) Removal. The Employer or Named Fiduciary may remove a Trustee by giving written notice to the affected party. The Employer's notice must specify the effective date of removal which date must be at least 30 days following the date of the Employer's notice, except where the Employer reasonably determines a shorter notice period or immediate removal is necessary to protect Plan assets.

(C) Successor Appointment. In the event of the death, incapacity, resignation or the removal of a Trustee, where no other Trustee continues to serve, the Employer must appoint a successor Trustee if it intends to continue the Plan. If two or more persons hold the position of Trustee, in the event of the removal of one such person, during any period the selection of a replacement is pending, or

during any period such person is unable to serve for any reason, the remaining person or persons shall have full authority to act under the terms of the Plan as Trustee.

(1) **Default Successor Trustee.** Except as provided in subparagraph (2) below, if the Employer fails to appoint a successor Trustee as of the effective date of the Trustee resignation or removal and no other Trustee remains, the Trustee will treat the Employer as having appointed itself as Trustee and as having filed the Employer's acceptance of appointment as successor Trustee with the former Trustee. If state law prohibits the Employer from serving as successor Trustee, the appointed successor Trustee is the president of a corporate Employer, the managing partner of a partnership Employer, the managing member of a limited liability company Employer, the sole proprietor of a proprietorship Employer, or in the case of any other entity type, such other person with title and responsibilities similar to the foregoing.

(2) **Default Custodian.** If the Employer fails to appoint a successor Custodian as of the effective date of Custodian resignation or removal, the Trustee will direct the investment of Plan assets held by the former Custodian.

(D) **Acceptance.** Each successor Trustee succeeds its predecessor Trustee by accepting in writing its appointment as successor Trustee and by filing the acceptance with the former Trustee and the Plan Administrator. For this purpose, the successor Trustee's execution of this Trust constitutes the Trustee's acceptance of its appointment as successor Trustee. The successor Trustee will also execute such other documents, if any, as the Plan Administrator may reasonably require in connection therewith.

(E) **Outgoing Trustee.** The resigning or removed Trustee, upon receipt of acceptance in writing of the Trust by the successor Trustee, must execute all documents and must perform all acts necessary to vest the title to Plan assets of record in any successor Trustee. In addition, to the extent reasonably necessary for the ongoing administration of the Plan, at the request of the Plan Administrator and the successor Trustee, the resigning or removed Trustee must transfer records, provide information and otherwise cooperate in effecting the change of Trustees. Such resigning or removed Trustee is authorized to reserve such sum of money (and for that purpose to liquidate such property as may be necessary to produce such sum) for payment of all proper expenses and charges against the assets of the Trust including reasonable expenses in connection with such resignation or removal, and any balance of such reserve remaining after the payment of such charges shall be paid over to the successor Trustee. Whenever any Trustee hereunder ceases to serve as such, the Trustee shall furnish to the Employer and Plan Administrator a written statement of account with respect to the portion of the Plan Year during which the individual or entity served as Trustee. This statement shall be either (i) included as part of the annual statement of account for the Plan Year or (ii) set forth in a special statement. Any such special statement of account should be rendered to the Employer no later than the due date of the annual statement of account for the Plan Year. The procedures set forth in Section 2.05 for the approval by the Employer of annual statements of account shall apply to any special statement of account rendered hereunder and approval by the Employer of any such special statement in the manner provided in Section 2.05 shall have the same effect upon the statement as the Employer's approval of an annual statement of account.

(F) **Successor Powers.** Each successor Trustee has and enjoys all of the powers, both discretionary and ministerial, conferred under the Plan upon its predecessor. No Trustee shall be required to investigate, or be responsible for, any acts or omissions occurring before it became, or after it ceased to be, Trustee. No Trustee shall be required to investigate, or be responsible for, any acts or omissions occurring before it became, or after it ceased to be, Trustee.

(G) **No Liability for Predecessor or Successor.** A successor Trustee is not personally liable for any act or failure to act of any predecessor Trustee, except as required under ERISA. With the approval of the Employer and the Plan Administrator, a successor Trustee, with respect to the Plan, may accept the account rendered and the property delivered to it by a predecessor Trustee without liability. No Trustee shall be required to investigate, or be responsible for, any acts or omissions occurring before it became, or after it ceased to be, Trustee.

3.08 Investment in Group Trust Fund. The Employer specifically authorizes a Directed Trustee, as directed, or a Discretionary Trustee to invest all or any portion of the assets comprising the Trust Fund in any group trust fund which at the time of the investment provides for the pooling of the assets of plans qualified under Code §401(a), including a group trust fund that also permits the pooling of qualified plan assets with assets of an individual retirement account that is exempt from taxation under Code §408(e), assets of an eligible governmental plan under Code §457(b) that is exempt from taxation under Code §457(g), assets of a custodial account under Code §403(b)(7) or a retirement income account under Code §403(b)(9), or assets of a governmental plan under Code §401(a)(24). This authorization applies solely to a group trust fund exempt from taxation under Code §501(a) and the trust agreement of which satisfies the requirements of Rev. Rul. 81-100 (as modified and clarified by Rev. Rul. 2004-67, Rev. Rul. 2011-1, and Rev. Rul. 2014-24), or any successor thereto. The provisions of the group trust fund agreement, as amended from time to time, are by this reference incorporated within this Plan and Trust. The provisions of the group trust fund will govern any investment of Plan assets in that fund. To comply with Code §4975(d)(8) as to any group trust fund maintained by a disqualified person, including the Trustee, the following provisions apply: (a) a Discretionary Trustee or a Directed Trustee may invest in any such fund at the direction of the Named Fiduciary who is independent of the Trustee and the Trustee's affiliates; (b) a Discretionary Trustee or a Directed Trustee (the latter as directed) may invest in any such fund which the Employer specifies in the Plan; and (c) notwithstanding (a) and (b) a Discretionary Trustee may invest in its own funds as described in Section 3.02(a)(1)(C). The Employer may attach an appendix to this Trust to specify the group trust funds in which the assets of the Trust Fund may be invested. If so, investments in group trust funds shall be limited to the group trust funds so specified.

3.09 Combining Trusts. At the Employer's direction, the Trustee, for collective investment purposes, may combine into one trust fund the Trust created under this Plan with the trust created under any other qualified retirement plan the Employer maintains. However, the

Trustee must maintain separate records of account for the assets of each Trust in order to reflect properly each Participant's Account Balance under the qualified plans in which he/she is a participant.

3.10 Amendment/Substitution. The Employer may, at any time and from time to time, amend or restate the Trust or any of its provisions. Any Trust amendment (a) must not conflict with any other provisions of the Plan (except as expressly are intended to override an existing Trust provision); and (b) must not cause the Plan to violate Code §401(a). The Trustee must execute or consent in writing to any amendment.

3.11 Electronic Communication. Any communication, notice, direction, or other writing in connection with the Trust may be given electronically, under reasonable commercial procedures satisfactory to the Trustee.

3.12 Governing Law. The law of the state of the Employer's principal place of business will determine all questions arising with respect to the provisions of the Trust.

3.13 Reliance on Counsel. The Trustee may consult with legal counsel (who may be of counsel to the Employer) concerning any question which may arise with reference to its duties under this Trust Agreement and the opinion of such counsel shall be full and complete protection to the Trustee in respect to any action taken or suffered by the Trustee in good faith and in accordance with the opinion of such counsel.

3.14 Termination. This Trust Agreement and the Trust created hereby may be terminated at any time by the Employer, and upon such termination, the assets of the Trust shall be paid out by the Trustee as and when directed by the Plan Administrator pursuant to the terms of the Plan and this Trust. When the assets of the Trust have been applied or distributed as provided herein, the Trustee shall be released and discharged from all further accountability or liability respecting the assets of the Trust (or that part of the assets so applied or distributed if the Trust is terminated only in part) or any part thereof so applied or distributed and shall not be responsible in any way or to any person for the further disposition of the assets of the Trust (or that part of the assets so applied or distributed, if the Trust is terminated only in part) or any part thereof so applied or distributed.

ARTICLE IV TRUSTEE/CUSTODIAN

The Trustee(s), by executing this Trust, hereby accepts appointment as such, and agrees to all of the obligations, responsibilities and duties imposed upon the Trustee (or Custodian) under the Trust, and are listed as such in the following signature block.

SIGNATURE(S)

Pleasant Grove City Corporation

DATE

EMPLOYER

DATE

Scott Darrington, DISCRETIONARY TRUSTEE

DATE

Denise Roy, DISCRETIONARY TRUSTEE

DATE

Kyler Ludwig, DISCRETIONARY TRUSTEE

**PLEASANT GROVE CITY 401(K) PLAN
AND ALL SUPPORTING FORMS HAVE BEEN PRODUCED FOR
PLEASANT GROVE CITY CORPORATION**

PLEASANT GROVE CITY 401(K) PLAN

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PLEASANT GROVE CITY 401(K) PLAN

THIS PLAN, hereby adopted on the date specified on the signature page, by Pleasant Grove City Corporation (herein referred to as the "Employer").

WITNESSETH:

WHEREAS, the Employer heretofore established a 401(k) Plan effective December 31, 1982, (hereinafter called the "Effective Date") known as Pleasant Grove City 401(k) Plan (herein referred to as the "Plan") in recognition of the contribution made to its successful operation by its Employees and for the exclusive benefit of its Eligible Employees; and

NOW, THEREFORE, effective January 1, 2021, except as otherwise provided herein, the Employer in accordance with the provisions of the Plan pertaining to amendments thereof, hereby amends and restates the Plan to provide as follows:

ARTICLE I DEFINITIONS

1.1 "Account" means any separate notational account established and maintained by the Administrator for each Participant under the Plan. The term "Participant's Account" or "Participant's Account Balance" generally means the sum of all Accounts being maintained for the Participant, which represents the Participant's total interest in the Plan. Section 6.8 contains a definition of "Participant's Account Balance" for the ("top heavy") purposes of that Section. To the extent applicable, a Participant may have any (or all) of the following notational Accounts:

(a) the Elective Deferral Account that shall consist of the sub-Accounts listed below. Unless specifically stated otherwise, any reference to a Participant's Elective Deferral Account will refer to both of these sub-Accounts

(1) the Pre-Tax Elective Deferral Account

(2) the Roth Elective Deferral Account

(b) the Matching Contribution Account, which does not include Qualified Matching Contributions

(c) the Nonelective Contribution Account, which does not include Qualified Nonelective Contributions

(d) the Qualified Matching Contribution Account

(e) the Qualified Nonelective Contribution Account

(f) the Rollover Account

(g) the Transfer Account

1.2 "ACP" means the actual contribution percentage that is equal to, for a specific group of Participants (either Highly Compensated Employees or Nonhighly Compensated Employees) for a Plan Year, the average of the ACRs (calculated separately for each Participant in such group). The ACP for each group shall be calculated to the nearest one-hundredth of one percent.

For purposes of computing an ACP, a Participant is an Eligible Employee who is eligible to receive a Matching Contribution or to receive a Qualified Matching Contribution for a "specific Plan Year". However, if a Participant has no 414(s) Compensation for the Plan Year, then such Participant shall be disregarded for purposes of calculating the ACP of a group.

For purposes of the above paragraph, the term "specific Plan Year" means, for Participants who are Highly Compensated Employees, the Plan Year being tested. If the current year testing method is being used, then the term "specific Plan Year" means, for Participants who are Nonhighly Compensated Employees, the Plan Year being tested. If the prior year testing method is being used, then the term "specific Plan Year" means, for Participants who are Nonhighly Compensated Employees, the Plan Year prior to the Plan Year being tested.

1.3 "ACP Test" means the actual contribution percentage test described by Section 4.7.

1.4 "ACR" means the actual contribution ratio of each Participant, that is a ratio (expressed as a percentage) equal to (1) the Contribution Percentage Amounts of such Participant for such Plan Year, to (2) such Participant's 414(s) Compensation for such Plan Year.

The ACR for each Participant shall be calculated to the nearest one-hundredth of one percent.

1.5 "Administrator" means the Employer unless another person or entity has been designated by the Employer pursuant to Section 2.2 to administer the Plan on behalf of the Employer.

1.6 **"ADP"** means the actual deferral percentage that is equal to, for a specific group of Participants (either Highly Compensated Employees or Nonhighly Compensated Employees) for a Plan Year, the average of the ADRs (calculated separately for each Participant in such group). The ADP for each group shall be calculated to the nearest one-hundredth of one percent.

For purposes of computing an ADP, a Participant is an Eligible Employee who is eligible to make Elective Deferrals pursuant to Section 4.2 (whether or not a deferral election was made or suspended pursuant to Section 6.12(b) or Section 6.11(d) shall apply.) However, if a Participant has no 414(s) Compensation for the Plan Year, then such Participant shall be disregarded for purposes of calculating the ADP of a group.

For purposes of the above paragraph, the term "specific Plan Year" means, for Participants who are Highly Compensated Employees, the Plan Year being tested. If the current year testing method is being used, then the term "specific Plan Year" means, for Participants who are Nonhighly Compensated Employees, the Plan Year being tested. If the prior year testing method is being used, then the term "specific Plan Year" means, for Participants who are Nonhighly Compensated Employees, the Plan Year prior to the Plan Year being tested.

1.7 **"ADP Test"** means the actual deferral percentage test described by Section 4.5.

1.8 **"ADR"** means the actual deferral ratio of each Participant, that is a ratio (expressed as a percentage) equal to (1) the amount of Employer contributions actually paid over to the Plan on behalf of such Participant for such Plan Year, to (2) such Participant's 414(s) Compensation for such Plan Year.

For purposes of this definition of ADR, Employer contributions actually paid over to the Plan on behalf of any Participant shall include: (a) any Elective Deferrals (other than Catch-Up Contributions) made pursuant to the Participant's deferral election (including Excess Deferrals of any Highly Compensated Employee), but excluding (1) Excess Deferrals of any Nonhighly Compensated Employee that arise solely from Elective Deferrals made under this Plan or any other plans maintained by the Employer, and (2) Elective Deferrals that are taken into account in the ACP Test set forth in Section 4.7 (provided that the ADP Test is satisfied both with and without the exclusion of these Elective Deferrals); and (b) at the election of the Employer, Qualified Nonelective Contributions and Qualified Matching Contributions to the extent such contributions are not used to satisfy the ACP Test, as well as any contributions authorized by (and to the extent prescribed by) Section 4.6(c).

For purposes of computing a Participant's ADR, an Eligible Employee who would be a Participant but for the failure to make Elective Deferrals shall be treated as a Participant on whose behalf no Elective Deferrals are made.

The ADR for each Participant shall be calculated to the nearest one-hundredth of one percent.

1.9 **"Affiliated Employer"** means any corporation which is a member of a controlled group of corporations (as defined in Code §414(b)) which includes the Employer; any trade or business (whether or not incorporated) which is under common control (as defined in Code §414(c)) with the Employer; any organization (whether or not incorporated) which is a member of an affiliated service group (as defined in Code §414(m)) which includes the Employer; and any other entity required to be aggregated with the Employer pursuant to Regulations under Code §414(o).

1.10 **"Alternate Payee"** means an alternate payee pursuant to a qualified domestic relations order that meets the requirements of Code §414(p).

1.11 **"Anniversary Date"** means the last day of the Plan Year.

1.12 **"Annual Additions"** means, for purposes of applying the limitations of Code §415, the sum credited to a Participant's Accounts for any Limitation Year of (1) Employer contributions, (2) Employee contributions, (3) Forfeitures, (4) amounts allocated to an individual medical account, as defined in Code §415(l)(2) which is part of a pension or annuity plan maintained by the Employer, (5) amounts derived from contributions paid or accrued which are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Code §419A(d)(3)) under a welfare benefit plan (as defined in Code §419(e)) maintained by the Employer and (6) allocations under a simplified employee pension plan.

Annual Additions shall not include restorative payments. A restorative payment is a payment made to restore losses to a Plan resulting from actions by a fiduciary for which there is reasonable risk of liability for breach of a fiduciary duty under applicable federal or state law, where Participants who are similarly situated are treated similarly with respect to the payments. Generally, payments are restorative payments only if the payments are made in order to restore some or all of the Plan's losses due to an action (or a failure to act) that creates a reasonable risk of liability for such a breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). This includes payments to the Plan made pursuant to a court-approved settlement, to restore losses to the Plan on account of the breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). Payments made to the Plan to make up for losses due merely to market fluctuations and other payments that are not made on account of a reasonable risk of liability for breach of a fiduciary duty are not restorative payments and generally constitute contributions that are considered Annual Additions.

Annual Additions shall not include: (1) The direct transfer of a benefit or employee contributions from a Qualified Plan to this Plan (unless required by an applicable regulation); (2) rollover contributions (as described in Code §§401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)); (3) repayments of loans made to a Participant from the Plan; or (4) repayments of amounts described in Code §411(a)(7)(B) (in accordance with Code §§411(a)(7)(C) and 411(a)(3)(D).

1.13 **"Basic Compensation"** means, with respect to any Participant and except as otherwise provided herein, such Participant's wages within the meaning of Code §3401(a) (for the purposes of income tax withholding at the source) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code §3401(a)(2)) (i.e., wages subject to federal income tax withholding), as well as amounts that would have been received and includible in taxable compensation but for an election under Code §125(a), Code §132(f)(4), Code §402(e)(3), Code §402(h)(1)(B), Code §402(k), or Code §457(b), plus Military Differential Pay. The measuring period for purposes of the definition of "Compensation" shall be the Compensation Computation Period, and for purposes of the definition of "415 Compensation" shall be the Limitation Year.

Basic Compensation for any Self-Employed Individual (with respect to the Employer maintaining the Plan) shall be equal to such individual's Earned Income.

Basic Compensation shall not include amounts paid as Compensation to a nonresident alien, as defined in Code §7701(b)(1)(B), who is not a Participant in the Plan to the extent the compensation is excludable from gross income and is not effectively connected with the conduct of a trade or business within the United States.

Amounts that would have been received and includible in taxable compensation but for an election under Code §125(a) shall also be deemed to include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he or she has other health coverage. An amount will be treated as an amount under Code §125 pursuant to the preceding sentence only if the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

1.14 **"Beneficiary"** means the person (or entity) to whom the share of a deceased Participant's interest in the Plan is payable. In addition, Section 6.8 ("Minimum Required Distributions") contains a definition of "designated Beneficiary" for purposes of that Section.

1.15 **"Catch-Up Contribution"** means Elective Deferrals made to the Plan by a Catch-Up Eligible Participant during any taxable year of such Participant that are in excess of:

- (a) a statutory dollar limit on Elective Deferrals or Annual Additions as provided in Code §401(a)(30), Code §402(h), Code §403(b), Code §408, Code §415(c), or Code §457(b)(2) (without regard to Code §457(b)(3)), as applicable;
- (b) a Plan limit on Elective Deferrals which is not a limit provided in (a) above; or
- (c) the limit imposed by the ADP Test, in which Excess Contributions would otherwise be distributed pursuant to Section 4.6(b) to a Highly Compensated Employee who is a Catch-Up Eligible Participant.

Catch-Up Contributions for a Participant for a Participant's taxable year may not exceed the dollar limit on Catch-Up Contributions under Code §414(v)(2)(B)(i) for the Participant's taxable year. For 2018, the dollar limit on Catch-Up Contributions under Code §414(v)(2)(B)(i) was \$6,000. After 2018, the limit is adjusted by the Secretary of the Treasury for cost-of-living increases under Code §414(v)(2)(C). Any such adjustments will be in multiples of \$500.

1.16 **"Catch-Up Eligible Participant"** mean a Participant who:

- (a) is eligible to defer Compensation pursuant to Section 4.2; and
- (b) will attain age 50 or over by the end of the Participant's taxable year.

1.17 **"Code"** means the Internal Revenue Code of 1986, as amended or replaced from time to time.

1.18 **"Compensation"** means a Participant's Basic Compensation, adjusted by this Section, actually paid during the Compensation Computation Period, adjusted as follows:

- (a) excluding overtime.
- (b) excluding Compensation paid before becoming a Participant in the component of the Plan for which Compensation is being used.
- (c) including the following adjustments for amounts that are paid after a Participant's severance from employment with the Employer.

(1) **Regular pay.** Compensation shall include regular pay after severance of employment if paid by the later of 2 1/2 months after a Participant's severance from employment with the Employer or the end of the Limitation Year that includes the date of the Participant's severance from employment with the Employer, and if:

- (i) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and

(ii) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.

(2) **Leave cashouts.** Compensation shall include post-severance leave cash-outs paid by the later of 2 1/2 months after a Participant's severance from employment with the Employer or the end of the Limitation Year that includes the date of the Participant's severance from employment with the Employer if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued.

(3) **Deferred Compensation.** Compensation shall include post-severance deferred compensation paid by the later of 2 1/2 months after a Participant's severance from employment with the Employer or the end of the Limitation Year that includes the date of the Participant's severance from employment with the Employer if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's severance from employment with the Employer maintaining the Plan, and the amounts are received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid if the Participant had continued in employment with the Employer and only to the extent that the payment is includible in the Participant's gross income.

(d) **Dollar Limitation.** Compensation in excess of the dollar limit imposed by Code §401(a)(17) shall be disregarded for all purposes other than for purposes of salary deferral elections pursuant to Section 4.2. For 2018, that dollar limit was \$275,000. Such amount shall be adjusted for increases in the cost-of-living in accordance with Code §401(a)(17)(B), except that the dollar increase in effect on January 1 of any calendar year shall be effective for the Compensation Computation Period ("determination period") beginning with or within such calendar year. For any determination period of less than twelve months, the Compensation limit shall be an amount equal to the Compensation limit for the calendar year in which the determination period begins multiplied by the ratio obtained by dividing the number of full months in the short determination period by twelve. A determination period is not less than twelve months solely because a Participant's Compensation does not include Compensation paid during a determination period while the Participant was not a Participant in the Plan (or a component of the Plan). In applying any Plan limitation on the amount of matching contributions or any Plan limit on Elective Deferrals which are subject to matching contributions, where such limits are expressed as a percentage of Compensation, and where the matching computation period is less than the full Plan Year, the Administrator may apply the Compensation limit under this Section ratably over the Plan Year, i.e., in the proportion that the duration of each matching computation period bears to the entire Plan Year.

(e) **Non-eligible Employee.** If any Employees are excluded from the Plan (or from any component of the Plan), then Compensation for any such Employees who become eligible or cease to be eligible to participate in the Plan (or in the component of the Plan) during a Plan Year shall only include Compensation while such Employees are Eligible Employees of the Plan (or of such component of the Plan).

(f) **Amendment.** If, in connection with the adoption of any amendment, the definition of Compensation has been modified, then, except as otherwise provided herein, for Plan Years prior to the Plan Year which includes the adoption date of such amendment, Compensation means compensation determined pursuant to the terms of the Plan then in effect.

(g) **Compensation for Determining Rate of Deferral.** If Compensation earned during a Plan Year prior to an Eligible Employee's Effective Date of Participation in any matching contribution component of the Plan is excluded for purposes of determining such matching contribution, then such Eligible Employee's Elective Deferrals during that period shall also be excluded in determining the amount of such matching contribution.

1.19 **"Compensation Computation Period"** means the Plan Year.

1.20 **"Contract" or "Policy"** means any life insurance policy, retirement income policy or annuity contract (group or individual) issued pursuant to the terms of the Plan. In the event of any conflict between the terms of this Plan and the terms of any contract purchased hereunder, the Plan provisions shall control.

1.21 **"Contribution Percentage Amounts"** means the sum of any Matching Contributions which are made pursuant to Section 4.1(b) (to the extent such Matching Contributions are not used to satisfy the ADP Test as Qualified Matching Contributions); Qualified Matching Contributions (to the extent such Qualified Matching Contributions are not used to satisfy the ADP Test) and Qualified Nonelective Contributions (to the extent not used to satisfy the ADP Test), as well as any contributions authorized by (and to the extent prescribed by) Section 4.8(f). In addition, Contribution Percentage Amounts may include Elective Deferrals, provided the ADP Test is met before the Elective Deferrals are used in the ACP Test and continues to be met following the exclusion of those Elective Deferrals that are used to meet the ACP Test. However, Contribution Percentage Amounts shall not include Matching Contributions that are forfeited either to correct Excess Aggregate Contributions or due to Code §401(a)(4) and the Regulations thereunder because the contributions to which they relate are Excess Deferrals, Excess Contributions, or Excess Aggregate Contributions.

1.22 **"Custodian"** means a person or entity that has custody of all or any portion of the Plan assets.

1.23 **"Directed Account"** means that portion of a Participant's interest in the Plan with respect to which the Participant has directed the investment in accordance with the Participant Direction Procedures.

1.24 **"Disability"** means a physical or mental condition of a Participant resulting from bodily injury, disease, or mental disorder which renders such Participant incapable of continuing any gainful occupation and which condition constitutes total disability under the federal Social Security Acts.

1.25 **"Discretionary Match" or "Discretionary Matching Contribution"** means a Matching Contribution other than a **fixed** Matching Contribution. (A fixed matching contribution is a matching contribution that is required by the terms of the Plan to be made for a Plan Year.) The fact that the amount of the Discretionary Matching Contribution for the Plan Year is discretionary does not mean that the Employer has any discretion as to how that discretionary matching contribution formula it to be allocated, or any discretion as to the allocation conditions, or any discretion as to the matching computation period for determining the Rate of Deferral. The Employer has discretion over the allocation of any discretionary matching contribution only to the extent and upon such conditions as set forth in this document (see, e.g., Section 4.3(b)).

1.26 **"Early Retirement Date."** This Plan does not provide for a retirement date prior to Normal Retirement Date.

1.27 **"Earned Income"** means with respect to a Self-Employed Individual, the net earnings from self-employment in the trade or business with respect to which the Plan is established, for which the personal services of the individual are a material income-producing factor. Net earnings will be determined without regard to items not included in gross income and the deductions allocable to such items. Net earnings are reduced by contributions by the Self-Employed Individual to a Qualified Plan to the extent deductible under Code §404. In addition, net earnings shall be determined with regard to the deduction allowed to the Self-Employed Individual by Code §164(f).

If Compensation is defined to exclude any items of Compensation (other than safe harbor adjustments permitted under the Code §414(s) Regulations or limiting Compensation to periods of Plan participation), then for purposes of determining the Compensation of a Self-Employed Individual, Earned Income shall be adjusted by multiplying Earned Income by the percentage of total compensation that is included for the eligible Participants who are Nonhighly Compensated Employees. That percentage is determined by calculating the percentage of each Nonhighly Compensated eligible Participant's total Compensation prior to excluding any non-safe harbor adjustments that are included in the definition of Compensation and averaging those percentages.

1.28 **"Effective Date of the Plan"** means December 31, 1982, and the Effective Date of the Restatement means January 1, 2021.

1.29 **"Elective Deferral"** means any Employer contribution made to the Plan at the election of the Participant in lieu of cash Compensation pursuant to Section 4.2. The term "Elective Deferrals" includes Pre-Tax Elective Deferrals and Roth Elective Deferrals. Amounts contributed as a Roth Elective Deferral may not be reclassified as a Pre-Tax Elective Deferral, and amounts that are contributed to the Plan as a Pre-Tax Elective Deferral may not be reclassified as Roth Elective Deferrals.

1.30 **"Elective Deferral Account"** means the separate account established and maintained by the Administrator for each Participant with respect to the Participant's total interest in the Plan resulting from Elective Deferrals. Amounts in the Elective Deferral Account are nonforfeitable when made and are subject to the distribution restrictions of Section 4.2(c). The Elective Deferral Account may consist of a Pre-Tax Elective Deferral Account and a Roth Elective Deferral Account. Unless specifically stated otherwise, any reference to a Participant's Elective Deferral Account will refer to both of these sub-Accounts.

1.31 **"Eligible Employee"** means any Employee, except as provided below, and except as provided in any other particular provision for the limited purposes of such provision. The following Employees shall not be eligible to participate in this Plan:

- (a) Employees of Affiliated Employers, unless such Affiliated Employers have specifically adopted this Plan in writing.
- (b) An individual other than a Self-Employed Individual shall not be an Eligible Employee if such individual is not reported on the payroll records of the Employer as a common law employee. In particular, it is expressly intended that individuals (other than Self-Employed Individuals) shall not be treated as common law employees by the Employer on its payroll records and out-sourced workers, are neither Employees nor Eligible Employees, and are excluded from Plan participation even if a court or administrative agency determines that such individuals are common law employees and not independent contractors. However, this paragraph shall not apply to partners or other Self-Employed Individuals unless the Employer treats them as independent contractors.
- (c) Unless or until otherwise provided, Employees who became Employees as the result of a "Code §410(b)(6)(C) transaction" will not be Eligible Employees until the expiration of the transition period beginning on the date of the transaction and ending on the last day of the first Plan Year beginning after the date of the transaction. A Code §410(b)(6)(C) transaction is an asset or stock acquisition, merger, or similar transaction involving a change in the Employer of the Employees of a trade or business that is subject to the special rules set forth in Code §410(b)(6)(C).
- (d) Employees who are Leased Employees.
- (e) Employees whose employment is governed by the terms of a collective bargaining agreement between Employee representatives (within the meaning of Code §7701(a)(46)) and the Employer under which retirement benefits were the subject of good faith bargaining between the parties.

(f) Employees who are nonresident aliens (within the meaning of Code §7701(b)(1)(B)) and who receive no earned income (within the meaning of Code §911(d)(2)) from the Employer which constitutes income from sources within the United States (within the meaning of Code §861(a)(3)).

1.32 **"Employee"** means any common law employee, Self-Employed Individual, Leased Employee or other person to the extent that the Code treats such an individual as an employee of the Employer for purposes of the Plan, such as (for certain purposes) any person who is employed by an Affiliated Employer. A Self-Employed Individual shall be treated as an Employee.

1.33 **"Employer"** means Pleasant Grove City Corporation (also known as the signatory Employer) and any successor which shall maintain this Plan; and any predecessor which has maintained this Plan. The Employer is an entity, with principal offices in the State of Utah. In addition, where appropriate, the term Employer shall include any Participating Employer.

1.34 **"Excess Aggregate Contributions"** means, with respect to any Plan Year, the excess of:

(a) The aggregate Contribution Percentage Amounts actually made on behalf of Participants who are Highly Compensated Employees for such Plan Year and taken into account in computing the numerator of the ACR, over

(b) The maximum Contribution Percentage Amounts permitted by the ACP Test of Section 4.7(a) (determined by hypothetically reducing contributions made on behalf of Participants who are Highly Compensated Employees in order of their ACRs beginning with the highest of such ACRs).

Such determination shall be made after first taking into account corrections of any Excess Deferrals pursuant to Section 4.2 and then taking into account any adjustments of any Excess Contributions pursuant to Section 4.6.

1.35 **"Excess Contributions"** means, with respect to a Plan Year, the excess of Elective Deferrals made on behalf of Participants who are Highly Compensated Employees for the Plan Year over the maximum amount of such contributions permitted under Section 4.5(a) (determined by hypothetically reducing contributions made on behalf of Participants who are Highly Compensated Employees in order of the ADRs beginning with the highest of such ADRs). Excess Contributions shall be treated as an Annual Addition pursuant to Section 1.12.

1.36 **"Excess Deferrals"** shall mean those Elective Deferrals of a Participant that either (1) are made during the Participant's taxable year and which exceed the dollar limitation under Code §402(g) (including, if applicable, the dollar limitation on Catch-Up Contributions defined in Code §414(v)) for such year; or (2) are made during a calendar year and exceed the dollar limitation under Code §402(g) (including, if applicable, the dollar limitation on Catch-Up Contributions defined in Code §414(v)) for the Participant's taxable year beginning in such calendar year, counting only Elective Deferrals made under this Plan and any other plan, contract or arrangement maintained by the Employer.

1.37 **"Fiduciary"** means any person who (a) exercises any discretionary authority or discretionary control respecting management of the Plan or exercises any authority or control respecting management or disposition of its assets, (b) renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the Plan or has any authority or responsibility to do so, or (c) has any discretionary authority or discretionary responsibility in the administration of the Plan.

1.38 **"Fiscal Year"** means the Employer's accounting year.

1.39 **"Five-Year Break in Service"** means a period of five consecutive One-Year Breaks in Service.

1.40 **"Forfeiture."** Under this Plan, Participant accounts are 100% Vested at all times. Any amounts that may otherwise be forfeited under the Plan pursuant to Section 4.2(f), 4.6(b) or 4.8 may be used to reduce the contribution of the Employer or be used to pay any administrative expenses of the Plan.

For purposes of this Plan, any Forfeiture will be disposed of not later than the end of the Plan Year following the Plan Year in which the Forfeiture occurred.

1.41 **"Former Employee"** means an Employee who has severed employment with the Employer or an Affiliated Employer.

1.42 **"415 Compensation"** means the Participant's Basic Compensation during the Compensation Computation Period as adjusted by this Section.

(a) **Back Pay.** Back pay, within the meaning of Regulation § 1.415(c)-2(g)(8), shall be treated as 415 Compensation for the Limitation Year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under the definition of Basic Compensation.

(b) **Post-Severance Pay.** 415 Compensation shall include payments paid after severance from employment that, absent a severance from employment, would have been paid to the Employee had the Employee continued in employment with the Employer to the extent that such amounts are described below:

(1) **Post-severance regular pay.** 415 Compensation shall include regular pay after severance of employment if the payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the

Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and such amounts are paid by the later of 2 1/2 months after severance from employment or by the end of the Limitation Year that includes the date of such severance from employment.

(2) **Post-severance leave cash-outs.** Leave cash-outs shall be included in 415 Compensation if those amounts would have been included in the definition of 415 Compensation if they were paid prior to the Participant's severance from employment, and the amounts are payment for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued, and such amounts are paid by the later of 2 1/2 months after severance from employment or by the end of the Limitation Year that includes the date of such severance from employment.

(3) **Post-severance deferred compensation.** In addition, deferred compensation shall be included in 415 Compensation if the compensation would have been included in the definition of 415 Compensation if it had been paid prior to the Participant's severance from employment, and the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid at the same time if the Participant had continued in employment with the Employer and only to the extent that the payment is includible in the Participant's gross income, and such amounts are paid by the later of 2 1/2 months after severance from employment or by the end of the Limitation Year that includes the date of such severance from employment.

1.43 **"414(s) Compensation"** means 415 Compensation or any other definition of compensation that satisfies the nondiscrimination requirements of Code §414(s) and the Regulations thereunder. For purposes of meeting the ADP Test and ACP Test requirements, the period for determining 414(s) Compensation must be either the Plan Year or the calendar year ending with or within the Plan Year. For all other testing purposes the period for determining 414(s) Compensation must be the Plan Year or some other uniform 12-month period ending in the Plan Year. An Employer may limit the period taken into account to that part of the Plan Year (or other 12-month period described in the preceding sentence) in which an Employee was a Participant in the component of the Plan being tested. The period used to determine 414(s) Compensation must be applied uniformly to all Participants for the Plan Year.

1.44 **"Highly Compensated Employee"** means an Employee described in Code §414(q) and the Regulations thereunder, and generally means any Employee who:

- (a) for the "look-back year" had 415 Compensation from the Employer in excess of the dollar limit. The dollar limit for 2018 was \$120,000. The limit is adjusted at the same time and in the same manner as under Code §415(d).

The "determination year" means the Plan Year for which testing is being performed, and the "look-back year" means the immediately preceding twelve month period.

In determining who is a Highly Compensated Employee, Employees who are nonresident aliens and who received no earned income (within the meaning of Code §911(d)(2)) from the Employer constituting United States source income within the meaning of Code §861(a)(3) shall not be treated as Employees. If an Employee who is a nonresident alien has U.S. source income, that Employee is treated as satisfying this definition if all of such Employee's U.S. source income from the Employer is exempt from U.S. income tax under an applicable income tax treaty. Additionally, all Affiliated Employers shall be taken into account as a single employer and Leased Employees within the meaning of Code §§414(n)(2) and 414(o)(2) shall be considered Employees unless such Leased Employees are covered by a plan described in Code §414(n)(5) and are not covered in any Qualified Plan maintained by the Employer. The exclusion of Leased Employees for this purpose shall be applied on a uniform and consistent basis for all of the Employer's retirement plans. Highly Compensated Former Employees shall be treated as Highly Compensated Employees without regard to whether they performed services during the "determination year."

1.45 **"Highly Compensated Participant"** means, for a particular Plan Year, a Participant who meets the definition of a Highly Compensated Employee in effect for that Plan Year.

1.46 **"Hour of Service"** means (1) each hour for which an Employee is directly or indirectly compensated or entitled to Compensation by the Employer for the performance of duties (these hours will be credited to the Employee for the computation period in which the duties are performed); (2) each hour for which an Employee is directly or indirectly compensated or entitled to compensation by the Employer (irrespective of whether the employment relationship has terminated) for reasons other than performance of duties (such as vacation, holidays, sickness, jury duty, disability, lay-off, military duty or leave of absence) during the applicable computation period (these hours will be calculated and credited pursuant to Department of Labor regulation §2530.200b-2, which is incorporated herein by reference); (3) each hour for which back pay is awarded or agreed to by the Employer without regard to mitigation of damages (these hours will be credited to the Employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made). The same Hours of Service shall not be credited both under (1) or (2), as the case may be, and under (3).

Notwithstanding (2) above, (i) no more than 501 Hours of Service will be credited to an Employee on account of any single continuous period during which the Employee performs no duties (whether or not such period occurs in a single computation period); (ii) an hour for which an Employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed is not required to be credited to the Employee if such payment is made or due under a plan maintained solely for the purpose of complying with applicable worker's compensation, or unemployment compensation or disability insurance laws; and (iii) Hours of Service are not required to be credited for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee.

For purposes of (2) above, a payment shall be deemed to be made by or due from the Employer regardless of whether such payment is made by or due from the Employer directly, or indirectly through, among others, a trust fund, or insurer, to which the Employer contributes or pays premiums and regardless of whether contributions made or due to the trust fund, insurer, or other entity are for the benefit of particular Employees or are on behalf of a group of Employees in the aggregate.

Each Employee shall be credited with such Employee's actual Hours of Service.

For purposes of this Section, Hours of Service will be credited for employment with any Affiliated Employers. The provisions of Department of Labor regulations §§2530.200b-2(b) and (c) are incorporated herein by reference.

1.47 "IDP-Formatted" means this IRS Pre-Approved plan that is drafted in the style of a narrative document, i.e., without a separate adoption agreement. This document, therefore, constitutes the entire plan document. Amendments to this document must generally be made via a complete restatement in order to ensure that all language and cross references throughout the document conform to the specimen document approved by the IRS, which could involve changes to the organization of the document, its table of contents, etc. The hard-copy checklist, which was used by the IRS to facilitate the drafting of this document, may contain important Notes that were required to be included on such checklist to ensure that the drafter remains within the confines of stated parameters on the checklist whenever IRS reliance on the finished document is desired.

1.48 "IDP-Formatted Nonstandardized Pre-Approved Addendum" (...Appendix) means any Addendum or Appendix explicitly permitted or required by the preapproved language of the Plan and approved by the IRS for use with this document.

1.49 "Income" means the gains or losses for the "applicable computation period" allocable to an "excess amount," which amount shall be determined and allocated, at the discretion of the Administrator, using either of the methods set forth in (a) or (b) below:

(a) Method of allocating Income. The Administrator may use any reasonable method for computing the Income allocable to an "excess amount" for the "applicable computation period," provided that the method is used consistently for all Participants and for all corrective distributions under the Plan for the "applicable computation period," and is used by the Plan for allocating earnings to a Participant's "specific account(s)."

(b) Alternative method of allocating Income. The Administrator may allocate Income to an "excess amount" for the "applicable computation period" by multiplying the earnings for the "applicable computation period" allocable to the "applicable contributions" taken into account under the test or limitation giving rise to such "excess amount" by a fraction, the numerator of which is the "excess amount" for the Employee for the "applicable computation period," and the denominator of which is the sum of:

(1) The "specific account(s)" balance(s) taken into account under the test or limitation giving rise to such "excess amount" as of the beginning of the "applicable computation period," and

(2) Any additional amount of such "applicable contributions" made for the "applicable computation period" to the "specific account(s)."

(c) For purposes of calculating the Income attributable to Excess Deferrals of Section 4.2(f), the terms "applicable computation period", "applicable contributions", "excess amount", and "specific account(s)" will have the following substitutions:

(1) The taxable year of the Participant shall be substituted for the "applicable computation period";

(2) Elective Deferrals shall be substituted for "applicable contributions";

(3) Excess Deferrals shall be substituted for "excess amount"; and

(4) The Elective Deferral Account shall be substituted for the "specific account(s)."

(d) For purposes of calculating the Income attributable to Excess Contributions of Section 4.6(b), the terms "applicable computation period", "applicable contributions", "excess amount", and "specific account(s)" will have the following substitutions:

(1) The Plan Year shall be substituted for the "applicable computation period";

(2) Elective Deferrals, and other contributions included in determining the ADR under Section 1.8, shall be substituted for "applicable contributions";

(3) Excess Contributions shall be substituted for "excess amount";

(4) The Elective Deferral Account, and, if included in the determination of the ADR under Section 1.8, the Qualified Matching Contribution and/or the Qualified Nonelective Contribution Account(s), shall be substituted for the "specific account(s)."

(e) For purposes of calculating the Income attributable to Excess Aggregate Contributions of Section 4.8(b), the terms "applicable computation period", "applicable contributions", "excess amount", and "specific account(s)" will have the following substitutions:

- (1) The Plan Year shall be substituted for the "applicable computation period";
- (2) Those contributions described in the definition of "Contribution Percentage Amounts" under Section 1.21 shall be substituted for "applicable contributions";
- (3) Excess Aggregate Contributions shall be substituted for "excess amount";
- (4) The Matching Contribution Account, Qualified Matching Contribution Account, and Qualified Nonelective Contribution Account shall be substituted for the "specific account(s)."

(f) Income shall not include earnings for the period between the end of the Plan Year and the date of the distribution ("gap period income").

1.50 **"Insurer"** means the legal reserve life insurance company (as elected by the Administrator), which shall issue one or more Contracts under the Plan.

1.51 **"Investment Manager"** means any Fiduciary described in Section 2.1(b).

1.52 **"Key Employee"** means an Employee as defined in Code §416(i) and the Regulations thereunder. Generally, any Employee or Former Employee (as well as each of the Employee's or Former Employee's Beneficiaries) is considered a Key Employee if the Employee or Former Employee, at any time during the Plan Year that contains the "determination date" is described in one of the following categories:

(a) an officer of the Employer (as that term is defined within the meaning of the Regulations under Code §416) having annual 415 Compensation greater than a dollar limit. For 2018, the dollar limit was \$175,000. The limit is adjusted for the cost of living as provided under Code §416(i)(1).

(b) a "five percent owner" of the Employer. "Five percent owner" means any person who owns (or is considered as owning within the meaning of Code §318) more than five percent (5%) of the outstanding stock of the Employer or stock possessing more than five percent (5%) of the total combined voting power of all stock of the Employer or, in the case of an unincorporated business, any person who owns more than five percent (5%) of the capital or profits interest in the Employer. In determining percentage ownership hereunder, employers that would otherwise be aggregated under Code §§414(b), (c), (m) and (o) shall be treated as separate employers.

(c) a "one percent owner" of the Employer having an annual 415 Compensation from the Employer of more than \$150,000. "One percent owner" means any person who owns (or is considered as owning within the meaning of Code §318) more than one percent (1%) of the outstanding stock of the Employer or stock possessing more than one percent (1%) of the total combined voting power of all stock of the Employer or, in the case of an unincorporated business, any person who owns more than one percent (1%) of the capital or profits interest in the Employer. In determining percentage ownership hereunder, employers that would otherwise be aggregated under Code §§414(b), (c), (m) and (o) shall be treated as separate employers. However, in determining whether an individual has 415 Compensation of more than \$150,000, 415 Compensation from each employer required to be aggregated under Code §§414(b), (c), (m) and (o) shall be taken into account.

In determining percentage ownership hereunder, employers that would otherwise be aggregated under Code §§414(b), (c), (m) and (o) shall be treated as separate employers. In determining whether an individual has 415 Compensation of more than \$150,000, 415 Compensation from each employer required to be aggregated under Code §§414(b), (c), (m) and (o) shall be taken into account.

1.53 **"Late Retirement Date"** means the first day of the month coinciding with or next following a Participant's actual Retirement Date after having reached Normal Retirement Date.

1.54 **"Leased Employee"** means any person (other than an Employee of the recipient Employer) who, pursuant to an agreement between the recipient Employer and any other person or entity ("leasing organization"), has performed services for the recipient (or for the recipient and related persons determined in accordance with Code §414(n)(6)) on a substantially full time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient Employer. Contributions or benefits provided a Leased Employee by the leasing organization which are attributable to services performed for the recipient Employer shall be treated as provided by the recipient Employer. Furthermore, Compensation for a Leased Employee shall only include Compensation from the leasing organization that is attributable to services performed for the recipient Employer.

A Leased Employee shall not be considered an employee of the recipient Employer if: (a) such employee is covered by a money purchase pension plan providing: (1) a non-integrated employer contribution rate of at least ten percent (10%) of compensation, as defined in Code §415(c)(3), (2) immediate participation, and (3) full and immediate vesting; and (b) leased employees do not constitute more than twenty percent (20%) of the recipient Employer's nonhighly compensated work force.

1.55 **"Limitation Year"** means the Plan Year. All Qualified Plans maintained by the Employer must use the same Limitation Year. Furthermore, unless there is a change to a new Limitation Year, the Limitation Year will be a twelve consecutive month period. In the case of an initial Limitation Year, the Limitation Year will be the twelve consecutive month period ending on the last day of the initial Plan Year. If the Limitation Year is amended to a different twelve consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made. The Limitation Year may only be changed by a Plan amendment. Furthermore, if the Plan is terminated effective as of a date other than the last day of the Plan's Limitation Year, then the Plan is treated as if the Plan had been amended to change its Limitation Year (to end on the date of plan termination).

1.56 **"Matching Contribution"** means any Employer contribution (including a contribution made at the Employer's discretion) to the Plan on account of a Participant's Elective Deferrals to this Plan, other than Qualified Matching Contributions.

1.57 **"Matching Contribution Account"** means the separate account established and maintained by the Administrator for each Participant with respect to the Participant's total interest in the Plan resulting from Matching Contributions.

1.58 **"Military Differential Pay"** means any differential wage payments made to an individual that represents an amount which, when added to the individual's military pay, approximates the amount of compensation that was paid to the individual while working for the Employer. An individual receiving a differential wage payment, as defined by Code §3401(h)(2), is treated as an Employee of the Employer making the payment.

The Plan is not treated as failing to meet the requirements of any provision described in Code §414(u)(1)(C) (or corresponding plan provisions, including, but not limited to, Plan provisions related to the ADP or ACP test) by reason of any contribution or benefit which is based on the differential wage payment. The preceding sentence applies only if all Employees of the Employer performing service in the uniformed services described in Code §3401(h)(2)(A) are entitled to receive differential wage payments (as defined in Code §3401(h)(2)) on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the Employer, to make contributions based on the payments on reasonably equivalent terms (taking into account Code §§410(b)(3), (4), and (5)).

The Administrator operationally may determine, for purposes of the provisions described in Code §414(u)(1)(C), whether to take into account any Elective Deferrals (and if applicable, any Matching Contributions) attributable to differential wages.

1.59 **"Nonelective Contribution"** means any Employer Profit Sharing contribution (including a contribution made at the Employer's discretion) to the Plan other than Participants' Elective Deferrals, Matching Contributions, Qualified Matching Contributions and Qualified Nonelective Contributions.

1.60 **"Nonelective Contribution Account"** means the separate account established and maintained by the Administrator for each Participant with respect to the Participant's total interest in the Plan resulting from Nonelective Contributions.

1.61 **"Nonhighly Compensated Employee"** means any Employee who is not a Highly Compensated Employee. However, for purposes of Section 4.5(a) and Section 4.7(a), if the prior year testing method is used, a Nonhighly Compensated Employee shall be determined using the definition of Highly Compensated Employee in effect for the preceding Plan Year.

1.62 **"Nonhighly Compensated Participant"** means a Participant who is not a Highly Compensated Employee.

1.63 **"Non-Key Employee"** means any Employee or Former Employee (and such Employee's or Former Employee's Beneficiaries) who is not a Key Employee.

1.64 **"Normal Retirement Age"** means the Participant's 65th birthday, or the first day of the Plan Year containing the Participant's 5th anniversary of joining the Plan, if later.

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

1.66 **"One-Year Break in Service"** means the applicable computation period during which an Employee has not completed more than 500 Hours of Service with the Employer. However, the Employer may amend the Plan to provide a lesser number of Hours of Service in a Plan amendment for eligibility purposes, vesting purposes, or accrual purposes without adversely affecting the Plan's reliance on the IRS Opinion Letter. Further, solely for the purpose of determining whether a Participant has incurred a One-Year Break in Service, Hours of Service shall be recognized for "authorized leaves of absence" and "maternity and paternity leaves of absence." Years of Service and One-Year Breaks in Service shall be measured on the same computation period.

For purposes of this definition, "authorized leave of absence" means an unpaid, temporary cessation from active employment with the Employer pursuant to an established policy, whether occasioned by illness, military service, or any other reason.

Furthermore, for purposes of this definition, "maternity and paternity leave of absence" means an absence from work for any period by reason of the Employee's pregnancy, birth of the Employee's child, placement of a child with the Employee in connection with the adoption of such child, or any absence for the purpose of caring for such child for a period immediately following such birth or placement. For this purpose, Hours of Service shall be credited for the computation period in which the absence from work begins, only if credit therefore is necessary to prevent the Employee from incurring a One-Year Break in Service, or, in any other case, in the immediately following computation period. The Hours of Service credited for "maternity and paternity leaves of absence" shall be those which would normally

have been credited but for such absence, or, in any case in which the Administrator is unable to determine such hours normally credited, eight Hours of Service per day. The total Hours of Service required to be credited for "maternity and paternity leaves of absence" shall not exceed the number of Hours of Service needed to prevent the Employee from incurring a One-Year Break in Service.

1.67 **"Nonstandardized Pre-Approved Plan"** has the same meaning accorded by IRS Revenue Procedure 2017-41, and in the case of this particular document, a plan that would, prior to the publication of that Procedure, would have been referred to as a "volume submitter" plan.

1.68 **"Opinion Letter"** means the Letter issued by the IRS to the Provider conferring reliance on the terms of the IDP-formatted Nonstandardized Pre-Approved Plan.

1.69 **"Participant"** means any Employee or Former Employee who has satisfied the requirements of Sections 3.1 and 3.2 and entered the Plan and is eligible to accrue benefits under the Plan. In addition, the term "Participant" also includes any individual who was a Participant (as defined in the preceding sentence) and who must continue to be taken into account under a particular provision of the Plan (e.g., because the individual has an Account Balance in the Plan).

1.70 **"Participant Direction Procedures"** means such instructions, guidelines or policies, the terms of which are incorporated herein, as shall be established pursuant to Section 4.13 and observed by the Administrator and applied to Participants who have Participant Directed Accounts.

1.71 **"Participating Employer"** means an Employer who adopts the Plan pursuant to Section 11.1.

1.72 **"Plan"** means this instrument, including all amendments thereto. This Plan is classified, for IRS purposes, as a profit sharing plan with a cash or deferred arrangement (also known as a "401(k)" plan).

1.73 **"Plan Year"** means the Plan's accounting year of twelve months commencing on January 1 of each year and ending the following December 31.

1.74 **"Pre-Tax Elective Deferral Account"** means the portion of a Participant's Elective Deferral Account that is attributable to Pre-Tax Elective Deferrals.

1.75 **"Pre-Tax Elective Deferrals"** means a Participant's Elective Deferrals that are not includible in the Participant's gross income at the time deferred.

1.76 **"Provider"** means the organization described by Section 4.08 of Revenue Procedure 2017-41.

1.77 **"Qualified Elective Contribution Account"** means the amounts allocated to the Participant attributable to Elective Deferral Contributions, Qualified Matching Contributions and Qualified Nondollar Contributions. Amounts in the Qualified Elective Contribution Account are subject to the distribution restrictions of Section 4.2(c) when contributed, except however, distributions from the Qualified Matching Account and Qualified Nondollar Account are not permitted on account of financial hardship. All such Contributions must be fully and immediately vested.

1.78 **"Qualified Matching Contribution"** means any Employer contribution (including a contribution made at the Employer's discretion) to the Plan on account of a Participant's Elective Deferrals that are designated as such pursuant to any provision of the Plan. Qualified Matching Contributions may be used to satisfy the ADP Test or the ACP Test. All such contributions shall be allocated to the Qualified Matching Contribution Account and shall be subject to the restrictions on distributions stated in Section 4.2(c) when contributed, whether or not such contributions are taken into account in the ADP Test. In addition, Qualified Matching Contributions are nonforfeitable when contributed for Plan Years beginning before January 18, 2017, or when allocated for all subsequent Plan Years, whether or not such contributions are taken into account in the ADP Test.

1.79 **"Qualified Matching Contribution Account"** means the separate account established and maintained by the Administrator for each Participant with respect to the Participant's total interest in the Plan resulting from Qualified Matching Contributions, and such Account is subject to the vesting and distribution conditions stated in the definition of Qualified Matching Contribution.

1.80 **"Qualified Military Service"** means military service described by Code §414(u). Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service will be provided in accordance with Code §414(u). Furthermore, loan repayments may be suspended under this Plan as permitted under Code §414(u)(4).

1.81 **"Qualified Nondollar Contribution"** means any Employer contributions to the Plan that are designated as such pursuant to any provision of the Plan. Qualified Nondollar Contributions may be used to satisfy the ADP Test or ACP Test. All such contributions shall be allocated to the Qualified Nondollar Contribution Account, and shall be subject to the restrictions on distributions described by Section 4.2(c) when contributed, whether or not such contributions are taken into account in the ADP Test. In addition, Qualified Nondollar Contributions are nonforfeitable when contributed for Plan Years beginning before January 18, 2017, or when allocated for all subsequent Plan Years, whether or not such contributions are taken into account in the ADP Test or ACP Test.

1.82 **"Qualified Nonelective Contribution Account"** means the separate account established and maintained by the Administrator for each Participant with respect to the Participant's total interest in the Plan resulting from Qualified Nonelective Contributions, and such Account is subject to the vesting and distribution conditions stated in the definition of Qualified Nonelective Contribution.

1.83 **"Qualified Plan"** means any Plan that is tax-qualified within the meaning of Code Section §401(a).

1.84 **"Rate of Deferral"** for purposes of any Matching Contribution, means the Elective Deferrals for the applicable matching computation period divided by the Compensation for the applicable matching computation period. If Compensation earned during a Plan Year prior to an Eligible Employee's Effective Date of Participation in any matching contribution component of the Plan is excluded for purposes of determining such matching contribution, then such Eligible Employee's Elective Deferrals during that period shall also be excluded in determining the amount of such matching contribution.

1.85 **"Regulation"** means the Income Tax Regulations as promulgated by the Secretary of the Treasury or a delegate of the Secretary of the Treasury, and as amended from time to time.

1.86 **"Retirement" or "Retirement Date"** means the date as of which a Participant terminates employment for reasons other than Disability, whether such retirement occurs on a Participant's Normal Retirement Date or Late Retirement Date.

1.87 **"Rollover Account"** means the separate account established and maintained by the Administrator for each Participant with respect to such Participant's interest in the Plan resulting from amounts that are rolled over from a Qualified Plan (including this Plan) or Individual Retirement Account in accordance with Section 4.12. Amounts in the Rollover Account are nonforfeitable when made.

A separate accounting shall be maintained with respect to any portion of the Rollover Account that is attributable to amounts treated as Roth Elective Deferrals.

1.88 **"Roth Elective Deferral"** means a Participant's Elective Deferrals that are irrevocably designated as Roth Elective Deferrals by the Participant in his or her deferral election. Roth Elective Deferrals are includible in the Participant's gross income at the time deferred to the Plan.

1.89 **"Roth Elective Deferral Account"** means the separate account established and maintained by the Administrator for each Participant with respect to the Participant's total interest in the Plan resulting from Roth Elective Deferrals. Amounts in the Roth Elective Deferral Account are nonforfeitable when made and are subject to the distribution restrictions of Section 4.2(c). No contributions other than Roth Elective Deferrals and earnings thereon shall be credited to the Roth Elective Deferral Account.

1.90 **"Self-Employed Individual"** means an individual who has Earned Income for the taxable year from the trade or business for which the Plan is established, and, also, an individual who would have had Earned Income but for the fact that the trade or business had no net profits for the taxable year. A Self-Employed Individual shall be treated as an Employee.

1.91 **"Spouse"** means a spouse as determined under federal tax law.

1.92 **"Top-Heavy Plan"** means a plan described in Section 9.2.

1.93 **"Top-Heavy Plan Year"** means a Plan Year during which the Plan is a Top-Heavy Plan.

1.94 **"Total Vested Benefit"** means the total Participant's Vested Account balances derived from Employer and Employee Contributions, including rollover contributions, whether Vested before or upon death.

1.95 **"Transfer Account"** means the separate account established and maintained by the Administrator for each Participant with respect to the Participant's total interest in the Plan resulting from amounts transferred from another Qualified Plan pursuant to Section 4.10.

1.96 **"Trust"** means the separate trust agreement associated with this Plan. In the event of any conflict between the terms of this plan and any conflicting provision contained in any associated trust, custodial account document, or any document that is incorporated by reference, the terms of this Plan will govern.

1.97 **"Trustee"** means the person or entity named as trustee of the Plan pursuant to a separate agreement for that purpose, and who has accepted such appointment in writing.

1.98 **"Trust Fund"** means the assets of the Plan.

1.99 **"Valuation Date"** means the Anniversary Date and may include any other date or dates deemed necessary or appropriate by the Administrator for the valuation of the Participants' Accounts during the Plan Year, which may include any day that the Trustee, any transfer agent appointed by the Trustee or the Employer or any stock exchange used by such agent, is open for business. Nothing in this Plan requires or implies a uniform Valuation Date for all Accounts; thus certain valuation provisions that apply to an Account that is not valued on each business day will have no application, in operation, to an Account that is valued on each business day.

1.100 **"Vested"** means the nonforfeitable portion of any account maintained on behalf of a Participant.

1.101 **"Year of Service"** means the computation period of twelve consecutive months, herein set forth, and during which an Employee has at least 1,000 Hours of Service. However, the Employer may amend the Plan to provide a lesser number of Hours of Service in a Plan amendment for eligibility purposes, vesting purposes, or accrual purposes without adversely affecting the Plan's reliance on the IRS Opinion Letter.

For purposes of eligibility for participation, the initial computation period shall begin with the date on which the Employee first performs an Hour of Service. The participation computation period shall shift to the Plan Year which includes the anniversary of the date on which the Employee first performed an Hour of Service. If there is a shift to the Plan Year, then an Employee who is credited with the required Hours of Service in both the initial computation period and the Plan Year which includes the anniversary of the date on which the Employee first performed an Hour of Service, shall be credited with two Years of Service for purposes of eligibility to participate.

A Year of Service for eligibility purposes is not credited until the end of a participation computation period.

The computation period shall be the Plan Year if not otherwise set forth herein.

Notwithstanding the foregoing, for any short Plan Year, the determination of whether an Employee has completed a Year of Service shall be made in accordance with Department of Labor regulation §2530.203-2(c).

Years of Service with any Affiliated Employer shall be recognized commencing with an Employee's first day of employment with the Affiliated Employer. Furthermore, Years of Service with any predecessor employer that maintained the Plan shall be recognized.

In the event the method of crediting service is amended from the elapsed-time method to the hour-of-service method, an Employee will receive credit for Years of Service equal to:

- (a) The number of Years of Service equal to the number of whole year One-Year Periods of Service credited to the Employee as of the date of the amendment; and
- (b) In the computation period which includes the date of the amendment, a number of Hours of Service (using the Hours of Service equivalency method elected in the Plan) to any fractional part of a year credited to the Employee under this Section as of the date of the amendment.

ARTICLE II ADMINISTRATION

2.1 POWERS AND RESPONSIBILITIES OF THE EMPLOYER

(a) **Appointment of Trustee and Administrator.** In addition to the general powers and responsibilities otherwise provided for in this Plan, the Employer shall be empowered to appoint and remove the Trustee and the Administrator from time to time as it deems necessary for the proper administration of the Plan to ensure that the Plan is being operated for the exclusive benefit of the Participants and their Beneficiaries in accordance with the terms of the Plan and the Code. The Employer may appoint counsel, specialists, advisers, agents (including any nonfiduciary agent) and other persons as the Employer deems necessary or desirable in connection with the exercise of its fiduciary duties under this Plan. The Employer may compensate such agents or advisers from the assets of the Plan as fiduciary expenses (but not including any business (settlor) expenses of the Employer), to the extent not paid by the Employer.

(b) **Appointment of Investment Manager.** The Employer may appoint, at its option, an Investment Manager (qualified under the Investment Company Act of 1940 as amended), investment adviser, or other agent to provide investment direction to the Trustee with respect to any or all of the Plan assets. Such appointment shall be given by the Employer in writing in a form acceptable to the Trustee and shall specifically identify the Plan assets with respect to which the Investment Manager or other agent shall have authority to direct the investment.

2.2 DESIGNATION OF ADMINISTRATIVE AUTHORITY

The Employer may appoint one or more Administrators. Any person, including, but not limited to, the Employees of the Employer, shall be eligible to serve as an Administrator. Any person (other than the Employer) so appointed shall signify acceptance by filing written acceptance with the Employer. An appointed Administrator may resign by delivering a written resignation to the Employer or be removed by the Employer by delivery of written notice of removal, to take effect at a date specified therein, or upon delivery to the Administrator if no date is specified. If at any time there is no longer any appointed Administrator, then the Employer shall be the Administrator. Nothing in this provision precludes the Employer from being a co-Administrator concurrently with an appointed Administrator.

2.3 ALLOCATION AND DELEGATION OF RESPONSIBILITIES

If more than one person is serving as Administrator, the responsibilities of each Administrator may be specified by the Employer and accepted in writing by each Administrator. In the event that no such delegation is made by the Employer, the Administrators may allocate the responsibilities among themselves, in which event the Administrators shall notify the Employer and the Trustee in writing of such action and specify the responsibilities of each Administrator. The Trustee thereafter shall accept and rely upon any documents executed by the appropriate Administrator until such time as the Employer or the Administrators file with the Trustee a written revocation of such designation.

2.4 POWERS AND DUTIES OF THE ADMINISTRATOR

The primary responsibility of the Administrator is to administer the Plan for the exclusive benefit of the Participants and their Beneficiaries, subject to the specific terms of the Plan. The Administrator shall administer the Plan in accordance with its terms and shall have the power and discretion to construe the terms of the Plan and to determine all questions arising in connection with the administration, interpretation, and application of the Plan. Benefits under this Plan will be paid only if the Administrator decides in its discretion that the applicant is entitled to them. Any such determination by the Administrator shall be conclusive and binding upon all persons. The Administrator may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the Plan; provided, however, that any procedure, discretionary act, interpretation or construction shall be done in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the Plan shall continue to be deemed a Qualified Plan under the terms of Code §401(a). The Administrator shall have all powers necessary or appropriate to accomplish the Administrator's duties under the Plan.

The Administrator shall be charged with the duties of the general administration of the Plan as set forth under the terms of the Plan, including, but not limited to, the following:

- (a) the discretion to determine all questions relating to the eligibility of Employees to participate or remain a Participant hereunder and to receive benefits under the Plan;
- (b) the authority to review and settle all claims against the Plan, including claims where the settlement amount cannot be calculated or is not calculated in accordance with the Plan's contribution or allocation formula. This authority specifically permits the Administrator to settle disputed claims for benefits and any other disputed claims made against the Plan;
- (c) to compute, certify, and direct the Trustee with respect to the amount and the kind of benefits to which any Participant shall be entitled hereunder;
- (d) to authorize and direct the Trustee with respect to all discretionary or otherwise directed disbursements from the Trust Fund;
- (e) to maintain all necessary records for the administration of the Plan;
- (f) to interpret the provisions of the Plan and to make and publish such rules for regulation of the Plan as are consistent with the terms hereof;
- (g) to determine the size and type of any Contract to be purchased from any insurer, and to designate the insurer from which such Contract shall be purchased;
- (h) to compute and certify to the Employer and to the Trustee from time to time the sums of money necessary or desirable to be contributed to the Plan;
- (i) to consult with the Employer and the Trustee regarding the short and long-term liquidity needs of the Plan in order that the Trustee can exercise any investment discretion (if the Trustee has such discretion) in a manner designed to accomplish specific objectives;
- (j) to prepare and implement a procedure to notify Eligible Employees that they may elect to have a portion of their Compensation deferred or paid to them in cash;
- (k) to determine the validity of, and take appropriate action with respect to, any qualified domestic relations order received by it; and
- (l) to assist any Participant regarding the Participant's rights, benefits, or elections available under the Plan.

2.5 RECORDS AND REPORTS

The Administrator shall keep a record of all actions taken and shall keep all other books of account, records, policies, and other data that may be necessary for proper administration of the Plan and shall be responsible for supplying all information and reports to the Internal Revenue Service, Participants, Beneficiaries and others as required by law.

2.6 APPOINTMENT OF ADVISERS

The Administrator, or the Trustee with the consent of the Administrator, may appoint counsel, specialists, advisers, agents (including nonfiduciary agents) and other persons as the Administrator or the Trustee deems necessary or desirable in connection with the administration of this Plan, including but not limited to agents and advisers to assist with the administration and management of the Plan, and thereby to provide, among such other duties as the Administrator may appoint, assistance with maintaining Plan records and the providing of investment information to the Plan's investment fiduciaries and to Plan Participants.

2.7 INFORMATION FROM EMPLOYER

The Employer shall supply full and timely information to the Administrator on all pertinent facts as the Administrator may require in order to perform its function hereunder and the Administrator shall advise the Trustee of such of the foregoing facts as may be pertinent to the Trustee's duties under the Plan. The Administrator may rely upon such information as is supplied by the Employer and shall have no duty or responsibility to verify such information.

2.8 PAYMENT OF EXPENSES

All reasonable expenses of administration may be paid out of the Plan assets unless paid by the Employer. Such expenses shall include any expenses incident to the functioning of the Administrator, or any person or persons retained or appointed by any named Fiduciary incident to the exercise of their duties under the Plan, including, but not limited to, fees of accountants, counsel, Investment Managers, agents (including nonfiduciary agents) appointed for the purpose of assisting the Administrator or the Trustee in carrying out the instructions of Participants as to the directed investment of their accounts (if permitted) and other specialists and their agents, and other costs of administering the Plan. Until paid, the expenses shall constitute a liability of the Trust Fund. In addition, unless specifically prohibited under statute, regulation or other guidance of general applicability, the Administrator may charge to the Account of an individual Participant a reasonable charge to offset the cost of making a distribution to the Participant, Beneficiary, or Alternate Payee. If liquid assets of the Plan are insufficient to cover the fees of the Trustee or the Administrator, then Plan assets shall be liquidated to the extent necessary for such fees. In the event any part of the Plan assets becomes subject to tax, all taxes incurred will be paid from the Plan assets. Until paid, the expenses shall constitute a liability of the Trust Fund.

2.9 MAJORITY ACTIONS

Except where there has been an allocation and delegation of administrative authority pursuant to Section 2.3, if there is more than one Administrator, then they shall act by a majority of their number, but may authorize one or more of them to sign all papers on their behalf. Alternatively, the Administrators may allocate authority amongst themselves in a written document signed by all Administrators.

ARTICLE III ELIGIBILITY

3.1 CONDITIONS OF ELIGIBILITY

(a) **Eligibility.** Any Eligible Employee who has completed one Year of Service shall be eligible to participate hereunder as of the date such Employee has satisfied such requirements. However, any Employee who was a Participant in the Plan prior to the Effective Date of the Restatement shall continue to participate in the Plan provided such Employee is an Eligible Employee.

3.2 EFFECTIVE DATE OF PARTICIPATION

(a) **Effective date of participation - Elective Deferrals.** For the Elective Deferral component, an Eligible Employee shall become a Participant effective as of the date on which such Employee satisfies the eligibility requirements of Section 3.1, provided said Employee is still employed as of such date. If an Eligible Employee is not employed as of such date, the Eligible Employee's Effective Date of Participation shall be determined in accordance with Section 3.2(h).

(b) **Effective date of participation - Matching Contributions.** For the Matching Contribution component, an Eligible Employee shall become a Participant effective as of the first day of the Plan Year quarter coinciding with or next following the date such Employee met the eligibility requirements of Section 3.1, provided said Employee is still employed as of such date. If an Eligible Employee is not employed as of such date, the Eligible Employee's Effective Date of Participation shall be determined in accordance with Section 3.2(h).

(c) **Effective date of participation - Nonelective Contributions.** For the Nonelective Contribution component, an Eligible Employee shall become a Participant effective as of the first day of the Plan Year quarter coinciding with or next following the date such Employee met the eligibility requirements of Section 3.1, provided said Employee is still employed as of such date. If an Eligible Employee is not employed as of such date, the Eligible Employee's Effective Date of Participation shall be determined in accordance with Section 3.2(h).

(d) **Latest effective date of participation.** Notwithstanding any provision in the Plan to the contrary, an Eligible Employee who has satisfied the minimum age and service requirements of Code §410(a)(1)(A) (including the rule at Code §410(a)(1)(B)(i)) and who is otherwise entitled to participate, will become a Participant no later than the earlier of (1) six months after such requirements are satisfied, or (2) the first day of the first Plan Year after such requirements are satisfied, unless the Employee separates from service before such participation date.

(e) **Recognition of other employer service.** If an Eligible Employee satisfies the eligibility requirement conditions of a specific component of the Plan by reason of recognition of service with an entity that is not an Affiliated Employer, then such Employee shall become a Participant in such component of the Plan as of the day that the Plan credits such service with the entity or, if later, the date the Employee would have otherwise entered such component of the Plan had the service with the entity been recognized for purposes of this Plan.

(f) **Ineligible to eligible classification.** If an Employee, who has satisfied the Plan's eligibility requirements and would otherwise have become a Participant in a specific component of the Plan, shall go from a classification of an ineligible Employee to an Eligible Employee, such Employee shall become a Participant in such component of the Plan on the date such Employee becomes an Eligible Employee or, if later, the date that the Employee would have otherwise entered such component of the Plan had the Employee always been an Eligible Employee.

(g) **Eligible to ineligible classification.** If an Employee who has satisfied the Plan's eligibility requirements and would otherwise become a Participant in a specific component of the Plan shall go from a classification of an Eligible Employee to an ineligible class of Employees, such Employee shall become a Participant in such component of the Plan on the date such Employee again becomes an Eligible Employee, or, if later, the date that the Employee would have otherwise entered such component of the Plan had the Employee always been an Eligible Employee. However, if such Employee incurs a Five-Year Break in Service, eligibility will be determined under the Break in Service rules set forth in Section 3.5(d).

(h) **Effective date of participation upon reemployment.** If an Eligible Employee is not employed on the Effective Date of Participation as described in the preceding provisions of this Section 3.2, but is reemployed before a period of five (5) consecutive One-Year Breaks in Service, then such Eligible Employee shall become a Participant on the date of reemployment, or, if later, the date that the Employee would have otherwise entered the Plan had the Employee not terminated employment. If such Employee incurs a Five-Year Break in Service, eligibility will be determined under the Break in Service rules set forth in Section 3.5(d).

3.3 DETERMINATION OF ELIGIBILITY

The Administrator shall determine the eligibility of each Employee for participation in the Plan based upon information furnished by the Employer. Such determination shall be conclusive and binding upon all persons, as long as the same is made pursuant to the Plan.

3.4 CESSATION OF ELIGIBILITY

In the event a Participant shall go from a classification of an Eligible Employee to an ineligible Employee with respect to a specific component of the Plan, then such Participant shall continue to Vest in such component of the Plan for each Year of Service completed while an ineligible Employee, until such time as the Participant's Account is forfeited or distributed pursuant to the terms of the Plan. Additionally, the Participant's interest in the Plan shall continue to share in the earnings of the Trust Fund.

3.5 REHIRED EMPLOYEES AND BREAKS IN SERVICE

(a) **Rehired Participant/immediate re-entry.** If any Former Employee who had been a Participant is reemployed by the Employer, then the Employee shall become a Participant as of the reemployment date, unless the Employee is not an Eligible Employee, or the Employee does not satisfy the eligibility conditions (as in effect on the date of rehire) taking into account prior service to the extent such prior service is not disregarded pursuant to Section 3.5(d) below. If all such prior service is disregarded, then the rehired Eligible Employee shall be treated as a new hire.

(b) **Rehired Eligible Employee who satisfied eligibility.** If any Eligible Employee had satisfied the Plan's eligibility requirements but, due to a severance of employment, did not become a Participant, then such Eligible Employee shall become a Participant as of the later of (1) the entry date on which he or she would have entered the Plan had there been no severance of employment, or (2) the date of his or her re-employment. Notwithstanding the preceding, if the rehired Eligible Employee's prior service is disregarded pursuant to Section 3.5(d) below, then the rehired Eligible Employee shall be treated as a new hire.

(c) **Rehired Eligible Employee who had not satisfied eligibility.** If any Eligible Employee who had not satisfied the Plan's eligibility requirements is rehired after a severance from employment, then such Eligible Employee shall become a Participant in the Plan in accordance with the eligibility requirements set forth in Section 3.1 and the entry date requirement set forth in Section 3.2. However, in applying any shift in an eligibility computation period, the Eligible Employee is not treated as a new hire unless prior service is disregarded in accordance with Section 3.5(d) below.

(d) **Rule of parity for eligibility and vesting.** In the case of a Former Employee who under the Plan does not have a nonforfeitable right to any interest in the Plan resulting from Employer contributions, Years of Service before a period of consecutive One-Year Breaks in Service will not be taken into account if the number of consecutive One-Year Breaks in Service equal or exceed the greater of (A) five or (B) the aggregate number of pre-break Years of Service. Such aggregate number of Years of Service will not include any Years of Service disregarded under the preceding sentence by reason of a prior Five-Year Break in Service.

A Former Employee shall participate in the Plan as of the date of reemployment, or if later, as of the date that the Former Employee would otherwise enter the Plan pursuant to Section 3.1 and Section 3.2 taking into account all service not disregarded in this subsection.

3.6 ELECTION NOT TO PARTICIPATE

(a) **Irrevocable election not to participate.** Except as provided in the next paragraph, an Employee may, subject to the approval of the Employer, elect voluntarily not to participate in any component of the Plan. Such election must be made prior to the time the Employee first becomes eligible to participate under any Qualified Plan (i.e., a plan that is subject to Code §401(a) or any other plan

or arrangement of the Employer that is described in Code §219(g)(5)(A) (whether or not terminated) maintained by the Employer. The election not to participate must be irrevocable and communicated to the Employer in writing. Such election must be made upon inception of the Plan or such other plan or arrangement or at any time prior to the time the Employee first becomes eligible to participate under any such plan maintained by the Employer.

(b) **Prior Plan document provision.** Notwithstanding anything in this Section to the contrary, if any prior Plan document of this Plan contained a provision permitting an Employee to make a revocable election not to participate and an Employee made such revocable election not to participate while that prior Plan document was in effect, then such Employee's waiver shall continue to be in effect.

(c) **Effect of election.** An Employee who elected not to participate under the Plan is treated as a non-benefiting Employee for purposes of the minimum coverage requirements under Code §410(b), and if such election applies to Elective Deferrals, such Employee is not a Participant for purposes of the ADP Test and, if applicable, such Employee is not a Participant for purposes of the ACP Test.

3.7 OMISSION OF ELIGIBLE EMPLOYEE; INCLUSION OF INELIGIBLE EMPLOYEE

If, in any Plan Year, any Employee who should be included as a Participant in the Plan is erroneously omitted and discovery of such omission is not made until after a contribution by the Employer for the year has been made and allocated, or any person who should not have been included as a Participant in the Plan is erroneously included, then the Employer shall apply the principles described by, and take corrective actions consistent with, the IRS Employee Plans Compliance Resolution System ("EPCRS") (see Section 10.12).

ARTICLE IV CONTRIBUTION AND ALLOCATION

4.1 FORMULA FOR DETERMINING EMPLOYER CONTRIBUTION

For each Plan Year, the Employer shall contribute to the Plan:

(a) **Salary deferrals.** The amount that all Participants' Compensation is reduced pursuant to Section 4.2, which amount shall be Elective Deferrals. Such contributions shall be deposited into the Trust Fund as soon as administratively feasible, which for an Employer having less than 100 Employees shall be deemed to be satisfied if such contributions are deposited within seven business days of the Participant's Elective Deferral election to which they relate.

(b) **Matching Contributions.** On behalf of each Participant who is eligible to share in Matching Contributions for the Plan Year, a Discretionary Matching Contribution equal to a "Flexible Discretionary Match" that is a discretionary amount for each Participant. The Employer retains operational discretion over the formula or formulas for allocating the Flexible Discretionary Match, including the Discretionary Matching Contribution rate or amount, the limit(s) on Elective Deferrals subject to match, the per Participant match allocation limit(s), the Participants or categories of Participants who will receive the allocation, and the time period applicable to any matching formula(s), and the Employer will be subject to the provisions of Section 4.3(b).

Catch-Up Contributions shall be subject to the Matching Contribution described by this subsection.

(c) **Nonelective Contributions.** A discretionary amount to each Participant, which amount, if any, shall be a Nonelective Contribution. The Employer shall provide the Trustee with written notification of the amount of the contribution to be allocated to each Participant. In the case of Self-Employed Individuals, the requirements of Regulation §1.401(k)-1(a)(6) continue to apply and the allocation method should not be such that a cash or deferred election is created for a Self-Employed Individual as a result of the application of this allocation method. In addition, the resulting allocations cannot be such that the only Nonhighly Compensated Participants benefiting under the Plan are those with the lowest amount of Compensation and/or the shortest periods of service and who may represent the minimum number of these Employees necessary to satisfy coverage under Code §410(b).

Gateway Contribution. In addition to any Nonelective Contribution described above, the Employer may make an additional Nonelective Contribution ("Gateway Contribution") in an amount necessary to satisfy the minimum allocation gateway requirement described in Section 4.4(b)(4).

(d) **Top-Heavy Contribution.** The Employer shall contribute to the Plan the amount necessary to provide the top-heavy minimum contribution, even if it exceeds the amount that would be deductible under Code §404.

(e) **Form of contribution.** All contributions by the Employer shall be made in cash or in such property as is acceptable to the Trustee. The Employer may make its contribution to the Plan in the form of property only if such contribution does not constitute a prohibited transaction under the Code.

4.2 PARTICIPANT'S SALARY DEFERRAL ELECTION

(a) **Deferral elections.** Each Participant may elect to defer a portion of Compensation which would have been received in the Plan Year (except for the deferral election) by up to the maximum amount which will not cause the Plan to violate the provisions of Sections 4.5(a) and 4.9. A deferral election (or modification of an earlier election) may not be made with respect to Compensation which is currently available on or before the date the Participant executed such election or, if later, the later of the date the Employer

adopts this cash or deferred arrangement or the date such arrangement is first effective. For purposes of this Section, Compensation shall be determined prior to any reductions made pursuant to Code §125, Code §132(f)(4), Code §402(e)(3), Code §402(h)(1)(B), Code §402(k) or Code §457(b), and employee contributions described in Code §414(h)(2) that are treated as Employer contributions.

Notwithstanding anything in this Plan to the contrary, the Employer may impose a minimum elective deferral percentage of 1% or require that any deferral percentage must be expressed as a whole percentage, as an administrative procedure applied on a uniform and consistent basis to all Participants.

The amount that is deferred by a Participant shall be subject to the limitations of this Section, shall be an Elective Deferral, and shall be held for such Participant in the Elective Deferral Account.

For purposes of this Section, the annual dollar limitation of Code §401(a)(17) shall not apply except that the Administrator may elect to apply such limit on a prorated basis each payroll period as part of the deferral election procedures established hereunder.

Roth Elective Deferrals. A Participant may elect to have all or a portion of the Participant's Elective Deferrals be Roth Elective Deferrals when contributed to the Plan. These Roth Elective Deferrals are includible in the Participant's gross income at the time deferred and must be irrevocably designated as Roth Elective Deferrals by the Participant. Absent a Participant's affirmative election to have any portion of an Elective Deferral be considered a Roth Elective Deferral, Elective Deferrals shall be treated as Pre-Tax Elective Deferrals.

Separate deferral elections of bonuses. Additionally, each Participant may elect to separately defer up to 100% of any cash bonus to be paid by the Employer during the Plan Year. A deferral election may not be made with respect to cash bonuses that are currently available on or before the date the Participant executes such deferral election. If a Participant fails to make an election with respect to such bonus, then unless otherwise provided at Section 4.2(j), the Participant's bonus shall be subject to the Participant's general deferral election in effect on the day before the day that such Participant's bonus becomes currently available.

(b) **Catch-Up Contributions.** Notwithstanding anything in the Plan to the contrary, each Catch-Up Eligible Participant shall be eligible to make Catch-Up Contributions during the Participant's taxable year in accordance with, and subject to the limitations of, Code §414(v). Such Catch-Up Contributions are not subject to the limits on Annual Additions under Code §415(c), are not counted in the ADP Test of Section 4.5(a), are not counted in determining the minimum allocation required in a Top-Heavy Plan during a Top-Heavy Plan Year under Code §416 (but Catch-Up Contributions made in prior years are counted in determining whether the Plan is a Top-Heavy Plan), and are not taken into account under the limit on Elective Deferrals under Code §402(g). Catch-Up Contributions may be a dollar amount or a percentage of Compensation for each payroll period not to exceed the applicable dollar limit under Code §414(v), pursuant to procedures established by the Administrator. The Plan shall not be treated as failing to satisfy the provisions of the Plan implementing the requirements of Code §401(k)(3), Code §416 or Code §410(b), as applicable, by reason of the making of such Catch-Up Contributions.

(c) **Distribution restrictions.** Notwithstanding anything in the Plan to the contrary, amounts (including any offset of loans) held in the Participant's Qualified Elective Contribution Account may not be distributed except as authorized by other provisions of this Plan, but in no event may such amounts be distributed earlier than:

- (1) a Participant's death, disability or other severance of employment.
- (2) a Participant's attainment of age 59 1/2.
- (3) the termination of the Plan without the existence at the time of Plan termination of an alternative defined contribution plan or the establishment of an alternative defined contribution plan by the Employer or an Affiliated Employer within the period ending twelve months after distribution of all assets from the Plan maintained by the Employer. For this purpose, a defined contribution plan is not treated as an alternative defined contribution plan if the plan is an employee stock ownership plan (as defined in Code §4975(e)(7) or Code §409(a)), a simplified employee pension plan (as defined in Code §408(k)), a SIMPLE IRA plan (as defined in Code §408(p)), a plan or contract that satisfies the requirements of Code §403(b), or a plan that is described in Code §457(b) or Code §457(f). Furthermore, if at all times during the 24-month period beginning 12 months before the date of the Plan's termination, fewer than 2% of the Participants in the Plan as of the date of Plan termination are eligible under the other defined contribution plan, then the other defined contribution plan is not an alternative defined contribution plan. Distributions from the terminating Plan may only be made in lump sum distributions, pursuant to and defined in Regulation §1.401(k)-1(d)(4)(ii).
- (4) the proven financial hardship of a Participant, subject to the limitations of Section 6.12.
- (5) a Participant's service in the uniformed services while on active duty for a period of at least 30 days, i.e., a "deemed distribution" within the meaning of Section 6.11(d).
- (6) a federally declared disaster, where resulting legislation authorizes such a distribution.

(d) **Suspension due to hardship or deemed severance.** In the event a Participant has received a hardship distribution pursuant to Regulation §1.401(k)-1(d)(3)(iv)(E)(2) from this Plan or any other plan maintained by the Employer, or has received a distribution on account of deemed severance on account of Qualified Military Service from this Plan or any other plan maintained by the Employer,

then such Participant shall not be permitted to elect to have Elective Deferrals contributed to the Plan for a period of six months following the receipt of the distribution and the provisions of Section 6.12(b) and Section 6.11(d) shall apply.

(e) **Deferrals limited to Code §402(g) dollar limit.** A Participant's "elective deferrals" made under this Plan and all other plans, contracts or arrangements of the Employer maintaining this Plan during any calendar year shall not exceed the dollar limitation. For this purpose, "elective deferrals" means, with respect to a calendar year, the sum of all Employer contributions made on behalf of such Participant pursuant to an election to defer under any qualified cash or deferred arrangement as described in Code §401(k), any salary deferral simplified employee pension (as defined in Code §408(k)(6)), any SIMPLE IRA plan described in Code §408(p), any eligible deferred compensation plan under Code §457, any plans described under Code §501(c)(18), and any Employer contributions made on the behalf of a Participant for the purchase of an annuity contract under Code §403(b) pursuant to a salary deferral agreement. "Dollar limitation" shall mean the dollar limitation contained in Code §402(g) in effect for the Participant's taxable year beginning in such calendar year. In the case of a Participant aged 50 and over by the end of the taxable year, the "dollar limitation" described in the preceding sentence shall be adjusted to include the amount of Elective Deferrals that may be treated as Catch-Up Contributions. For 2018, the dollar limit was \$18,500. After 2018 the limit is adjusted by the Secretary of the Treasury for cost-of-living increases under Code §402(g)(4). Any such adjustments will be in multiples of \$500.

(f) **Assigning Excess Deferrals to this Plan.** If a Participant's Elective Deferrals under this Plan together with any elective deferrals (as defined in Regulation §1.402(g)-1(b)) under another qualified cash or deferred arrangement (as described in Code §401(k)), a simplified employee pension (as described in Code §408(k)(6)), a simple individual retirement account plan (as described in Code §408(p)), a salary deferral arrangement (within the meaning of Code §3121(a)(5)(D)), or a trust described in Code §501(c)(18) cumulatively exceed the "dollar limitation" described in the subsection 4.2(e) of this Section, for such Participant's taxable year, then the Participant may assign to this Plan any Excess Deferrals made during a taxable year of the Participant by notifying the Administrator in writing on or before March 1 following the close of the Participant's taxable year, of the amount of the Excess Deferrals to be assigned to the Plan. A Participant shall be deemed to notify the Administrator of any Excess Deferrals that arise by taking into account only those Elective Deferrals made to this Plan and any other plan, contract, or arrangement of the Employer.

Notwithstanding any other provision of the Plan to the contrary, the Administrator may direct the Trustee to distribute such Excess Deferrals, plus any Income allocable to such Excess Deferrals, to the Participant not later than the first April 15th following the close of the Participant's taxable year. Such a distribution may be made to a Participant to whose account Excess Deferrals were assigned for the preceding year or/and who claims Excess Deferrals for such taxable year or calendar year. Any distribution of less than the entire amount of Excess Deferrals and Income shall be treated as a pro rata distribution of Excess Deferrals and Income. The amount of the distribution shall not exceed the Participant's Elective Deferrals under the Plan for the taxable year (and any Income allocable to such Excess Deferrals). If a distribution of Excess Deferrals is to be made on or before the last day of the Participant's taxable year, then each of the following conditions must be satisfied:

- (1) the distribution must be made after the date on which the Plan received the Excess Deferrals; and
- (2) the Participant shall designate the distribution as Excess Deferrals (unless the Participant is deemed by the Plan to have notified the Plan as described above); and
- (3) the Plan must designate the distribution as a distribution of Excess Deferrals; and
- (4) for any years in which a Participant makes both Roth Elective Deferrals and Pre-Tax Elective Deferrals, the distribution of any Excess Deferrals for such year shall be made, as operationally determined by the Administrator, from the Participant's Pre-Tax Elective Deferral Account or Participant's Roth Elective Deferral Account (or a combination thereof).

Any distribution made pursuant to this Section shall be made first from unmatched Elective Deferrals and thereafter, from Elective Deferrals which are matched.

Matching Contributions that relate to Excess Deferrals (regardless of whether such Excess Deferrals are Pre-Tax Elective Deferrals or Roth Elective Deferrals) which are distributed pursuant to this Section 4.2(f) shall be treated as a Forfeiture.

(g) **Coordination with ADP Test.** Notwithstanding Section 4.2(f) above, a Participant's Excess Deferrals shall be reduced, but not below zero, by any distribution of Excess Contributions pursuant to Section 4.6 for the Plan Year beginning with or within the taxable year of the Participant.

(h) **Segregation.** Elective Deferrals made pursuant to this Section may be segregated into a separate account for each Participant in a federally insured savings account, certificate of deposit in a bank or savings and loan association, money market certificate, or other short-term debt security acceptable to the Trustee until such time as the allocations pursuant to Section 4.4 have been made.

(i) **No conditions to receive Elective Deferrals.** Notwithstanding anything herein to the contrary, Participants who terminated employment for any reason during the Plan Year shall share in the Elective Deferrals made by the Employer for the year of termination without regard to the Hours of Service credited.

(j) **Procedures to implement deferral elections.** The Employer and the Administrator may adopt a procedure to implement the salary deferral elections provided for herein. If such procedure is adopted, then the procedure shall include (but shall not be limited to) the following:

(1) A Participant may make an initial salary deferral election. The Participant shall make such an election by entering into a salary deferral agreement with the Employer and filing such agreement with the Administrator. Such election shall initially be effective beginning with the pay period following the acceptance of the salary deferral agreement by the Administrator in accordance with the provisions of this Section (or as soon thereafter as practical), shall not have retroactive effect, and shall remain in force until revoked or suspended in accordance with Section 6.12(b) or Section 6.11(d), or until such time as may be indicated on such agreement, or at the time established by the Employer's deferral policies and procedures (including any policies and procedures that are set forth in the remaining provisions of this Section).

(2) A Participant may modify a prior salary deferral election at any time by filing a new election with the Administrator (in accordance with procedures established by the Administrator) within a reasonable time before the pay period for which such modification is to be effective. Any modification shall not have retroactive effect and shall remain in force until revoked, or until such time as may be indicated on such agreement or at the time established by the Employer's deferral policies and procedures (including any such policies and procedures that are set forth in the remaining provisions of this Section).

(3) A Participant may elect to prospectively revoke the Participant's salary deferral agreement in its entirety at any time during the Plan Year by providing the Administrator with 30 days written notice of such revocation (or upon such shorter notice period as may be acceptable to the Administrator). Such revocation shall become effective as of the beginning of the first pay period coincident with or next following the expiration of the notice period (or as soon thereafter as practical).

(4) Any notices or required actions under this subsection may be provided or made electronically if made in accordance with Section 10.11.

(5) Regardless of the definition of Compensation shown in Article I, the Administrator may adopt a uniform policy, for purposes of determining the amount of a Participant's Elective Deferrals, of disregarding some or all items of Compensation which are not regularly paid in cash or cash equivalents to the Participant, such as premiums for group-term life insurance.

(6) In addition, Participants' deferral election forms may optionally provide a separate election, or for no elections permitted, or for a default deferral percentage of 0%, with respect to all or a portion of Compensation that is not paid on a per-payroll-period basis (e.g., bonuses, commissions, etc.), and may optionally provide that a Participant's failure to make any such separate election shall result in no deferral being made from such irregular Compensation. For example, salary would typically be "regular" compensation (even if not paid every payroll period), and an annual bonus that is paid at the end of one or more payroll periods together with salary could still be classified, for the purposes of the administrative procedure governing elective deferrals, as irregular compensation.

4.3 TIME OF PAYMENT OF EMPLOYER CONTRIBUTION; NOTIFICATION TO ADMINISTRATOR AND PARTICIPANTS

(a) **Time of Payment.** Unless otherwise provided by a particular provision of the Plan, or by contract or law, the Employer may make its contribution to the Plan for a particular Plan Year at such time as the Employer, in its sole discretion, determines. If the Employer makes a contribution for a particular Plan Year after the close of that Plan Year, then the Employer will designate to the Administrator the Plan Year for which the Employer is making its contribution.

(b) **Instructions to Administer and Notification to Participants.** For Plan Years beginning after the end of the Plan Year in which this document is first adopted, if a "discretionary matching contribution formula" applies (i.e., a formula that provides an Employer with discretion regarding how to *allocate* a matching contribution to Participants and the Employer makes a "discretionary matching contribution" to the Plan, the Employer must provide the Trustee written instructions describing (1) how the "discretionary matching contribution" formula will be allocated to Participants (e.g., a uniform percentage of Elective Deferrals or a flat dollar amount), (2) the matching computation period(s) for determining the Rate of Deferral to which the "discretionary matching contribution" formula applies, and (3) if applicable, a description of each business location or business classification subject to separate "discretionary matching contribution" allocation formulas. Such instructions must be provided no later than the date on which the "discretionary matching contribution" is made to the Plan. A summary of these instructions must be communicated to Participants who receive "discretionary matching contributions." The summary must be communicated to Participants no later than 60 days following the date on which the "discretionary matching contribution" is made to the Plan.

Solely for purposes of this Section, a matching contribution is to be considered as being a "discretionary matching contribution" unless the Employer has provided a definitely determinable allocation formula for the matching contribution. In order to be definitely determinable, the components of the allocation formula described in the preceding sentence must be specified within this document and cannot themselves be discretionary. Thus, regardless of whether the contribution formula for the matching contribution is fixed or discretionary, the provisions of the preceding paragraph apply unless the amount to be allocated to the Participant for the Plan Year can be determined without any discretion on the part of the Employer.

4.4 ALLOCATIONS

(a) **Separate accounting.** The Administrator shall establish and maintain an account in the name of each Participant to which the Administrator shall credit as of each Anniversary Date, or other Valuation Date, all amounts allocated to a particular Account of each such Participant as set forth herein.

(b) **Allocation of contributions.** The Employer shall provide the Administrator with all information required by the Administrator to make a proper allocation of the Employer contributions for each Plan Year. Within a reasonable period of time after the date of receipt by the Administrator of such information, the Administrator shall allocate such contribution as follows:

(1) **Elective Deferrals.** With respect to the Elective Deferrals made pursuant to Section 4.1(a), to each Participant's Elective Deferral Account.

(2) **Matching Contributions.** With respect to the Matching Contribution made pursuant to Section 4.1(b), to each Participant's Matching Contribution Account in accordance with Section 4.1(b).

(3) **Nonelective Contributions.** With respect to the Nonelective Contribution made on behalf of each Participant pursuant to Section 4.1(c), to each such Participant's Nonelective Contribution Account (i.e., each Participant is in a separate allocation group).

(4) **Gateway Contribution.** In addition to any other Nonelective Contribution, for any Plan Year that the Employer is treating Nonelective Contributions to this Plan as if such Contributions were benefit accruals under a defined benefit plan for purposes of satisfying the nondiscrimination requirements of IRC Section 401(a)(4) and the regulations thereunder (i.e., conducting a "cross" test), the Employer shall also contribute the minimum amount of Gateway Contribution, and in that case, the Administrator shall allocate such contribution as being the amount determined as follows:

(i) **Eligibility for Gateway Contribution.** Any Gateway Contribution made pursuant to Section 4.1(c) for a Plan Year will be allocated to each Participant who is a Nonhighly Compensated Employee and who receives an allocation of "Employer contributions" for such Plan Year. In applying the provisions of this subsection, the term "Employer contributions" means any Nonelective Contributions (including any amount that is contributed solely for the purpose of meeting any top-heavy contribution requirement), any ADP Safe Harbor Nonelective Contributions and, except as otherwise provided in subsections (iv) and (vi) below, any Qualified Nonelective Contributions, but such term excludes any Matching Contributions. Furthermore, the term "Employer contributions" shall also include any Forfeitures that are allocated to a Participant, other than Forfeitures that are subject to Code §401(m) because those Forfeitures are allocated as Matching Contributions.

(ii) Any Gateway Contribution made pursuant to this subsection for a Plan Year will be allocated without regard to any eligibility or allocation conditions otherwise applicable to "Employer contributions" under the Plan.

(iii) **Amount of Gateway Contribution.** The Gateway Contribution (if made) will be allocated to each Participant who is a Nonhighly Compensated Employee (as described in subsection (i) and (ii) above) in the amount necessary to provide an overall allocation rate equal to the lesser of:

(A) 5% of 415 Compensation or

(B) one-third (1/3) of the highest allocation rate for any Highly Compensated Employee for the Plan Year.

(iv) The amount of the Gateway Contribution allocated to each Nonhighly Compensated Employee who is a Participant (as described in subsection (i) and (ii) above) shall be reduced by the amount of any other "Employer contributions." However, any Qualified Nonelective Contributions that are used to satisfy any ADP test under Regulation §401(k)-2 or any ACP test under Regulation §401(m)-2 allocated for the same Plan Year to such Participant shall not be taken into account for purposes of the preceding sentence.

(v) For allocation purposes of the 5% Gateway Contribution described under (A) of subsection (iii) above, 415 Compensation shall be determined for the Plan Year (rather than the Limitation Year) but shall exclude 415 Compensation paid while an Employee is not a Participant in the Plan.

(vi) For allocation purposes of the 1/3 Gateway Contribution alternative under (B) of subsection (iii) above, the Administrator will (a) determine the allocation rate, and (b) allocate the Gateway Contribution, using a Participant's Compensation, provided the definition of Compensation satisfies Regulation §1.414(s). In addition, the allocation rate for any Participant is determined by dividing the total "Employer contributions" made on behalf of such Participant by the Participant's Compensation (as defined in the preceding sentence). However, solely for purposes of determining the allocation rate of any Nonhighly Compensated Employee, Qualified Nonelective Contributions that are used to satisfy the ADP Test or the ACP Test shall not be taken into account.

(vii) Notwithstanding anything in this Section to the contrary, the provisions of this Section may be applied separately to each plan within the meaning of Regulation §1.410(b)-7(c)(3). For purposes of applying this provision, the Administrator

may use any effective date of participation that is permitted under that regulation, provided such date is applied on a consistent and uniform basis to all Participants.

(viii) Notwithstanding the foregoing provisions, the Employer may increase the Gateway Contribution to satisfy the provisions of Regulation §1.401(a)(4)-9(b)(2)(v)(D) if the plan (for nondiscrimination testing purposes) consists of one or more defined contribution plans and one or more defined benefit plans, and may provide such an allocation to any Participant who is eligible for an accrual under such defined benefit plan(s).

(5) **Entitlement to Nonelective Contribution.** Any Participant employed during the Plan Year shall be eligible to share in the Nonelective Contribution made pursuant to Section 4.1(c) for the year.

(c) **Minimum required allocation to those not otherwise eligible to share.** For any Top-Heavy Plan Year, Non-Key Employees not otherwise eligible to share in the allocation of contributions as provided above, shall receive the minimum required allocation of Section 4.4(g) if eligible pursuant to the provisions of Section 4.4(j).

(d) **Allocation of earnings.** Except with respect to participant-directed accounts, as of each Valuation Date, before allocation of any Employer contributions and Forfeitures, any earnings or losses (net appreciation or net depreciation) of the Trust Fund (exclusive of assets segregated for distribution) shall be allocated in accordance with such rules and procedures that are established by the Administrator and that are applied in a uniform and nondiscriminatory manner based upon the investments of the Trust Fund and the Participants' accounts to which the net income is allocated. For purposes of this Section, the term "net income" means the net of any interest, dividends, unrealized appreciation and depreciation, capital gains and losses, and investment expenses of the Trust Fund determined on each Valuation Date. However, Participants' accounts which have been segregated for investment purposes (including any directed investment accounts will only have the net income earned thereon allocated thereto). Policy dividends or credits will be allocated to the Participant's Account for whose benefit the Policy is held.

(e) **Incoming transfers.** Participants' transfers from other Qualified Plans deposited in the general Trust Fund shall share in any earnings and losses (net appreciation or net depreciation) of the Trust Fund in the same manner provided above. Each segregated account maintained on behalf of a Participant shall be credited or charged with its separate earnings and losses.

(f) **Incoming rollovers.** Participants' Rollover Contributions deposited in the general Trust Fund shall share in any earnings and losses (net appreciation or net depreciation) of the Trust Fund in the same manner provided above. Each segregated account maintained on behalf of a Participant shall be credited or charged with its separate earnings and losses.

(g) **Minimum required allocation for Top-Heavy Plan Years.** Notwithstanding the foregoing, for any Top-Heavy Plan Year, the sum of the Employer contributions allocated to the Account of each Non-Key Employee shall be equal to at least three percent (3%) of such Non-Key Employee's 415 Compensation (reduced by contributions and Forfeitures, if any, allocated to each Non-Key Employee in any defined contribution plan included with this Plan in a required aggregation group). However, if (1) the sum of the Employer contributions allocated to the Participant's Account of each Key Employee for such Top-Heavy Plan Year is less than three percent (3%) of each Key Employee's 415 Compensation and (2) this Plan is not required to be included in an aggregation group to enable a defined benefit plan to meet the requirements of Code §401(a)(4) or Code §410, then the sum of the Employer contributions allocated to the Participant's Account of each Non-Key Employee shall be equal to the largest percentage allocated to the Account of any Key Employee (after taking into account contributions and Forfeitures, if any, allocated to each Non-Key Employee in any defined contribution plan included with this Plan in a required aggregation group). However, in determining whether a Non-Key Employee has received the minimum required allocation, such Non-Key Employee's Elective Deferrals and any other elective deferrals under any 401(k) plan in the aggregation group shall not be taken into account. The minimum allocation required (for purposes of this Section) must be nonforfeitable to the extent required under Code §416(b)(1)(A) or Code §416(b)(1)(B).

However, no minimum required allocation shall be required in this Plan for any Non-Key Employee who participates in another defined contribution plan subject to Code §412 included with this Plan in a required aggregation group, if the other defined contribution plan subject to Code §412 satisfies the minimum required allocation.

(h) **Top-Heavy contribution allocation.** For purposes of the minimum required allocation set forth above, the percentage allocated to the Account of any Key Employee who is a Participant shall be equal to the ratio of the sum of the Employer contributions (excluding any Catch-Up Contributions) allocated on behalf of such Key Employee for the Plan Year divided by the 415 Compensation for such Key Employee for the Plan Year.

(i) **Matching contributions used to satisfy top-heavy contribution.** Matching Contributions, including Qualified Matching Contributions shall be taken into account for purposes of satisfying the minimum required allocation of Code §416(c)(2) and Section 4.4(g). The preceding sentence shall apply with respect to Matching Contributions under the Plan or, if the Plan provides that the minimum required allocation shall be met in another plan, such other plan. Matching Contributions that are used to satisfy the minimum required allocation shall be treated as Matching Contributions for purposes of the ACP Test and other requirements of Code §401(m).

(j) **Participants eligible for top-heavy allocation.** For any Top-Heavy Plan Year, the minimum required allocation set forth above shall be allocated to the Nonelective Contribution Account of all Non-Key Employees who are Participants and who are employed by the Employer on the last day of the Plan Year regardless of the Non-Key Employee's level of Compensation, including Non-Key Employees who have (1) failed to complete a Year of Service; (2) declined to make mandatory contributions (if required) or, in the

case of a cash or deferred arrangement (if applicable), Elective Deferrals to the Plan; or (3) failed to receive an allocation of Employer contributions merely because the Participant's Compensation was less than a stated amount.

(k) **Delay in processing transactions.** Notwithstanding anything in this Section to the contrary, all information necessary to properly reflect a given transaction may not be available until after the date specified herein for processing such transaction, in which case the transaction will be reflected when such information is received and processed. Subject to express limits that may be imposed under the Code, the processing of any contribution, distribution or other transaction may be delayed for any legitimate business reason or force majeure (including, but not limited to, failure of systems or computer programs, failure of the means of the transmission of data, the failure of a service provider to timely receive values or prices, and the correction for errors or omissions or the errors or omissions of any service provider). The processing date of a transaction will be binding for all purposes of the Plan.

(l) **Recapture account.** The Administrator in its discretion may use a "recapture Account" to pay non-settlor Plan expenses and may allocate funds in the Account (or excess funds therein after payment of Plan expenses) as earnings or as otherwise permitted by applicable law. The Administrator will exercise its discretion in a reasonable, uniform and nondiscriminatory manner. A "recapture Account" is an account designated to receive amounts which a Plan service provider receives in the form of 12b-1 fees, sub-transfer agency fees, shareholder servicing fees or similar amounts (also known as "revenue sharing"), which are received by the service provider from a source other than the Plan and which the service provider may remit to the Plan.

(m) **Late trading and market timing settlement.** In the event the Plan becomes entitled to a settlement from a mutual fund or other investment relating to late trading, market timing or other activities, the Administrator will allocate the settlement proceeds to Participants and Beneficiaries in accordance with Department of Labor Field Assistance Bulletin 2006-01 or other applicable law.

4.5 ACTUAL DEFERRAL PERCENTAGE TEST

(a) **ADP Test.** The ADP for Highly Compensated Employees who are Participants for each Plan Year and the ADP for Nonhighly Compensated Employees who are Participants for each Plan Year (or for the preceding Plan Year if the prior year testing method is used) shall satisfy one of the following tests:

(1) The ADP for the group of Highly Compensated Employees who are Participants shall not exceed the ADP for the group of Nonhighly Compensated Employees who are Participants (for the preceding Plan Year if the prior year testing method is used to calculate the ADP for the group of Nonhighly Compensated Employees who are Participants) multiplied by 1.25, or

(2) The ADP for the group of Highly Compensated Employees who are Participants shall not exceed the ADP for the group of Nonhighly Compensated Employees who are Participants (for the preceding Plan Year, if the prior year testing method is used to calculate the ADP for the group of Nonhighly Compensated Employees who are Participants) by more than two percentage points. Furthermore, the ADP for the group of Highly Compensated Employees who are Participants shall not exceed the ADP for the group of Nonhighly Compensated Employees who are Participants (for the preceding Plan Year, if the prior year testing method is used to calculate the ADP for the group of Nonhighly Compensated Employees who are Participants) multiplied by 2.

For the first Plan Year that the Plan permits any Participant to make Elective Deferrals and this Plan is not a successor plan or is otherwise prohibited from using such provisions pursuant to Regulation §1.401(k)-2(c)(2), for purposes of the foregoing ADP Test, the ADP for the group of Nonhighly Compensated Employees who are Participants shall be such first Plan Year's ADP of the group of Nonhighly Compensated Employees who are Participants. Subsequent Plan Years shall be governed by the specification of testing method below.

(b) **Prior Year test upon this restatement.** Notwithstanding the above, if the prior year test method is used to calculate the ADP for the group of Nonhighly Compensated Employees who are Participants for the first Plan Year of this amendment and restatement, then the ADP for the group of Nonhighly Compensated Employees who are Participants for the preceding Plan Year shall be calculated pursuant to the provisions of the Plan then in effect.

(c) **Participant regardless of deferral election.** For the purposes of Sections 4.5(a) and 4.6, a Participant shall be any Employee eligible to make a deferral election pursuant to Section 4.2 at any point during the Plan Year, whether or not such deferral election was made or suspended pursuant to Section 6.12(b) or Section 6.11(d).

(d) **Aggregation with other plans.** In the event this Plan satisfies the requirements of Code §401(a)(4), Code §401(k), or Code §410(b) only if aggregated with one or more other plans, or if one or more other plans satisfy the requirements of such Code Sections only if aggregated with this Plan, then this Section shall be applied by determining the ADP of Employees as if all such plans were a single plan. If more than ten percent (10%) of the Employer's Nonhighly Compensated Employees are involved in a plan coverage change as defined in Regulation §1.401(k)-2(c)(4), then any adjustments to the Nonhighly Compensated Employees' ADP for the prior year will be made in accordance with such Regulations, unless the Employer has elected to use the current year testing method. Plans may be aggregated in order to satisfy Code §401(k) only if they have the same Plan Year and use the same ADP Testing method.

(e) **ADP of Highly Compensated Employee in multiple plans.** For the purposes of this Section, the ADP for any Participant who is a Highly Compensated Employee for the Plan Year and who is eligible to have Elective Deferrals (and Qualified Nonelective Contributions and/or Qualified Matching Contributions, if treated as Elective Deferrals for purposes of the ADP Test) allocated to the Participant's accounts under two or more cash or deferred arrangements described in Code §401(k) of the Employer or an Affiliated Employer, shall be determined as if such Elective Deferrals (and, if applicable, such Qualified Nonelective Contributions and/or

Qualified Matching Contributions) were made under a single cash or deferred arrangement. If a Highly Compensated Employee participates in two or more cash or deferred arrangements of the Employer or an Affiliated Employer that have different plan years, then all Elective Deferrals made during the Plan Year under all such arrangements shall be aggregated. Notwithstanding the foregoing, certain plans shall be treated as separate if mandatorily disaggregated under the Regulations of Code §401(k) or Code §410(b).

(f) **ADP Testing method.** For the purpose of this Section, when calculating the ADP for the group of Nonhighly Compensated Employees who are Participants, the current year testing method shall be used. Once the current year testing method has been elected, then the Employer may elect to use the prior year testing method for a Plan Year only if the Plan has not used the prior year testing method for each of the preceding five Plan Years (or if lesser, the number of Plan Years that the Plan has been in existence) or if, as a result of a merger or acquisition described in Code §410(b)(6)(C)(i), the Employer maintains both a plan using prior year testing method and a plan using current year testing method and the change is made within the transition period described in Code §410(b)(6)(C)(ii).

(g) **Otherwise excludable Employee and early participation rules.** Notwithstanding anything in this Section to the contrary, the provisions of this Section and Section 4.6 may be applied separately (or will be applied separately to the extent required by Regulations) to each "plan" within the meaning of Regulation §1.401(k)-1(b)(4)(iv). For purposes of applying this provision, the Administrator may use any effective date of participation that is permitted under Code §410(b) provided such date is applied on a consistent and uniform basis to all Participants. Alternatively, the provisions of Code §401(k)(3)(F) may be used to exclude from consideration all Nonhighly Compensated Employees who have not satisfied the greatest minimum age and service requirements of Code §410(a)(1)(A).

(h) **Timing of deposits and allocations.** For purposes of determining the ADP Test, only Elective Deferrals, Qualified Nonelective Contributions and Qualified Matching Contributions ("elective contributions") that are allocated within the Plan Year being evaluated shall be considered. For this purpose, an elective contribution described in this subsection is considered allocated as of a date within the Plan Year if the allocation is not contingent on participation or performance of services after such date and the elective contribution is actually paid to the Trust Fund no later than 12 months after the Plan Year to which the contribution relates.

(i) **Targeted Qualified Nonelective Contributions.** Notwithstanding the preceding, Qualified Nonelective Contributions cannot be taken into account in determining the ADR for a Plan Year for a Nonhighly Compensated Employee to the extent such contributions exceed the product of that Nonhighly Compensated Employee's 414(s) Compensation and the greater of five percent (5%) or two times the Plan's "representative contribution rate." Any Qualified Nonelective Contribution taken into account under an ACP Test under Regulation §1.401(m)-2(a)(6) (including the determination of the representative contribution rate for purposes of Regulation §1.401(m)-2(a)(6)(v)(B)), is not permitted to be taken into account for purposes of this paragraph (including the determination of the representative contribution rate under this Section). For purposes of this subsection:

(1) The Plan's "representative contribution rate" is the lowest applicable contribution rate of any eligible Nonhighly Compensated Employee among a group of eligible Nonhighly Compensated Employees that consists of half of all eligible Nonhighly Compensated Employees for the Plan Year (or, if greater, the lowest "applicable contribution rate" of any eligible Nonhighly Compensated Employee in the group of all eligible Nonhighly Compensated Employees for the Plan Year and who is employed by the Employer on the last day of the Plan Year), and

(2) The "applicable contribution rate" for an eligible Nonhighly Compensated Employee is the sum of the Qualified Matching Contributions taken into account for the eligible Nonhighly Compensated Employee for the Plan Year and the Qualified Nonelective Contributions made for the eligible Nonhighly Compensated Employee for the Plan Year, divided by the eligible Nonhighly Compensated Employee's 414(s) Compensation for the same period.

Restriction on Qualified Matching Contributions. Qualified Matching Contributions may only be used to calculate the ADP to the extent that such Qualified Matching Contributions are Matching Contributions that are not precluded from being taken into account for ACP Test purposes under the rules of Regulation §1.401(m)-2(a)(5)(ii).

Restrictions of Qualified Nonelective Contributions and Qualified Matching Contributions. Qualified Nonelective Contributions and Qualified Matching Contributions cannot be taken into account to determine the ADP to the extent such contributions are taken into account for purposes of satisfying any other ADP Test, any ACP Test, or the requirements of Regulation §1.401(k)-3, Regulation §1.401(m)-3 or Regulation §1.401(k)-4. Thus, for example, Matching Contributions that are made pursuant to Regulation §1.401(k)-3(c) cannot be taken into account under the ADP Test. Similarly, if a plan switches from the current year testing method to the prior year testing method pursuant to Regulation §1.401(k)-2(c), then Qualified Nonelective Contributions and Qualified Matching Contributions that are taken into account under the current year testing method for a year may not be taken into account under the prior year testing method for the next year.

(j) **ADP when no Nonhighly Compensated Employees.** If, for the applicable year for determining the ADP of the Nonhighly Compensated Employees for a Plan Year, there are no eligible Nonhighly Compensated Employees, then the Plan is deemed to satisfy the ADP Test for the Plan Year.

4.6 ADJUSTMENT TO ACTUAL DEFERRAL PERCENTAGE TEST

(a) **Authority to correct.** In the event that the initial allocations of the Elective Deferrals made pursuant to Section 4.2 do not satisfy the ADP Test set forth in Section 4.5(a), the Administrator shall implement some or all of the provisions of this Section in order to correct such failure.

(b) **Corrective action.** The Participant who is the Highly Compensated Employee having the largest dollar amount of Elective Deferrals shall have a portion of such Participant's Elective Deferrals first treated as Catch-Up Contributions and then distributed until the amount of such Participant's remaining Elective Deferrals equals the Elective Deferrals (less Catch-Up Contributions) of the Participant who is the Highly Compensated Employee having the second largest dollar amount of Elective Deferrals (less Catch-Up Contributions). This process shall continue until the total amount of Excess Contributions has been eliminated. In determining the amount of Excess Contributions to be treated as Catch-Up Contributions and/or distributed with respect to an affected Participant who is a Highly Compensated Employee as determined herein, such amount shall be reduced pursuant to Section 4.2(f) by any Excess Deferrals previously distributed to such affected Participant who is a Highly Compensated Employee for such Participant's taxable year ending with or within such Plan Year.

(1) **Corrective distribution.** With respect to the distribution of Excess Contributions pursuant to (a) above, such distribution:

- (i) may be postponed but not later than the last day of the twelve-month period following the Plan Year to which they are allocable;
- (ii) shall be adjusted for Income; and
- (iii) shall be designated by the Employer as a distribution of Excess Contributions (and Income).

Matching contributions which relate to Excess Contributions that are distributed pursuant to this subsection shall be treated as a Forfeiture to the extent required pursuant to Code §401(a)(4) and the Regulations thereunder, unless the related Matching Contribution is distributed as an Excess Contribution or as an Excess Aggregate Contribution.

(2) **Corrective Distributions from Roth Accounts.** Notwithstanding the above, for any years in which a Participant makes both Roth Elective Deferrals and Pre-Tax Elective Deferrals, the distribution of any Excess Contributions for such year shall be made, as operationally determined by the Administrator, first from the Participant's Pre-Tax Elective Deferral Account or Participant's Roth Elective Deferral Account (or a combination thereof).

(3) **Income and principal.** Any distribution of less than the entire amount of Excess Contributions shall be treated as a pro rata distribution of Excess Contributions and Income.

(4) **Related Matching Contributions.** Matching Contributions which relate to Excess Contributions shall be forfeited unless the related Matching Contribution is distributed as an Excess Aggregate Contribution pursuant to Section 4.8.

(c) **Corrective contributions.** Notwithstanding the above, if the current year testing method is used, within twelve months after the end of the Plan Year, any corrective contribution must be in the form of a Qualified Nonelective Contribution in accordance with the following formula. If the prior year testing method is used, then neither a Qualified Nonelective Contribution nor a Qualified Matching Contribution may be made retroactively to correct a failed ADP test after the end of the Plan Year being tested. The term "Non-Highly Compensated Employee" shall mean, for this purpose, a Non-Highly Compensated Employee taken into account for purposes of the (current-year) ADP Test.

(1) An operational Qualified Nonelective Contribution or Qualified Matching Contribution (or a combination thereof) shall be made equal to a discretionary amount for each Participant. The Employer retains operational discretion over the formula or formulas for allocating the corrective contribution, including the rate or amount, the limit(s) on Elective Deferrals subject to match, the per Participant match allocation limit(s), the Participants or categories of Participants who will receive the allocation, and the time period applicable to any matching formula(s), and the Employer will be subject to the provisions of Section 4.3(b).

Notwithstanding the above, if the testing method changes from the current year testing method to the prior year testing method, then for purposes of preventing the double counting of Qualified Nonelective Contributions for the first testing year for which the change is effective, any special Qualified Nonelective Contribution on behalf of Nonhighly Compensated Participants used to satisfy the ADP Test or the ACP Test under the current year testing method for the prior year testing year shall be disregarded.

(d) **Excise tax after 2 1/2 months.** Any Excess Contributions (and Income) which are distributed on or after 2 1/2 months after the end of the Plan Year shall be subject to the ten percent (10%) Employer excise tax imposed by Code §4979.

4.7 ACTUAL CONTRIBUTION PERCENTAGE TEST

(a) **ACP Test.** The ACP for Highly Compensated Employees who are Participants for each Plan Year and the ACP for Nonhighly Compensated Employees who are Participants for each Plan Year (or for the preceding Plan Year if the prior year testing method is used) shall satisfy one of the following tests:

(1) The ACP for the group of Highly Compensated Employees who are Participants shall not exceed the ACP for the group of Nonhighly Compensated Employees who are Participants (for the preceding Plan Year if the prior year testing method is used to calculate the ACP for the group of Nonhighly Compensated Employees who are Participants) multiplied by 1.25; or

(2) The ACP for the group of Highly Compensated Employees who are Participants shall not exceed the ACP for the group of Nonhighly Compensated Employees who are Participants (for the preceding Plan Year, if the prior year testing method is used to calculate the ACP for the group of Nonhighly Compensated Employees who are Participants) by more than two percentage points. Furthermore, the ACP for the group of Highly Compensated Employees who are Participants shall not exceed the ACP for the group of Nonhighly Compensated Employees who are Participants (for the preceding Plan Year, if the prior year testing method is used to calculate the ACP for the group of Nonhighly Compensated Employees who are Participants) multiplied by 2.

Notwithstanding the above, for the first Plan Year that the Plan has a Matching Contribution component and this Plan is not a successor plan or is otherwise prohibited from using such provisions pursuant to Regulation §1.401(m)-2(c)(2), for purposes of the foregoing ACP Test, the ACP for the group of Nonhighly Compensated Employees who are Participants shall be such first Plan Year's ACP of the group of Nonhighly Compensated Employees who are Participants.

(b) **Prior-year test upon this restatement.** Notwithstanding the above, if the prior year test method is used to calculate the ACP for the group of Nonhighly Compensated Employees who are Participants for the first Plan Year of this amendment and restatement, then the ACP for the group of Nonhighly Compensated Employees who are Participants for the preceding Plan Year shall be calculated pursuant to the provisions of the Plan then in effect.

(c) **Aggregation with other plans.** In the event that this Plan satisfies the requirements of Code §401(a)(4), Code §401(m), or Code §410(b) only if aggregated with one or more other plans, or if one or more other plans satisfy the requirements of such sections of the Code only if aggregated with this Plan (other than the average benefits test under Code §410(b)(2)(A)(ii)), then this Section shall be applied by determining the ACP of Employees as if all such plans were a single plan. If more than ten percent (10%) of the Employer's Nonhighly Compensated Employees are involved in a plan coverage change as defined in Regulation §1.401(m)-2(c)(4), then any adjustments to the Nonhighly Compensated Employees ACP for the prior year will be made in accordance with such Regulations, unless the Employer has elected to use the current year testing method. Plans may be aggregated in order to satisfy Code §401(m) only if they have the same Plan Year and use the same ACP testing method.

(d) **ACP of Highly Compensated Employee in multiple plans.** For the purposes of this Section, if a Highly Compensated Employee is a Participant under two or more plans which are maintained by the Employer or an Affiliated Employer to which Matching Contributions, nondeductible Employee contributions, or both, are made, then all such contributions on behalf of such Highly Compensated Employee shall be aggregated for purposes of determining such Highly Compensated Employee's ACP. If the plans have different plan years, then all such contributions made during the Plan Year under all such arrangements shall be aggregated. Notwithstanding the foregoing, certain plans shall be treated as separate if mandatorily disaggregated under Regulations under Code §401(m).

(e) **ACP Testing method.** Except as provided above with respect to the first Plan Year, for the purpose of this Section, when calculating the ACP for the group of Nonhighly Compensated Employees who are Participants, the current year testing method shall be used. Once the current year testing method has been elected, then the Employer may elect to use the prior year testing method for a Plan Year only if the Plan has used the current year testing method for each of the preceding five Plan Years (or if lesser, the number of Plan Years that the Plan has been in existence) or if, as a result of a merger or acquisition described in Code §410(b)(6)(C)(i), the Employer maintains both a plan using prior year testing method and a plan using current year testing method and the change is made within the transition period described in Code §410(b)(6)(C)(ii).

(f) **Otherwise excludable Employee and early participation rules.** Notwithstanding anything in this Section to the contrary, the provisions of this Section and Section 4.8 may be applied separately (or will be applied separately to the extent required by Regulations) to each plan within the meaning of Regulation §1.401(m)-1(b)(4). For purposes of applying this provision, the Administrator may use any effective date of participation that is permitted under Code §410(b) provided such date is applied on a consistent and uniform basis to all Participants. Alternatively, the provisions of Code §401(m)(5)(C) may be used to exclude from consideration all Nonhighly Compensated Employees who have not satisfied the greatest minimum age and service requirements of Code §410(a)(1)(A).

(g) **Timing of deposits and allocations.** For purposes of determining the ACP Test, only Contribution Percentage Amounts that are allocated within the Plan Year being evaluated shall be considered. An Employer contribution that is a Contribution Percentage Amount is considered allocated as of a date within the Plan Year if the allocation is not contingent on participation or performance of services after such date and the contribution is actually paid to the Trust Fund no later than 12 months after the Plan Year to which the contribution relates.

(h) **Targeted Matching Contributions.** Notwithstanding the preceding, a Matching Contribution (and a Qualified Matching Contribution not used in the ADP Test) with respect to an Elective Deferral for a year is not taken into account in determining the ACP for Nonhighly Compensated Employees to the extent it exceeds the greatest of:

- (1) five percent (5%) of the Participant's 414(s) Compensation for the year;
- (2) the Employee's Elective Deferrals for the year; and
- (3) the product of two times the Plan's "representative matching rate" and the Participant's Elective Deferrals for the year.

For purposes of this subsection, the Plan's "representative matching rate" is the lowest "matching rate" for any eligible Nonhighly Compensated Employee among a group of Nonhighly Compensated Employees that consists of half of all eligible Nonhighly Compensated Employees in the Plan for the Plan Year who make Elective Deferrals for the Plan Year (or, if greater, the lowest "matching rate" for all eligible Nonhighly Compensated Employees in the Plan who are employed by the Employer on the last day of the Plan Year and who make Elective Deferrals for the Plan Year).

For purposes of this subsection, the "matching rate" for an Employee generally is the Matching Contributions (and Qualified Matching Contributions not used in the ADP Test) made for such Employee divided by the Employee's Elective Deferrals for the year. If the matching rate is not the same for all levels of Elective Deferrals for an Employee, then the Employee's "matching rate" is determined assuming that an Employee's Elective Deferrals are equal to six percent (6%) of 414(s) Compensation.

(i) **Targeted Qualified Nonelective Contributions.** Notwithstanding the preceding, Qualified Nonelective Contributions cannot be taken into account in determining the ACP for a Plan Year for a Nonhighly Compensated Employee to the extent such contributions exceed the product of that Nonhighly Compensated Employee's 414(s) Compensation and the greater of five percent (5%) or two times the Plan's "representative contribution rate." Any Qualified Nonelective Contribution taken into account in the ADP test under Regulation §1.401(k)-2(a)(6) (including determination of the representative contribution rate for purposes of Regulation §1.401(k)-2(a)(6)(iv)(B)), is not permitted to be taken into account for purposes of this paragraph (including the determination of the representative contribution rate under this Section). For purposes of this subsection:

- (1) The Plan's "representative contribution rate" is the lowest applicable contribution rate of any eligible Nonhighly Compensated Employee among a group of eligible Nonhighly Compensated Employees that consists of half of all eligible Nonhighly Compensated Employees for the Plan Year (or, if greater, the lowest "applicable contribution rate" of any eligible Nonhighly Compensated Employee in the group of all eligible Nonhighly Compensated Employees for the Plan Year and who is employed by the Employer on the last day of the Plan Year), and
- (2) The "applicable contribution rate" for an eligible Nonhighly Compensated Employee is the sum of the Matching Contributions taken into account under this Section for the eligible Nonhighly Compensated Employee for the Plan Year and the Qualified Nonelective Contributions taken into account under this Section made for the eligible Nonhighly Compensated Employee for the Plan Year, divided by the eligible Nonhighly Compensated Employee's 414(s) Compensation for the same period.

Restrictions of Qualified Nonelective Contributions and Qualified Matching Contributions. Qualified Nonelective Contributions and Qualified Matching Contributions cannot be taken into account to determine the ACP to the extent such contributions are taken into account for purposes of satisfying any other ACP Test, any ADP Test, or the requirements of Regulation §1.401(k)-3, Regulation §1.401(m)-3 or Regulation §1.401(k)-4. Thus, for example, Qualified Nonelective Contributions that are made pursuant to Regulation §1.401(k)-3(b) cannot be taken into account under the ACP Test. Similarly, if a plan switches from the current year testing method to the prior year testing method pursuant to Regulation §1.401(m)-2(c)(1), then Qualified Nonelective Contributions that are taken into account under the current year testing method for a year may not be taken into account under the prior year testing method for the next year.

(j) **ACP when no Nonhighly Compensated Employees.** If, for the applicable year for determining the ACP of the Nonhighly Compensated Employees for a Plan Year, there are no eligible Nonhighly Compensated Employees, then the Plan is deemed to satisfy the ACP Test for the Plan Year.

4.8 ADJUSTMENT TO ACTUAL CONTRIBUTION PERCENTAGE TEST

(a) **Authority to correct.** In the event that the ACP Test set forth in Section 4.7(a) is not satisfied, the Administrator shall implement some or all of the provisions of this Section in order to correct such failure.

(b) **Corrective distribution or Forfeiture.** On or before the close of the following Plan Year, the Participant who is the Highly Compensated Employee having the largest dollar amount of Contribution Percentage Amounts shall have a portion of such Contribution Percentage Amounts (and Income allocable to such amounts) distributed or, if non-Vested, treated as a Forfeiture (including Income allocable to such Forfeitures) until the total amount of Excess Aggregate Contributions has been distributed, or until the amount of the Participant's Contribution Percentage Amounts equals the Contribution Percentage Amounts of the Participant who is a Highly Compensated Employee having the next largest amount of Contribution Percentage Amounts. This process shall continue until the total amount of Excess Aggregate Contributions has been distributed or forfeited.

Any distribution and/or Forfeiture of Contribution Percentage Amounts shall be made in the following order:

- (1) Matching Contributions distributed and/or forfeited pursuant to Section 4.6(b);
- (2) Unmatched Elective Deferrals used in the ACP Test and, thereafter, simultaneously from such Elective Deferrals used in the ACP which are matched and the matching contributions which relate to such Elective Deferrals (if the matching contributions are used in the ACP Test). Matching contributions which are not used in the ACP Test but which relate to Elective Deferrals that are distributed to Highly Compensated Participants pursuant to this subsection shall be forfeited unless the related matching contributions are distributed as Excess Aggregate Contributions pursuant to this subsection;
- (3) Any remaining Matching Contributions.

To the extent Elective Deferrals are distributed pursuant to the preceding paragraph, then for any years in which a Participant makes both Roth Elective Deferrals and Pre-Tax Elective Deferrals, the distribution of any Excess Aggregate Contributions for such year shall be made, as operationally determined by the Administrator, from the Participant's Pre-Tax Elective Deferral Account or the Participant's Roth Elective Deferral Account (or a combination thereof).

(c) **Source of corrective distribution.** Any distribution of less than the entire amount of Excess Aggregate Contributions (and Income) shall be treated as a pro rata distribution of Excess Aggregate Contributions (and Income). Distribution of Excess Aggregate Contributions shall be designated by the Employer as a distribution of Excess Aggregate Contributions (and Income).

(d) **Treatment of Excess Aggregate Contributions.** Excess Aggregate Contributions shall be treated as Employer contributions for purposes of Code §§404 and 415 even if distributed from the Plan.

(e) **Ordering of tests.** The determination of the amount of Excess Aggregate Contributions with respect to any Plan Year shall be made after first determining the Excess Aggregate Contributions, if any, to be treated as Employee Voluntary Contributions due to recharacterization for the Plan Year of any other qualified cash or deferred arrangement (as defined in Code §401(k)) maintained by the Employer that ends with or within the Plan Year.

(f) **Corrective contributions.** Notwithstanding the above, if the current year testing method is used, within twelve months after the end of the Plan Year, any corrective contribution must be in the form of a Contribution in accordance with the following formula. If the prior year testing method is used, then neither a Qualified Nonelective Contribution nor Qualified Matching Contribution may be made retroactively to correct a failed ACP test after the end of the Plan Year being tested. The term "Non-Highly Compensated Employee" shall mean, for this purpose, a Non-Highly Compensated Employee taken into account for purposes of the (current-year) ADP Test.

(1) An operational Qualified Nonelective Contribution, Qualified Matching Contribution, or a matching contribution (or combination thereof) shall be made equal to a discretionary amount for each Participant. The Employer retains operational discretion over the formula or formulas for allocating the corrective contribution, including the rate or amount, the limit(s) on Elective Deferrals subject to match, the per Participant match allocation limit(s), the Participants or categories of Participants who will receive the allocation, and the time period applicable to any matching formula(s), and the Employer will be subject to the provisions of Section 4.3(b).

(g) **Excise tax.** Any Excess Aggregate Contributions (and Income) which are distributed on or after 2 1/2 months after the end of the Plan Year shall be subject to the ten percent (10%) Employer excise tax imposed by Code §4979.

4.9 MAXIMUM ANNUAL ADDITIONS

(a) **Maximum permissible amount.** Notwithstanding the foregoing, the maximum Annual Additions credited to a Participant's Accounts for any Limitation Year shall equal the lesser of:

- (1) \$55,000 for 2018, adjusted annually as provided in Code §415(d) pursuant to the Regulations, or
- (2) one-hundred percent (100%) of the Participant's 415 Compensation for such Limitation Year.

The percentage limitation in paragraph (2) above shall not apply to: (1) any contribution for medical benefits (within the meaning of Code §419A(f)(2)) after separation from service which is otherwise treated as an annual addition, or (2) any amount otherwise treated as an annual addition under Code §415(l)(1).

For any short Limitation Year, the dollar limitation in paragraph (1) above shall be reduced by a fraction, the numerator of which is the number of full months in the short Limitation Year and the denominator of which is twelve. If the plan is terminated as of a date other than the last day of the Limitation Year, the Plan is deemed to have been amended to change its Limitation Year to a short Limitation Year ending on the date of plan termination, and the maximum permissible amount shall be determined for the resulting short Limitation Year as described in the preceding sentence.

(b) **Excess Annual Additions defined.** For purposes of this Article, the term "Excess Annual Additions" for any Participant for a Limitation Year means a Participant's Annual Additions under this Plan and such other plans of the Employer or Affiliated Employer

that are in excess of the maximum permissible amount of this Section 4.9 for a Limitation Year. The Excess Annual Additions will be deemed to consist of the Annual Additions last allocated, except that Annual Additions attributable to a simplified employee pension will be deemed to have been allocated first, followed by Annual Additions to a welfare benefit fund or individual medical account, and then by Annual Additions to a plan subject to Code §412, regardless of the actual allocation date.

(c) **Annual Additions can cease when maximum permissible amount reached.** If the Employer contribution that would otherwise be contributed or allocated to the Participant's Accounts would cause the Annual Additions for the Limitation Year to exceed the maximum permissible amount, then the amount that would otherwise be contributed or allocated will be reduced so that the Annual Additions for the Limitation Year will equal the maximum permissible amount, and any such amounts which would have been allocated to such Participant may be allocated to other Participants.

(d) **Multiple Plans.** The following provisions apply if a Participant is covered by more than one Qualified Plan maintained by the Employer.

(1) If a Participant participates in more than one defined contribution plan maintained by the Employer that have different Anniversary Dates, then the maximum permissible amount under this Plan shall equal the maximum permissible amount for the Limitation Year minus any Annual Additions previously credited to such Participant's Accounts under all such plans during the Plan's Limitation Year.

(2) If a Participant participates in both a defined contribution plan subject to Code §412 and a defined contribution plan not subject to Code §412 maintained by the Employer which have the same Anniversary Date, then Annual Additions will be credited to the Participant's Accounts under the defined contribution plan subject to Code §412 prior to crediting Annual Additions to the Participant's Accounts under the defined contribution plan not subject to Code §412.

(3) If a Participant participates in more than one defined contribution plan not subject to Code §412 maintained by the Employer which have the same Anniversary Date, then the maximum permissible amount under this Plan shall equal the product of (A) the maximum permissible amount for the Limitation Year minus any Annual Additions previously credited under subsections (1) or (2) above, multiplied by (B) a fraction (i) the numerator of which is the Annual Additions which would be credited to such Participant's Accounts under this Plan without regard to the limitations of Code §415 and (ii) the denominator of which is such Annual Additions for all plans described in this subsection.

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

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

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

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

(g) **Mid-year aggregation.** Two or more defined contribution plans that are not required to be aggregated pursuant to Code §415(f) and the Regulations thereunder as of the first day of a Limitation Year do not fail to satisfy the requirements of Code §415 with

respect to a Participant for the Limitation Year merely because they are aggregated later in that Limitation Year, provided that no Annual Additions are credited to the Participant's Account after the date on which the plans are required to be aggregated.

(h) **Correction of Excess Annual Additions.** Notwithstanding any provision of the Plan to the contrary, if Annual Additions exceed the limit on Annual Additions for any Participant, then the Plan may only correct such excess in accordance with the Employee Plans Compliance Resolution System ("EPCRS") (see Section 10.12).

(i) **Time when Annual Additions credited.** An Annual Addition is credited to the account of a Participant for a particular Limitation Year if it is allocated to the Participant's account under the Plan as of any date within that Limitation Year. However, an amount is not deemed allocated as of any date within a Limitation Year if such allocation is dependent upon participation in the Plan as of any date subsequent to such date.

For purposes of this subsection, Employer contributions are not deemed credited to a Participant's Account for a particular Limitation Year unless the contributions are actually made to the Plan no later than 30 days after the end of the period described in Code §404(a)(6) applicable to the taxable year with or within which the particular Limitation Year ends. In the case of an Employer that is exempt from federal income tax (including a governmental employer), Employer contributions are treated as credited to a Participant's Account for a particular Limitation Year only if the contributions are actually made to the Plan no later than the 15th day of the tenth calendar month following the end of the calendar year or Fiscal Year with or within which the particular Limitation Year ends.

4.10 PLAN-TO-PLAN TRANSFERS (OTHER THAN ROLLOVERS) TO THE PLAN

(a) **Transfers into this Plan.** With the consent of the Administrator (such consent must be exercised in a nondiscriminatory manner and applied uniformly to all Participants), amounts may be transferred (within the meaning of Code §414(l)) to this Plan from other Qualified Plan, provided that the plan from which such funds are transferred permits the transfer to be made, the funds are not subject to the notice and consent requirements of Code §417 (i.e., the qualified joint and survivor annuity requirements), and the transfer will not jeopardize the tax exempt status of the Plan or Trust or create adverse tax consequences for the Employer (e.g., the transfer conforms to the provisions of Regulation §1.411(d)-4). Prior to accepting any transfers to which this Section applies, the Administrator may require satisfactory evidence that the amounts to be transferred meet the requirements of this Section. The transferred amounts shall be allocated to the Transfer Account of the Participant.

(b) **Accounting of transfers.** The Transfer Account of a Participant shall be held by the Trustee pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as provided in paragraph (d) of this Section. The Trustee shall have no duty or responsibility to inquire as to the propriety of the amount, value or type of assets transferred, nor to conduct any due diligence with respect to such assets; provided, however, that such assets are otherwise eligible to be held by the Trustee under the terms of this Plan.

(c) **Vesting.** At the time of the transfer, the nonforfeitable percentage of the funds under the transferor plan shall apply, but thereafter shall increase (if applicable) for each Year of Service that the Participant completes after such transfer in accordance with the Vesting provisions of this Plan applicable to the type of Account represented by the transferred funds (e.g., transferred Nonelective funds will be subject to the vesting schedule applicable to Nonelective Contributions under this Plan). If the vesting schedule applicable to a Transferred Account changes as a result of this paragraph, such change will be treated as an amendment to the vesting schedule for each affected Participant.

(d) **Restrictions on elective deferrals.** Except as permitted by regulations (including Regulation §1.411(d)-4), amounts attributable to elective deferrals (as defined in Regulation §1.401(k)-6) that are transferred from another Qualified Plan in a plan-to-plan transfer (other than a direct rollover) shall be subject to the distribution limitations provided for in Code §401(k)(2) and the Regulations.

(e) **Distribution of Transfer Account.** At Normal Retirement Date, or such other date when the Participant or the Participant's Beneficiary shall be entitled to receive benefits, the Transfer Account of a Participant shall be used to provide additional benefits to the Participant or the Participant's Beneficiary. Any distributions of amounts held in the Transfer Account shall be made in a manner which is consistent with and satisfies the provisions of Sections 6.5 and 6.6, including, but not limited to, all notice and consent requirements of Code § 411(a)(11) and the Regulations thereunder. Furthermore, the Transfer Account shall be considered as part of a Participant's benefit in determining whether an involuntary cash-out of benefits may be made without Participant consent.

(f) **Segregation.** The Administrator may direct that Employee transfers made after a Valuation Date be segregated into a separate account for each Participant until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated or be invested as part of the general Trust Fund or be directed by the Participant pursuant to Section 4.13.

(g) **Protected benefits.** Notwithstanding anything herein to the contrary, a transfer directly to this Plan from another Qualified Plan (or a transaction having the effect of such a transfer) may not result in the impermissible elimination or reduction of any "Section 411(d)(6) protected benefit" (as described in Section 8.1(f)).

(h) **Separate Accounts.** With respect to each Participant's Transfer Account, separate sub-accounts shall be maintained to the extent necessary to carry out the provisions of this Plan.

4.11 PLAN-TO-PLAN TRANSFERS (OTHER THAN ROLLOVERS) FROM THE PLAN

(a) **Transfers from this Plan.** Notwithstanding any other provision contained in this Plan and to the extent not prohibited under the terms of the Trust agreement, the Administrator may direct the Trustee to transfer the interest, if any, of a Participant to another trust forming part of a pension, profit sharing, or stock bonus plan that meets the requirements of Code §401(a), provided that the trust to which such transfers are made permits the transfer to be made and further provided that the terms of the transferee plan properly allocates the funds in each account to a transferee account that preserves all the required features and restrictions applicable to such account under this Plan. However, the transfer of amounts from this Plan to a nonqualified foreign trust is treated as a distribution and the transfer of assets and liabilities from this Plan to a plan that satisfies Section 1165 of the Puerto Rico Code is also treated as distribution from the transferor plan. This paragraph does not apply to any rollover distribution, including a direct rollover.

4.12 ROLLOVER CONTRIBUTIONS

(a) **Acceptance of rollovers into the Plan.** With the consent of the Administrator (such consent must be exercised in a nondiscriminatory manner and applied uniformly to all Participants), the Plan may accept a rollover by Participants, excluding Participants who are no longer employed as an Employee, as well as by Eligible Employees who are not yet Participants, provided the rollover will not jeopardize the tax-exempt status of the Plan or create adverse tax consequences for the Employer. The rollover amounts shall be allocated to the Rollover Account of the Participant. Furthermore, for a rollover from an eligible retirement plan into this Plan, any Roth Elective Deferrals that are accepted as rollovers in this Plan shall be accounted for separately, and must be directly rolled over from a Roth elective deferral account under an applicable retirement plan described in Code §402A(e)(1) and only to the extent that the rollover is permitted under the rules of Code §402(c). The Rollover Account of a Participant shall be 100% Vested at all times and shall not be subject to Forfeiture for any reason. The Plan does not accept rollovers of after-tax employee contributions.

(b) **Treatment of Rollover Account in the Plan.** The Rollover Account shall be held by the Trustee pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as provided in paragraph (c) of this Section. The Trustee shall have no duty or responsibility to inquire as to the propriety of the amount, value or type of assets transferred, nor to conduct any due diligence with respect to such assets; provided, however, that such assets are otherwise eligible to be held by the Trustee under the terms of this Plan.

(c) **Distribution of rollovers.** The Administrator, at the election of the Participant, shall direct the Trustee to distribute all or a portion of the amount credited to the Participant's Rollover Account at any time. Furthermore, amounts in the Participant's Rollover Account shall not be considered as part of a Participant's benefit in determining whether the \$5,000 threshold has been exceeded for purposes of the timing or form of payments under the Plan as well as for the Participant consent requirements. Any distributions of amounts that are held in the Rollover Account shall be made in a manner which is consistent with and satisfies the provisions of Sections 6.5 and 6.6, including, but not limited to, all notice and consent requirements of Code § 411(a)(11) and the Regulations thereunder.

(d) **Limits on accepting rollovers.** Prior to accepting any rollovers to which this Section applies, the Administrator may (but need not) require the Employee to provide evidence that the amounts to be rolled over to this Plan meet the requirements of this Section. The Employer may instruct the Administrator, operationally and on a nondiscriminatory basis, to limit the source of rollovers that may be accepted by the Plan.

(e) **Rollovers maintained in a separate account.** The Administrator may direct that rollovers received after a Valuation Date be segregated into a separate account for each Participant until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated or be invested as part of the general Trust Fund or be directed by the Participant pursuant to Section 4.13.

(f) **Definitions.** For purposes of this Section, the following definitions shall apply:

(1) The term "rollover" means: (i) amounts transferred to this Plan directly from another "eligible retirement plan;" (ii) distributions received by an Employee from other "eligible retirement plans" which are eligible for tax-free rollover to an "eligible retirement plan" and which are transferred by the Employee to this Plan within 60 days following receipt thereof; and (iii) any other amounts which are eligible to be rolled over to this Plan pursuant to the Code.

(2) The term "eligible retirement plan" means an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b) (other than an endowment contract), a qualified trust (an employees' trust described in Code §401(a) which is exempt from tax under Code §501(a)), an annuity plan described in Code §403(a), an eligible deferred compensation plan described in Code §457(b) which is maintained by an eligible employer described in Code §457(e)(1)(A), and an annuity contract described in Code §403(b).

4.13 PARTICIPANT DIRECTED INVESTMENTS

(a) **Directed investments allowed.** Participants may, subject to a procedure established by the Administrator (the Participant Direction Procedures) and applied in a uniform nondiscriminatory manner, direct the Trustee, in writing (or in such other form which is acceptable to the Trustee), to invest their entire Accounts in specific assets, specific funds or other investments permitted under the Plan and the Participant Direction Procedures. That portion of the interest of any Participant so directing will thereupon be considered a Participant's Directed Account.

(b) **Establishment of Participant Direction Procedures.** The Administrator will establish Participant Direction Procedures, to be applied in a uniform and nondiscriminatory manner, setting forth the permissible investment options under this Section, how often changes between investments may be made, and any other limitations and provisions that the Administrator may impose on a Participant's right to direct investments.

(c) **Administrative discretion.** The Administrator may, in its discretion, include or exclude by amendment or other action from the Participant Direction Procedures such instructions, guidelines or policies as it deems necessary or appropriate to ensure proper administration of the Plan, and may interpret the same accordingly.

(d) **Allocation of earnings.** As of each Valuation Date, all Participant Directed Accounts shall be charged or credited with the net earnings, gains, losses and expenses as well as any appreciation or depreciation in the market value using publicly listed fair market values when available or appropriate as follows:

(1) to the extent that the assets in a Participant's Directed Account are accounted for as pooled assets or investments, the allocation of earnings, gains and losses of each Participant's Directed Account shall be based upon the total amount of funds so invested in a manner proportionate to the Participant's share of such pooled investment; and

(2) to the extent that the assets in the Participant's Directed Account are accounted for as segregated assets, the allocation of earnings, gains and losses from such assets shall be made on a separate and distinct basis.

(e) **Plan will follow investment directions.** Investment directions will be processed as soon as administratively practicable after proper investment directions are received from the Participant. No guarantee is made by the Plan, Employer, Administrator or Trustee that investment directions will be processed on a daily basis, and no guarantee is made in any respect regarding the processing time of an investment direction. Notwithstanding any other provision of the Plan, the Employer, Administrator or any discretionary Trustee reserves the right to not value an investment option on any given Valuation Date for any reason deemed appropriate by the Employer, Administrator or discretionary Trustee. Furthermore, the processing of any investment transaction may be delayed for any legitimate business reason or force majeure (including, but not limited to, failure of systems or computer programs, failure of the means of the transmission of data, the failure of a service provider to timely receive values or prices, and correction for errors or omissions or the errors or omissions of any service provider). The processing date of a transaction will be binding for all purposes of the Plan and considered the applicable Valuation Date for an investment transaction.

(f) **Other documents.** Any information regarding investments available under the Plan, to the extent not required to be described in the Participant Direction Procedures, may be provided to the Participant in one or more written documents (or in any other form including, but not limited to, electronic media) which are separate from the Participant Direction Procedures and are not thereby incorporated by reference into this Plan.

ARTICLE V VALUATIONS

5.1 VALUATION OF THE TRUST FUND

The Administrator shall direct the Trustee, as of each Valuation Date, to determine the net worth of the assets comprising the Trust Fund as it exists on the Valuation Date. In determining such net worth, the Trustee shall value the assets comprising the Trust Fund at their fair market value as of the Valuation Date and may deduct (when applicable) all expenses for which the Trustee has not yet been paid by the Employer or the Trust Fund. The Trustee may update the value of any shares held in the Participant Directed Account by reference to the number of shares held by that Participant, priced at the market value as of the Valuation Date.

5.2 METHOD OF VALUATION

In determining the fair market value of securities held in the Trust Fund which are listed on a registered stock exchange, the Administrator shall direct the Trustee to value the same at the prices they were last traded on such exchange preceding the close of business on the Valuation Date. If such securities were not traded on the Valuation Date, or if the exchange on which they are traded was not open for business on the Valuation Date, then the securities shall be valued at the prices at which they were last traded prior to the Valuation Date. Any unlisted security held in the Trust Fund shall be valued at its bid price next preceding the close of business on the Valuation Date, which bid price shall be obtained from a registered broker or an investment banker. In determining the fair market value of assets other than securities for which trading or bid prices can be obtained, the Trustee, if a discretionary Trustee, may appraise such assets itself, or in its discretion, employ one or more appraisers for that purpose and rely on the values established by such appraiser or appraisers. The assets of the plan will be valued annually at fair market value as of the last day of the plan year. On such date, the earnings and losses of the Plan will be allocated to each Participant's Account in the ratio that such Account Balance bears to all Participants' Account Balances.

ARTICLE VI
DETERMINATION AND DISTRIBUTION OF BENEFITS

6.1 DETERMINATION OF BENEFITS UPON RETIREMENT

(a) **Normal Retirement.** Every Participant may terminate employment with the Employer and retire for the purposes hereof on the Participant's Normal Retirement Date. However, a Participant may postpone the termination of employment with the Employer to a later date, in which event the participation of such Participant in the Plan, including the right to receive allocations pursuant to Section 4.4, shall continue until such Participant's Late Retirement Date. Upon a Participant's Retirement Date, or as soon thereafter as is practicable, the Administrator shall direct the distribution, at the election of the Participant, of the Participant's interest in the Plan (or any portion thereof), in accordance with Section 6.5.

6.2 DETERMINATION OF BENEFITS UPON DEATH

(a) **Distribution upon death.** Upon the death of a Participant before the Participant's Retirement Date or other termination of employment, the Administrator shall direct, in accordance with the provisions of Sections 6.6 and 6.7, the distribution of all amounts credited to such Participant's Account to the Participant's Beneficiary.

(b) **Security for loans.** Any security interest held by the Plan by reason of an outstanding loan to the Participant shall be taken into account in determining the amount of the death benefit.

(c) **Determination of death benefit by Administrator.** The Administrator may require such proper proof of death and such evidence of the right of any person to receive payment of the value of the account of a deceased Participant as the Administrator may deem desirable. The Administrator's determination of death and of the right of any person to receive payment shall be conclusive.

(d) **Beneficiary designation.** The Beneficiary of the death benefit payable pursuant to this Section shall be the Participant's surviving Spouse. Except, however, the Participant may designate a Beneficiary other than the Spouse if:

- (1) the Spouse has waived the right to be the Participant's Beneficiary, or
- (2) the Participant is legally separated or has been abandoned (within the meaning of local law) and the Participant has a court order to such effect (and there is no qualified domestic relations order as defined in Code §414(p) which provides otherwise), or
- (3) the Participant has no Spouse, or
- (4) the Spouse cannot be located.

In such event, the designation of a Beneficiary shall be made on a form satisfactory to the Administrator. A Participant may at any time revoke a designation of a Beneficiary or change a Beneficiary by filing written notice (or in such other form as permitted by the Internal Revenue Service) of such revocation or change with the Administrator. However, the Participant's Spouse must again consent in writing (or in such other form as permitted by the Internal Revenue Service) to any change in Beneficiary unless the original consent acknowledged that the Spouse had the right to limit consent only to a specific Beneficiary and that the Spouse voluntarily elected to relinquish such right.

(e) **Beneficiary if no beneficiary elected by Participant.** In the event no valid designation of Beneficiary exists with respect to all or a portion of the death benefit, or if the Beneficiary of such death benefit is not alive at the time of the Participant's death and no other Beneficiary has been designated, then to the extent that such death benefit is not automatically payable to the surviving Spouse in accordance with the other provisions of this Section, such death benefit will be paid in the following order of priority to:

- (1) the Participant's surviving Spouse;
- (2) the Participant's issue, including adopted children, per stirpes;
- (3) the Participant's surviving parents, in equal shares; or
- (4) the Participant's estate.

If the Beneficiary does not predecease the Participant, but dies prior to distribution of the death benefit, the death benefit will be paid to the Beneficiary's designated Beneficiary (or there is no designated Beneficiary, to the Beneficiary's estate).

(f) **Divorce revokes spousal beneficiary designation.** Notwithstanding anything in this Section to the contrary, if a Participant has designated the Spouse as a Beneficiary, then a divorce decree that relates to such Spouse shall revoke the Participant's designation of the Spouse as a Beneficiary unless the decree or a qualified domestic relations order (within the meaning of Code §414(p)) provides otherwise or a subsequent beneficiary designation is made.

(g) **Spousal consent.** Any consent by the Participant's Spouse to waive any rights to the death benefit must be in writing (or in such other form as permitted by the Internal Revenue Service), must acknowledge the effect of such waiver, and be witnessed by a Plan

representative or a notary public. Further, the Spouse's consent must be irrevocable and must acknowledge the specific non-Spouse Beneficiary.

(h) **Death Benefits for Qualified Military Service.** If a Participant dies while performing Qualified Military Service, the Participant's Beneficiary is entitled to any additional benefits (including any ancillary life insurance or other survivor benefits that would have been provided under the Plan) as if the Participant had resumed employment and then terminated employment on account of death. Moreover, the Plan will credit the Participant's Qualified Military Service as service for vesting purposes as though the Participant had resumed employment under USERRA immediately prior to the Participant's death.

(i) **Simultaneous Death of Participant and Beneficiary.** If a Participant and his or her Beneficiary should die simultaneously, or under circumstances that render it difficult or impossible to determine who predeceased the other, then unless the Participant's Beneficiary designation otherwise specifies, the Administrator will presume conclusively that the Beneficiary predeceased the Participant.

(j) **Slayer statute.** The Administrator may apply slayer statutes, or similar rules which prohibit inheritance by a person whom he or she stands to inherit, under applicable state laws.

6.3 DISABILITY RETIREMENT BENEFITS

(a) **Payment of Disability Benefits.** In the event of a Participant's Disability, the Participant's entire interest in the Plan will be distributable and may be distributed in accordance with the provisions of Sections 6.5 and 6.7.

6.4 DETERMINATION OF BENEFITS UPON TERMINATION

(a) **Payment on termination of employment.** If a Participant's employment with the Employer is terminated for any reason other than death, Disability or attainment of the Participant's Retirement Date, then such terminated Participant shall be entitled to such benefits as are provided hereinafter pursuant to this Section 6.4.

Distribution of the funds due to a terminated Participant shall be made on the occurrence of an event which would result in a distributable event had the terminated Participant remained in the employ of the Employer (upon the Participant's death, Disability or Normal Retirement). However, at the election of the Participant, the Administrator shall direct the distribution of the entire Vested portion of the terminated Participant's Account be payable to such terminated Participant as soon as administratively feasible after termination of employment. Any distribution under this paragraph shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5, including, but not limited to, all notice and consent requirements of Code § 411(a)(11) and the Regulations thereunder.

(b) **Full vesting.** A Participant shall be fully Vested immediately upon entry into the Plan.

(c) **No reduction of vested percentage upon amendment.** The computation of a Participant's nonforfeitable percentage of the Participant's Account attributable to Employer contributions (including future Contributions) shall not be reduced as the result of any direct or indirect amendment to this Plan (including this restatement of the Plan). In addition, Section 8.1(f) ("protected benefits") potentially applies to any amendment affecting vesting.

In the event that the Plan is amended to change the vesting schedule of the Participant's Account (or any portion of such Account), or if the Plan is amended in any way that directly or indirectly affects the computation of the Participant's nonforfeitable percentage of the Participant's Account (or any portion of such Account), then each Participant shall vest in accordance with the greater of the vested percentage (based on the Participant's service credit at the time of such determination) determined under the pre-amendment schedule or the vested percentage (for the same duration of service) determined under the post-amendment schedule.

6.5 DISTRIBUTION OF BENEFITS

(a) The Administrator, pursuant to the election of the Participant, shall direct the Trustee to distribute to a Participant or such Participant's Beneficiary the amount (if any) to which the Participant (or Beneficiary) has become entitled under the Plan in one or more of the following methods: For purposes of the preceding sentence, life insurance contracts and Participant loan notes may be treated as cash, and such contracts and loan notes may be distributed as part of a cash distribution.

(1) One lump-sum payment in cash. This shall be the normal form of payment, except as otherwise provided below. For purposes of the preceding sentence, life insurance contracts and Participant loan notes may be treated as cash. The lump sum option shall be available as to all Participants who have commenced receiving benefits in the form of partial withdrawals.

(2) Partial withdrawals, with a minimum of \$0.00.

(b) Any distribution to a Participant who has a Total Vested Benefit which exceeds \$5,000 shall require such Participant's written consent (or in such other form as permitted by the Internal Revenue Service) if such distribution commences during the time the benefit is "immediately distributable." A benefit is "immediately distributable" if any part of the benefit could be distributed to the Participant (or surviving Spouse) before the Participant attains (or would have attained if not deceased) the later of the Participant's Normal Retirement Age or age 62.

Any such distribution may be made less than 30 days after the notice required under Regulation §1.411(a)-11(c) is given, provided that: (1) the Administrator clearly informs the Participant that the Participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and (2) the Participant, after receiving the notice, affirmatively elects a distribution.

(c) If a mandatory distribution greater than \$1,000 is made in accordance with the provisions of the Plan providing for an automatic distribution to a Participant without the Participant's consent, and 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 the direct rollover provisions of the Plan) or to receive the distribution directly, then the Administrator shall direct that the distribution be made in a direct rollover to an Individual Retirement Account described in Code §408(a) or an Individual Retirement Annuity described in Code §408(b), as designated by the Administrator. The Administrator may operationally implement this provision with respect to distributions that are \$1,000 or less. For purposes of determining whether the \$1,000 threshold set forth in this paragraph is met, the mandatory distribution includes amounts in a Participant's Rollover Account.

(d) Required minimum distributions (Code §401(a)(9)). Notwithstanding any provision in the Plan to the contrary, the distribution of a Participant's benefits shall be made in accordance with the requirements of Section 6.8.

6.6 DISTRIBUTION OF BENEFITS UPON DEATH

(a) The death benefit payable pursuant to Section 6.2 shall be paid to the Participant's Beneficiary within a reasonable time after the Participant's death. Such benefit shall, if \$5,000 or less, be paid in the form of a lump sum distribution, or if greater than \$5,000 shall be paid in any of the following methods, as elected by the Participant (or if no election has been made prior to the Participant's death, by the Participant's Beneficiary) subject, however, to the rules specified in Section 6.8.

(1) One lump-sum payment in cash. For purposes of the preceding sentence, life insurance contracts and Participant loan notes may be treated as cash.

(2) Partial withdrawals, with a minimum of \$0.00.

(b) Notwithstanding any provision in the Plan to the contrary, distributions upon the death of a Participant shall comply with the requirements of Section 6.8.

6.7 LATEST TIME OF DISTRIBUTION

Except as limited by Section 6.8, whenever a distribution is to be made, or a series of payments are to commence, the distribution or series of payments may be made or begun as soon as practicable. Notwithstanding anything in the Plan to the contrary, as set forth in Code §401(a)(14), unless a Participant otherwise elects, payments of benefits under the Plan will begin no later than the sixtieth (60th) day after the close of the Plan Year in which the latest of the following events occurs: (a) the date on which the Participant attains the earlier of age 65 or the Normal Retirement Age specified herein; (b) the tenth (10th) anniversary of the year in which the Participant commenced participation in the Plan; or (c) the date the Participant terminates service with the Employer. The failure of a Participant and, if applicable, the Participant's Spouse, to request a distribution shall be deemed to be an election to defer the commencement of payment of any benefit until the time otherwise permitted under the Plan. This paragraph does authorize any deliberate delay in the payment of a distribution that becomes payable (under other provisions of the Plan) earlier than the latest time described by this paragraph, nor does it confer any discretion to the Employer as to the timing of benefit payments. This paragraph prevents only the application of any Plan provision that would provide for distributions to commence after the time described by this paragraph.

Notwithstanding the foregoing, the failure of a Participant to consent to a distribution that is immediately distributable (within the meaning of Section 6.5), shall be deemed to be an election to defer the commencement of payment of any benefit sufficient to satisfy this Section.

6.8 REQUIRED MINIMUM DISTRIBUTIONS

(a) General Rules

(1) **Precedence.** The requirements of this Section shall apply to any distribution of a Participant's interest in the Plan and take precedence over any inconsistent provisions of the Plan.

(2) **Requirements of Treasury Regulations Incorporated.** All distributions required under this Section will be determined and made in accordance with the Regulations under Code §401(a)(9) and the minimum distribution incidental benefit requirement of Code §401(a)(9)(G).

(b) Time and manner of distribution

(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 death benefit will be distributed, or begin to be distributed, as follows:

(i) If the Participant or Beneficiary elects, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or, if the Participant's surviving Spouse is the Participant's designated beneficiary, by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later. Alternatively, the Participant or Beneficiary may elect to have distribution of the Participant's death benefit be completed by the December 31 of the calendar year containing the fifth anniversary of the Participant's death. In the absence of any election (including the failure to commence required minimum distributions described by this Section by the December 31 of the calendar year immediately following the calendar year in which the Participant died), distribution of the Participant's death benefit shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(ii) If there is no beneficiary as of September 30 of the year following the year of the Participant's death, the distribution of the Participant's death benefit will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iii) 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 6.8(b), other than this paragraph, will apply as if the surviving Spouse were the Participant. Thus, in all such cases, the time at which distributions must commence (or be completed by) shall be determined solely by reference to the year that the Participant died, and not the year in which the Participant would have attained age 70 1/2.

For purposes of this Section 6.8(b), unless a surviving Spouse is electing to commence benefits based upon the date that the Participant would have attained age 70 1/2, distributions are considered to begin on the Participant's required beginning date. If the surviving Spouse election applies, distributions are considered to begin on the date distributions are required to begin to the surviving Spouse under Section 6.8(b).

(3) **Forms of distribution.** Unless the Participant's interest is distributed 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 6.8(c) and 6.8(d). All distributions under this Section shall be made in a manner which is consistent with and satisfies the provisions of Sections 6.5 and 6.6, including, but not limited to, all notice and consent requirements of Code § 411(a)(11) and the Regulations thereunder.

(c) **Required minimum distributions during Participant's lifetime**

(1) **Amount of required minimum distribution for each distribution calendar year.** During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

(i) the quotient obtained by dividing the Participant's Account balance by the distribution period in the Uniform Lifetime Table set forth in Regulation §1.401(a)(9)-9, using the Participant's age as of the Participant's birthday in the distribution calendar year; or

(ii) if the Participant's sole designated beneficiary for the distribution calendar year is the Participant's Spouse and the Spouse is more than 10 years younger than the Participant, the quotient obtained by dividing the Participant's Account balance by the number in the Joint and Last Survivor Table set forth in Regulation §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 distribution calendar year.

(2) **Lifetime required minimum distributions continue through year of Participant's death.** Required minimum distributions will be determined under this Section 6.8(c) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(d) **Required minimum distributions after Participant's death**

(1) **Death on or after required beginning date.**

(i) **Participant survived by designated beneficiary.** Except as provided in Sections 6.8(b)(2) and 6.8(b)(3), if the Participant dies on or after the required beginning date 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 beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(ii) **No designated beneficiary.** If the Participant dies on or after the required beginning date 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.

(2) **Death before required beginning date.**

(i) **Participant survived by designated beneficiary.** Except as provided in Section 6.8(b)(3), if the Participant dies before the required beginning date 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 Section 6.8(d)(1).

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

(iii) **Death of surviving Spouse before distributions to surviving Spouse are required to begin.** If the Participant dies before the required beginning date, 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 Section 6.8(b)(2), this Section 6.8(d)(2) will apply as if the surviving Spouse were the Participant.

(e) **Definitions.** For purposes of this Section, the following definitions apply:

(1) "Designated beneficiary" means the individual who is designated as the Beneficiary under the Plan and is the designated beneficiary under Code §401(a)(9) and Regulation §1.401(a)(9)-4, Q&A-4.

(2) "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 6.8(b). 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.

(3) "Life expectancy" means the life expectancy as computed by use of the Single Life Table in Regulation §1.401(a)(9)-9, Q&A-1.

(4) "Participant's account balance" means the "Participant's account balance" 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 account balance 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. For this purpose, the Administrator may exclude contributions that are allocated to the account balance as of dates in the valuation calendar year after the Valuation Date, but that are not actually made during the valuation calendar year. The 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.

(5) "Required beginning date" means, with respect to any Participant, April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70 1/2 or the calendar year in which the Participant retires, except that benefit distributions to a 5-percent owner must commence by April 1 of the calendar year following the calendar year in which the Participant attains age 70 1/2.

(6) "5-percent owner" means a Participant who is a 5-percent owner as defined in Code §416 at any time during the Plan Year ending with or within the calendar year in which such owner attains age 70 1/2. Once distributions have begun to a 5-percent owner under this Section they must continue to be distributed, even if the Participant ceases to be a 5-percent owner in a subsequent year.

(f) Statutory (TEFRA) Transition Rules

(1) Notwithstanding the other provisions of this Section, other than the Spouse's right of consent afforded under the Plan, distributions may be made on behalf of any Participant, including a five percent (5%) owner, who has made a designation in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and in accordance with all of the following requirements (regardless of when such distribution commences):

(i) The distribution by the Plan is one which would not have disqualified such plan under Code §401(a)(9) as in effect prior to amendment by the Deficit Reduction Act of 1984.

(ii) The distribution is in accordance with a method of distribution designated by the Participant whose interest in the Plan is being distributed or, if the Participant is deceased, by a Beneficiary of such Participant.

(iii) Such designation was in writing, was signed by the Participant or the Beneficiary, and was made before January 1, 1984.

(iv) The Participant had accrued a benefit under the Plan as of December 31, 1983.

(v) The method of distribution designated by the Participant or the Beneficiary specifies the time at which distribution will commence, the period over which distributions will be made, and in the case of any distribution upon the Participant's death, the Beneficiaries of the Participant listed in order of priority.

(2) A distribution upon death will not be covered by the transitional rule of this subsection unless the information in the designation contains the required information described above with respect to the distributions to be made upon the death of the Participant.

(3) For any distribution which commences before January 1, 1984, but continues after December 31, 1983, the Participant, or the Beneficiary, to whom such distribution is being made, will be presumed to have designated the method of distribution under which the distribution is being made if the method of distribution was specified in writing and the distribution satisfies the requirements in (1)(i) and (1)(v) of this subsection.

(4) If a designation is revoked, any subsequent distribution must satisfy the requirements of Code §401(a)(9) and the Regulations thereunder. If a designation is revoked subsequent to the date distributions are required to begin, the Plan must distribute by the end of the calendar year following the calendar year in which the revocation occurs the total amount not yet distributed which would have been required to have been distributed to satisfy Code §401(a)(9) and the Regulations thereunder, but for the Section 242(b)(2) election. For calendar years beginning after December 31, 1988, such distributions must meet the minimum distribution incidental benefit requirements. Any changes in the designation will be considered to be a revocation of the designation. However, the mere substitution or addition of another Beneficiary (one not named in the designation) under the designation will not be considered to be a revocation of the designation, so long as such substitution or addition does not alter the period over which distributions are to be made under the designation, directly or indirectly (for example, by altering the relevant measuring life).

(5) In the case in which an amount is transferred or rolled over from one plan to another plan, the rules in Regulation §1.401(a)(9)-8, Q&A-14 and Q&A-15, shall apply.

6.9 DISTRIBUTION FOR MINOR OR INCOMPETENT INDIVIDUAL

If, in the opinion of the Administrator, a Participant or Beneficiary entitled to a distribution is not able to care for his or her affairs because of a mental or physical condition, then the Administrator shall direct the distribution of the Participant's or Beneficiary's benefits to (1) a person who has a valid power of attorney, a court appointed guardian, or any other person authorized under state law, upon furnishing evidence of such status satisfactory to the Administrator. The Administrator and the Trustee do not have any liability with respect to payments so made and neither the Administrator nor the Trustee (or Insurer) has any duty to make inquiry as to the competence of any person entitled to receive payments under the Plan.

6.10 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN (MISSING PARTICIPANTS)

In the event that all, or any portion, of the distribution payable to a Participant or Beneficiary hereunder shall, at the later of the Participant's attainment of age 62 or Normal Retirement Age, remain unpaid (as when, for example, a check remains uncashed) solely by reason of the inability of the Administrator to ascertain the whereabouts of such Participant or Beneficiary, the amount so distributable may, in the sole discretion of the Administrator, either be treated as a Forfeiture pursuant to the Plan or be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b). In addition, if the Plan provides for mandatory distributions and the amount to be distributed to a Participant or Beneficiary does not exceed \$1,000, then the amount distributable may, in the sole discretion of the Administrator, either be treated as a Forfeiture, or be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b) at the time it is determined that the whereabouts of the Participant or the Participant's Beneficiary cannot be ascertained. In the event a Participant or Beneficiary is located subsequent to the Forfeiture, such benefit shall be restored, first from Forfeitures, if any, and then from an additional Employer

contribution if necessary. Notwithstanding the preceding provisions, upon Plan termination, the portion of the distributable amount that is an eligible rollover distribution as defined in Plan Section 6.14 may be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b) (consistent with the requirements of Section 8.2). However, regardless of the preceding, a benefit that is lost by reason of escheat under applicable state law is not treated as a Forfeiture for purposes of this Section nor as an impermissible forfeiture under the Code.

Before treating any Participant as being missing, the Administrator must conduct a reasonable and diligent search for the Participant, using one or more of search methods the Administrator determines are appropriate under the circumstances, such as the methods suggested by DOL Field Assistance Bulletin 2014-01. Such search methods include:

- 1- providing a distribution notice to the lost Participant at the Participant's last known address by certified or registered mail;
- 2 - checking with the administrator of other employee benefit plans of the Employer that may have more up to date information regarding the Participant's whereabouts;
- 3 - identifying and contact the Participant's Designated Beneficiary;
- 4 - using one or more free internet search tools;
- 5 - attempting contact via email or telephone, or
- 6 - using proprietary internet search tools, commercial locator services, credit reporting agencies, information brokers, or other search methods.

Regarding search methods #2 and #3 above, if the Administrator encounters privacy concerns, the Administrator may request that the Employer or other plan fiduciary (under (2)), or the Designated Beneficiary (under (3)), contact the Participant or forward a letter requesting that the Participant contact the Administrator.

6.11 IN-SERVICE DISTRIBUTION OF EMPLOYER NONELECTIVE CONTRIBUTIONS

(a) **General Rule.** At such time as a Participant shall have attained age 59 1/2, the Administrator, at the election of the Participant who is currently employed by the Employer, shall direct the Trustee to distribute all or a portion of the amount then credited to all accounts maintained on behalf of the Participant. The Plan may make partial distributions pursuant to this Section even if distributions on account of termination of employment may be made only as a lump sum distribution. In the event that the Administrator makes such a distribution, the Participant shall continue to be eligible to participate in the Plan on the same basis as any other Employee. Any distribution made pursuant to this Section shall be made in a manner consistent with Section 6.5, including, but not limited to, all notice and consent requirements of Code § 411(a)(11) and the Regulations thereunder.

(b) **Restricted Amounts.** Notwithstanding anything in this Section to the contrary, in-service distributions from a Participant's Qualified Elective Contribution Account shall not be permitted prior to the time described by the definition of that Account in Article I.

(c) **Procedures to implement in-service distributions.** The Employer and the Administrator may adopt a procedure to implement the in-service withdrawal provisions, applied on a uniform and consistent basis to all Participants. For example, when more than one Account is available for distribution (e.g., both pre-tax Elective Deferrals and Roth Elective Deferrals), a procedure may be implemented setting forth the order in which Accounts are accessed to make up such withdrawal, or it may provide Participants with the ability to request that the amount withdrawn come from particular accounts.

(d) **Distributions Upon Deemed Severance.** The Plan permits distributions upon a deemed severance of employment. Except with respect to amounts described by Section 6.15, severance from employment is deemed to occur if a Participant performs service in the uniformed services (as defined in Code §414(u)(12)(B)) on active duty for a period of more than 30 days, even if the Participant is receiving Military Differential Pay. However, the Plan will not distribute such Participant's Account on account of this deemed severance unless the Participant specifically elects to receive a benefit distribution hereunder. If a Participant elects to receive a distribution on account of this deemed severance, then the individual may not make an Elective Deferral during the 6-month period beginning on the date of the distribution. If a Participant would be entitled to a distribution on account of a deemed severance and also a distribution on account of another Plan provision, then the other Plan provision will control (and the 6-month suspension described in the previous sentence will not apply).

6.12 DISTRIBUTION FOR HARDSHIP

(a) **Definition of Hardship.** Distribution of Elective Deferrals (and any earnings credited to a Participant's Elective Deferral and Qualified Matching and Qualified Nonelective Accounts as of the later of December 31, 1988, and or the end of the last Plan Year ending before July 1, 1989) may be made to a Participant in the event of hardship. A hardship distribution may only be made on account of an immediate and heavy financial need of the Participant and where the distribution is necessary to satisfy the immediate and heavy financial need. Such distributions may also be made from those Accounts from which such distributions are authorized by the remaining provisions of this Section. Any distribution made pursuant to this Section shall be deemed to be made as of the first day

of the Plan Year or, if later, the Valuation Date immediately preceding the date of distribution. Any withdrawal made pursuant to this Section shall be deemed to be on account of an immediate and heavy financial need of the Participant if the withdrawal is for:

- (1) Expenses for (or necessary to obtain) medical care (for the Participant or the Spouse or dependent of the Participant) that would be deductible under Code §213(d);
- (2) Costs directly related to the purchase (excluding mortgage payments) of a principal residence for the Participant;
- (3) Payments for burial or funeral expenses for the Participant's deceased parent, Spouse, children or dependents (as defined in Code §152, and without regard to Code §152(d)(1)(B));
- (4) Payment of tuition, related educational fees, and room and board expenses, for up to the next twelve months of post-secondary education for the Participant, the Participant's Spouse, children, or dependents (as defined in Code §152, and without regard to Code §§152(b)(1), (b)(2), and (d)(1)(B));
- (5) Payments necessary to prevent the eviction of the Participant from the Participant's principal residence or foreclosure on the mortgage on that residence;
- (6) Expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty deduction under Code §165 (determined without regard to whether the loss exceeds 10% of adjusted gross income).

(b) **Establishing hardship under safe harbor standard.** No distribution shall be made pursuant to this Section unless the following conditions are satisfied:

- (1) The distribution is not in excess of the amount of the immediate and heavy financial need of the Participant. The amount of the immediate and heavy financial need may include any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution;
- (2) The Participant has obtained all distributions, other than hardship distributions, and all nontaxable (at the time of the loan) loans currently available under all plans maintained by the Employer; and
- (3) Either (1) all other plans maintained by the Employer provide that the Participant's elective deferrals under such other plan and employee voluntary contributions under such other plans will be suspended for at least six months after receipt of the hardship distribution from this Plan or any other Employer 401(k) plan, or (2) the Participant, pursuant to a legally enforceable agreement, agrees to suspend elective deferrals and after-tax voluntary contributions to the Plan and all other plans maintained by the Employer for at least six months after receipt of the hardship distribution of Elective Deferrals from this Plan or any other Employer 401(k) plan.

(c) **Notice and consent.** Any distribution made pursuant to this Section shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5, including, but not limited to, all notice and consent requirements of Code § 411(a)(11) and the Regulations thereunder.

(d) **Other Limitations.** Hardship distributions shall be made from an Account only to the extent that such Account has become Vested at the time of such distribution. The following limitations apply to hardship distributions:

- (1) A Participant must be an Employee at the time of the hardship distribution.

(e) Hardship distributions may be made from the following accounts:

- (1) Pre-Tax Elective Deferral Account, subject to the limitations described above with respect to hardship distributions of Elective Deferrals
- (2) Roth Elective Deferral Account, subject to the limitations described above with respect to hardship distributions of Elective Deferrals
- (3) Matching Contribution Account (does not include any Qualified Matching Contributions)
- (4) Nonelective Contribution Account (does not include any Qualified Nonelective Contributions)
- (5) Rollover Account
- (6) Transfer Account, subject to the provisions of Section 6.15

6.13 QUALIFIED DOMESTIC RELATIONS ORDER DISTRIBUTION

All benefits provided to a Participant in this Plan shall be subject to the rights afforded to any Alternate Payee under a qualified domestic relations order. Furthermore, a distribution to an Alternate Payee shall be permitted if such distribution is authorized by a

qualified domestic relations order, even if the affected Participant has not separated from service and has not reached the earliest retirement age. For the purposes of this Section, the terms "qualified domestic relations order" and "earliest retirement age" shall have the meaning set forth under Code §414(p).

A domestic relations order that otherwise satisfies the requirements for a qualified domestic relations order ("QDRO") will not fail to be a QDRO: (i) solely because the order is issued after, or revises, another domestic relations order or QDRO; or (ii) solely because the order is issued after the Participant's death.

6.14 DIRECT ROLLOVER

(a) **Right to direct rollover.** 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 Administrator, to have all or only a portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. However, if less than the entire amount of an eligible rollover distribution is paid directly to an eligible retirement plan, the minimum partial rollover must equal at least \$500. If the Plan does not take into account the Participant's Roth Elective Deferral Account in determining the \$200 threshold, then the \$200 threshold will apply separately to the Participant's Roth Elective Deferral Account.

(b) **Definitions.** For purposes of this Section the following definitions shall apply:

(1) **Eligible rollover distribution.** An "eligible rollover distribution" means any distribution described in Code §402(c)(4) and generally includes any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any 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; any distribution to the extent such distribution is required under Code §401(a)(9); the portion of any other distribution(s) that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any other distribution (without regard to the amount to be distributed from the Participant's Roth Elective Deferral Account) that is reasonably expected to total less than \$200 during a year. If the Plan does not take into account the Participant's Roth Elective Deferral Account in determining the \$200 threshold, then the \$200 threshold will apply separately to the Participant's Roth Elective Deferral Account.

Any amount that is distributed on account of hardship pursuant to Section 6.12 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.

(2) **Eligible retirement plan.** An "eligible retirement plan" is an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b), (other than an endowment contract), a qualified trust (an employees' trust) described in Code §401(a) which is exempt from tax under Code §501(a) and which agrees to separately account for amounts transferred into such plan from this Plan, an annuity plan described in Code §403(a), an eligible deferred compensation plan described in Code §457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality thereof which agrees to separately account for amounts transferred into such plan from this Plan, an annuity contract described in Code §403(b) that accepts the distributee's eligible rollover distribution, and for distributions made after December 18, 2015, a SIMPLE IRA to the extent permitted under Code §408(p)(1)(B). 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. A direct rollover of a distribution from a Roth Elective Deferral Account will only be made to another Roth Elective Deferral Account under an applicable retirement plan described in Code §402A(e)(1) or to a Roth IRA described in Code §408A, and only to the extent that the rollover is permitted under the rules of Code §402(c). In the case of a "distributee" who is a non-Spouse designated beneficiary, (1) the direct rollover may be made only to a traditional or Roth individual retirement account that is established on behalf of the designated non-Spouse beneficiary for the purpose of receiving that distribution and that will be treated as an inherited IRA pursuant to the provisions of Code §402(c)(11), and (2) the determination of any required minimum distribution required under Code §401(a)(9) that is ineligible for rollover shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18.

Roth IRA rollover. A Participant may elect to roll over directly an eligible rollover distribution to a Roth IRA described in Code §408A(b).

(3) **Distributee.** A "distributee" includes an Employee or Former Employee. In addition, the Employee's or Former Employee's surviving Spouse and the Employee's or Former Employee's Spouse or former Spouse who is an Alternate Payee, are distributees with regard to the interest of the Spouse or former Spouse.

(4) **Direct rollover.** A "direct rollover" is a payment by the Plan to the "eligible retirement plan" specified by the distributee.

(c) **Non-Spouse Beneficiary Rollover.** A non-Spouse Beneficiary who is a "designated beneficiary" under Code §401(a)(9)(E) and the Regulations thereunder, by a direct trustee-to-trustee transfer ("direct rollover"), may roll over all or any portion of his or her distribution to an individual retirement account the beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must be an "eligible rollover distribution."

(1) **Trust Beneficiary.** If the Participant's named Beneficiary is a trust, the Plan may make a direct rollover to an IRA on behalf of the trust, provided the trust satisfies the requirements to be a "designated Beneficiary."

(d) **Participant Notice.** A Participant entitled to an eligible rollover distribution must receive a written explanation of his/her right to a direct rollover, the tax consequences of not making a direct rollover, and, if applicable, any available special income tax elections. The notice must be provided no less than 30 days and no more than 180 days before such distribution. The direct rollover notice must be provided to all Participants, unless the total amount the Participant will receive as a distribution during the calendar year (without regard to the amount to be distributed from the Participant's Roth Elective Deferral Account) is expected to be less than \$200. If the Plan does not take into account the Participant's Roth Elective Deferral Account in determining the \$200 threshold, then the \$200 threshold will apply separately to the Participant's Roth Elective Deferral Account.

6.15 RESTRICTIONS ON DISTRIBUTIONS OF ASSETS TRANSFERRED FROM A MONEY PURCHASE PLAN

Notwithstanding any provision of this Plan to the contrary, to the extent that any optional form of benefit under this Plan permits a distribution prior to the Employee's attainment of Normal Retirement Age, death, disability, or severance from employment, and prior to Plan termination, the optional form of benefit is not available with respect to benefits attributable to assets (including the post-transfer earnings thereon) and liabilities that are transferred, within the meaning of Code §414(l), to this Plan from a money purchase pension plan qualified under Code §401(a) (other than any portion of those assets and liabilities attributable to employee voluntary contributions under that money purchase plan or that constitute a Rollover Contribution to this Plan of an eligible rollover amount from that other plan).

6.16 CORRECTIVE DISTRIBUTIONS

Nothing in this Article shall preclude the Administrator from making a distribution to a Participant, to the extent such distribution is made to correct a qualification defect in accordance with Section 10.12.

6.17 SOURCE OF DISTRIBUTIONS

If a distribution is to be made with respect to a Participant who has either a Roth Deferral Account or any other Account with tax basis and a pre-tax Account, the Administrator may allow the Participant or Beneficiary to elect the Account source(s) and composition (contributions or Earnings) of the distribution. This paragraph does not apply to the extent that a Participant or Beneficiary is eligible under the Plan to receive a distribution only from one specific Account source. In the absence of a Participant or Beneficiary election, the Administrator operationally will determine the Account source(s) from which the Trustee will make the distribution and will determine whether such amounts distributed consist of the Account contributions or of Account earnings or both.

ARTICLE VII PROVISIONS RELATING TO TRUST FUND

7.1 POWERS OF THE CUSTODIAN

The Employer may appoint a Custodian of the Plan assets. A Custodian has the same powers, rights and duties as a nondiscretionary Trustee. Any reference in the Plan to a nondiscretionary Trustee also is a reference to a Custodian unless the context of the Plan indicates otherwise.

ARTICLE VIII AMENDMENT, TERMINATION, MERGERS AND LOANS

8.1 AMENDMENT

(a) **General rule on Employer amendment.** The Employer shall have the right at any time to amend this Plan, subject to the limitations of this Section. However, any amendment which affects the rights, duties or responsibilities of the Trustee or Administrator may only be made with the Trustee or Administrator's written consent. Any such amendment shall become effective as provided therein upon its execution. The Trustee shall not be required to execute any such amendment unless the amendment affects the duties of the Trustee hereunder.

(b) **Permissible amendments without affecting reliance.** The Employer may make the modifications described below without affecting reliance on the terms of the Plan. An Employer that amends the Plan for any other reason may not rely on the Opinion Letter that the terms of the Plan meet the qualification requirements of the Code. Permitted changes include: (1) adding or deleting features that are optional under the Nonstandardized Pre-Approved specimen plan; (2) changing effective dates within the parameters of the Nonstandardized Pre-Approved specimen plan; (3) adding overriding language when such language is necessary to satisfy § 415 or § 416 of the Code because of the required aggregation of multiple plans (whether or not such plans are preapproved plans); (4) changing the administrative provisions of the Plan, such as provisions relating to investments, plan claims procedures, and employer contact information, provided the amended provisions are not in conflict with any other provision of the Plan and do not cause the plan to fail to qualify under Code § 401; (5) amendments to adjust the limitations under Code §§ 415, 402(g), 401(a)(17) and 414(q)(1)(B) to reflect annual cost-of-living increases; and (6) the adoption of any sample or model amendment published by the IRS which specifically provide that their adoption will not cause the plan to be treated as an individually designed plan for purposes of reliance; and (7) make interim amendments or discretionary amendments that are related to a change in qualification requirements. An Employer that amends the Plan for any other reason will no longer have reliance on the Opinion Letter.

(c) **Provider interim required amendments.** The Employer (and every Participating Employer) expressly delegates authority to the Provider the right (but not the obligation) to amend the Plan by submitting a copy of the amendment to each Employer (and

Participating Employer) who has adopted this Nonstandardized Pre-Approved Plan, after first having received a ruling or favorable determination from the Internal Revenue Service that the Pre-Approved Plan as amended qualifies under Code §401(a) (unless a ruling or determination is not required by the IRS). The Provider will maintain a record of the Employers that have adopted the Plan, and the Provider will make reasonable and diligent efforts to ensure that adopting Employers adopt new documents when necessary. This subsection supersedes other provisions of the Plan to the extent those other provisions are inconsistent with this subsection.

(d) **Amendments that violate Revenue Procedure 2017-41.** The Provider will no longer have the authority to amend the Plan on behalf of the Employer (for purposes of retaining reliance on an IRS Opinion Letter or an individual determination letter, as of the date (1) the Employer amends the Plan to incorporate a type of plan described in section 6.03 of Rev. Proc. 2017-41 that is not permitted under the Pre-Approved plan program, or (2) the Internal Revenue Service notifies the Employer, in accordance with section 8.06(3) of Rev. Proc. 2017-41, that the Plan is an individually designed plan (i.e., no longer a Pre-Approved Plan) due to the nature and extent of Employer amendments to the plan.

(e) **Impermissible amendments.** No amendment to the Plan shall be effective if it authorizes or permits any part of the Trust Fund (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries or estates, or causes any reduction in the amount credited to the account of any Participant, or causes or permits any portion of the Trust Fund to revert to or become property of the Employer. The Employer is also precluded from amending the plan to discontinue or decrease the allocation of Employer contributions or Forfeitures solely because of the Participant's attainment of any age.

(f) **Anti-cutback restrictions.** Except as permitted by Regulations (including Regulations §§1.411(d)-3 and 1.411(d)-4) or other IRS guidance, no Plan amendment (including this Restatement) or transaction having the effect of a Plan amendment (such as a merger, plan transfer or similar transaction) shall be effective if it eliminates or reduces any Section 411(d)(6) protected benefit or adds or modifies conditions relating to Section 411(d)(6) protected benefits which results in a further restriction on such benefits unless such "Section 411(d)(6) protected benefits" are preserved in operation with respect to benefits accrued as of the later of the adoption date or effective date of the amendment. The term "Section 411(d)(6) protected benefits" means benefits described in Code §411(d)(6)(A), early retirement benefits and retirement-type subsidies, and optional forms of benefit. The preceding sentence applies even if the amendment adds a restriction or condition that is permitted under the vesting rules of Code §411(a)(3) through §411(a)(11). Notwithstanding the preceding provisions of this paragraph, a Participant's Account Balance may be reduced to the extent permitted under Code §412(d)(2) or to the extent permitted under Regulation §§1.411(d)-3 and 1.411(d)-4. An amendment which has the effect of decreasing a Participant's Account balance with respect to benefits attributable to service before the amendment shall be treated as reducing an accrued benefit. The preceding shall not apply to a Plan amendment that eliminates or restricts the ability of a Participant to receive payment of his or her Account under a particular optional form of benefit if the amendment provides a single-sum distribution form that is otherwise identical to the optional form of benefit being eliminated or restricted. For this purpose, a single-sum distribution form is otherwise identical only if the single-sum distribution form is identical in all respects to the eliminated or restricted optional form of benefit (or would be identical except that it provides greater rights to the Participant) except with respect to the timing of payments after commencement.

8.2 TERMINATION

(a) **Termination of Plan.** The Employer shall have the right at any time to terminate the Plan by delivering to the Trustee and Administrator written notice of such termination. Upon any full or partial termination, all amounts credited to the affected Participants' Accounts shall become 100% Vested as provided in Section 6.4 and shall not thereafter be subject to forfeiture.

(b) **Distribution of assets.** Upon the full termination of the Plan, the Employer shall direct the distribution of the assets of the Plan to Participants as soon as administratively feasible, and in a manner that is consistent with the provisions of Section 6.5 except that no Participant or spousal consent is required. Distributions to a Participant shall be made in cash or through the purchase of irrevocable nontransferable deferred commitments from an insurer. For purposes of the preceding sentence, life insurance contracts and Participant loan notes may be treated as cash, and such contracts and loan notes may be distributed as part of a cash distribution. Except as permitted by Regulations, the termination of the Plan shall not result in the reduction of Section 411(d)(6) protected benefits in accordance with Section 8.1(f). For purposes of determining whether the Employer maintains an alternative defined contribution plan (described in Regulation §1.401(k)-1(d)(4)(i)) that would prevent the Employer from distributing certain Accounts, e.g. the Participant's Qualified Nonelective Contribution Account, an alternative defined contribution plan does not include an employee stock ownership plan defined in Code §4975(e)(7) or Code §409(a), a simplified employee pension as defined in Code §408(k), a SIMPLE IRA plan as defined in Code §408(p), a plan or contract that satisfies the requirements of Code §403(b), or a plan that is described in Code §457(b) or (f).

8.3 MERGER, CONSOLIDATION OR TRANSFER OF ASSETS

This Plan may be merged or consolidated with, or its assets and/or liabilities may be transferred to any other plan and trust, only if the benefits which would be received by a Participant of this Plan, in the event of a termination of the Plan immediately after such transfer, merger or consolidation, are at least equal to the benefits the Participant would have received if the Plan had terminated immediately before the transfer, merger or consolidation, and such transfer, merger or consolidation does not otherwise result in the elimination or reduction of any Section 411(d)(6) protected benefits in accordance with Section 8.1(f).

8.4 LOANS TO PARTICIPANTS

(a) **Permitted loans.** The Administrator may make Plan loans to Participants or Beneficiaries under the following circumstances: (1) loans shall be made available to Participants and Beneficiaries on a reasonably equivalent basis; (2) loans shall not be made available to Highly Compensated Employees in an amount greater than the amount that is made available to other Participants and Beneficiaries; (3) loans shall bear a reasonable rate of interest; (4) loans shall be adequately secured; and (5) loans shall provide for periodic repayment over a reasonable period of time. Furthermore, no Plan loan shall exceed a Participant's Vested interest in the Plan. The Administrator may, in a nondiscriminatory manner, operationally choose to treat all Eligible Employees who make a rollover contribution to the Plan as being Participants who are eligible for Participant loans, even if such individuals have not yet met the eligibility requirements for entry into the Plan (as authorized by Section 4.12).

(b) **Prohibited assignment or pledge.** An assignment or pledge of any portion of a Participant's interest in the Plan and a loan, pledge, or assignment with respect to any insurance Contract purchased under the Plan, shall be treated as a Plan loan under this Section.

(c) **Loan program.** The Administrator shall be authorized to establish a Participant Loan Program to provide for loans under the Plan. The Participant Loan Program shall be established in accordance with Department of Labor regulation §2550.408(b)-1(d)(2) providing for loans by the Plan to parties-in-interest under this Plan, such as Participants or Beneficiaries. In order for the Administrator to implement such Participant Loan Program, a separate written document forming a part of this Plan must be adopted, which document shall specifically include, but need not be limited to, the following:

- (1) the identity of the person or positions authorized to administer the Participant loan program;
- (2) a procedure for applying for loans;
- (3) the basis on which loans will be approved or denied;
- (4) limitations, if any, on the types and amounts of loans offered;
- (5) the procedure under the program for determining a reasonable rate of interest;
- (6) the types of collateral which may secure a Participant loan; and
- (7) the events constituting default and the steps that will be taken to preserve Plan assets in the event such default.

Such Participant Loan Program shall be contained in a separate written document which, when properly executed, is hereby incorporated by reference and made a part of the Plan. Furthermore, such Participant Loan Program may be modified or amended in writing from time to time without the necessity of amending this Plan.

(d) **Loan default.** Notwithstanding anything in this Plan to the contrary, if a Participant or Beneficiary defaults on a Plan loan made pursuant to this Section and such loan is secured by the Participant's interest in the Plan, then, to the extent provided in the Participant loan program, a Participant's interest may be offset by the amount subject to the security to the extent there is a distributable event permitted by the Code or Regulations.

(e) **Loans subject to Plan terms.** Notwithstanding anything in this Section to the contrary, any Plan loans made prior to the date this amendment and restatement is adopted shall be subject to the terms of the Plan in effect at the time such loan was made.

ARTICLE IX TOP-HEAVY PROVISIONS

9.1 TOP-HEAVY PLAN REQUIREMENTS

(a) **Top-Heavy requirements.** For any Top-Heavy Plan Year, the Plan shall provide the special vesting requirements of Code §416(b) pursuant to Section 6.4 of the Plan and the minimum required allocation of Code §416(c) pursuant to Section 4.4(g) of the Plan.

9.2 DETERMINATION OF TOP-HEAVY STATUS

(a) **Definition of Top-Heavy Plan.** This Plan shall be a Top-Heavy Plan if any of the following conditions exists:

- (1) if the "top-heavy ratio" for this Plan exceeds sixty percent (60%) and this Plan is not part of any "required aggregation group" or "permissive aggregation group";
- (2) if this Plan is a part of a "required aggregation group" but not part of a "permissive aggregation group" and the "top-heavy ratio" for the group of plans exceeds sixty percent (60%); or

(3) if this Plan is a part of a "required aggregation group" and part of a "permissive aggregation group" and the "top-heavy ratio" for the "permissive aggregation group" exceeds sixty percent (60%).

(b) **Top-heavy ratio.** "Top-heavy ratio" means, with respect to a "determination date":

(1) If the Employer maintains one or more defined contribution plans (including any simplified employee pension plan (as defined in Code §408(k)) and the Employer has not maintained any defined benefit plan which during the 5-year period ending on the "determination date" has or has had accrued benefits, the top-heavy ratio for this plan alone or for the "required aggregation group" or "permissive aggregation group" as appropriate is a fraction, the numerator of which is the sum of the account balances of all Key Employees as of the "determination date" (including any part of any account balance distributed in the One-Year period ending on the "determination date") (5-year period ending on the "determination date" in the case of a distribution made for a reason other than severance from employment, death or disability, and the denominator of which is the sum of all account balances (including any part of any account balance distributed in the One-Year period ending on the "determination date") (5-year period ending on the "determination date" in the case of a distribution made for a reason other than severance from employment, death or disability), both computed in accordance with Code §416 and the Regulations thereunder.

Both the numerator and denominator of the top-heavy ratio are increased to reflect any contribution not actually made as of the "determination date," but which is required to be taken into account on that date under Code §416 and the Regulations thereunder.

(2) If the Employer maintains one or more defined contribution plans (including any simplified employee pension plan) and the Employer maintains or has maintained one or more defined benefit plans which during the 5-year period ending on the "determination date" has or has had any accrued benefits, the top-heavy ratio for any "required aggregation group" or "permissive aggregation group" as appropriate is a fraction, the numerator of which is the sum of account balances under the aggregated defined contribution plan or plans for all Key Employees, determined in accordance with (1) above, and the present value of accrued benefits under the aggregated defined benefit plan or plans for all Key Employees as of the "determination date," and the denominator of which is the sum of the account balances under the aggregated defined contribution plan or plans for all participants, determined in accordance with (1) above, and the present value of accrued benefits under the defined benefit plan or plans for all participants as of the "determination date," all determined in accordance with Code §416 and the Regulations thereunder. The accrued benefits under a defined benefit plan in both the numerator and denominator of the top-heavy ratio are increased for any distribution of an accrued benefit made in the One-Year period ending on the "determination date" (5-year period ending on the "determination date" in the case of a distribution made for a reason other than severance from employment, death or disability).

(3) For purposes of (1) and (2) above, the value of account balances and the present value of accrued benefits will be determined as of the most recent "valuation date" that falls within or ends with the 12-month period ending on the "determination date," except as provided in Code §416 and the Regulations thereunder for the first and second plan years of a defined benefit plan. The account balances and accrued benefits of a Participant (i) who is not a Key Employee but who was a Key Employee in a prior year, or (ii) who has not been credited with at least one Hour of Service with any Employer maintaining the plan at any time during the One-Year period ending on the "determination date" will be disregarded. The calculation of the top-heavy ratio, and the extent to which distributions, rollovers, and transfers are taken into account will be made in accordance with Code §416 and the Regulations thereunder. Deductible employee contributions will not be taken into account for purposes of computing the top-heavy ratio. When aggregating plans, the value of account balances and accrued benefits will be calculated with reference to the "determination dates" that fall within the same calendar year.

The accrued benefit of a Participant other than a Key Employee shall be determined under (i) the method, if any, that uniformly applies for accrual purposes under all defined benefit plans maintained by the employer, or (ii) if there is no such method, as if such benefit accrued not more rapidly than the slowest accrual rate permitted under the fractional rule of Code §411(b)(1)(C).

(4) The calculation of top-heavy ratio, and the extent to which distributions, rollovers, and transfers are taken into account, will be made in accordance with Code §416 and the Regulations thereunder.

(c) **Determination date.** "Determination date" means, for any Plan Year subsequent to the first Plan Year, the last day of the preceding Plan Year. For the first Plan Year of the Plan, "determination date" means the last day of that Plan Year.

(d) **Permissive aggregation group.** "Permissive aggregation group" means the "required aggregation group" of plans plus any other plan or plans of the Employer or any Affiliated Employer which, when considered as a group with the required aggregation group, would continue to satisfy the requirements of Code §§401(a)(4) and 410.

(e) **Required aggregation group.** "Required aggregation group" means: (1) each Qualified Plan of the Employer or any Affiliated Employer in which at least one Key Employee participates or participated at any time during the Plan Year containing the determination date or any of the four preceding plan years (regardless of whether the plan has terminated), and (2) any other Qualified Plan of the Employer or any Affiliated Employer which enables a plan described in (1) to meet the requirements of Code §401(a)(4) or Code §410.

(f) **Valuation Date.** "Valuation date" means the date elected by the Employer as of which account balances or accrued benefits are valued for purposes of calculating the "top-heavy ratio."

ARTICLE X MISCELLANEOUS

10.1 PARTICIPANT'S RIGHTS

This Plan shall not be deemed to constitute a contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon the Employee as a Participant of this Plan.

10.2 ALIENATION OF BENEFITS

(a) **General rule.** Subject to the exceptions provided below, and as otherwise permitted by the Code, no benefit which shall be payable to any person (including a Participant or the Participant's Beneficiary) shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, and the same shall not be recognized, except to such extent as may be required by law.

(b) **Exception for loans from Plan to Participant.** Subsection (a) shall not apply to the extent a Participant or Beneficiary is indebted to the Plan, by reason of a loan made pursuant to Section 8.4. At the time a distribution is to be made to or for a Participant's or Beneficiary's benefit, such proportion of the amount to be distributed as shall equal such indebtedness shall be paid to the Plan, to apply against or discharge such indebtedness. Prior to making a payment, however, the Participant or Beneficiary must be given written notice by the Administrator that such indebtedness is to be so paid in whole or part from the Participant's Account.

(c) **Exception for QDRO.** Subsection (a) shall not apply to a qualified domestic relations order defined in Code §414(p), and those other domestic relations orders permitted to be so treated by the Administrator under the provisions of the Retirement Equity Act of 1984. The Administrator shall 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 qualified domestic relations order, a former Spouse of a Participant shall be treated as the Spouse or surviving Spouse for all purposes under the Plan.

(d) **Exception for certain debts to Plan.** Subsection (a) shall not apply to an offset to a Participant's accrued benefit against an amount that the Participant is ordered or required to pay the Plan with respect to a judgment, order, or decree issued, or a settlement entered into in accordance with Code §§401(a)(13)(C) and (D).

10.3 PLAN COMMUNICATIONS, INTERPRETATION AND CONSTRUCTION

(a) **Applicable laws.** This Plan shall be construed and enforced according to the Code and the laws of the State of Utah, other than its laws respecting choice of law, to the extent not preempted by federal law.

(b) **Single subsections.** This Plan may contain single subsections. The existence of such single subsections shall not constitute scrivener's errors and is not evidence that the Section is incomplete.

(c) **Separate Accounts.** Unless otherwise specified by a particular provision, the term "separate account" does not require a separate fund, only a notational entry in a recordkeeping system.

(d) **Headings.** The headings and subheadings of this Plan have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

(e) **Masculine and feminine.** Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply.

(f) **Singular and plural.** Whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

(g) **Tense.** Whenever any words are used herein in the past or present tense, they shall be construed as though they were also used in the other form in all cases where they would so apply.

(h) **Administrator's discretion.** The Administrator has total and complete discretion to interpret and construe the Plan and to determine all questions arising in the administration, interpretation and application of the Plan. Any determination the Administrator makes under the Plan is final and binding upon any affected person. The Administrator must exercise all of its Plan powers and discretion, and perform all of its duties in a uniform and nondiscriminatory manner.

(i) **Communications.** All Participant or Beneficiary notices, designations, elections, consents or waivers must be made in a form the Administrator (or, as applicable, the Trustee) specifies or otherwise approves. Any person entitled to notice under the Plan may waive the notice or shorten the notice period unless such actions are contrary to applicable law.

(j) **Evidence.** Anyone, including the Employer, required to give data, statements or other information relevant under the terms of the Plan ("evidence") may do so by certificate, affidavit, document or other form which the person to act in reliance may consider pertinent, reliable and genuine, and to have been signed, made or presented by the proper party or parties. The Administrator and Trustee are protected fully in acting and relying upon any evidence described under the immediately preceding sentence.

(k) **Plan terms binding.** The Plan is binding upon all parties, including but not limited to, the Employer, Trustee, Insurer Administrator, Participants and Beneficiaries.

(l) **Parties to litigation.** Except as otherwise provided by applicable law, a Participant or a Beneficiary is not a necessary party or required to receive notice of process in any court proceeding involving the Plan, the Trustee or any Fiduciary. Any final judgment (not subject to further appeal) entered in any such proceeding will be binding upon all parties, including the Employer, the Administrator, Trustee, Insurer, Participants and Beneficiaries.

(m) **Fiduciaries not insurers.** The Trustee, Administrator and the Employer in no way guarantee the Plan assets from loss or depreciation. The Employer does not guarantee the payment of any money which may be or becomes due to any person from the Plan. The liability of the Employer, the Administrator and the Trustee to make any distribution from the Trust Fund at any time and all times is limited to the then available assets of the Trust Fund.

(n) **Construction/severability.** The Plan, the separate Trust Agreement, Contracts, and all other documents to which they refer, will be interpreted consistent with and to preserve tax qualification of the Plan under Code §401(a) and tax exemption of the Trust under Code §501(a) and also consistent with other applicable law. To the extent permissible under applicable law, any provision which a court (or other entity with binding authority to interpret the Plan) determines to be inconsistent with such construction and interpretation is deemed severed and is of no force or effect, and the remaining Plan terms will remain in full force and effect.

(o) **Uniformity.** All provisions of this Plan shall be interpreted and applied in a uniform, nondiscriminatory manner. In the event of any conflict between the terms of this Plan and any Contract purchased hereunder, the Plan provisions shall control.

10.4 LEGAL ACTION

In the event any claim, suit, or proceeding is brought regarding the Trust and/or Plan established hereunder to which the Trustee, the Employer or the Administrator may be a party, and such claim, suit, or proceeding is resolved in favor of the Trustee, the Employer or the Administrator, they shall be entitled to be reimbursed from the Trust Fund for any and all costs, attorney's fees, and other expenses pertaining thereto incurred by them for which they shall have become liable.

10.5 PROHIBITION AGAINST DIVERSION OF FUNDS

(a) **General rule.** Except as provided below and otherwise specifically permitted by law, it shall be impossible by operation of the Plan or of the Trust, by termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by any other means, for any part of the corpus or income of any Trust Fund maintained pursuant to the Plan or any funds contributed thereto to be used for, or diverted to, purposes other than the exclusive benefit of Participants or their Beneficiaries.

(b) **Mistake of fact.** In the event the Employer shall make an excessive contribution under a mistake of fact, the Employer may demand repayment of such excessive contribution at any time within one year following the time of payment and the Trustees shall return such amount to the Employer within the one year period. Earnings of the Plan attributable to the contributions may not be returned to the Employer but any losses attributable thereto must reduce the amount so returned.

10.6 EMPLOYER'S PROTECTIVE CLAUSE

The Employer and Administrator, and their successors, shall not be responsible for the validity of any Contract issued hereunder or for the failure on the part of the Insurer to make payments provided by any such Contract, or for the action of any person which may delay payment or render a Contract null and void or unenforceable in whole or in part.

10.7 INSURER'S PROTECTIVE CLAUSE

Except as otherwise agreed upon in writing between the Employer and the Insurer, an Insurer which issues any Contracts hereunder shall not have any responsibility for the validity of this Plan or for the tax or legal aspects of this Plan. The Insurer shall be protected and held harmless in acting in accordance with any written direction of the Trustee, and shall have no duty to see to the application of any funds

paid to the Trustee, nor be required to question any actions directed by the Trustee. Regardless of any provision of this Plan, the Insurer shall not be required to take or permit any action or allow any benefit or privilege contrary to the terms of any Contract which it issues hereunder, or the rules of the Insurer.

10.8 RECEIPT AND RELEASE FOR PAYMENTS

Any payment to any Participant, the Participant's legal representative, Beneficiary, or to any guardian or committee appointed for such Participant or Beneficiary in accordance with the provisions of the Plan, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Trustee and the Employer.

10.9 ACTION BY THE EMPLOYER

Whenever the Employer under the terms of the Plan is permitted or required to do or perform any act or matter or thing, it shall be done and performed by a person duly authorized by its legally constituted authority.

10.10 APPROVAL BY INTERNAL REVENUE SERVICE

Notwithstanding anything herein to the contrary, if, pursuant to an application for qualification filed by or on behalf of the Plan by the time prescribed by law for filing the Employer's return for the taxable year in which the Plan is adopted, or such later date that the Secretary of the Treasury may prescribe, the Commissioner of Internal Revenue Service or the Commissioner's delegate should determine that the Plan does not initially qualify as a tax-exempt plan under Code §§401 and 501, and such determination is not contested, or if contested, is finally upheld, then if the Plan is a new plan, it shall be void ab initio and all amounts contributed to the Plan by the Employer, less expenses paid, shall be returned within one year after the date the initial qualification is denied, and the Plan shall terminate, and the Trustee shall be discharged from all further obligations. If the disqualification relates to an amended plan, then the Plan shall operate as if it had not been amended.

10.11 ELECTRONIC MEDIA

The Administrator may use any electronic medium to give or receive any Plan notice, communicate any Plan policy, conduct any written Plan communication, satisfy any Plan filing or other compliance requirement and conduct any other Plan transaction to the extent permissible under applicable law. A Participant or a Participant's Spouse, to the extent authorized by the Administrator, may use any electronic medium to make or provide any Beneficiary designation, election, notice, consent or waiver under the Plan, to the extent permissible under applicable law. Any reference in this Plan to a "form," a "notice," an "election," a "consent," a "waiver," a "designation," a "policy" or to any other Plan-related communication includes an electronic version thereof as permitted under applicable law. Notwithstanding the foregoing, any Participant or Beneficiary notices and consent that are required pursuant to the Code must satisfy Regulation §1.401(a)-21.

10.12 PLAN CORRECTION

The Administrator in conjunction with the Employer may undertake such correction of Plan errors as the Administrator deems necessary, including correction to preserve tax qualification of the Plan under Code §401(a) or to correct a fiduciary breach. Without limiting the Administrator's authority under the prior sentence, the Administrator, as it determines to be reasonable and appropriate, may undertake correction of Plan document, operational, demographic and employer eligibility failures under a method described in the Plan or under the IRS Employee Plans Compliance Resolution System ("EPCRS") as set forth in IRS Revenue Procedure 2019-19 or any superseding guidance.) The Administrator, as it determines to be reasonable and appropriate, also may undertake or assist the appropriate Fiduciary or Plan official in undertaking correction of a fiduciary breach.

ARTICLE XI PARTICIPATING EMPLOYERS

11.1 ADOPTION BY OTHER EMPLOYERS

Notwithstanding anything herein to the contrary, with the consent of the Employer and Trustee, any other corporation or entity, whether an Affiliated Employer or not, may adopt this Plan and all of the provisions hereof, and participate herein and be known as a Participating Employer, by a properly executed document evidencing said intent and will of such Participating Employer (e.g., a participation agreement signed by the Participating Employer). Except as specifically provided otherwise, the provisions of this Article shall apply to each Participating Employer, whether or not the Participating Employer is an Affiliated Employer.

11.2 REQUIREMENTS OF PARTICIPATING EMPLOYERS

(a) **Same provisions applicable to all Participating Employers.** Each such Participating Employer shall be required to use the same Trustee as provided in this Plan, and each Participating Employer agrees to be bound by the terms of the Plan and Trust as adopted and maintained by the Employer that is the signatory to this Plan document. The IDP-formatted Nonstandardized Pre-Approved specimen plan was designed and approved on the basis that the specific provisions adopted by the signatory employer will apply to every other employer adopting the plan, and so reliance (and possibly qualified status) will be lost if the document is modified to accommodate disparate concurrent options selected by different employers. Nothing in the preceding sentence precludes the signatory Employer from amending the Plan to change one preapproved option to another preapproved option, though such change

will apply to all adopting Employers unless the preapproved option specifically provides flexibility in that regard. Any requirement set forth in the Plan that refers to the exclusive benefit rule shall be applied as if all Participating Employers (whether or not an Affiliated Employers) were one employer.

(b) **Holding and investing assets.** The Trustee may, but shall not be required to, commingle, hold and invest as one Trust Fund all contributions made by Participating Employers, as well as all increments thereof.

(c) **Payment of expenses.** Unless the Employer otherwise directs, any expenses of the Plan which are to be paid by the Employer or borne by the Trust Fund shall be paid by each Participating Employer in the same proportion that the total amount standing to the credit of all Participants employed by such Employer bears to the total standing to the credit of all Participants.

11.3 DESIGNATION OF AGENT

Each Participating Employer shall be deemed to be a party to this Plan; provided, however, that with respect to all of its relations with the Trustee and Administrator for the purpose of this Plan, each Participating Employer shall be deemed to have designated irrevocably the Employer as its agent. Unless the context of the Plan clearly indicates the contrary, the word "Employer" shall be deemed to include each Participating Employer as related to its adoption of the Plan.

11.4 EMPLOYEE TRANSFERS

In the event an Employee is transferred between Participating Employers, accumulated service and eligibility shall be carried with the Employee involved. No such transfer shall effect a termination of employment hereunder, and the Participating Employer to which the Employee is transferred shall thereupon become obligated hereunder with respect to such Employee in the same manner as was the Participating Employer from whom the Employee was transferred.

11.5 PARTICIPATING EMPLOYER CONTRIBUTION AND FORFEITURES

Any Employer contribution or Forfeiture subject to allocation during each Plan Year shall be determined and allocated separately by each Participating Employer, and shall be allocated only among the Participants eligible to share of the Employer or Participating Employer making the contribution or by which the forfeiting Participant was employed.

11.6 AMENDMENT

Any Participating Employer hereby authorizes the Employer to make amendments on its behalf, unless otherwise agreed among all affected parties.

11.7 DISCONTINUANCE OF PARTICIPATION

Any Participating Employer shall be permitted to discontinue or revoke its participation in the Plan at any time. At the time of any such discontinuance or revocation, satisfactory evidence thereof and of any applicable conditions imposed shall be delivered to the Trustee. The Employer shall have the right to discontinue or revoke the participation in the Plan of any Participating Employer by providing a 45 day notice to such Participating Employer. The Trustee shall thereafter transfer, deliver and assign Contracts and other assets allocable to the Participants of such Participating Employer to such new Trustee as shall have been designated by such Participating Employer, in the event that it has established a separate qualified retirement plan for its employees provided, however, that no such transfer shall be made if the result is the elimination or reduction of any Section 411(d)(6) protected benefits as described in Section 8.1(f). If a separate plan has not been established, the Trustee shall retain such assets for the Employees of said Participating Employer pursuant to the provisions of Trust Fund. In no such event shall any part of the corpus or income of the Trust Fund as it relates to such Participating Employer be used for or diverted for purposes other than for the exclusive benefit of the Employees of such Participating Employer.

11.8 ADMINISTRATOR'S AUTHORITY

The Administrator shall have authority to make any and all necessary rules or regulations, binding upon all Participating Employers and all Participants, to effectuate the purpose of this Article.

ARTICLE XII MULTIPLE EMPLOYER PROVISIONS

12.1 ELECTION AND OVERRIDING EFFECT

(a) **Non-Affiliated Employers Adopting the Plan.** If an Employer that is not an Affiliated Employer adopts this Plan (as described in Section 11.1), then the provisions of this Article shall (1) apply to each such Participating Employer as of the Effective Date specified in its participation agreement and (2) supersede any contrary provisions in the Plan. If this Article applies, then the Plan shall be a multiple employer plan as described in Code §413(c). In this case, the Employer and each Participating Employer that is not an Affiliated Employer acknowledge that the Plan is a multiple employer plan subject to the rules and specific reporting requirements of Code §413(c) and the Regulations thereunder. The participation agreement must identify the Participating Employer and provide for the Participating Employer's signature.

12.2 PROVISIONS APPLIED SEPARATELY (OR JOINTLY) FOR PARTICIPATING NON-AFFILIATED EMPLOYERS

(a) **Separate status.** The Administrator will apply the definition of Compensation and perform the tests listed in this Section, separately for each Participating Employer other than an Affiliated Employer of such Participating Employer. For this purpose, the Employees of each Participating Employer (and its Affiliated Employers), and their allocations and accounts, shall be treated as though they were in separate plan. Any correction action, such as additional contributions or corrective distributions, shall only affect the Employees of the Participating Employer (and its Affiliated Employers, if any). The tests subject to this separate treatment are:

- (1) The ADP Test.
- (2) The ACP Test.
- (3) Nondiscrimination testing described in Code §401(a)(4) and the applicable Regulations.
- (4) Coverage testing described in Code §410(b) and the Regulations.
- (5) Status as a Highly Compensated Employee under Section 1.44.

(b) **Joint status.** Any requirement set forth in the Plan that refers to the exclusive benefit rule shall be applied as if all Participating Employers (whether or not an Affiliated Employers) were one employer. In addition, the following tests shall be performed for the Plan as whole, without regard to employment by a particular Participating Employer:

- (1) Applying the limitation on Annual Additions described in Section 4.9, including the related Compensation definition.
- (2) Applying the Code §402(g) limitation described in Section 4.2.
- (3) Applying the limit on Catch-Up Contributions described in Section 4.2.
- (4) Applying the minimum participation requirements of Code §410(a).

12.3 TOP-HEAVY APPLIED SEPARATELY

The Plan will apply the Top-Heavy Plan provisions separately to each Participating Employer other than an Affiliated Employer of such Participating Employer. The Plan will be considered separate plans for each Participating Employer and its Employees for purposes of determining whether such a separate plan is top-heavy under Section 9.1 or is entitled to the exemption described in such Section. For purposes of applying this Article to a Participating Employer, the Participating Employer and any entity which is an Affiliated Employer to that Participating Employer shall be the "Employer" for purposes of Section 9.1, and the terms "Key Employee" and "Non-Key Employee" shall refer only to the Employees of that Participating Employer and/or its Affiliated Employers. If such a Participating Employer's separate plan is top-heavy, then:

- (a) Highest contribution rate. The Administrator shall determine the highest Key Employee contribution rate under Section 4.4(g) by reference to the Key Employees and their allocations in the separate plan of that Participating Employer;
- (b) Top-Heavy minimum allocation. The Administrator shall determine the amount of any required top-heavy minimum allocation separately for that separate plan under Section 4.4(g); and
- (c) Plan which will satisfy. The Participating Employer shall make any additional contributions Section 4.4(g) requires.

12.4 HIGHLY COMPENSATED EMPLOYEE STATUS

Status as a Highly Compensated Employee under Section 1.44 shall be determined separately with respect to each Participating Employer (and all its Affiliated Employers).

12.5 SERVICE

An Employee's service includes all Hours of Service and Years of Service with each Participating Employer (and all its Affiliated Employers). An Employee who terminates employment with one Participating Employer and immediately commences employment with another Participating Employer (or any of its Affiliated Employers) has not separated from service and has not had a severance from employment.

12.6 REQUIRED MINIMUM DISTRIBUTIONS

If a Participant is a 5-percent owner (under Section 6.8(c)(6)) of any Participating Employer for which the Participant is an Employee in the Plan Year the Participant attains age 70 1/2, then the Participant's required beginning date under Section 6.8 shall be the April 1 of the calendar year following the close of the calendar year in which the Participant attains age 70 1/2.

12.7 COOPERATION AND INDEMNIFICATION

(a) **Cooperation.** Each Participating Employer agrees to timely provide all information the Administrator deems necessary to ensure the Plan is operated in accordance with the requirements of the Code and will cooperate fully with the signatory Employer, the Plan, the Plan fiduciaries, and other proper representatives in maintaining the qualified status of the Plan. Such cooperation will include payment of such amounts into the Plan, to be allocated to employees of the Participating Employer, which are reasonably required to maintain the tax-qualified status of the Plan.

(b) **Indemnity.** Each Participating Employer will indemnify and hold harmless the Administrator, the signatory Employer and its subsidiaries; officers, directors, shareholders, employees, and agents of the signatory Employer; the Plan; the Trustees, Fiduciaries, Participants and Beneficiaries of the Plan, as well as their respective successors and assigns, against any cause of action, loss, liability, damage, cost, or expense of any nature whatsoever (including, but not limited to, attorney's fees and costs, whether or not suit is brought, as well as IRS plan disqualifications, other sanctions or compliance fees or DOL fiduciary breach sanctions and penalties) arising out of or relating to the Participating Employer's noncompliance with any of the Plan's terms or requirements; any intentional or negligent act or omission the Participating Employer commits with regard to the Plan; and any omission or provision of incorrect information with regard to the Plan which causes the Plan to fail to satisfy the requirements for status as a Qualified Plan.

12.8 INVOLUNTARY TERMINATION

The signatory Employer shall have the power to terminate the participation of any Participating Employer (hereafter the terminated employer") in this Plan. If and when the signatory Employer wishes to exercise this power, the following shall occur:

(a) **Notice.** The signatory Employer shall give the terminated employer a notice of the signatory employer's intent to terminate the terminated employer's status as a Participating Employer of the Plan. The signatory Employer will provide such notice not less than 30 days prior to the date of termination unless the signatory Employer determines that the interest of Plan Participants requires earlier termination.

(b) **Spin-off.** The signatory Employer shall establish a new defined contribution plan, using the provisions of this Plan with any modifications contained in the terminated employer's participation agreement, as a guide to establish a new defined contribution plan (hereinafter the "spin-off plan"). The signatory Employer will direct the Trustee to transfer (in accordance with the rules of Code §414(l) and the provisions of Section 8.3) the Accounts of the Employees of the terminated employer to the spin-off plan. The terminated employer shall be the administrator, and sponsor of the spin-off plan. The trustee of the spin-off plan shall be the person or entity designated by the terminated employer, or, in the absence of any such designation, the chief executive officer of the terminated employer. If state law prohibits the terminated employer from serving as Trustee, the Trustee is the president of a corporate terminated employer, the managing partner of a partnership terminated employer, the managing member of a limited liability company terminated employer, the sole proprietor of a proprietorship terminated employer, or in the case of any other entity type, such other person with title and responsibilities similar to the foregoing. However, the signatory Employer shall have the option to designate an appropriate financial institution as Trustee instead, if necessary, to protect the interest of the Participants. The signatory Employer shall have the authority to charge the terminated employer or the Accounts of the Employees of the terminated employer a reasonable fee to pay the expenses of establishing the spin-off plan.

(c) **Transfer.** The terminated employer, in lieu of creation of the spin-off plan under subsection (b) above, has the option to elect a transfer alternative in accordance with this subsection (c). If the terminated employer selects this option, the Administrator shall transfer (in accordance with the rules of Code §414(l) and the provisions of Section 8.3) the Accounts of the Employees of the terminated employer to a Qualified Plan the terminated employer maintains. To exercise this option, the terminated employer must deliver to the signatory Employer or Administrator in writing the name and other relevant information of the transferee plan and must provide such assurances that the Administrator shall reasonably require to demonstrate that the transferee plan is a Qualified Plan.

(d) **Participants.** The Employees of the terminated employer shall cease to be eligible to accrue additional benefits under the Plan with respect to Compensation paid by the terminated employer, effective as of the date of termination. To the extent that these Employees have accrued but unpaid contributions as of the date of termination, the terminated employer shall pay such amounts to the Plan or the spin-off plan no later than 30 days after the date of termination, unless the terminated employer effectively selects the Transfer option under subsection (c) above.

(e) **Consent.** By its signature on the participation agreement, the terminated employer specifically consents to the provisions of this Article and agrees to perform its responsibilities with regard to the spin-off plan, if necessary.

12.9 VOLUNTARY TERMINATION

A Participating Employer (hereafter "withdrawing employer") may voluntarily withdraw from participation in this Plan at any time. If and when a withdrawing employer wishes to withdraw, the following shall occur:

(a) **Notice.** The withdrawing employer shall inform the signatory Employer and the Administrator of its intention to withdraw from the Plan. The Withdrawing Employer must give the notice not less than 30 days prior to the effective date of its withdrawal.

(b) **Procedure.** The withdrawing employer and the signatory Employer shall agree upon procedures for the orderly withdrawal of the withdrawing employer from the plan. Such procedures may include any of the optional spin-off or transfer options described in the preceding Section.

(c) **Costs.** The withdrawing employer shall bear all reasonable costs associated with withdrawal and transfer under this Section.

(d) **Participants.** The Employees of the withdrawing employer shall cease to be eligible to accrue additional benefits under the Plan as to Compensation paid by the withdrawing employer, effective as of the effective date of withdrawal. To the extent that such Employees have accrued but unpaid contributions as of the effective date of withdrawal, the withdrawing employer shall contribute such amounts to the Plan or the spin-off plan promptly after the effective date of withdrawal, unless the accounts are transferred to a Qualified Plan the withdrawing employer maintains.

IN WITNESS WHEREOF, this Plan ("Pleasant Grove City 401(k) Plan") has been executed this _____ day of _____, 20____.

SIGNATURE(S)

Pleasant Grove City Corporation

DATE

AUTHORIZED SIGNATURE ON BEHALF OF EMPLOYER

The "document provider" for this document (within the meaning of IRS Revenue Procedure 2017-41) is FIS Business Systems LLC ("FIS"). FIS will notify its clients of any amendment to this Pre-Approved Plan or of any abandonment or discontinuance by the Provider of its maintenance of this Pre-Approved Plan. For inquiries regarding the adoption of the Pre-Approved Plan, the Provider's intended meaning of any Plan provisions or the effect of the Opinion Letter issued to the Provider, please contact the Provider at the following address and telephone number:

Address:

701 San Marco Blvd
Jacksonville, FL 32207
(904) 399-5888

Telephone:

Reliance on Provider Opinion Letter. The Provider has obtained from the IRS an Opinion Letter specifying the form of this document satisfies Code §401 as of the date of the Opinion Letter. An adopting Employer may rely on the Provider's IRS Opinion Letter *only* to the extent provided in Rev. Proc. 2017-41. The Employer may not rely on the Opinion Letter in certain other circumstances or with respect to certain qualification requirements, which are specified in the Opinion Letter and in Rev. Proc. 2017-41 or subsequent guidance. In order to have reliance in such circumstances or with respect to such qualification requirements, the Employer must apply for a determination letter to Employee Plans Determinations of the IRS.

VOLUME SUBMITTER MODIFICATIONS

Pleasant Grove City 401(k) Plan

No modifications from the approved specimen plan have been made to this Plan.

PLEASANT GROVE CITY 401(K) PLAN

QUALIFIED DOMESTIC RELATIONS ORDER ("QDRO") PROCEDURE

In the case of any Domestic Relations Order (DRO) received by Pleasant Grove City 401(k) Plan, its status as a Qualified Domestic Relations Order (QDRO) under the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code will be determined under the following procedures. The Administrator is responsible for administering the QDRO Procedure. The purpose of the QDRO Procedure is to establish a reasonable and consistent procedure for determining the qualified status of a Domestic Relations Order and for making distributions pursuant to a Domestic Relations Order which qualifies under Internal Revenue Code Section 414(p).

Procedure prior to receipt of order: The Plan will apply the following procedure prior to the Plan's receipt of a Domestic Relations Order.

1. Suspension of Participant distributions or loans. If the Administrator is on notice (verbal or written) regarding a pending domestic relations action (e.g., a divorce) and has a reasonable belief the Participant's account may become subject to a QDRO, the Administrator may suspend processing the Participant's distribution or loan requests pending resolution.
2. Removing hold on the account. After placing a hold on the account, the Administrator should notify the Participant of the hold on the account. In order to remove the hold, the Administrator should request the Participant to provide written confirmation that a court will not issue a QDRO with respect to the account; such as a property settlement agreement awarding the entire account to the Participant.

Procedure after receipt of order: The Plan will apply the following procedure whenever it receives a DRO which purports to be a QDRO.

1. Notice to Participant and to alternate payee. Within a reasonable time period after receipt of a domestic relations order, the Administrator will notify the Participant and any alternate payee of the receipt of the order, and will deliver to the Participant and to each alternate payee a copy of this QDRO Procedure. Any alternate payee may designate a representative to receive copies of notices that are to the alternate payee regarding a domestic relations order.
2. Notice to Trustee. The Administrator, within a reasonable time period after receipt of a Domestic Relations Order, will notify the Trustee of the receipt of the order. For any period during which the Administrator (or a court of competent jurisdiction) is determining the issue of whether the order is a QDRO, the Administrator also will account separately for the amount of the Participant's benefit which is subject to the order. The Administrator will direct the Trustee to segregate the "QDRO amount" if possible.
3. Review of order. The Administrator will review the order within a reasonable time to determine its qualified status. The Administrator will complete a QDRO DETERMINATION CHECKLIST with respect to each order the Plan receives. In most circumstances, the Administrator will complete review of the order within 30 days of receipt. After review, the Administrator will determine whether the order is a QDRO.
4. Source of distributions: Roth vs. non-Roth. Unless the QDRO provides otherwise, if the participant's account includes both a Roth deferral account and one or more other accounts (e.g., profit sharing, pre-tax deferral and match), the Plan will distribute any amounts payable under the QDRO pro rata from all of the participant's accounts, including the Roth deferral account.
5. Suspension of Participant investment, or distributions. The Administrator will suspend the Participant's right to direct any investments during the period the Administrator is determining the qualified status of the order. If the Participant is receiving distributions from the Plan at the time of receipt of the order, the Administrator will suspend distributions to the Participant to the extent the Administrator deems necessary to comply with the order should the Administrator determine the order is a QDRO.
6. Determination order is a QDRO. If the Administrator determines the order is a QDRO:
 - a. The Administrator will notify the Participant and each alternate payee that the order is a QDRO and the Plan will distribute amounts pursuant to the QDRO. The Administrator will notify the Participant and each alternate payee of the decision within ten days of the determination by mailing to each party a copy of the QDRO DETERMINATION CHECKLIST, which will include the Administrator's certification.
 - b. If the QDRO requires immediate payment, the Plan will pay the designated amounts as soon as administratively feasible. Payment of any amount the order required the Plan to pay during the determination period will include interest from the date the QDRO required the first payment, at the rate of interest determined to be reasonable. The rate of interest payable on a regular savings account is a reasonable rate of interest for this purpose.
 - c. If the Plan cannot make the distribution within 30 days of the determination of qualified status of the QDRO, the Administrator will advise the parties of the delay, of the reason for the delay and of the date by which the Plan expects to make payment.
 - d. The Administrator will advise the Participant when the Plan has completed payment to the alternate payee.

- e. The Plan will maintain a separate accounting (which may include a segregated account) for each alternate payee until the Plan has completed benefit payments under the QDRO.
 - f. Each alternate payee is entitled to file with the Plan a beneficiary designation in the same manner as a Participant in the Plan.
7. Determination that the order is not a QDRO. If the Administrator determines the order is not a QDRO:
- a. The Administrator will advise the Participant and each alternate payee of the adverse decision and of the reasons for the adverse decision. The Plan will advise the Participant and each alternate payee of the decision within ten days of the determination by mailing to each party a copy of the QDRO DETERMINATION CHECKLIST, which will include the Administrator's certification of the decision.
 - b. The Administrator will discontinue separate accounting for the amounts payable under the order. The Plan will pay the benefits to the party entitled to receive the benefits. If the Participant is not entitled to a present distribution of any of the segregated benefits, the Plan will continue to account for the Participant's benefits as if the Plan had not received the order.
 - c. If the Administrator determines the status of the order within the 18-month period beginning on the date the order would require the first payment, the Administrator may delay distribution of any benefits subject to the order if the Administrator has reason to believe a party will seek to cure the defects in the order. The Administrator will continue to delay distribution during the period the Administrator determines to be necessary to fulfill the Administrator's fiduciary duties under the Plan.
8. Consultation with legal counsel. The Administrator will consult with the Plan's legal counsel in case of questions which arise with respect to the interpretation of any provision of the order or with respect to the qualified status of the order.

* * * * *

Adoption of QDRO Procedure

The Administrator of Pleasant Grove City 401(k) Plan adopts this QDRO Procedure on the date specified below.

By: _____
Administrator

Date: _____

RESOLUTION NO. 2021 - 030

A RESOLUTION OF THE PLEASANT GROVE CITY COUNCIL, UTAH COUNTY, UTAH, AUTHORIZING THE MAYOR TO SIGN FIVE QUIT CLAIM DEEDS IN FAVOR OF THE UTAH DEPARTMENT OF TRANSPORTATION (UDOT) FOR REMNANT PARCELS ALONG NORTH COUNTY BOULEVARD THAT WERE NOT TRANSFERRED PREVIOUSLY PROPERTY LOCATED IN PLEASANT GROVE, UTAH COUNTY, UTAH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Pleasant Grove City has previously acquired real property for the purpose of constructing a public roadway known as North County Boulevard; and

WHEREAS, at the time of construction it was intended that the property be transferred to Utah County after completion of the roadway; and

WHEREAS, Utah County and the State of Utah (UDOT) subsequently entered into an agreement to transfer jurisdiction of certain roadways between themselves, including North County Boulevard; and

WHEREAS, UDOT has commenced project improvements along North County Boulevard and has become aware that some of the parcels have not been transferred into their ownership; and

WHEREAS, UDOT has brought this matter to City's attention; and

WHEREAS, City has no useful purpose for the subject parcels; and

WHEREAS, City agrees that it was never intended to own the subject parcels in perpetuity;

WHEREAS, UDOT will maintain the roadway and the subject parcels upon transfer.

NOW, THEREFORE, BE IT RESOLVED by the Pleasant Grove City Council, Pleasant Grove, Utah as follows:

SECTION 1.

RESOLVED by the City Council of Pleasant Grove, Utah County, State of Utah, that the, Mayor is authorized to sign the four quit claim deeds attached hereto and incorporated herein as Exhibits A-1; A-2; A-3; A-4 and A-5 transferring property to UDOT.

SECTION 2.

The provisions of this Resolution shall take effect immediately.

PASSED AND ADOPTED and MADE EFFECTIVE BY THE CITY COUNCIL OF PLEASANT GROVE, UTAH this, 6th day of July, 2021

Guy L. Fugal, Mayor

ATTEST:

(SEAL)

Kathy T. Kresser, MMC
City Recorder

Motion: Council Member _____

Second: Council Member _____

<u>ROLL CALL</u>	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>
Mayor Guy L. Fugal	_____	_____	_____
Dianna Andersen	_____	_____	_____
Brent Bullock	_____	_____	_____
Eric Jensen	_____	_____	_____
Cyd LeMone	_____	_____	_____
Todd Williams	_____	_____	_____

WHEN RECORDED, MAIL TO:
Utah Department of Transportation
Right of Way, Fourth Floor
Box 148420
Salt Lake City, Utah 84114-8420

Quit Claim Deed (CITY)

Utah County

Tax ID No. 14:022:0509
Pin No. 17293
Project No. NEWPROJ(17293)
Parcel No. 103B:1

Pleasant Grove City, Grantor, a municipal corporation of the State of Utah hereby QUIT CLAIMS to the UTAH DEPARTMENT OF TRANSPORTATION, Grantee, at 4501 South 2700 West, Salt Lake City, Utah 84114, for the sum of TEN (\$10.00) Dollars, and other good and valuable considerations, the following described parcel of land in Utah County, State of Utah, to-wit:

A parcel of land in fee, being part of an entire tract of property, situate in the SW1/4 NW1/4 and NW1/4 NW1/4 of Section 19, T.5S., R.2E., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning at a point, which point is 52.60 feet perpendicularly distant westerly from the SR-129 Control Line, at Engineer Station 284+14.66, which point is also 1,051.16 feet N.89°32'58"E. along the section line from the Northwest Corner of said Section 19; and running thence N.89°32'58"E. 101.37 feet along said section line to a point on the easterly right of way line of SR-129 (North County Blvd.); thence the following seven (7) courses which are along said easterly right of way line as described in that certain Quit Claim Deed recorded as Entry Number 9922:2014 on file at the office of the Utah County Recorder: (1) S.00°58'19"W. 217.76 feet; (2) S.06°24'12"E. 45.30 feet; (3) S.00°36'06"W. 21.00 feet; (4) S.07°53'48"W. 55.13 feet; (5) S.00°36'06"W. 161.29 feet; (6) S.44°12'04"E. 40.45 feet; (7) South 66.07 feet to a point on the

Pin No. 17293
Project No. NEWPROJ(17293)
Parcel No. 103B:1

boundary line between Pleasant Grove City and American Fork City as shown on the Swenson Addition Annexation Plat recorded on May 7, 1979 as Entry No. 17212 and Map No. 2372 in the office of the Utah County Surveyor; thence the following two (2) courses which are along said boundary line: (1) N.89°15'00"W. 70.90 feet; (2) S.00°41'00"W. 1,885.36 feet; thence N.77°07'13"W. 49.34 feet to a point on the westerly right of way line of said SR-129 (North County Blvd.); thence the following twenty one (21) courses which are along said westerly right of way line as described in said Quit Claim Deed: (1) N.00°22'41"W. 194.71 feet; (2) N.45°34'36"W. 25.16 feet; (3) N.01°45'55"W. 60.00 feet; (4) N.88°14'05"E. 5.65 feet; (5) N.44°05'51"E. 20.16 feet; (6) N.00°04'11"E. 19.05 feet; (7) N.03°08'40"E. 83.20 feet; (8) N.00°32'51"E. 217.34 feet to a point of curvature; (9) northwesterly 23.62 feet along the arc of a 15.00-foot radius curve to the left, through a central angle of 90°12'53", the chord of which bears N.44°33'36"W. 21.25 feet to a point of non-tangency; (10) N.00°46'08"E. 60.00 feet to a point of non-tangent curvature; (11) northeasterly 23.51 feet along the arc of a 15.00-foot radius curve to the left, through a central angle of 89°47'53", the chord of which bears N.45°26'01"E. 21.18 feet; (12) N.00°34'09"E. 552.28 feet; (13) N.00°36'06"E. 600.38 feet; (14) N.44°43'34"W. 32.53 feet; (15) N.00°27'06"W. 69.04 feet; (16) N.89°32'54"E. 8.43 feet; (17) N.46°19'39"E. 19.51 feet; (18) N.00°36'06"E. 441.38 feet to a point of curvature; (19) northerly 40.79 feet along the arc of a 20,050.00-foot radius curve to the right, through a central angle of 00°07'00", the chord of which bears N.00°39'36"E. 40.79 feet to a point of reverse curvature; (20) westerly 1.97 feet along the arc of a 5.00-foot radius curve to the left, through a central angle of 22°32'33", the chord of which bears N.79°12'07"W. 1.95 feet to a point of non-tangent curvature; (21) N.00°27'08"W. 30.00 feet to the point of beginning. The above described parcel of land contains 160,716 square feet or 3.690 acres in area, more or less.

(Note: All bearings in the above description are record and equal to highway bearings, unless otherwise noted).

On this _____ day of _____, in the year 20____, before me personally appeared _____, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me being duly sworn/affirmed, did say that he/she is the _____ of Pleasant Grove City and that said document was signed by him/her on behalf of said Pleasant Grove City by Authority of its _____.

PREPARED BY: J-U-B ENGINEERS, INC. (TMR) (01/11/21) 03P

WHEN RECORDED, MAIL TO:
Utah Department of Transportation
Right of Way, Fourth Floor
Box 148420
Salt Lake City, Utah 84114-8420

Quit Claim Deed (CITY)

Utah County

Tax ID No. 14:054:0139
14:054:0137
14:054:0083
14:054:0046
14:055:0177
Pin No. 17293
Project No. NEWPROJ(17293)
Parcel No. 102:2

Pleasant Grove City, Grantor, a municipal corporation of the State of Utah hereby QUIT CLAIMS to the UTAH DEPARTMENT OF TRANSPORTATION, Grantee, at 4501 South 2700 West, Salt Lake City, Utah 84114, for the sum of TEN (\$10.00) Dollars, and other good and valuable considerations, the following described parcel of land in Utah County, State of Utah, to-wit:

A parcel of land in fee, being part of an entire tract of property, situate in the NE1/4 SW1/4 and the SE1/4 NW1/4 of Section 30, T.5S., R.2E., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning at a point on the southwesterly right of way line of SR-129 (North County Blvd.), which point is 60.00 feet perpendicularly distant southwesterly from the SR-129 Control Line, at Engineer Station 196+44.89, which point is also 2,196.85 feet N.00°10'09"W. along the section line and West 3,055.59 feet from the Southeast Corner of said Section 30; and running thence the following eight (8) courses which are along said southwesterly right of way: (1) N.53°17'53"W. 206.08 feet; (2) N.48°56'31"W. 52.66 feet to a point of non-tangent curvature;

Pin No. 17293
Project No. NEWPROJ(17293)
Parcel No. 102:2

(3) northwesterly 395.46 feet along the arc of a 2,056.00-foot radius curve to the right, through a central angle of $11^{\circ}01'14''$, the chord of which bears $N.47^{\circ}47'16''W.$ 394.85 feet to a point of reverse curvature; (4) westerly 54.73 feet along the arc of a 35.00-foot radius curve to the left, through a central angle of $89^{\circ}35'23''$, the chord of which bears $N.87^{\circ}04'18''W.$ 49.32 feet to a point of non-tangency; (5) $N.41^{\circ}51'56''W.$ 82.01 feet; (6) northeasterly 5.52 feet along the arc of a 391.00-foot radius curve to the right, through a central angle of $00^{\circ}48'34''$, the chord of which bears $N.48^{\circ}32'17''E.$ 5.52 feet to a point of non-tangency; (7) $N.02^{\circ}51'09''E.$ 48.24 feet to a point of non-tangent curvature; (8) northwesterly 272.82 feet along the arc of a 2,056.00-foot radius curve to the right, through a central angle of $07^{\circ}36'10''$, the chord of which bears $N.34^{\circ}15'59''W.$ 272.62 feet to a point of non-tangency; thence $N.00^{\circ}19'13''W.$ ($N.00^{\circ}19'00''W.$ by record) 246.33 feet to a point of non-tangent curvature, which point is on the northeasterly right of way line of SR-129 (North County Blvd.); thence the following seven (7) courses which are along said northeasterly right of way: (1) southeasterly 464.61 feet along the arc of a 1,944.00-foot radius curve to the left, through a central angle of $13^{\circ}41'37''$, the chord of which bears $S.31^{\circ}01'14''E.$ 463.51 feet to a point of non-tangency; (2) $S.81^{\circ}40'20''E.$ 50.53 feet; (3) $S.40^{\circ}11'28''E.$ 82.00 feet; (4) $S.01^{\circ}17'24''W.$ 50.53 feet to a point of non-tangent curvature; (5) southeasterly 120.35 feet along the arc of a 1,944.00-foot radius curve to the left, through a central angle of $03^{\circ}32'50''$, the chord of which bears $S.44^{\circ}17'22''E.$ 120.33 feet to a point of curvature; (6) southeasterly 245.11 feet along the arc of a 8,370.83-foot radius curve to the left, through a central angle of $01^{\circ}40'40''$, the chord of which bears $S.50^{\circ}36'52''E.$ 245.10 feet (7) $S.53^{\circ}17'53''E.$ 258.57 feet; $S.36^{\circ}42'07''W.$ 120.00 feet to the point of beginning. The above described parcel of land contains 140,621 square feet or 3.228 acres in area, more or less.

(Note: Rotate above bearings clockwise $00^{\circ}00'13''$ to equal highway bearings.)

STATE OF)
) ss. Pleasant Grove City
COUNTY OF) By

On this _____ day of _____, in the year 20_____, before me personally appeared _____, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me being duly sworn/affirmed, did say that he/she is the _____ of Pleasant Grove City and that said document was signed by him/her on behalf of said Pleasant Grove City by Authority of its _____.

Notary Public

WHEN RECORDED, MAIL TO:
Utah Department of Transportation
Right of Way, Fourth Floor
Box 148420
Salt Lake City, Utah 84114-8420

Quit Claim Deed (CITY)

Utah County

Tax ID No. 14:022:0292
14:022:0256
Pin No. 17293
Project No. NEWPROJ(17293)
Parcel No. R399:102:4

Pleasant Grove City, Grantor, a municipal corporation of the State of Utah hereby QUIT CLAIMS to the UTAH DEPARTMENT OF TRANSPORTATION, Grantee, at 4501 South 2700 West, Salt Lake City, Utah 84114, for the sum of TEN (\$10.00) Dollars, and other good and valuable considerations, the following described parcel of land in Utah County, State of Utah, to-wit:

A parcel of land in fee, being part of an entire tract of property, situate in the SW1/4 NW1/4 and the NW1/4 NW1/4 of Section 19, T.5S., R.2E., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning at a point on the easterly right of way line of SR-129 (North County Blvd.), which point is 75.18 feet perpendicularly distant easterly from the SR-129 Control Line, at Engineer Station 278+22.26, which point is also 1,172.57 feet N.89°32'58"E. along the section line and South 594.85 feet from the Northwest Corner of said Section 19; and running thence the following twenty (20) courses which are along said easterly right of way line: (1) South 10.53 feet; (2) West 13.36 feet; (3) S.49°44'30"W. 13.16 feet; (4) S.00°36'06"W. 184.00 feet; (5) S.04°24'57"W. 60.13 feet; (6) S.00°36'06"W. 273.29 feet; (7) N.89°23'32"W. 0.42 feet; (8) S.00°32'51"W. 86.70 feet; (9) S.46°27'33"E. 22.31 feet; (10) S.00°22'55"E. 56.03 feet; (11) S.48°02'10"W.

Pin No. 17293
Project No. NEWPROJ(17293)
Parcel No. 102:4

23.20 feet; (12) S.00°32'51"W. 462.35 feet to a point of curvature; (13) southeasterly 37.78 feet along the arc of a 24.00-foot radius curve to the left, through a central angle of 90°11'56", the chord of which bears S.44°33'36"E. 34.00 feet to a point of non-tangency; (14) S.00°51'00"W. 56.00 feet to a point of non-tangent curvature; (15) southwesterly 37.76 feet along the arc of a 24.00-foot radius curve to the left, through a central angle of 90°08'18", the chord of which bears S.45°16'15"W. 33.98 feet; (16) S.00°32'51"W. 298.40 feet to a point of curvature; (17) southeasterly 37.09 feet along the arc of a 24.00-foot radius curve to the left, through a central angle of 88°33'13", the chord of which bears S.43°43'25"E. 33.51 feet to a point of non-tangency; (18) S.00°41'54"E. 56.06 feet to a point of non-tangent curvature; (19) southwesterly 38.31 feet along the arc of a 24.00-foot radius curve to the left, through a central angle of 91°27'26", the chord of which bears S.46°16'35"W. 34.37 feet; (20) S.00°32'51"W. 216.35 feet; thence N.77°07'13"W. 48.36 feet to a point on the boundary line between Pleasant Grove City and American Fork City as shown on the Swenson Addition Annexation Plat recorded on May 7, 1979 as Entry No. 17212 and Map No. 2372 in the office of the Utah County Surveyor; thence the following two (2) courses which are along said boundary line: (1) N.00°41'00"E. 1,885.36 feet; (2) S.89°15'00"E. 70.90 feet to the point of beginning. The above described parcel of land contains 91,127 square feet or 2.092 acres in area, more or less.

(Note: All bearings in the above description are record and equal to highway bearings, unless otherwise noted.)

On this _____ day of _____, in the year 20____, before me personally appeared _____, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me being duly sworn/affirmed, did say that he/she is the _____ of Pleasant Grove City and that said document was signed by him/her on behalf of said Pleasant Grove City by Authority of its _____.

PREPARED BY: J-U-B ENGINEERS, INC. (TMR) (12/15/20) 03P

WHEN RECORDED, MAIL TO:
Utah Department of Transportation
Right of Way, Fourth Floor
Box 148420
Salt Lake City, Utah 84114-8420

Quit Claim Deed (CITY)

Utah County

Tax ID No. 14:021:0149
14:021:0103
14:021:0181
14:021:0142
Pin No. 17293
Project No. NEWPROJ(17293)
Parcel No. 102:3

Pleasant Grove City, Grantor, a municipal corporation of the State of Utah hereby QUIT CLAIMS to the UTAH DEPARTMENT OF TRANSPORTATION, Grantee, at 4501 South 2700 West, Salt Lake City, Utah 84114, for the sum of TEN (\$10.00) Dollars, and other good and valuable considerations, the following described parcel of land in Utah County, State of Utah, to-wit:

A parcel of land in fee, being part of an entire tract of property, situate in the SW1/4 SW1/4, NW1/4 SW1/4 and the SW1/4 NW1/4 of Section 19, T.5S., R.2E., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning at a point on the easterly right of way line of SR-129 (North County Blvd.), which point is 56.00 feet perpendicularly distant easterly from the SR-129 Control Line, at Engineer Station 230+76.36, which point is also 1,523.68 feet S.89°36'10"W. along the section line from the South Quarter Corner of said Section 19; and running thence S.89°36'10"W. 112.16 feet along said section line to a point of non-tangent curvature, which point is on the westerly right of way line of said SR-129 (North County Blvd.); thence the following ten (10) courses which are along said westerly right of way: (1) northerly 329.19 feet along the arc of a 6,056.00-foot radius curve to the right,

Pin No. 17293
Project No. NEWPROJ(17293)
Parcel No. 102:3

through a central angle of $03^{\circ}06'52''$, the chord of which bears $N.01^{\circ}57'33''W.$ 329.15 feet; (2) $N.00^{\circ}24'13''W.$ 1,454.30 feet to a point of curvature; (3) northwesterly 23.56 feet along the arc of a 15.00-foot radius curve to the left, through a central angle of $89^{\circ}58'58''$, the chord of which bears $N.45^{\circ}24'13''W.$ 21.21 feet to a point of non-tangency; (4) $N.00^{\circ}24'13''W.$ 63.00 feet to a point of non-tangent curvature; (5) northeasterly 23.56 feet along the arc of a 15.00-foot radius curve to the left, through a central angle of $89^{\circ}58'58''$, the chord of which bears $N.44^{\circ}35'47''E.$ 21.21 feet; (6) $N.00^{\circ}24'13''W.$ 207.56 feet; (7) West 0.50 feet; (8) $N.00^{\circ}17'39''W.$ 582.19 feet; (9) $N.00^{\circ}24'13''W.$ 30.56 feet; (10) $N.36^{\circ}53'43''W.$ 6.51 feet to a point on the existing right of way of US-89 (State Street); thence $S.73^{\circ}27'18''E.$ 137.22 feet along said right of way to a point on the easterly right of way line of said SR-129 (North County Blvd.); thence the following seven (7) courses which are along said easterly right of way: (1) $S.48^{\circ}23'06''W.$ 21.30 feet; (2) $S.00^{\circ}24'13''E.$ 768.33 feet to a point curvature; (3) southeasterly 23.56 feet along the arc of a 15.00-foot radius curve to the left, through a central angle of $90^{\circ}00'42''$, the chord of which bears $S.45^{\circ}24'13''E.$ 21.22 feet to a point of non-tangency; (4) $S.00^{\circ}24'13''E.$ 66.00 feet to a point of non-tangent curvature; (5) southwesterly 23.56 feet along the arc of a 15.00-foot radius curve to the left, through a central angle of $89^{\circ}58'58''$, the chord of which bears $S.44^{\circ}35'47''W.$ 21.21 feet; (6) $S.00^{\circ}24'13''E.$ 1,454.49 feet to a point of curvature; (7) southerly 329.20 feet along the arc of a 5,944.00-foot radius curve to the left, through a central angle of $03^{\circ}10'24''$, the chord of which bears $S.01^{\circ}59'20''E.$ 329.16 feet to the point of beginning. The above described parcel of land contains 302,797 square feet or 6.951 acres in area, more or less.

(Note: All bearings in the above description are record and equal to highway bearings, unless otherwise noted.)

STATE OF)
) ss.)
COUNTY OF) By

Pleasant Grove City

On this _____ day of _____, in the year 20____, before me personally appeared _____, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me being duly sworn/affirmed, did say that he/she is the _____ of Pleasant Grove City and that said document was signed by him/her on behalf of said Pleasant Grove City by Authority of its _____.

PREPARED BY: J-U-B ENGINEERS, INC. (TMR) (12/15/20) 03P

WHEN RECORDED, MAIL TO:
Utah Department of Transportation
Right of Way, Fourth Floor
Box 148420
Salt Lake City, Utah 84114-8420

Quit Claim Deed (CITY)

Utah County

Tax ID No. 14:057:0076
14:057:0065
14:057:0062
14:054:0140
Pin No. 17293
Project No. NEWPROJ(17293)
Parcel No. 102:1

Pleasant Grove City, Grantor, a municipal corporation of the State of Utah hereby QUIT CLAIMS to the UTAH DEPARTMENT OF TRANSPORTATION, Grantee, at 4501 South 2700 West, Salt Lake City, Utah 84114, for the sum of TEN (\$10.00) Dollars, and other good and valuable considerations, the following described parcel of land in Utah County, State of Utah, to-wit:

A parcel of land in fee, being part of an entire tract of property, situate in the SW1/4 SE1/4, NW1/4 SE1/4 and the NE1/4 SW1/4 of Section 30, T.5S., R.2E., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning at a point on the southerly right of way line of SR-129 (North County Blvd.), which point is 60.00 feet radially distant southerly from the SR-129 Control Line, at Engineer Station 179+64.20, which point is also 1,142.43 feet N.00°10'09"W. along the section line and West 1,743.61 feet from the Southeast Corner of said Section 30; and running thence the following ten (10) courses which are along said southerly right of way: (1) northwesterly 363.37 feet along the arc of a 2,060.00-foot radius curve to the right, through a central angle of 10°06'24", the chord of which bears N.54°31'58"W. 362.90 feet to a point of non-tangency; (2) N.49°28'46"W. 261.27 feet;

Pin No. 17293
Project No. NEWPROJ(17293)
Parcel No. 102:1

(3) S.85°37'01"W. 37.32 feet; (4) S.38°05'06"W. 3.66 feet; (5) N.49°28'46"W. 82.00 feet; (6) N.35°45'00"E. 7.37 feet; (7) N.08°53'08"W. 34.81 feet; (8) N.49°28'46"W. 498.47 feet to a point of curvature; (9) northwesterly 229.26 feet along the arc of a 3,440.00-foot radius curve to the left, through a central angle of 03°49'07", the chord of which bears N.51°23'19"W. 229.22 feet; (10) N.53°17'53"W. 12.49 feet; thence N.36°42'07"E. 120.00 feet to a point on the northerly right of way line of SR-129 (North County Blvd.); thence the following twelve (12) courses which are along said northerly right of way: (1) S.53°17'53"E. 12.49 feet to a point of curvature; (2) southeasterly 237.26 feet along the arc of a 3,560.00-foot radius curve to the right, through a central angle of 03°49'07", the chord of which bears S.51°23'19"E. 237.22 feet; (3) S.49°28'46"E. 486.66 feet; (4) N.85°37'01"E. 37.32 feet; (5) N.36°31'27"E. 3.66 feet; (6) S.49°28'45"E. 82.20 feet; (7) S.36°31'27"W. 7.36 feet; (8) S.08°53'08"E. 34.82 feet; (9) S.49°28'46"E. 273.05 feet to a point of curvature; (10) southeasterly 278.43 feet along the arc of a 1,940.00-foot radius curve to the left; through a central angle of 08°13'23", the chord of which bears S.53°35'28"E. 278.19 feet to a point of non-tangency; (11) S.00°20'35"W. 10.63 feet to a point of non-tangent curvature; (12) southeasterly 64.07 feet along the arc of a 1,949.00-foot radius curve to the left; through a central angle of 01°53'00", the chord of which bears S.58°48'32"E. 64.06 feet to a point of non-tangency, which point is on the boundary line between Lindon City and Pleasant Grove City as shown on the P.G. Southwest Annexation Local Entity Plat, recorded on July 28, 1993 as Entry No. 50299 and Map No. 5102-63 in the office of the Utah County Surveyor; thence the following two (2) courses which are along said Local Entity Plat; (1) S.89°32'26"W. 61.01 feet (2) South 92.38 feet to the point of beginning. The above described parcel of land contains 182,407 square feet or 4.187 acre in area, more or less.

(Note: Rotate above bearings clockwise 00°00'13" to equal highway bearings.)

STATE OF) Pleasant Grove City
) ss.
COUNTY OF) By _____

On this _____ day of _____, in the year 20____, before me personally appeared _____, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me being duly sworn/affirmed, did say that he/she is the _____ of Pleasant Grove City and that said document was signed by him/her on behalf of said Pleasant Grove City by Authority of its _____.

Notary Public

RESOLUTION NO. 2021-031

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN THE CONTRACTOR’S AGREEMENT WITH INSITUFORM TECHNOLOGIES, LLC, FOR THE 900 EAST CULINARY WATER LINE LINING PROJECT (FY2022); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Pleasant Grove City is a political subdivision of the State of Utah (the “State”) and is duly organized and existing pursuant to the Constitution and laws of the State; and

WHEREAS, Insituform Technologies (“Contractor”) is a limited liability company licensed to do business in the State of Utah; and

WHEREAS, City intends to have work performed on the culinary water line on 900 East between 930 North and 1100 North, in Pleasant Grove, Utah County, Utah; and

WHEREAS, the City would like to rehabilitate the potable water pipeline in this area of the City; and

WHEREAS, Contractor is a sole source provider for the lining technology to be employed; and

WHEREAS, the City would like to enter into an agreement in the amount of the amount of \$75,000.00 and sign the notice to proceed.

NOW, THEREFORE, be it resolved by the Pleasant Grove City Council as follows:

SECTION 1

The Mayor of Pleasant Grove City is hereby authorized to sign the Contractor’s Agreement in the amount \$75,000.00 with Insituform Technologies, LLC which is attached hereto and incorporated herein as Exhibit “A.”

SECTION 2

This resolution is effective immediately.

THIS RESOLUTION APPROVED AND ADOPTED this 6th day of July, 2021 by the City Council of Pleasant Grove City, Utah.

Guy L. Fugal, Mayor

ATTEST:

(SEAL)

Kathy T. Kresser, MMC
City Recorder

Motion: Council Member _____

Second: Council Member _____

<u>ROLL CALL</u>	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>
Mayor Guy L. Fugal	_____	_____	_____
Dianna Andersen	_____	_____	_____
Brent Bullock	_____	_____	_____
Eric Jensen	_____	_____	_____
Cyd LeMone	_____	_____	_____
Todd Williams	_____	_____	_____

**Pleasant Grove City
Public Works & Engineering
Contract Agreement
900 East Culinary Water Line Lining (FY22)**

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____, hereinafter called
(Corporation, Partnership, or Individual)
Principal, and

(Name of Surety)

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

(Name of Owner)

(Address of Owner)

hereinafter called OWNER, in the penal sum of _____

_____ Dollars (\$_____) in lawful money of the
United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns,
jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with
the OWNER, dated the ___ day of _____, 20____, a copy of which is hereto attached and made a part
hereof for the construction of:

NOW, THEREFORE if the Principal shall well, truly and faithfully perform its duties, all the undertakings,
covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions
thereof which may be granted by the OWNER, with or without notice to the Surety and during the one year guaranty
period, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and
save harmless the OWNER from all costs and damages which it may suffer by reason of failure to do so, and shall
reimburse and repay the OWNER all outlay and expense which the OWNER may incur in making good any default,
then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of UTAH CODE ANNOTATED
SECTION 63G-6-505, as amended, and all liabilities on this bond shall be determined in accordance with said
provisions to the extent as if it was copied at length herein.

PROVIDED FURTHER, that the said Surety for value received hereby stipulates and agrees that no change,
extension of time, alteration or addition to the terms of the contract or to the WORK to be performed thereunder or

in the SPECIFICATIONS accompanying the same shall in any wise affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the SPECIFICATIONS.

PROVIDED FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in _____ counterparts, each one of which shall be deemed an original, this the _____ day of _____, 20____.

ATTEST:

_____	_____
Principal Secretary	Principal
(Seal)	By _____
_____	_____
Witness as to Principal	Address
_____	_____
Address	Surety

ATTEST:

_____	By _____
Witness as to Surety	Attorney in Fact
_____	_____
Address	Address
_____	_____

Note: Date of BOND must not be prior to date of Contract If CONTRACTOR is Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the PROJECT is located.

CONTRACTOR'S AGREEMENT

PROJECT: 900 East Culinary Line Lining (FY22)

CONTRACTOR'S AGREEMENT, made and entered into this ____ day of _____, 20____, by and between PLEASANT GROVE CITY, hereinafter referred to as "CITY", and Insituform Technologies, LLC, incorporated in the State of _____ and authorized to do business in the State of Utah, hereinafter referred to as "Contractor", whose address is _____.

WITNESSETH:

WHEREAS, CITY intends to have Work performed on 900 East between 930 North and 1100 North, Pleasant Grove, UT; and

WHEREAS, Contractor agrees to perform the work as stated herein.

NOW, THEREFORE, CITY and Contractor for the consideration provided in this Contractor's Agreement, agree as follows:

ARTICLE 1. GENERAL CONDITIONS. All general conditions set forth in the Standard General Conditions of the Construction Contract prepared by the EJCDC dated 2013 shall govern this contract . The EJCDC documents can be provided upon request.

ARTICLE 2. SCOPE OF WORK. The Work to be performed shall be in accordance with this document prepared by Pleasant Grove City and entitled "900 East Culinary Water Line Lining (FY22)."

Insituform Technologies, in conjunction with their excavation subcontractor, will be providing all services required to complete the rehabilitation of the potable water pipeline as discussed in the proposal. The responsibility matrix is standard language from the Contractors proposals for the work that they typically perform. Any excavation, bypass, pipe mechanical work, site restoration, etc. will be handled by the Contractor. The Contractor Agrees to furnish labor, materials, and equipment to complete the Work as required for this project which are hereby incorporated by reference. It is understood and agreed by the parties hereto that all Work shall be performed as required in this document and shall be subject to inspection and approval of CITY or its authorized representative. The relationship of the Contractor to the CITY hereunder is that of an independent Contractor. Insituform Technologies will apply InsituMain CIPP with iTap on 900 East between 930 North and 1100 North. All additional work needed to complete the project can be found in the proposal.

ARTICLE 3. CONTRACT SUM. The CITY agrees to pay, and the Contractor agrees to accept in full performance of this Contractor's Agreement, the sum of seventy-five thousand DOLLARS AND NO CENTS (\$75,000.00). Payment to be made as follows: \$37,500.00 upon completion

and acceptance by City of the lining project and \$37,500.00 upon final completion and City acceptance of the entire project.

ARTICLE 4. TIME OF COMPLETION AND DELAY REMEDY. The Work shall be Substantially Complete within 84 calendar days after the date of the Notice to Proceed. Contractor agrees to pay liquidated damages in the amount of \$100.00 per day for each day after expiration of the Contract Time until the Contractor achieves Substantial Completion in accordance with the Contract Documents if Contractor's delay makes the damages applicable. The provision for liquidated damages is: (a) to compensate the City for delay only; (b) is provided for herein because actual damages cannot be readily ascertained at the time of execution of this Contractor's Agreement; (c) is not a penalty; and (d) shall not prevent the CITY from maintaining Claims for other non-delay damages, such as costs to complete or remedy defective Work.

No action shall be maintained by the Contractor, including its or Subcontractor or suppliers at any tier, against the CITY for damages or other claims due to losses attributable to hindrances or delays from any cause whatsoever, including acts and omissions of the CITY or its officers, employees or agents, except as expressly provided in the General Conditions. The Contractor may receive a written extension of time, signed by the CITY, in which to complete the Work under this Contractor's Agreement.

ARTICLE 5. ADDITIONAL WORK. It is understood and agreed by the parties hereto that no money will be paid to the Contractor for additional labor or materials furnished unless a CHANGE ORDER has been for such additional labor or materials has been approved in writing and executed. The CITY specifically reserves the right to modify or amend this Contractor's Agreement and the total sum due hereunder either by enlarging or restricting the scope of the Work.

ARTICLE 6. INSPECTIONS. The Work shall be inspected for acceptance in accordance with the General Conditions.

ARTICLE 7. GUARANTEE OF PERFORMANCE AND WORKMANSHIP. Contractor guarantees the workmanship of the services and the product installed for a period of three (3) years from the date of final acceptance from City.

7.1 WARRANTY. Contractor warrants to the City that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents.

ARTICLE 8. PROTECTION OF PERSONS AND PROPERTY. Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the work site(s), and materials and equipment to be incorporated into the Work, and other property at the site or

adjacent thereto. Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

ARTICLE 9. OTHER MATTERS.

(a). Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

(b). Amendment. This Agreement shall be amended only in writing signed by the City.

(c). Entire Agreement. City agrees that this Agreement states the entire agreement between the parties and that no promises, representations or agreements other than those herein contained have been made or relied upon.

(d). No Waiver. No waiver hereunder shall be binding unless executed in writing by the party making the waiver.

(e). Attorneys' Fees. If any action is brought by either party on account of any breach of or to enforce or interpret any of the provisions of this Agreement, or if either party incurs attorneys' fees on account of any breach of any of the provisions of this Agreement, the party prevailing or successfully enforcing its rights hereunder shall be entitled to recover from the other party all costs and expenses, including attorneys' fees, reasonably incurred in connection therewith.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date first above written.

CITY:

PLEASANT GROVE CITY,

Guy Fugal, Mayor

ATTEST:

Kathy T. Kresser, City Recorder

CONTRACTOR

Company Name: Insituform Technologies, LLC

By: _____

Title: _____

NOTICE TO PROCEED

To:

Date: _____

You are hereby notified to commence work in accordance with the Agreement dated _____, 2021, on or before _____, 2021, and you are to be **substantially complete by _____, 2021** with **final completion by _____, 2021**.

Guy Fugal, Mayor

Attest: _____
Kathy T. Kresser, City Recorder

ACCEPTANCE OF NOTICE
Receipt of the above NOTICE OF
AWARD is hereby acknowledged

this the _____ day of _____, 2021.

By _____

Title _____

CONTRACT CHANGE ORDER

Project: Pleasant Grove City – 900 East Culinary Water Line Lining (FY22) Date: _____

Location: Pleasant Grove City

Change Order No.:

To:

You are hereby requested to comply with the following changes from the contract plans and specifications:

Item No.	Description of Changes, Quantities, Units, Unit Prices, Change in Completion Schedule, etc.	Decrease In Contract Price	Increase In Contract Price
	Change in contract price due to this Change Order:		
	Total Decrease		
	Total Increase		
	Difference between Col. 3 & 4		
	Net (increase) (decrease)		

The sum of \$ _____ is hereby added to (deducted from), the total contract price and the total adjusted contract price to date thereby is \$ _____.

The time provided for completion in the contract is unchanged, increased (decreased) by ____ calendar days. This Document shall become an amendment to the contract & all provisions of the contract will apply hereto.

Accepted by:

Contractor
Date

Recommended by:

Project Engineer
Date

Approved by:

Owner	Date
-------	------

Proposal

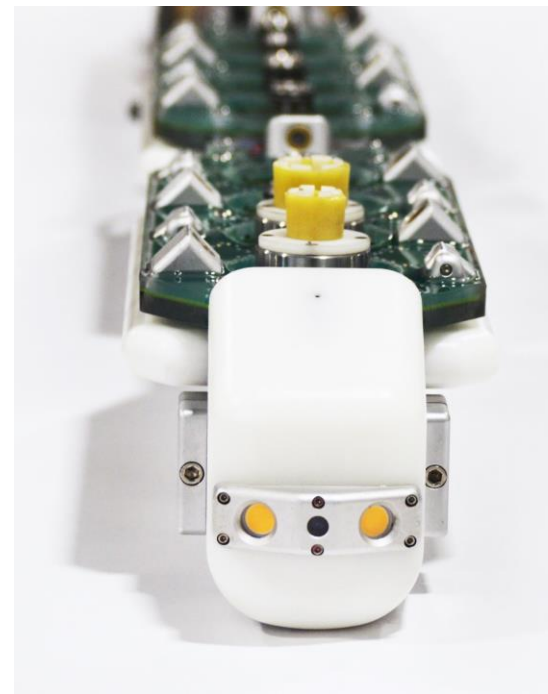
Supply and Installation of the InsituMain[®] CIPP and iTap[®] System

Prepared for:

Marty Beaumont, P.E., Public Works Director – Pleasant Grove City

Prepared by:

Brad Conder, P.E. – Insituform Technologies, LLC



May 4, 2021

Marty Beaumont, P.E.
Public Works Director
Pleasant Grove City
323 West 700 South | Pleasant Grove | UT | 84062

Re: Proposal for iTap® Service Connection Reinstatement Demonstration Project

Dear Marty:

Insituform Technologies, LLC (ITL) herein proposes to furnish pricing for the labor, materials, equipment, and services set forth below for the referenced project. The following prices should be considered confidential:

ITEM	DESCRIPTION	QTY	UNIT OF MEASURE	UNIT PRICE	TOTAL
1	600 LF of 8" InsituMain CIPP® with iTap® Demonstration (QTY 10)	1	LS	\$ 75,000.00	\$ 75,000.00
				Total	\$ 75,000.00

Estimated Schedule:

Based on the information provided, current workload, and current lead-times, please consider the following high-level schedule.

- Lead time for manufactured materials: 4-6 weeks, after measurement of host pipe ID
- Mobilization of personnel and equipment: 1-2 weeks
- Installation of InsituMain CIPP® and iTap®: 1-2 weeks
- Chlorination, Bac-T and Final Tie-Ins: 1-2 weeks

Access pit excavation, culinary bypass, chlorination and Bac-T, fire hydrant removal and replacement, final tie-ins and restoration activities are all included in the pricing and schedule duration shown above and will be completed by subcontractors to ITL. Refer to the Responsibility Matrix for a detailed list of inclusions and exclusions.

This proposal pricing is based on the available information at the time of preparation of this budget.

Prices are subject to adjustment depending on final pipe layout and configuration, site access, pre-installation CCTV, or additional project information provided to ITL.

Please let us know if you have any questions. We appreciate the opportunity to provide this proposal.

Best Regards,



Brad Conder, P.E.
Insituform Technologies, LLC
933 Bending River Road | Salt Lake City | UT | 84062
801-472-8472 | bconder@aegion.com

SECTION 1: Responsibility Matrix

ITEM	MATERIALS	RESPONSIBLE	
		ITL	OTHERS
1	Host pipe(s)		X
2	Valves, tees, reducers, hydrants, point repairs, leak repairs, and pipe fittings		X
3	InsituMain® CIPP lining with thermoset resin system; NSF/ANSI Standard 61 (if required)	X	
4	Fiber-Reinforced Polymer (FRP) spool termination pieces (if required)	X	
5	Internal seals (i.e. WEKO-SEAL®, Trelleborg seals) (if required)	X	
6	Restrained MJ MEGALUGS®, sleeves with all-thread rods, and closure pipe spool (see attached detail)		X
7	Fittings, material, equipment for pressure testing	X	
8	Stated Internal Reinstatement service connection fittings	X	
9	Stated External Reinstatement service connection fittings (if required)		X
ITEM	SERVICES	ITL	OTHERS
1	Construction and maintenance of ROW, staging areas, and installation/access points		X
2	Excavation of three (3) open pits for CIPP entry/exit, appurtenance removal and connection access		X
3	OSHA approved shoring/shielding and excavation maintenance		X
4	Remove section of host pipe in all inversion/tail pit locations, remove required appurtenances		X
5	Bypass system set-up, disinfection and operation and maintenance for existing pipeline		X
6	Dewatering of groundwater for all open excavations (if required)		X
7	Dust control (if required)		X
8	Traffic control (if required)		X
9	Dewatering of pipeline for cleaning and installation with limited/process acceptable water infiltration		X
10	Remove any bends, valves, hydrants, connections, pipe fittings or pipe deformations that are unacceptable obstructions to CIPP installation into host pipe		X
11	Excavation, point repairs, or other extraordinary remedy, to prepare host pipe for installation of CIPP		X
12	Process water to each inversion site, including fees, deposits, and charges.		X
13	Point repairs, if required prior to lining		X
14	Mobilization and demobilization one (1) time to and from jobsite	X	
15	Pre-installation CCTV and confirming measurement of existing host pipe	X	
16	Pre-installation cleaning (up to 3 passes). Loose debris and “normal” deposits only.	X	
17	Additional cleaning and CCTV mobilizations and/or setups		X
18	Disposal of material/deposits from pre-installation cleaning with all applicable permits		X
19	Installation of CIPP lining per ASTM F1216 and/or ASTM F1743, including FRP closure end spool pieces or Hymax fittings (if required) and internal seals	X	
20	Internal mechanical reinstatement of service connections	X	
21	External reinstatement of service connections, if internal reinstatement cannot be completed		X
22	Treatment or special disposal of water from cleaning or installation of CIPP lining, including permits		X
23	Post-installation CCTV to document pipe rehabilitated by CIPP	X	
24	Post-installation pressure test of CIPP lined host pipe, prior to re-establishing user connections (if required).	X	
25	Bolt-up of lined/unlined host pipe sections to closure pipe spool (see attached detail)		X
26	Disinfection/ chlorination (if required)		X
27	Backfill and compaction of all open pits for pipe access, including all required testing		X
28	Surface restoration and reseeded of disturbed areas		X
29	Removal and disposal of any hazardous or toxic materials (if encountered), including permits		X
ITEM	OTHER	ITL	OTHERS
1	All required permitting and/or local licensing		X
2	Additional premiums for special insurance coverage(s) demanded by Owner/GC or others		X
3	Stand-by time for any delay or shut down due to Owner/GC or other parties particular to project		X
4	Toilet Facilities		X
5	Extraordinary or special training		X
6	Standard one-year construction warranty for CIPP lining	X	
7	Confined space safe entry practices	X	

SECTION 2: Clarifications

- InsituMain® CIPP for this project is rated to accommodate 120 psi operating pressure and 160 psi test pressure. Pressure tests will be performed on each section lined for the quality assurance testing. Pit closure piping will be tested by others (if required) or inspected during closure for QA verification.
- CIPP materials can be manufactured/ordered only after host pipes measurements are obtained. This requires access to the host pipes as described above in the Responsibility Matrix.
- Pressure testing is performed prior to the installation or reconnection of service connections, fittings, valves, end spool pieces, etc.
- Existing pipe deterioration in excess of the conditions assumed, or other unknown loads or conditions, may increase the recommended wall thickness for CIPP lining and change the pricing and schedule shown above.
- If preliminary CCTV indicates previously unknown extraordinary conditions in the host pipe, this will be treated as a changed condition and the previously agreed upon scope of work and pricing may be subject to adjustment if design changes are agreed upon.
- If approved ITL project schedule is delayed due to unspecified pipe preparation or obstruction removals, or delays due to Owner or other parties particular to project, the project scope and pricing may be subject to modification.
- A 2-inch approved water source with a 2-inch shut off valve with at least 50 psi of pressure, a 2-inch male cam lock and a valve is required at the defined pit locations. Insituform will follow all required backflow prevention and metering procedures. If no hydrant is available, Owner shall be responsible for providing water onsite at each installation location with appropriate pressure and flow to not hinder production.
- Disposal facilities for debris provided by others.
- Assume InsituMain CIPP® and iTap® installation in dry weather.
- Driving access to installation/cleaning points shall be provided by Owner for 53' Reefer Truck and installation equipment.
- One mobilization and demobilization (as described in Responsibility Matrix) - based on a mutually agreeable schedule between ITL and the Owner. The Owner will provide ITL at least one-week advance notice of any changes to the mutually agreed upon schedule. If through no fault of ITL the mutually agreed upon schedule changes with less than one-week notice then ITL may charge the Owner an additional mobilization charge and any potential lost materials including but not limited to tube already "wetout".
- Certificate of insurance with standard coverage provided by others.
- Any restrictions on regular working hours may impact the price.
- ITL is not a union shop and shall not be subject to any union requirements or project labor agreements.
- Materials are assumed to be tax exempt.

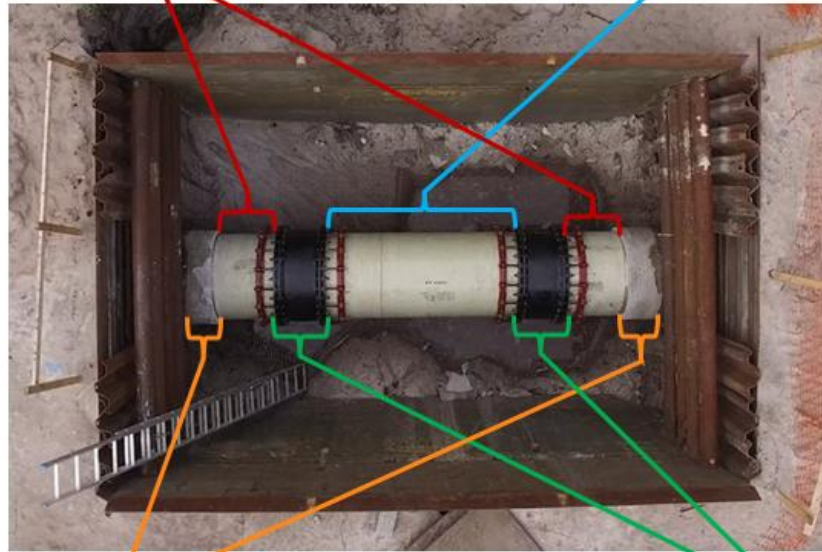
This preliminary budget estimate is subject to the Terms and Conditions at www.aegion.com/INSPPTerms, which form an integral part of this estimate.

SECTION 3: Details & Schematics

End Termination Detail Options- FRP or Hymax

**FRP Termination
Piece**

**Closure Spool
Piece**



Host Pipe

**Mechanical Joint
with MEGALUG**



Hymax

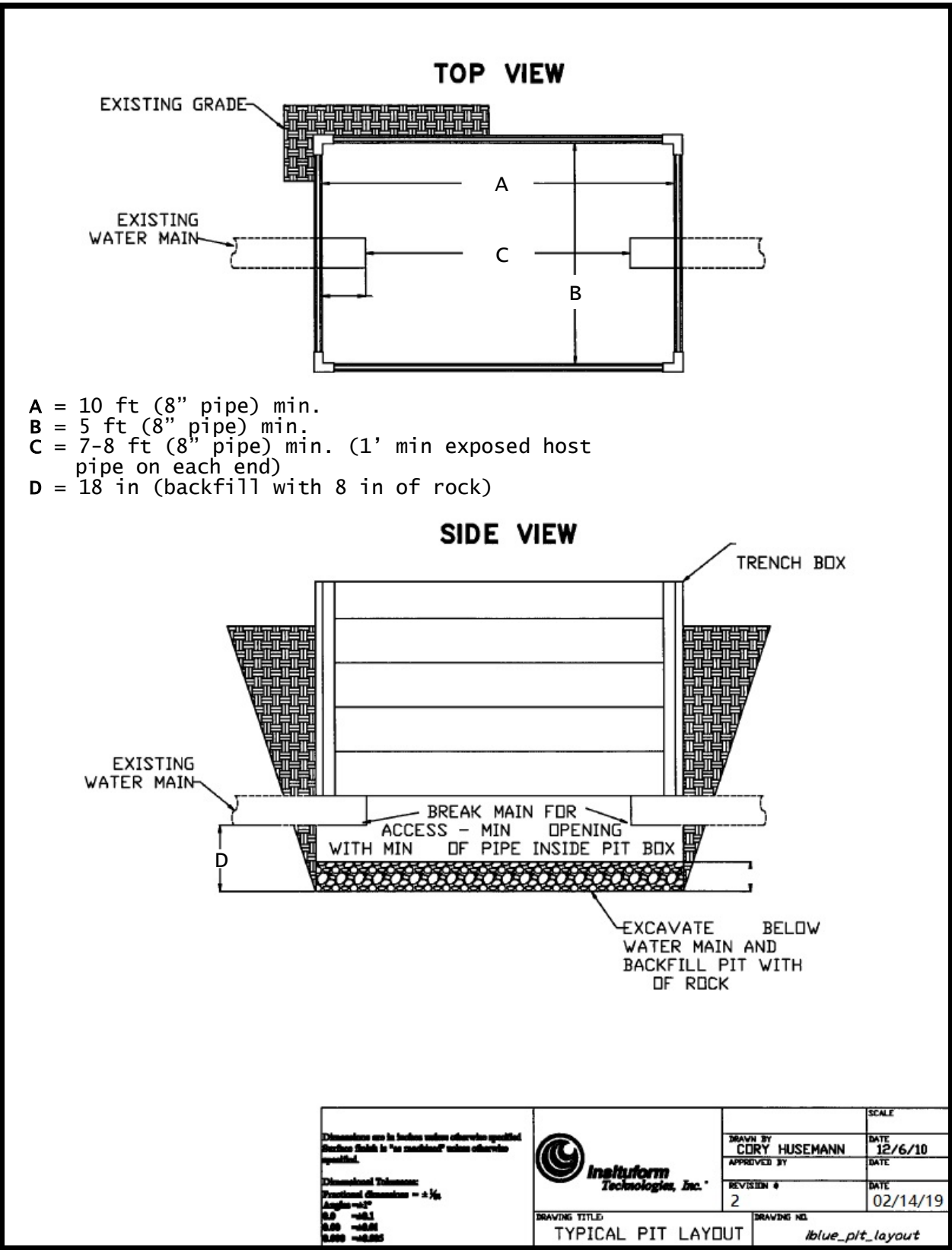
Host Pipe



**Cured
CIPP Liner**

ZERO RELIANCE ON HOST PIPE FOR CLOSURE

Excavation Pit Dimensions (Dimensions Will Change with Pipe Size)



Pressure Testing



**ASTM
F1216-16**



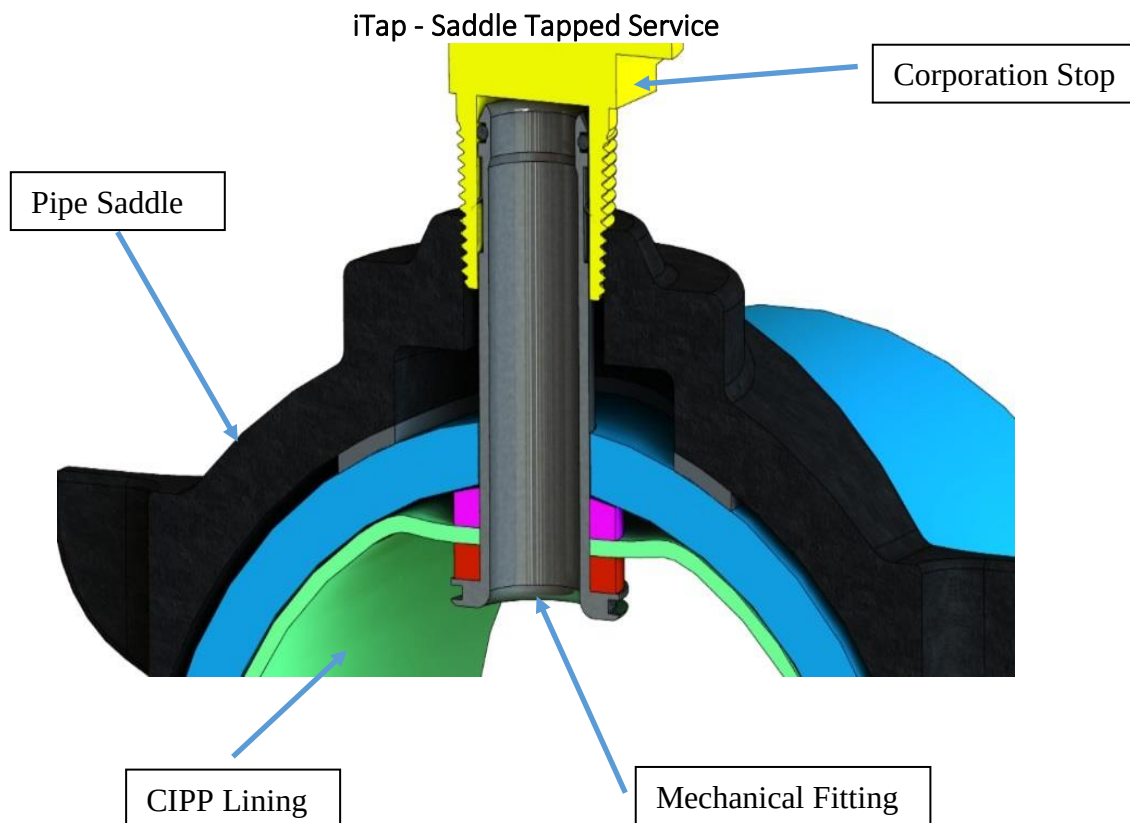
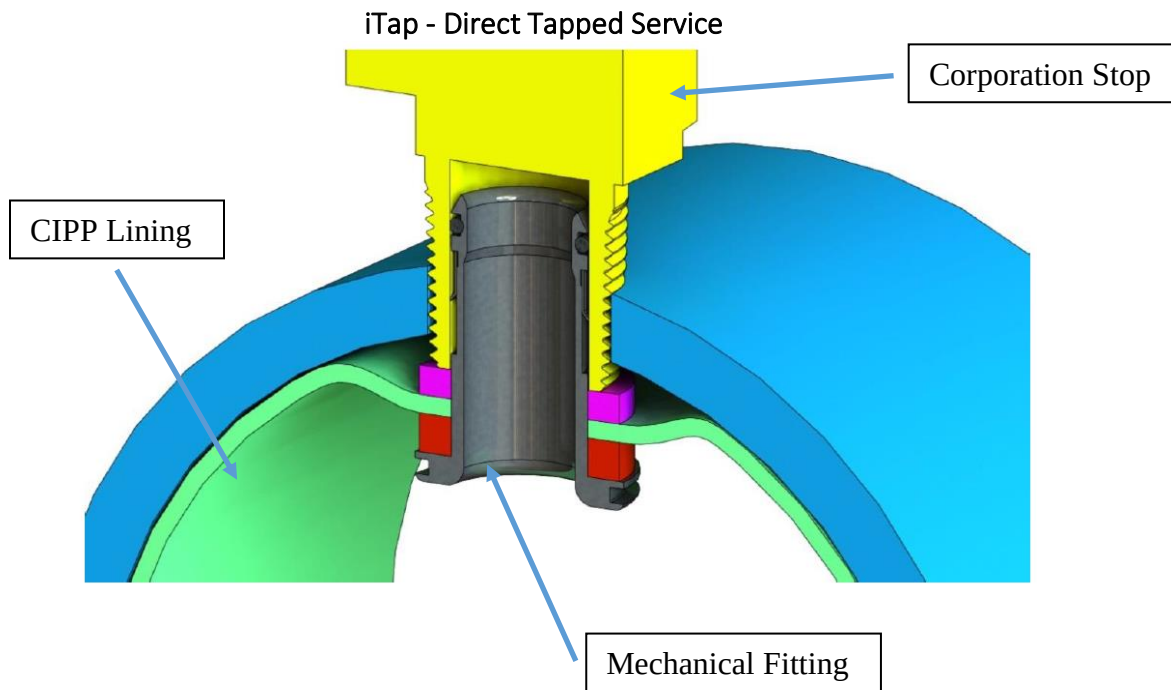
...recommended pressure and leakage test would be at twice the known working pressure or at the working pressure plus 50 psi, whichever is less.



PRESSURE TESTING FOR WATER-TIGHTNESS

- Pressure testing for water-tightness shall be provided on all CIPP sections identified by the Owner in the contract documents or purchase order, and shall be completed after inspection but before the reinstatement of service connections.
- Perform hydrostatic pressure test on the lined water main, following the methods of ASTM F1216, Section 8.3.
- As noted in ASTM F1216, the allowable leakage during the pressure test shall be 20 U.S. gallons per inch of internal pipe diameter per mile of pipe per day (GIDMD), providing that all the air has been evacuated from the line prior to testing and the structural pipe lining system has cooled down to ambient temperature.
- After the two-hour test, the quantified make up water shall be extrapolated to the 24-hour rate for comparison purposes. Any visible leakage at termination points shall be eliminated. If not feasible or possible at the time of the test, the termination point leakage shall be kept to a minimum, collected and then deducted from the actual make up water rate. If the loss at test pressure exceeds the allowable, the Contractor shall endeavor to identify the source of the loss and minimize it in a manner acceptable to the Owner. Trapped air can significantly affect internal pressure and may require extensive continued testing until stabilization occurs. The pressure test for water tightness shall be deemed acceptable if that actually measured during the two-hour test (which has been extrapolated to a 24-hour day rate) is equal to or less than the allowable make up water rate of 20 GIDMD.

Internal Reinstatement of Service Connections – iTap System



SECTION 4: About the Company

COMPANY INTRODUCTION

CIPP Linings are an excellent choice for rehabilitating or replacing pipeline assets that have experienced internal or external corrosion. With comprehensive quality control measures (ISO) and proven installation procedures, Insituform Technologies offers an engineered product that provides a new pipe-within-a-pipe without a large amount of excavation. Along with our trusted partners we can provide turn-key pressure pipeline rehabilitation services including: CIPP lining installation, excavation, bypass, environmental survey, cleaning, CCTV investigation, and traffic control.

Insituform Technologies is a specialized engineer, manufacturer, and contractor dedicated solely to the design, supply, and installation of our InsituMain® lining systems. Our global team of specialists consists of over 5,000 employees operating from our strategically located global offices.

In 1971, Insituform Technologies developed and installed the first CIPP lining system. Since then, we have successfully installed over 30 million miles worldwide – many of which involving pressurized pipelines. In every project, we will leverage our unparalleled experience to ensure a successful project.

SAFETY & QUALITY

Aegion Corporation is the parent company for Insituform Technologies. All Aegion companies strive to provide consistent safety and quality throughout all aspects of business.

Safety

From the corporate office to the field crews, safety is a cornerstone of the Aegion business plan. One of our five core values, ZERO INCIDENTS ARE POSSIBLE, embodies this effort. We dedicate substantial time and resources into the training that is necessary to complete your project without incident. Crew members from all Aegion companies complete extensive safety training and follow a site-specific safety plan. A large network of safety support individuals, including top management, focuses on company-wide safety improvements and procedures.

Our manufacturing and installation processes have been developed to achieve peak product performance and ensure safety. This promotes a foundation for safety that is at the root of the Aegion culture.

Quality

Another Aegion value states BE BETTER. We never settle for the status quo and strive each day to do better and to be better. This not only means satisfying our customers' requirements today, but continuously improving the technology and materials for all products and services across our business segments.

Insituform Technologies is ISO 9001 certified for manufacturing and installation. This means we have in place documented management systems focused on fulfilling customer quality requirements, complying with regulatory requirements, enhancing customer satisfaction and achieving continual improvement. These standards include design, manufacturing and various installation services.

SELECT MUNICIPAL EXPERIENCE

Insituform Technologies has been installing cured-in-place pipe for over 45 years. We have rehabilitated more than 1 million linear feet of pressure pipe and have installed the InsituMain® system in more than 150,000 linear feet of pipelines from 24- to 48-inches in diameter.

AEGION CORPORATION

Aegion Corporation is the parent company for Aegion Coating Services, AllSafe Services, Brinderson, Corrpro Companies, Fibrwrap Construction Services, Fyfe Co., Insituform Technologies, MTC, Schultz, Underground Solutions and United Pipeline Systems. Aegion's companies are global leaders in infrastructure protection and provide proprietary technologies and services for the corrosion protection of industrial pipelines and for rehabilitating and strengthening sewer, water, energy and mining piping systems, buildings, bridges and tunnels and waterfront structures.

The Aegion family includes some of the world's leading infrastructure protection and shielding companies serving the Municipal, Federal, Industrial, Mining, and Energy industries throughout the world.

www.aegion.com (NASDAQ – AEGN)

SECTION 5: Installation Steps & Project Profiles

The InsituMain® System Installation



Step 1:

If required, setup bypass and excavate pits to provide access to the existing water pipeline. Clean the pipeline and inspect using closed circuit TV (CCTV).



Step 2:

Using the iTAP® robotic system, plug the individual service connections to prevent resin migration during cure.



Step 3:

Install the InsituMain® system liner into the host pipe using water pressure. After curing with hot water, the pipe is cooled and the ends are cut.



Step 4:

Following hydrostatic pressure testing, the iTAP® robotic system is used to reinstate service connections. Post-installation CCTV inspections are also completed.



Step 5:

Disinfect the new water pipeline. Reconnect lined sections to the existing system using standard pipe fittings. Finally, restore excavation pits and remove temporary bypass.

July 2021

June '21							August '21						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
		1	2	3	4	5	1	2	3	4	5	6	7
6	7	8	9	10	11	12	8	9	10	11	12	13	14
13	14	15	16	17	18	19	15	16	17	18	19	20	21
20	21	22	23	24	25	26	22	23	24	25	26	27	28
27	28	29	30				29	30	31				

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
27	28	29	30	1	2	3 Fireworks at Discovery Park at dusk
4  Wishing you a great Fourth of July!	5 4th of July Holiday City offices are closed	6 City Council Meeting Work Session 4:30 Council Meeting 6 pm	7	8 Planning Commission 7 pm	9	10
11	12	13	14	15	16	17
18	19	20 City Council Meeting Work Session 4:30 Council Meeting 6 pm	21	22 Planning Commission 7 pm	23 Pioneer Day Holiday City Offices are closed	24 
25	26	27	28	29	30	31
1	2	Notes				

Only unpaid invoices included.

LEGAL SERVICES

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
10-44-210 MEETINGS & MEMBERSHIPS							
4134	IMLA	20048210	LEGAL/MEMBERSHIP FEES	07/01/2021	625.00	.00	
10-44-220 PUBLICATION EXPENSE							
5091	MATTHEW BENDER & CO	25652966	LEGAL/UT CODE 2021 CITATOR	06/10/2021	171.10	.00	
5091	MATTHEW BENDER & CO	25652974	LEGAL/UT COURT RULES ANNO 20	06/10/2021	172.26	.00	
Total LEGAL SERVICES:					968.36	.00	
ADMINISTRATIVE SERVICES							
10-46-240 OFFICE EXPENSE							
5730	OFFICE DEPOT, INC.	179366904001	ADM/OFFICE SUPPLIES	06/22/2021	32.36	.00	
5730	OFFICE DEPOT, INC.	179368238001	ADM/OFFICE SUPPLIES	06/22/2021	9.93	.00	
7450	SHRED-IT USA LLC	8182249145	ADM/SHREDDING OF DOCUMENTS	06/22/2021	75.25	.00	
10-46-335 DOCUMENT STORAGE							
6806	RECSAFE, LLC	3004	ADM/STORAGE CHARGES	04/01/2021	80.00	.00	
6806	RECSAFE, LLC	3005	ADM/STORAGE CHARGES	05/01/2021	95.00	.00	
6806	RECSAFE, LLC	3006	ADM/STORAGE CHARGES	06/01/2021	80.00	.00	
6806	RECSAFE, LLC	3007	ADM/STORAGE CHARGES	07/01/2021	80.00	.00	
10-46-610 MISCELLANEOUS EXPENSE							
5033	MACEYS	04-1255441	ADM/SUPPLIES	06/19/2021	30.97	.00	
10-46-930 COMMUNITIES THAT CARE GRANT							
3571	GURR'S COPYTEC	49552	CTC/COLOR COPIES	06/18/2021	1,092.60	.00	
3571	GURR'S COPYTEC	49611	CTC/COLOR COPIES	06/18/2021	136.67	.00	
5033	MACEYS	01-1934626	CTC/SUPPLIES	06/21/2021	32.07	.00	
5033	MACEYS	03-1546784	CTC/SUPPLIES	06/14/2021	28.84	.00	
5033	MACEYS	03-1548017	CTC/SUPPLIES	06/16/2021	30.33	.00	
5033	MACEYS	05-1324568	CTC/SUPPLIES	06/18/2021	33.52	.00	
5033	MACEYS	82-155050	CTC/SUPPLIES	06/19/2021	29.90	.00	
8056	SUNDRY STREET LLC	06182020	CTC/MARKETING SERVICES	06/18/2020	520.00	.00	
Total ADMINISTRATIVE SERVICES:					2,387.44	.00	
FACILITIES							
10-47-530 CITY HALL - BLDG MAINTENANCE							
8678	UNIFIRST CORPORATIO	06212021	MULTI DEPT/ RUG CLEANING	06/21/2021	138.92	.00	
10-47-560 PARKS - BUILDING MAINTENANCE							
970	BJ PLUMBING SUPPLY	917739	BUILDING MAINTENANCE	06/16/2021	31.34	.00	
970	BJ PLUMBING SUPPLY	920066	BUILDING MAINTENANCE	06/29/2021	4.74	.00	
1905	COMCAST	7448545.001	BUILDING MAINTENANCE	06/15/2021	30.07	.00	
10-47-610 POLICE - POWER							
7062	ROCKY MOUNTAIN POW	06152021	PD/ELECTRICITY EXPENSE	06/15/2021	2,095.17	.00	
10-47-660 FIRE/AMBULANCE - BLDG MAINT							
8678	UNIFIRST CORPORATIO	06212021	MULTI DEPT/ RUG CLEANING	06/21/2021	275.98	.00	
10-47-670 FIRE/AMBULANCE - BLDG IMPROVE							
8678	UNIFIRST CORPORATIO	06212021	MULTI DEPT/ RUG CLEANING	06/21/2021	174.56	.00	
10-47-700 CEMETERY BLDG - BLDG MAINT							
8678	UNIFIRST CORPORATIO	06212021	MULTI DEPT/ RUG CLEANING	06/21/2021	83.32	.00	
10-47-730 LIBRARY/SENIOR - BLDG MAINT							
8678	UNIFIRST CORPORATIO	06212021	MULTI DEPT/ RUG CLEANING	06/21/2021	73.24	.00	
10-47-780 PUBLIC WORKS - BLDG MAINT							
970	BJ PLUMBING SUPPLY	916640	BUILDING MAINTENANCE	06/10/2021	186.47	.00	
10-47-830 SR CENTER - BLDG MAINT							
8678	UNIFIRST CORPORATIO	06212021	MULTI DEPT/ RUG CLEANING	06/21/2021	63.60	.00	
Total FACILITIES:					3,157.41	.00	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
ENGINEERING							
10-51-285 CELLULAR SERVICES							
625	AT&T MOBILITY	05282021	MULTI DEPT/CELL PHONE EXPENS	05/28/2021	26.74	.00	
625	AT&T MOBILITY	05282021	MULTI DEPT/CELL PHONE EXPENS	05/28/2021	49.42	.00	
10-51-610 MISCELLANEOUS EXPENSE							
5033	MACEYS	81-1029155	COM DEV/WATER	06/21/2021	5.98	.00	
10-51-760 TECHNOLOGY							
7070	ROCK MOUNTAIN TECHN	3552	PUBLIC WORKS WI FI UPGRADE	07/01/2021	987.37	.00	
7070	ROCK MOUNTAIN TECHN	3553	PUBLIC WORKS WI FI UPGRADE	06/30/2021	131.00	.00	
Total ENGINEERING:					1,200.51	.00	
COMMUNITY DEVELOPMENT							
10-52-760 TECHNOLOGY							
2734	ENVIRONMENTAL SYSTE	94058920	MULTI DEPT/MAINTENANCE FEE	06/17/2021	603.00	.00	
Total COMMUNITY DEVELOPMENT:					603.00	.00	
POLICE DEPARTMENT							
10-54-250 VEHICLE EXPENSE							
3468	GREASE MONKEY #790	256307	PD/VEHICLE MAINTENANCE	06/10/2021	81.45	.00	
3468	GREASE MONKEY #790	256433	PD/VEHICLE MAINTENANCE	06/12/2021	116.55	.00	
3468	GREASE MONKEY #790	256773	PD/VEHICLE MAINTENANCE	06/21/2021	99.44	.00	
3468	GREASE MONKEY #790	256788	PD/VEHICLE MAINTENANCE	06/21/2021	81.45	.00	
3720	HARLEY-DAVIDSON OF	189199	PD/MOTORCYCLE REPAIR	06/10/2021	103.88	.00	
4421	JUST 4 FUN MOTORSP0	2837	PD/VEHICLE EXPENSE	04/26/2021	153.00	.00	
10-54-440 K9 SUPPLIES							
8394	TIMPANOGOS ANIMAL H	913754117	PD/CANINE EXAM	06/28/2021	87.54	.00	
10-54-450 RADIO SERVICE							
3440	GRAPHIK DISPLAY AND S	17810	PD/LETTERING AND FLAG	06/15/2021	1,695.00	.00	
7070	ROCK MOUNTAIN TECHN	3595	PD/EQUIPMENT	07/01/2021	2,615.63	.00	
10-54-760 TECHNOLOGY							
5441	MOTOROLA SOLUTIONS,	8230276898	PD/ANNUAL MAINTENANCE	07/02/2020	30,385.98	.00	
5441	MOTOROLA SOLUTIONS,	8230323954	PD/2020 CAD CREDIT	05/07/2021	12,766.59-	.00	
10-54-921 VOCA GRANT							
7070	ROCK MOUNTAIN TECHN	3551	PD/EQUIPMENT	06/30/2021	2,011.22	.00	
Total POLICE DEPARTMENT:					24,664.55	.00	
FIRE DEPARTMENT							
10-55-250 VEHICLE EXPENSE							
675	AUTO ZONE STORES, IN	6231708648-2	FIRE/OLD JOE EXPENSE	06/03/2021	3.71	.00	
675	AUTO ZONE STORES, IN	6231712660-2	FIRE/VEHICLE MAINTENANCE	06/08/2021	35.26	.00	
675	AUTO ZONE STORES, IN	861483471-2	FIRE/OLD JOE EXPENSE	06/10/2021	24.64	.00	
7122	R.P.M. AUTO PARTS	241950	FIRE/OLD JOE EXPENSE	06/02/2021	83.84	.00	
10-55-480 DEPARTMENTAL SUPPLIES							
3841	HENRY SCHEIN INC.	94579467	FIRE/MEDICAL SUPPLIES	06/04/2021	1,035.46	.00	
3841	HENRY SCHEIN INC.	94691132	FIRE/MEDICAL SUPPLIES	06/08/2021	17.38	.00	
Total FIRE DEPARTMENT:					1,200.29	.00	
ANIMAL CONTROL							
10-57-250 VEHICLE EXPENSE							
4421	JUST 4 FUN MOTORSP0	2692	ACO/VEHICLE EXPENSE	02/23/2021	3,630.52	.00	
5833	O'REILLY AUTOMOTIVE I	3623-386559	ACO/VEHICLE EXPENSE	06/18/2021	47.94	.00	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
Total ANIMAL CONTROL:					3,678.46	.00	
STREETS							
10-60-250 VEHICLE EXPENSE							
1920	COMMERCIAL TIRE INC.	17382	STR/VEHICLE EXPENSE	05/20/2021	122.95	.00	
10-60-278 STREET LIGHT MAINTENANCE							
972	BLACK & McDONALD	76-1204655	STR/LIGHT EXPENSE	06/17/2021	413.44	.00	
10-60-280 TELEPHONE EXPENSE							
1480	CENTRACOM INTERACTI	07012021	PUBLIC WORKS/PHONE EXPENSE	07/01/2021	290.39	.00	
10-60-285 CELLULAR SERVICES							
625	AT&T MOBILITY	05282021	MULTI DEPT/CELL PHONE EXPENS	05/28/2021	430.27	.00	
10-60-480 DEPARTMENTAL SUPPLIES							
2418	DESIGN SPECTRUM	7475	STR/DEPARTMENTAL SUPPLIES	06/21/2021	400.00	.00	
5833	O'REILLY AUTOMOTIVE I	3623-386456	STR/DEPARTMENTAL SUPPLIES	06/18/2021	3.99	.00	
7070	ROCK MOUNTAIN TECHN	3552	PUBLIC WORKS WI FI UPGRADE	07/01/2021	1,974.76	.00	
7070	ROCK MOUNTAIN TECHN	3553	PUBLIC WORKS WI FI UPGRADE	06/30/2021	262.00	.00	
10-60-740 EQUIPMENT							
974	BISCO	1645648	STR/DEPARTMENTAL SUPPLIES	06/23/2021	2,932.93	.00	
Total STREETS:					6,830.73	.00	
LIBRARY							
10-65-240 OFFICE EXPENSE							
307	AMAZON	06/05/2021	LIB/OFFICE SUPPLIES	06/05/2021	31.28	.00	
2122	CULLIGAN BOTTLED WA	465X16439400	LIB/BOTTLED WATER	05/31/2021	16.95	.00	
5730	OFFICE DEPOT, INC.	178423925001	LIB/OFFICE SUPPLIES	06/23/2021	54.89	.00	
8158	TECH LOGIC CORPORAT	15009519	LIB/SUPPLIES	06/10/2021	146.00	.00	
10-65-420 CHILDRENS PROGRAMING							
8075	SWANK MOTION PICTUR	3026511	LIB/SITE LICENSE	06/01/2021	714.00	.00	
10-65-480 BOOKS							
307	AMAZON	06/05/2021	LIB/BOOKS	06/05/2021	1,070.12	.00	
4159	INGRAM LIBRARY SERVI	53027194	LIB/BOOKS	05/20/2021	298.28	.00	
4159	INGRAM LIBRARY SERVI	53055835	LIB/BOOKS	05/23/2021	179.13	.00	
4159	INGRAM LIBRARY SERVI	53074418	LIB/BOOKS	05/24/2021	190.86	.00	
4159	INGRAM LIBRARY SERVI	53161595	LIB/BOOKS	05/28/2021	296.80	.00	
4159	INGRAM LIBRARY SERVI	53185467	LIB/BOOKS	06/01/2021	304.76	.00	
4159	INGRAM LIBRARY SERVI	53185468	LIB/BOOKS	06/01/2021	904.93	.00	
4159	INGRAM LIBRARY SERVI	53217458	LIB/BOOKS	06/02/2021	352.58	.00	
4159	INGRAM LIBRARY SERVI	53324387	LIB/BOOKS	06/09/2021	454.87	.00	
4159	INGRAM LIBRARY SERVI	53401575	LIB/BOOKS	06/15/2021	248.86	.00	
4159	INGRAM LIBRARY SERVI	53457736	LIB/BOOKS	06/18/2021	166.59	.00	
5885	OVER DRIVE, INC.	1506CO21246	LIB/BOOKS	06/02/2021	293.98	.00	
6094	THE PENWORTHY COMP	572612	LIB/BOOKS	06/02/2021	379.77	.00	
6700	RAINBOW BOOKS, INC.	197880	LIB/BOOKS	05/17/2021	254.44	.00	
6700	RAINBOW BOOKS, INC.	199471	LIB/BOOKS	06/16/2021	553.03	.00	
10-65-485 AUDIO/VISUAL MATERIALS							
307	AMAZON	06/05/2021	LIB/BOOK BINDING	06/05/2021	1,423.31	.00	
978	BLACKSTONE PUBLISHI	1226080	LIB/AUDIO BOOKS	05/28/2021	575.56	.00	
978	BLACKSTONE PUBLISHI	1226140	LIB/BOOKS	05/28/2021	739.87	.00	
978	BLACKSTONE PUBLISHI	1227319	LIB/BOOKS	06/05/2021	942.63	.00	
978	BLACKSTONE PUBLISHI	1228063	LIB/AUDIO BOOKS	06/11/2021	16.45	.00	
978	BLACKSTONE PUBLISHI	1228091	LIB/AUDIO BOOKS	06/10/2021	15.90	.00	
2402	DESERET BOOK	4679425	LIB/AUDIO BOOKS	06/11/2021	5.00	.00	
2402	DESERET BOOK	4679736	LIB/AUDIO BOOKS	06/15/2021	104.73	.00	
2870	FINDAWAY WORLD, LLC	352177	LIB/AUDIO MATERIALS	06/03/2021	711.87	.00	
2870	FINDAWAY WORLD, LLC	352178	LIB/AUDIO MATERIALS	06/03/2021	475.92	.00	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
2870	FINDAWAY WORLD, LLC	353227	LIB/AUDIO MATERIALS	06/17/2021	331.95	.00	
2870	FINDAWAY WORLD, LLC	354754	LIB/AUDIO MATERIALS	06/30/2021	79.96	.00	
5233	MIDWEST TAPE	500472546	LIB/DVDS	05/21/2021	67.47	.00	
10-65-610 MISCELLANEOUS EXP.							
3571	GURR'S COPYTEC	49177	LIB/PRINTING	06/01/2021	10.90	.00	
10-65-640 PROCESSING							
2395	DEMCO, INC.	6961899	LIB/ASSORTED SUPPLIES	06/04/2021	476.10	.00	
2395	DEMCO, INC.	6962043	LIB/ASSORTED SUPPLIES	06/04/2021	326.51	.00	
2395	DEMCO, INC.	69622779	LIB/ASSORTED SUPPLIES	06/04/2021	399.85	.00	
4159	INGRAM LIBRARY SERVI	53027194	LIB/BOOK BINDING	05/20/2021	2.16	.00	
4159	INGRAM LIBRARY SERVI	53161595	LIB/BOOK BINDING	05/28/2021	12.96	.00	
4159	INGRAM LIBRARY SERVI	53217458	LIB/BOOK BINDING	06/02/2021	8.64	.00	
4159	INGRAM LIBRARY SERVI	53324387	LIB/BOOK BINDING	06/09/2021	15.12	.00	
10-65-760 TECHNOLOGY							
5061	MANGO LANGUAGES	8863	LIB/ LANGUAGE SUBSCRIPTION	06/30/2021	3,188.85	.00	
Total LIBRARY:					16,843.83	.00	
SR. CITIZEN CTR & AUDITORIUM							
10-67-240 OFFICE EXPENSE							
1905	COMCAST	06152021	SC/INTERNET SERVICE	06/15/2021	85.99	.00	
Total SR. CITIZEN CTR & AUDITORIUM:					85.99	.00	
PARKS							
10-70-200 MOWER EXPENSE							
2178	CUTLERS, INC.	544562	PARK/MOWER EXPENSE	06/22/2021	679.94	.00	
4748	LES SCHWAB TIRES	50800392302	PARK/MOWER EXPENSE	06/23/2021	20.00	.00	
10-70-250 VEHICLE EXPENSE							
675	AUTO ZONE STORES, IN	6231724508	PARK/VEHICLE EXPENSE	06/24/2021	19.98	.00	
10-70-320 SPRINKLER & LANDSCAPE							
970	BJ PLUMBING SUPPLY	916328	PARK/DEPARTMENTAL SUPPLIES	06/09/2021	233.43	.00	
970	BJ PLUMBING SUPPLY	918689	PARK/DEPARTMENTAL SUPPLIES	06/21/2021	102.99	.00	
970	BJ PLUMBING SUPPLY	919863	PARK/DEPARTMENTAL SUPPLIES	06/28/2021	70.89	.00	
970	BJ PLUMBING SUPPLY	919961	PARK/DEPARTMENTAL SUPPLIES	06/29/2021	141.74	.00	
970	BJ PLUMBING SUPPLY	919978	PARK/DEPARTMENTAL SUPPLIES	06/29/2021	155.43	.00	
2766	EWING IRRIGATION PRO	14494907	PARK/DEPARTMENTAL SUPPLIES	06/15/2021	339.23	.00	
2766	EWING IRRIGATION PRO	14515474	PARK/DEPARTMENTAL SUPPLIES	06/17/2021	997.52	.00	
2766	EWING IRRIGATION PRO	14547872	PARK/DEPARTMENTAL SUPPLIES	06/21/2021	111.28	.00	
2766	EWING IRRIGATION PRO	14559299	PARK/DEPARTMENTAL SUPPLIES	06/22/2021	211.92	.00	
2766	EWING IRRIGATION PRO	14572163	PARK/DEPARTMENTAL SUPPLIES	06/23/2021	41.05	.00	
2766	EWING IRRIGATION PRO	14581891	PARK/DEPARTMENTAL SUPPLIES	06/24/2021	793.27	.00	
3470	GREAT BASIN TURF PRO	470308	PARK/DEPARTMENTAL SUPPLIES	06/21/2021	120.00	.00	
5715	NORTH POINTE SOLID W	116525-063020	PARKS/GREEN WASTE	06/30/2021	241.10	.00	
7992	STEWARTS PEST CONTR	10068681	PARKS/PEST CONTROL	05/30/2021	136.00	.00	
8532	TRI CITY NURSERY SOU	1061300-1	PARKS/PLANTS	06/16/2021	70.36	.00	
10-70-330 PLAYGROUND SUPPLIES							
3950	HONEY BUCKET	552168625	PARK/RESTROOM RENTAL	06/21/2021	258.00	.00	
6450	PREVENTIVE PEST CON	328535	PARK/PEST CONTROL	06/23/2021	75.00	.00	
10-70-340 DIAMOND CREW SUPPLIES							
2766	EWING IRRIGATION PRO	14579235	PARK/DEPARTMENTAL SUPPLIES	06/24/2021	301.06	.00	
10-70-670 SAFETY EQUIP. & SUPPLIES							
1760	CINTAS FIRST AID & SAF	5066842898	PARK/DEPARTMENTAL SUPPLIES	06/24/2021	75.47	.00	
Total PARKS:					5,195.66	.00	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
RECREATION							
10-71-240 OFFICE EXPENSE							
5033	MACEYS	04-1252213	REC/ASSORTED SUPPLIES	06/14/2021	27.62	.00	
5730	OFFICE DEPOT, INC.	179864504001	REC/OFFICE SUPPLIES	06/23/2021	421.51	.00	
10-71-480 DEPARTMENTAL SUPPLIES							
4747	LES OLSON COMPANY	258190	REC/PRINTER	06/24/2021	413.08	.00	
Total RECREATION:					862.21	.00	
CUSTODIAL SERVICES							
10-74-480 DEPARTMENTAL SUPPLIES							
9342	WAXIE'S SANITARY SUPP	80073022	BUILDING MAINTENANCE SUPPLIE	06/10/2021	2,451.80	.00	
10-74-481 CHEMICALS							
9342	WAXIE'S SANITARY SUPP	80073022	BUILDING MAINTENANCE SUPPLIE	06/10/2021	96.17	.00	
Total CUSTODIAL SERVICES:					2,547.97	.00	
Total GENERAL FUND:					374,701.66	.00	
IMPACT FEES - RECREATION EXPENDITURES							
11-40-480 PARK & REC EXPENSE							
889	BIG T RECREATION	4766	PICKLEBALL COURT PROJECT	06/21/2021	167,954.20	.00	
Total EXPENDITURES:					167,954.20	.00	
Total IMPACT FEES - RECREATION:					167,954.20	.00	
CLASS C ROAD FUND EXPENDITURES							
20-40-330 ENGINEERING SERVICES							
2734	ENVIRONMENTAL SYSTE	94058920	MULTI DEPT/MAINTENANCE FEE	06/17/2021	2,400.00	.00	
Total EXPENDITURES:					2,400.00	.00	
Total CLASS C ROAD FUND:					2,400.00	.00	
CEMETERY							
22-70-320 SPRINKLER & LANDSCAPE							
2766	EWING IRRIGATION PRO	14567548	CEM/DEPARTMENTAL SUPPLIES	06/23/2021	294.40	.00	
2766	EWING IRRIGATION PRO	14567631	CEM/DEPARTMENTAL SUPPLIES	06/23/2021	232.83	.00	
22-70-420 SPECIAL SERVICES							
3312	GENEVA ROCK PRODUC	05312021	CEMETERY EXPANSION PROJECT	05/31/2021	63,011.36	.00	
5715	NORTH POINTE SOLID W	116522-063020	CEM/GARBAGE DISPOSAL FEE	06/30/2021	95.14	.00	
5715	NORTH POINTE SOLID W	116525-063020	CEM/GARBAGE DISPOSAL FEE	06/30/2021	44.00	.00	
22-70-480 DEPARTMENTAL SUPPLIES							
1905	COMCAST	06132021	CEM/INTERNET SERVICES	06/13/2021	89.73	.00	
Total :					63,767.46	.00	
Total CEMETERY:					63,767.46	.00	
E-911 EXPENDITURES							
41-40-260 MAINTENANCE							
1490	CENTRAL UTAH 911	525	DISPATCH EXPENSES	06/23/2021	44,660.00	.00	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
Total EXPENDITURES:					44,660.00	.00	
Total E-911:					44,660.00	.00	
STORM DRAIN UTILITY FUND							
GENERAL GOVERNMENT							
48-41-280 TELEPHONE EXPENSE							
1480	CENTRACOM INTERACTI	07012021	PUBLIC WORKS/PHONE EXPENSE	07/01/2021	122.11	.00	
48-41-285 CELLULAR SERVICES							
625	AT&T MOBILITY	05282021	MULTI DEPT/CELL PHONE EXPENS	05/28/2021	376.78	.00	
48-41-330 ENGINEERING SERVICES							
2734	ENVIRONMENTAL SYSTE	94058920	MULTI DEPT/MAINTENANCE FEE	06/17/2021	2,000.00	.00	
48-41-480 DEPARTMENTAL SUPPLIES							
5715	NORTH POINTE SOLID W	116525-063020	STREETS/GARBAGE DISPOSAL FE	06/30/2021	905.52	.00	
48-41-760 TECHNOLOGY							
7070	ROCK MOUNTAIN TECHN	3552	PUBLIC WORKS WI FI UPGRADE	07/01/2021	493.69	.00	
7070	ROCK MOUNTAIN TECHN	3553	PUBLIC WORKS WI FI UPGRADE	06/30/2021	65.50	.00	
Total GENERAL GOVERNMENT:					3,963.60	.00	
STORM DRAIN PROJECTS							
48-70-967 NU/GARDNER PIPE REPLACEMENT							
7159	S & L INCORPORATED	3-06302021	NORTH UNION DITCH PROJECT	06/30/2021	6,009.57	.00	
Total STORM DRAIN PROJECTS:					6,009.57	.00	
Total STORM DRAIN UTILITY FUND:					9,973.17	.00	
CAPITAL PROJECTS FUND							
EXPENDITURES							
49-40-420 CONTRACTED SERVICES							
8003	STONE SECURITY, LLC	47409	DOOR SECURITY SYSTEM	06/18/2021	470.00	.00	
Total EXPENDITURES:					470.00	.00	
MISC PROJECTS							
49-90-906 POLICE EQUIPMENT							
4421	JUST 4 FUN MOTORSPO	2992	PD/INSTALL GUNLOCK	06/24/2021	357.00	.00	
7220	SALT LAKE WHOLESALE	73484	PD/EQUIPMENT	06/10/2021	5,669.00	.00	
7220	SALT LAKE WHOLESALE	73485	PD/EQUIPMENT	06/10/2021	66.00	.00	
49-90-970 DISCOVERY TENNIS COURTS							
1028	BORDER STATES INDUS	922014896	BUILDING MAINTENANCE	05/05/2021	58.55	.00	
1028	BORDER STATES INDUS	922015094	BUILDING MAINTENANCE	05/05/2021	43.32	.00	
49-90-990 FIRE EXPENSES							
549	ARMORED REPUBLIC	5000000267	FIRE/PROTECTIVE GEAR	05/10/2021	5,437.28	.00	
7505	SKAGGS COMPANIES, IN	450A559943	FIRE/UNIFORM EXPENSE	06/17/2021	72.99	.00	
7505	SKAGGS COMPANIES, IN	450A602401	FIRE/UNIFORM EXPENSE	06/17/2021	7,448.00	.00	
7505	SKAGGS COMPANIES, IN	450A630992	FIRE/UNIFORM EXPENSE	06/17/2021	55.00	.00	
Total MISC PROJECTS:					19,207.14	.00	
Total CAPITAL PROJECTS FUND:					19,677.14	.00	
WATER FUND							
EXPENDITURES							

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
51-40-250 VEHICLE EXPENSE							
3974	HOSE & RUBBER SUPPL	1549803	WATER/VEHICLE REPAIR PARTS	06/17/2021	113.60	.00	
9451	WHEELER MACHINERY C	1163738	WATER/VEHICLE PARTS	06/24/2021	2.08	.00	
51-40-280 TELEPHONE EXPENSE							
1480	CENTRACOM INTERACTI	07012021	PUBLIC WORKS/PHONE EXPENSE	07/01/2021	122.11	.00	
51-40-285 CELLULAR SERVICES							
625	AT&T MOBILITY	05282021	MULTI DEPT/CELL PHONE EXPENS	05/28/2021	489.83	.00	
51-40-330 ENGINEERING							
2734	ENVIRONMENTAL SYSTE	94058920	MULTI DEPT/MAINTENANCE FEE	06/17/2021	2,000.00	.00	
51-40-420 STREET REPAIRS							
3312	GENEVA ROCK PRODUC	2392647	WATER/ASPHALT	06/10/2021	503.00	.00	
3312	GENEVA ROCK PRODUC	2393892	WATER/ASPHALT	06/14/2021	200.50	.00	
3312	GENEVA ROCK PRODUC	2394602	WATER/ASPHALT	06/15/2021	499.50	.00	
9451	WHEELER MACHINERY C	179430	WATER/VIBRATORY COMPACTOR	03/26/2021	250.00	.00	
51-40-480 DEPARTMENTAL SUPPLIES							
3974	HOSE & RUBBER SUPPL	1550811	WATER/DEPARTMENTAL SUPPLIES	06/21/2021	554.38	.00	
7070	ROCK MOUNTAIN TECHN	3552	PUBLIC WORKS WI FI UPGRADE	07/01/2021	493.69	.00	
7070	ROCK MOUNTAIN TECHN	3553	PUBLIC WORKS WI FI UPGRADE	06/30/2021	65.50	.00	
51-40-600 REPAIR & MAINTENANCE							
1368	C-A-L RANCH STORES	11624/8	WATER/BOOTS & GLOVES	06/24/2021	169.99	.00	
1368	C-A-L RANCH STORES	11626/8	WATER/ASSORTED SUPPLIES	06/24/2021	134.97	.00	
6938	RICHARDS LABORATORI	8255	WATER/TESTING	06/17/2021	195.00	.00	
Total EXPENDITURES:					5,794.15	.00	
Total WATER FUND:					5,794.15	.00	
SEWER FUND							
EXPENDITURES							
52-40-280 TELEPHONE EXPENSE							
1480	CENTRACOM INTERACTI	07012021	PUBLIC WORKS/PHONE EXPENSE	07/01/2021	122.11	.00	
52-40-285 CELLULAR SERVICES							
625	AT&T MOBILITY	05282021	MULTI DEPT/CELL PHONE EXPENS	05/28/2021	360.14	.00	
52-40-330 ENGINEERING SERVICES							
2734	ENVIRONMENTAL SYSTE	94058920	MULTI DEPT/MAINTENANCE FEE	06/17/2021	2,000.00	.00	
52-40-450 LEASE PAYMENTS							
9451	WHEELER MACHINERY C	12997	SEC WATER/CREDIT	06/29/2021	250.00-	.00	
9451	WHEELER MACHINERY C	179428	STRM DRAIN/EQUIPMENT RENTAL	03/26/2021	8,000.00	.00	
52-40-480 DEPARTMENTAL SUPPLIES							
7070	ROCK MOUNTAIN TECHN	3552	PUBLIC WORKS WI FI UPGRADE	07/01/2021	493.69	.00	
7070	ROCK MOUNTAIN TECHN	3553	PUBLIC WORKS WI FI UPGRADE	06/30/2021	65.50	.00	
Total EXPENDITURES:					10,791.44	.00	
Total SEWER FUND:					10,791.44	.00	
SECONDARY WATER							
EXPENDITURES							
54-40-270 POWER EXPENSE							
7062	ROCKY MOUNTAIN POW	06162021	WALKER BOOSTER PUMP	06/16/2021	3,854.52	.00	
54-40-280 TELEPHONE EXPENSE							
1480	CENTRACOM INTERACTI	07012021	PUBLIC WORKS/PHONE EXPENSE	07/01/2021	122.11	.00	
54-40-285 CELLULAR SERVICES							
625	AT&T MOBILITY	05282021	MULTI DEPT/CELL PHONE EXPENS	05/28/2021	26.74	.00	
54-40-330 ENGINEERING							
2734	ENVIRONMENTAL SYSTE	94058920	MULTI DEPT/MAINTENANCE FEE	06/17/2021	2,000.00	.00	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
54-40-420 STREET REPAIRS							
3312	GENEVA ROCK PRODUC	2395987	SEC WATER/DEPARTMENTAL SUPP	06/17/2021	701.00	.00	
3312	GENEVA ROCK PRODUC	2397966	SEC WATER/DEPARTMENTAL SUPP	06/22/2021	954.50	.00	
3312	GENEVA ROCK PRODUC	2398640	SEC WATER/DEPARTMENTAL SUPP	06/23/2021	293.50	.00	
54-40-480 DEPARTMENTAL SUPPLIES							
888	BIG STATE INDUSTRIAL S	1442798	SEC WATER/GLOVES	06/22/2021	578.78	.00	
974	BISCO	1645650	SEC WATER/DEPARTMENTAL SUPP	06/23/2021	2,499.78	.00	
4727	LEGACY EQUIPMENT CO	102594	SEC WATER/VEHICLE REPAIR PAR	04/27/2021	1,295.40	.00	
7070	ROCK MOUNTAIN TECHN	3552	PUBLIC WORKS WI FI UPGRADE	07/01/2021	493.69	.00	
7070	ROCK MOUNTAIN TECHN	3553	PUBLIC WORKS WI FI UPGRADE	06/30/2021	65.50	.00	
8058	SUNRISE ENVIRONMENT	121777	SEC WATER/DEPARTMENTAL SUPP	06/14/2021	653.16	.00	
54-40-540 WATER SHARE ASSESSMENTS							
2593	EAST JORDAN IRRIGATI	05162021	ASSESSMENT	05/16/2021	2,275.00	.00	
54-40-600 REPAIR & MAINTENANCE							
688	B&D PUMP & ELECTRIC	1414	SEC WATER/MAINTENANCE	06/02/2021	410.95	.00	
Total EXPENDITURES:					16,224.63	.00	
CAPITAL PROJECTS							
54-70-937 Mill Ditch Canal Piping							
5185	METALMART INC.	147840	SEC WATER/MILL DITCH PROJECT	05/19/2021	515.72	.00	
Total CAPITAL PROJECTS:					515.72	.00	
Total SECONDARY WATER:					16,740.35	.00	
CAPITAL EQUIPMENT							
58-40-500 PRINCIPAL PAYMENTS							
9802	ZIONS BANK	07012021	LOAN PAYMENT	07/01/2021	160,288.00	.00	
58-40-520 INTEREST PAYMENTS							
9802	ZIONS BANK	07012021	LOAN PAYMENT INTEREST	07/01/2021	3,077.53	.00	
Total :					163,365.53	.00	
Total CAPITAL EQUIPMENT:					163,365.53	.00	
SANITATION FUND							
EXPENDITURES							
62-40-432 TIPPING FEES							
5715	NORTH POINTE SOLID W	116520-063020	RESIDENTIALGARBAGE DISPOSAL	06/30/2021	36,009.29	.00	
5715	NORTH POINTE SOLID W	116524-063020	GREEN WASTE DISPOSAL FEE	06/30/2021	216.00	.00	
62-40-437 CITY CLEANUP							
5715	NORTH POINTE SOLID W	116521-063020	CLEAN UP COUPONS	06/30/2021	1,191.00	.00	
Total EXPENDITURES:					37,416.29	.00	
Total SANITATION FUND:					37,416.29	.00	
SWIMMING POOL							
SWIMMING POOL							
71-73-240 OFFICE EXPENSE							
1905	COMCAST	07012021	POOL/INTERNET SERVICE	07/01/2021	109.68	.00	
8088	SYSCO INTERMOUNTAIN	385605829	POOL/CONCESSIONS	06/19/2021	1,036.25	.00	
71-73-390 BUILDING MAINTENANCE							
1338	C.E.M.	2423	POOL/SWIM POOL MAINTENANCE	06/14/2021	231.56	.00	
1863	SWIRE COCA-COLA USA,	13308223236	POOL/SNACK BAR EXPENSE	06/04/2021	795.27	.00	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
1863	SWIRE COCA-COLA USA,	21520201800	POOL/SNACK BAR EXPENSE	06/25/2021	314.91	.00	
1863	SWIRE COCA-COLA USA,	21520201801	POOL/CONCESSION STAND EXPEN	06/25/2021	80.08	.00	
8088	SYSCO INTERMOUNTAIN	385611050	POOL/CONCESSIONS	06/23/2021	1,386.86	.00	
8088	SYSCO INTERMOUNTAIN	385623391	POOL/CONCESSIONS	06/30/2021	630.67	.00	
8678	UNIFIRST CORPORATIO	06212021	MULTI DEPT/ RUG CLEANING	06/21/2021	120.54	.00	
71-73-392 BUILDING IMPROVEMENTS							
1338	C.E.M.	2029	POOL/SWIM POOL MAINTENANCE	05/25/2021	1,454.02	.00	
7070	ROCK MOUNTAIN TECHN	3595	POOL/CABLE INSTALLATION	07/01/2021	6.74	.00	
7458	SIGNS BY TOMORROW	06062021	POOL/PORTRAIT PRINTS	06/06/2021	111.00	.00	
71-73-460 CONCESSION STAND EXPENSE							
5033	MACEYS	06162021	POOL/SUPPLIES	06/16/2021	9.39	.00	
71-73-480 DEPARTMENTAL SUPPLIES							
1863	SWIRE COCA-COLA USA,	21520201684	POOL/SNACK BAR EXPENSE	06/18/2021	639.76	.00	
3782	HASTY AWARDS	6211032	POOL/RIBBONS	06/22/2021	838.02	.00	
8219	TEXTILE TEAM OUTLET	3258	POOL/SHIRTS	06/16/2021	412.44	.00	
8219	TEXTILE TEAM OUTLET	3265	POOL/SHIRTS	06/21/2021	2,827.40	.00	
71-73-481 CHEMICALS							
1338	C.E.M.	1878	POOL/SWIM POOL MAINTENANCE	05/19/2021	240.00	.00	
1338	C.E.M.	2338	POOL/SWIM POOL MAINTENANCE	06/09/2021	768.30	.00	
1338	C.E.M.	2568	POOL/SWIM POOL MAINTENANCE	06/21/2021	2,608.51	.00	
Total SWIMMING POOL:					14,621.40	.00	
Total SWIMMING POOL:					14,621.40	.00	
COMMUNITY CENTER							
72-71-062 COMMUNITY CTR - BLDG MAINT							
139	ADVANCED FITNESS RE	8178	REC/EQUIPMENT REPAIR	05/11/2021	85.00	.00	
139	ADVANCED FITNESS RE	8178	REC/EQUIPMENT REPAIR PARTS	05/11/2021	315.90	.00	
8678	UNIFIRST CORPORATIO	06212021	MULTI DEPT/ RUG CLEANING	06/21/2021	251.24	.00	
72-71-410 PROGRAM SUPPLIES & EQUIPMENT							
1540	CHAMBERLAIN, SCOTT	102	REC/MAGIC CLASSES	06/27/2021	1,728.00	.00	
3571	GURR'S COPYTEC	49581	REC/COPIES	06/15/2021	4.20	.00	
3571	GURR'S COPYTEC	49583	REC/LEDGER	06/18/2021	8.40	.00	
4019	HUMPHRIES, INC.	T56766	REC/HELIUM	06/16/2021	280.05	.00	
5033	MACEYS	02-1333238	REC/ASSORTED SUPPLIES	06/17/2021	174.84	.00	
5033	MACEYS	79-138141	REC/ASSORTED SUPPLIES	06/16/2021	33.54	.00	
7135	RUBEN BUSINESS SOLU	1031	REC/MINIFIGURE SUMMER CAMP	06/29/2021	1,607.20	.00	
7362	SELKIRK SPORT, LLC	SI-236400	REC/EQUIPMENT	06/23/2021	221.75	.00	
7530	SMASH ATHLETICS, INC.	15759	REC/SHIRTS	05/14/2021	3,019.23	.00	
7530	SMASH ATHLETICS, INC.	15820	REC/SHIRTS	05/24/2021	11.20	.00	
8219	TEXTILE TEAM OUTLET	3020	REC/UNIFORMS	04/12/2021	508.29	.00	
8219	TEXTILE TEAM OUTLET	3239	REC/UNIFORMS	06/10/2021	194.28	.00	
8219	TEXTILE TEAM OUTLET	3331	REC/UNIFORMS	06/14/2021	476.00	.00	
8219	TEXTILE TEAM OUTLET	3370	REC/UNIFORMS	06/21/2021	204.00	.00	
8219	TEXTILE TEAM OUTLET	3402	REC/UNIFORMS	06/28/2021	137.50	.00	
8738	USA SOFTBALL OF UTAH	15-06132021	REC/CONTRACTED SERVICES	06/13/2021	329.00	.00	
8738	USA SOFTBALL OF UTAH	19-06272021	REC/CONTRACTED SERVICES	06/27/2021	329.00	.00	
9521	WILKINSONS TROPHY &	32170	REC/AWARDS	05/26/2021	315.00	.00	
72-71-420 CONTRACTED SERVICES							
1905	COMCAST	06162021	REC/INTERNET SERVICE	06/15/2021	230.37	.00	
6066	PEAK SOFTWARE SYSTE	23369	REC/KEY FOBS	06/28/2021	1,067.00	.00	
Total :					11,530.99	.00	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
Total COMMUNITY CENTER:					11,530.99	.00	
CULTURAL ARTS							
PROGRAM EXPENDITURES							
73-71-550 ARTS COUNCIL EXPENSE							
2560	EADS SYSTEMS	2182	ARTS COMMISSION/PAVILLION CU	05/29/2021	4,913.41	.00	
73-71-552 PG PLAYERS							
4866	LITTLE, KATHRYN LAYCO	06222021	PG PLAYERS/REIMB. FOR RETURN	06/22/2021	54.31	.00	
8349	THOMPSON, JEFF	06222021	PG PLAYERS/REIMB. FOR MARKETI	06/22/2021	389.20	.00	
Total PROGRAM EXPENDITURES:					5,356.92	.00	
Total CULTURAL ARTS:					5,356.92	.00	
Grand Totals:					948,750.70	.00	

Dated: _____

Mayor: _____

City Council: _____

City Recorder: _____

City Finance Director: _____

Report Criteria:

Invoices with totals above \$0 included.

Only unpaid invoices included.