

TO: John Szerlag, City Manager
FROM: John M. Lamerato, Assistant City Manager –Finance and Administration
RE: City of Troy Retiree Health Care Benefits Plan and Trust
DATE: June 16, 2005

Please find attached the City of Troy Retiree Health Care Benefits Plan and Trust prepared by the firm of VanOverbeke Michaud & Timmony, P.C. and reviewed by City Administration and City Attorney.

Based upon the recommendation of the City's actuaries, Gabriel, Roeder, Smith & Company, to adopt a Retiree Health Care Benefits Plan and Trust to fund and account for retiree health care benefits, the Retirement Board retained the services of VanOverbeke Michaud & Timmony to prepare this document.

The Retirement Board passed a resolution at their June 8, 2005 meeting recommending that City Council adopt the attached Retiree Health Care Benefits Plan and Trust with an effective date of July 1, 2005.

The attached letter from VanOverbeke Michaud & Timmony summarizes the provisions of the Plan and Trust and the reasons why the City of Troy should adopt such a document.

If you have any questions, please feel free to contact me.

Reviewed as to form and legality: _____ Date: June 16, 2005
Lori Grigg Bluhm, City Attorney

VANOVERBEKE
MICHAUD &
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June 17, 2005

Mayor Louise Schilling
Honorable Members of City Council
City of Troy
500 W. Big Beaver
Troy, Michigan 48084

Re: City of Troy Retiree Health Care Benefits Plan and Trust

Dear Mayor Schilling and Honorable Members of City Council:

The City of Troy retained VANOVERBEKE, MICHAUD & TIMMONY, P.C. to draft a retiree health care plan and trust as a vehicle to fund the retiree health care benefits provided to employees of the City of Troy so that monies could be pre-accumulated in a more effective manner to pay future retiree health care costs.

As a brief introduction to VANOVERBEKE, MICHAUD & TIMMONY, P.C., we specialize in employee benefits law. To date, we represent over forty-five (45) Michigan public employee retirement systems, health care plans and employee benefit plans as general counsel, we are general counsel to the Michigan Association of Public Employee Retirement Systems (MAPERS), and we also represent numerous public employee retirement systems and health care plans on an as-needed, special counsel or of-counsel basis. As such, we have a great deal of experience in assisting our clients set-up and administer their employee benefit programs.

Currently, the City of Troy provides retiree health care benefits for its union and non-union employees and retirees. Currently, the City generally pays a percentage of a retiree's monthly retiree health insurance premium up to 100% based on the retiree's completed years of service (4% x completed years of service) or \$400.00/month, whichever is greater. The benefit formula for each employee group may be found in the applicable collective bargaining agreement, personnel policy, or personal services contract for that group.

The City has historically funded these retiree health care benefits through the City of Troy Employees Retirement System. Due to certain provisions of the Internal Revenue Code and other state and federal laws, the use of the Retirement System as a funding vehicle for retiree health care benefits, while an option, is not the preferred method for funding of retiree health care. Michigan and federal law provides several alternatives for the funding of retiree health care including PA 149 accounts (enacted pursuant to The Public Employee Health Care Fund Investment Act, Public Act 149 of 1999), IRC §115 governmental trusts, and IRC §501(c)(9) VEBA trusts. Based on discussions with City of Troy personnel and review of the City's current retiree health plan, we believe the best option for the City of Troy is to establish an IRC §115 governmental trust, which also meets the requirements of Michigan Public Act 149 of 1949.

An IRC §115 governmental trust consists of a separate trust that is established to provide benefits that are a part of an essential governmental function, for instance, the funding of required retiree health care benefits. IRC §115 trusts are flexible and can be designed to incorporate the City of Troy's retiree health care benefit features. Additionally, the §115 trust can be amended to reflect any future changes made to retiree health care benefits by the City of Troy or through changes to collective bargaining agreements.

The City of Troy Retiree Health Care Benefits Plan and Trust does not change any retiree health care benefits that are currently provided by the City of Troy to its active employees or its current retirees. The establishment of the plan and trust does not create any additional healthcare liabilities in addition to those that already exist. The document merely provides the funding vehicle so that the City can pre-fund its retiree health care liability more effectively.

Please contact me to discuss any questions or comments you may have.

Sincerely,
VANOVERBEKE, MICHAUD & TIMMONY, P.C.

Michael J. VanOverbeke

Encl.

A RESOLUTION TO ESTABLISH THE CITY OF TROY RETIREE HEALTH CARE BENEFIT PLAN AND TRUST.

**CITY OF TROY
RETIREE HEALTH CARE BENEFITS PLAN AND TRUST**

GENERAL PROVISIONS

1:100. Purpose.

The Plan and Trust is created, under the authority of the Public Employee Health Care Fund Investment Act, Public Act 149 of 1999 (MCL 38.1211 et seq.), and shall constitute a governmental trust pursuant to Section 115 of the Internal Revenue Code of 1986, as amended. The Plan and Trust is established to allow for the City of Troy's funding of required retiree health care benefits, an essential governmental function and is created for the exclusive purpose of providing health care and dental insurance benefits or such other benefits approved by the City of Troy ("City") (which may include hospitalization, medical, and dental insurance) or approved by Collective Bargaining Agreements or personal services contracts for the welfare of certain Retirees of the City of Troy who are eligible to receive a retirement benefit from the City of Troy Employees Retirement System and/or the City of Troy Defined Contribution Plan and the eligible Spouses and eligible Dependents of such Retirees through a group health and insurance benefits plan. Benefits shall be provided through policies issued by duly licensed commercial insurance companies, through a fund of self-insurance, or through any other lawful means of providing group health and dental insurance in accordance with City decisions and in accordance with any and all Collective Bargaining Agreements between the City and applicable Collective Bargaining Associations and personnel policies or personal services contracts for any non-union employees, for the benefit of City Retirees and beneficiaries who are eligible to participate in accordance with the Plan for such benefits under the rules and regulations established by the Trustees.

The City intends the benefits to be provided by the establishment and maintenance of a Plan and Trust in conformance with all applicable federal statutes and regulations, state and local law.

The City reserves the right to enter into insurance agreements, and to modify, alter or amend such agreements from time to time, with commercial insurance carriers, health maintenance organizations, preferred provider organizations or any other qualified entity currently existing or created for the purpose of providing benefits under the Plan.

1:101. Short Title.

This resolution may be known and cited as the City of Troy Retiree Health Care Benefits Plan and Trust (“Plan”).

1:102. Interpretation and law; Construction.

The Plan and Trust is established in accordance with the Public Employee Health Care Fund Investment Act, Public Act 149 of 1999 (MCL 38.1211 et seq.), shall be administered consistent with applicable federal and Michigan law, and shall constitute a Section 115 governmental trust. The Plan and Trust is intended to qualify as an accident and health plan and a group health plan under applicable provisions of the Internal Revenue Code, (Sections 105, 106, and 162), the regulations promulgated under each, and applicable federal and Michigan law. If any provisions of the Plan shall be, for any reason, invalid or unenforceable, the remaining provisions nevertheless shall be carried into effect.

Neither the establishment of the Plan nor the Trust nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any person covered under the Plan and Trust or other person any legal or equitable right against the City, its elected or appointed officials or employees, the Trustees or any individual Trustee, except as may otherwise be provided in this Plan.

Neither the City nor the Trustees shall be responsible for the validity of any Insurance Agreement issued in connection with the Plan or for the failure on the part of the Insurer to make payments provided by such Insurance Agreement, or for the action of any person which may delay payment or render an Insurance Agreement null and void or unenforceable in whole or in part.

1:103. Collective Bargaining Agreements.

The benefit provisions of this Plan are subject to relevant provisions of applicable Collective Bargaining Agreements between the City and the various Collective Bargaining Associations of the City. The provisions of a Collective Bargaining Agreement relative to retiree health care benefits are controlling in the event of a conflict between the terms of the Collective Bargaining Agreement and the Plan.

Nothing contained in this Chapter shall be deemed to modify or limit in any way the rights that the parties to the Collective Bargaining Agreement may have, any supplements or memoranda thereto, or any arbitrator's award to enforce the terms of the Plan, inclusive of the collection of any amounts due to the Plan and the right of the parties to sue for same.

1:104. Personnel Policies.

The benefit provisions of this Plan are subject to relevant provisions of any City personnel policies for Non-Union Employees and/or personal service contracts between the City and an individual employee. The provisions of any personnel policies for Non-Union Employees and/or personal service contracts relative to retiree health care benefits are controlling in the event of a conflict between the terms of the Personnel Policies or applicable personal service contract and the Plan.

1:105. Definitions.

For the purposes of this Plan and Trust, the following words shall have the meanings respectively ascribed to them by this section:

- (1) *Base Plan* means the benefits in effect at the time of an Employee's retirement, as provided by the policy or the comprehensive program in place at the time of the Employee's retirement (exclusive of HMO, PPO and other alternative plans) or by a substantially equivalent policy or program at the election of the City. Pursuant to the terms of an applicable Collective Bargaining Agreement, upon the retiree or spouse's attainment of Medicare eligibility, the Base Plan shall be a secondary, complimentary plan to Medicare which shall be the primary plan.
- (2) *City* means the City of Troy, Michigan.
- (3) *Code* means the Internal Revenue Code of 1986, as amended. Reference to any section or subsection of the Code includes reference to any comparable or succeeding provision of any legislation which amends or replaces such section or subsection.
- (4) *Collective Bargaining Agreements* means any written agreement, supplemental agreement, memorandum of understanding, final arbitrator's decision, judicial decision or decision of any public board or agency, by and between applicable Collective Bargaining Associations and the City, and any amendments, continuations, or renewals, which require the City or any other entity to make payments into group health and life insurance programs for employees of the City of Troy.
- (5) *Collective Bargaining Associations* means those associations which have negotiated to participate in this Plan.
- (6) *Contributions* means the payment required to be made to the Trust by the City under the terms of the Plan and Trust for the purpose of providing group health insurance for Retirees and beneficiaries covered by the Plan.

- (7) *Dependent* generally means a Participant's or Retiree's unmarried child until the end of the year in which he or she reaches age 19 and a Participant's or Retiree's unmarried child who is totally and permanently disabled by either a physical or mental condition prior to age 19. (The Base Plan definition of Dependent above applies unless the Participant or Retiree selects an alternate insurance policy offered by the City, in which case the definition is controlled by the insurance policy covering the Participant or Retiree, which may or may not vary from the definition listed above.)
- (8) *Effective Date* means July 1, 2005.
- (9) *Employee* means a person employed by the City who meets one of the following requirements:
- (a) A non-union person employed by the City;
 - (b) A person employed by the City who is a member of a Collective Bargaining Association which has negotiated to participate in this Plan.
- (10) *Family Continuation Dependent* generally means an unmarried child of a Participant or Retiree who (i) is age 19 through the end of the calendar year in which he or she reaches age 25, (ii) is dependent on the Participant or Retiree or surviving Spouse for more than half of his or her support, (iii) is a member of the household of the Participant or Retiree or surviving Spouse, unless they temporarily reside elsewhere, as in the case of college students, (iv) is related to the Participant or Retiree by blood, marriage or legal adoption, and (v) is a full-time student with a minimum of 12 credit hours per semester or had gross income of less than four times personal exemption amount identified in the Internal Revenue Service gross income test. (The Base Plan definition of Family Continuation Dependent above applies unless the Participant or Retiree selects an alternate insurance policy offered by the City, in which case the definition is controlled by the insurance policy covering the Participant or Retiree, which may or may not vary from the definition listed above.)
- (11) *Health Care Benefits* means group health care benefits as currently provided and any other future health care related benefits as may be determined to be part of the Plan pursuant to City decisions and/or Collective Bargaining Agreements.
- (12) *Insurance Agreement* means the health insurance plan(s) and any amendment(s) thereto, including any substitute insurance agreement with a commercial insurance carrier, health maintenance organization, preferred provider organization, or any other qualified entity currently existing or created for the purpose of providing benefits under the Plan. The term "Insurance Agreement" shall include the plural where applicable.
- (13) *Insurance Carrier* means a commercial health insurance carrier, health maintenance organization, preferred provider organization or other qualified entity designated by the City to provide benefits under the Plan.

- (14) *Major Life Event Changes* means birth of a child, legal adoption, legal separation, divorce, legal guardianship, death, or marriage of a dependent child.
- (15) *Participant* means an Employee who: (a) is a member of the City of Troy Employees Retirement System and whose participation has not terminated under other applicable provisions of the Plan; (b) is a member of the City of Troy Defined Contribution Plan and whose participation has not terminated under other applicable provisions of the Plan; or (c) is an employee granted health coverage under a separation agreement, settlement or court order. No person shall be considered a Participant of the Plan who is compensated for services to the City on a fee or independent contractual basis. In all cases of doubt, the Board of Trustees shall decide who is a Participant within the meaning of the provisions of this Plan and Trust provided such decision is consistent with any established City policy.
- (16) *Plan* means the City of Troy Retiree Health Care Benefits Plan and Trust as described in this document and any subsequent amendments, and any Insurance Agreement(s), Collective Bargaining Agreements, personnel policies, or other applicable insurance policy documents incorporated by reference into the Plan. A description of the health benefits provided to Retirees, Spouses and Dependents under this plan is maintained by the Plan Administrator.
- (17) *Plan Administrator* means the person, persons, firm, corporation or insurance company or companies, appointed by the Board of Trustees to administer the Plan. The Plan Administrator shall be the Assistant City Manager/Finance & Administration unless another individual is appointed by the Board of Trustees. The Plan Administrator shall be responsible for the day-to-day operations of the Plan who shall carry out the directives of the Board of Trustees.
- (18) *Plan Year* means the period commencing on July 1 and ending on June 30 of each year.
- (19) *Qualified Beneficiary* means any person satisfying the benefit eligibility requirements of the Plan and shall be in accordance with the resolutions and decisions of the Trustees.
- (20) *Retiree* means an individual who meets the following requirements or who satisfies the requirements of a collective bargaining agreement, personnel policy or personal services contract
- (a) For members of Benefit group AFSCME Local #574 - an individual receiving a retirement benefit allowance from the City of Troy Employees Retirement System or the City of Troy Defined Contribution Plan who retired from employment with the City of Troy who upon termination of employment and
- (i) had attained age 50 and had accrued a minimum of twenty-seven years of service with the City of Troy; or

- (ii) had attained age 55 and had accrued a minimum of ten years of service with the City of Troy.

- (b) For members of Benefit group Michigan Association of Police Clerical and Non-sworn Police Personnel - an individual receiving a retirement benefit allowance from the City of Troy Employees Retirement System or the City of Troy Defined Contribution Plan who retired from employment with the City of Troy who upon termination of employment and
 - (i) had attained age 50 and had accrued a minimum of twenty-seven years of service with the City of Troy; or
 - (ii) had attained age 55 and had accrued a minimum of ten years of service with the City of Troy.

- (c) For members of Benefit group Police Officers Association - an individual receiving a retirement benefit allowance from the City of Troy Employees Retirement System or the City of Troy Defined Contribution Plan who retired from employment with the City of Troy who upon termination of employment and
 - (i) had accrued a minimum of twenty-five years of service with the City of Troy; or
 - (ii) had attained age 55 and had accrued a minimum of ten years of service with the City of Troy.

- (d) For members of Benefit group Fire Staff Officers Association - an individual receiving a retirement benefit allowance from the City of Troy Employees Retirement System or the City of Troy Defined Contribution Plan who retired from employment with the City of Troy who upon retirement and
 - (i) had accrued a minimum of twenty-five years of service with the City of Troy; or
 - (ii) had attained age 55 and had accrued a minimum of ten years of service with the City of Troy.

- (e) For members of Benefit group Command Officers Association - an individual receiving a retirement benefit allowance from the City of Troy Employees Retirement System or the City of Troy Defined Contribution Plan who retired from employment with the City of Troy who upon termination of employment and
 - (i) had accrued a minimum of twenty-five years of service with the City of Troy; or
 - (ii) had attained age 55 and had accrued a minimum of ten years of service with the City of Troy.

- (f) For members of Benefit group Non-union employees - an individual receiving a retirement benefit allowance from the City of Troy Employees Retirement System or the City of Troy Defined Contribution Plan who retired from employment with the City of Troy who upon termination of employment and
 - (i) had attained age 50 and had accrued a minimum of twenty-seven years of service with the City of Troy; or
 - (ii) had attained age 55 and had accrued a minimum of ten years of service with the City of Troy.

- (21) *Retirement Plan* means the City of Troy Employees Retirement System and the City of Troy Defined Contribution Plan.

- (22) *Sponsored Dependent* generally means an individual not eligible as a Family Continuation Dependent who (i) is over 19 years, (ii) is related to the Participant or Retiree by blood, marriage, or legal adoption, (iii) is a member of the Participant's or Retiree's household, and (iv) is dependent on the Participant or Retiree for more than half of his or her support. (The Base Plan definition of Sponsored Dependent above applies unless the Participant or Retiree selects an alternate insurance policy, in which case the definition is controlled by the insurance policy covering the Participant or Retiree, which may or may not vary from the definition listed above.)

- (23) *Spouse* means a Participant's or Retiree's spouse by legal marriage who is Participant's spouse on the date the Participant retires from employment with the City of Troy.

- (24) *Trust* means the Declaration of Trust of the City of Troy Retiree Health Care Benefits Plan as provided for in this Plan.

- (25) *Trustee(s) or Board* means the Board of Trustees of the Trust or a member of the Board of Trustees of the Trust as provided for in this Plan.

1:106. Notice.

Notice given to all interested parties shall, unless otherwise specified in this Resolution, be sufficient if in writing and delivered or sent by prepaid first class mail. Except as otherwise noted, the distribution or delivery of any statements or documents required under the Plan and Trust shall be sufficient if delivered in person or prepaid first class mail.

1:107. Reporting and Disclosure.

The Board and the Plan Trustees, or their respective designees, shall complete and provide to Participants, Retirees, Spouses and/or Dependents and to the appropriate government agencies any reports as may be required by the Code, applicable federal, state or local law.

1:108. Amendments.

The provisions of the Plan and Trust may be amended at anytime by resolution(s) adopted by the City of Troy in accordance with applicable law.

HEALTH CARE BENEFIT PLAN

1:200 Benefit Groups

(1) Composition of.

The following benefit groups are designated for the purpose of determining benefit eligibility conditions, benefit amounts, and member contribution rates.

- (a) Benefit group AFSCME Local #574 - All employees who are members of AFSCME Local #574.
- (b) Benefit group Michigan Association of Police Clerical and Non-sworn Police Personnel - All employees who are members of the local chapter of Michigan Association of Police Clerical and Non-sworn Police Personnel.
- (c) Benefit group Police Officers Association - All employees who are members of the Troy Police Officers Association.
- (d) Benefit group Fire Staff Officers Association - All employees who are members of the Troy Fire Staff Officers Association.
- (e) Benefit group Command Officers Association - All employees who are members of the Troy Command Officers Association.
- (f) Benefit group Non-union employees - All employees who are not a part of a collective bargaining unit as described above who are eligible for benefits under this Plan.

In case of doubt, the Board of Trustees shall determine the benefit group(s) that apply to a particular member.

(2) Benefit eligibility conditions shall be those applicable to the member's benefit group at the time of that member's termination of membership.

1:201. Eligibility

In order to be eligible for post-retirement health care benefits during any Plan Year, an individual must:

- (1) Be a Retiree of the City of Troy that had been a Participant of this Plan; and
 - (a) have been an Employee on the date preceding the effective date of the Retiree's retirement and commencement of benefits from the City of Troy; or
 - (b) met the requirements of the member's benefit group as described in Section 1:105(20); or

- (2) be a Retiree, who was a Participant of the Plan, receiving duty and/or non-duty disability benefits from the Retirement Plan; or
- (3) be a Retiree who was in receipt of benefits at the Effective Date of this Plan; or
- (4) be a Spouse of an individual who meets the eligibility requirements in subsection (1) above, provided that, in the case of a surviving Spouse, the Retiree had either
 - (a) a contractual agreement with the City of Troy to provide health benefits at retirement which included the right to name a beneficiary, or
 - (b) was a member of the Defined Benefit Plan and elected an optional joint and survivor beneficiary form of retirement and nominated his or her surviving Spouse as beneficiary of the option benefit; or
 - (c) was a member of the Defined Contribution Plan.

The cost of Spousal coverage shall be in accordance with Section 1:208 unless otherwise provided by an applicable Collective Bargaining Agreement or resolution of the City: or

- (5) be a Dependent of an individual who meets the eligibility requirements in subsection (1) above; and in the event of the Retiree's death, the Retiree had either
 - (a) a contractual agreement with the City to provide health benefits at retirement which included the right to name a beneficiary, or
 - (b) was a member of the Defined Benefit Plan and elected an optional joint and survivor beneficiary form of retirement, and there is a surviving spouse or surviving Dependent as named beneficiary; or
 - (c) was a member of the Defined Contribution Plan.

The cost of Dependent coverage shall be in accordance with Section 1:208 unless otherwise provided by an applicable Collective Bargaining Agreement or resolution of the City; or

- (6) be a Sponsored Dependent of an individual who meets the eligibility requirements in subsection (1) above; and in the event of the Retiree's death, the Retiree had either
 - (a) a contractual agreement with the City to provide health benefits at retirement which included the right to name a beneficiary and there is a surviving named beneficiary, or

- (b) was a member of the Defined Benefit Plan and elected an optional joint and survivor beneficiary form of retirement and there is a surviving named beneficiary; or
- (c) was a member of the Defined Contribution Plan.

The cost of Sponsored Dependent coverage shall be borne by the Retiree or the Sponsored Dependent unless otherwise provided by an applicable Collective Bargaining Agreement or resolution of the City; or

- (7) be a Family Continuation Dependent of an individual who meets the eligibility requirements of subsection (1) above; and in the event of Retiree's death, the Retiree had either
 - (a) a contractual agreement with the City to provide health benefits at retirement which included the right to name a beneficiary and there is a surviving named beneficiary, or
 - (b) was a member of the Defined Benefit Plan and elected an optional joint and survivor beneficiary form of retirement and there is a surviving named beneficiary; or
 - (c) was a member of the Defined Contribution Plan.

The cost of Family Continuation Dependent coverage shall be borne by the Retiree or the Family Continuation Dependent unless otherwise provided by an applicable Collective Bargaining Agreement or resolution of the City; or

- (8) be the surviving Spouse or Dependent of a former Participant, who on the date preceding the individual's date of death, was an Employee; provided, the surviving Spouse or Dependent is eligible for duty death and/or non-duty death benefits payable from the Retirement Plan; or
- (9) be an individual granted health coverage under a settlement agreement between the City and the individual; or

- (10) be an individual granted health coverage under a court order entered pursuant to applicable law, provided
 - (a) that the individual produces satisfactory documentation at the time of application for benefits and satisfies plan eligibility requirements, and
 - (b) that the City reserves the right to challenge the validity of the court order and that if such a challenge proves successful that the cost of any benefits provided be reimbursable to the Trust; or

1:202. Commencement of Benefit.

Subject to all applicable provisions of the Plan and/or Insurance Agreement, a Participant shall commence eligibility for benefits from the Plan on the first day he or she satisfies the eligibility requirements of Section 1:201, provided the Participant has enrolled for coverage on such date.

1:203. Enrollment.

- (1) The City shall give each Participant timely written notice of his or her eligibility and his or her right to enroll for coverage under the Plan. A Participant or Retiree may enroll for coverage on a form or forms provided by and filed with the City. In connection with his or her enrollment for coverage, the Participant or Retiree shall furnish all pertinent information requested by the City, Plan Administrator and/or the Insurance Carrier, and the Plan Administrator or the Insurance Carrier may rely upon all such forms and information furnished. The Participant, Retiree, Spouse, and eligible Dependent may be held responsible for costs for the false or incorrect information reported.
- (2) The Retiree should enroll for coverage at the time of retirement or within the time periods as specified by the provisions of the applicable Collective Bargaining Agreement or policy.
- (3) Spouse and Dependents shall be eligible for coverage as provided in the Plan and/or Insurance agreement and in Section 1:201 above. Spouse and Dependents shall be enrolled for coverage under the Plan by the Participant or Retiree at the time the Participant or Retiree enrolls for coverage under the Plan or as provided for in subsection 4.

- (4) Participants or Retirees must report Major Life Event Changes to the City within thirty (30) days of the event in order to add or delete persons from their benefit plans (health insurance). Major Life Event Changes may impact eligibility for benefits. Notification beyond thirty (30) days of the event may delay any additions of persons to benefits until the group's next reopening date. If failure to report the event within thirty (30) days results in additional benefit costs by the Plan and Trust due to non-termination of benefits, the Participant or Retiree may be held responsible for such costs.
- (5) In the event a Participant, Retiree, Spouse or Eligible Dependent elects not to receive benefits as provided in the Plan, such individual may enroll for coverage at any time provided they satisfy the eligibility requirements for coverage as provided in the Plan pursuant to provisions of any applicable Collective Bargaining Agreement or personnel policy.

1:204. Termination of Benefits.

Except as provided in Section 1:205, participation in the Plan shall terminate in accordance with the Plan and/or Insurance Agreement or applicable Collective Bargaining Agreement, on the earliest of:

- (1) termination of the Plan;
- (2) non-payment of any required Participant or Retiree contributions;
- (3) death of the individual receiving benefits under the Plan;
- (4) a Participant's or Retiree's election in writing to cease coverage under the Plan;
- (5) in the case of a Spouse or Dependent, the date the Spouse or Dependent ceases to be a Spouse or Dependent as defined in this Plan; or
- (6) in the case of a Spouse, Dependent, Family Continuation Dependent or Sponsored Dependent, death of the Retiree if the Retiree elected a straight life equivalent form of retirement benefit at the time of retirement or if the Retiree failed to nominate the required beneficiary necessary to ensure coverage of the Spouse, Dependent, Family Continuation Dependent or Sponsored Dependent; or
- (7) in the case of a Retiree, if that individual had a contractual agreement with the City to provide health benefits at retirement which did not include the right to name a beneficiary, or if the contractual agreement did include the right to name a beneficiary, and the Retiree failed to nominate the required beneficiary to ensure coverage of the Spouse, Dependent, Family Continuation Dependent or Sponsored Dependent; or

1:205. COBRA Continuation Coverage.

Notwithstanding the provisions of Section 1:203, continuing coverage shall be provided under the Plan to eligible Participants, Retirees, their Spouses and Dependents in accordance with Internal Revenue Code provisions (currently Section 4980B, and Title XXII of the Public Health Services Act ("COBRA continuation coverage"), as amended).

1:206. Health Care Benefits, General.

Beginning on the Effective Date, the City shall provide Health Care Benefits to each eligible Retiree and, if elected, to his or her eligible Spouse and, eligible Dependents, unless modified by an applicable Collective Bargaining Agreement or resolution of City. The benefits provided under the Plan are those set forth in the Plan and/or Insurance Agreement(s), Collective Bargaining Agreements, personnel policies, personal services contracts and/or resolutions of the Board of Trustees. The Insurance Agreement(s), Collective Bargaining Agreements, personnel policies, and personal services contracts are incorporated herein by this reference. A complete description of benefits provided under the Plan and the Insurance Agreement(s), inclusive of those set forth in the Collective Bargaining Agreements, personnel policies, and personal services contracts, shall be maintained by the City or the Plan Administrator.

In accordance with the Plan and/or Insurance Agreement with the Insurance Carrier, Retirees and their Spouses and Dependents will be entitled to the benefits in effect at the time of the Retiree's retirement ("Base Plan"). These benefits may be provided under the same policy or program in place at the Retiree's retirement or under a substantially equivalent policy or program at the discretion of the City. All Retirees, Spouses, and/or Dependents in receipt of Health Care Benefits at the time of enactment of this Plan and Trust shall continue to be eligible for the same benefits as received prior to the enactment of this Plan and shall continue to receive those benefits until they are terminated pursuant to the health care provisions in effect at the time of the Retiree's retirement.

1:207. Health Care Benefits, Cost.

Collective Bargaining Agreements, personnel policies, or personal services contracts may modify this section. In the event of a conflict between this section and a collective bargaining agreement, personnel policy or a personal services contract, the collective bargaining agreement, personnel policy or personal services contract will control.

- (1) Benefit group AFSCME Local #574 - For Retirees retiring on or after January 1, 2001, the City shall pay four (4%) percent of the monthly cost of health care for the retiree and the spouse for each year of credited retirement service (maximum of 100%), or \$400 per month, whichever is greater. For Retirees retiring prior to January 1, 2000, the City shall

pay three (3%) percent of the monthly cost of health care for the retiree, current spouse or dependent child for each year of credited service (maximum of 100%, or \$400.00 per month whichever is greater. A retiree may pay, at his or her own option and expense, the difference between a two-person and family rate.

In the event that dental insurance is provided to future retirees of other non-Act 312 eligible employee groups, it will also be provided to future retirees of AFSCME Local #574.

- (2) Benefit group Michigan Association of Police Clerical and Non-sworn Police Personnel - For Retirees retiring on or after July 1, 2001, the City shall pay four (4%) percent of the monthly cost of health care for the retiree and the spouse for each year of credited retirement service (maximum of 100%), or \$400 per month, whichever is greater, provided that the retiree shall apply for Medicare or its equivalent when eligible, and the City shall then provide supplemental insurance benefits. .

Prior to July 1, 2001, the City shall pay three (3%) percent of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each year of credited retirement service (maximum of 100%), or \$400 per month, whichever is greater.

- (3) Benefit group Police Officers Association - For Retirees retiring on or after February 20, 1996, the City shall pay four (4%) percent of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each complete year of credited retirement service (maximum of 100%).

For Retirees retiring prior to February 20, 1996, the City shall pay three (3%) percent of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each year of credited retirement service (maximum of 100%), or \$400.00 per month, whichever is greater. A retiree may pay, at his or her own option and expense, the difference between a two-person and family rate.

Effective July 1, 2001, the City will provide fully paid medical insurance for two-person coverage in the event of a duty death.

- (4) Benefit group Fire Staff Officers Association - For Retirees retiring on or after July 1, 2001 the City shall pay four (4%) percent of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each complete year of credited retirement service (maximum of 100%), provided that the retiree shall apply for Medicare or its equivalent when eligible, and the City shall then provide supplemental insurance benefits. A retiree may pay, at his or her own option and expense, the difference between a two-person and family rate.

Prior to July 1, 2001, the City shall pay three (3%) percent of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each year of credited retirement service (maximum of 100%), or \$400 per month, whichever is greater.

In the case of a duty disability retiree, the computation shall not be less than the amount it would be if the retiree had 10 years of credited service.

- (5) Benefit group Command Officers Association - For Retirees retiring on or after July 15, 2000 the City shall pay four (4%) percent of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each complete year of credited retirement service (maximum of 100%), provided that the retiree shall apply for Medicare or its equivalent when eligible, and the City shall then provide supplemental insurance benefits. A retiree may pay, at his or her own option and expense, the difference between a two-person and family rate.

Prior to July 15, 2000, the City shall pay three (3%) percent of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each year of credited retirement service (maximum of 100%), or \$400 per month, whichever is greater.

For Retirees retiring on or after July 15, 2000 the City shall provide dental/orthodontic coverage consistent with that received by active employees for retiree and spouse at a rate of four (4%) percent of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each complete year of credited retirement service (maximum of 100%), provided that the retiree shall apply for Medicare or its equivalent when eligible, and the City shall then provide supplemental insurance benefits. A retiree may pay, at his or her own option and expense, the difference between a two-person and family rate.

For retirees receiving a non-duty disability retirement on or after May 7, 2001, the City shall pay four (4%) percent of the monthly cost of health care for the retiree and the spouse for each year of credited retirement service (maximum of 100%), or \$400 per month, whichever is greater.

- (6) Non-union employee – On or after January 17, 2000, the City shall pay four (4%) of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each year of credited retirement service (maximum of 100%) or \$400 per month, whichever is greater.

Prior to January 17, 2000, the City shall pay three (3%) percent of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each year of credited retirement service (maximum of 100%), or \$400 per month, whichever is greater.

1:208. Alternative Policies or Programs.

The City, in its discretion, may offer alternative policies or benefit structures to Participants, Retirees, Spouses and/or Dependents in addition to the Base Plan. In the event that the City chooses to offer alternative policies or benefit structures, Participants or Retirees and their Spouses and/or Dependents may transfer from one policy or benefit structure to another policy or benefit structure during open enrollment periods. However, any additional cost above the Base Plan shall be borne by the Participant or Retiree or the Participant's or Retiree's Spouse and/or Dependents.

1:209. Duplicate Coverage Disallowed.

Duplicate coverage will not be provided in the event that there are two or more Participants and/or Retirees who (a) are each independently eligible for health care benefits from the City or the Plan and (b) are each also eligible for health care benefits from the City or the Plan as a Spouse or Dependent of a Participant or a Retiree. Said parties shall be eligible to participate in only one policy or program so that one party participates in the one policy or program as the principal insured and the other party(ies) participates in the same policy or program as a Spouse or Dependent of the Participant or Retiree. The Dependent shall suffer no detriment as a result of the disallowance of duplicate coverage.

1:210. Medicare Eligibility

Upon attaining the age of Medicare eligibility, pursuant to the terms of the applicable Collective Bargaining Agreements and personnel policies, those eligible Retirees and/or Spouses shall enroll in both Medicare A and B, and are obligated to pay for Medicare Part B. Once a Retiree is in receipt of Medicare A and B coverage, this Plan will provide supplemental coverage as provided pursuant to the coverage in effect at the time of retirement.

1:211. Coordination of Benefits

The City intends that the Plan shall provide each Retiree with payment for health care expenses incurred by the Retiree and, if eligible, his or her Spouse and his or her Dependents, as provided in the Plan and/or Insurance Agreement. The City does not intend that payment under this Plan shall exceed the amount of the expenses incurred. For this reason, the Plan coordinates benefits with other insurance policies according to industry standards and applicable laws.

(1) Reimbursement.

If an expense is paid under the Plan by the Plan Administrator on behalf of a Retiree, his or her Spouse or Dependents, and such expense subsequently is paid from any other source, in whole or in part, the Retiree, his or her Spouse or Dependents, shall remit to the Plan an amount equal to the duplicated benefits. In addition, the Plan Administrator may reimburse any other Plan, person or entity that has paid an expense on behalf of a Retiree, his or her Spouse or Dependents which expense was payable under this Plan. In such event, the Plan, Plan Administrator and/or the Insurance Carrier shall be relieved of all further responsibility with respect to that expense.

(2) Subrogation.

In the event any payment is made by the Trust under the Plan, the Plan and the Trust shall be subrogated and shall succeed to the rights of any Retiree, his or her Spouse and Dependents against any other plan, person or entity for recovery of health care expenses for which such other plan, person or entity legally is liable. All amounts so recovered, by settlement, judgment or otherwise, shall be paid to the Trust. Retirees, their Spouses and Dependents shall furnish such information, execute and deliver such assignments, documents or other instruments, and take whatever steps are necessary to secure the rights of the Plan. Retirees, their Spouses and Dependents shall take no action to prejudice the rights and interests of the Plan hereunder.

(3) Effect of Exclusions.

The provisions of this Section shall not be construed to create any independent right to payment of any benefit under this Plan. Any exclusion or limitation contained in the Plan and/or Insurance Agreement shall supersede any provision of this Section regarding coordination of benefits.

1:212. Plan Administration, City Duties.

- (1) The City shall be responsible for complying with the Code's reporting and disclosure requirements and for the purpose of fulfilling such other Plan administrative functions as are not specifically assigned to the Plan Administrator and/or Insurance Carrier. The City may employ a Plan Administrator and/or Insurance Carrier who will be responsible for the interpretation, administration and the payment of health care claims under the Plan.
- (2) The City also shall be responsible for the performance of its duties as employer and Plan sponsor under applicable Internal Revenue Code Sections. The City may delegate all or any part of its Plan administration responsibilities. Any such delegation shall be done in writing.
- (3) The City may employ one or more persons to render advice with regard to any responsibility such fiduciary has under the Plan. Any fiduciary, agent, representative or other person performing services to or for the Plan shall be entitled to reasonable compensation for services rendered, unless such person is employed by the City and already receives full pay from the City, and to reimbursement or expenses properly and actually incurred.
- (4) The City shall furnish the Plan Administrator and/or Insurance Carrier, while this Plan is in effect, any information as may be required, at intervals and in the form prescribed by the Plan Administrator and/or Insurance Carrier, for the enrollment of Retirees, Spouses and/or Dependents for coverage under the Plan and for the processing of terminations or other changes in coverage of Retirees, Spouses and/or Dependents and also shall furnish to the Plan Administrator and/or Insurance Carrier such other information required for the administration of the Plan.

1:213. Plan Administration, Insurance Carrier Duties.

Each Insurance Carrier shall have the responsibility for interpreting and administering their respective Insurance Agreement and for processing and paying benefit claims thereunder, and shall provide the City with such information as the City may deem necessary to permit the timely filing of all reports required by law. The Insurance Carrier also shall provide a description of the benefits provided under their respective Insurance Agreement directly to the Retirees, Spouses and/or Dependents or to the City for distribution to Retirees, Spouses and/or Dependents.

1:214. Plan Administration, Plan Administrator Duties.

The Plan Administrator as set forth in Section 1:105(17) shall have the responsibility for interpreting and administering the Plan and for processing and paying benefit claims thereunder, and shall provide the Trustees with such information necessary to permit the timely filing of all reports required by applicable laws or regulations governing the Trust.

1:215. Health Care Benefits, Claims Procedures.

A claim for benefits under the Plan must be submitted in writing to the Plan Administrator and/or Insurance Carrier in accordance with procedures established by the Plan Administrator or the Plan and/or Insurance Carrier as communicated in writing to Retirees, Spouses and/or Dependents. The Plan Administrator and/or Insurance Carrier shall provide written notice within 30 days to any Participant or Qualified Beneficiary whose claims for benefits under this Plan have been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the party. The Plan Administrator and/or respective Insurance Carrier has responsibility for the resolution of disputes involving payment of benefits under the portion of the Plan assigned to the Plan Administrator or Insurance Agreement with the Insurance Carrier. The Plan Administrator and/or Insurance Carrier shall afford a reasonable opportunity to any Participant or Qualified Beneficiary whose claim for benefits has been denied for a full and fair review of the decision denying the claim.

1.216. Funding.

For the purpose of creating and maintaining the Plan and Trust for the payment of benefits payable as provided in this Plan and Trust, the City shall appropriate an amount sufficient to maintain the Trust subject to the provisions of this Plan.

DECLARATION OF TRUST

1:300. Irrevocable Trust, Established.

The Section 115 governmental trust established in this Plan shall be irrevocable and shall conform to all applicable sections of the Internal Revenue Code, the applicable Collective Bargaining Agreements, the statement of purpose in this Plan, and all statutes, ordinances, rules, regulations, arbitrators' awards and judicial decisions interpreting the foregoing provisions.

The Trust shall consist of City of Troy Contributions, any Contributions which may be paid by Retirees and other Qualified Beneficiaries due pursuant to the provisions of an applicable Collective Bargaining Agreement or to the election of additional coverage beyond that provided by the City, all investments made or held under Trust, and all income therefrom, both received and accrued, and any other property, which may be received or held by reason of this Trust. Funds paid by Retirees and other Qualified Beneficiaries as a result of premium sharing required pursuant to applicable City policy, shall be paid directly to the City and/or the applicable Insurance Carrier and shall not be paid into the Trust.

1:301. Use of Trust Assets.

- (1) No part of the net earnings of the Trust may inure to the benefit of any Participant, Retiree or other beneficiary other than by benefit payments or for services provided to the Trustees in their administration of the Trust. The Trust assets shall not be used for or diverted to purposes other than to provide the benefits contemplated under the Plan for the exclusive benefit of Retirees and their eligible Spouses and eligible Dependents, except any administrative expenses for which the Trust is liable. A portion of net earnings may be used for payment for reasonable and necessary professional services, costs and expenses related to assisting the Trustees in the operation of the Trust.
- (2) All income, profits, recoveries, contributions, forfeitures and any and all monies, securities and properties of any kind at anytime received or held by the Trustees hereunder, shall become part of the Trust when received, and shall be held for the use and purposes hereof.

1:302. Funding.

- (1) For the purpose of creating and maintaining a fund for the payment of health care benefits payable as provided in this Plan, the City shall be required to pay to the Trust an amount consistent with the actuarial valuations and calculations made by the Actuary for the Trust to result in a prefunded plan. The City reserves the right to fund these health care benefits on a "pay-as-you-go" basis. Such contributions shall also be made in accordance with any regulations of the Board of Trustees as are not inconsistent with the

authority stated in this Plan and any Collective Bargaining Agreements between the Collective Bargaining Associations and the City and this Plan.

- (2) Qualified Beneficiaries shall contribute those amounts required for additional coverage as optioned by such Qualified Beneficiaries and otherwise as determined by the Trustees.
- (3) Subject to the tax provisions of applicable ordinances, resolutions and state law, the Trustees may, to the extent matters are not set forth in the Trust, in their discretion decide the manner and means of payments, the procedures to be followed in making the payments, and the forms required to accompany the payments to the Trust. Upon determination by the Trustees of these matters, the Trustees shall provide written notice to the City and require payments by the City to be made pursuant to the rules and regulations of the Trust.
- (4) Time is of the essence in making and processing all payments to the Trust. The parties recognize that the regular and timely payments of Contributions are essential to the operation of the Trust and the providing of benefits under various insurance programs.

1:303. Board of Trustees.

- (1) The Board of Trustees shall consist of eight (8) trustees which shall be the same elected and appointed individuals that serve on the City of Troy Employees Retirement System Board of Trustees, as follows:
 - (a) The City Manager, by virtue of his/her position.
 - (b) The Assistant City Manager/Finance & Administration, by virtue of his/her position.
 - (c) A member of the Troy City Council, as appointed by the Council.
 - (d) A citizen, who is an elector of the City, and who is not a member, retirant, or beneficiary of the City of Troy Employees Retirement System or the City of Troy Defined Contribution Plan who shall be appointed by the City Council.
 - (e) Three members of the City of Troy Employees Retirement System or the City of Troy Defined Contribution Plan in accordance with such rules and regulations of the Board that governs such elections.
 - (f) A retiree of the City of Troy Employees Retirement System (Defined Benefit Plan), who shall be appointed by the City Council and who shall serve as a non-voting member.

- (g) A minimum of two of the five employee member Trustees, as set forth in paragraphs (a), (b), or (e) must be a member of the City of Troy Employees Retirement System (Defined Benefit Plan).
- (2) The general administration, management and responsibility for the proper operation of the Trust and for making effective and construing the provisions of the Trust shall be vested in the Board of Trustees established by this Section, consistent with applicable state and federal laws and regulations. A Trustee or other fiduciary under the Trust shall discharge his or her duties with respect to the Trust solely in the interest of the Participants and Qualified Beneficiaries for the exclusive purpose of providing benefits to Participants and Qualified Beneficiaries and paying reasonable expenses of administering the Trust. A Trustee shall discharge his or her duties with the care, skill, and caution under the circumstances then prevailing which a prudent person, acting in a like capacity and familiar with those matters, would use in the conduct of an activity of like character and purpose.
- (3) The election of the trustees as provided in subsection (1) of this section shall be held under such rules and regulations, as the Board of Trustees shall adopt.

1:304. Trustees' Terms of Office.

- (1) The regular terms of office of the Trustees shall be as follows:
 - (a) the three (3) employee trustees shall each have a three (3) year term of office.
 - (b) the citizen trustee shall have a three (3) year term of office.
 - (c) the Council trustee shall have a four (4) year term of office.

The term of the appointed and elected Trustees shall be identical to and coincide respectively with the term each Trustee serves as trustees of the City of Troy Employees Retirement System Board of Trustees. Upon expiration of his or her term, each Trustee shall continue to serve until a successor has been appointed.

- (2) Each Trustee shall serve until the expiration of his or her term of office or until his or her death, incapacity, resignation or removal.
- (3) In the event a Trustee fails to attend four (4) consecutive meetings of the Board of Trustees, unless in each case the absence is excused for cause by the Chairperson or Vice-Chairperson, or in the event a member Trustee leaves the employ of the City, he/she shall be considered to have resigned from the Board. The Board shall, by resolution, declare his/her office of Trustee vacated as of the date of such resolution. In the event a Trustee vacancy occurs, then the Board of Trustees, by majority vote, may appoint an

individual that meets the necessary qualifications or may call for a special election to fulfill the remainder of the unexpired term.

- (4) A vacancy or vacancies in the office of the Trustees shall not impair the powers of the remaining Trustees to administer the affairs of the Trust, provided there are sufficient Trustees to constitute a quorum.

1:305. Officers and Administration.

- (1) At its meeting in February of each year, the Trustees shall select a chairperson and a vice-chairperson from the group of the then existing Trustees and the chairperson and vice-chairperson shall serve a term of one year or until a new chairperson and vice-chairperson is elected. The City Treasurer shall be the Treasurer of the Trust. The Assistant City Manager/Finance & Administration shall serve as Secretary of the Plan and Trust and shall be the custodian of its money and investments.
- (2) Consistent with applicable state and federal laws and regulations, the Trustees shall have the power to promulgate rules and regulations for the day-to-day management of the Trust, the investment of monies held by the Trust, to determine all questions regarding the interpretation of the Trust, and such other Trust related subjects as shall be deemed necessary and proper by the Trustees. If any rule or regulation of the Trust or part thereof is found to be in conflict with any law, statute, judicial decision, arbitration decision or any other competent body or tribunal, such rule or regulation or part thereof shall be deemed voided and, all other rules and regulations of the Trust shall remain in full force and effect.
- (3) Whenever the signature of a Trustee is required on any document, signature of the chairperson or acting chairperson and secretary or acting secretary shall be required.
- (4) In the event of any suit brought against the Trustees arising out of the acts within the scope and powers and duties of the Trustees, or in the event of any lawsuit brought by the Trustees as authorized by the Plan and Trust, the cost of defense or prosecution of such lawsuit shall be charged to the Trust, and shall be paid directly from the Trust, provided such costs are not incurred by reason of bad faith, gross negligence, or breach of a fiduciary obligation to the Trust or to the beneficiaries thereof.
- (5) The Board of Trustees may employ such clerical personnel or administrative personnel to perform whatever administrative activities are required in the proper performance of the Trust. In addition thereto, the Trustees may, if they desire, contract with an administrator to perform such clerical and administrative duties as they may, in their sole discretion, determine is reasonably and prudently necessary to carry out the Trust's activities and purposes. Under no circumstances shall said administrator have control or authority with respect to the management of the Trust or its assets. The said administrator shall not be

clothed with any type of authority or power which will constitute the administrator as a fiduciary. Said administrator will not have the power or authority to act as an investment counselor or manager and will not be authorized to furnish investment advice.

- (6) The Board of Trustees may utilize City staff for such functions as personnel administration, accounting, banking and purchasing and will comply with all established City control procedures and policies related to these services. The Board will annually reimburse the City for actual costs of these services as determined by a method jointly agreed upon by the Board of Trustees and the City.
- (7) Employees, upon the request of the Board of Trustees, may also be assigned to the Trust for the proper operation of the Trust. Said employees shall be subject to the supervision of the Board of Trustees. The Board of Trustees shall have the authority to establish job descriptions and promulgate rules and regulations appropriate for the Trust in addition to those adopted by the City. The Board will annually reimburse the City for the actual costs of these employees as determined by a method jointly agreed upon by the Board and the City.
- (8) The Board of Trustees may employ (an) investment manager(s) to manage the assets of the Trust. Such investment manager(s) must be registered under the Investment Advisor's Act of 1940, as amended, (15 USCS 80b-1) and must meet any applicable state and federal requirements to act as an investment manager. The Trustees may, if they deem proper in their discretion, or if the circumstances require it, appoint such investment manager, managers, banks or insurance companies as fiduciaries and enter into an agreement with such institutions, naming it a fiduciary and conveying to such fiduciary all or a portion of the assets of the Trust, so that said fiduciary may handle, manage and hold those assets conveyed to it. All assets conveyed to said fiduciary shall be subject to the provision of the agreement or agreements between the Trustees and the fiduciary.
- (9) The Board of Trustees may employ legal counsel with whom they may seek advice, consult with, require attendance at meetings and to otherwise represent the Trustees in matters relating to the Trust.
- (10) The Board of Trustees may authorize the purchase of insurance for the Trust and for the Trustees to cover liability or losses occurring for any reason, including but not limited to, an act or omission (errors or omissions) of a fiduciary, including the Trustees; provided however, that such insurance policy permits recourse by the insured against the fiduciary, including the Trustee or Trustees involved, in case of breach of fiduciary obligation by the fiduciary.

- (11) The Board of Trustees shall appoint an Actuary who shall advise the Trustees on the actuarial operation of the Plan and Trust. The Trustees shall, from time to time, adopt such mortality and other tables of experience and a rate or rates of regular interest as are necessary in the operation of the Trust on an actuarial basis.

1:306. Board Meetings.

- (1) The Trustees shall meet at least once quarterly. The Trustees shall determine the time for the regular meetings of the Trustees and the place or places where such meetings shall be held. The secretary of the Trustees or his or her designee shall be responsible for giving notice of the time and place of such meetings to the other Trustees.
- (2) Notice and conduct of all meetings of the Trustees, both regular and special, shall be given in accordance with applicable law including the Michigan Open Meetings Act (MCL 15.261 et seq.).
- (3) The Board of Trustees shall adopt its own rules of procedure and shall keep a record of its proceedings. Four (4) Trustees shall constitute a quorum at any meeting of the Board of Trustees. Each Trustee shall be entitled to one vote on each question before the Board of Trustees and at least four (4) concurring votes shall be necessary for a decision of the Board of Trustees.

1:307. Compensation.

All Trustees shall serve without compensation as members of the Board of Trustees, except that employee Trustees shall suffer no loss in compensation on account of their services as Trustees.

1:308. Trustees' Powers and Responsibilities.

The Trustees shall hold all the powers that are necessary to carry out the purposes of the Trust and are generally available to Trustees under the laws of the State of Michigan, except as limited by the Trust and by federal law and regulations. It is intended that the Plan and Trust shall be tax exempt and shall qualify under the Internal Revenue Code and any amendments of the Code applicable to plans of this type. The Trustees shall have the continuing duty to propose to the City amendments to this Plan to the extent it becomes necessary to qualify said Plan under the Internal Revenue Code and to continue the tax exempt status of the Trust. The Trustees shall take no action nor make any determination inconsistent with any qualification or ruling of the Internal Revenue Service, an arbitrator or the courts with respect to the Trust. In the case of amendments to the Internal Revenue Code or changes of regulations by the Internal Revenue Service or the Labor Department, the Trustees are empowered to take all necessary action(s)

authorized by the Plan and Trust, federal and state law and regulations, to continue the qualification of the Trust as a qualified Trust. In carrying out the purposes of the Trust, the Trustees shall have the following powers and duties:

- (1) The Trustees shall, in order to effectuate the purposes of the Trust, be bound by the terms of the Plan and any applicable Collective Bargaining Agreements between the City and the Collective Bargaining Associations, or applicable personnel policies.
- (2) The Trustees shall establish a uniform system for the timely transmission of required reports and contributions from the City on behalf of the Participants and/or Qualified Beneficiaries.
- (3) The Trustees, in accordance with the requirements of law, may direct an impartial firm of independent certified public accountants to act as agent of the Trustees to examine the payroll records and reports as may be necessary to determine the monies due on behalf of a Participant and/or Qualified Beneficiary covered by this Trust and to make a written report to the Trustees.
- (4) The Trustees shall maintain, or cause to be maintained, proper books of accounts and records of and for the administration of the Trust, including the minutes of all meetings, make them available for inspection at the permanent office of the Trust during reasonable business hours by the City, or any Participant or Qualified Beneficiary covered by the Plan and Trust.
- (5) The financial records of the Trust shall be subject to the annual audit of the City. The Trustees shall fully comply with all applicable statutory and municipal budgetary and accounting procedures and provide access to and/or documentation of all assets and liabilities of the Trust and a resume of the operations of the Trust for the preceding year together with such other data as may be required by law and/or as part of the City's annual financial report.
- (6) The Trustees shall be authorized, pursuant to Public Act 149 of 1999 (MCL 38.1211 et seq.), as amended, to invest the assets of the Trust in accordance with the provisions of Public Act 314 of 1965 (MCL 38.1132 et seq.), as amended.

1:309. Trust Liabilities.

- (1) The City shall not be liable for payment to the Trust of any amount other than those required of it by the Trust. Neither the City, nor any Participant or Qualified Beneficiary or Trustee shall be liable for any debts, liabilities or obligations of the Trust except as provided for in this Chapter. Neither the City nor any Participant and/or Qualified Beneficiary shall have any right to the return of any money properly paid into the Trust, except as otherwise specifically provided in this Plan and Trust, or to money improperly

paid which has already been invested or distributed. Any contribution improperly paid into the Trust by the City or on behalf of a Participant or Qualified Beneficiary shall be returned by the Trustees upon the request of the City, the Participant or the Qualified Beneficiary or upon discovery by the Trustees that such monies have been improperly paid into the Trust, unless those monies have already been invested or distributed.

- (2) No part of the Trust or any benefits payable by the Trustees shall be subject to alienation, sale, transfer, assignment, pledge or encumbrance charge by any person. No Participant or Qualified Beneficiary shall be entitled to receive any part of the Contributions made by the City or payments required to be made by the Trust, in lieu of such benefits provided under the Plan as determined by the Trustees in accordance with the Trust.

1:310. Termination of the Trust.

- (1) Subject to the limitations of this Plan and Trust, the parties hereby contemplate that new employment benefit decisions may be made by the City and/or new Collective Bargaining Agreements may be entered into which continue or modify the provisions of the Trust. The Trust shall continue during such period of time as may be necessary to carry out the provisions of any Plan or Collective Bargaining Agreement requiring payment to the Trust and the fact that such Collective Bargaining Agreements or employment benefit decisions are not extended, shall not by itself terminate the Trust, which shall continue for a period of time sufficient to wind up the affairs of the Trust.
- (2) Provided there are no longer any Qualified Beneficiaries eligible for benefits from the Trust, the Trust may be terminated at any time by the Trustees so long as the termination is not inconsistent with any then existing City decisions. It shall not be necessary for the City to execute such an agreement for the Trust to terminate.
- (3) If the Trust shall terminate, the Trustees shall forthwith notify any Insurance Carrier or Carriers then providing insurance to Retirees and Qualified Beneficiaries in the Trust.
- (4) In the event of the termination of the Trust, the remaining funds available after providing for all the outstanding obligations, shall be used in a manner as will, in the opinion of the Trustees, best effectuate the purposes of the Trust, including, but not limited to, the purchase of insurance benefits.