

Agenda Number 2.e.

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MEETING DATE: December 3, 2015

AGENDA ITEM: Approval of the Amended and Restated 401(k) Savings Plan

RECOMMENDATION:

Staff recommends that the Board approve the CAWCD Amended and Restated 401(k) Savings Plan

FINANCIAL IMPLICATIONS: None

LINKAGE TO STRATEGIC PLAN, POLICY, STATUTE OR GUIDING PRINCIPLE:

Any amendments to the CAWCD 401(k) Plan require Board approval

PREVIOUS BOARD ACTION/ACTIVITY:

1983 – Original 401(k) Plan adopted
2002 – Amended and Restated Plan adopted
January 2003 – Amendment No. 1 to the Amended and Restated 401(k) Plan adopted
March 2005 – Amendment No. 2 to the Amended and Restated 401(k) Plan adopted
August 2005 – Amendment No. 3 to the Amended and Restated 401(k) Plan adopted
November 2008 – Amended and Restated Plan adopted
January 2011 – Amendment No. 1 to the Amended and Restated 401(k) Plan adopted

ISSUE SUMMARY/DESCRIPTION:

The Internal Revenue Service has established a five-year cycle for each qualified retirement plan, such as CAWCD's 401(k) Savings Plan, to resubmit an up-to-date plan amended to reflect all required tax law changes in order for the IRS to issue a new determination letter for the plan to remain qualified. CAWCD's cycle ends on January 31, 2016.

The repercussions of not submitting an up-to-date amended plan by the due date, in the event of problems or issues related to the plan in the future, include the loss of the ability to retroactively correct the plan without going through a formal appeal process and potential sanctions. It is somewhat of a balancing act to wait to get as many current updates in the plan document as possible without missing the deadline. In addition to the required changes, staff has taken the opportunity to include other minor corrections and edits in this amendment.

The changes included in the document are as follows:

- Updated plan dollar amounts, spelled out various provisions already in the Plan Document or provided additional language:
 - 3.09 Military Service,
 - 4.08(b) Adjustment for Excess Deferrals,
 - 8.03(d) Manner of Distribution,
 - 8.04 Distributions Under Qualified Domestic Relations Orders,
 - 8.05 Withdrawals During Employment Period and Prior to Normal Retirement Date,
 - 8.06 Eligible Rollover Distributions,
 - 8.07 Withdrawals During Active Military Duty.
- Provision change 4.04 Designated Funds to allow for a Default Election Fund if the participant fails to designate which fund/s to invest in.
- Provision change 8.03c (ii) Manner of Distribution allowing participants more than one partial withdrawal per year.
- New provision 8.08 Missing Payee describing the process to be used if we cannot find the participant or beneficiary for distribution of funds.

None of the amendments have any cost implications.

SUGGESTED MOTION:

I move that the Board approved the CAWCD Amended and Restated 401(k) Savings Plan.

Attachment.

**CENTRAL ARIZONA WATER CONSERVATION DISTRICT
AMENDED AND RESTATED
SECTION 401(k) SAVINGS PLAN**

Restated Effective as of January 1, 2015

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THIS RESTATED PLAN was adopted in Phoenix, Arizona, the ____ day of _____, 2015, by CENTRAL ARIZONA WATER CONSERVATION DISTRICT, a tax-levying improvement district of the State of Arizona and a municipal corporation pursuant to Arizona Revised Statutes sections 48-3701, et seq. (referred to as “Employer”).

Except as expressly stated to the contrary, the terms and conditions stated in this Plan document are effective as of January 1, 2015. To determine the prior provisions of the Plan in effect from time to time, the prior Plan documents should be consulted.

W I T N E S S E T H:

IT IS HEREBY AGREED AS FOLLOWS:

ARTICLE I: PURPOSE, NAME, DEFINITIONS AND OPERATION

1.01 Purpose & Name.

The Plan and Trust are designed and are intended to qualify under section 401(a) of the Internal Revenue Code of 1986 (the “Code”) and any amendments thereto and thereby obtain tax exempt status under section 501(a) of the Code with contributions thereto being deductible under section 404 of the Code, to the extent such deductions are permitted.

The primary object of the Plan is to provide a retirement income benefit in addition to the benefits provided under the Social Security Act for Employees of the Employer in consideration of their service to the Employer.

This Plan and Trust Agreement are established and shall be maintained for the sole and exclusive benefit of those Employees of the Employer who shall be eligible to participate and for the benefit of the Beneficiaries of such Employees in the event of their death under the terms and conditions hereinafter set forth. No part of the Trust Fund shall revert to the Employer, except as hereinafter provided, or may be used for or diverted to purposes other than for the exclusive benefit of the Participants and their Beneficiaries.

The Trust established pursuant hereto shall be known as the Central Arizona Water Conservation District Section 401(k) Savings Trust. The Plan and Trust Agreement constitute a complete amendment and restatement of the Section 401(k) Savings Plan and Trust, which was effective on the Effective Date, as of the Amendment and Restatement Effective Date, except as otherwise provided.

1.02 Definitions.

“Account” or “Fund Account” shall mean the account or accounts established and maintained by the Plan Administrator for each Participant with respect to any interest in the Fund.

“Agreement” or “Plan” shall mean the Section 401(k) Savings Plan and Section 401(k) Savings Trust Agreement as herein set forth.

“Annuity Starting Date” shall mean the first day of the first period for which an amount is payable as an annuity under the Plan or, in the case of a benefit not payable in the Form of an annuity, the first day on which all events have occurred which entitle the Participant to such benefit.

“Beneficiary” shall mean the person or persons designated by the Participant to receive any amounts payable under the Plan following the death of the Participant.

“Catch-Up Contributions” shall mean a type of Deferred Compensation which may be contributed during a Plan Year on behalf of a Participant who attains at least age 50 during that Plan Year, which is not eligible for Matching Contributions, and which is further described in Section 3.02(b).

“Compensation” shall mean the total amount actually paid by the Employer to the Participant as remuneration for services rendered including (i) regular salary and hourly wages, (ii) overtime pay, (iii) travel pay, exclusive of imputed income from personal use of an Employer vehicle, (iv) sick leave pay which is not specifically excluded from Compensation as set forth below, (v) salary reduction contributions to the Plan that would have been paid to a Participant as current compensation reportable on Internal Revenue Service Form W-2 but for the Participant’s election to direct such contributions under the Plan, all as determined before deductions required by law to be withheld from the Participant by the Employer such as income taxes and Social Security taxes, and (vi) effective January 1, 2009, differential wage payments, as defined in section 3401(h)(2) of the Code, but excluding (a) commissions, (b) pay in lieu of vacation, (c) sick time pay paid on or after a Participant’s separation from employment that reflects accrued sick time pay not taken before separation, (d) director’s fee, (e) moving and relocation reimbursements or allowances and (g) any contributions to or benefits under the Plan or any other contributions or benefits under any provision of any other pension, profit sharing, group insurance, stock option, or other employee welfare or fringe benefit plan or plans (including employee contributions made by the Employer to the Arizona State Retirement System) other than Employer’s Elective Contributions or elective contributions made to a plan meeting the requirements of Code section 125, 457(b) or 132(f). A Participant’s Compensation for any Plan Year shall mean that part of the Participant’s Compensation which was earned during (or, in accordance with non-discriminatory rules adopted and uniformly applied by the Plan Administrator, allocable to) that portion of the Plan Year during which the individual involved was a Participant. Notwithstanding the foregoing, except for determining the overall limitations on Annual Additions under Section 3.05 for Limitation Years beginning prior to July 1, 2007, a Participant’s total Compensation shall not exceed \$200,000 subject to annual cost of living adjustments permitted under sections 401(a)(17) and 415(d) of the Code (\$265,000 for 2015). For Plan Years beginning on or after July 1, 2007, Compensation shall only include amounts paid during an Employee’s employment, except as provided in the remainder of this section. To the extent that the following amounts are paid no later than the date which is 2-1/2 months after termination of employment, such amounts paid after an Employee’s termination of employment shall be deemed compensation: regular pay, including compensation for services during regular working hours, overtime, shift differential, commissions, bonuses or other similar payments, and payment for unused accrued sick, vacation or other leave, but only if the Employee would have been able to use the leave if employment had continued. The rules described in the preceding sentence with respect to post-employment payments shall not apply to payments to an individual who does not currently perform services for the Employer by reason of qualified military service, to the extent such payments do not exceed the Compensation such individual would have received from the Employer if he had continued to perform services for the Employer.

“Collective Bargaining Agreement” shall mean an agreement entered into between Employer and a labor organization (within the meaning of the Labor Relations Act of 1935) which then is acting as the representative of a group of Employer’s employees if (i) the agreement provides for retirement benefits

for the employees of Employer covered by the agreement or (ii) such retirement benefits were the subject of bargaining between Employer and such representative and, after such bargaining, were not included in the agreement.

“Deferred Compensation” shall mean with respect to any Participant that portion of such Participant’s Compensation for a Plan Year that such Participant has elected to defer pursuant to section 3.02.

“Disability” or “Disabled” shall mean the inability to engage in any substantially gainful activity by reason of a medically determinable physical or mental impairment which can be expected to be of long continued and indefinite duration or result in death.

The “Effective Date” of the Plan shall mean July 1, 1983. “Amendment and Restatement Effective Date” shall mean January 1, 2015.

A person shall be an “Employee” of the Employer during any period if he is classified as an employee by the Employer, he performs services for the Employer during that period, he receives Compensation from the Employer for such services and he is subject to the direction and control of the Employer and its board of directors with regard to the manner in which such services are performed, during any period such person is an Employee of an employer required to be aggregated with the Employer under section 414(b), (c), (m) or (o) of the Code, or during any period he is a Leased Employee.

“Forfeiture” shall mean the forfeitable amount credited to the Account of any Participant who terminates in a Plan Year.

“Investment Manager” shall mean that person so designated by the Plan Administrator to manage and invest designated Plan assets and who acknowledges his acceptance in writing.

“Leased Employee” shall mean any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person (a “leasing organization) has performed Services for the recipient (or for the recipient and related persons as determined in accordance with section 414(n)(6) of the Code) 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. 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. A Leased Employee shall not be considered an employee of the recipient if: (i) such employee is covered by a money purchase pension plan providing: (1) a nonintegrated employer contribution rate of at least 10 percent of compensation, as defined in section 415(c)(3) of the Code, but including amounts contributed pursuant to a salary reduction agreement which are excludible from the employee’s gross income under section 125, section 401(k) or section 403(b) of the Code, (2) immediate participation, and (3) full and immediate vesting; and (ii) Leased Employees do not constitute more than 20 percent of the recipient’s nonhighly compensated workforce.

“Limitation Year” for purposes of determining limitations on contributions and benefits under section 415 of the Code for the Employer shall mean the Plan Year.

“Maternity or Paternity Leave of Absence” shall mean 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 therefor is necessary to prevent the Employee from incurring a Break in Service, or, in any other case, in the immediately following computation period. The Hours of Service credited for a Maternity or Paternity Leave of Absence shall be those which would normally have been credited but for such absence, or, in any case in which the Plan Administrator is unable to determine the Hours normally credited, eight Hours of Service per day. The total Hours of Service to be credited for a Maternity or Paternity Leave of Absence shall not exceed 501.

“Normal Retirement Age” shall mean the date on which a Participant attains his Normal Retirement Date, but in no case later than the date on which the Participant attains the later of age 65 or the fifth anniversary of the date when the Participant’s participation in the Plan commenced.

“Normal Retirement Date” shall mean the date on which a Participant is eligible to receive a normal retirement benefit pursuant to the Arizona State Retirement System Retirement Plan.

“Participant” shall mean any Employee or former Employee of the Employer, who is or may become eligible to receive a benefit of any type under this Plan or whose Beneficiaries may be eligible to receive any such benefit.

“Part-Time Employee” shall mean an Employee who is not scheduled to work more than 20 hours per week on a regular basis.

“Person” shall mean any natural person, partnership, corporation, trust or estate.

“Plan Administrator” shall mean that person or persons so designated pursuant to the provisions of Article XI to administer the Plan and who signifies his acceptance of this responsibility as a named fiduciary of the Plan and Trust by joining in the execution of the documents creating or amending this Plan, or any successor, appointed in accordance with section 11.02 of the Plan who so signifies his acceptance in writing. If more than one person shall be so designated, the committee formed of those persons so appointed to administer the Plan shall be known as the Administrative Committee and all references in the Plan and Trust to the Plan Administrator shall be deemed to apply to the Administrative Committee.

“Plan Year” shall mean the 12-month period ending on December 31 in each year.

A “Qualified Plan” shall mean any plan providing deferred compensation or retirement benefits established by an employer with respect to its employees provided that such plan meets the requirements established by section 401 of the Code and that the trust forming a part of the Plan is exempt from tax under section 501(a) of the Code. A Qualified Plan with respect to any person under section 3.05 hereof shall mean only a plan of which such person was a participant.

“Service” shall mean the period during which an individual performs services for Employer as an Employee within the meaning of this Plan. An “Hour of Service” shall mean with respect to an Employee (i) each hour for which an Employee is directly or indirectly paid, or entitled to payment, by Employer for the performance of duties, (ii) each hour for which an Employee is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed due to vacation, holiday, illness, incapacity (including Disability), layoff, jury duty, military duty or leave of absence, and (iii) each hour for which back pay has either been awarded or agreed to by the Employer, irrespective of mitigation of damages. Notwithstanding the foregoing, no more than 501 Hours of

Service shall be credited under the foregoing clauses (ii) and (iii) to an Employee on account of any single continuous period during which the Employee performs no duties. Calculation of the Hours of Service to be credited to an Employee (ii) shall be in accordance with the provisions of Labor Regulation 2530.200b-2(b) and (c). All Hours of Service credited under the foregoing clauses (ii) and (iii) shall be credited to the computation periods to which they pertain, rather than to the computation period in which payment is made. The same Hours of Service shall not be credited both under the foregoing clause (i) or (ii), as the case may be, and also under clause (iii). The calculation of Service shall be made in accordance with nondiscriminatory rules adopted by the Plan Administrator and such rules shall be uniformly applied. For purposes of determining nonforfeitability, Service completed while an Employee is ineligible to participate in the Plan as a consequence of being covered by a Collective Bargaining Agreement shall be credited to the extent otherwise provided in the Plan upon such Employee no longer being covered by a Collective Bargaining Agreement.

“Temporary Employee” shall mean an Employee who is employed with an assignment duration expected to be nine months or less.

“Trustee” shall mean T. Rowe Price Trust Company, or any other person or entity at any time holding the assets of the Fund, as provided in Article V. The “Trust Agreement” pursuant to which the assets of the Fund are administered is an integral part of the Plan and shall be considered to be incorporated by reference herein.

“Trust Fund” or “Fund” shall mean the fund established by payments made by the Employer in accordance with Article V.

“Valuation Date” shall mean each business day on which the major securities markets of the United States are open for business.

ARTICLE II: ELIGIBILITY TO PARTICIPATE

2.01 Eligibility Requirements.

Except for any Employee who is a Temporary Employee, a Part-Time Employee, a Leased Employee or an Employee who is covered by a Collective Bargaining Agreement which does not provide for his inclusion in this Plan, an Employee shall become a Participant in the Plan upon commencing employment with the Employer and completing any required enrollment forms. An Employee who qualifies to participate in the Plan shall continue to be eligible to participate as long as he does not terminate his employment, become a Leased Employee or become covered by a Collective Bargaining Agreement which does not provide for his inclusion in this Plan, even if he becomes a Temporary or Part-Time Employee.

ARTICLE III: CONTRIBUTIONS AND BENEFITS

3.01 Formula For Determining Employer's Contribution.

For each Plan Year commencing after the Amendment and Restatement Effective Date, the Employer shall contribute to the Plan:

(a) The amount of the total salary reduction elections of all Participants made pursuant to section 3.02(a) and (b), which amount shall be deemed the "Employer's Elective Contributions"; plus

(b) "Matching Contributions" in an amount equal to 50% of each Participant's Deferred Compensation (excluding Catch-Up Contributions) for the Plan Year (not to exceed 3% of the Participant's total Compensation for the Plan Year). If a Participant's elective contributions for a Plan Year reach the maximum amount set out in section 3.02 and, as a result, the Participant is no longer eligible to make elective contributions to the Plan, the Participant, if still employed, will continue to receive Matching Contributions for each payroll period during the remainder of the Plan Year in an amount equal to:

(i) The lesser of (i) 50% of \$11,000 (or such higher amount prescribed by applicable law (\$18,000 for 2015)) or (ii) an amount equal to 50% of the amount by which each Participant elected to have his Compensation reduced under section 3.2 from the beginning of the Plan Year through the end of such payroll period (not to exceed 3% of the Participant's total Compensation for the Plan Year), minus

(ii) The amount of Matching Contributions previously made on behalf of the Participant from the beginning of the Plan Year through the end of such payroll period.

3.02 Participant's Salary Reduction Election.

(a) For each Plan Year, each Participant may elect to defer the lesser of (i) 98% of his Compensation reduced by any tax withholding requirements or (ii) \$11,000, as adjusted in accordance with section 402(g)(4) of the Code (\$18,000 for 2015) and reduced by the amount of elective deferrals by the Participant under any other Qualified Plan maintained by the Employer or any employer required to be aggregated with Employer under sections 414(b), (c), (m) or (o) of the Code. The amount by which Compensation is reduced shall be that Participant's "Deferred Compensation" and be treated as an Employer's Elective Contribution and allocated to that Participant's "Elective Contribution Account." Such Employer's Elective Contributions shall be deducted by the Employer from each payment of Compensation and remitted by the Employer to the Trustee not later than the 15th business day of the month following the month in which such amounts would have otherwise been payable to the Participant in cash (or such longer period as may be permitted under regulations issued by the Department of Labor). Contributions so deducted from Compensation must be expressed as increments of 1.0% of Compensation. A Participant may change the percentage to be withheld from his Compensation by filing a written notice with the Plan Administrator in a form prescribed by the Plan Administrator at such time as is reasonably determined by the Plan Administrator before the beginning of the payroll with respect to which such change is to be effective or by such other form and manner as may be prescribed by the Plan Administrator. A Participant may not change his salary reduction election more than once per calendar month, subject to the Plan Administrator adopting rules allowing for more frequent changes of salary reduction elections.

(b) A Participant who, as of the last day of a Plan Year will have attained at least age 50, and whose Deferred Compensation for the Plan Year reaches a limit imposed by the Plan or applicable law, shall be eligible to have the Employer contribute Catch-Up Contributions to his Elective Contribution Account up to the applicable limit under Code section 414(v) as promulgated by the Internal Revenue Service for that year (\$6,000 for 2015). Catch-Up Contributions shall not be taken into account when computing Matching Contributions for a Participant under Section 3.01 of this Plan.

(c) A Participant may not make withdrawals from his Participant's Elective Contribution Account prior to his attaining age 59-1/2, except in the event of Disability, retirement, termination of employment, purchase of credited service under the Arizona State Retirement System Retirement Plan pursuant to section 8.05(b) or proven hardship. Effective January 1, 2009, a Participant will be treated as having terminated from employment during any period the Participant is performing service in the uniformed services, as defined in chapter 43 of title 38, United States Code) while on active duty for a period of more than 30 days; provided, however, that if any such Participant elects to make a withdrawal from his Elective Contribution Account by reason of such termination of employment, such Participant may not make Employer's Elective Contributions for a period of six months from the date of payment thereof. The only amount available for hardship withdrawal is the amount of any Employer's Elective Contributions not previously withdrawn. A hardship withdrawal prior to age 59-1/2 may only be made for:

(i) Expenses for (or necessary to obtain) medical care that would be deductible under Code section 213(d) (determined without regard to whether the expenses exceed 7.5% of adjusted gross income);

(ii) Costs directly related to the purchase of the principal residence of the Participant (excluding mortgage payments);

(iii) Payment of up to the next 12 months of post-secondary tuition, related educational fees and room and board expenses for the Participant, the Participant's spouse, the Participant's designated Beneficiary (in accordance with any published guidance of the Internal Revenue Service), or the Participant's dependents (as defined in Code section 152 without regard to Code sections 152(b)(1), (b)(2) and (d)(1)(B));

(iv) Payments necessary to prevent the eviction of the Participant from the Participant's principal residence or prevention of the foreclosure on the mortgage on the Participant's principal residence;

(v) Payments for burial or funeral expenses for the Participant's deceased parent, spouse, children, designated Beneficiary (in accordance with any published guidance of the Internal Revenue Service), or dependents (as defined in Code section 152, without regard to Code section 152(d)(1)(B));

(vi) Expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty deduction under Code section 165 (determined without regard to whether the loss exceeds 10 percent of adjusted gross income) and

(vii) Other events provide for in revenue rulings, notices or other documents of general applicability published by the Commissioner of Internal Revenue.

The distribution must also be necessary to satisfy the need for the hardship withdrawal. A distribution will be deemed to be necessary to satisfy an immediate and heavy financial need of a Participant if all of the following requirements are satisfied:

(i) 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 such distribution;

(ii) The Participant has obtained all distributions, other than hardship distributions, and all nontaxable loans currently available under all qualified Plans maintained by the Employer; and

(iii) The Plan, and all other Qualified Plans maintained by the Employer, provide that the Participant's Employer's Elective Contributions will be suspended for six months after receipt of the hardship distribution; and

For purposes of the foregoing, the Plan does hereby restrict the right of a Participant who has received a hardship distribution to make Employer's Elective Contributions for a period of six months from the date of payment thereof. All withdrawal elections shall be made by a Participant on written forms supplied by the Plan Administrator for that purpose.

(d) Notwithstanding any provision of the Plan to the contrary, upon termination of the Plan, no distribution shall be made from a Participant's Elective Contribution Account if the Employer establishes or maintains an alternative defined contribution plan as defined in Treas. Reg. § 1.401(k)-1(d)(4)(i).

(e) At Normal Retirement Date, or such other date when the Participant shall be entitled to receive benefits, the fair market value of the Participant's Elective Contribution Account shall be used to provide additional benefits to the Participant pursuant to section 8.03.

3.03 Amount of Employer's Contribution.

The Employer's only contributions under the Plan shall be those provided for in sections 3.01(a) and (b).

3.04 Time of Payment of Matching Contributions.

Contributions under Section 3.01(b) shall be remitted by the Employer to the Trustee not later than the due date of the Employer's federal income tax return (including periods of extension) for its fiscal year with respect to which such contributions are made.

3.05 Overall Limitation of Contributions.

(a) The Annual Additions to a Participant's Account for any Limitation Year shall not exceed the lesser of \$40,000, as adjusted for increases in the cost-of-living under section 415(d) of the Code as promulgated by the Internal Revenue Service for the Limitation Year (\$53,000 for 2015), or 100% of the Participant's "compensation" from the Employer for that Limitation Year, provided, however, the percentage limitation referred to above shall not apply to (A) any contribution for medical benefits (within the meaning of section 419A(f)(2) of the Code) after separation from Service

which is otherwise treated as an Annual Addition, or (B) any amount otherwise treated as an Annual Addition under section 415(1)(1) of the Code). All defined contribution plans of the Employer, terminated or not, shall, for purposes of these limitations, be considered as one plan. If there is an allocation in excess of the limits stated in this section, the Plan Administrator shall correct the excess pursuant to the procedures outlined under EPCRS as described in Rev. Proc. 2013-12 and any successor thereto.

(b) The term “Annual Additions” means the sum of:

(i) All contributions made under sections 3.01 and 3.02 (excluding Catch-Up Contributions), plus Employer contributions and Employee contributions, within the meaning of Code section 415, under any other defined contribution plan of the Employer;

(ii) Forfeitures;

(iii) Amounts allocated to an individual medical account, as defined in section 415(1)(2) of the Code which is part of a pension or annuity plan maintained by Employer; and

(iv) Amounts derived from contributions which are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in section 419(A)(d)(3) of the Code) under a welfare benefit plan (as defined in section 419(e) of the Code) maintained by the Employer.

(c) Solely for purposes of this section 3.05, the term “compensation” shall include a Participant’s wages, salaries, and other amounts received for personal services actually rendered in the course of employment with an Employer to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses), but excluding:

(i) Contributions made by the Employer to a plan of deferred compensation to the extent that the contributions are not includible in the gross income of the Participant for the taxable year in which contributed, other than Employer’s Elective Contributions with respect to an Employee, contributions to a plan meeting the requirements of sections 125 or 457(b) of the Code, or any amounts excluded from income under section 132(f)(4) of the Code, or any distributions from a plan of deferred compensation;

(ii) Amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by a Participant either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;

(iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option;

(iv) Other amounts which receive special tax benefits, such as premiums for group term life insurance, or contributions made by an Employer (whether or not under a salary reduction agreement) towards the purchase of an annuity contract described in section 403(b) of the Code (whether or not the contributions are excludible from the gross income of the Participant); and

(v) For Limitation Years beginning on or after July 1, 2007, amounts paid after an Employee’s employment, except as provided in the remainder of this section. To

the extent that the following amounts are paid no later than the date which is 2-1/2 months after termination of employment, such amounts paid after an Employee's termination of employment shall be deemed compensation: regular pay, including compensation for services during regular working hours, overtime, shift differential, commissions, bonuses or other similar payments, and payment for unused accrued sick, vacation or other leave, but only if the Employee would have been able to use the leave if employment had continued. The rules described in this section with respect to post-employment payments shall not apply to payments to an individual who does not currently perform services for the Employer by reason of qualified military service, to the extent such payments do not exceed the compensation such individual would have received from the Employer if he had continued to perform services for the Employer.

3.06 Rollovers

(a) With the permission of the Plan Administrator and without regard to any contribution limitation otherwise contained in the Plan, the Plan may receive a rollover from or on behalf of a Participant of all or part of (i) an eligible rollover distribution, as defined in Code section 402(c)(4), from a qualified plan described in Code section 401(a), a qualified annuity plan described in Code section 403(a) or an annuity plan described in Code section 403(b), or (ii) a distribution from an individual retirement account described in Code section 408(a) or an individual retirement annuity described in Code section 408(b) that is eligible to be rolled over; provided, however, that the Plan shall not accept any rollover of any after-tax dollars. Except as provided in the previous sentence, a rollover contribution may be either a direct rollover made to the Plan on behalf of the Participant, or a 60-day rollover contribution to the Plan made by the Participant. Such amounts shall be credited to a separate Rollover Account for the Participant. Such rollover contributions shall include, with respect to a Plan Participant who is a surviving spouse, eligible rollover distributions from a Qualified Plan (directly or indirectly in the manner as described above) relating to the Participant's deceased spouse.

(b) Upon 30 days' written notice to the Trustee, all or any portion of a Rollover Account shall be distributed to him or transferred directly to any other eligible retirement plan, as directed by the Participant (or by an eligible rollover distributee, where applicable).

3.07 Loans to Participants

(a) Subject to the limitations of section 10.01 hereof, the Trustee shall, if the Plan Administrator or its designee so instructs, lend a Participant an amount not to exceed the lesser of:

(i) \$50,000 reduced by the greater of (A) the highest outstanding balance of loans from the Plan to the Participant during the one year period ending on the day before the date on which such loan is made, or (B) the outstanding balance of loans from the Plan to the Participant on the date on which such loan was made; or

(ii) 50% of the present value of the nonforfeitable Account balances of the Employee under the Plan.

For purposes of this limit, all Qualified Plans of the Employer shall be considered one plan.

(b) In addition to such rules and regulations as the Plan Administrator or its designee may adopt, all loans shall comply with the following terms and conditions:

(i) All loans shall be subject to the approval of the Plan Administrator or its designee who shall investigate thoroughly each application for a loan. Loans shall be made available to all Participants on a reasonably equivalent basis.

(ii) An application for a loan by a Participant shall be made in writing to the Plan Administrator or its designee, whose action thereon shall be final. Loan fees may be charged to offset the cost of having appropriate loan documents prepared and to investigate all loan applications, and to cover the cost of annual loan administration.

(iii) The repayment period for any loan shall be arrived at by mutual agreement between the Plan Administrator or its designee and the borrower, provided that such period shall not exceed five years unless the loan is to be used to acquire a dwelling which is used or which is to be used within a reasonable time as the principal residence of the Participant and shall in all cases require at least level amortization of principal and interest (with payments not less frequently than quarterly) over the term of the loan. Notwithstanding the foregoing, loan repayments shall be suspended under the Plan as permitted under section 414(u)(4) of the Code.

(iv) Each loan shall be made against the borrower's promissory note for the amount of the loan, including interest, payable to the order of the Trustee and shall be secured by a collateral assignment of 50 percent of the borrower's entire nonforfeitable right, title and interest in and to the Trust Fund. Notwithstanding any other provision of the Plan to the contrary, any amount loaned to a Participant shall be treated as a reduction of his Account balances (or his Rollover Account balance to the extent his regular Account balances are insufficient) and his Accounts shall, to such extent be credited with all payments of interest and principal on the loan, but shall not share in the general allocation of income, gains, losses and expenses of the Trust fund pursuant to section 4.03. If the Participant has elected to have his Accounts invested in Designated Funds pursuant to section 4.04, the loan shall be treated as coming proportionately from each Designated Fund except as otherwise provided in a Loan Program adopted by the Plan Administrator. If the Plan should cease to maintain any Designated Fund from which a Participant's loan is treated as coming, subsequent payments shall be credited proportionately to those Designated Funds to which the Designated Funds from which the original borrowing was treated as coming are transferred.

(v) Each loan shall bear interest at a reasonable rate of interest as determined under a Loan Program that shall be adopted by the Plan Administrator.

(vi) No distribution shall be made to any Participant or former Participant or to a Beneficiary of any such Participant until all unpaid loans, including accrued interest, have been paid.

3.08 No Reversion

No part of the Trust Fund established under this Plan shall revert to the Employer or be used or diverted to purposes other than the exclusive benefit of the Participants and their Beneficiaries, except that any contribution made under a mistake of fact shall be returned to the Employer within one year of its contribution.

3.09 Military Service.

Notwithstanding any other provision of the Plan to the contrary, contributions, benefits and Service credit with respect to qualified military service will be provided in accordance with section 414(u) of the Code.

(a) **Differential Wage Payment.** For computation periods beginning after December 31, 2008, the following applies:

(i) **Employee Status.** An individual receiving a differential wage payment, as defined by Code §3401(h)(2), will be treated as an Employee of the Employer making such payment. Notwithstanding the foregoing, for purposes of Code §401(k)(2)(B)(i)(I), a Participant is treated as having Terminated Employment during any period he or she is performing service in the uniformed services described in Code §3401(h)(2)(A).

(ii) **Treatment as Compensation.** Any amounts received by a Qualified Reservist as differential wage payments will be treated as Compensation (to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering Qualified Military Service).

(iii) **Coordination With USERRA.** The Plan will not be treated as failing to meet the requirements of any provision described in Code §414(u)(1)(C) by reason of any contribution or benefit which is based on the Differential Wage Payments. However, this paragraph only applies 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)).

(b) **Suspension of Elective Deferrals.** If a Qualified Reservist elects to receive a distribution of all or a portion of his or her Participant's Account under the provisions of the Plan by reason of death, Disability or Termination of Employment, such Participant will not be permitted to contribute Elective Deferrals and/or Employee Voluntary Contributions to the Plan for a period of 6 months. Such 6 month period will commence on the date of the distribution.

(c) **Death Benefits.** If a Participant dies on or after January 1, 2007 while performing Qualified Military Service, such Participant will be deemed to have resumed employment with the Employer in accordance with the individual's reemployment rights under USERRA on the day preceding death, and will be deemed to have Terminated Employment on the actual date of death.

(d) **Definition of Qualified Military Service.** The term "Qualified Military Service" means military service as that term is used in Code §414(u)(1).

(e) **Required Minimum Distribution for 2009.** A Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code §401(a)(9)(H) ("2009 RMD's"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's Designated Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will

receive those distributions for 2009 unless the Participant or Beneficiary chooses not to receive such distributions.

(f) Direct Rollovers. Notwithstanding anything to the contrary in the Plan, and solely for purposes of applying the direct rollover provisions of the Plan, the additional distributions of the 2009 RMD's as indicated in paragraph 6 above (if any), will be treated as eligible rollover distributions. However, if no election is made, a direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code §401(a)(9)(H).

ARTICLE IV: ACCOUNTS AND VALUATION

4.01 Establishment of Account

The Trustee shall open and maintain the following separate Fund Accounts for each Participant to which charges and credits shall be made in the manner hereinafter described:

(a) A Participant's "Elective Contribution Account" to which shall be credited an amount equal to the Employer's Elective Contribution with respect to each such Participant for each Plan Year.

(b) A "Matching Contribution Account" to which shall be credited all Matching Contributions made by the Employer pursuant to section 3.01(b).

4.02 Valuation of Account at Valuation Dates

Except as provided in sections 3.07(b)(iv) and 4.04, to determine the value of each Participant's Fund Account on any Valuation Date, the net assets of the Fund shall be valued at their then current value, before crediting any contributions made or to be made as of such Valuation Date, and the Fund Accounts of the Participants shall be adjusted in accordance with section 4.03. Following such valuation and the allocation of income, gain or loss, any contributions made or to be made as of such Valuation Date shall be allocated to the Accounts of the Participants for whom they have been made. As soon as reasonably possible after the last Valuation Date in each Plan Year, each Participant shall be notified of the value of his Fund Account as of such date.

4.03 Allocation of Gain and Loss

Except as provided in sections 3.07(b)(iv) and 4.04, the income, gain, expenses or loss of the Trust Fund shall be allocated on each Valuation Date to the Accounts of Participants, former Participants and Beneficiaries who had unpaid balances in their Accounts on the Valuation Date in proportion to the balances in such Accounts on such Valuation Date.

4.04 Designated Funds

Notwithstanding any of the other provisions hereof, each Participant may elect in writing filed with the Plan Administrator to have all or a portion of his Account balances invested in such investment funds as may be maintained and made available by the Trustee from time to time with the approval of the Plan Administrator (hereinafter collectively referred to as the "Designated Funds"). When making the foregoing election, the Participant shall be required to elect that the same proportionate part of each of his Account balances be invested in each of the Designated Funds and all such designations shall be in multiples of 1% of the Participant's balance in each Account. Any such election shall be effective as of the Valuation Date on or as soon as administratively practicable after its receipt by the Plan Administrator. A Participant who has elected to have all or a portion of his Accounts invested in any of the Designated Funds may subsequently change his election by filing a similar notice with the Plan Administrator on any Valuation Date. All or any portion of the Accounts with respect to which an election has not been filed with the Plan Administrator shall be invested by the Trustee at the direction of the Administrator in a Retirement Date Fund or such other "default investment" which has been selected by the Plan Administrator and which is expected to produce a favorable rate of return and that minimizes the overall risk of losing money. If such Designated Funds are not established by the Trustee with the consent of the Plan Administrator, they shall constitute part of the general Trust Fund

and the Trustee shall have the same investment powers with respect to such amounts as the Trustee has with respect to the remainder of the general Trust Fund. The earnings and valuation adjustment described in section 4.03 shall be made separately for each Designated Fund and for the balance of the general Trust Fund and each Participant's Account shall receive a pro rata share of the earnings and valuation adjustments of such Funds in which his separate Account are invested. The Trustee may promulgate such reasonable and uniform rules and regulations as it deems advisable in respect to investing of a Participant's Accounts in the Designated Funds and the reinvesting of his Accounts in the general Trust Fund.

4.05 Allocation of Employer Matching Contributions

As of each pay period the Employer's Matching Contribution made for each Participant pursuant to section 3.01(b) shall be allocated to the Matching Contribution Account of each Participant.

4.06 Allocation of Forfeitures

Forfeitures for any Plan Year shall be applied to offset the amount of contributions that the Employer would otherwise be required to contribute to the Trust Fund during the course of that Plan Year to meet the Employer's obligations for Matching Contributions.

4.07 Inactive Status

If any Participant shall fail in any Plan Year to accumulate 1,000 Hours of Service, his Account shall be placed on inactive status. In such case, any such Plan Year shall not be considered as a Year of Service for the purposes of determining the Participant's vested interest, but the Participant shall participate and share in the Employer contribution allocations during any such Plan Year pursuant to section 4.05 and shall continue to receive income allocations in accordance with section 4.03. If such Participant accumulates 1,000 Hours of Service in a Plan Year subsequently, his Account shall revert to active status with full rights and privileges under this Plan restored.

4.08 Adjustment for Excess Deferrals

(a) If, on or before March 1 of any year, a Participant notifies the Plan Administrator, in accordance with section 402(g)(2)(A) of the Code and regulations thereunder, that all or part of the Employer's Elective Contributions made for his benefit represent an excess deferral for the preceding taxable year of the Participant, the Plan Administrator shall make every reasonable effort to cause such excess deferral (and income or loss allocable to such excess deferral) to be distributed to the Participant no later than the April 15 following such notification.

(b) Any distribution under the foregoing section (a) of less than the entire amount of such excess contributions and income or loss allocable to such excess, shall be treated as a pro rata distribution of such excess contributions and the income or loss allocable thereto. The income or loss attributable to such excess contribution shall include a pro rata share of income or loss in the Plan Year in which the excess contributions were made and, for Plan Years beginning on or after January 1, 2007, a pro rata share of income or loss for the period between the end of the Plan Year in which the excess contributions were made and the date of distribution. Such income or loss shall be determined by multiplying the income or loss allocable to Employer's Elective Contributions and Matching Contributions for such period by a fraction the numerator of which is the excess contributions of the eligible Participant for such period and the denominator of which is the total balance of the eligible Participant's Account attributable to Employer's Elective Contributions and Matching Contributions for

such period without adjustment for gain or loss during such period. Notwithstanding the foregoing, excess deferrals which are distributed with respect to the 2008 Plan Year, or with respect to any later Plan Year, will be adjusted for any income or loss up to the last day of the Plan Year to which the distribution relates, without regard to the gap period (the period between the end of the Plan Year and the date of distribution) or any adjustment for income or loss during the gap period.

ARTICLE V: INVESTMENTS

5.01 Investment Policy

This Plan has been established for the sole purpose of providing benefits for the Participants and for their Beneficiaries. In making investments, the Trustee shall take account of the advice provided by the Plan Administrator as to funding policy and the short and long range needs of the Plan based on the evident and probable requirements of the Plan as to the time benefits shall be payable. Benefits may be provided through any combination of investment media designed to provide the requisite liquidity, growth and security appropriate to this retirement plan.

5.02 Investment Media

The Fund may be invested in any investment media offered by a legal reserve life insurance company admitted to issue life insurance contracts in Arizona (an "Insurer"), Investment Company as defined in section 851(a) of the Code, or through investment in any common trust fund of any bank or trust company, or through any investment proper and appropriate to be made by the Trustee under the Trust Agreement.

5.03 Trust Fund

All contributions made by the Employer under this Plan shall be paid to the Trustee and deposited in the Trust Fund under the provisions of the Trust Agreement. The Employer shall determine the form and terms of any such Trust Agreement and may modify such Trust Agreement from time to time to accomplish the purposes of this Plan, and may remove the Trustee.

ARTICLE VI: INVESTMENT IN LIFE INSURANCE

No Participant may elect to have the Trustee invest a portion of the contributions made for his benefit by purchasing a whole life insurance contract or contracts from an Insurer.

ARTICLE VII: PARTICIPANTS' VESTED INTERESTS

7.01 Vesting of Employer Contributions

(a) Upon a complete or partial termination of this Plan (including any termination resulting from the application of section 13.03) and notwithstanding any other provision of this Plan, each Participant with respect to whom the Plan has been terminated shall have a nonforfeitable interest in the entire amount credited to his Account, in accordance with the terms and provisions of the Plan.

(b) Any Participant who dies or becomes Disabled while employed by Employer (or, effective January 1, 2007, dies while performing qualified military service, as defined in section 414(u) of the Code) shall have a nonforfeitable interest in the entire amount credited to his Account, in accordance with the terms and provisions of the Plan.

(c) Each Participant who remains employed by the Employer upon attaining his Normal Retirement Age under the terms of this plan shall have a nonforfeitable interest in the entire amount credited to his Account, in accordance with the terms and provisions of the Plan.

(d) Notwithstanding any other provision of this Plan, each Participant shall at all times have a completely nonforfeitable interest in all amounts credited to his Elective Contribution Account.

7.02 Vesting of Participant's Rollover Contributions

Each Participant, regardless of his length of service with the Employer, shall at all times have a fully nonforfeitable interest in amounts resulting from his Rollover Contributions (section 3.06).

7.03 Determination of Years of Service

For purposes of determining nonforfeitability only, a "Year of Service" means each Plan Year in which the Employee was credited with at least 1,000 Hours of Service.

7.04 Calculation of Vested Amount

(a) If the employment of any Participant is terminated for any cause other than death, Disability or normal retirement, the Participant shall have a right to the nonforfeitable percentage of the amount credited to his Matching Contribution Account as of the Valuation Date coinciding with or next preceding a break in his employment, in accordance with the following schedule:

<u>Years of Service</u>	<u>Nonforfeitable Percentage</u>
Less than 1	0%
1	20%
2	40%
3	60%
4	80%
5	100%

For purposes of applying the foregoing schedule to an Employee's Account, all Years of Service with the Employer shall be taken into account, except for Years of Service with respect to which the Participant

has received a distribution of his nonforfeitable interest in an amount not in excess of \$1,000 or which he elected to receive, which distribution was made on termination of the Participant's participation in the Plan.

Following a Break in Service, Service before such Break in Service shall be taken into account in determining nonforfeitability only after the Participant completes a Year of Service after such Break in Service. Following five consecutive one-year Breaks in Service, Service after such Break in Service shall not be taken into account in determining nonforfeitability with respect to amounts allocated to the Account of a Participant prior to such Break. Any Participant who suffers a Break in Service before any portion of his Account balance has become nonforfeitable shall not be credited with any Years of Service prior to the Break in Service, unless the total number of consecutive one year Breaks in Service is fewer than the greater of (i) five, or (ii) the aggregate number of Years of Service prior to such Breaks. To the extent the application of the foregoing rules result in different nonforfeitable percentages applying to the amounts accumulated in a Participant's Account prior to and after a Break in Service, separate Accounts shall be maintained for such a Participant for his pre-break and post-break periods of Service. The forfeitable portion of a terminated Participant's Matching Contribution Account shall be forfeited at the earlier of (i) the date on which the Participant receives a distribution of the entire nonforfeitable portion of his Account balance, or (ii) the date on which the Participant incurs five consecutive one-year Breaks in Service. For purposes of the foregoing, if the value of a Participant's nonforfeitable Account balance is zero, the Participant shall be deemed to have received a distribution of such nonforfeitable Account balance.

(b) For purposes of this Article, the term "Break in Service" means any Plan Year during which the Participant has not completed more than 500 Hours of Service with Employer. Solely for purposes of determining whether a Participant has incurred a Break in Service, credit shall be given for Maternity and Paternity Leaves of Absence.

(c) If no case shall any amendment to this Plan reduce the nonforfeitable percentage of a Participant with respect to benefits already accrued and a Participant with not less than three Years of Service with the Employer with respect to whom the Plan's schedule of nonforfeitable percentage would be changed by an amendment to the Plan may elect within 60 days of the latest of the date on which the Plan amendment is adopted, the Plan amendment becomes effective or the Participant is issued written notice of a Plan amendment to have the prior schedule of nonforfeitable percentage apply to him.

(d) If any former Participant who received a distribution of his entire nonforfeitable Account balance prior to his re-employment shall be re-employed by the Employer and repay the full amount distributed to him with respect to his Account before incurring five consecutive one-year Breaks in Service, his forfeited Account shall be reinstated. In the event the former Participant does repay the full amount distributed to him, the undistributed portion of the Participant's Account must be restored in full, unadjusted by any income gains or losses occurring subsequent to the last day of the Plan Year during which he participated in the Plan prior to his termination.

ARTICLE VIII: DISTRIBUTION OF BENEFITS

8.01 Retirement.

A Participant who retires at his Normal Retirement Date shall be entitled to receive retirement benefits equal to the value of his Account in accordance with the provisions of the Plan. A Participant who continues his employment past his Normal Retirement Date shall have his benefits deferred to the date of his actual retirement. The benefits paid or commencing upon the actual retirement date of a Participant electing a late retirement shall reflect the then current value of his Account.

8.02 Termination of Employment and Disability.

If the employment of any Participant is terminated because of Disability or before the Participant's Normal Retirement Date, the nonforfeitable balance in his Accounts shall be retained in the Participant's Account, sharing in investment gains and losses under section 4.03, and shall be paid to the Participant at his Normal Retirement Date in accordance with the provisions of section 8.03 of the Plan. The Plan Administrator shall upon written request received from a terminated or Disabled Participant make a distribution of the nonforfeitable portion of his Account as of the Valuation Date coincident with or next succeeding such written request, such distribution to be made in accordance with the provisions of section 8.03. If a Participant terminates his employment and his Account balances do not exceed \$1,000, his full nonforfeitable Account balances shall be distributed to him as soon as practicable after the date of his termination. Notwithstanding the foregoing, if a Participant's vested Account balance exceeds \$1,000, in no case shall distribution commence being made until the later of the date on which the Participant attains age 62 or his Normal Retirement Age without the Participant's consent. Notwithstanding the foregoing, unless a Participant elects, the payment of benefits under the Plan shall commence being paid in accordance with the provisions of section 8.03 of the Plan not later than the sixtieth day after the latest of:

- (a) The end of the Plan Year in which a Participant attains the earlier of age 65 or his Normal Retirement Age;
- (b) The end of the Plan Year during which occurs the tenth anniversary of the year in which the Participant commenced participation in the Plan; or
- (c) The end of the Plan Year in which the Participant terminates service with the Employer.

8.03 Manner of Distribution.

The Plan Administrator shall direct the Trustee to distribute to a retired, terminated or Disabled Participant, within 60 days after the nonforfeitable portion of his Account becomes distributable in accordance with the provisions of the Plan, the nonforfeitable portion of his Account in one or more of the following manners selected by the Participant on a form provided by the Plan Administrator:

- (a) A cash lump sum, provided, however, that a Participant's benefits may not be cashed-out prior to his Normal Retirement Date without his written consent if the value of the nonforfeitable portion of his Fund Account exceeds \$1,000.

(b) A Participant with a vested Account balance of more than \$1,000 may elect installment payments at monthly or quarterly intervals over a period not exceeding 15 years. If this option is selected the amount to be paid in each year shall be calculated by multiplying the nonforfeitable balance in the Participant's Account on the Valuation Date immediately preceding the year in which the distribution is to be made by a fraction the numerator of which shall be one and the denominator of which shall be equal to the number of months or quarters after the Valuation Date in question during which installment payments are to be made.

(c) A Participant with a vested Account balance of more than \$1,000 may elect, following termination of employment and subject to Article XV, to receive a partial lump sum distribution, which shall mean a lump sum payment (or direct rollover) in an amount that is less than the entire vested balance of the Participant's Account. The Participant may elect to receive the partial lump sum as soon as administratively practicable following termination of employment.

(i) A Participant may not elect to receive a partial lump sum less than \$1,000.

(ii) There is no limit on the number of partial lump sum distributions a Participant may elect to receive each year provided that each such payment must be equal to at least \$1,000 (or the entire remaining vested balance of the Participant's Account).

(d) For any distribution notice issued in Plan Years beginning after December 31, 2006, the description of a Participant's right, if any, to defer receipt of a distribution also will describe the consequences of failing to defer receipt of the distribution. For notices issued before the 90th day after the issuance of Treasury regulations (unless future Revenue Service guidance otherwise requires), the notice will include: (i) a description indicating the investment options available under the Plan including fees) that will be available if the Participant defers distribution; and (ii) the portion of the summary plan description that contains any special rules that might affect materially a participant's decision to defer.

8.04 Distributions Under Qualified Domestic Relations Orders.

Nothing contained in the Plan shall prevent the Trustee, in accordance with the direction of the Plan Administrator, from complying with the provisions of a qualified domestic relations order ("QDRO") (as defined in section 414(p) of the Code). The Plan shall and does hereby permit distribution to an alternate payee under a QDRO at any time, irrespective of whether the Participant has attained his earliest retirement age (as defined under section 414(p) of the Code) under the Plan. A distribution to an alternate payee prior to the Participant's attainment of earliest retirement age is available only (a) if the QDRO specifies distribution at that time or permits an agreement between the Plan and the alternate payee to authorize an earlier distribution and, (b) if the present value of the alternate payee's benefits under the Plan exceeds \$1,000, and the order requires distribution, the alternate payee consents to any distribution occurring prior to the Participant's attainment of earliest retirement age. Nothing in this section 8.04 shall permit a Participant a right to receive distribution at a time otherwise not permitted under the Plan nor shall it permit the alternate payee to receive a form of payment not permitted under the Plan. Effective April 6, 2007, 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 of the time at which the order is issued, including issuance after the annuity starting date or after the Participant's death.

8.05 Withdrawals During Employment Period and Prior to Normal Retirement Date.

(a) Prior to attaining Normal Retirement Date no distribution shall be made to a Participant whose employment has not been terminated except a Participant shall have the right to withdraw his Employer's Elective Contributions, excluding net earnings and positive valuation adjustments, subject to the limitations contained in section 3.02(c). In addition, a Participant who has attained age 59-1/2 and has participated in the Plan for five years or more shall have a right to withdraw all or any part of his vested Account balances provided that any such distribution shall be a minimum of \$1,000. A withdrawal shall be made by filing a written notice with the Plan Administrator on a form prescribed by the Plan Administrator. The Trustee shall pay over the amounts withdrawn to the Participant within 30 days after receiving said election form.

(b) Notwithstanding any other provision hereof, a Participant who is eligible to purchase Credited Service under the Arizona State Retirement System Retirement Plan shall be entitled to direct that a distribution of all or part of his Account balances in the Plan be distributed directly to the Arizona State Retirement System Retirement Plan as a direct rollover under section 8.06 upon filing a written request with the Plan Administrator, provided that no such distribution shall be made from any Account, other than his Elective Contribution Account, unless the interest of the Participant in the Account from which distribution is to be made has accumulated for at least two years or the individual has been a Participant for five or more Plan Years. In addition, a Participant whose employment has been terminated may direct that any portion of his Account balances, including his Elective Contribution Account balance, be distributed to the Arizona State Retirement System Retirement Plan in an amount sufficient to complete an Arizona State Retirement System service payroll purchase plan that was in place prior to his termination.

8.06 Eligible Rollover Distributions.

Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Participant's election under this section, an eligible rollover distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the eligible rollover distributee in a direct rollover.

(a) An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the Participant, 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 Participant or the joint lives (or joint life expectancies) of the Participant and the Participant's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and any hardship distribution.

(b) An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement account under section 408A of the Code (provided that there is included in gross income any amount that would be includible if the distribution was not rolled over), an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, a qualified trust described in section 401(a) of the Code, an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state or any agency or instrumentality of a state or political subdivision of a state or a tax-deferred annuity arrangement described in section 403(b) of the Code that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a non-spouse

Beneficiary of a deceased Participant, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(c) An eligible rollover 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 the alternate payee under a QDRO, as defined in section 414(p) of the Code, are eligible rollover distributees with regard to the interest of the spouse or former spouse. An eligible rollover distributee shall also include a non-spouse Beneficiary of a deceased Participant.

(d) A direct rollover is a payment by the Plan to the eligible retirement plan specified by the eligible rollover distributee. For distributions made after December 31, 2007, a participant may elect to roll over directly an eligible rollover distribution to a Roth IRA described in Code Section 408A(b).

(e) In accordance with Code section 402(f), the Plan Administrator shall furnish the eligible recipient with a written explanation of the direct rollover opportunity and the tax withholding consequences of not choosing a direct rollover. The explanation will be furnished within a reasonable period before the distribution date. The explanation will clearly indicate that the eligible recipient has a right to a 30-day waiting period to consider the election. An eligible recipient may waive the 30-day period by making an affirmative election to receive benefits on forms provided by the Plan Administrator. Distribution will be made or commence not more than 180 days after the date the explanation regarding the forms of payment is provided. For any distribution notice issued in Plan Years beginning after December 31, 2006, any reference to the 90-day maximum notice period prior to distribution in applying the notice requirements of Code Sections 402(f) (the rollover notice), 411(a)(11) (Participant's consent to distribution), and 417 (notice under the joint survivor annuity rules) will become 180 days.

8.07. Withdrawals During Active Military Duty.

(a) A Qualified Reservist Distribution may be made to a Qualified Reservist under any circumstance and/or for any reason without violating the distributions of section 401(k)(2)(B)(i) of the Code.

(b) Notwithstanding anything in the Plan to the contrary, to the extent that any distribution is a Qualified Reservist Distribution, the otherwise applicable 10% excise tax of Section 72(t)(1) of the Code on early distributions will not apply. In addition, at any time during the two-year period beginning on the day after the last day of the Qualified Reservist's active duty, a Qualified Reservist who has received one or more Qualified Reservist Distributions may make one or more repayment contributions to an IRA in an aggregate amount not to exceed the total amount of such Qualified Reservists Distributions. The dollar or compensation limitations otherwise applicable to contributions to an IRA will not apply to a repayment contribution of Qualified Reservist Distributions. No deduction is allowed for a repayment contribution of Qualified Reservist Distributions.

(c) As used in this Section, the following words and phrases have the followings meanings:

(i.) **Qualified Reservist.** The term "Qualified Reservist" means an individual who is a member of a reserve component, as defined in Section 101 of title 37, United States

Code, and who is ordered or called to active duty after September 11, 2001 either for a period in excess of 179 days or for an indefinite period.

(ii.) **Qualified Reservist Distribution.** The term “Qualified Reservist Distribution” means a distribution of Elective Contributions to a Qualified Reservist that is made during the period beginning on the date that the Qualified Reservist is ordered or called to duty and ending on the last day of active duty.

8.08 Missing Payee.

If all or any portion of the distribution payable to a Participant or Beneficiary remains unpaid because the Plan Administrator has been unable to ascertain the whereabouts of the Participant or Beneficiary after making reasonable efforts to contact the Participant or Beneficiary (which may include, but not be limited to, sending a registered letter, return receipt requested, to the last known address of such Participant or Beneficiary; using the Social Security Administration letter forwarding service; and/or a commercial locating service) the Plan Administrator may use a reasonable method to remove the assets from the Plan that is consistent with ERISA and the Code. Such methods may include, but not be limited to, (a) creating an individual retirement plan designated by the Plan Administrator; or (b) if, for a period of more than five years after such distribution becomes payable or six months after all attempts to locate the Participant or Beneficiary, the Plan Administrator is still unable to ascertain the whereabouts of the Participant or Beneficiary, the amount so distributable may be treated as a forfeiture under Article 6 hereof. Notwithstanding the foregoing, if a claim is subsequently made by the Participant or Beneficiary for the forfeited benefit pursuant to clause (b) of the preceding sentence, such benefit shall be reinstated without any credit or deduction for earnings and losses. Amounts forfeited from a Participant's Account under this Section shall be used pursuant to Section 6.03(d).

ARTICLE IX: DEATH BENEFITS

9.01 Death Benefit Payable.

The death benefit payable upon the death of any Participant shall be equal to the nonforfeitable portion of his Account balance determined in accordance with the provisions of the Plan.

9.02 Death Benefit Payment Procedure.

(a) Unless otherwise provided in section 9.02(d) below, a Participant who dies after any portion of his Account has become nonforfeitable shall have his death benefit paid to his Beneficiary in the form of a cash lump sum no later than 60 days after the end of the Plan Year during which the Participant died (or such earlier date as may be specified under Treasury Regulations or rulings as reasonable).

(b) Each Participant who is unmarried may, individually, and each Participant who is married may, with the consent of his spouse in the manner provided for in section 9.02(c), designate a Beneficiary or contingent Beneficiary (a "Designated Beneficiary") on a form supplied by the Plan Administrator. If a Participant is unmarried immediately preceding his death and has not selected a Designated Beneficiary, his death benefit shall be paid to his estate. If no such election has been made by a married Participant with the spouse's consent prior to his death, the Participant's Beneficiary shall be deemed to be the Participant's surviving spouse.

(c) The spouse of the Participant must waive the spouse's right to the death benefit described in section 9.01 and consent to the designation of an alternate beneficiary in accordance with this section 9.02(c) in order for such designation to be effective. The spousal consent must be in writing and:

(i) Must designate a beneficiary which may not be changed without spousal consent;

(ii) Must be irrevocable and acknowledge the effect of such designation as being a waiver of the spouse's right to the death benefit described in section 9.01; and

(iii) Must be witnessed by a Plan representative or notary public.

Any such consent must be filed with the Plan Administrator in order to be effective. No consent need be obtained in the event the Participant has no spouse or the Participant's spouse cannot be located. In this event, the Participant must certify on a form provided by the Plan Administrator for that purpose that he has no spouse or that his spouse cannot be located in order for his designation of an alternate beneficiary to be effective.

(d) If the distribution of a Participant's benefit has begun in accordance with a method selected in section 8.03(b) and the Participant dies before his entire interest has been distributed to him, the remaining portion of such interest shall continue to be distributed under the method of distribution selected pursuant to section 8.03(b).

ARTICLE X: FIDUCIARY CAPACITY AND RESPONSIBILITY

10.01 General Fiduciary Standard of Conduct.

Each fiduciary of the Plan shall discharge his duties hereunder solely in the interest of the Participants and their Beneficiaries and for the exclusive purpose of providing benefits to Participants and their Beneficiaries and defraying reasonable expenses of administering the Plan. Each fiduciary shall act with the care, skill, prudence and diligence under the circumstances that a prudent man acting in a like capacity and familiar with such matters would use in conducting an enterprise of like character and with like aims, in accordance with the documents and instruments governing this Plan.

10.02 General Fiduciary Liability.

Any person who is a fiduciary with respect to this Plan who breaches any of his responsibilities, obligations or duties shall be personally liable to make good to the Plan any losses resulting from such breach and to restore to the Plan any profits which have been made through improper use of the Plan assets. No fiduciary shall be liable for a breach of fiduciary duty occurring otherwise than during the period of time during which the fiduciary was actually serving in that capacity with respect to this Plan and Trust.

10.03 Co-Fiduciary Liability.

(a) In addition to any liability for a personal breach of fiduciary duty, a fiduciary of the Plan shall be jointly and severally liable for a breach of fiduciary responsibility of another fiduciary with respect to this Plan in the following circumstances:

(i) If he participates knowingly in or knowingly undertakes to conceal, an act or omission of such other fiduciary, knowing such act or omission is a breach;

(ii) If, by his failure to comply with section 10.01 of this Plan in the administration of his specific responsibilities, he has enabled such other fiduciary to commit the breach; or,

(iii) If, having knowledge of a breach by another Plan fiduciary, he does not make reasonable effort under the circumstances to remedy the breach.

(b) If an Investment Manager or Managers have been appointed pursuant to section 11.03, no Trustee shall be liable for the acts or omissions of such Manager or be under any obligation to invest or otherwise manage any asset of the Plan which is subject to the management of such Investment Manager.

10.04 Liability Insurance.

(a) The Plan Administrator may purchase, as an authorized expense of the Plan, liability insurance for the Plan and for its fiduciaries to cover liability or losses occurring by reason of the act or omission of a fiduciary, providing such insurance contract permits recourse by an Insurer against the fiduciary in the case of breach of fiduciary obligation by such fiduciary.

(b) Any fiduciary may purchase, from and for his own account, insurance to protect himself in the event of a breach of fiduciary duty and the Employer may also purchase insurance

to cover the potential liability of one or more persons who serve in a fiduciary capacity with regard to this Plan.

10.05 Service in Multiple Capacities.

Any person or group of persons may serve in more than one fiduciary capacity with respect to this Plan, specifically including service both as a Trustee and as Plan Administrator, subject to the separate requirements of Article XI and the Trust Agreement and that such acceptances be severally evidenced.

10.06 Bonding.

Every fiduciary of the Plan and every person who handles funds or other property or assets of the Plan shall be bonded as may be required by the Plan Administrator.

10.07 Limitations on Fiduciary Liability.

Nothing in this Plan shall be construed to prevent any fiduciary from receiving any benefit to which he may be entitled as a Participant or Beneficiary in this Plan, so long as the benefit is computed and paid on a basis which is consistent with the terms of this Plan as applied to all other Participants and Beneficiaries. Nor shall this Plan be interpreted to prevent any fiduciary from receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred in the performance of his duties with the Plan; except that no person so serving who already receives full-time pay from an Employer, an association of Employees, or an Employee organization shall receive compensation from this Plan, except for reimbursement of expenses properly and actually incurred. A fiduciary is also entitled to serve in this capacity in addition to being an officer, employee, agent, or other representative of any party in interest.

10.08 Investment Manager.

(a) When an Investment Manager has been appointed pursuant to section 11.03 of this Plan, he is required to acknowledge in writing that he has undertaken a fiduciary responsibility with respect to the Plan.

(b) In order to serve as an Investment Manager a person must qualify as:

(i) A registered investment adviser under the Investment Adviser Act of 1940; or

(ii) A bank, as defined in that Act; or

(iii) An insurance company duly authorized to perform such services under the laws of more than one state.

10.09 Prohibited Transactions.

With respect to the Plan and Trust assets, no Fiduciary shall engage in any self-dealing nor use any of the Plan assets for his own benefit, directly or indirectly, nor engage in any of the prohibited transactions with disqualified persons or parties-in-interest as those terms and transactions are defined by the Code and the Regulations promulgated pursuant thereto.

ARTICLE XI: THE PLAN ADMINISTRATOR

11.01 Designation and Acceptance.

The Employer shall designate a person or persons to serve as Plan Administrator. If more than one person is so designated, the Committee so formed shall be known as the Administrative Committee and all references in the Plan to the Plan Administrator shall be deemed to refer to the Administrative Committee. The Plan Administrator, by joining in the execution of this Plan, an amendment to the Plan, or a separate agreement, agrees to act in accordance with the express terms and conditions of the Plan and Trust, as herein stated.

11.02 Resignation and Removal; Appointment of Successor.

(a) The Plan Administrator, or any member of the Administrative Committee, may resign at any time by delivering to the Employer a written notice or resignation, to take effect at a date specified therein, which shall not be fewer than 30 days after the delivery thereof, unless such notice shall be waived.

(b) The Plan Administrator may be removed with or without cause by the Employer by delivery of written notice of removal, to take effect at a date specified therein, which shall be not fewer than 30 days after delivery thereof, unless such notice shall be waived by the Plan Administrator and the Employer.

(c) The Employer, promptly following receipt of, or giving of, notice of the resignation or removal of the Plan Administrator, shall designate a successor administrator. The successor Plan Administrator shall file his acceptance with the Trustee in writing promptly following his appointment.

11.03 Allocation and Delegation of Responsibilities.

(a) As a named fiduciary, the Plan Administrator may engage agents to assist him in carrying out his functions hereunder. If there is an Administrative Committee, its members are expressly authorized to allocate fiduciary responsibilities, other than Trustee responsibilities, to named persons or parties, providing such allocation or delegation is evidenced in a signed written document, a copy of which must be retained with the other Plan documents.

(b) The Plan Administrator may appoint, in writing, an Investment Manager or Managers and delegate to him, the authority to manage, acquire, invest or dispose of all or any part of the Trust assets or may specifically instruct the Trustee, in writing, how to manage the Trust assets or to acquire, invest or dispose of all or any part of the Trust assets. With regard to the assets entrusted to his care, the Investment Manager shall provide written instructions and directions to the Trustee, who shall in turn, be entitled to rely upon such written direction. The appointment and delegation shall be evidenced by a signed written agreement, a copy of which must be retained with the other Plan documents. As long as such Investment Manager is acting, such Investment Manager shall have full authority to direct the Trustee with respect to the acquisition, retention, management, disposition of the assets from time to time comprising the investment manager account being managed by such Investment Manager and the voting of the proxies thereon, and the Trustee shall have no duty or obligation to review the assets from time to time comprising such investment manager account, to make any recommendations with respect to the investment, reinvestment or retention thereof, nor with respect to the voting of proxies thereon, nor to determine whether any direction from such investment is proper or within the terms of

this Agreement. The Trustee shall have no liability or responsibility to the Employer or any beneficiary of the Trust for acting without question on the direction of, or for failure to act in the absence of directions from, Investment Manager for any investment manager account. The Trustee may assume that any investment manager account previously established and the appointment of any Investment Manager for that account continues in force until receipt of written notice to the contrary from the Employer. Pending receipt of the directions from the Investment Manager, any cash received by the Trustee from time to time for any investment manager account may be retained by the Trustee, in its discretion, in cash, without any liability for interest. In addition, the Employer will indemnify the Trustee and hold it harmless from any liability or expense in connection with or arising out of (i) any action taken or omitted or any investment or disbursement of any part of the Trust Fund made by the Trustee at the direction of the Investment Manager or any inaction with respect to the Trust Fund in the absence of directions from the Investment Manager, or (ii) any action taken by the Trustee pursuant to a notification of an order to purchase or sell securities issued by an Investment Manager directly to a broker or a dealer under a power of attorney. Except as provided in this section 11.03 or in the Trust Agreement, the Trustee shall have sole responsibility for the administration of the Trust Fund and the management of the assets held in the Trust Fund, all as specifically provided in the Trust Agreement.

11.04 Duties and Responsibilities.

(a) The primary responsibility of the Plan Administrator is to administer the Plan for the exclusive benefit of the Participants and their Beneficiaries, subject to the specific terms of the Plan and applicable law. The Plan Administrator shall administer the Plan and shall have the discretionary power and authority to construe this Plan and Agreement and determine all questions of interpretation or policy in a manner not inconsistent with this Agreement and his construction or determination in good faith shall be final and conclusive. The Plan Administrator may correct any defect, supply any omission, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of this Agreement; provided, however, that any interpretation or construction shall be done in a nondiscriminatory manner and shall be consistent with the intent that the Plan shall continue to be deemed a Qualified Plan under the terms of section 401(a) of the Code, as amended from time to time and shall comply with the terms of all Regulations issued pursuant thereto. The Plan Administrator shall have all powers necessary, appropriate or desirable to accomplish his duties under this Plan.

(b) The Plan Administrator shall be charged with the duties of the general administration of the Plan, including but not limited to, the following:

(i) To determine all questions relating to the eligibility of employees to participate in or remain a Participant hereunder;

(ii) To compute, certify and direct the Trustee with respect to the amount and kind of benefits to which any Participant shall be entitled hereunder;

(iii) To authorize and direct the Trustee with respect to all disbursements from the Trust;

(iv) To maintain all the necessary records for the administration of the Plan;

(v) To interpret the provisions of the Plan and to make and publish such rules for regulation for the Plan as are not inconsistent with the terms hereof;

(vi) To advise the Trustee regarding the short and long-term liquidity needs of the Plan in order that the Trustee might direct its investments accordingly;

(vii) To advise, counsel and direct the Trustee with respect to all investments of the principal and income and with other matters concerning the Trust corpus;

(viii) To advise, counsel and assist any Participant regarding any rights, benefits or elections available under the Plan.

(c) The Plan Administrator also shall be responsible for preparing and filing such annual disclosure reports and tax forms as may be required from time to time by the Secretary of Labor or the Secretary of the Treasury under the authority granted under relevant law.

(d) The Plan Administrator must furnish to each Participant covered under the Plan and to each Beneficiary who is entitled to receive benefits under the Plan such information and reports and under such circumstances as may be required by law or by Article XII of this Plan, entitled "Employee Rights."

(e) The Plan Administrator shall make copies of the Plan description and the latest annual report and any bargaining agreement, trust agreement, contract or other instruments under which the Plan was established or is operated available for examination by any Plan Participant or Beneficiary in the principal office of the Plan Administrator or of the Employer.

(f) Whenever it is determined by the Plan Administrator to be in the best interest of the Plan and its Participants or Beneficiaries, the Plan Administrator may request such variances, deferrals, extensions, or exemptions or make such elections for the Plan as may be available under the law.

(g) The Plan Administrator shall be responsible for procuring bonding for any persons dealing with the Plan or its assets as may be required by law or by section 10.06 of this Plan, and shall be subject to all the terms and restrictions on fiduciaries as further explained in Article X of this Plan, "Fiduciary Capacity and Responsibility."

(h) If this Plan is required to file reports or pay premiums to the Pension Benefit Guaranty Corporation, the Plan Administrator shall have the duty to prepare and make such filings, to pay any premiums required, whether for basic or contingent liability coverage, and shall be charged with the responsibility of notifying all necessary parties of such events and under such circumstances as may be required by law.

11.05 Expenses and Compensation.

The expenses necessary to administer the Plan shall be borne by the Plan unless the Employer elects to pay or reimburse the Plan therefor. Such expenses shall include but not be limited to those involved in retaining necessary professional assistance from an attorney, an accountant, an actuary, or an investment advisor. The Employer may furnish the Plan Administrator with such clerical and other assistance as is necessary in the performance of its duties. Nothing shall prevent the Plan Administrator from receiving reasonable compensation for services rendered in administering this Plan, provided the Plan Administrator is not a full-time employee of the Employer, an Employer association or employee organization.

11.06 Information from Employer.

To enable the Plan Administrator to perform his functions, the Employer shall supply full and timely information to the Plan Administrator on all matters relating to the compensation of all Participants, their continuous regular employment, their retirement, death, disability or termination of employment, and such other pertinent facts as the Plan Administrator may require; and the Plan 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 is entitled to rely on such information as is supplied by the Employer and shall have no duty or responsibility to verify such information.

11.07 Administrative Committee Multiple Signatures.

In the event that more than one person shall be duly nominated to serve on the Administrative Committee the Administrative Committee shall specify the number of such parties, if less than all, the signatures of which may be accepted by any interested party as conclusive evidence that the Administrative Committee has duly authorized the action therein set forth and as representing the will of and binding upon the whole Committee. No person receiving such documents or written instructions and acting in good faith and in reliance thereon shall be obliged to ascertain the validity of such action under the terms of this Plan and Trust Agreement. The Committee shall act by a majority of its members at the time in office and such action may be taken either by a vote at a meeting or in writing without a meeting.

ARTICLE XII: EMPLOYEE RIGHTS

12.01 General Rights of Participants and Beneficiaries.

This Plan is established and all Trust assets are held for the exclusive purpose of providing benefits for such Employees and their Beneficiaries as have qualified to participate under the terms of this Plan. Such benefits may be payable upon retirement, death, disability or termination of employment with the Employer, subject to the specific provisions of the Plan.

12.02 Regular Reports and Disclosure Requirements.

Every Participant covered under the Plan and every Beneficiary receiving benefits under the Plan shall receive a summary plan description, summary of the latest annual report of the Plan, or such other information as may be required to be furnished by law, and such other or further information as the Plan Administrator may furnish from time to time in the interests of full disclosure.

12.03 Information Generally Available.

The Administrator shall make copies of the plan description and the latest annual report and any bargaining agreement, trust agreement, contract or other instruments under which the Plan was established or is operated available for examination by any Plan Participant or Beneficiary in the principal office of the Plan Administrator and such other locations as may be necessary to make such information reasonably accessible to all interested parties, and, subject to a reasonable charge to defray the cost of furnishing such copies, the Plan Administrator shall, upon written request of any Participant or Beneficiary, furnish a copy of the latest updated summary plan description, and the latest annual report, any terminal report, any bargaining agreement, contracts or other instruments under which this Plan is established and operated to the party making such request.

12.04 Special Disclosures.

(a) Prior to the distribution of any benefits to which a Participant or Beneficiary may be entitled, he must be provided with a written explanation of the terms and conditions of the various distribution options that are available and an opportunity to file a written election with the Plan Administrator.

(b) Upon termination of employment, an Employee who has been a Participant in the Plan is entitled to a written explanation of and accounting for any vested deferred amounts which have accrued to his Account and of any applicable options regarding the disposition of those amounts.

12.05 Employee Right to Comment.

Pursuant to rights granted by the Code, any Employee may be entitled to comment on the application of the Plan for a ruling regarding:

(a) The initial qualification determination under the requirements of the Code;

(b) Any material amendment to the Plan;

- (c) Any partial or complete termination of the Plan.

12.06 Filing a Claim for Benefits.

A Participant or Beneficiary or the Employer acting in his behalf, shall notify the Plan Administrator of a claim of benefits under the Plan. Such request may be in any form acceptable to the Plan Administrator and shall set forth the basis of such claims and shall authorize the Plan Administrator to conduct such examinations as may be necessary to determine the validity of the claim and to take such steps as may be necessary to facilitate the payment of any amounts to which the Participant or Beneficiary may be entitled under the terms of the Plan.

12.07 Denial of Claim.

Whenever a claim for benefits by any Participant or Beneficiary has been denied, a written notice, prepared in a manner calculated to be understood by the Participant, must be provided, setting forth the specific reasons for the denial and explaining the procedure for an appeal and review of the decision by the Plan Administrator.

12.08 Remedies Available to Participants.

(a) A Participant or Beneficiary whose claim has been denied shall be afforded a reasonable opportunity for review of the Plan Administrator's decision denying his claim. The Participant or Beneficiary may apply for a review of the Plan Administrator's decision denying his claim by filing a written request for review with the Plan Administrator within 60 days after his claim has been denied. The Plan Administrator shall complete his review and advise the Participant or Beneficiary of his decision within 45 days after the request for review is made.

(b) A Participant or Beneficiary shall be entitled, either in his own name or in conjunction with any other interested parties, to bring such actions in law or equity to seek such relief as may be necessary or appropriate to compel the disclosure of any required information, to enforce or protect his rights, to recover present benefits due to him or to clarify his rights to future benefits under the Plan.

12.09 Protection from Reprisal.

(a) No Participant or Beneficiary may be discharged, fined, suspended, expelled, disciplined, or otherwise discriminated against for exercising any right to which he is entitled or for cooperation with any inquiry or investigation under the provisions of this Plan or any governing law or regulations.

(b) No person shall, directly or indirectly, through the use or threatened use of fraud, force or violence, restrain, coerce or intimidate any Participant or Beneficiary for the purpose of interfering with or preventing the exercise of or enforcement of any right, remedy or claim to which he is entitled under the terms of this Plan or under any applicable law or regulations.

12.10 Limitation of Rights.

Participation hereunder shall not grant any Participant the right to be retained in the service of the Employer or any other rights or interest in the Plan or Trust assets other than those specifically herein set forth.

ARTICLE XIII: ALTERATION, AMENDMENT OR TERMINATION

13.01 Employer Reserves Right to Amend or Terminate This Agreement.

(a) The Employer expressly reserves the right to alter, amend or terminate this Plan and Agreement; provided, however, no such alteration, amendment or termination shall eliminate, restrict or reduce any benefit which accrued prior to the amendment, nor shall any such amendment increase the duties or obligations of any party to this Agreement, except with their written consent.

(b) Any amendment shall be in writing approved by the Board of Directors of the Employer and delivered to the Plan Administrator, Trustee, and other interested parties.

13.02 Employee's Right to Vested Benefit Preserved.

The Trust shall be irrevocable but the Employer reserves the right to terminate the Plan at any time; provided, however, such termination shall not deprive any Participant of any nonforfeitable interest hereunder. Upon such termination, the liability of the Employer to make contributions hereunder shall terminate and the interest of each Participant shall be nonforfeitable and shall be disposed of in the manner set forth in Articles VII and VIII above.

13.03 Effect of Discontinuance of Contributions.

Notwithstanding any provisions to the contrary contained herein the Plan shall terminate automatically upon complete discontinuance of contributions hereunder.

13.04 Plan Merger, Consolidation or Transfer.

The Employer shall have the right at any time to merge, consolidate or transfer the assets or liabilities of the Trust Fund for this plan to any other Plan and Trust provided each Participant in the Plan would (if the Plan then terminated) receive a benefit immediately thereafter which would equal or exceed the benefit he would have been entitled to immediately before such merger, consolidation or transfer if the Plan had terminated.

ARTICLE XIV: MISCELLANEOUS

14.01 Purpose of the Plan.

This Plan has been entered into for the exclusive benefit of the Participants and their Beneficiaries. Except as provided in section 3.08, none of the funds contributed hereunder shall at any time revert to, or be used or enjoyed by, the Employer nor shall any such funds or assets otherwise at any time be used other than for the benefit of the Participants or their Beneficiaries.

14.02 Execution of Receipts and Releases.

Any payment to any Participant, or to his legal representative or Beneficiary, in accordance with the provisions of this Plan, shall to the extent thereof be in full satisfaction of all claims hereunder against the Plan and the Plan Administrator may require such Participant, legal representative or Beneficiary, as a condition precedent to such payment, to execute a receipt and release therefor in such form as it shall determine.

14.03 Non-alienation of Benefits.

(a) Except as provided in section 3.07(b)(iv) or with respect to QDROs and other domestic relations orders permitted to be so treated by the Plan Administrator under REA, no benefits under this Plan shall be subject in any manner to be anticipated, alienated, sold, transferred, assigned, pledged, encumbered or charged, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge the same shall be void; nor shall any such benefits in any manner be liable to or subject to the debts, contracts, liabilities, engagements or torts of the person entitled to such benefits as herein provided for him. The Plan 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.

(b) Notwithstanding the foregoing, a Participant's benefit will be offset against any amount the Participant is ordered or required to pay to the Plan pursuant to an order or requirement which arises under a judgment of conviction for a crime involving the Plan or under a civil judgment entered by a court after August 5, 1997 in an action involving a fiduciary breach.

14.04 Intention to Comply.

This Plan shall be construed under the laws of the State of Arizona. The Plan is intended to comply with all requirements for qualification under the Code and if any provision thereof is subject to more than one interpretation or any term used therein is subject to more than one construction, such ambiguity shall be resolved in favor of that interpretation or construction which is consistent with this Plan being so qualified.

14.05 Headings as Guide.

The headings of this Plan are inserted for convenience of reference only and are not to be considered in construction of the provisions hereof.

14.06 Pronouns and Number.

When necessary or appropriate to the meaning hereof, either the masculine or the neuter pronoun shall be deemed to include the masculine the feminine, and the neuter, and the singular shall be deemed to include the plural.

14.07 Reference to Laws.

Any reference to any section of, or regulation issued with reference to, the Code or to any other statute or law shall be deemed to include any successor law or amendment thereof.

14.08 Period of the Trust.

If it shall be determined that the applicable state law requires a limitation on the period during which the Trust shall continue then such Trust shall not continue for a period longer than 21 years following the death of the last of those Participants (including future Participants) who are living at the Effective Date hereof. Otherwise this section shall not be operative.

Article XV: MINIMUM DISTRIBUTION REQUIREMENTS

15.01 General Rules

(a) Effective Date. The provisions of this article will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.

(b) Precedence. The requirements of this Section will take precedence over any inconsistent provisions of the Plan.

(c) Requirements of Treasury Regulations Incorporated. All distributions required under this article will be determined and made in accordance with the Treasury regulations under section 401(a)(9) of the Code.

(d) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this article, distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of TEFRA.

15.02 Time and Manner of Distribution

(a) 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.

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

(1) If the Participant's surviving spouse is the Participant's sole designated beneficiary, then, except as hereinafter provided, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70-1/2, if later.

(2) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, then, except as hereinafter provided, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

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

(4) 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 15.02 (b), other than Section 15.02 (b)(1) will apply as if the surviving spouse were the Participant.

For purposes of this Section 15.02(b) and Section 15.05, unless Section 15.02(b)(4) applies, distributions are considered to begin on the Participant's Required Beginning Date. If Section 15.02 (b)(4) applies,

distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 15.02(b)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under 15.02 (b)(1), the date distributions are considered to begin is the date distributions actually commence.

(c) Form of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Sections 15.03 and 15.04 of this Section. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code and the Treasury regulations.

15.03 Required Minimum Distributions During Participant's Lifetime

(a) 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:

(1) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or

(2) if the Participant's sole designated beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(b) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this Section 15.03 beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

15.04. Required Minimum Distributions After Participant's Death

(a) Death On or After Date Distributions Begin.

(1) If the Participant dies on or after the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated beneficiary, determined as follows:

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

(B) If the Participant's surviving spouse is the Participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(C) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(2) If the Participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(b) Death Before Date Distributions Begin

(1) If the Participant dies before the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated beneficiary, determined as provided in Section 15.04(a).

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

(3) If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 15.02(b)(1), this Section 15.04(b) will apply as if the surviving spouse were the Participant.

15.05 Definitions

(a) Designated beneficiary shall mean the individual who is designated as the beneficiary under the Plan and is the designated beneficiary under section 401(a)(9) of the Internal Revenue Code and section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.

(b) Distribution calendar year is 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 pursuant to Section 15.02 (b).

(c) Life expectancy is the life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.

(d) Participant's account balance is the 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. 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.

(e) Required beginning date is the April 1 following the calendar year in which occurs the later of the date the Participant attains age 70-1/2 and the date on which the Participant terminates employment.

15.06 Participant and Beneficiary Elections

(a) Election to Allow Participants or Beneficiaries to Elect 5-Year Rule. Participants or beneficiaries may elect on an individual basis whether the 5-year rule or the life expectancy rule in Sections 15.02 (b) and 15.04(b) of this Section 15 of the Plan applies to distributions after the death of a Participant who has a designated beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 15.02(b) of the Plan, or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death. If neither the Participant nor beneficiary makes an election under this section, distributions will be made in accordance with Sections 15.02 (b) and 15.04(b) of Section 15 of the Plan and, if applicable, the elections in Section 15.02 above.

(b) Election to Allow Designated Beneficiary Receiving Distributions Under 5-Year Rule to Elect Life Expectancy Distributions. A designated beneficiary who is receiving payments under the 5-year rule may make a new election to receive payments under the life expectancy rule until December 31, 2003, provided that all amounts that would have been required to be distributed under the life expectancy rule for all distribution calendar years before 2004 are distributed by the earlier of December 31, 2003 or the end of the 5-year period.

IN WITNESS WHEREOF, the Employer and Plan Administrator each have executed this Plan as of the day and year first above written.

(SEAL)

EMPLOYER:

ATTEST:

**CENTRAL ARIZONA WATER
CONSERVATION DISTRICT**

By _____
Its _____

By _____
Its _____

PLAN ADMINISTRATOR:
