AGENDA
THE CITY OF ST. CHARLES
GOVERNMENT OPERATIONS COMMITTEE
ALD. RON SILKAITIS, CHAIR
MONDAY, JUNE 20, 2022
IMMEDIATELY FOLLOWING THE CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS – 2 EAST MAIN STREET

1. **Call to Order**

2. **Roll Call**

3. **Administrative**
   a. Video Gaming May 2022 – Information Only

4. **Omnibus Vote**
   Items with an asterisk (*) are considered to be routine matters and will be enacted by one motion. There will be no separate discussion on these items unless a council member/citizen so requests, in which event the item will be removed from the consent agenda and considered in normal sequence on the agenda.

5. **Finance Department**
   a. Recommendation to Approve the Funding Allocation Requests of St Charles 708 Mental Health Board for FY 2022-2023.

6. **Human Resources**
   a. Recommendation to Approve a Resolution to establish a Section 115 Retirement Health Savings Plan for the St. Charles Professional Firefighter's Association IAFF Local 3322.

7. **Public Comment.**

8. **Additional Items from Mayor, Council, or Staff**

9. **Executive Session**
   - Personnel –5 ILCS 120/2(c)(1)
   - Pending Litigation – 5 ILCS 120/2(c)(11)
   - Probable or Imminent Litigation – 5 ILCS 120/2(c)(11)
   - Property Acquisition – 5 ILCS 120/2(c)(5)
   - Collective Bargaining – 5 ILCS 120/2(c)(2)
   - Review of Executive Session Minutes – 5 ILCS 120/2(c)(21)

10. **Adjournment**

ADA Compliance

Any individual with a disability requesting a reasonable accommodation in order to participate in a public meeting should contact the ADA Coordinator, Jennifer McMahon, at least 48 hours in advance of the scheduled meeting. The ADA Coordinator can be reached in person at 2 East Main Street, St. Charles, IL, via telephone at (630) 377 4446 or 800 526 0844 (TDD), or via e-mail at jmcmahon@stcharlesil.gov. Every effort will be made to allow for meeting participation. Notices of this meeting were posted consistent with the requirements of 5 ILCS 120/1 et seq. (Open Meetings Act).

ST. CHARLES SINCE 1834	**AGENDA ITEM EXECUTIVE SUMMARY**	Agenda Item number: 3a
	Title:	Video Gaming Statistics – Information Only
	Presenter:	Jim Keegan, Chief of Police

Meeting: Government Operations Committee Date: June 20, 2022

Proposed Cost: $	Budgeted Amount: $	Not Budgeted: ☐

Executive Summary (*if not budgeted please explain*)**:**

Latest statistics on video gaming and what businesses have been approved by the state and city staff of the St. Charles Police Department, pending applications into the state for approval, and January 2012 – May 2022 report for St. Charles Video Gaming Revenue as of May 2022.

Attachments (*please list*)**:**
Table – Current Licensed Video Gaming Establishments/Pending Applicants
Illinois Gaming Board Video Gaming Report, January 2012 –May 2022
Illinois Gaming Board Video Gaming Report, May 2022

Recommendation/Suggested Action (*briefly explain*)**:**
None – For Information Only

City of St. Charles
Video Gaming Statistics
May 2022

Pending Establishments

Chums Shrimp Shack LLC	**Chums Shrimp Shack**	2115 W Main St	St. Charles
CMB STC LLC	**The Hive Tavern and Eatery**	204 W Main St	St. Charles

Licensed Establishments

1. ALEXANDER'S CAFE 64, INC.	Alexanders Cafe	**1650 W. Main Street**	**St. Charles**
2. ALIBI BAR & GRILL LTD.	**ALIBI BAR & GRILL LTD.**	12 N. 3rd Street	St. Charles
3. Alley 64, INC.	**Alley 64**	212 W. Main Street	St. Charles
4. BK & MM VENTURES LLC	**ROOKIES 1, ALL AMERICAN PUB**	1545 W. Main Street	St. Charles
5. C&A Management Group LLC	**Flagship on The Fox**	100 S Riverside Ave.	St. Charles
6. CHARLIE FOX'S PIZZERIA & EATERY LLC	**CHARLIE FOX'S PIZZERIA & EATERY**	3341 W MAIN #7	St. Charles
7. CRAZY FOX, LLC	**THE CRAZY FOX BAR & GRILLE**	104 E Main St	St. Charles
8. EL ELLE SEA, LLC	**BOGART'S BAR**	219 W. MAIN STREET	St. Charles
9. H & C HOSPITALITY, LLC	**The Office Dining & Spirits**	201 E Main St	St. Charles
10. HEALTH NUTS, LTD.	**THE FILLING STATION**	300 W. MAIN ST.	St. Charles
11. Jay's & N Inc.	**Throwbacks Sports Bar**	1890 W. Main Street	St. Charles
12. L. A. MANSON CORPORATION	**ST. CHARLES BOWL**	2520 W Main St	St. Charles
13. MARK VII HOSPITALITY LIMITED	**Second Street Tavern**	221 S. 2nd Street	St. Charles
14. NLHM Inc.	**Brown's Chicken**	1910 Lincoln Highway	St. Charles
15. Northwoods Pub & Grill Inc.	**The Evergreen Pub & Grill**	1400 W Main St	St. Charles
16. Onesti Entertainment Corporation	**Arcada Theatre**	105 E Main St	St. Charles
17. Riverside Pizza, Inc.	**Riverside Pizza & Pub**	102 E Main St	St. Charles
18. SAINT CHARLES SPORTS, LLC	**SPOTTED FOX ALE HOUSE**	3615 E. MAIN ST	St. Charles
19. SALERNO AND SONS, INC.	**SALERNO'S ON THE FOX**	320 N 2ND ST	St. Charles
20. SCMC ENTERPRISES, INC.	**R HOUSE**	214 W. Main St.	St. Charles
21. TAP HOUSE GRILL ST. CHARLES, LLC	**Tap House Grill**	3341 W MAIN ST	St. Charles
22. YUMMY PLACE BURRITO LOS ASADEROS INC.	**BURRITO LOS ASADEROS INC.**	2400 E. MAIN STREET	ST. Charles
23. St. Charles Lodge No. 1368, Loyal Order of Moose	**St Charles Moose Lodge 1368**	2250 W Rt 38	St. Charles

ILLINOIS GAMING BOARD
VIDEO GAMING REPORT

St. Charles

May 2022

6/14/2022
3:08 pm

				VGT Wagering Activity			VGT Income			VGT Tax Distribution		
Municipality	Establishment	License Number	VGT Count	Amount Played	Amount Won	Net Wagering Activity	Funds In	Funds Out	Net Terminal Income	NTI Tax	State Share	Municipality Share
St. Charles	Alley 64, INC.	160702383	6	$838,414.11	$780,684.76	$57,729.35	$261,044.00	$203,315.13	$57,728.87	$19,627.82	$16,741.37	$2,886.45
St. Charles	BK & MM VENTURES LLC	160702415	6	$268,762.63	$256,958.02	$11,804.61	$80,182.00	$68,435.65	$11,746.35	$3,993.76	$3,406.44	$587.32
St. Charles	C&A Management Group LLC	200702748	6	$615,267.55	$570,213.99	$45,053.56	$209,795.00	$164,741.44	$45,053.56	$15,318.20	$13,065.53	$2,252.67
St. Charles	CHARLIE FOX'S PIZZERIA & EATERY LLC	200701085	4	$50,780.27	$46,110.66	$4,669.61	$16,406.00	$11,736.39	$4,669.61	$1,587.69	$1,354.20	$233.49
St. Charles	CRAZY FOX, LLC	170701805	6	$370,611.02	$346,288.79	$24,322.23	$116,299.00	$91,977.19	$24,321.81	$8,269.47	$7,053.37	$1,216.10
St. Charles	EL ELLE SEA, LLC	210701595	6	$393,735.87	$354,789.41	$38,946.46	$119,013.00	$80,066.69	$38,946.31	$13,241.72	$11,294.41	$1,947.31
St. Charles	HEALTH NUTS, LTD.	180702391	5	$270,823.36	$247,412.45	$23,410.91	$82,712.00	$59,301.09	$23,410.91	$7,959.74	$6,789.19	$1,170.55
St. Charles	Jay's & N Inc.	190704088	6	$435,585.40	$395,209.06	$40,376.34	$123,140.00	$82,763.74	$40,376.26	$13,727.96	$11,709.14	$2,018.82
St. Charles	L. A. MANSON CORPORATION	160703156	6	$228,372.17	$200,852.32	$27,519.85	$70,077.00	$42,557.15	$27,519.85	$9,356.80	$7,980.80	$1,376.00
St. Charles	MARK VII HOSPITALITY LIMITED	170702225	6	$786,888.21	$707,310.57	$79,577.64	$229,416.00	$149,838.89	$79,577.11	$27,056.13	$23,077.28	$3,978.85
St. Charles	NLHM Inc.	160702847	6	$153,013.45	$133,189.13	$19,824.32	$43,575.00	$23,750.60	$19,824.40	$6,740.34	$5,749.12	$991.22
St. Charles	Northwoods Pub & Grill Inc.	160702493	5	$636,600.07	$590,658.12	$45,941.95	$195,617.00	$149,675.05	$45,941.95	$15,620.27	$13,323.17	$2,297.10
St. Charles	Onesti Entertainment Corporation	160703007	6	$80,799.75	$73,438.98	$7,360.77	$24,937.00	$17,556.44	$7,380.56	$2,509.39	$2,140.36	$369.03
St. Charles	Riverside Pizza, Inc.	160702553	5	$483,449.39	$450,361.48	$33,087.91	$140,411.00	$107,323.23	$33,087.77	$11,249.87	$9,595.48	$1,654.39
St. Charles	SAINT CHARLES SPORTS, LLC	160702605	5	$395,448.77	$349,474.54	$45,974.23	$126,669.00	$80,694.43	$45,974.57	$15,631.33	$13,332.60	$2,298.73
St. Charles	SALERNO AND SONS, INC.	200701673	3	$60,079.30	$55,503.39	$4,575.91	$19,868.00	$15,291.99	$4,576.01	$1,555.86	$1,327.06	$228.80
St. Charles	SCMC ENTERPRISES, INC.	190702660	3	$13,924.30	$12,106.79	$1,817.51	$5,524.00	$3,706.73	$1,817.27	$617.88	$527.01	$90.87
St. Charles	St. Charles Lodge No. 1368, Loyal Order of Moose	160802392	6	$157,136.08	$145,990.81	$11,145.27	$53,892.00	$42,746.83	$11,145.17	$3,789.38	$3,232.11	$557.27
St. Charles	TAP HOUSE GRILL ST. CHARLES, LLC	170702248	6	$438,770.27	$405,776.83	$32,993.44	$130,872.00	$97,878.60	$32,993.40	$11,217.77	$9,568.10	$1,649.67
St. Charles	YUMMY PLACE BURRITO LOS ASADEROS INC.	190700390	5	$107,652.22	$98,975.71	$8,676.51	$32,958.00	$24,281.60	$8,676.40	$2,950.01	$2,516.19	$433.82
REPORT TOTAL:		**20 Establishments**	**107**	**$6,786,114.19**	**$6,221,305.81**	**$564,808.38**	**$2,082,407.00**	**$1,517,638.86**	**$564,768.14**	**$192,021.39**	**$163,782.93**	**$28,238.46**

ILLINOIS GAMING BOARD
VIDEO GAMING REPORT

St. Charles

January 2012 - May 2022

6/14/2022
3:08 pm

				VGT Wagering Activity			VGT Income			VGT Tax Distribution		
Municipality	Establishment	License Number	VGT Count	Amount Played	Amount Won	Net Wagering Activity	Funds In	Funds Out	Net Terminal Income	NTI Tax	State Share	Municipality Share
St. Charles	A'Salute' Inc.	160702452	5	$2,091,601.88	$1,923,949.67	$167,652.21	$577,279.00	$409,626.79	$167,652.21	$50,296.35	$41,913.65	$8,382.70
St. Charles	ALIBI BAR & GRILL LTD.	150704430	5	$448,186.83	$410,300.14	$37,886.69	$160,719.00	$122,831.26	$37,887.74	$11,705.71	$9,819.24	$1,886.47
St. Charles	Alley 64, INC.	160702383	6	$37,463,914.34	$34,687,304.50	$2,776,609.84	$12,551,380.00	$9,774,695.46	$2,776,684.54	$892,028.58	$753,194.13	$138,834.45
St. Charles	BK & MM VENTURES LLC	160702415	6	$28,788,660.15	$26,542,494.77	$2,246,165.38	$8,592,624.00	$6,346,337.38	$2,246,286.62	$720,040.86	$607,726.25	$112,314.61
St. Charles	C&A Management Group LLC	200702748	6	$2,872,464.72	$2,649,902.01	$222,562.71	$982,289.00	$759,726.29	$222,562.71	$75,671.43	$64,543.28	$11,128.15
St. Charles	CHARLIE FOX'S PIZZERIA & EATERY LLC	200701085	4	$295,334.50	$270,850.50	$24,484.00	$99,304.00	$74,819.72	$24,484.28	$8,324.78	$7,100.56	$1,224.22
St. Charles	CRAZY FOX, LLC	170701805	6	$7,603,283.63	$6,919,918.17	$683,365.46	$2,352,921.00	$1,669,555.43	$683,365.57	$226,796.46	$192,628.05	$34,168.41
St. Charles	DAWN'S CAFE, LTD.	160702454	2	$971,673.92	$891,880.95	$79,792.97	$314,384.00	$234,589.68	$79,794.32	$24,302.84	$20,313.09	$3,989.75
St. Charles	DAWN'S VOODOO ROOM, LTD.	170702226	3	$131,639.05	$114,092.97	$17,546.08	$48,098.00	$30,551.92	$17,546.08	$5,263.94	$4,386.62	$877.32
St. Charles	EL ELLE SEA, LLC	210701595	6	$2,500,541.09	$2,301,405.11	$199,135.98	$825,274.00	$626,116.17	$199,157.83	$67,713.75	$57,755.83	$9,957.92
St. Charles	GOLREN ENTERPRISES, INC.	160703386	5	$2,363,441.27	$2,169,177.13	$194,264.14	$822,559.00	$628,294.86	$194,264.14	$58,279.92	$48,566.66	$9,713.26
St. Charles	HDF Entertainment, LLC	180702511	5	$2,024,379.17	$1,843,635.36	$180,743.81	$702,564.00	$521,820.19	$180,743.81	$59,890.90	$50,853.73	$9,037.17
St. Charles	HEALTH NUTS, LTD.	180702391	5	$5,288,783.48	$4,824,297.28	$464,486.20	$1,894,322.00	$1,429,835.80	$464,486.20	$154,122.21	$130,897.71	$23,224.50
St. Charles	Jay's & N Inc.	190704088	6	$4,881,867.95	$4,495,194.22	$386,673.73	$1,421,300.00	$1,034,626.27	$386,673.73	$131,469.20	$112,135.48	$19,333.72
St. Charles	KILLOUGH LLC	160702650	4	$323,128.13	$297,527.05	$25,601.08	$127,669.00	$102,067.92	$25,601.08	$7,680.48	$6,400.40	$1,280.08
St. Charles	L. A. MANSON CORPORATION	160703156	6	$8,886,600.00	$8,082,109.96	$804,490.04	$2,748,570.00	$1,944,079.96	$804,490.04	$259,145.62	$218,920.85	$40,224.77
St. Charles	MARK VII HOSPITALITY LIMITED	170702225	6	$27,176,814.25	$25,065,055.54	$2,111,758.71	$7,831,569.00	$5,719,783.79	$2,111,785.21	$689,713.27	$584,123.81	$105,589.46
St. Charles	NLHM Inc.	160702847	6	$6,599,519.56	$6,024,833.35	$574,686.21	$1,831,451.00	$1,256,746.14	$574,704.86	$186,881.78	$158,146.37	$28,735.41
St. Charles	Northwoods Pub & Grill Inc.	160702493	5	$23,708,480.15	$21,632,304.34	$2,076,175.81	$7,870,112.00	$5,793,936.19	$2,076,175.81	$667,800.29	$563,991.32	$103,808.97
St. Charles	Onesti Entertainment Corporation	160703007	6	$950,526.37	$898,691.30	$51,835.07	$226,661.00	$174,805.93	$51,855.07	$17,630.83	$15,038.07	$2,592.76
St. Charles	Panman, LLC	160703257	5	$20,167.79	$17,246.68	$2,921.11	$8,129.00	$5,207.89	$2,921.11	$876.43	$730.36	$146.07
St. Charles	Pub 47 St Charles Inc.	180700422	5	$451,127.23	$407,893.79	$43,233.44	$150,077.00	$106,843.56	$43,233.44	$12,970.29	$10,808.58	$2,161.71
St. Charles	Ram Restaurant Group Inc.,	180700820	5	$332,529.45	$302,216.78	$30,312.67	$121,311.00	$90,998.02	$30,312.98	$9,094.21	$7,578.51	$1,515.70
St. Charles	Riverside Pizza, Inc.	160702553	5	$15,006,759.09	$13,747,382.47	$1,259,376.62	$4,872,463.00	$3,612,799.56	$1,259,663.44	$410,490.73	$347,507.49	$62,983.24
St. Charles	SAINT CHARLES SPORTS, LLC	160702605	5	$17,098,243.98	$15,695,176.37	$1,403,067.61	$5,046,903.00	$3,643,833.69	$1,403,069.31	$452,114.95	$381,961.34	$70,153.61
St. Charles	SALERNO AND SONS, INC.	200701673	3	$291,052.99	$270,115.58	$20,937.41	$90,020.00	$69,082.49	$20,937.51	$7,118.77	$6,071.89	$1,046.88
St. Charles	SCMC ENTERPRISES, INC.	190702660	5	$350,019.34	$316,198.50	$33,820.84	$138,454.00	$104,633.16	$33,820.84	$11,488.38	$9,797.31	$1,691.07
St. Charles	St. Charles Lodge No. 1368, Loyal Order of Moose	160802392	6	$8,684,574.77	$7,885,797.36	$798,777.41	$2,977,882.00	$2,179,104.49	$798,777.51	$251,871.18	$211,932.02	$39,939.16
St. Charles	TAP HOUSE GRILL ST. CHARLES, LLC	170702248	6	$12,177,564.87	$11,272,309.75	$905,255.12	$3,803,344.00	$2,898,086.35	$905,257.65	$298,640.36	$253,377.23	$45,263.13
St. Charles	YUMMY PLACE BURRITO LOS ASADEROS INC.	190700390	5	$1,941,639.92	$1,769,682.66	$171,957.26	$561,381.00	$389,423.69	$171,957.31	$58,465.72	$49,867.83	$8,597.89
REPORT TOTAL:		**30 Establishments**	**153**	**$221,724,519.87**	**$203,728,944.26**	**$17,995,575.61**	**$69,751,013.00**	**$51,754,860.05**	**$17,996,152.95**	**$5,827,890.22**	**$4,928,087.66**	**$899,802.56**

***Due to the COVID-19 crisis, video gaming operations were suspended March 16, 2020 - June 30, 2020 and November 20, 2020 - January 16, 2021.*

ST. CHARLES SINCE 1834	**AGENDA ITEM EXECUTIVE SUMMARY**	Agenda Item number: 5a
	Title:	Recommendation to Approve the Funding Allocation Requests of the 708 Mental Health Board for FY 2022-2023
	Presenter:	Bill Hannah, Finance Director Kaylynne Poremba, 708 Mental Health Board Chair

Meeting: Government Operations Committee	Date: June 20, 2022	
Proposed Cost: $612,003	Budgeted Amount: $612,003	Not Budgeted: ☐

Executive Summary (*if not budgeted please explain*)**:**

The City of St. Charles levies a $0.04/$100 EAV property tax to support agencies that provide mental health services to residents of the City of St. Charles. This tax levy was approved by voters by referendum in the spring of 1986 and has been in place since that time. The City's 708 Mental Health Board administers the funding application and presentation process and makes annual recommendations of funding allocations to the various agencies providing these services. The total amount of funding available for allocation in FY 2022-2023 is $612,003. The recommended funding allocations for the 2021-2022 funding cycle are attached.

Kaylynne Poremba, Chair of the 708 Mental Health Board, will present an overall summary on behalf of all the groups that have requested funding for FY 2022-2023. Additionally, representatives from the six individual groups receiving greater than $25,000 in funding will be available should there be any specific questions regarding the services they provide. These organizations include:

- Association for Individual Development (AID)
- CASA Kane County
- City of St. Charles Police Department
- Ecker Center for Mental Health
- Lazarus House
- Lighthouse Recovery
- TriCity Family Services

Attachments (*please list*)**:**
Summary sheet of recommended funding allocations of St. Charles 708 Mental Health Board for FY 2022-2023

Recommendation/Suggested Action (*briefly explain*)**:**
Seeking approval of the funding allocation requests of the 708 Mental Health Board for the fiscal year 2022-2023.

2022-2023 St. Charles 708 Mental Health Board
Allocation Worksheet

	2022 AMOUNT REQUESTED	2022 APPROVED AMOUNT	2021 AMOUNT REQUESTED	2021 APPROVED AMOUNT	2020 AMOUNT REQUESTED	2020 AMOUNT APPROVED
ASSOCIATON FOR INDIVIDUAL DEVELOPMENT	$ 61,450.00	$ 32,240.00	$ 60,000.00	$ 41,333.94	$ 75,000.00	$39,000.00
CASA KANE COUNTY	$ 79,750.00	$ 37,500.00	$ 25,000.00	$ 18,591.08	$ 10,000.00	$7,763.00
CITY STC POLICE DEPT	$ 65,000.00	$ 57,850.00	$ 60,080.00	$ 55,556.94	$ 60,000.00	$46,463.00
COMMUNITY CRISIS CENTER	$ 18,000.00	$ 16,425.00	$ 18,150.00	$ 16,809.65	$ 20,000.00	$18,150.00
DAYONE PACT	$ 4,250.00	$ 2,763.00	$ 4,000.00	$ 3,817.27	$ 4,000.00	$2,643.00
EASTER SEALS DuPAGE & FOX VALLEY	$ 10,000.00	$ 9,000.00	$ 9,500.00	$ 9,250.01	$ 12,500.00	$8,906.00
ECKER CENTER FOR MENTAL HEALTH	$ 136,000.00	$ 105,348.00	$ 145,000.00	$ 103,269.65	$ 72,000.00	$58,860.00
ELDERDAY CENTER INC	$ 20,500.00	$ 14,521.00	$ 20,500.00	$ 15,669.65	$ 20,500.00	$14,376.00
FOX VALLEY HANDS OF HOPE	$ 18,000.00	$ 16,725.00	$ 18,000.00	$ 14,876.80	$ 26,000.00	$18,135.00
FOX VALLEY SPECIAL RECREATION ASSOC	$ 6,500.00	$ 5,633.00	$ 6,450.00	$ 5,963.05	$ 7,488.00	$5,813.00
HORSEPOWER THERAPEUTICS	$ 9,810.00	$ 8,911.00	-	-	-	-
LAZARUS HOUSE	$ 48,641.00	$ 39,577.00	$ 51,393.00	$ 44,601.54	$ 50,294.00	$47,115.00
LIGHTHOUSE RECOVERY INC	$ 50,000.00	$ 44,792.00	$ 50,000.00	$ 42,341.08	$ 41,000.00	$31,673.00
LIVING WELL	$ 20,000.00	$ 16,667.00	$ 20,000.00	$ 16,591.08	$ 20,000.00	$7,388.00
NAMI KDK	$ 20,000.00	$ 3,875.00	$ 7,600.00	$ 6,243.94	$ 6,500.00	$5,168.00
RENZ ADDICTION COUNSELING CENTER	-	-	$ -	-	$ 90,365.00	$79,069.00
SUICIDE PREVENTION SERVICES	$ 11,600.00	$ 10,585.00	$ 11,500.00	$ 10,673.23	$ 17,000.00	$11,220.00
THE JOSHUA TREE	$ 2,500.00	$ 1,792.00	-	-	-	-
TRI-CITY HEALTH PARTNERSHIP	$ 15,000.00	$ 14,313.00	$ 15,000.00	$ 13,376.80	$ 15,000.00	$13,669.00
TRICITY FAMILY SERVICES	$ 215,000.00	$ 173,486.00	$ 215,000.00	$ 192,378.07	$ 226,415.00	$196,132.00
YWCA METRO CHICAGO	-	-	$ 20,652.41	$ -	$ 106,014.00	$0.00
TOTAL	**$812,001.00**	**$612,003.00**	**$757,825.41**	**$611,343.78**	**$880,076.00**	**$611,543.00**

CITY OF ST. CHARLES ILLINOIS • 1834	**AGENDA ITEM EXECUTIVE SUMMARY**	Agenda Item number: 6a
	Title:	Resolution to establish a Section 115 Retirement Health Savings Plan for IAFF Local 3322
	Presenter:	Jennifer McMahon, Director of Human Resources

Meeting: Government Operations Committee	Date: June 20, 2022	
Proposed Cost: $0	Budgeted Amount: N/A	Not Budgeted: ☐

Executive Summary (*if not budgeted please explain*)**:**

Per Section 22.4 of the collective bargaining agreement between the City and IAFF Local 3322, the City and the Union agreed to meet and bargain in good faith to establish the specific terms and conditions for a Retiree Health Savings plan. This Plan, known as a Section 115 Trust, will allow bargaining unit members to accumulate assets through payroll deduction and benefit time payouts at retirement in order to pay medical and other eligible expenses at and during retirement. The benefit is that the dollars put into the Trust lower the employee's taxable income (providing tax savings for the City as well). Accumulated investment income is tax fee as well. Disbursements, which are only available in retirement, are not taxed when used for qualifying expenses, like health insurance premiums or physician co-pays.

The City's responsibility will be to deduct the funds from paychecks and transmit them to the financial institution identified in the attached Trust Agreement. The Union will be responsible for administering the plan (e.g. investment strategy, disbursement of funds) and will outsource this work to Babbitt Municipalities, Inc. (BMI) via the attached administrative services agreement. BMI has extensive experience doing this work for numerous fire and police departments in the Chicago metropolitan area.

The City will not be responsible for any fees or reporting associated with this Plan. All Plan documents and agreements have been reviewed by legal counsel.

Attachments (*please list*)**:**

Resolution and accompanying exhibits including the Welfare Benefit Plan, Trust Agreement, Plan Specifications, BMI Administrative Services Agreement, and Side Letter.

Recommendation/Suggested Action (*briefly explain*)**:**

Recommendation to Approve a Resolution to establish a Section 115 Retirement Health Savings Plan for the St. Charles Professional Firefighter's Association IAFF Local 3322

City of St. Charles, Illinois
Resolution No. 2022 - _____

A Resolution Authorizing the Execution of Agreements Relating to a Retirement Healthcare Funding Plan for the St. Charles Professional Firefighter's Association IAFF Local 3322

Presented & Passed by the City Council on _____

WHEREAS, the CITY OF ST. CHARLES is a Municipal Corporation and is a member of the Illinois Public Pension Fund Association ("IPPFA"):

WHEREAS, IPPFA has created a Retirement Healthcare Funding Plan (the "Plan") for the use of bargaining members within the St. Charles Professional Firefighter's Association IAFF Local 3322 and offers the Plan for adoption by Governmental Employers for the benefit of their respective employees and beneficiaries;

WHEREAS, IPPFA has created for execution a Welfare Benefit Plan Document, and corresponding Specifications;

WHEREAS, the CITY OF ST. CHARLES desires to establish the Plan pursuant to Section 22.4 of the collective bargaining agreement between the City of St. Charles and St. Charles Professional Firefighter's Association IAFF Local 3322 ("Union") and the Side Letter to the collective bargaining agreement;

WHEREAS, the Plan shall be the responsibility of the Union to administer;

WHEREAS, the Union proposes that Babbitt Municipalities, Inc. ("BMI") shall provide administrative services for the Plan ("Services"), and that the funds in the Plan shall be invested by State Street Bank and Trust Company ("Trust");

WHEREAS, IPPFA, on behalf of sponsoring entities that adopt and maintain the Plan, has provided for coordinated investment management and administrative services for the accumulation phase of the Plan through an Administrative Services Agreement, hereto (the "Services Agreement"), pursuant to which Transamerica Retirement Solutions (the "Service Agent") has been appointed to provide certain record keeping and administrative services with respect to the Plan, as more specified in the Services Agreement and to provide investment management under a Group Mutual Fund Agreement;

WHEREAS, the CITY OF ST. CHARLES has IAFF bargaining unit employees rendering valuable services to the CITY OF ST. CHARLES and has, upon due deliberation, concluded that it would be prudent and appropriate to adopt and administer the Plan on behalf of such employees of the CITY OF ST. CHARLES who are subject to a Collective Bargaining Agreement with the CITY OF ST. CHARLES (as specified in Exhibit A of the Specifications) that requires inclusion in the Plan in order to allow such employees to provide for their retirement security and to serve the interest of the CITY OF ST. CHARLES in attracting and retaining competent personnel;

WHEREAS, the CITY OF ST. CHARLES has reviewed the Plan documents and they will serve the objectives of the CITY OF ST. CHARLES and its employees who participate in the Plan and;

WHEREAS, the CITY OF ST. CHARLES is empowered by the laws, rules and regulations of State of Illinois to take on its behalf the actions contemplated by this Resolution;

THEREFORE, BE IT RESOLVED, that the CITY OF ST. CHARLES hereby adopts the Welfare Benefit Plan substantially in the form attached hereto as Exhibit "A," and the corresponding Trust Agreement substantially in the form attached hereto as Exhibit "B," and corresponding Specifications substantially in the form attached hereto as Exhibit "C," as may be amended from time to time to comply with any changes in applicable laws, rules and regulations or as otherwise necessary or appropriate;

FURTHER RESOLVED, that the CITY OF ST. CHARLES hereby authorizes the City Administrator to execute the BMI Administrative Service Agreement substantially in the form attached hereto as Exhibit "D," including without limitation which may be amended from time to time to comply with any changes in applicable laws, rules and regulations or as otherwise necessary or appropriate;

FURTHER RESOLVED, that the CITY OF ST. CHARLES hereby appoints State Street Bank and Trust as passive trustee of the plan pursuant to its master trustee agreement with Transamerica Retirement Solutions.

FURTHER RESOLVED, that the CITY OF ST. CHARLES City Council direct the City Administrator or his/her designee to be the coordinator for this program; to receive necessary reports, notices, etc. from BMI and Transamerica Retirement Solutions; to assign administrative duties to carry out the Plan to the appropriate departments; and to be authorized to execute all necessary agreements incidental to the administration of the Plan.

BE IT FURTHER RESOLVED, that the Director of Human Resources is authorized to execute the Side Letter Agreement with the Union, attached hereto as Exhibit "E," to amend the collective bargaining agreement and the officials, officers, employees and agents of the CITY OF ST. CHARLES are authorized to take such actions and execute such documents as are necessary to carry out the purpose and intent of this Resolution.

PRESENTED to the City Council of the City of St. Charles, Illinois, this __ day of July, 2022.

PRESENTED by the City Council of the City of St. Charles, Illinois, this ___ day of July, 2022.

APPROVED by the Mayor of the City of St. Charles, Illinois, this ___ day of July, 2022.

_____
Lora Vitek, Mayor

ATTEST:

_____
Nancy Garrison, City Clerk

COUNCIL VOTE:
Ayes:
Nays:
Absent:
Abstain:

Exhibit A

City of St. Charles/I.A.F.F. LOCAL 3322

RETIREE HEALTHCARE FUNDING PLAN (RHFP)

WELFARE BENEFIT PLAN

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City of St. Charles/ I.A.F.F. LOCAL 3322

RETIREE HEALTHCARE FUNDING PLAN (RHFP)

WELFARE BENEFIT PLAN

The Employer/Sponsoring Entity identified in the Retiree Healthcare Funding Plan Specifications ("Employer/Sponsoring Entity") hereby adopts and establishes a welfare benefit plan (herein referred to as the "Plan") for the benefit of its Eligible Employees, their eligible Dependents and Beneficiaries by completion of the RHFP® Plan Specifications.

BABBITT MUNICIPALITIES INC. ("BMI"), an Illinois limited liability company, reserves all rights with respect to this Welfare Benefit Plan document, the RHFP® Plan Trust Agreement (the "Trust") and the Plan Specifications associated with it.

BMI and the Employer/Sponsoring Entity intend that this Plan and the Trust attached hereto, and by reference incorporated herein, constitute an "employee welfare benefit plan" under Title I, section 3(1), of the Employee Retirement Income Security Act of 1974 as amended ("ERISA") and an arrangement governed by section 115 of the Internal Revenue Code of 1986, as amended.

ARTICLE 1
DEFINITIONS

1.1 "Account Balance" means the aggregate value of the Participant's Employer/Sponsoring Entity Contribution Account and Accrued Leave Contribution Account.

1.2 "Accrued Leave Contribution" or "Employer/Sponsoring Entity Accrued Leave Contribution" means a contribution to the Participant's account made by the Employer/Sponsoring Entity, to the extent such contribution is selected in the Plan Specifications.

1.3 "Accrued Leave Contribution Account" means that portion of the Trust Fund held by the Trustee and separately maintained by the Administrator on behalf of and for the purpose of providing benefits to a Participant, his or her Dependent(s) and Beneficiaries, pursuant to Section 5.1 hereof, attributable to Employer/Sponsoring Entity Accrued Leave Contributions.

1.4 "Administrator" or "Plan Administrator" means the individual, entity or group designated by the Employer/Sponsoring Entity in the Plan Specifications pursuant to Section 2.2 hereof to administer the Plan on behalf of the Employer/Sponsoring Entity and the Participants.

1.5 "Adopting Employer/Sponsoring Entity" means a corporation or other organization other than the Employer/Sponsoring Entity which adopts this Plan by executing Plan Specifications setting forth its terms of adoption pursuant to Article 11 hereof.

1.6 "Adoption Date" means the date as of which the Employer/Sponsoring Entity adopts this Plan as set forth in the Plan Specifications.

1.7 "Allocation Date" means the date as of which Employer/Sponsoring Entity contributions are credited to the account of Participants as elected in the Plan Specifications.

1.8 "Anniversary Date" means the last day of each Plan Year.

1.9 "Authorized Leave of Absence" means a temporary cessation of active employment with the Employer/Sponsoring Entity pursuant to an established policy, whether occasioned by illness, military service, maternity or paternity leave, or any other reason. An Authorized Leave of Absence shall not be considered a termination of employment.

1.10 "Beneficiary" or "Beneficiaries" means the person or persons designated by the Participant pursuant to Section 8.4 to receive benefits payable from the Plan (or directly from insurance Policies purchased by the Plan) in the event of the Participant's death.

1.11 "BMI" means BABBITT MUNICIPALITIES INC. and any successor that shall maintain this Plan document.

1.12 "Break in Service" means a 12-consecutive month period set forth in the Plan Specifications during which an Employee fails to complete more than 500 Hours of Service.

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

1.14 "Collective Bargaining Agreement" means a bona fide agreement between the Employer/Sponsoring Entity and Employee representatives provided that health and welfare benefits were the subject of good faith bargaining between such Employee representatives and the Employer/Sponsoring Entity. The term "Employee representatives" does not include an organization more than half of whose members are owners, officers or executives of the Employer/Sponsoring Entity.

1.15 "Compensation" with respect to a Participant means the total wages or salary, overtime, commissions, bonuses, and any other taxable remuneration earned while a Participant from the Employer/Sponsoring Entity and actually paid (determined as elected in the Plan Specifications) during the 12-month period elected in the Plan Specifications, and shall exclude amounts realized from the exercise of non-qualified stock options and amounts realized from the sale, exchange or other disposition of stock acquired under qualified stock options, when restricted stock (or property) held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture and may not exceed the compensation limit contained in Code section 505(b)(7). The Employer/Sponsoring Entity may elect in the Plan Specifications to exclude as Compensation any amount which is contributed by the Employer/Sponsoring Entity pursuant to a salary reduction agreement and which is not includible in the gross income of an employee under Code sections 125, 402(e)(3), 402(h), or 403(b). The Employer/Sponsoring Entity may also elect in the Plan

Specifications to eliminate categories of Compensation which do not result in discrimination in favor of Highly-Compensated Employees, including:

(a) Amounts paid in commissions, bonuses or overtime compensation;

(b) Contributions under a salary reduction agreement to a cash or deferred plan under Code section 401(k), or to a simplified employee pension plan under Code section 408(k).

(c) Compensation in excess of a maximum amount specified.

1.16 "Covered Group" means those Employees whom the Employer/Sponsoring Entity has elected to cover under this Plan in the Plan Specifications.

1.17 "Dependent" means, with respect to any Participant:

(a) The Participant's spouse;

(b) A child of the Participant or the Participant's spouse (including a child placed for adoption with or under legal guardianship of the Participant or spouse) who is unmarried and is less than 19 years of age or is less than 25 years of age and is a full-time student at an accredited educational institution during at least five (5) months of the calendar year. The age requirement is waived for any child who is mentally or physically disabled prior to age 19, is incapable of self-sustaining employment and who is a "dependent" of the Participant within the meaning of section 152 of the Code;

(c) Any other person that the Administrator, relying on information furnished by the Participant, in good faith determines to meet the definition of a dependent within the meaning of section 152(a) of the Code.

1.18 "Disability" means a physical or mental condition of a Participant expected to last for a continuous period of not less than twelve (12) months, resulting from bodily injury, disease, or mental disorder which renders the Employee incapable of engaging in or continuing his or her usual and customary employment. A licensed physician selected by the Administrator shall determine the Disability of a Participant. The determination shall be applied uniformly to all Participants.

1.19 "Discretionary Contribution" or "Employer/Sponsoring Entity Discretionary Contribution" means a contribution to the Participant's account made by the Employer/Sponsoring Entity, to the extent such contribution is selected in the Plan Specifications.

1.20 "Early Retirement Date" means the combination of age and Years of Service established by the Employer/Sponsoring Entity in the Plan Specifications, which is the earliest date on which a Participant may retire and receive post-retirement benefits under the Plan.

1.21 "Earned" means that portion of a Participant's Employer/Sponsoring Entity Contribution Account to which the Participant has become entitled by virtue of his or her age and Years of Service (or Years of Participation) in accordance with the Earned benefit schedule set forth in the Plan Specifications.

1.22 "Effective Date" means the date on which this Plan initially is effective, as set forth in the Plan Specifications.

1.23 "Eligible Employee" means an Employee who has satisfied the eligibility requirements set forth in the Plan Specifications.

1.24 "Employee" means any person employed by the Employer/Sponsoring Entity who receives compensation for personal services to the Employer/Sponsoring Entity that is subject to withholding for federal income tax purposes. The term "Employee" does not include an independent contractor or leased employee or any individual who is classified by the Employer/Sponsoring Entity other than as an Employee even if it is later determined that the classification is incorrect.

1.25 "Employer/Sponsoring Entity" means a corporation or other organization that adopts this Plan by executing Plan Specifications setting forth its terms of adoption and any predecessor or successor thereto. Where appropriate, Employer/Sponsoring Entity shall also mean any Adopting Employer/Sponsoring Entity, including any organization that must be aggregated with the Employer/Sponsoring Entity under Code Sections 414(b)(c) or (m).

1.26 "Employer/Sponsoring Entity Contribution Account" means that portion of the Trust Fund held by the Trustee and separately maintained by the Administrator on behalf of and for the purpose of providing benefits to a Participant, his or her Dependent(s) and Beneficiaries, pursuant to Section 5.1 hereof, attributable to Employer/Sponsoring Entity Discretionary Contributions.

1.27 "Entry Date" means the date on which an Employee commences participation in the Plan as elected by the Employer/Sponsoring Entity in the Plan Specifications. After an Employee's Entry Date, such Employee shall be considered to be a Participant in the Plan.

1.28 "ERISA" means the Employee Retirement Income Security Act of 1974, as it may be amended from time to time.

1.29 "Fiduciary" means any person who: (i) exercises any discretionary authority or control respecting management of the Plan or exercises any authority or control respecting management or disposition of its assets; (ii) renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of the Plan or has any authority or responsibility to do so, or (iii) has any discretionary authority or discretionary responsibility in the administration of the Plan, including, but not limited to, the Trustee, the Employer/Sponsoring Entity and the Administrator.

1.30 "Fund" or "Trust Fund" means the assets of the Plan held in trust, as the same shall exist from time to time, including earnings and appreciation thereon.

1.31 "Highly Compensated Employee" means any Employee who (i) was a five percent (5%) owner (as described in Code section 416(i)(1)) of an Adopting Employer/Sponsoring Entity at any time during the determination year or the preceding year, or (ii) who, for the preceding year received Compensation from the Adopting Employer/Sponsoring Entity (or from all entities required to be aggregated with the Adopting Employer/Sponsoring Entity pursuant to sections 414(b), (c) or (m) of the Code) in excess of $80,000 [as adjusted pursuant to Code section 415(d)], and was in the "top-paid group of employees" (as described in Code section 414(q) for such preceding year.

1.32 "Highly Compensated Individual", for purposes of testing whether the Plan meets the requirements of Code section 105(h) means an individual who is:

(a) One of the five (5) highest paid officers,

(b) A shareholder who owns (with the application of Code section 318) more than ten percent (10%) in value of the stock of the Employer/Sponsoring Entity; or

(c) Among the highest paid twenty-five percent (25%) of all Employees (other than employees described in section 105(h)(3)(B) who are not participants in this Plan or in any self-insured medical or in a health maintenance organization plan maintained by the Employer/Sponsoring Entity).

The status of an Employee as an officer or stockholder is determined with respect to a particular benefit on the basis of the Employee's officer status or stock ownership at the time during the Plan Year at which the benefit is provided. In calculating the highest paid twenty-five percent (25%) of all Employees, the number of Employees included will be rounded to the next highest number. The level of an Employee's compensation is determined on the basis of the Employee's compensation for the Plan Year. For purposes of the preceding sentence, fiscal year plans may determine Employee compensation on the basis of the calendar year ending within the Plan Year.

1.33 "Hour of Service" means (i) each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer/Sponsoring Entity, and (ii) each hour (up to a maximum of 501 hours) for which an Employee is paid, or entitled to payment, by the Employer/Sponsoring Entity on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or Authorized Leave of Absence. Hours of Service shall be determined on the basis elected in the Plan Specifications.

Hours of Service shall be credited for employment with the Employer/Sponsoring Entity and with any Adopting Employer/Sponsoring Entity or other entity required to be aggregated with the Employer/Sponsoring Entity pursuant to Code section 414(o) and the Regulations thereunder. Hours of Service shall also be credited for any individual considered an Employee for purposes of this Plan under Code section 414(n) or Code section 414(o) and the Regulations thereunder.

Solely for purposes of determining whether a Break in Service, as defined in paragraph 1.12, for purposes of participation and earning of benefits has occurred in a computation period, an individual who is absent from work for maternity or paternity reasons shall receive credit for the Hours of Service which would otherwise have been credited to such individual but for such absence, or in any case in which such hours cannot be determined, eight (8) Hours of Service per day of such absence. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence by reason of the pregnancy of the individual, by reason of a birth of a child of the individual, by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or for purposes of caring for such child for a period beginning immediately following such birth or placement. The Hours of Service credited under this paragraph shall be credited in the computation period in which the absence begins if the crediting is necessary to prevent a Break in Service in that period, or in all other cases, in the following computation period. No more than 501 hours will be credited under this paragraph.

1.34 "Investment Manager" means any person, firm or corporation who is a registered investment adviser under the Investment Advisers Act of 1940, a bank or an insurance company, and (i) who has the power to manage, acquire, or dispose of Plan assets, and (ii) who acknowledges in writing his Fiduciary responsibility to the Plan.

1.35 "Key Employee" means any Employee or former Employee (and the Beneficiaries of such Employee) who at any time during the determination period was an officer of the Employer/Sponsoring Entity if such individual's annual Compensation exceeds 50% of the dollar limitation under Code section 415(b)(1)(A) (the defined benefit maximum annual benefit), an owner (or considered an owner under Code section 318) of one of the ten largest interests in the Employer/Sponsoring Entity if such individual's Compensation exceeds 100% of the dollar limitation under Code section 415(c)(1)(A), a 5% owner of the Employer/Sponsoring Entity, or a 1% owner of the Employer/Sponsoring Entity who has an annual Compensation of more than the amount set forth in Code section 415(d) (as adjusted by the Secretary of the Treasury). For purposes of determining who is a Key Employee, annual Compensation means Compensation determined under Code section 415, but including amounts deferred to a cash or deferred plan under code section 401(k), a simplified employee pension plan under Code section 408(k), a cafeteria plan under Code section 125 or a tax-deferred annuity under Code section 403(b). The determination period is the Plan Year containing the Determination Date. The determination of who is Key Employee will be made in accordance with Code section 416(i)(1) and the Regulations thereunder.

1.36 "Leased Employee" means any person (other than an Employee of the recipient) who, pursuant to an agreement between the recipient and any other person ("leasing organization"), has performed services for the recipient [or for the recipient and related persons determined in accordance with Code section 414(n)(6)] on a substantially full-time basis for a period of at least one year, and such services are under the primary direction or control of the recipient Employer/Sponsoring Entity.

1.37 "Medical Expense" means any expense paid for medical care of a Participant and his or her spouse and other Dependents within the meaning of Section 213 of the Code. Such expenses include physician's and hospital charges, dental charges, hearing and vision expenses, prescriptions, ambulance, laboratory fees, convalescent and nursing home care, hospice care, private nursing care, Medigap or Medicare supplement insurance premiums, other medical insurance premiums, convalescent or nursing home care, the cost of medications and/or prescriptions, private nursing and hospice care, amounts paid or due as deductibles, co-pay amounts, co-insurance costs, and other medical expenses within the meaning of Section 213(d) of the Internal Revenue Code.

1.38 "Normal Retirement Date" means the combination of age and Years of Service established by the Employer/Sponsoring Entity in the Plan Specifications, at or after which a Participant may receive his or her post-retirement benefits under the Plan.

1.39 "Participant" means any Eligible Employee who has not for any reason become ineligible to participate in the Plan.

1.40 "Plan" means the welfare benefit plan adopted by the Employer/Sponsoring Entity under this Plan document, the Plan Specifications and the separate Trust Agreement, including all amendments thereto, all of which are incorporated by reference and made a part hereof.

1.41 "Plan Specifications" means the RHFP® Plan Specifications document attached hereto and incorporated herein by reference, by which the Employer/Sponsoring Entity establishes or by which an Adopting Employer/Sponsoring Entity adopts a welfare benefit plan pursuant to the terms of this Plan for the benefit of its Eligible Employees.

1.42 "Plan Year" means the Plan's accounting year of twelve (12) consecutive months designated by the Employer/Sponsoring Entity in the Plan Specifications.

1.43 "Policy" means an insurance or annuity policy or policies, either group or individual, issued by an insurer.

1.44 "Qualified Medical Child Support Order" means a signed judgment, decree or order (including approval of a settlement agreement) issued by a state court or administrative agency which requires or purports to require a Participant to provide medical or health insurance to a Dependent child.

1.45 "Regulation" means a section of the Income Tax Regulations promulgated by the Secretary of the Treasury or his delegate, as amended from time to time.

1.46 "Retirement Date" means the date as of which a Participant actually retires, whether such retirement occurs on or after the Participant's Early Retirement Date or Normal Retirement Date. The Early Retirement Date and Normal Retirement Date are set forth in the Plan Specifications.

1.47 "Service" means the period of current or prior employment with the Employer/Sponsoring Entity. If the Employer/Sponsoring Entity maintains a plan of a predecessor

Employer/Sponsoring Entity, Service for the predecessor shall be treated as Service for the Employer/Sponsoring Entity.

1.48 "Severance" or "Severance of Employment" means the termination of a period of Service with the Employer/Sponsoring Entity, other than an Authorized Leave of Absence, for reasons other than death, disability or retirement.

1.49 "Severed Participant" means a Participant whose employment has been terminated for reasons other than death or retirement.

1.50 "Trustee" means the person or persons named or appointed as Trustee under the Trust in any separate trust forming a part of this Plan, and his, their, or its successors.

1.51 "Trust" means the separate trust or trusts created pursuant to this Plan, incorporated herein by reference.

1.52 "Valuation Date" means the last day of the Plan Year and such other date or dates selected by the Employer/Sponsoring Entity on which Participant accounts are valued in accordance with Article 5 hereof.

1.53 "Year of Participation" means a Year of Service during which an Employee is eligible to participate in the plan and is credited by the Employer/Sponsoring Entity with the number of Hours of Service specified in the Plan Specifications. The initial computation period for determining Years of Participation shall commence on the first day of the Plan Year that includes the Participant's Entry Date.

1.54 "Year of Service" means the computation period of twelve (12) consecutive months, set forth in the Plan Specifications, during which an Employee is credited by the Employer/Sponsoring Entity with the number of Hours of Service specified in the Plan Specifications. Notwithstanding the foregoing, a Participant shall be credited with a Year of Service for any Plan Year in which he performs an average of thirty (30) Hours of Service per week or is credited with 1,000 Hours of Service total.

Years of Service with the Employer/Sponsoring Entity and with a predecessor Employer/Sponsoring Entity or any Adopting Employer/Sponsoring Entity shall be recognized.

Years of Service for eligibility to participate in the Plan, for allocation of Employer/Sponsoring Entity contributions and for Earning of benefits may be different, as elected in the Plan Specifications. To determine Years of Service and Breaks in Service for purposes of eligibility, the 12-consecutive month period shall commence on the date on which an Employee first performs an Hour of Service for the Employer/Sponsoring Entity and each anniversary thereof, such that the succeeding 12-consecutive month period commences with the employee's first anniversary of employment and so on.

ARTICLE 2

ADMINISTRATION

2.1 POWERS AND RESPONSIBILITIES OF THE EMPLOYER/SPONSORING ENTITY

The Employer/Sponsoring Entity shall have the following duties, powers and responsibilities with regard to the Administration of the Plan:

(a) To appoint and remove the Trustee and the Administrator from time to time as it deems necessary for the proper administration of the Plan to assure that the Plan is being operated for the benefit of the Participants, their Beneficiaries and Dependents in accordance with the terms of this Plan, the Plan Specifications, the Trust, the Code, ERISA and other applicable federal and state laws and any applicable Collective Bargaining Agreement.

(b) To review periodically the performance of any Fiduciary or other person to whom duties have been delegated or allocated under the provisions of this Plan or pursuant to procedures established hereunder. This requirement may be satisfied by formal periodic review by the Employer/Sponsoring Entity or by a qualified person specifically designated by the Employer/Sponsoring Entity, through day-to-day conduct and evaluation, or through other appropriate ways.

2.2 APPOINTMENT OF ADMINISTRATOR

The Plan Administrator or Administrator means the Employer/Sponsoring Entity or a person designated by the Employer/Sponsoring Entity in the Plan Specifications. The Plan Administrator is a named fiduciary for operation and management of the Plan and shall have the powers and duties set forth below.

2.3 POWERS AND DUTIES OF THE ADMINISTRATOR

The primary responsibility of the Administrator is to administer the Plan in accordance with the Code and Regulations and other applicable laws, subject to the specific terms of the Plan. The Administrator shall administer the Plan in accordance with its terms and shall have the power and discretion to construe the terms of the Plan and to determine all questions arising in connection with the administration, interpretation, and application of the Plan. Any such determination by the Administrator shall be conclusive and binding upon all persons. The Administrator may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the Plan. The Administrator shall have all powers necessary or appropriate to accomplish his duties under this Plan.

The Administrator shall be charged with the duties of the general administration of the Plan, including the following:

(a) The Administrator may establish a “funding policy and method”, i.e., determine whether the Plan has a short-run need for liquidity (e.g., to pay benefits) or whether

liquidity is a long-term goal and investment growth (and stability of same) is a more current need, or shall appoint a qualified person to do so. The Employer/Sponsoring Entity or its delegate shall communicate such needs and goals to the Trustee and to the Administrator;

(b) To appoint an Investment Manager to manage all or a designated portion of the assets of the Plan. In such event, the Trustee shall follow the written directions of the Investment Manager in investing the assets of the Plan managed by the Investment Manager;

(c) The discretion to determine all questions relating to the eligibility of Employees to participate or continue participation hereunder and to receive benefits under the Plan;

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

(e) To authorize and direct the Trustee with respect to all non-discretionary or otherwise directed disbursements from the Trust;

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

(g) To determine the size and type of any Policy or Policies to be purchased from any insurer, to designate the insurer from which such policy shall be purchased, and to direct the Trustee with respect to the purchase thereof. All policies shall be issued on a uniform basis as of each Anniversary Date with respect to all Participants under similar circumstances;

(h) To compute and certify to the Employer/Sponsoring Entity and to the Trustee from time to time the sums of money necessary or desirable to be contributed to the Trust Fund;

(i) To consult with the Employer/Sponsoring Entity regarding the short-term and long-term liquidity needs of the Plan in order that the Employer/Sponsoring Entity can exercise any investment discretion in a manner designed to accomplish specific objectives;

(j) To provide information to any Participant regarding his participation in and rights, benefits, or elections available under the Plan, including the administration of any claims procedures;

(k) To communicate to Employees, Participants and their Beneficiaries a summary plan description outlining the provisions of the Plan;

(l) To appoint the Plan's attorney, accountant, actuary custodian or any other party needed to administer the Plan or the Fund;

(m) To direct the Trustee or custodian with respect to payments from the Fund;

(n) To file any returns and reports with the Internal Revenue Service, Department of Labor, or any other governmental agency;

(o) To review and approve any financial reports, investment reviews, or other reports prepared by any party appointed by the Employer/Sponsoring Entity under paragraph (a), and

(p) To interpret or construe the provisions of the Plan, to resolve any question of Plan interpretation and to make and publish such rules for regulation of the Plan as are consistent with the terms hereof. The Plan Administrator's interpretation of Plan provisions, including eligibility and benefits under the Plan, is final, and, unless it can be shown to be arbitrary and capricious, will not be subject to "de novo" review.

2.4 RESIGNATION, REMOVAL AND SUCCESSION OF ADMINISTRATOR

(a) The Administrator may resign at any time by mailing by registered or certified mail, addressed to such Employer/Sponsoring Entity at his last known address, at least ninety (90) days before the effective date thereof.

(b) The Employer/Sponsoring Entity may remove the Administrator by mailing by registered or certified mail, addressed to such Administrator at his last known address, at least thirty (30) days before its effective date, a written notice of its removal and a copy, certified by the Employer/Sponsoring Entity of the resolution adopted effecting its removal.

(c) Upon the death, resignation, incapacity, dissolution or removal of any Administrator, the Employer/Sponsoring Entity shall, prior to the effective date thereof, appoint a successor Administrator. Upon being notified of such appointment, the Administrator shall deliver its records to its successor on the effective date of the resignation or removal, or as soon thereafter as practicable, and such delivery shall not waive any lien the Administrator may have upon the Fund for its compensation or expenses.

(d) In the event that the Employer/Sponsoring Entity does not name a successor Administrator by the effective date of the removal or resignation of the Administrator, the Employer/Sponsoring Entity shall be deemed the successor Administrator.

(e) The Successor Administrator, upon accepting such appointment in writing and delivering same to the Employer/Sponsoring Entity, shall, without further act, become vested with all the estate, rights, powers, discretions, and duties of his predecessor with like respect as if he were originally named as the Administrator herein. Until such a successor is appointed, the remaining Administrator or Administrators shall have full authority to act under the terms of this agreement.

(f) The Employer/Sponsoring Entity may designate a successor Administrator prior to the resignation or removal of an Administrator. In the event a successor is so designated by the Employer/Sponsoring Entity and accepts such designation, the successor shall, without further act, become vested with all the estate, rights, powers, discretions, and duties of his predecessor with the like effect as if he were originally named as Administrator herein immediately upon the death, resignation, incapacity, or removal of his predecessor.

2.5 EMPLOYMENT OF AGENTS AND ADVISERS

The Administrator, in furtherance of its duties and pursuant to its powers enumerated in Section 2.3, may employ counsel, specialists, contract administrative agents and advisers, and other persons as the Administrator, in its sole discretion, deems necessary or desirable for the administration of this Plan.

2.6 INFORMATION FROM EMPLOYER/SPONSORING ENTITY

To enable the Administrator to perform his functions, the Employer/Sponsoring Entity shall supply full and timely information to the Administrator on all matters relating to the Compensation of all Participants, their Hours of Service, their Years of Service, their retirement, death, Disability or Severance, and such other pertinent facts as the Administrator may require; and the Administrator shall advise the Trustee of such of the foregoing facts as may be pertinent to the Trustee's duties under the Plan. The Administrator may rely upon such information as is supplied by the Employer/Sponsoring Entity and shall have no duty or responsibility to verify such information.

2.7 CLAIMS PROCEDURE

(a) Claims Procedures: Claims for benefits under the Plan must be filed with the Administrator on forms supplied by the Administrator within 90 days following the end of the Plan Year in which the expense was incurred. Claims submitted after this period will not be eligible for payment. If an application for benefits is made, the Administrator shall accept, reject, or modify such request. Written notice of the disposition of a claim shall be furnished to the claimant as set forth below:

(i) Time Periods for Notification of Adverse Benefit. If any person believes he or she is being denied any rights or benefits under the Plan, such person may file a claim in writing with the Administrator. If any such claim is wholly or partially denied, the Administrator will notify such person (now called claimant) of its denial with written or electronic notification within the time periods indicated below:

(1) Pre-Service Claims. Pre-service claims means any claim for a benefit where the terms of the plan condition receipt of the benefit, in whole or in part, on approval of the benefit in advance of obtaining medical care. The Administrator shall notify the claimant of the plan's adverse benefit not later than 15 days after receipt of the claim for pre-service claims.

(2) Post-Service Claims. Post-service claims means any claim for a benefit that is not a pre-service claim as described above. The Administrator shall notify the claimant of the plan's adverse benefit not later than 30 days after receipt of the claim for post-service claims.

(3) Disability Claims. Disability claims means any claim for disability benefits as described in the plan documents. The Administrator shall notify the claimant of the plan's adverse benefit not later than 45 days after receipt of the claim for disability claims.

(4) Urgent Care Claims. Urgent care claims means any claim for medical care or treatment where applying the time conditions for non-urgent care could seriously jeopardize the life or health of the claimant or the ability of the claimant to regain maximum function or in the opinion of a physician with knowledge of the claimant's medical condition, would subject the claimant to severe pain that could not be adequately managed without the care or treatment that is the subject of the claim. The Administrator shall notify the claimant of the plan's adverse benefit not later than 72 hours after receipt of the claim for urgent care claims.

(5) Concurrent Care Claims. Concurrent care claims means an ongoing course of treatment to be provided over a period of time or number of treatments. The Administrator shall notify the claimant of the plan's adverse benefit at a time sufficiently in advance of the reduction or termination to allow the claimant to appeal and obtain a determination on review before the benefit is reduced or terminated.

(ii) Notification Requirements. Each notice to claimant for denial of benefits will include the following:

(1) The specific reason for the adverse determination.

(2) Reference to the specific plan provisions, internal rule, guideline, protocol or other similar criterion on which the adverse determination is based. If the reference is to a medical necessity or experimental treatment or similar exclusion, an explanation of the scientific or clinical judgment for the adverse determination shall be provided.

(3) A description of any additional information necessary for the claimant to provide and the reason for the request for such information.

(4) A description of the plan's review procedures.

(b) Review Procedures:

(i) Procedure After Notification of Denial of Claim. Within sixty (60) days after the date on which a claimant receives a written notice of a denied claim (or, if applicable, within 60 days after the date on which such denial is considered to have occurred), such claimant (or his or her duly authorized representative) may:

(1) File a written request with the Administrator for a review of the denied claim.

(2) Submit written issues and comments to the Administrator, including all additional information requested by the Administrator.

(3) Have reasonable access to all information related to the denied claim. If copies are requested, the copies shall be provided to the claimant at no cost.

(4) Any review of the denied claim must consider all information presented in making the determination of the claim.

(c) Appeal Procedures:

(i) Within one hundred eighty (180) days after the date on which a claimant receives a written notice of a denied claim, such claimant (or his or her duly authorized representative) may appeal the adverse determination. This appeal process encompasses the following:

(1) The appeal determination will be conducted by an appropriate named fiduciary of the plan. The named fiduciary cannot be a party previously involved with the first adverse determination.

(2) The named fiduciary shall consult with a health care professional who has appropriate training and experience in the field that is the subject of the adverse determination. This health care profession cannot be a party previously involved with the first adverse determination.

(3) All medical experts whose advice was obtained will be identified to the claimant (or his or her representative), whether or not the advice was relied upon in making the adverse determination.

(4) Time Periods for Notification. Notification to the claimant of an adverse benefit determination on appeal shall be in writing and be according to the following:

a. Pre-service claims. The Administrator shall notify the claimant not later than 15 days after receipt of the appeal of the adverse claim for pre-service claims.

b. Post-service claims. The Administrator shall notify the claimant not later than 30 days after receipt of the appeal for post-service claims.

c. Disability claims. The Administrator shall notify the claimant not later than 45 days after receipt of the appeal for disability claims.

d. Urgent care claims. The Administrator shall notify the claimant not later than 72 hours after receipt of the appeal for urgent care claims. Urgent care notification may be orally communicated.

(d) Miscellaneous Information:

(i) Claimant's Failure to Follow Plan's Procedures. Claimants will be notified within five days (24 hours if an urgent care claim is involved) of the filing of a claim of the failure and/or the proper procedures to be followed in filing the initial claim.

(ii) Civil Action. No more than two appeals of an adverse benefit determination need be filed prior to the claimant bringing a civil action.

2.8 CLAIMS REVIEW PROCEDURE

Any Participant, former Participant, or Beneficiary of either, who has been denied a benefit by a decision of the Administrator pursuant to Section 2.9 shall be entitled to request the Administrator to give further consideration to his claim by filing with the Administrator (on a form which may be obtained from the Administrator) a request for a review of the determination. Such request, together with a written statement of the reasons why the claimant believes his claim should be allowed, shall be filed with the Administrator no later than sixty (60) days after receipt of the written notification provided for in Section 2.9. The Administrator shall make a final decision as to the allowance of the claim within sixty (60) days of receipt of the appeal [unless there has been an extension of sixty (60) days due to special circumstances, provided the delay and the special circumstances occasioning it are communicated to the claimant within the sixty (60) day period]. Such communication shall be written in a manner calculated to be understood by the claimant and shall include specific reasons for the decision and specific references to the pertinent Plan provisions on which the decision is based.

2.9 NAMED FIDUCIARIES AND ALLOCATION OF RESPONSIBILITY

The "Named Fiduciaries" of this Plan are: (i) the Administrator, (ii) the Trustee, (iii) the Employer/Sponsoring Entity, and (iv) any Investment Manager appointed hereunder. The named

Fiduciaries shall have only those specific powers, duties, responsibilities, and obligations as are specifically given them under this Plan and in the Trust.

Each named Fiduciary warrants that any directions given, information furnished, or action taken by it shall be in accordance with the provisions of this Plan, authorizing or providing for such direction, information or action. Furthermore, each named Fiduciary may rely upon any such direction, information or action of another named Fiduciary as being proper under this Plan, and is not required under this Plan to inquire into the propriety of any such direction, information or action. It is intended under this Plan that each named Fiduciary shall be responsible for the proper exercise of its own powers, duties, responsibilities and obligations under this Plan. No named Fiduciary guarantees the Trust Fund in any manner against investment loss or depreciation in asset value. Any person or group may serve in more than one Fiduciary capacity.

ARTICLE 3

ELIGIBILITY AND PARTICIPATION

3.1 CONDITIONS OF ELIGIBILITY

An Employee who is a member of the Covered Group and has completed the age and service Eligibility Requirements set forth in the Plan Specifications shall become a Participant in this Plan. The Employer/Sponsoring Entity shall give each Participant written notice of his or her participation in the Plan, which notice may be in the form of a copy of the Summary Plan Description.

3.2 PARTICIPATION

Employees who meet the eligibility requirements in the Plan Specifications on the Effective Date of the Plan shall become Participants as of such date. If so elected in the Plan Specifications, all Employees employed on the Effective Date of the Plan shall participate as of the Effective Date, even if they have not satisfied the Plan's specified eligibility requirements. Other Employees shall become Participants on the Entry Date coinciding with or immediately following the date on which they meet the eligibility requirements specified in the Plan Specifications provided that they are still employed on such Entry Date. A former Participant who returns to the employ of the Employer/Sponsoring Entity shall again become a Participant upon as of the next Entry Date.

3.3 CHANGE IN CLASSIFICATION OF EMPLOYMENT

In the event an Employee who is not a member of the Covered Group subsequently becomes a member of the Covered Group, such Employee shall participate immediately if he or she has satisfied the minimum age and service requirements and would have previously become a Participant had he or she been a member of the Covered Group. In the event a Participant becomes ineligible to participate because he or she is no longer a member of the Covered Group, such Employee may participate immediately upon his or her return to an eligible class of Employees.

3.4 LEASED EMPLOYEES

Any Leased Employee shall be treated as an Employee of the recipient Employer/Sponsoring Entity for purposes of discrimination testing to the extent required by law. Leased Employees shall be eligible to participate in the Plan only if so elected in the Plan Specifications. For purposes of testing for discrimination in favor of Highly-Compensated Employees, contributions or benefits provided by the leasing organization which are attributable to services performed for the recipient Employer/Sponsoring Entity shall be treated as provided by the recipient Employer/Sponsoring Entity.

3.5 ENROLLMENT FORM

(a) Each Eligible Employee shall automatically be a Participant in this Plan as of the Participant's entry date; however, in order to receive benefits hereunder, an Eligible Employee shall enroll on a form provided by the Employer/Sponsoring Entity and agree to the terms of this Plan. The enrollment form shall be filed before the Participant's Entry Date, shall be effective upon filing.

(b) Participant may decline benefits by so indicating on the enrollment form or by failure to return the enrollment form to the Employer/Sponsoring Entity prior to the Entry Date. If the Participant declines benefits, such Participant shall be given the opportunity to elect benefits on the next Entry Date.

(c) An Eligible Employee whose eligibility to participate hereunder is provided for under a Collective Bargaining Agreement shall participate in the Plan as provided for in the Plan Specifications. Upon ratification by the collective bargaining unit, the adoption of the Plan by the members of such unit shall be presumed to be voluntary with respect to Eligible Employee, and no additional action or application shall be required in order to participate hereunder.

(d) Upon the acceptance of any benefits under this Plan, a Participant shall automatically be bound by the terms and conditions of this Plan and all amendments hereto.

3.6 ENTRY DATE

An Eligible Employee shall become a Participant as of the Entry Date set forth in the Plan Specifications. A Dependent shall participate as of the related Employee's Entry Date.

3.7 DETERMINATION OF ELIGIBILITY

The Administrator shall determine the eligibility of each Employee to participate in the Plan based upon information furnished by the Employer/Sponsoring Entity. Such determination shall be conclusive and binding upon all persons, as long as the same is made in accordance with this Plan and the Collective Bargaining Agreement, if applicable.

3.8 OMISSION OF A PARTICIPANT

If, in any Plan Year, any person who should be included as a Participant in the Plan is erroneously omitted and discovery of such omission is not made until after a contribution by the Employer/Sponsoring Entity for the year has been made, the Employer/Sponsoring Entity shall make a subsequent contribution with respect to the omitted Participant in the amount which the Employer/Sponsoring Entity would have contributed with respect to him had he not been omitted, plus interest computed at the current rate to the date of such subsequent contribution. Such contribution shall be made regardless of whether it is deductible in whole or in part in any taxable year, under applicable provisions of the Internal Revenue Code by such Employer/Sponsoring Entity.

ARTICLE 4

CONTRIBUTIONS

4.1 CONTRIBUTIONS BY EMPLOYER/SPONSORING ENTITY

If so elected in the Plan Specifications, the Employer/Sponsoring Entity shall make periodic contributions to the Trust from time to time in cash or property acceptable to the Trustee in accordance with the formula or formulas selected in the Plan Specifications.

(a) Discretionary Contributions. As of each Allocation Date, the Employer/Sponsoring Entity shall make a contribution to the Plan equal to the amount elected in the Plan Specifications. If no amount has been elected in the Plan Specifications, the Employer/Sponsoring Entity may make a contribution to the Plan in the amount it determines to be appropriate in its sole discretion.

(b) Accrued Leave Contributions. If so elected in the Plan Specifications, the Employer/Sponsoring Entity shall contribute as of the date elected in the Plan Specifications an amount calculated pursuant to the formula designated in the Plan Specifications.

(c) Eligible Participants. Only those Participants who meet the requirements set forth in the Plan Specifications shall receive an allocation of Employer/Sponsoring Entity Contributions as of an Allocation Date.

(d) Mistake of Fact. In the event a contribution is made due to a mistake of fact, such contribution shall be returned to the Employer/Sponsoring Entity within one year after the payment of the contribution.

(e) Responsibility for Contributions. The Employer/Sponsoring Entity shall have sole responsibility to determine the amount of Employer/Sponsoring Entity Contributions to the Plan. Neither the Trustee nor the Administrator shall be required to determine if the Employer/Sponsoring Entity has made a contribution or if the amount contributed is in accordance with the Plan Specifications or with any law.

ARTICLE 5

PARTICIPANT ACCOUNTS

5.1 EMPLOYER/SPONSORING ENTITY CONTRIBUTION ACCOUNT

(a) If the Employer/Sponsoring Entity has elected Discretionary Contributions or Accrued Leave Contributions in the Plan Specifications, the Administrator shall keep an account known as the "Employer/Sponsoring Entity Contribution Account," for each Participant for whom the Employer/Sponsoring Entity makes a Discretionary Contribution and a second account known as the "Accrued Leave Contribution Account," for each Participant for whom the Employer/Sponsoring Entity makes an Accrued Leave Contribution. The Employer/Sponsoring Entity Contribution Account shall consist of all amounts contributed pursuant to Section 4.1 hereof (except for the amount of Accrued Leave Contributions), and any adjustments to such account provided in Section 5.2.

(b) A Participant will become eligible to receive an allocation of Employer/Sponsoring Entity Discretionary Contributions or Employer/Sponsoring Entity Accrued Leave Contributions for a Plan Year according to the provisions elected by the Employer/Sponsoring Entity in the Plan Specifications.

5.2 ADJUSTMENTS TO EMPLOYER/SPONSORING ENTITY CONTRIBUTION ACCOUNT

As of each Valuation Date, the Administrator shall make the following adjustments to the Participant's Employer/Sponsoring Entity Contribution Account:

(a) Add the Participant's share of the Discretionary Contributions, Accrued Leave Contributions and forfeitures as determined in the Plan Specifications and pursuant to this Article since the last Valuation Date;

(b) Add (or subtract) the Participant's proportionate share of any investment earnings (or losses) and change in the fair market value of the Fund since the last Valuation Date, determined and allocated as provided under paragraph 5.5;

(c) Add the increase in cash value of any insurance policies held by the Plan with respect to the Participant;

(d) Deduct premiums paid from the Employer/Sponsoring Entity Contribution Account with respect to any insurance policies held by the Plan with respect to the Participant;

(e) Deduct any withdrawals or payments made from the Plan on behalf of the Participant, his or her Dependents and Beneficiaries since the last Valuation Date, and

(f) Deduct the Participant's proportionate share of any expenses of the Plan since the last Valuation Date , as determined under paragraph 5.3.

5.3 INVESTMENT OF ACCOUNTS

Such investment funds shall be under the full control of the Trustee. A Participant's share of investment earnings and any increase or decrease in the fair market value of the Fund shall be based on the proportionate value of all active accounts (excluding those accounts with segregated investments) as of the last Valuation Date less withdrawals and plus contributions since the last Valuation Date. Contributions to the Plan and withdrawals from the Plan shall be included to the extent that the funds were in the Plan during the Plan Year.

5.4 EXPENSES AND FEES

The Employer/Sponsoring Entity shall also be authorized to reimburse the Fund for all expenses and fees incurred in the administration of the Plan or Trust and paid out of the assets of the Fund. Such expenses shall include, but shall not be limited to, fees for professional services, printing and postage. Brokerage commissions may not be reimbursed. Apportionment of administration fees between the Employer/Sponsoring Entity and the Participants shall be determined in accordance with the Employer/Sponsoring Entity's election in the Plan Specifications.

5.5 PARTICIPANT STATEMENTS

Upon completing the allocations described above for the Valuation Date coinciding with the end of the Plan Year, the Employer/Sponsoring Entity shall prepare a statement for each Participant showing the additions to and subtractions from his or her account since the last such statement and the fair market value of his or her account as of the Current Valuation Date. Employer/Sponsoring Entities so choosing may prepare Participant statements for each Valuation Date.

ARTICLE 6

EARNED BENEFITS

6.1 EMPLOYER/SPONSORING ENTITY CONTRIBUTION ACCOUNT

A Participant shall acquire an Earned interest in his or her Employer/Sponsoring Entity Contribution Account in accordance with the Earned benefit schedule selected by the Employer/Sponsoring Entity in the Plan Specifications. A Participant or Beneficiary shall be entitled to use the Earned portion of his or her Earned Employer/Sponsoring Entity Contribution Account on the terms and under the conditions described in this Plan and in the Plan Specifications.

6.2 COMPUTATION PERIOD

The computation period for determining Years of Service and Breaks in Service in computing the Earned portion of a Participant's Employer/Sponsoring Entity Contribution Account will be the Plan Year. In the event a former Participant with no Earned Employer/Sponsoring Entity Contribution Account requalifies for participation in the Plan after incurring a Break in Service, such Participant shall be credited with all pre-break and post-break Service in computing his or her Earned benefit.

6.3 RESUMPTION OF PARTICIPATION

For a Participant who resumes participation in the Plan following a termination of employment and prior to incurring five (5) consecutive Breaks in Service, all Service of the Participant, both prior to and following the termination of employment, shall be counted when computing the Participant's Earned benefit.

6.4 CALCULATING EARNED BENEFIT

The Earned portion of a Participant's Employer/Sponsoring Entity Contribution Account shall be calculated by multiplying his or her Employer/Sponsoring Entity Contribution Account on the Valuation Date by the decimal equivalent of the Earned percentage from the Earned benefit schedule set forth in the Plan Specifications as of the Valuation Date. The Employer/Sponsoring Entity Contribution Account for purposes of the calculation includes amounts previously paid as benefits under the Plan, and the Participant's Earned benefits, once calculated above, shall be reduced to reflect those amounts previously paid out to or on behalf of the Participant. In making this adjustment, the Participant's Earned interest so determined shall continue to share in the investment earnings and any increase or decrease in the fair market value of the Fund up to the Valuation Date.

6.5 FORFEITURES

Any unearned balance in the Employer/Sponsoring Entity Contribution Account of a Participant who has separated from Service shall be forfeited and applied as provided in the Plan Specifications. If not otherwise specified in the Plan Specifications, such forfeitures will be allocated to Participants in the same manner as the Employer/Sponsoring Entity's contribution. If not otherwise specified in the Plan Specifications, forfeitures shall be applied as of the end of the Plan Year during which the former Participant incurs a Break in Service.

6.6 AMENDMENT OF EARNED BENEFIT SCHEDULE

If the Earned benefit schedule of the Plan is amended, or the Plan is amended in any way that directly or indirectly affects the computation of any Participant's Earned benefits, or if the Plan is deemed amended by an automatic change to or from another Earned benefit schedule, each Participant with at least five (5) Years of Service with the Employer/Sponsoring Entity may elect, within a reasonable period after the adoption of the amendment or change, to have his or her Earned benefits computed under the Plan without regard to such amendment or change. The period during which the election may be made shall commence with the date the amendment is adopted or deemed to be made and shall end on the later of sixty (60) days after:

(a) The amendment is adopted;

(b) The Amendment becomes effective; or

(c) The Participant receives written notice of the amendment from the Employer/Sponsoring Entity or the Trustee.

ARTICLE 7

ELECTIONS

7.1 ELECTION PROCEDURES

The Plan Administrator shall provide an election form to each Participant prior to the Participant's first Entry Date. Each Participant shall specify on the election form the benefits desired under the Plan.

An election shall be valid for the coverage period for which it is made (as selected in the Plan Specifications) and for each subsequent coverage period unless the Participant files a new election form with the Plan Administrator during a subsequent election period. A completed election form must be returned to the Plan Administrator on or before the first day of the coverage period to which it applies or, in the case of a new Participant, on or before the Participant's Entry Date into the Plan.

7.2 INITIAL ELECTION FOR NEW EMPLOYEES

A new Employee shall receive an election form when the Employee becomes eligible to participate in this Plan. If the Employee desires to elect benefits, he or she shall so specify on the election form and shall agree to have Compensation adjusted accordingly. The completed election form must be returned to the Plan Administrator on or before the Employee's entry into the Plan. The election shall be effective as soon as administratively feasible.

7.3 FAILURE TO MAKE AN ELECTION

If a Participant fails to return a completed election form during the initial election period any amount in the Participant's Account will be allocated to medical benefits.

7.4 IRREVOCABILITY OF ELECTION

A Participant may not revoke or otherwise change an election after the coverage period begins until the next election period.

ARTICLE 8

MEDICAL BENEFITS

8.1 INSURANCE COVERAGES

(a) If elected in the Plan Specifications, a Participant may elect coverage under a health plan or health insurance Policy approved by the Administrator. The Administrator may approve from among the various coverages available, including the Employer/Sponsoring Entity's health plan and any of the following types of insurance policies:

(i) Basic medical benefits;

(ii) Major medical and hospitalization benefits;

(iii) Dental benefits;

(iv) Vision care benefits;

(v) Prescription drug benefits;

(vi) Qualified Long-term care insurance;

(vii) Medicare Part B;

(viii) Medicare supplement insurance; and/or

(ix) Other insurance providing medical benefits.

(b) Premiums to purchase the medical benefits coverage provided for in this Section shall be paid from Earned portion of the Participant's Employer/Sponsoring Entity Contribution Account.

8.2 MEDICAL REIMBURSEMENT BENEFIT

(a) If so elected in the Plan Specifications, the Plan will provide a Medical Reimbursement Benefit. Such benefit will pay or reimburse the Participant for Medical Expenses that are not eligible for payment under a health plan of the Employer/Sponsoring Entity, an Employer/Sponsoring Entity-provided health insurance Policy, or other plan or policy providing health coverage, including Medicare.

(b) Payment of benefits under this Section shall be made from the Earned portion of the Participant's Employer/Sponsoring Entity Contribution Account.

8.3 REQUIREMENTS

(a) In General. The benefits provided under Section 8.2 constitute a self-insured medical reimbursement benefit under Code section 105(h). In accordance with Code section 105(a), amounts received by in Employee pursuant to Section 8.2 hereof that are attributable to Employer/Sponsoring Entity contributions are not included in the Employee's gross income if such amounts are paid directly or indirectly to the Employee to reimburse for expenses incurred by the Employee and his or her Dependents for Medical Expenses so long as the Plan is nondiscriminatory under Code Section 105(h).

(b) Nondiscrimination Requirements. The Plan may not discriminate in favor of Highly Compensated Individuals as to eligibility to participate nor as to benefits provided under a self-insured medical reimbursement plan. For purposes of this Section, the requirements of Code sections 105(b) and 105(h) and the Regulations thereunder are incorporated by reference.

8.4 CLAIMS FOR BENEFITS

(a) In order to obtain payment of medical benefits claimed in connection with a health plan of the Employer/Sponsoring Entity, a Participant or Dependent shall file a claim for benefits on a form and/or in such manner as provided by the administrator of such health plan or by the insurance company issuing the Policy.

(b) In order to obtain payment or reimbursement of medical benefits provided under Section 8.2 hereof, a Participant or Dependent shall file a claim for benefits on a form and/or in such manner as provided by the Administrator. The Administrator may require such proper proof of claim and such evidence of the right of any person to receive a medical benefit payable as a result of incurring medical treatment of a Participant or Dependent as the Administrator may deem desirable.

(c) The Plan Administrator shall direct the Trustee to pay only those medical expenses that are submitted on acceptable claim forms with appropriate evidence of claim.

(d) The Plan Administrator's determination of Medical Expenses and the right of a person to receive payment shall be conclusive.

8.5 PAYMENT OF MEDICAL BENEFITS.

Medical benefits hereunder shall be paid upon the Administrator's receiving claims for medical expenses from the Participant or his or her Dependent. The Administrator shall direct the Trustee to pay claims for Medical Expenses. Participants will be required to adequately substantiate claims in accordance with procedures established by the Plan Administrator. The Administrator shall not be required to verify Medical Expenses submitted by the Participant but may rely upon an explanation of benefits from the administrator of the Employer/Sponsoring Entity's health plan or from the insurance company issuing a health insurance Policy.

8.6 LIMITATION OF BENEFITS

Medical Benefits payable under this Article are subject to the following limitations:

(a) No benefit payable to any Participant or Beneficiary shall exceed the Participant's Account Balance. In no event shall the Administrator direct the Trustee to pay amounts in excess of the Participant's Account Balance. In the event there are insufficient Trust assets to pay in full any benefit for which the Participant is otherwise eligible, neither the Administrator nor the Employer/Sponsoring Entity shall bear any liability to any Participant or Beneficiary on account of such insufficiency.

(b) The benefits provided under this Article are for the purpose of paying or reimbursing Medical Expenses not covered under Medicare, an Employer/Sponsoring Entity-provided health insurance Policy, or under any other plan of health insurance. No benefit shall be payable in connection with this Plan for which payment has been received or which may be eligible for payment or reimbursement from any other public or private welfare benefit plan. Medical

benefits payable hereunder are secondary to all medical and health coverages under which the Participant is covered.

(c) Except as required to avoid duplicate payments under this Section, the Administrator shall not be required to coordinate benefits paid with any other medical benefit program.

8.7 TERMINATION OF COVERAGE

(a) Subject to any continuation coverage requirements imposed under applicable federal or state laws, the right of a Participant to receive a Medical Benefit shall terminate upon the earliest of:

(i) The depletion of the Participant's Account Balance;

(ii) The death of the Participant;

(iii) The Participant's termination of employment unless the Participant elects to continue to maintain the Participant's Account Balance in the Plan at his or her own expense.

(iv) The termination of the plan.

(b) Subject to the terms of the Plan Specifications, in the event that amounts remain in the Participant's Employer/Sponsoring Entity Contribution Accounts after the death of the Participant, the said amount shall be available to provide the Participant's Dependents with payment or reimbursement of Medical Expenses. In the event that no Dependent survives a Participant (or after the demise of all surviving Dependents prior to exhaustion of the Participant's Account Balance), such remaining amount shall be forfeited and applied to offset administrative expenses of the Plan.

ARTICLE 9

PAYMENT OF BENEFITS

9.1 TIME OF SEGREGATION OR PAYMENT

Whenever the Administrator is to direct the Trustee to make a payment before, on or as of an Anniversary Date, the payment may be made or begun on such date or as soon thereafter as is practicable. Except, however, payments for which an insurance Policy has been purchased shall not be made before the Trustee receives payment from the Insurer on any Policy or Policies issued with respect to such Participant.

9.2 RECEIPT AND RELEASE FOR PAYMENTS

Any payment to any Participant, his or her legal representative, Beneficiary, or to any guardian or committee appointed for such Participant 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 Administrator and the Employer/Sponsoring Entity, either of whom may require such Participant, legal representative, Beneficiary, Guardian or committee, as a condition precedent to such payment, to execute a receipt and release thereof in such form as shall be determined by the Administrator.

9.3 PAYMENT FOR MINOR BENEFICIARY

In the event a payment is to be made to a minor, then the Administrator may, in the Administrator's sole discretion, direct that such payment be paid to the legal guardian, or, if none, to a parent of such Beneficiary or a responsible adult with whom the Beneficiary maintains his or her residence, or to a custodian for such Beneficiary under the Uniform Gift to Minors Act or Gift to Minors Act, if such is permitted by the laws of the state in which said Beneficiary resides. Any such a payment Beneficiary shall fully discharge the Trustee, the Employer/Sponsoring Entity, and the Plan from further liability on account thereof.

9.4 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN

In the event that all, or any portion, of an amount payable to a Participant or his or her Beneficiary hereunder shall, at the expiration of five (5) years after it shall become payable, remain unpaid solely by reason of the inability of the Administrator, after sending a registered letter, return receipt requested, to the last known address, and after further diligent effort, to ascertain the whereabouts of such Participant or his or her Beneficiary, the amount so distributable shall remain in the Trust to be used as part of the general Trust Fund.

ARTICLE 10

AMENDMENT, TERMINATION AND MERGERS

10.1 AMENDMENT OF PLAN

Subject to the terms of a governing Collective Bargaining Agreement, if applicable, the Employer/Sponsoring Entity shall have the right at any time and from time to time to amend, in whole or in part, any or all of the provisions of the Plan or of the Plan Specifications. However, no such amendment shall authorize or permit any part of the corpus or income of the Trust (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to, or inure privately to individuals or for purposes other than the benefit of Participants, Dependents or Beneficiaries as provided herein, or to revert to or become the property of the Employer/Sponsoring Entity; and no such amendment which affects the rights, duties or responsibilities of the Administrator may be made without the Administrator's written consent.

10.2 TERMINATION OF SPONSORSHIP BY BMI

BMI shall have the right at any time to terminate its sponsorship of the Plan by delivering to the Employer/Sponsoring Entity and to the Administrator written notice of such termination. Upon such termination of sponsorship, the Employer/Sponsoring Entity may either terminate its adoption of the Plan or may amend the Plan to eliminate BMI as the entity administering claims under the Plan and related documents.

10.3 TERMINATION OF ADOPTION BY EMPLOYER/SPONSORING ENTITY

Subject to the terms of the governing Collective Bargaining Agreement, the Employer/Sponsoring Entity shall have the right at any time to terminate the Plan by delivering to the Administrator and to BMI written notice of termination. If the Plan is terminated or if there is a complete discontinuance of contributions, all amounts credited to the Employer/Sponsoring Entity Contribution Accounts of Participants shall become nonforfeitable. In the event of termination, the Administrator may direct either:

(a) Complete distribution of the assets in the Trust Fund to the Participants or their Beneficiaries as soon as the Administrator deems it to be in the best interests of the Participants or their Beneficiaries, except, however, such distribution shall only be made: (i) pursuant to the terms of Collective Bargaining Agreement ; or

(b) That any assets remaining in the Plan, after the satisfaction of all liabilities to existing Participants or their Beneficiaries, be applied to provide such Participants or their Beneficiaries with the benefits set forth in the Plan, provided, however, that such benefits shall not be provided in disproportionate amounts to officers or Highly-Compensated Employees of the Employer/Sponsoring Entity.

Upon termination of the Plan, the Employer/Sponsoring Entity shall not receive, either directly or indirectly, a refund or other amounts or benefits, nor shall the Employer/Sponsoring Entity incur a residual liability beyond the end of the current Plan Year (other than the provision of benefits to Participants and their Beneficiaries by the Plan).

10.4 MERGER, CONSOLIDATION OR TRANSFER

This Plan may be merged or consolidated with, or its assets and/or liabilities may be transferred to or from another Plan on such terms and conditions as the Administrator, acting pursuant to the direction of the Employer/Sponsoring Entity, shall deem appropriate.

(a) In the case of any merger or consolidation of the Plan with, or transfer of assets or liabilities of the Plan to any other plan, each Participant in the Employer/Sponsoring Entity's Plan shall be entitled to receive benefits immediately after the merger, consolidation, or transfer which are equivalent to or greater than the benefits the Participant or his or her Beneficiaries would have received if the Plan had terminated immediately before the merger, consolidation or transfer.

(b) In the event that the Trustee is an institution, that corporation into which the Trustee or any successor trustee may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which the Trustee or any successor trustee may be a party, or any corporation to which all or substantially all the trust business of the Trustee or any successor trustee may be transferred, shall be the successor of such Trustee without the filing of any instrument or performance of any further act, before any court.

ARTICLE 11

ADOPTING EMPLOYER/SPONSORING ENTITIES

11.1 ADOPTION BY OTHER ENTITIES

With the consent of the Employer/Sponsoring Entity, an unrelated Employer/Sponsoring Entity who is a party to a Collective Bargaining Agreement or an affiliate or subsidiary of the Employer/Sponsoring Entity may adopt this Plan and any or all of the provisions hereof, and

11.2 REQUIREMENTS OF ADOPTING EMPLOYER/SPONSORING ENTITY

(a) If the Plan is adopted pursuant to the terms of a Collective Bargaining Agreement, and if the Adopting Employer/Sponsoring Entity intends that this Plan comply with the requirements of section 419A(f)(5) of the Code in that it is a plan made available for adoption for groups employed by the Adopting Employer/Sponsoring Entity and eligible for adoption.

(b) Each Adopting Employer/Sponsoring Entity shall be required to use the Trustee designated in the Trust Agreement.

(c) The Administrator may, but shall not be required to, direct the Trustee to commingle, hold and invest as one Trust Fund all contributions made by Adopting Employer/Sponsoring Entity, as well as all increments thereof.

11.3 EMPLOYEE TRANSFERS

It is anticipated that an Employee may be transferred between Adopting Employer/Sponsoring Entity. In the event of any such transfer, the Employee involved shall carry with him or her his or her accumulated service and eligibility. No such transfer shall create a Severance hereunder, and the Adopting Employer/Sponsoring Entity to which the Employee is transferred shall thereupon become obligated hereunder with respect to such Employee in the same manner as the Adopting Employer/Sponsoring Entity from which the Employee transferred.

11.4 CONTRIBUTIONS FOR ADOPTING EMPLOYER/SPONSORING ENTITY'S EMPLOYEES

All contributions made by an Adopting Employer/Sponsoring Entity for its Employees shall be determined separately with respect to the Participants employed by such Adopting Employer/Sponsoring Entity. Such contribution shall be paid to and held by the Trustee for the benefit of the Participants, their Dependents and Beneficiaries, subject to all the terms and conditions of this Plan. The Administrator shall keep separate records concerning the affairs of each Adopting Employer/Sponsoring Entity hereunder and as to the accounts and credits of the Participants. The Administrator may, but need not, direct the Trustee to register insurance company Policies so as to evidence that a particular Adopting Employer/Sponsoring Entity is the interested Adopting Employer/Sponsoring Entity hereunder, but in the event of a Participant's transfer from one Adopting Employer/Sponsoring Entity to another, the Adopting Employer/Sponsoring Entity shall immediately notify the Administrator thereof.

11.5 AMENDMENT BY ADOPTING EMPLOYER/SPONSORING ENTITY

Subject to the terms of a governing Collective Bargaining Agreement, the Adopting Employer/Sponsoring Entity shall have the right at any time and from time to time to amend, in whole or in part, its adoption of the Plan Specifications by executing a new Plan Specifications. No such amendment shall authorize or permit any part of the Trust Fund (other than such part as is required to pay taxes and administration expenses) to inure to private individuals or for purposes other than for the benefit of Participants, Dependents or Beneficiaries as provided herein, or to revert to or become the property of the Adopting Employer/Sponsoring Entity.

11.6 DISCONTINUANCE OF PARTICIPATION BY ADOPTING EMPLOYER/SPONSORING ENTITY

Subject to the terms of a governing Collective Bargaining Agreement, the Adopting Employer/Sponsoring Entity shall have the right at any time to discontinue its participation in the Plan by delivering to the Administrator written notice of such discontinuance. Upon such discontinuance of participation:

(a) All amounts in the Participants' Employer/Sponsoring Entity Contribution Accounts shall be fully vested and nonforfeitable.

(b) The Adopting Employer/Sponsoring Entity, by written notice to the Administrator, may direct that:

(i) The Trustee retain such assets for the Participants of said Adopting Employer/Sponsoring Entity pursuant to the provisions of the Trust. Any Trustee fees or administration fees due shall be paid from the assets of the Trust Fund on a nondiscriminatory basis to the extent not paid by the Adopting Employer/Sponsoring Entity. In no such event shall any part of the corpus or income of the Trust as it relates to such Adopting Employer/Sponsoring Entity be used or diverted to, or inure to private individuals or for purposes other than the benefit of Participants, Dependents or Beneficiaries as provided herein, or to revert to or become the property of the Adopting Employer/Sponsoring Entity; or

(ii) In the event that the Adopting Employer/Sponsoring Entity shall have established a separate plan for the benefit of its Employees, the Trustee shall transfer, deliver and assign Policies and other Trust Fund assets allocable to the Participants of such Adopting Employer/Sponsoring Entity to such new Trustee as shall have been designated by the Administrator.

(c) In the event that the Adopting Employer/Sponsoring Entity shall fail to notify the Administrator on a timely basis as to the disposition of the assets held on behalf of the Employees of the Adopting Employer/Sponsoring Entity, the Administrator shall operate as though the Adopting Employer/Sponsoring Entity had directed the Administrator to follow the foregoing paragraph (b)(1) or (b)(2).

(d) Any excess assets remaining in the Plan, after the satisfaction of all liabilities to current Participants or their Beneficiaries, shall be applied to provide such

Participants or their Beneficiaries with the benefits set forth in the Plan, provided that such payment shall only be made: (i) pursuant to the terms of a Collective Bargaining Agreement, or (ii) on the basis of objective and reasonable standards which do not result in unequal payments to similarly situated Participants or their Beneficiaries or in disproportionate payments to officers or Highly-Compensated Employees of the Adopting Employer/Sponsoring Entity;

(e) No Adopting Employer/Sponsoring Entity shall receive a refund or additional amounts or benefits, and no Adopting Employer/Sponsoring Entity shall incur a residual liability beyond the end of the current Plan Year (other than, in the case of the Plan, the provision of benefits to Participants and their Beneficiaries).

ARTICLE 12

MISCELLANEOUS

12.1 ALIENATION

(a) Except as provided in paragraph (c) below, no benefit which shall be payable under the Plan to any person (including a Participant or his Beneficiary) shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, and the same shall not be recognized by the Administrator, except to such extent as may be required by law.

(b) In the event a Participant's benefits are garnished or attached by order of any court, the Administrator may bring an action for a declaratory judgment in a court of competent jurisdiction to determine the proper recipient of the benefits to be paid by the Plan. During the pendency of said action, any benefits that become payable shall be paid into the court as they become payable, to be distributed by the court to the recipient it deems proper at the close of said action.

(c) This provision shall not apply to a "Qualified Medical Child Support Order". The Administrator shall establish a written procedure to validate the status of such orders and to administer payments thereunder.

12.2 PROHIBITION AGAINST DIVERSION OR INUREMENT

It shall be impossible by operation of the Plan or by termination thereof, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by any other means, for any part of assets of the Trust Fund maintained pursuant to the Plan or any funds contributed thereto, to be used for, or diverted to, or to inure (other than through the payment of benefits provided under the terms of the Plan) to the benefit of any private shareholder or individual.

12.3 ADDITIONAL REQUIREMENTS

The Plan is subject to the requirements of section 505 of the Code and shall be operated in accordance with the nondiscrimination requirements and limitations of that section and the Regulations thereunder.

12.4 APPROVAL BY INTERNAL REVENUE SERVICE

The Employer/Sponsoring Entity intends that this welfare benefit Plan and the Trust attached hereto meet the requirements of section 115 of the Code.

(a) Should the Commissioner of Internal Revenue or any delegate of the Commissioner at any time determine that the Plan and Trust fails to meet the requirements of the Code, the Employer/Sponsoring Entity will amend the Plan and Trust to maintain its qualified status.

(b) Notwithstanding anything herein to the contrary, if, pursuant to an application filed by or in behalf of the Trust, the Commissioner of Internal Revenue Service or his delegate should determine that the Trust does not initially qualify as a tax-exempt plan and trust under section 115 of the Code, and such determination is not contested, or if contested, is finally upheld, then the Plan shall be void *ab initio* and the Trustee shall direct the Administrator to return all amounts contributed to the Plan by the Employer/Sponsoring Entity, less expenses paid, within one year and the Plan shall terminate, and the Administrator shall be discharged from all further obligations.

12.5 ADMINISTRATOR'S PROTECTIVE CLAUSE

(a) Neither the Administrator nor its successor shall be responsible for the validity of any Policy issued hereunder or for the failure on the part of the insurer to make payments provided by any such Policy, or for the action of any person which may delay payment or render a Policy null and void or unenforceable in whole or in part.

(b) In the event any lawsuit, claim or proceeding is brought involving the Plan or the Trust in which the Administrator is named as a defendant, and such claim, suit, or proceeding is resolved in favor of the Administrator, they shall be entitled to be reimbursed from the Trust Fund for any and all costs, attorney's fees, and other expenses pertaining thereto incurred for which the Administrator shall have become liable.

12.6 INDEMNIFICATION OF AGENTS

The Administrator shall indemnify and hold harmless its appointed agents from all loss or liability (including expenses and reasonable attorneys' fees) to which such agent may be subject by reason of its execution of its duties under this Plan, or by reason of any acts taken in good faith in accordance with directions, or acts omitted in good faith in the absence of directions from the Administrator, unless such loss or liability is due to the agent's gross negligence or willful

misconduct. The agent is entitled to collect on the indemnity provided by this Section from the Administrator only if such amounts are not paid directly or indirectly from assets of the Trust.

In the event that any lawsuit, claim, suit, or proceeding is brought involving the Plan or the Trust in which the agent is named as a defendant, the agent shall be entitled to receive, on a current basis, indemnity payments as provided for in this Section, provided, however, that if the final judgment entered in the lawsuit or proceeding holds that the agent is guilty of gross negligence or willful misconduct with respect to the Plan, the agent shall be required to refund the indemnity payments that it has received.

12.7 GOVERNING LAW

This Plan shall be construed and enforced according to the laws of the state of domicile of the Adopting Employer/Sponsoring Entity to the extent not pre-empted by applicable federal law. The laws of such state shall govern the construction, validity and administration of the Plan, as embodied in the Plan and the Plan Specifications.

12.8 GENDER AND NUMBER

Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

12.9 PROVISIONS RELATING TO INSURANCE

Any Policies purchased under this Plan shall be held subject to the following rules:

(a) The Trustee shall be applicant and owner of any Policies issued.

(b) A Participant shall be entitled to designate a Beneficiary under the terms of any Policy issued under the Plan. Such designation shall remain in force until revoked by the Participant, by filing a new Beneficiary designation form with the Administrator.

(c) In the event a Participant is uninsurable or insurable at substandard rates, he or she may elect to receive a reduced amount of insurance, if available, or may waive the purchase of insurance.

(d) All dividends or other returns received on any Policy purchased shall be applied to reduce the next premium due on such policy, or if no further premium is due, such amount shall be credited to the Fund as part of the account of the Participant for whom the policy is held.

(e) Upon the retirement or Severance of Employment of a Participant, the Administrator shall offer the Participant the right to purchase any Policy on the life of such Participant for its cash surrender value. If the Participant shall exercise such right, the Participant's payment shall be credited to the Participant's Account

Balance. If the Participant shall not exercise such right, the Administrator shall direct the Trustee to surrender the Participant's policy and credit the proceeds to his or her account for payment under the terms of the Plan.

(f) Any insurer who shall issue Policies hereunder shall not have any responsibility for the validity of this Plan or for the tax or legal aspects of this Plan. The insurer shall be protected and held harmless in acting in accordance with any written direction of the Administrator, and shall have no duty to see to the application of any funds paid to the Trustee, nor be required to question any actions directed by the Administrator. Regardless of any provision of this Plan, the insurer shall not be required to take or permit any action or allow any benefit or privilege contrary to the terms of any Policy that it issues hereunder, or the rules of the insurer.

The Administrator shall be solely responsible to see that these insurance provisions are administered properly. If there is any conflict between the provisions of this Plan and any insurance Policies issued, the terms of this Plan will control.

12.10 HEADINGS

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

12.11 PARTICIPANTS' RIGHTS

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

12.12 UNIFORMITY

All provisions of this Plan shall be interpreted and applied in a uniform, nondiscriminatory manner. In the event of any conflict between the terms of this Plan and any Policy purchased or provided hereunder, the Plan provisions shall control.

Exhibit B

City of St. Charles/I.A.F.F. Local 3322

RETIREMENT HEALTHCARE FUNDING

115 TRUST AGREEMENT

City of St. Charles/I.A.F.F. Local 3322
RETIREE HEALTHCARE FUNDING

115 TRUST AGREEMENT

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City of St. Charles/I.A.F.F. Local 3322

RETIREE HEALTHCARE FUNDING

115 TRUST AGREEMENT

THIS AGREEMENT is hereby established by **City of St. Charles**

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

WHEREAS, the STATE STREET BANK AND TRUST COMPANY (herein referred to as the "Trustee"), is recognized as Trustee by way of the funding arrangement with Transamerica Retirement Solutions

WHEREAS, the City of St. Charles has previously or concurrently adopted the City of St. Charles/IAFF Local 3322 Retiree Healthcare Funding Plan, herein referred to as the "Plan" and incorporated by reference including all definitions therein; and

WHEREAS, under the terms of the Plan, funds will from time to time be contributed to the Trustee, which funds as and when received by the Trustee, will constitute a trust fund to be held by said Trustee under the Plan for the benefit of the Participants, their Dependents or their Beneficiaries; and

WHEREAS, the party(s) desires the Trustee to hold and administer such funds and the Trustee is willing to hold and administer such funds pursuant to the terms of this Agreement; and

WHEREAS, the party(s) intends that this Trust, as defined herein, comply with Section 115 of the Internal Revenue Code of 1986 (the "Code").

NOW, THEREFORE, for and in consideration of the promises and of the mutual covenants herein contained, the party(s), the Trustee and the Administrator do hereby covenant and agree as follows:

ARTICLE I

TRUST AND TRUST FUND

1.1 NAME OF TRUST

This Trust shall be entitled City of St. Charles/I.A.F.F. Local 3322 Retiree Healthcare Funding 115 Trust Agreement (hereinafter referred to as the "Trust"), and shall carry into effect the provisions of the Plan created prior to, or concurrently herewith and forming a part hereof. All of the definitions in such Plan are hereby incorporated herein by reference. The Trustee hereby agrees to act as Trustee of the Trust, and to take, hold, invest, administer and distribute in accordance with the following provisions, any and all contributions and assets paid or delivered to the Trustee pursuant to the Plan.

1.2 TRUST FUND

All of the assets at any time held hereunder by the Trustee are hereinafter referred to collectively as the "Trust Fund". All right, title and interest in and to the assets of the Trust Fund shall be at all times vested exclusively in the Trustee.

1.3 TRUSTEE'S RECEIPT OF CONTRIBUTIONS

The Trustee shall receive, take, and hold any contributions paid to the Trustee in cash or in other property acceptable to the Trustee. All contributions so received together with the income therefrom and any other increment thereon shall be held, managed, and administered by the Trustee pursuant to the terms of this Agreement without distinction between principal and income and without liability for the payment of interest thereon. The Trustee shall not be responsible for the collection of any contributions under the Plan.

ARTICLE II

PLAN

2.1 DELIVERY OF PLAN DOCUMENT TO TRUSTEE

The Administrator or its agent shall deliver to the Trustee a copy of the Plan document and of any amendments thereto for convenience of reference, but rights, powers, titles, duties, discretions and immunities of the Trustee shall be governed solely by this instrument without reference to the Plan.

ARTICLE III

ADMINISTRATOR

3.1 APPOINTMENT OF ADMINISTRATOR

Babbitt Municipalities, Inc. is hereby designated as the Administrator of the Plan and Trust (herein referred to as the "Administrator"). The Administrator shall notify the Trustee in writing of any change in the identity of such Administrator. Until notified of the change, the Trustee shall be fully protected in acting upon the assumption that the identity of the Administrator has not been changed.

3.2 DIRECTIONS TO TRUSTEE

(a) All directions by the Administrator to the Trustee shall be in writing signed by such Administrator, or by the Administrator's duly appointed and authorized agent or representative.

(b) The Administrator shall furnish to the Trustee a specimen signature of the Administrator or Administrators, or of the Administrator's duly appointed and authorized agent or representative at the time he or she is appointed.

3.3 DETERMINATION OF INTERESTS

The Administrator shall have sole responsibility for determining the existence, non-existence, nature and amount of the rights and interests of all persons in the Trust Fund.

ARTICLE IV

CONTRIBUTIONS

4.1 RECEIPT OF CONTRIBUTIONS

The Trustee or its designated custodian shall receive all contributions paid in cash or other property acceptable to the Trustee, and all contributions so received together with the income therefrom and any increment thereon shall be held, managed and administered by the Trustee pursuant to this Agreement without distinction between principal and income. The Trustee shall have no duty to require any contributions to be made to the Trustee by the sponsoring employer or to determine that the amounts received comply with the Plan, or to determine that the Trust Fund is adequate to provide the benefits payable pursuant to the Plan.

ARTICLE V

TRUSTEE

5.1 APPOINTMENT OF TRUSTEE

The Trustee hereunder shall be State Street Trust and Bank. Any successor shall be a bank or trust company chartered and regulated by Federal banking authorities or by similar authorities of one of the United States. The Trustee shall have the following general categories of responsibilities:

(a) to invest, manage, and control the Plan assets as directed by the Administrator (or by an Investment Manager, if one is appointed in accordance with Sections 5.2 and 5.3). The Trustee shall not be responsible for verifying that investment of Plan assets is consistent with any "funding plan and method" adopted by the party(s), but may rely on the direction of the Administrator and/or the Investment Manager;

(b) to pay benefits required under the Plan to be paid to Participants, their Dependents or, in the event of death, their Beneficiaries, including withholding and depositing of income taxes with respect to taxable benefit payments, pursuant to the direction of the Administrator;

(c) to maintain records of receipts and disbursements and furnish to the party(s) and/or Administrator for each Fiscal Year a written annual report per Section 5.9.

5.2 INVESTMENT POWERS AND DUTIES OF THE TRUSTEE

Subject to the direction of the Administrator and consistent with any "Funding Policy and Method", the Trustee shall have the following powers and duties with respect to the investment of the Plan Assets:

(a) to apply for, own, and pay premiums on life insurance Contracts or Policies;

(b) to invest and reinvest the Trust Fund to keep the Trust Fund invested without distinction between principal and income and in such securities or property, real or personal, wherever situated, including, but not limited to, stocks, common or preferred, bonds and other evidences of indebtedness or ownership, and real estate or any interest therein. In directing the Trustee to make such investments, the Administrator shall give due regard to any limitations imposed by the Code or ERISA, if applicable.

(c) From time to time with the consent of the Administrator, to transfer to a common, collective, or pooled trust fund maintained by any corporate Trustee hereunder, all or such part of the Trust Fund as the Administrator may deem advisable, and such part or all of the Trust Fund so transferred shall be subject to all the terms and provisions of the common, collective, or pooled trust fund which contemplate the commingling for investment purposes of such trust assets with trust assets of other trusts. The Trustee may, from time to time with the consent of the Administrator, withdraw from such common, collective, or pooled trust fund all or such part of the Trust Fund as the Administrator may deem advisable.

(d) To maintain one or more accounts within the Trust for the purpose of: (i) keeping track of and charging the Trustee's fees due from the Plan, or (ii) segregating assets held for investment within the Trust Fund by type of investment or investment strategy, and to transfer from any such account to another account within the Trust Fund.

(e) The powers granted to the Trustee shall be exercised in the sole fiduciary discretion of the Trustee. However, if Participants, Dependents or Beneficiaries are empowered, each of them may direct the Trustee to separate and keep separate all or a portion of his or her account; and further each such person is authorized and empowered, to give directions to the Trustee in such form as the Trustee may require concerning the investment of the Participant's, Dependent's or Beneficiary's directed account. The Trustee shall comply as promptly as practicable with investment directions given hereunder. The Trustee may refuse to comply with any investment direction in the event the Trustee deems such directions to be improper by virtue of applicable law. Any costs and expenses related to compliance with the Participant's, Dependent's or Beneficiary's direction shall be borne by his or her account.

5.3 OTHER POWERS OF THE TRUSTEE

The Trustee, in addition to all powers and authorities under common law, statutory authority, including ERISA, if applicable, and consistent with the other provisions of this Agreement, shall have the following powers and authorities, to be exercised under the direction of the Administrator:

(a) To purchase, or subscribe for, any securities or other property and to retain the same.

(b) To sell, exchange, convey, transfer, grant options to purchase, or otherwise dispose of any securities or other property held by the Trustee, by private contract or at public auction. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety of any such sale or other disposition, with or without advertisement;

(c) To vote upon any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights or other options, and to make any payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities, or other property;

(d) To cause any securities or other property to be registered in the Trustee's own name or in the name of one or more of the Trustee's nominees, and to hold any investments in bearer form, but the books and records of the Trustee shall at all times show that all such investments are part of the Trust Fund;

(e) To keep such portion of the Trust Fund in cash or cash balances as the Trustee may, from time to time, deem to be in the best interests of the Plan, without liability for interest thereon;

(f) To accept and retain for such time as it may deem advisable any securities or other property received or acquired by it as Trustee hereunder, whether or not such securities or other property would normally be purchased as investments hereunder;

(g) To make, execute, acknowledge, and deliver any documents of transfer and conveyance or any other instruments that may be necessary or appropriate to carry out the powers herein granted;

(h) To settle, compromise, or submit to arbitration any claims, debts, or damages due or owing to or from the Plan, to commence or defend suits or legal or administrative proceedings, and to represent the Plan in all suits and legal and administrative proceedings;

(i) To employ suitable agents and counsel and to pay their reasonable expenses and compensation, and such agent or counsel may or may not be agent or counsel for the party(s);

(j) To do all such acts and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustee may deem necessary to carry out the purposes of the Plan;

(k) To apply for and procure from responsible insurance companies selected by the Administrator, such endowment and other life insurance Contracts on the life of any Participant as required to insure or protect the benefits under the Plan as the Administrator shall deem proper; to exercise, at any time or from time to time, whatever rights and privileges may be granted under such endowment or other insurance contracts; to collect, receive, and settle for the proceeds of all such endowment or other insurance contracts as and when entitled to do so under the provisions thereof;

(l) To invest funds of the Trust in time deposits or savings accounts bearing a reasonable rate of interest in the Trustee's bank;

(m) To invest in Treasury Bills and other forms of United States government obligations;

(n) Except as hereinafter expressly authorized, the Trustee is prohibited from selling or purchasing stock options. The Trustee is expressly authorized to write and sell call options under which the holder of the option has the right to purchase shares of stock held by the Trustee as a part of the assets of this Trust, if such options are traded on and sold through a national securities exchange registered under the Securities Exchange Act of 1934, as amended, which exchange has been authorized to provide a market for option contracts pursuant to Rule 9B-l promulgated under such Act, and so long as the Trustee at all times up to and including the time of exercise or expiration of any such option holds sufficient stock in the assets of this Trust to meet the obligations under such option if exercised. In addition, the Trustee is expressly authorized to purchase and acquire call options for the purchase of shares of stock covered by such options if the options are traded on and purchased through a national securities exchange as described in the immediately preceding sentence, and so long as any such option is purchased solely in a closing purchase transaction, meaning the purchase of an exchange traded call option the effect of which is to reduce or eliminate the obligations of the Trustee with respect to a stock option contract or contracts which it has previously written and sold in a transaction authorized under the immediate prior sentence;

(o) To deposit moneys in federally insured savings accounts or certificates of deposit in banks or savings and loan associations;

(p) With the consent of the Administrator, to pool all or any of the Trust Fund, from time to time, with assets belonging to any other qualified employee benefit trust or 115 trust as permitted by the Code, and to commingle such assets and make joint or common investments and carry joint accounts on behalf of the Plan and such other trust or trusts, allocating undivided shares or interests in such investments or accounts or any pooled assets of the two or more trusts in accordance with their respective interests;

5.4 DUTIES OF THE TRUSTEE REGARDING PAYMENTS

At the direction of the Administrator, the Trustee shall, from time to time, in accordance with the terms of the Plan, make payments out of the Trust Fund. The Trustee shall not be responsible in any way for the application of such payments.

5.5 TRUSTEE'S COMPENSATION, EXPENSES AND TAXES

The Trustee shall be paid such reasonable compensation as shall from time to time be agreed upon in writing by the party(s) and the Trustee. In addition, the Trustee shall be reimbursed for any reasonable expenses, including reasonable counsel fees incurred by it as Trustee. Such compensation and expenses shall be paid from the Trust Fund unless paid or advanced by the party(s). All taxes of any kind and all kinds whatsoever that may be levied or assessed under existing or future laws upon, or in respect of, the Trust Fund or the income thereof, shall be paid from the Trust Fund.

5.6 PAYMENT OF EXPENSES

All expenses of administration may be paid out of the Trust Fund unless previously paid by the party(s). Such expenses shall include any expenses incident to the functioning of the Administrator, including, but not limited to, fees of Trustees, accountants, counsel, and other specialists and their agents, and other costs of administering the Plan. Until paid, the expenses shall constitute a liability of the Trust Fund.

5.7 VALUATION OF THE TRUST FUND

As of each Anniversary Date, and at such other date or dates deemed necessary by the Administrator, herein called "valuation date", the Trustee shall determine the net worth of the assets comprising the Trust Fund as it exists on the "valuation date" prior to taking into consideration any contribution for that Plan Year. In determining such net worth, the Trustee shall value the assets comprising the Trust Fund at their fair market value as of the "valuation date" and shall deduct all expenses for which the Trustee has not yet obtained reimbursement from the Trust Fund.

5.8 METHOD OF VALUATION

In determining the fair market value of securities held in the Trust Fund which are listed on a registered stock exchange, the Trustee shall value the same at the prices they were last traded on such exchange preceding the close of business on the "valuation date". If such securities were not traded on the "valuation date", or if the exchange on which they are traded was not open for business on the "valuation date", then the securities shall be valued at the prices at which they were last traded prior to the "valuation date". Any unlisted security held in the Trust Fund shall be valued at its bid price next preceding the close of business on the "valuation date", which bid price shall be obtained from a registered broker or an investment banker

5.9 ANNUAL REPORT OF THE TRUSTEE

Within sixty (60) days after the Anniversary Date for each Plan Year, the Trustee or its designated custodian shall furnish to the party(s) and to the Administrator a written statement of account with respect to the Fiscal Year for which such contribution was made setting forth:

(a) the net income, or loss, of the Trust Fund;

(b) the gains, or losses, realized by the Trust Fund upon sales or other disposition of the assets;

(c) the increase, or decrease, in the value of the Trust Fund;

(d) all payments and distributions made from the Trust Fund; and

(e) such further information as the Trustee and/or Administrator deems appropriate. The party(s), forthwith upon its receipt of each such statement of account, shall acknowledge receipt thereof in writing and advise the Trustee and/or Administrator of its approval or disapproval thereof. Failure by the party(s) to disapprove any such statement of account within ninety (90) days after its receipt thereof shall be deemed an approval thereof. The approval by the party(s) of any statement of account shall be binding as to all matters embraced therein as between the party(s) and the Trustee to the same extent as if the account of the Trustee had been settled by judgment or decree in an action for a judicial settlement of its account in a court of competent jurisdiction in which the Trustee, the party(s) and all persons having or claiming an interest in the Plan were parties; provided, however, that nothing herein contained shall deprive the Trustee of its right to have its accounts judicially settled if the Trustee so desires.

5.10 AUDIT

(a) If an audit of the Plan's records shall be required by ERISA and the regulations thereunder for any Plan Year, the Administrator shall direct the Trustee to engage on behalf of all Participants an independent qualified public accountant for that purpose. Such accountant shall, after an audit of the books and records of the Plan in accordance with generally accepted auditing standards, within a reasonable period after the close of the Plan Year, furnish to the Administrator and the Trustee a report of his audit setting forth his opinion as to whether each of the following statements, schedules or lists, or any others that are required by the Secretary of Labor to be filed with the Plan's annual report, are presented fairly in conformity with generally accepted accounting principles applied consistently:

(1) statement of the assets and liabilities of the Plan;

(2) statement of changes in net assets available to the Plan;

(3) statement of receipts and disbursements, a schedule of all assets held for investment purposes, a schedule of all loans or fixed income obligations in default at the close of the Plan Year;

(4) a list of all leases in default or uncollectible during the Plan Year;

(5) the most recent annual statement of assets and liabilities of any bank common or collective trust fund in which Plan assets are invested or such information regarding separate accounts or trusts with a bank or insurance company as the Trustee and Administrator deem necessary; and

(6) a schedule of each transaction or series of transactions involving an amount in excess of three percent (3%) of Plan assets.

All auditing and accounting fees shall be an expense of and may, at the direction of the Administrator, be paid from the Trust Fund.

(b) If some or all of the information necessary to enable the Administrator to comply with Federal regulations or the Internal Revenue Code is maintained by a bank, insurance company, or similar institution, regulated and supervised and subject to periodic examination by a state or federal agency, it shall transmit and certify the accuracy of that information to the Administrator within one hundred twenty (120) days after the end of the Plan Year or such other date as may be prescribed under regulations of the Secretary of Labor.

5.11 RESIGNATION, REMOVAL AND SUCCESSION OF TRUSTEE

(a) The Trustee may resign at any time by delivering to the party(s), at least ninety (90) days before its effective date, a written notice of its resignation.

(b) The party(s) may remove the Trustee by mailing, by registered or certified mail, addressed to such Trustee at his last known address, at least thirty (30) days before its effective date, a written notice of its removal and a copy, certified by the party(s), of the resolution adopted effecting its removal.

(c) Upon the death, resignation, incapacity, dissolution or removal of any Trustee, a successor may be appointed by the party(s); and such successor, upon accepting such appointment in writing and delivering same to the party(s), shall, without further act, become vested with all the estate, rights, powers, discretions, and duties of his predecessor with like respect as if he were originally named as a Trustee herein. Until such a successor is appointed, the remaining Trustee or Trustees shall have full authority to act under the terms of this Agreement. In the event that the party(s) does not name a successor Trustee by the effective date of the removal or resignation of the Trustee, the sponsoring employer shall become the Trustee hereunder.

(d) The party(s) may designate a successor Trustee prior to the resignation or removal of a Trustee. In the event a successor is so designated by the party(s) and accepts such designation, the successor shall, without further act, become vested with all the estate, rights, powers, discretions, and duties of his predecessor with the like effect as if he were originally named as Trustee herein immediately upon the death, resignation, incapacity, or removal of his predecessor.

(e) Whenever any Trustee hereunder ceases to serve as such, he shall furnish to the party(s) and Administrator a written statement of account with respect to the portion of the Fiscal Year during which he served as Trustee. This statement shall be either (i) included as part of the annual statement of account for the Fiscal Year required under Section 5.9 or (ii) set forth in a special statement. Any such special statement of account should be rendered no later than the due date of the annual statement of account for the Fiscal Year. The procedures set forth in Section 5.9 for the approval by the party(s) of annual statements of account shall apply to any special statement of account rendered hereunder and approval by the party(s) of any such special statement in the manner provided in Section 5.9 shall have the same effect upon the statement as the party(s)'s approval of an annual statement of account. No successor to the Trustee shall have any duty or responsibility to investigate the acts or transactions of any predecessor who has rendered all statements of account required by Section 5.9 and this subparagraph.

ARTICLE VI

AMENDMENT, TERMINATION AND MERGERS

6.1 AMENDMENT

The party(s) shall have the right at any time and from time to time to amend, in whole or in part, any or all of the provisions of this Agreement.

6.2 TERMINATION OF TRUST BY PARTY(S)

The party(s) shall have the right at any time to terminate the Trust by delivering to the Trustee and Administrator written notice of such termination. Upon such termination of the Trust, the party(s), by written notice to the Trustee and Administrator, may direct either:

6.3 MERGER, CONSOLIDATION OR TRANSFER

This Trust may be merged or consolidated with, or its assets and/or liabilities may be transferred to or from another Trust only if the benefits which would be received by a Participant or his or her Beneficiaries under the Plan, in the event of a termination of the Trust immediately after such transfer, merger or consolidation, are at least equal to the benefits the Participant or his or her Beneficiaries would have received if the Plan had terminated immediately before the transfer, merger or consolidation.

The Trustee, at the direction of the Administrator, may transfer the interest of a Participant to, or receive the transferred interest from, another trust forming part of Code Section 501(c)(9) or Code Section 115 trust as permitted by the Code, maintained by such participant's new or previous sponsoring employer and represented by said trustee in writing as meeting the requirements of the Code, provided that the trust to which such transfers are made permits the transfer to be made.

6.4 TRANSFER OF INTEREST

Pursuant to the direction of the Administrator, the Trustee may accept funds transferred from another trust forming part of a welfare benefit meeting the requirements of Code Section 115. The Administrator shall maintain records with respect to the separate "Participant's Transferred Account" on behalf of the party(s) and the Participant with respect to the amount transferred. In the event of such a transfer under this Plan, the Trustee may act upon the direction of the Administrator without determining the facts concerning a transfer.

ARTICLE VII

MISCELLANEOUS

7.1 QUALIFIED TRUST

(a) The Trust is intended to continue to qualify and to be tax exempt under the governmental authority provided by IRC Section 115, as amended from time to time.

(b) Notwithstanding anything herein to the contrary, if, pursuant to an application filed by or in behalf of the Plan, the Commissioner of the Internal Revenue Service or his or her delegate should determine that the Plan does not initially qualify as a tax-exempt plan and trust under IRC Section 115, and such determination is not contested, or if contested, is finally upheld, then the Plan shall be void *ab initio* and the Trustee shall direct the Administrator to return all amounts contributed to the Plan by the sponsoring employer, less expenses paid, within one year and the Plan shall terminate, and the Administrator shall be discharged from all further obligations.

7.2 PARTICIPANTS' RIGHTS

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

7.3 ALIENATION

No benefit which shall be payable out of the Trust Fund to any person (including a Participant or Beneficiary) shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, and the same shall not be recognized by the Trustee, except to such extent as may be required by law.

In the event a Participant's benefits are garnished or attached by order of any court, the Administrator may bring an action for a declaratory judgment in a court of competent jurisdiction

to determine the proper recipient of the benefits to be paid by the Plan. During the pendency of said action, any benefits that become payable shall be paid into the court as they become payable, to be distributed by the court to the recipient it deems proper at the close of said action.

7.4 CONSTRUCTION OF AGREEMENT

This Trust shall be construed and enforced according to any applicable Federal rule, regulation or code and the laws of the state of Illinois of the Trustee.

7.5 GENDER AND NUMBER

Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

7.6 BONDING

Every Fiduciary who handles funds or other property of the Trust, except a bank or an insurance company, unless exempted by ERISA, if applicable, and regulations thereunder, shall be bonded in an amount not less than 10% of the amount of the funds such Fiduciary handles; provided, however, that the minimum bond shall be $1,000 and the maximum bond, $500,000. The amount of funds handled shall be determined at the beginning of each Plan Year by the amount of funds handled by such person, group, or class to be covered and their predecessors, if any, during the preceding Plan Year, or if there is no preceding Plan Year, then by the amount of the funds to be handled during the then current year. The bond shall provide protection to the Plan against any loss by reason of acts of fraud or dishonesty by the Fiduciary alone or in connivance with others. The surety shall be a corporate surety company (as such term is used in Section 412(a)(2) of ERISA), and the bond shall be in a form approved by the Secretary of Labor. The cost of such bonds shall be an expense of and may, at the election of the Administrator, be paid from the Trust Fund or by the party(s).

7.7 ERRORS AND OMISSIONS

The Administrator shall direct the Trustee to purchase a Contract of insurance to protect the Trust Fund and its advisors against any potential liability which may arise in the day to day administration of the Plan and Trust from any error in action or failure to act as required under the provisions of the Plan and/or Trust by the Administrator, its representatives, agents, employees or advisers.

7.8 SPONSOR’S, ADMINISTRATOR'S AND TRUSTEE'S PROTECTIVE CLAUSE

Neither the Sponsor, Administrator nor the Trustee, nor their successors, shall be responsible for the validity of any Contract of insurance issued hereunder or for the failure on the part of the insurer to make payments provided by any such Contract, or for the action of any person which may delay payment or render a Contract null and void or unenforceable in whole or in part.

7.9 INSURER'S PROTECTIVE CLAUSE

Any insurer who shall issue Contracts of insurance hereunder shall not have any responsibility for the validity of the Plan or for the tax or legal aspects of the Plan. The insurer shall be protected and held harmless in acting in accordance with any written direction of the Trustee, and shall have no duty to see to the application of any funds paid to the Trustee, nor be required to question any actions directed by the Trustee. Regardless of any provision of the Plan or Trust, the insurer shall not be required to take or permit any action or allow any benefit or privilege contrary to the terms of any Contract which it issues hereunder, or the rules of the insurer.

7.10 INDEMNIFICATION OF TRUSTEE

The party(s) shall indemnify and hold harmless the Trustee from all loss or liability (including expenses and reasonable attorneys' fees) to which the Trustee may be subject by reason of its execution of its duties under this Trust Agreement, or by reason of any acts taken in good faith in accordance with directions, or acts omitted in good faith in the absence of directions, from the Administrator, its agent or representative, or from an Investment Manager, unless such loss or liability is due to the Trustee's negligence or misconduct. The Trustee is entitled to collect on the indemnity provided by this Section only from the Administrator and is not entitled to any direct or indirect payment from assets of the Trust Fund.

The Trustee shall indemnify and hold harmless the party(s) and Administrator from all loss or liability unless the such loss or liability is due to the party(s) and Administrator’s negligence or misconduct.

In the event that any lawsuit, claim, suit, or proceeding is brought involving the Plan or the Trust Fund in which the Trustee is named as a defendant, the Trustee shall be entitled to receive, on a current basis, indemnity payments as provided for in this Section. Provided, however, that if the final judgment entered in the lawsuit or proceeding holds that the Trustee is guilty of negligence or misconduct with respect to the Trust Fund, the Trustee shall be required to refund the indemnity payments that it has received.

7.11 LIMITATION OF TRUSTEE'S LIABILITY

The Trustee shall accept and rely upon any documents executed by the Administrator until such time as the sponsoring party(s) or Administrator files with the Trustee a written revocation of such designation. If the Trustee makes a written request for directions from the sponsoring party(s), the Administrator, or an Investment Manager, the Trustee may await such directions without incurring liability. The Trustee has no duty to act in the absence of such requested directions, but may in its discretion take such action, as it deems appropriate to carry out the purpose of this Trust Agreement.

7.12 RECEIPT AND RELEASE FOR PAYMENTS

(a) No benefit payable to any Participant or Beneficiary shall exceed the value of the Trust assets allocated to that benefit. In the event that there are insufficient Trust assets to pay in full any benefit provided hereunder, neither the Trustee, the administrator nor the party(s) shall bear any liability to any Participant or Beneficiary on account of such insufficiency.

(b) Any payment to any Participant, his or her legal representative, Beneficiary, or to any guardian or committee appointed for such Participant or Beneficiary in accordance with the provisions of this Agreement, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Trustee, the Administrator and the party(s), any of whom may require such Participant, legal representative, Beneficiary, guardian or committee, as a condition precedent to such payment, to execute a receipt and release thereof in such form as shall be determined by the Trustee, Administrator or party(s).

7.13 HEADINGS

The headings and subheadings of this Agreement have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

ARTICLE VIII

EXECUTION

7.14 SIGNATURES

In witness of the foregoing promises and mutual covenants herein contained, the Parties have adopted and executed this Trust and the related Plan document as of the dates shown below:

Dated this ____ day of 20__.

(a) Signed by: _____

Title: _____

Signature: _____

(b) Signed by: _____

Title: _____

Signature: _____

Exhibit C

SPECIFICATIONS of the CITY OF ST. CHARLES/I.A.F.F. LOCAL 3322 RETIREE HEALTHCARE FUNDING PLAN

City of St. Charles

CITY OF ST. CHARLES/IAFF LOCAL 3322

RETIREE HEALTH CARE FUNDING PLAN

SPECIFICATIONS

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CITY OF ST. CHARLES

RETIREE HEALTH CARE FUNDING PLAN

SPECIFICATIONS

The undersigned hereby adopts the CITY OF ST. CHARLES/IAFF LOCAL 3322 Retiree Healthcare Funding Plan ("Plan") and the CITY OF ST. CHARLES/IAFF LOCAL 3322 Retiree Healthcare Funding Trust ("Trust") for the benefit of Eligible Employees, their Dependents and Beneficiaries under the provisions of these specifications. The definitions set forth in the Plan and Trust shall apply herein unless the context requires otherwise.

1. **SPONSORING ENTITY IDENTIFICATION**

Name and Address: City of St. Charles
Two East Main Street
St. Charles, IL 60174

(a) Contact Person: Jennifer McMahon

Phone No.: 630-377-4470

Fax No.: 630-377-4901

(b) Form of Business: Section 115 Plan

(c) Tax Identification No.: 36-6006090

Predecessor Sponsoring Entity: None

2. **PLAN AND TRUST IDENTIFICATION**

(a) Name of Plan: *City of St. Charles*/IAFF Local 3322 **RETIREE HEALTHCARE FUNDING PLAN**

(b) Name of Trust: ***City of St. Charles***/IAFF Local 3322 **RETIREE HEALTHCARE FUNDING TRUST**

(c) Collectively Bargained Plan:

3. DEFINITIONS

(a) **Plan Administrator**. The Plan Administrator of the Plan shall be **Babbitt Municipalities Inc/ Joel J. Babbitt**.

(b) **Effective Date**. The Effective Date of the Plan is July 25, 2022.

(c) **Compensation.** Compensation (as defined in the Plan) shall be determined on the basis of the calendar year.

(d) **Normal Retirement Date**. Per 40 ILCS 5.

(e) **Plan Year**. The Plan Year shall be the 12-month period commencing on January 1 and ending on December 31.

(f) **Coverage Period**. The period for which Participant elections, if applicable, are valid under this Plan shall be the calendar year.

4. ELIGIBILITY REQUIREMENTS

(a) **Covered Group Requirement**. All future members of the bargaining unit members are mandatorily covered after implementation.

(b) **Entry Date**. An Employee's Entry Date shall be the following date an Employee meets the eligibility requirements.

5. CONTRIBUTIONS

Contributions. Contributions shall be made pursuant to the collective bargaining and/or agreements covering Employees. (As shown on Exhibit A.)

6. MEDICAL BENEFITS

A Participant may be eligible to be reimbursed for the payment of medical benefits (as specified in the Plan) or for the purchase of insurance made available under the Plan.

(a) Following retirement, a Participant may, as specified in writing by the Trustee, be eligible to be reimbursed for the following benefits as permitted by applicable law:

Premiums

- Medicare Part B coverage (or other Medicare premiums)
- Medicare-supplement ("Medigap") insurance
- COBRA continuation coverage
- Other health insurance approved by the Administrator, including any post-retirement medical plan sponsored by the Sponsoring Entity
- Dental coverage
- Vision care coverage
- Prescription drug coverage

- Qualified long-term care insurance

As permitted by the Plan and applicable law, reimbursement of out-of-pocket medical expenses such as deductibles, co-pays, prescription drugs, eyeglasses, dental work, hearing aids, etc.

7. EARNED BENEFITS AND FORFEITURES

(a) **Earning of Benefit Rights**. Benefits shall be earned pursuant to written rules established by the Trustee.

8. SPONSORING ENTITY

These Specifications and the corresponding provisions of the Plan and Trust documents are approved and adopted by the Sponsoring Entity on July 18, 2022.

Signature: _____

Title: _____

EXHIBIT A

Sideletter to Collective Bargaining Agreement between the City of St. Charles and St. Charles Professional Firefighter's Association IAFF Local 3322 Retiree Healthcare Funding Plan (RHFP)

Pursuant to Section 22.4 – Retirement Insurance Plan, of the current collective bargaining agreement between the City of St. Charles and St. Charles Professional Firefighter's Association IAFF Local 3322, the City shall establish and maintain a Retirement Healthcare Funding Plan (RHFP) for IAFF-represented employees. The purpose of the Plan is to provide the opportunity for bargaining unit members to accumulate assets to pay for medical and other eligible expenses at and during retirement. The RHFP will be effective, July 25, 2022. Prior to effective date, current bargaining unit members will have a one-time, lifetime opportunity to opt-out of the RHFP. This decision will be irrevocable. Participation in the Plan by newly-hired employees will begin on their date of hire.

The Plan shall be established as a Section 115 Trust in accordance with any and all applicable laws. The City shall be responsible for set-up and administrative fees.

Bargaining unit members authorize the City to make contributions to the RHFP on their behalf as follows:

- To the extent permitted by the tax code, withhold 1% of employees' pre-tax, base salary (as noted in Section 16.2) per pay period and deposit into the RHFP.
- To the extent permitted by the tax code, 100% of employees' accrued sick time eligible for payment as defined in Article 22, Section 22.1 shall be withheld pre-tax and deposited into the RHFP.
- To the extent permitted by the tax code, 100% of employees' accrued vacation time eligible for payment as defined in Article 22, Section 22.2 shall be withheld pre-tax and deposited into the RHFP.

The City is not responsible for any tax liabilities or penalties that may be imposed on employee by the IRS, the Illinois Department of Revenue, or any other taxing body as a result of claims by any taxing body that taxes should have been withheld from payments made to the Section 115 Trust created by this Side Letter of Agreement. Similarly, the employee is not responsible for any tax liabilities or penalties that may be imposed on the City by the IRS, the Illinois Department of Revenue, or any other taxing body as a result of claims by any taxing body that taxes should have been withheld from payments made to the Section 115 Trust created by this Side Letter of Agreement.

The City and Union agree that any amendments to or termination of this RHFP is subject to collective bargaining. This includes amendments to the terms articulated above.

Exhibit D

ADMINISTRATIVE SERVICES AGREEMENT

THIS ADMINISTRATIVE SERVICES AGREEMENT ("Agreement") between BABBITT MUNICIPALITIES, INC, CHICAGO, IL ("BMI"), the IAFF Local 3322 ("Union") and the City of St. Charles, IL (the "Sponsoring Entity") sets forth the basis on which BMI agrees to provide certain services with respect to the Sponsoring Entity's and the Union's employee benefit plan established solely for the purpose of establishing the plan requested by theUnion pursuant to Section 22.4 and the RHFP Sideletter of the Union's collective bargaining agreement with the City for the period from May 1, 2022, through April 30, 2024, ("CBA"). ("CBA"), and known as the IAFF Local 3322 Retirement Healthcare Funding Plan (RHFP) Plan (the "Plan").

PURPOSE

The Plan is established for the benefit of the Union pursuant to the CBA, and the Union acknowledges and agrees that the City does not and would not adopt the Plan for any other purpose other than the Union's desire to adopt the Plan pursuant to the CBA. The Plan provides for the payment of various health and welfare expenses as directed by the Union for eligible Union members employed by the Sponsoring Entity pursuant to the CBA. The Union selected BMI as Administrator pursuant to the CBA and desires that BMI administer the Plan as set forth in the Plan Documents.

ARTICLE I
RESPONSIBILITIES OF THE SPONSORING ENTITY AND THE UNION

The Sponsoring Entity and the Union have the responsibilities and duties outlined in this Article I below:

1.01 **Interpret the Plan and Determine Participant Eligibility and Benefit Entitlement.** The Sponsoring Entity and the Union, jointly, possess the ultimate authority to interpret the Plan for decisions involving eligibility for Plan participation, termination of Plan participation, and the calculation and payment of benefits to Plan participants. Nevertheless, the Sponsoring Entity and Union will not deliberately or knowingly direct BMI to take any action that would violate federal or state laws.

1.02 **Fund Plan Benefits and Pay Plan Expenses.** The Union is solely responsible for the funding of benefits under the Plan and for the payment of all Plan costs and administrative expenses, including without limitation as identified in Exhibit A. Ordinary Plan expenses shall be paid from the administration fee and investment contract funds. Extraordinary expenses such as fees of legal counsel, actuaries, accountants, trustees, auditors, health consultants, or other professionals required in connection with the Plan shall be paid from the administration fee and investment contract funds or Plan assets. The Sponsoring Entity shall bear no responsibility for payment of any benefits, compensation, expenses, taxes, or any other benefits, costs, fees or expenses arising out of or relating to the Plan, including without limitation those described in this Agreement.

1.03 **Control Plan Assets.** The Union has complete authority regarding the investment, management, and use of Plan assets, and BMI and the Sponsoring Entity neither have nor are deemed to exercise any authority, control, or discretion over Plan assets.

1.04 **Amend and Terminate the Plan.** The Sponsoring Entity and the Union by mutual agreement have complete discretion for all decisions involving the establishment, amendment and termination of the Plan.

1.05 **Fulfill Legal Obligations of the Plan.** BMI and the Union are solely responsible for the Plan's compliance with and all applicable laws and regulations. This includes the responsibility for preparing and filing reports, if required by law, including Form(s) 5500, as well as performing discrimination testing that may be required by applicable law. BMI shall assist in preparing filing reports and performing discrimination testing. See Section 2.13 to determine whether or not BMI will provide such services.

1.06 **Appoint Necessary Advisors.** The Union or BMI may appoint necessary advisors, whether individuals or entities, to assist in the administration of the Plan. This may include legal counsel, actuaries, accountants, auditors, health consultants, and other professionals required by the Union, the Plan or BMI. The entity that incurs the expense – i.e. the Union or BMI - will pay the expenses associated with these appointments if not mutually agreed to on a prior basis. BMI will consult with the Union whether such expenses are to be paid from Plan assets under Section 1.02, prior to incursion.

1.07 **Withholdings.** The Sponsoring Entity will make withholdings from employee compensation as directed by the Union pursuant to the CBA on behalf of each contributing employee into the Plan account according to the terms of the Plan. BMI shall not be responsible for making such withholdings or for any errors or omissions by the Sponsoring Entity in making such withholdings.

1.08 **Assumption of Risk by Union.** The Union expressly acknowledges and agrees that it assumes all risk and shall have sole and absolute liability and responsibility, and the Sponsoring Entity shall have no liability or responsibility whatsoever, for the compliance of BMI or the Trustee with their responsibilities and obligations under the Plan, this Agreement, and all applicable local, state, and federal codes, regulations, ordinances, including without limitation the Internal Revenue Code (the "Requirements of Law");

ARTICLE II
RESPONSIBILITIES OF BMI

BMI has the responsibilities and duties outlined in this Article II below:

2.01 **Provide Certain Plan-Related Documents.** BMI will provide and execute as administrator the following documents relating to the Plan for the Sponsoring Entity's and Union's final review and approval:

RHFP Plan Document (Welfare Benefit Plan)
RHFP Trust Agreement
Plan Specifications
Administrative Forms
(collectively, the "Plan Documents")

2.02 **Establish Trust and Help Select Trustee.** BMI requires the use of State Street Bank and Trust as trustee for the trust and the Union represents and warrants that State Street Bank and Trust will continue the duties of the Trustee as set forth in the plan documents described in Section 2.01 of this Agreement as it has since 2004.

2.03 **Coordinate with Service Providers.** BMI will coordinate the Plan's interactions with the various providers of services and products, including trustees, record keepers, investment advisors, product vendors, and legal, accounting, actuarial, and other service providers as necessary to carry out its duties and responsibilities under this Agreement.

2.04 **Coordinate Enrollment Meetings and Participant Communications.** BMI will organize and coordinate enrollment meetings with eligible Union members. BMI will alsocoordinate communication between such Union members and the Plan.

2.05 **Evaluate Claims for Benefits.** BMI will review and evaluate all benefit claims submitted by participants, in accordance with the terms of the Plan. When BMI deems that further evaluation of a benefit claim is necessary, BMI may recommend that the Union engage the services of legal counsel, actuaries, accountants, auditors, health consultants or other professionals in accordance with Section 1.02.

2.06 **Process Payments.** At the direction of the Union, BMI will prepare payment from the trust to the provider or insurance issuer for claims payable under the Plan.

2.07 **Maintain Relevant Records: Make Records Available for Inspection.** BMI will maintain all records required by law regarding its administration of the Plan. BMI will ensure that the Sponsoring Entity or the Union may, if it so desires, periodically inspect all relevant records relating to the administration of the Plan. Such inspections will take place at a mutually agreeable time and location for the parties.

2.08 **Accuracy of Information.** The Union understands and agrees that in order for BMI to fulfill its duties under the Agreement, BMI will need to rely on the oral and written statements of the Union, its officers, directors, employees, and agents, Plan participants, Plan advisors, and Plan service providers. BMI is not responsible for verifying the accuracy of such information. The Union agrees to hold harmless BMI and the SponsoringEntity for any loss or damage to the Plan or the Sponsoring Entity resulting from BMI's orthe Sponsoring Entity's good faith reliance on such information.

2.10 **Provide Quarterly Reports**. BMI will submit to the Sponsoring Entity and the Union a quarterly accounting of all payments made from the Plan's trust.

2.11 **Assist with Plan Amendments.** BMI will provide advice to the Union on possible revisions to the Plan's terms and benefits, and will assist in preparing any such amendments for the review and approval of the Union and the Sponsoring Entity pursuant to the Plan Documents.

2.12 **Maintain Confidentiality.** BMI will comply with the HIPAA Privacy Rules and keep confidential all individually identifiable personal health information relating to Plan participants. BMI will not disclose such personal information, except as required by law or as necessary for the administration of the Plan. If the Sponsoring Entity or the Union is deemed to be a covered entity under HIPAA, then BMI will execute a business associate agreement with the Sponsoring Entity or the Union. BMI will enter into a business associate agreement with the Plan, at the request of the Plan, Union, or Sponsoring Entity.

2.13 **Outsource Certain Tasks.** BMI may utilize the services of any outside professional in performing of its responsibilities under the agreement. BMI bears the same responsibility for any services rendered by an outside professional on behalf of the Plan as BMI would if

BMI had rendered the services itself.

2.14 **Express Limitations on Responsibilities of BMI.** Except for the duties and responsibilities expressly set forth in this Agreement and the Plan Documents described in Section 2.01, BMI does not assume any other obligations related to the Plan, the Union, or the Sponsoring Entity. This limitation on the responsibilities of BMI includes, but is not limited to, the following

a. BMI does not have any discretionary authority or control over the design, management, or operation of the Plan and is neither a sponsor nor a fiduciary under the Plan.
b. BMI is not a trustee of the Plan.
c. BMI does not and will not render investment advice to the Plan.
d. Except as directed by the Union, BMI does not have access to Plan assets and BMI is not responsible for verifying the existence of Plan assets.
e. BMI does not pay benefits, provide insurance for benefits or control the circumstances under which an excess loss insurer will provide insurance for benefits.

ARTICLE III
FEES FOR SERVICES

3.01 **Fee Schedule.** BMI will invoice the Union and the Plan directly for all Plan fees and services, and BMI and the Union acknowledge and agree that the Sponsoring Entity has no responsibility to pay for any Plan fees or services. The Union and the Plan agree to pay the fees set forth on the BMI fee schedule within 30 days of the date the Union receives the invoice. The schedule is attached and incorporated into the Agreement as Exhibit A.

3.02 **Amendment of Fee Schedule.** The Union agrees that the fees specified in Exhibit A may be amended if BMI gives the Union written notice of the change at least thirty (30) days prior to the date that the amended fees are to become effective. If the Union fails to deliver to BMI a written objection to the amended fees prior to their effective date, the services of BMI will be based upon the amended fees thereafter. If the Union objects in writing to the amended fees, BMI will have the option to terminate the Agreement no earlier than 30 days after the Union receives notice of termination from BMI.

ARTICLE IV
EFFECTIVE DATES OF AGREEMENT

4.01 **Effective Date.** This Agreement is effective as of July 25, 2022.

4.02 **Year to Year Renewal.** This Agreement will automatically be renewed for one year periods unless terminated by BMI, the Union, or the Sponsoring Entity upon written notice of not less than sixty (60) days prior to the end of the current expiration date.

4.03 **Termination of Agreement by Party Without Cause.** This Agreement may be terminated at any time by any party, for any reason, upon sixty (60) days written notice to the other parties.

4.04 **Termination of Agreement by Party with Cause.** This Agreement may also be

terminated by any party with 14 days written notice, if any other party fails to materially comply with the terms of this Agreement, has engaged in any illegal activity or a petition under bankruptcy laws is filed by or against the Sponsoring Entity, the Union, or BMI. Parties will have 14 days to correct a breach upon notification prior to termination. An extension of this period of not more than 14 days may be allowed if the breach cannot be reasonably cured with the 14 days provided agreed upon by the parties.

ARTICLE V
LIABILITY AND INDEMNITY

5.01 **Limitation on Liability.** BMI does not insure nor underwrite the liability of the Union under the Plan. The Union and the Plan retain the ultimate responsibility for all claims made under the Plan and all expenses incident to the Plan, except as specifically assumed in this Agreement by BMI.

5.02 **Gross Indemnification.** The Union agrees to indemnify and hold harmless BMI, the Sponsoring Entity, and their directors, officers, representatives, agents, and employees against any and all claims, demands, actions, complaints, lawsuits, settlements, judgments, costs, penalties and expenses, or other forms of liability (monetary or otherwise),resulting from or arising out of or in connection with any function or actionof BMI or the Sponsoring Entity under this Agreement or in connection with the administration of the Plan or any claim for benefits under the Plan, at any time, unless it isdetermined that the liability was the result of negligence or misconduct on the part of BMIor the Sponsoring Entity or any of their directors, officers, agents or employees.

BMI agrees to indemnify and hold harmless the Sponsoring Entity, the Union, and their directors, officers, representatives, agents, and employees against any and all claims, demands, actions, complaints, lawsuits, settlements, judgments, costs, penalties and expenses, or other forms of liability (monetary or otherwise),including attorney's fees, resulting from or arising out of or in connection with any function or action of BMI under this Agreement or in connection with the administration of the Plan or any claim for benefits under the Plan, at any time, unless it is determined that the liability was the result of negligence or misconduct on the part of the Sponsoring Entity or the Union or any of their directors, officers, agents or employees.

ARTICLE VI
MISCELLANEOUS

6.01 **Headings.** The section headings used throughout the Agreement are for convenience of reference only, and will not be construed to explain or modify the construction or meaning of the Agreement.

6.02 **Severability.** In the event that any portion of this Agreement is invalidated by a court of competent jurisdiction, the remainder of the Agreement will be given effect to the maximum extent possible.

6.03 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and any prior negotiations are merged into this Agreement. No oral agreements or understanding will be binding on either of the parties.

6.05 **Applicable Law.** This Agreement is governed by and is to be construed in accordance with the laws of the State of Illinois.

6.06 **No Third-Party Beneficiaries.** Only parties to this Agreement shall gain any rights to enforce any provision of this Agreement.

6.07 **Non-Assignment.** This Agreement is binding on the parties' legal successors and heirs. This Agreement may not be assigned by either party without the prior written approval of an officer of the other party.

6.08 **Revisions to the Agreement.** This Agreement may be revised at any time by written agreement signed by both parties, except as otherwise provided herein.

6.09 **Interpretation of Plan Documents.** The intent of the parties is that this Agreement, and all Plan Documents, comply with the provisions of Section 22.4 and the RHFP Sideletter of the CBA, which states as follows:

> Pursuant to Section 22.4 – Retirement Insurance Plan, of the current collective bargaining agreement between the City of St. Charles and St. Charles Professional Firefighter's Association IAFF Local 3322, the City shall establish and maintain a Retirement Healthcare Funding Plan (RHFP) for IAFF-represented employees. The purpose of the Plan is to provide the opportunity for bargaining unit members to accumulate assets to pay for medical and other eligible expenses at and during retirement. The RHFP will be effective, July 25, 2022. Prior to effective date, current bargaining unit members will have a one-time, lifetime opportunity to opt-out of the RHFP. This decision will be irrevocable. Participation in the Plan by newly-hired employees will begin on their date of hire.
>
> The Plan shall be established as a Section 115 Trust in accordance with any and all applicable laws. The City shall be responsible for set-up and administrative fees.
>
> Bargaining unit members authorize the City to make contributions to the RHFP on their behalf as follows:
>
> - To the extent permitted by the tax code, withhold 1% of employees' pre-tax, base salary (as noted in Section 16.2) per pay period and deposit into the RHFP.
> - To the extent permitted by the tax code, 100% of employees' accrued sick time eligible for payment as defined in Article 22, Section 22.1 shall be withheld pre-tax and deposited into the RHFP.
> - To the extent permitted by the tax code, 100% of employees' accrued vacation time eligible for payment as defined in Article 22, Section 22.2 shall be withheld pre-tax and deposited into the RHFP.
>
> The City is not responsible for any tax liabilities or penalties that may be imposed on employee by the IRS, the Illinois Department of Revenue, or any other taxing body as a result of claims by any taxing body that taxes should have been withheld from payments made to the Section 115 Trust created by this Side Letter of Agreement. Similarly, the employee is not responsible for any tax liabilities or penalties that may be imposed on the City by the IRS, the Illinois Department of Revenue, or any other taxing body as a result of claims by any taxing body that taxes should have been withheld from payments made to the Section 115 Trust created by this Side Letter of Agreement.

The City and Union agree that any amendments to or termination of this RHFP is subject to collective bargaining. This includes amendments to the terms articulated above.

Notwithstanding any contrary provisions of this Agreement or any related Plan Document, including without limitation those described in Section 2.1 of this Agreement, no provision of any Plan Document, including without limitation the provisions of this Agreement, will impose, or will be interpreted or applied to impose, any obligations on the Sponsoring Entity that are inconsistent with the obligations of the Sponsoring Entity pursuant to Section 22.4 and the RHFP Sideletter of the CBA, as determined by the Sponsoring Entity in its sole discretion.

IN WITNESS WHEREOF, this Agreement has been executed the day and year first above written.

FOR THE CITY OF ST. CHARLES:

By_____

Title _____

Date _____

FOR BMI:

By _____

Title _____

Date_____

FOR ST. CHARLES PROFESSIONAL FIREFIGHTER'S ASSOCIATION IAFF LOCAL 3322:

By:_____

Title:_____

Date: _____

EXHIBIT A

BMI FEE SCHEDULE

To be paid by Plan:

Investment Management fees are covered by separate agreement and are net participant expense in the calculation of unit values.

_____	_____
IAFF Local 3322 – Print	City of St. Charles – Print
_____	_____
Signature	Signature
Date: _____	Date: _____

Exhibit E

Sideletter to Collective Bargaining Agreement
between the City of St. Charles and
St. Charles Professional Firefighter's Association IAFF Local 3322
Retiree Healthcare Funding Plan (RHFP)

Pursuant to Section 22.4 – Retirement Insurance Plan, of the current collective bargaining agreement between the City of St. Charles and St. Charles Professional Firefighter's Association IAFF Local 3322, the City shall establish and maintain a Retirement Healthcare Funding Plan (RHFP) for IAFF-represented employees. The purpose of the Plan is to provide the opportunity for bargaining unit members to accumulate assets to pay for medical and other eligible expenses at and during retirement. The RHFP will be effective, July 25, 2022. Prior to effective date, current bargaining unit members will have a one-time, lifetime opportunity to opt-out of the RHFP. This decision will be irrevocable. Participation in the Plan by newly-hired employees will begin on their date of hire.

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- To the extent permitted by the tax code, withhold 1% of employees' pre-tax, base salary (as noted in Section 16.2) per pay period and deposit into the RHFP.
- To the extent permitted by the tax code, 100% of employees' accrued sick time eligible for payment as defined in Article 22, Section 22.1 shall be withheld pre-tax and deposited into the RHFP.
- To the extent permitted by the tax code, 100% of employees' accrued vacation time eligible for payment as defined in Article 22, Section 22.2 shall be withheld pre-tax and deposited into the RHFP.

The City is not responsible for any tax liabilities or penalties that may be imposed on employee by the IRS, the Illinois Department of Revenue, or any other taxing body as a result of claims by any taxing body that taxes should have been withheld from payments made to the Section 115 Trust created by this Side Letter of Agreement. Similarly, the employee is not responsible for any tax liabilities or penalties that may be imposed on the City by the IRS, the Illinois Department of Revenue, or any other taxing body as a result of claims by any taxing body that taxes should have been withheld from payments made to the Section 115 Trust created by this Side Letter of Agreement.

The City and Union agree that any amendments to or termination of this RHFP is subject to collective bargaining. This includes amendments to the terms articulated above.

Exhibit E

_____	_____
IAFF Local 3322 – Print	City of St. Charles – Print
_____	_____
Signature	Signature
Date: _____	Date: _____